Maine Board of Dental Practice
Ad Hoc Committee
Supervision and Teledentistry Review pursuant to Public Law 2018, c. 388

November 1, 2019 – 9:00 a.m. – 1:00 p.m.
Meeting Agenda

1) Introduction of participants and board staff

2) Timeline, meeting schedule, ground rules, etc.

3) Review statutory mandate; role of the ad hoc committee

4) Overview of the supervision requirements in Dental Practice Act

5) Overview of teledentistry

6) Discussion/Propose draft language

7) Adjourn

Location: Maine Board of Dental Practice, Conference room, 161 Capitol Street, Augusta, ME 04330
Directions: http://www.maine.gov/dental/board-information/contact.html

Contact staff: Penny Vaillancourt, Executive Director; tel: (207) 287-3333; TTY users call Maine relay 711; or email penny.vaillancourt@maine.gov
Maine Board of Dental Practice  
Ad Hoc Committee pursuant to Public Law, 2018 chapter 388  
Section 11 re: Report back on definitions of supervision and teledentistry  

November 1, 2019

1: Introductions:

Ad Hoc Committee Members:

Dr. Glen Davis  
Dental Board Member, Co-chair

Tracey Jowett, RDH  
Dental Board Member, Co-chair

Representative Anne-Marie Mastraccio  
Maine State Legislature

Dr. Heather Keeling  
MDA, Representative

Dr. Brad Rand  
MDA, Representative

Lorraine Klug, RDH, IPDH  
MDHA, Representative

Linda Souliere, LD  
MLDA, Representative

Amanda Willette, EFDA, RAD  
UMA, Representative

Joleen Lee, RDH  
UMA, Representative

Marji Harmer-Beem, M.S., RDH  
UNE – RDH Representative

Dr. David Moyer  
UNE – Dentist Representative

Reid Plimpton, Project Manager (telehealth)  
Medical Care Development

Bonnie Vaughan, IPDH, MEd, MBA

Mike Saxl

Staff:

Penny Vaillancourt, Executive Director  
Maine Board of Dental Practice

Legal counsel  
Attorney General’s Office

2: Timeline, meeting schedule, ground rules, etc.

- Ad Hoc Committee schedule – Friday, November 15th 9:00 a.m. to 1:00 p.m. (if needed)

3: Review statutory mandate; role of the ad hoc committee

Section 25 of PL 2018, c. 388 reads: “Sec. 11. Board of Dental Practice to review dental practice laws and recommend changes. The Board of Dental Practice, in consultation with interested parties, shall review the Maine Revised Statutes, Title 32, chapter 143 and any rules adopted by the board and recommend changes to the statutory definitions of supervision and recommend a definition of “teledentistry” for the purpose of aligning current supervision practices and reflecting advancements in technology. The Board of Dental Practice shall submit its report and recommendations to the Joint Standing Committee on Health Coverage, Insurance and Financial Services no later than February 1, 2020. The Joint Standing Committee on Health Coverage, Insurance and Financial Services may report out a bill to the Second Regular Session of the 129th Legislature based on the board’s recommendations.”
4. **Overview of the supervision requirements of the Dental Practice Act**

- Delegation authorized by dentists
- RDH supervision
- Dental Therapy supervision
- Expanded Function Dental Assisting supervision
- Dental Radiography supervision
- Resident Dentist supervision
- Registration – clinical experience supervision

5. **Overview of the telemedicine/teledentistry**

- Delegation authorized by dentists
- RDH supervision
- Dental Therapy supervision
- Expanded Function Dental Assisting supervision
- Dental Radiography supervision
- Resident Dentist supervision
- Registration – clinical experience supervision

6. **Reference materials provided**

- Maine Dental Practice Act
- Public Law 2018, c. 388
- Supervision charts by licensure category
- State Dental Board information on supervision levels; definitions
- BOLIM Board Rule Chapter 6 “Telemedicine Standards of Practice”
- ADA Policy on Teledentistry, 2015
- ADA Guidance on Teledentistry, 2017
- State Dental Board information on teledentistry
- Teledentistry Powerpoint slides as provided by Northeast Telehealth Resource Center, Medical Care Development

**Discussion/Adjourn**
Title 32: PROFESSIONS AND OCCUPATIONS
Chapter 143: DENTAL PROFESSIONS

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§18301. SHORT TITLE

This chapter may be known and cited as "the Dental Practice Act." [2015, c. 429, §21 (NEW).]

SECTION HISTORY
2015, c. 429, §21 (NEW).

§18302. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [2015, c. 429, §21 (NEW).]

1. Board. "Board" means the Board of Dental Practice established in Title 5, section 12004-A, subsection 10.

[ 2015, c. 429, §21 (NEW) .]

2. Charitable dentist license.

[ 2017, c. 388, §1 (RP) .]

3. Clinical dentist educator license.

[ 2017, c. 388, §1 (RP) .]


[ 2015, c. 429, §21 (NEW) .]

5. Dental auxiliary. "Dental auxiliary" means a dental radiographer, expanded function dental assistant, dental hygienist, independent practice dental hygienist, public health dental hygienist, dental hygiene therapist or denturist.

[ 2015, c. 429, §21 (NEW) .]

6. Dental hygiene. "Dental hygiene" means the delivery of preventative, educational and clinical services supporting total health for the control of oral disease and the promotion of oral health provided by a dental hygienist in accordance with this chapter.

[ 2015, c. 429, §21 (NEW) .]

7. Dental hygiene therapist. "Dental hygiene therapist" means a person who holds a valid license as a dental hygienist issued by the board and is authorized to practice dental hygiene therapy under this chapter.

[ 2015, c. 429, §21 (NEW) .]
8. **Dental hygiene therapy.** "Dental hygiene therapy" means the delivery of dental hygiene services, including performance of certain dental procedures in accordance with this chapter.

[ 2015, c. 429, §21 (NEW) .]

9. **Dental hygienist.** "Dental hygienist" means a person who holds a valid license as a dental hygienist issued by the board.

[ 2015, c. 429, §21 (NEW) .]

10. **Dental radiographer.** "Dental radiographer" means a person who holds a valid license as a dental radiographer issued by the board.

[ 2015, c. 429, §21 (NEW) .]

11. **Dental radiography.** "Dental radiography" means the use of ionizing radiation on the maxilla, mandible and adjacent structures of human beings for diagnostic purposes while under the general supervision of a dentist or an independent practice dental hygienist in accordance with this chapter.

[ 2017, c. 388, §2 (AMD) .]

12. **Dentist.** "Dentist" means a person who holds a valid dentist license issued by the board.

[ 2015, c. 429, §21 (NEW) .]

13. **Dentistry.** "Dentistry" means the scope of practice for a dentist as described in section 18371.

[ 2015, c. 429, §21 (NEW) .]

14. **Denture.** "Denture" means any removable full or partial upper or lower prosthetic dental appliance to be worn in the human mouth to replace any missing natural teeth.

[ 2015, c. 429, §21 (NEW) .]

15. **Denturism.** "Denturism" means the process of obtaining denture impressions and bite registrations for the purpose of making, producing, reproducing, constructing, finishing, supplying, altering or repairing a denture to be fitted to an edentulous or partially edentulous arch or arches and the fitting of a denture to an edentulous or partially edentulous arch or arches, including the making, producing, reproducing, constructing, finishing, supplying, altering and repairing of dentures, without performing alteration to natural or reconstructed tooth structure, in accordance with this chapter.

[ 2017, c. 388, §3 (AMD) .]

16. **Denturist.** "Denturist" means a person who holds a valid denturist license issued by the board.

[ 2015, c. 429, §21 (NEW) .]

17. **Department.** "Department" means the Department of Professional and Financial Regulation.

[ 2015, c. 429, §21 (NEW) .]
18. **Direct supervision.** "Direct supervision" means the supervision required by the board by rule of those tasks and procedures requiring the physical presence of the supervisor in the practice setting at the time such tasks or procedures are being performed. In order to provide direct supervision of patient treatment, the supervisor must at least diagnose the condition to be treated, authorize the treatment procedure prior to implementation and examine the condition after treatment and prior to the patient's discharge.

[2015, c. 429, §21 (NEW).]

19. **Expanded function dental assistant.** "Expanded function dental assistant" means a person who holds a valid expanded function dental assistant license issued by the board.

[2015, c. 429, §21 (NEW).]

20. **Expanded function dental assisting.** "Expanded function dental assisting" means performing certain dental procedures under the supervision of a dentist in accordance with this chapter.

[2015, c. 429, §21 (NEW).]

21. **Faculty.** "Faculty" means, when used in conjunction with a license issued under this chapter, the authority granted to an individual who is authorized to practice only within the school setting, including any satellite locations approved by the board, and who teaches dentistry, dental hygiene or denturism as part of a clinical and didactic program.

[2015, c. 429, §21 (NEW).]

22. **General supervision.** "General supervision" means the supervision required by the board by rule of those tasks and procedures when the physical presence of the supervisor is not required in the practice setting while procedures are being performed.

[2015, c. 429, §21 (NEW).]

23. **Independent practice dental hygienist.** "Independent practice dental hygienist" means a person who holds a valid license as a dental hygienist issued by the board and who is authorized to practice independent dental hygiene.

[2015, c. 429, §21 (NEW).]

24. **License.** "License" means a license or permit issued by the board granting authority to an individual authorized under this chapter to perform certain services.

[2015, c. 429, §21 (NEW).]

25. **Limited dentist.** "Limited dentist" means a dentist who has retired from the regular practice of dentistry and who holds a valid license issued by the board to practice only in a nonprofit clinic without compensation for work performed at the clinic. Services provided by a limited dentist must be in accordance with this chapter.

[2015, c. 429, §21 (NEW).]

26. **Local anesthesia.** "Local anesthesia" means a drug, element or other material that results in a state of insensibility of a circumscribed area or the loss of sensation in some definite, localized area without inhibition of conscious processes.

[2015, c. 429, §21 (NEW).]
27. Nitrous oxide analgesia. "Nitrous oxide analgesia" means a gas containing nitrous oxide used to induce a controlled state of relative analgesia with the goal of controlling anxiety.

[ 2015, c. 429, §21 (NEW) .]

28. Practice setting. "Practice setting" means the physical location where services authorized under this chapter are provided to the public.

[ 2015, c. 429, §21 (NEW) .]

29. Provisional dental hygiene therapist. "Provisional dental hygiene therapist" means a person who holds a valid license as a dental hygienist issued by the board and who is authorized to practice dental hygiene therapy under the supervision of a dentist in accordance with this chapter.

[ 2015, c. 429, §21 (NEW) .]

30. Public health dental hygiene. "Public health dental hygiene" means the delivery of certain dental hygiene services under a written supervision agreement with a dentist for the purpose of providing services in a public health setting in accordance with this chapter.

[ 2015, c. 429, §21 (NEW) .]

31. Public health dental hygienist. "Public health dental hygienist" means a person who holds a valid license as a dental hygienist issued by the board and who is authorized to practice public health dental hygiene in accordance with this chapter.

[ 2015, c. 429, §21 (NEW) .]

32. Public health setting. "Public health setting" means a place where the practice of public health dental hygiene occurs, and includes, but is not limited to, public and private schools, medical facilities, nursing homes, residential care facilities, mobile units, nonprofit organizations and community health centers.

[ 2015, c. 429, §21 (NEW) .]

33. Resident dentist license. "Resident dentist license" means the authority granted to an individual who is a graduate of an approved dental school or college, who is not licensed to practice dentistry in this State and is authorized to practice under the direct or general supervision and direction of a dentist in a board-approved setting in accordance with this chapter.

[ 2015, c. 429, §21 (NEW) .]

34. Reversible intraoral procedures.

[ 2017, c. 388, §4 (RP) .]

SECTION HISTORY

§18303. INDIVIDUAL LICENSE

Only an individual may be licensed under this chapter and only a licensed individual may provide services for which a license is required under this chapter. [2015, c. 429, §21 (NEW).]

SECTION HISTORY
2015, c. 429, §21 (NEW).
§18304. LICENSE REQUIRED

1. Unlicensed practice. Except as provided in section 18305 and section 18371, subsections 3 and 6, a person may not practice or profess to be authorized to practice the activities described in this chapter without a license or during any period when that person’s license has expired or has been suspended or revoked.

2. Unlawful practice. A person may not:
   A. Practice dentistry under a false or assumed name; [2015, c. 429, §21 (NEW).]
   B. Practice dentistry under the name of a corporation, company, association, parlor or trade name; [2015, c. 429, §21 (NEW).]
   C. While manager, proprietor, operator or conductor of a place for performing dental operations, employ a person who is not a lawful practitioner of dentistry in this State to perform dental practices as described in section 18371; [2015, c. 429, §21 (NEW).]
   D. While manager, proprietor, operator or conductor of a place for performing dental operations, permit a person to practice dentistry under a false name; [2015, c. 429, §21 (NEW).]
   E. Assume a title or append a prefix or letters following that person’s name that falsely represent the person as having a degree from a dental college; [2015, c. 429, §21 (NEW).]
   F. Impersonate another at an examination held by the board; [2015, c. 429, §21 (NEW).]
   G. Knowingly make a false application or false representation in connection with an examination held by the board; or [2015, c. 429, §21 (NEW).]
   H. Employ an unlicensed person to provide services for which a license is required by this chapter. [2017, c. 388, §5 (AMD).]

3. Penalties. A person who violates this section commits a Class E crime. Violation of this section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

4. Injunction. The Attorney General may bring an action in Superior Court pursuant to Title 10, section 8003-C, subsection 5 to enjoin a person from violating this chapter.

§18305. PERSONS AND PRACTICES NOT AFFECTED; EXEMPTIONS

1. Persons and practices not affected. Nothing in this chapter may be construed to limit, enlarge or affect the practice of persons licensed to practice medicine, osteopathy or dentistry in this State. Nothing in this chapter may be construed to prohibit a duly qualified dental surgeon or dental hygienist from performing work or services performed by a denturist licensed under this chapter to the extent those persons are authorized to perform the same services under other state law.

2. Exemptions. The requirement of a license under this chapter does not apply to:
A. A resident physician or a student enrolled in and attending a school or college of medicine or osteopathy; [2015, c. 429, §21 (NEW).]

B. A licensed physician or surgeon who practices under the laws of this State, unless that person practices dentistry as a specialty; [2015, c. 429, §21 (NEW).]

C. A qualified anesthetist or nurse anesthetist who provides an anesthetic for a dental operation; a certified registered nurse under the direct supervision of either a licensed dentist who holds a valid sedation or general anesthesia permit or a licensed physician who provides an anesthetic for a dental operation; a certified registered nurse under the direct supervision of a licensed dentist or physician who removes sutures, dresses wounds or applies dressings and bandages; and a certified registered nurse under the direct supervision of a licensed dentist or physician who injects drugs subcutaneously or intravenously; [2015, c. 429, §21 (NEW).]

D. A person serving in the United States Armed Forces or the United States Department of Health and Human Services, Public Health Service or employed by the United States Department of Veterans Affairs or other federal agency while performing official duties, if the duties are limited to that service or employment; [2015, c. 429, §21 (NEW).]

E. A graduate dentist or dental surgeon in the United States Army, Navy or Air Force; the United States Department of Health and Human Services, Public Health Service; the United States Coast Guard; or United States Department of Veterans Affairs who practices dentistry in the discharge of official duties; [2015, c. 429, §21 (NEW).]

F. A person having a current license to perform radiologic technology pursuant to section 9854 and who is practicing dental radiography under the general supervision of a dentist or physician; [2015, c. 429, §21 (NEW).]

G. A dentist licensed in another state or country at meetings of the Maine Dental Association or its affiliates or other like dental organizations approved by the board, while appearing as a clinician; [2015, c. 429, §21 (NEW).]

H. Any person, association, corporation or other entity who fills a prescription from a dentist for the construction, reproduction or repair of prosthetic dentures, bridges, plates or appliances to be used or worn as substitutes for natural teeth; [2015, c. 429, §21 (NEW).]

I. A dental laboratory technician constructing, altering, repairing or duplicating a denture, plate, partial plate, bridge, splint, orthodontic or prosthetic appliance with a prescription as set forth in section 18371, subsection 6; [2015, c. 429, §21 (NEW).]

J. A student enrolled in a dental assisting program or a board-approved dental program, dental hygiene program, dental therapy program, expanded function dental assisting program, dental radiography program or denturism program practicing under the direct or general supervision of that student's instructors; and [2017, c. 388, §6 (AMD).]

K. [2017, c. 388, §7 (RP).]

L. An individual licensed under this chapter who is registered and practicing under the direct supervision of a dentist as set forth in section 18348, subsection 2 or 3 for the purpose of obtaining clinical experience needed for meeting the requirements to administer sedation, local anesthesia or general anesthesia. [2015, c. 429, §21 (NEW).]

[2017, c. 388, §§6, 7 (AMD).]

§18306. FRAUDULENT SALE OR ALTERATION OF DIPLOMAS OR LICENSES

1. Fraudulent or altered diploma or license; bribery. A person may not:
A. Sell or offer to sell a diploma conferring a dental degree or license granted pursuant to the laws of this State; [2015, c. 429, §21 (NEW).]

B. Procure a license or diploma with intent that it be used as evidence of the right to practice dentistry by a person other than the one upon whom the diploma or license was conferred; [2015, c. 429, §21 (NEW).]

C. With fraudulent intent alter a diploma or license to practice dentistry; [2015, c. 429, §21 (NEW).]

D. Use or attempt to use an altered diploma or license; or [2015, c. 429, §21 (NEW).]

E. Attempt to bribe a member of the board by the offer or use of money or other pecuniary reward or by other undue influence. [2015, c. 429, §21 (NEW).]

2. Penalty. A person who violates this section commits a Class E crime. Except as otherwise specifically provided, violation of this section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

[2015, c. 429, §21 (NEW).]

SECTION HISTORY
2015, c. 429, §21 (NEW).

§18307. REVIEW COMMITTEE IMMUNITY

A dentist who is a member of a peer review committee of a state or local association or society composed of doctors of dentistry, a staff member of such an association or society assisting a peer review committee and a witness or consultant appearing before or presenting information to the peer review committee are immune from civil liability for, without malice, undertaking or failing to undertake any act within the scope of the function of the committee. [2015, c. 429, §21 (NEW).]

SECTION HISTORY
2015, c. 429, §21 (NEW).

§18308. REQUIREMENTS REGARDING PRESCRIPTION OF OPIOID MEDICATION

1. Limits on opioid medication prescribing. Except as provided in subsection 2, an individual licensed under this chapter whose scope of practice includes prescribing opioid medication may not prescribe:

A. To a patient any combination of opioid medication in an aggregate amount in excess of 100 morphine milligram equivalents of opioid medication per day; [2015, c. 488, §32 (NEW).]

B. To a patient who, on the effective date of this section, has an active prescription for opioid medication in excess of 100 morphine milligram equivalents of an opioid medication per day, an opioid medication in an amount that would cause that patient’s total amount of opioid medication to exceed 300 morphine milligram equivalents of opioid medication per day; except that, on or after July 1, 2017, the aggregate amount of opioid medication prescribed may not be in excess of 100 morphine milligram equivalents of opioid medication per day; [2015, c. 488, §32 (NEW).]

C. On or after January 1, 2017, within a 30-day period, more than a 30-day supply of an opioid medication to a patient under treatment for chronic pain. For purposes of this paragraph, "chronic pain" has the same meaning as in Title 22, section 7246, subsection 1-C; or [2015, c. 488, §32 (NEW).]
D. On or after January 1, 2017, within a 7-day period, more than a 7-day supply of an opioid medication to a patient under treatment for acute pain unless the opioid product is labeled by the federal Food and Drug Administration to be dispensed only in a stock bottle that exceeds a 7-day supply as prescribed, in which case the amount dispensed may not exceed a 14-day supply. For purposes of this paragraph, "acute pain" has the same meaning as in Title 22, section 7246, subsection 1-A. [2017, c. 213, §20 (AMD).]

2. Exceptions. An individual licensed under this chapter whose scope of practice includes prescribing opioid medication is exempt from the limits on opioid medication prescribing established in subsection 1 only:

A. When prescribing opioid medication to a patient for:
   (1) Pain associated with active and aftercare cancer treatment;
   (2) Palliative care, as defined in Title 22, section 1726, subsection 1, paragraph A, in conjunction with a serious illness, as defined in Title 22, section 1726, subsection 1, paragraph B;
   (3) End-of-life and hospice care;
   (4) Medication-assisted treatment for substance use disorder; or
   (5) Other circumstances determined in rule by the Department of Health and Human Services pursuant to Title 22, section 7254, subsection 2; and [2015, c. 488, §32 (NEW).]

B. When directly ordering or administering a benzodiazepine or opioid medication to a person in an emergency room setting, an inpatient hospital setting, a long-term care facility or a residential care facility or in connection with a surgical procedure.

As used in this paragraph, "administer" has the same meaning as in Title 22, section 7246, subsection 1-B. [2017, c. 213, §21 (AMD).]

3. Electronic prescribing. An individual licensed under this chapter whose scope of practice includes prescribing opioid medication and who has the capability to electronically prescribe shall prescribe all opioid medication electronically by July 1, 2017. An individual who does not have the capability to electronically prescribe must request a waiver from this requirement from the Commissioner of Health and Human Services stating the reasons for the lack of capability, the availability of broadband infrastructure and a plan for developing the ability to electronically prescribe opioid medication. The commissioner may grant a waiver for circumstances in which exceptions are appropriate, including prescribing outside of the individual's usual place of business and technological failures. [2015, c. 488, §32 (NEW).]

4. Continuing education. By December 31, 2017, an individual licensed under this chapter must successfully complete 3 hours of continuing education every 2 years on the prescription of opioid medication as a condition of prescribing opioid medication. The board shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2015, c. 488, §32 (NEW).]
5. **Penalties.** An individual who violates this section commits a civil violation for which a fine of $250 per violation, not to exceed $5,000 per calendar year, may be adjudged. The Department of Health and Human Services is responsible for the enforcement of this section.

[ 2015, c. 488, §32 (NEW) .]

6. **Opioid medication policy.** No later than January 1, 2018, a health care entity that includes an individual licensed under this chapter whose scope of practice includes prescribing opioid medication must have in place an opioid medication prescribing policy that applies to all prescribers of opioid medications employed by the entity. The policy must include, but is not limited to, procedures and practices related to risk assessment, informed consent and counseling on the risk of opioid use. For the purposes of this subsection, "health care entity" has the same meaning as in Title 22, section 1718-B, subsection 1, paragraph B.

[ 2017, c. 186, §5 (NEW) .]

**SECTION HISTORY**

**Subchapter 2: BOARD OF DENTAL PRACTICE**

**§18321. BOARD CREATION; DECLARATION OF POLICY; COMPENSATION**

1. **Board creation; declaration of policy.** The Board of Dental Practice, as established in Title 5, section 12004-A, subsection 10, is created within this subchapter, its sole purpose being to protect the public health and welfare. The board carries out this purpose by ensuring that the public is served by competent and honest practitioners and by establishing minimum standards of proficiency in the professions regulated by the board by testing, licensing, regulating and disciplining practitioners of those regulated professions.

[ 2015, c. 429, §21 (NEW) .]

2. **Compensation.** Members of the board, the Subcommittee on Denturists under section 18326 and the Subcommittee on Dental Hygienists under section 18327 are entitled to compensation according to the provisions of Title 5, chapter 379.

[ 2015, c. 429, §21 (NEW) .]

**SECTION HISTORY**
2015, c. 429, §21 (NEW).

**§18322. BOARD MEMBERSHIP**

1. **Membership; terms; removal.** The board consists of 9 members appointed by the Governor as follows:

   A. Five dentists. Each dentist member must hold a valid dental license under this chapter and must have been in the actual practice of dentistry in this State for at least 10 years immediately preceding appointment. A dentist is not eligible to serve as a member of the board while employing a dental hygienist or a denturist who is a member of the board;  [2015, c. 429, §21 (NEW).]

   B. Two dental hygienists. Each dental hygienist member must hold a valid dental hygiene license under this chapter and must have practiced in the State for at least 6 years immediately preceding appointment. A dental hygienist is not eligible to serve as a member of the board while employed by a dentist who is a member of the board;  [2015, c. 429, §21 (NEW).]
C. One denturist. The denturist member must hold a valid denturist license under this chapter and must have practiced in the State for at least 6 years immediately preceding appointment. A denturist is not eligible to serve as a member of the board while employed by a dentist who is a member of the board; and [2015, c. 429, §21 (NEW).]

D. One public member. The public member must be a person who has no financial interest in the dental profession and has never been licensed, certified or given a permit in this or any other state for the dental profession. [2015, c. 429, §21 (NEW).]

The Governor may accept nominations from professional associations and from other organizations and individuals. A member of the board must be a legal resident of the State. A person who has been convicted of a violation of the provisions of this Act or any prior dental practice act, or who has been convicted of a crime punishable by more than one year's imprisonment, is not eligible for appointment to the board. Appointments of members must comply with Title 10, section 8009.

[ 2015, c. 429, §21 (NEW) .]

2. Terms. Terms of the members of the board are for 5 years. A person who has served 10 years or more on a dental examining board in this State is not eligible for appointment to the board. A member may be removed by the Governor for cause.

[ 2015, c. 429, §21 (NEW) .]

3. Quorum; chair; vice-chair. Notwithstanding any provision of law to the contrary, a majority of the members serving on the board constitutes a quorum. The board shall elect its chair and vice-chair annually.

[ 2015, c. 429, §21 (NEW) .]

SECTION HISTORY
2015, c. 429, §21 (NEW).

§18323. POWERS AND DUTIES OF THE BOARD

The board has the following powers and duties in addition to all other powers and duties imposed by this chapter: [2015, c. 429, §21 (NEW).]

1. Hearings and procedures. The power to hold hearings and take evidence in all matters relating to the exercise and performance of the powers and duties vested in the board and the authority to subpoena witnesses, books, records and documents in hearings before the board;

[ 2015, c. 429, §21 (NEW) .]

2. Complaints. The duty to investigate complaints in a timely fashion on its own motion and those lodged with the board or its representatives regarding the violation of a provision of this chapter or of rules adopted by the board;

[ 2015, c. 429, §21 (NEW) .]

3. Fees. The authority to adopt by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed $550;

[ 2015, c. 429, §21 (NEW) .]
4. **Budget.** The duty to submit to the commissioner its budgetary requirements in the same manner as is provided in Title 5, section 1665. The commissioner shall in turn transmit these requirements to the Department of Administrative and Financial Services, Bureau of the Budget without revision, alteration or change, unless alterations are mutually agreed upon by the department and the board or the board's designee. The budget submitted by the board to the commissioner must be sufficient to enable the board to comply with this chapter;

[ 2015, c. 429, §21 (NEW) .]

5. **Adequacy of budget, fees and staffing.** The duty to ensure that the budget submitted by the board to the commissioner pursuant to subsection 4 is sufficient, if approved, to provide for adequate legal and investigative personnel on the board's staff and that of the Attorney General to ensure that complaints pursuant to this chapter can be resolved in a timely fashion;

[ 2015, c. 429, §21 (NEW) .]

6. **Executive director; duties.** The power to appoint an executive director who serves at the pleasure of the board and who shall assist the board in carrying out its duties and responsibilities under this chapter. The executive director is responsible for the management of the board's affairs, including the authority to employ and prescribe the duties of personnel within the guidelines, policies and rules established by the board;

[ 2015, c. 429, §21 (NEW) .]

7. **Authority to delegate.** The power to delegate to staff the authority to review and approve applications for licensure pursuant to procedures and criteria established by rule;

[ 2015, c. 429, §21 (NEW) .]

8. **Protocols for professional review committee.** The authority to establish protocols for the operation of a professional review committee as defined in Title 24, section 2502, subsection 4-A. The protocols must include the committee reporting information the board considers appropriate regarding reports received, contracts or investigations made and the disposition of each report, as long as the committee is not required to disclose any personally identifiable information. The protocols may not prohibit an impaired licensee under this chapter from seeking alternative forms of treatment; and

[ 2015, c. 429, §21 (NEW) .]

9. **Authority to order a mental or physical examination.** The authority to direct a licensee, who by virtue of an application for and acceptance of a license to practice under this chapter is considered to have given consent, to submit to an examination whenever the board determines the licensee may be suffering from a mental illness or physical illness that may be interfering with competent practice under this chapter or from the use of intoxicants or drugs to an extent that prevents the licensee from practicing competently and with safety to patients. A licensee examined pursuant to an order of the board may not prevent the testimony of the examining individual or prevent the acceptance into evidence of the report of an examining individual. The board may petition the District Court for immediate suspension of a license if the licensee fails to comply with an order of the board to submit to a mental or physical examination pursuant to this subsection.

[ 2015, c. 429, §21 (NEW) .]
§18324. RULES

The board shall adopt rules that are necessary for the implementation of this chapter. The rules may include, but need not be limited to, requirements for licensure, license renewal and license reinstatement as well as practice setting standards that apply to individuals licensed under this chapter relating to recordkeeping, infection control, supervision and administering sedation and anesthesia. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2015, c. 429, §21 (NEW).]

SECTION HISTORY
2015, c. 429, §21 (NEW).

§18325. DISCIPLINARY ACTION; JUDICIAL REVIEW

1. Disciplinary action. The board may suspend, revoke, refuse to issue or renew a license pursuant to Title 5, section 10004. The following are grounds for an action to refuse to issue, modify, suspend, revoke or refuse to renew the license of a person licensed under this chapter:

A. The practice of fraud, deceit or misrepresentation in obtaining a license or authority from the board or in connection with services within the scope of the license or authority; [2015, c. 429, §21 (NEW).]

B. Misuse of alcohol, drugs or other substances that has resulted or may result in the licensee performing services in a manner that endangers the health or safety of patients; [2015, c. 429, §21 (NEW).]

C. A professional diagnosis of a mental or physical condition that has resulted or may result in the licensee performing services in a manner that endangers the health or safety of patients; [2015, c. 429, §21 (NEW).]

D. Incompetence in the practice for which the licensee is licensed or authorized by the board. A licensee is considered incompetent in the practice if the licensee has:

   (1) Engaged in conduct that evidences a lack of ability or fitness to perform the duties owed by the licensee to a client or patient or the general public; or

   (2) Engaged in conduct that evidences a lack of knowledge or inability to apply principles or skills to carry out the practice for which the licensee is licensed; [2015, c. 429, §21 (NEW).]

E. Unprofessional conduct. A licensee is considered to have engaged in unprofessional conduct if the licensee violates a standard of professional behavior that has been established in the practice for which the licensee is licensed or authorized by the board; [2015, c. 429, §21 (NEW).]

F. Subject to the limitations of Title 5, chapter 341, conviction of a crime that involves dishonesty or false statement or that relates directly to the practice for which the licensee is licensed or authorized by the board, or conviction of a crime for which incarceration for one year or more may be imposed; [2015, c. 429, §21 (NEW).]

G. Engaging in false, misleading or deceptive advertising; [2015, c. 429, §21 (NEW).]

H. Aiding or abetting unlicensed practice by a person who is not licensed or authorized as required under this chapter; [2015, c. 429, §21 (NEW).]

I. Failure to provide supervision as required under this chapter or a rule adopted by the board; [2015, c. 429, §21 (NEW).]

J. Engaging in any activity requiring a license or authority under this chapter or rule adopted by the board that is beyond the scope of acts authorized by the license or authority held; [2015, c. 429, §21 (NEW).]
K. Continuing to act in a capacity requiring a license or authority under this chapter or a rule adopted by
the board after expiration, suspension or revocation of that license or authority; [2015, c. 429,
§21 (NEW).]

L. Noncompliance with an order of or consent agreement executed by the board; [2015, c. 429,
§21 (NEW).]

M. Failure to produce any requested documents in the licensee's possession or under the licensee's
control relevant to a pending complaint, proceeding or matter under investigation by the board;
[2015, c. 429, §21 (NEW).]

N. Any violation of a requirement imposed pursuant to section 18352; [2015, c. 488, §33
(AMD).]

O. A violation of this chapter or a rule adopted by the board; and [2015, c. 488, §33 (AMD).]

P. Failure to comply with the requirements of Title 22, section 7253. [2015, c. 488, §34
(NEW).]

[ 2015, c. 488, §§33, 34 (AMD).]

1-A. Authority to file in court. If the board concludes that suspension or revocation of a license is
warranted, the board may file a complaint in the District Court in accordance with Title 4, chapter 5.

[ 2017, c. 210, Pt. J, §1 (NEW).]

2. Judicial review. Notwithstanding Title 10, section 8003, subsection 5, any nonconsensual revocation
pursuant to Title 10, section 8003, subsection 5 of a license or authority issued by the board may be imposed
only after a hearing conforming to the requirements of Title 5, chapter 375, subchapter 4 and is subject to
judicial review exclusively in the Superior Court in accordance with Title 5, chapter 375, subchapter 7.

[ 2015, c. 429, §21 (NEW).]

SECTION HISTORY

§18326. SUBCOMMITTEE ON DENTURISTS

The Subcommittee on Denturists, referred to in this section as "the subcommittee," is established as
follows. [2015, c. 429, §21 (NEW).]

1. Membership. The subcommittee consists of 5 members as follows:

A. The denturist who is a member of the board; [2015, c. 429, §21 (NEW).]

B. Two denturists, appointed by the Governor, who are legal residents of the State and have practiced
in the State for at least 6 years immediately preceding appointment; and [2015, c. 429, §21
(NEW).]

C. Two dentists who are members of the board, appointed by the chair of the board. [2015, c.
429, §21 (NEW).]

[ 2015, c. 429, §21 (NEW).]
2. **Terms.** Each of the 3 members of the subcommittee who also are members of the board shall serve on the subcommittee for the duration of that member's term on the board. The term of a member of the subcommittee who is not a member of the board is 5 years.

[2015, c. 429, §21 (NEW).]

3. **Duties.** The subcommittee shall:

A. Perform an initial review of all complaints involving denturists. Upon completion of its review of a complaint, the secretary of the subcommittee shall report to the board the subcommittee's recommended disposition of the complaint. The board shall adopt the subcommittee's recommended disposition of a complaint unless no fewer than 2/3 of the board members who are present and voting vote to reject that recommended disposition; and [2015, c. 429, §21 (NEW).]

B. Perform an initial review of all applications for licensure as a denturist and all submissions relating to continuing education of denturists. Upon completion of its review of an application or submission, the secretary of the subcommittee shall report to the board the subcommittee's recommended disposition of the application or submission, including issuance, renewal, denial or nonrenewal of a denturist license. The board shall adopt the subcommittee's recommended disposition of an application or submission unless no fewer than 2/3 of the board members who are present and voting vote to reject that recommended disposition. [2015, c. 429, §21 (NEW).]

[2015, c. 429, §21 (NEW).]

4. **Quorum; chair; secretary.** Notwithstanding any provision of law to the contrary, a majority of the members serving on the subcommittee constitutes a quorum. The subcommittee shall annually elect its chair and secretary.

[2015, c. 429, §21 (NEW).]

§18327. **SUBCOMMITTEE ON DENTAL HYGIENISTS**

The Subcommittee on Dental Hygienists, referred to in this section as "the subcommittee," is established. [2015, c. 429, §21 (NEW).]

1. **Membership.** The subcommittee consists of 5 members as follows:

A. A dental hygienist who is a member of the board; [2015, c. 429, §21 (NEW).]

B. Two dental hygienists, appointed by the Governor, who are legal residents of the State and have practiced in the State for at least 6 years immediately preceding appointment; and [2015, c. 429, §21 (NEW).]

C. Two dentists who are members of the board, appointed by the chair of the board. [2015, c. 429, §21 (NEW).]

[2015, c. 429, §21 (NEW).]

2. **Terms.** Each of the 3 members of the subcommittee who also are members of the board shall serve on the subcommittee for the duration of that member's term on the board. The term of a member of the subcommittee who is not a member of the board is 5 years.

[2015, c. 429, §21 (NEW).]

3. **Duties.** The subcommittee shall:
A. Perform an initial review of all complaints involving dental hygienists and dental hygienists with additional authority pursuant to section 18345, subsection 2. Upon completion of its review of a complaint, the secretary of the subcommittee shall report to the board the subcommittee’s recommended disposition of the complaint. The board shall adopt the subcommittee’s recommended disposition of a complaint unless no fewer than 2/3 of the board members who are present and voting vote to reject that recommended disposition; and [2015, c. 429, §21 (NEW).]

B. Perform an initial review of all applications for licensure as a dental hygienist or a dental hygienist with additional authority pursuant to section 18345, subsection 2 and all submissions relating to continuing education of dental hygienists. Upon completion of its review of an application or submission, the secretary of the subcommittee shall report to the board the subcommittee’s recommended disposition of the application or submission, including issuance, renewal, denial or nonrenewal of a dental hygienist license. The board shall adopt the subcommittee’s recommended disposition of an application or submission unless no fewer than 2/3 of the board members who are present and voting vote to reject that recommended disposition. [2015, c. 429, §21 (NEW).]

4. Quorum; chair; secretary. Notwithstanding any provision of law to the contrary, a majority of the members serving on the subcommittee constitutes a quorum. The subcommittee shall annually elect its chair and secretary.

[2015, c. 429, §21 (NEW).]

SECTION HISTORY
2015, c. 429, §21 (NEW).

Subchapter 3: LICENSING QUALIFICATIONS

§18341. APPLICATION; FEES; GENERAL QUALIFICATIONS

1. Application. An applicant seeking an initial or a renewed license must submit an application with the fee established under section 18323 and any other materials required by the board.

[2015, c. 429, §21 (NEW).]

2. Age. An applicant must be 18 years of age or older.

[2015, c. 429, §21 (NEW).]

3. Time limit. An applicant has 90 days after being notified of the materials needed to complete the application to submit those materials to the board. Failure to complete the application within that 90-day period may result in a denial of the application.

[2015, c. 429, §21 (NEW).]

SECTION HISTORY
2015, c. 429, §21 (NEW).

§18342. DENTIST

1. Dentist license. Except as provided in section 18347, an applicant for licensure as a dentist must comply with the provisions of section 18341 and must provide:

   A. Verification of a doctoral degree in dentistry from a dental school accredited as required by board rule; and [2015, c. 429, §21 (NEW).]
B. Verification of passing all examinations required by the board. [2015, c. 429, §21 (NEW).]

2. Faculty dentist license. An applicant for a faculty dentist license must comply with section 18341 and must provide:

A. Verification of an active dental license in good standing issued under the laws of another state or a Canadian province; and [2015, c. 429, §21 (NEW).]

B. Credentials, satisfactory to the board, including a letter from the employing school of dentistry, dental hygiene or denturism indicating that the applicant satisfies the credentialing standards of the school and that the applicant will teach:

(1) Dentistry, dental hygiene or denturism in this State as part of a clinical and didactic program for professional education for dental students and dental residents accredited by the American Dental Association Commission on Dental Accreditation or a successor organization approved by the board;

(2) Dental hygiene in this State as part of a clinical and didactic program for professional education for dental hygiene students and dental hygiene residents accredited by the American Dental Association Commission on Dental Accreditation or a successor organization approved by the board; or

(3) Denturism in this State as part of a board-approved clinical and didactic program for professional education for denturism students. [2015, c. 429, §21 (NEW).]

3. Limited dentist license. An applicant for a limited dentist license must comply with section 18341 and must provide:

A. Verification of a doctoral degree in dentistry from a dental school accredited as required by board rule; [2015, c. 429, §21 (NEW).]

B. Verification that the applicant has been licensed as a dentist in good standing issued under the laws of this State or has an active dental license in good standing issued under the laws of another state or a Canadian province; [2015, c. 429, §21 (NEW).]

C. Verification of passing all examinations required by board rule; and [2015, c. 429, §21 (NEW).]

D. Verification that the applicant will be practicing dentistry in a nonprofit dental clinic without compensation for work performed at the clinic. [2015, c. 429, §21 (NEW).]


5. Charitable dentist license.

6. Resident dentist license. An applicant for a resident dentist license must comply with section 18341 and must provide:
A. Verification of a doctoral degree in dentistry from a dental school accredited as required by board rule;  [2015, c. 429, §21 (NEW).]

B. Verification of passing all examinations required by board rule;  [2015, c. 429, §21 (NEW).]

C. Verification that the applicant will be practicing dentistry in a board-approved practice setting within the State; and  [2015, c. 429, §21 (NEW).]

D. A statement from the sponsoring dentist that demonstrates that the level of supervision and control of the services to be performed by the applicant are adequate and that the performance of these services are within the applicant's dental knowledge and skill.  [2015, c. 429, §21 (NEW).]

§18343. DENTAL RADIOGRAPHER

1. Dental radiographer license. Except as provided in section 18347, an applicant for a dental radiographer license must comply with section 18341 and must provide:

A. Verification of a high school diploma or its equivalent as determined by the board; and  [2015, c. 429, §21 (NEW).]

B. Verification of passing an examination in dental radiologic technique and safety required by board rule.  [2015, c. 429, §21 (NEW).]

§18344. EXPANDED FUNCTION DENTAL ASSISTANT

1. Expanded function dental assistant license. Except as provided in section 18347, an applicant for an expanded function dental assistant license must comply with section 18341 and must provide:

A. Verification of a high school diploma or its equivalent as determined by the board;  [2015, c. 429, §21 (NEW).]

B. Verification of one of the following:

(1) A current certificate as a certified dental assistant from a board-approved certificate program;

(2) An active dental hygiene license in good standing issued under the laws of this State; or

(3) An active dental hygiene license in good standing issued under the laws of another state or a Canadian province;  [2015, c. 2, §22 (COR).]

C. Verification of having successfully completed training in a school or program required by board rule; and  [2015, c. 429, §21 (NEW).]

D. Verification of passing all examinations required by board rule.  [2015, c. 429, §21 (NEW).]
§18345. DENTAL HYGIENIST

1. Dental hygienist license. Except as provided in section 18347, an applicant for a dental hygienist license must comply with section 18341 and must provide:

A. Verification of having successfully passed all examinations required by board rule and one of the following:

   (1) Verification of an associate degree or higher in dental hygiene from a program accredited by the American Dental Association Commission on Dental Accreditation, or its successor organization; or

   (2) Verification of having completed at least 1/2 of the prescribed course of study in an accredited dental college as a dental student. [2017, c. 388, §9 (AMD).]

2. Additional authority. A dental hygienist licensed under this section or section 18347 who applies for additional authority must comply with section 18341 and must provide:

A. For independent practice dental hygienist authority, verification of 2,000 work hours of clinical practice.

For purposes of meeting the clinical practice requirements of this paragraph, the applicant's hours in a private dental practice or nonprofit setting under the supervision of a dentist may be included as well as the applicant's hours as a public health dental hygienist or, prior to July 29, 2016, as a dental hygienist with public health supervision status; [2017, c. 139, §1 (AMD).]

B. For public health dental hygienist authority:

   (1) A copy of the written agreement between the applicant and a supervising dentist that outlines the roles and responsibilities of the parties, which must include, but is not limited to, the level of supervision provided by the dentist, the practice settings, the standing orders and the coordination and collaboration that each party must undertake if additional patient care is needed; and

   (2) Verification that the services will be offered in a public health setting; [2015, c. 429, §21 (NEW).]

C. For dental hygiene therapist authority:

   (1) Verification of having successfully completed a dental hygiene therapy program that:

      (a) Is accredited by the American Dental Association Commission on Dental Accreditation or a successor organization;

      (b) Is a minimum of 4 semesters;

      (c) Is consistent with the model curriculum for educating dental hygiene therapists adopted by the American Association of Public Health Dentistry or a successor organization;

      (d) Is consistent with existing dental hygiene therapy programs in other states approved by the board; and

      (e) Meets the requirements for dental hygiene therapy education programs adopted by board rule;

   (2) Verification of a bachelor's degree or higher in dental hygiene, dental hygiene therapy or dental therapy from a school accredited by the American Dental Association Commission on Dental Accreditation or a successor organization;
(3) Verification of passing a clinical examination and all other examinations required by board rule. The clinical examination must be a comprehensive, competency-based clinical examination approved by the board and administered independently of an institution providing dental hygiene therapy education;

(4) Verification of having engaged in 2,000 hours of supervised clinical practice under the supervision of a dentist and in conformity with rules adopted by the board, during which supervised clinical practice the applicant is authorized to practice pursuant to paragraph F.

For purposes of meeting the clinical requirements of this subparagraph, an applicant's hours of supervised clinical experience while enrolled in the dental hygiene therapy program under subparagraph (1) may be included as well as hours completed under the supervision of a dentist licensed in another state or a Canadian province, provided that the applicant was operating lawfully under the laws and rules of that state or province; and

(5) A copy of the written practice agreement and standing orders required by section 18377, subsection 3; [2015, c. 429, §21 (NEW).]

D. For local anesthesia authority:

(1) Verification of having successfully completed a course of study required by board rule; and

(2) Verification of passing all examinations required by board rule; [2015, c. 429, §21 (NEW).]

E. For nitrous oxide analgesia authority:

(1) Verification of having successfully completed a course of study required by board rule; and

(2) Verification of passing all examinations required by board rule; and [2015, c. 429, §21 (NEW).]

F. For provisional dental hygiene therapist authority:

(1) Verification of meeting the requirements of paragraph C, subparagraphs (1) to (3); and

(2) A copy of the written agreement between the applicant and a dentist who will provide levels of supervision consistent with the scope of practice outlined in section 18377 and in conformity with rules adopted by the board.

During the period of provisional authority the applicant may be compensated for services performed as a dental hygiene therapist. The period of provisional authority may not exceed 3 years. [2015, c. 429, §21 (NEW).]

[ 2017, c. 139, §1 (AMD).]

3. Faculty dental hygiene license. An applicant for a faculty dental hygienist license must comply with section 18341 and must provide:

A. Verification of an active dental hygiene license in good standing issued under the laws of another state or a Canadian province; and [2015, c. 429, §21 (NEW).]

B. Credentials, satisfactory to the board, including a letter from the employing school of dentistry, dental hygiene or denturism indicating that the applicant satisfies the credentialing standards of the school and that the applicant will teach:

(1) Dental hygiene or denturism in this State as part of a clinical and didactic program for professional education for dental students and dental residents accredited by the American Dental Association Commission on Dental Accreditation or a successor organization approved by the board;
(2) Dental hygiene in this State as part of a clinical and didactic program for professional education for dental hygiene students and dental hygiene residents accredited by the American Dental Association Commission on Dental Accreditation or a successor organization approved by the board; or

(3) Denturism in this State as part of a board-approved clinical and didactic program for professional education for denturism students. [2015, c. 429, §21 (NEW).]

SECTION HISTORY

§18346. DENTURIST

1. Denturist license. Except as provided in section 18347, an applicant for a denturist license must comply with section 18341 and must provide:
   A. Verification of a high school diploma or its equivalent as determined by the board; [2015, c. 429, §21 (NEW).]
   B. Verification of a diploma from a board-approved denturism postsecondary institution; and [2015, c. 429, §21 (NEW).]
   C. Verification of passing all examinations required by board rule. The content of one examination must have a clinical component and a written component concerning, but not limited to, dental materials, denture technology, United States Department of Health and Human Services, Centers for Disease Control and Prevention guidelines, basic anatomy and basic pathology. [2015, c. 429, §21 (NEW).]

   [ 2015, c. 429, §21 (NEW) . ]

2. Faculty denturist license. An applicant for a faculty denturist license must comply with section 18341 and must provide:
   A. Verification of an active denturist license in good standing issued under the laws of another state or a Canadian province; and [2015, c. 429, §21 (NEW).]
   B. Credentials, satisfactory to the board, including a letter from the employing school of dentistry, dental hygiene or denturism indicating that the applicant satisfies the credentialing standards of the school. [2015, c. 429, §21 (NEW).]

   [ 2015, c. 429, §21 (NEW) . ]

SECTION HISTORY
2015, c. 429, §21 (NEW).

§18347. ENDORSEMENT; APPLICANTS AUTHORIZED TO PRACTICE IN ANOTHER JURISDICTION

The board is authorized, at its discretion, to waive the examination requirements and issue a license or grant an authority to an applicant who is licensed under the laws of another state or a Canadian province who furnishes proof, satisfactory to the board, that the requirements for licensure under this chapter have been met. Applicants must comply with the provisions set forth in section 18341. [2015, c. 429, §21 (NEW).]
1. **Applicants licensed in another jurisdiction.** An applicant for licensure or seeking authority under this chapter who is licensed under the laws of another jurisdiction is governed by this subsection.

   A. An applicant who is licensed in good standing at the time of application to the board under the laws of another state or a Canadian province may qualify for licensure by submitting evidence to the board that the applicant has held a substantially equivalent, valid license for at least 3 consecutive years immediately preceding the application to the board at the level of licensure applied for in this State. [2015, c. 429, §21 (NEW).]

   B. An applicant who does not meet the requirements of paragraph A but is licensed in good standing at the time of application to the board under the laws of another state or a Canadian province may qualify for licensure by submitting evidence satisfactory to the board that the applicant's qualifications for licensure are substantially similar to the requirements in this chapter for the relevant license. [2015, c. 429, §21 (NEW).]

§18348. **REGISTRATION REQUIREMENTS**

1. **Dentist externship registration.**

   [2017, c. 388, §10 (RP).]

2. **Sedation and general anesthesia registration.** A dentist who holds a permit to administer sedation pursuant to section 18379 may register another dentist under that dentist’s license for the purpose of providing clinical supervision in administering sedation or general anesthesia under direct supervision. A registration under this subsection expires one year from the date the registration is granted. Applicants must comply with section 18341 and must submit a letter from the supervising dentist describing the practice settings in which supervision will occur as well as attesting that these arrangements are commensurate with the registrant’s education, training and competency. [2015, c. 429, §21 (NEW).]

3. **Local anesthesia/nitrous oxide analgesia registration.** A dentist may register a dentist or dental hygienist under that dentist’s license for the purpose of providing clinical supervision in administering local anesthesia or nitrous oxide analgesia under direct supervision. A registration under this section expires one year from the date the registration is granted. Applicants must comply with section 18341 and must submit a letter from the supervising dentist describing the practice settings in which supervision will occur as well as attesting that these arrangements are commensurate with the registrant’s education, training and competency. [2015, c. 429, §21 (NEW).]

4. **Denturist trainee registration.** A denturist or dentist may register under that dentist’s or denturist’s license an individual who has completed a board-approved denturism postsecondary program for the purpose of providing additional clinical supervision outside of the academic setting. A registration under this section expires one year from the date the registration is granted, but may be renewed for an additional year. An applicant must comply with section 18341 and must provide:

   A. Verification that the trainee has successfully completed a denturism program approved by the board; and [2017, c. 388, §11 (AMD).]

   B. [2017, c. 388, §11 (RP).]
C. A letter from the supervising denturist or dentist that describes the level of supervision that the denturist or dentist will provide and that attests that the performance of these services by the trainee will add to the trainee's knowledge and skill in denturism. [2017, c. 388, §11 (AMD).]

SECTION HISTORY

§18349. LICENSE RENEWAL; REINSTATEMENT

1. Renewal. Licenses under this chapter expire at such times as the commissioner may designate. In the absence of any reason or condition that might warrant the refusal of granting a license, the board shall issue a renewal license to each applicant who meets the requirements of sections 18341 and 18350.

[2015, c. 429, §21 (NEW).]

2. Late renewals. Licenses may be renewed up to 90 days after the date of expiration if the applicant meets the requirements of subsection 1 and pays a late fee established by the board pursuant to section 18323, subsection 3.

[2015, c. 429, §21 (NEW).]

3. Reinstatement. A person who submits an application for reinstatement more than 90 days after the license expiration date is subject to all requirements governing new applicants under this chapter, except that the board may, giving due consideration to the protection of the public, waive examination if that renewal application is received, together with the penalty fee established by the board pursuant to section 18323, subsection 3, within 2 years from the date of the license expiration.

[2015, c. 429, §21 (NEW).]

SECTION HISTORY
2015, c. 429, §21 (NEW).

§18350. CONTINUING EDUCATION

As a condition of renewal of a license to practice, an applicant must have a current cardiopulmonary resuscitation certification and complete continuing education during the licensing cycle prior to application for renewal. The board may prescribe by rule the content and types of continuing education activities that meet the requirements of this section. [2015, c. 429, §21 (NEW).]

SECTION HISTORY
2015, c. 429, §21 (NEW).

§18351. INACTIVE STATUS

A licensee who wants to retain licensure while not practicing may apply for an inactive status license. The fee for inactive status licensure is set under section 18323, subsection 3. During inactive status, the licensee must renew the license and pay the renewal fee set under section 18323, subsection 3, but is not required to meet the continuing education requirements under section 18350. The board shall adopt rules by which an inactive status license may be reinstated. [2015, c. 429, §21 (NEW).]
An individual who practices under a resident dentist license or as a provisional dental hygiene therapist may not apply for inactive status. [2017, c. 388, §12 (AMD).]

SECTION HISTORY

§18352. DUTY TO REQUIRE CERTAIN INFORMATION FROM APPLICANTS AND LICENSEES

1. Report in writing. A licensee and an applicant for licensure shall report in writing to the board no later than 10 days after any of the following changes or events:
   A. Change of name or address; [2015, c. 429, §21 (NEW).]
   B. Criminal conviction; [2015, c. 429, §21 (NEW).]
   C. Revocation, suspension or other disciplinary action taken in this State or any other jurisdiction against any occupational or professional license held by the licensee or applicant; or [2015, c. 429, §21 (NEW).]
   D. Any material change in the conditions or qualifications set forth in the original application for licensure submitted to the board. [2015, c. 429, §21 (NEW).]

[2015, c. 429, §21 (NEW).]

SECTION HISTORY
2015, c. 429, §21 (NEW).

Subchapter 4: SCOPE OF PRACTICE; SUPERVISION; PRACTICE REQUIREMENTS

§18371. DENTIST

1. Scope of practice. A dentist, faculty dentist, limited dentist or resident dentist may:
   A. Perform a dental operation or oral surgery or dental service of any kind, gratuitously or for a salary, fee, money or other compensation paid, or to be paid, directly or indirectly to the person or to any other person or agency who is a proprietor of a place where dental operations, oral surgery or dental services are performed; [2015, c. 429, §21 (NEW).]
   B. Obtain impressions of a human tooth, teeth or jaws and perform a phase of an operation incident to the replacement of a part of a tooth; [2017, c. 388, §13 (AMD).]
   C. Supply artificial substitutes for the natural teeth and furnish, supply, construct, reproduce or repair a prosthetic denture, bridge, appliance or any other structure to be worn in the human mouth; [2015, c. 429, §21 (NEW).]
   D. Place dental appliances or structures in the human mouth and adjust or attempt or profess to adjust the same; [2015, c. 429, §21 (NEW).]
   E. Furnish, supply, construct, reproduce or repair or profess to the public to furnish, supply, construct, reproduce or repair a prosthetic denture, bridge, appliance or other structure to be worn in the human mouth; [2015, c. 429, §21 (NEW).]
   F. Diagnose or profess to diagnose, prescribe for and treat or profess to prescribe for and treat disease, pain, deformity, deficiency, injury or physical condition of the human teeth or jaws or adjacent structure; [2015, c. 429, §21 (NEW).]
   G. Extract or attempt to extract human teeth; [2015, c. 429, §21 (NEW).]
H. Correct or attempt to correct malformations of teeth and jaws; [2015, c. 429, §21 (NEW).]

I. Repair or fill cavities in the human teeth; [2015, c. 429, §21 (NEW).]

J. Diagnose malposed teeth and make and adjust appliances or artificial casts for treatment of the malposed teeth in the human mouth with or without instruction; [2015, c. 429, §21 (NEW).]

K. Use an x-ray machine for the purpose of taking dental x-rays and interpret or read or profess to interpret or read dental x-rays; [2015, c. 429, §21 (NEW).]

L. Use the words dentist, dental surgeon or oral surgeon and the letters D.D.S. or D.M.D. and any other words, letters, title or descriptive matter that represents that person as being able to diagnose, treat, prescribe or operate for a disease, pain, deformity, deficiency, injury or physical condition of the human teeth or jaws or adjacent structures and state, profess or permit to be stated or professed by any means or method whatsoever that the person can perform or will attempt to perform dental operations or render a diagnosis connected with dental operations; [2015, c. 429, §21 (NEW).]

M. Prescribe drugs or medicine and administer local anesthesia, analgesia including nitrous oxide and oxygen inhalation and, with the appropriate permit issued by the board, administer sedation and general anesthesia necessary for proper dental treatment; and [2015, c. 429, §21 (NEW).]

N. Take case histories and perform physical examinations to the extent the activities are necessary in the exercise of due care in conjunction with the provision of dental treatment or the administration of anesthesia. A dentist is not permitted to perform physical examinations within a hospital licensed by the Department of Health and Human Services unless this activity is permitted by the hospital. [2015, c. 429, §21 (NEW).]

[ 2017, c. 388, §13 (AMD) .]

2. Limitations. Individuals practicing dentistry as described in this section who possess one of the following licenses shall adhere to the restrictions in this subsection.

A. [2017, c. 388, §14 (RP).]

B. [2017, c. 388, §14 (RP).]

C. An individual with a faculty dentist license may provide dental services only as part of the education program for which the license was issued by the board. [2015, c. 429, §21 (NEW).]

D. An individual with a limited dentist license may provide dental services only in the nonprofit dental clinic for which the license was issued by the board and may not accept remuneration for those services. [2015, c. 429, §21 (NEW).]

E. An individual with a resident dentist license may provide dental services only under the supervision of the sponsoring dentist and in accordance with the level of supervision and control for which the license was issued by the board. [2015, c. 429, §21 (NEW).]

[ 2017, c. 388, §14 (AMD) .]

3. Delegation authorized. A dentist may delegate to an unlicensed person the activities listed in this subsection. A dentist who delegates activities as described is legally liable for the activities of that unlicensed person and the unlicensed person in this relationship is considered the dentist's agent.

A. A dentist may delegate the following activities to an unlicensed person as long as these activities are conducted under the general supervision of the delegating dentist:

(1) Changing or replacing dry socket packets after diagnosis and treatment planned by a dentist;

(2) For instruction purposes, demonstrating to a patient how the patient should place and remove removable prostheses, appliances or retainers;
(3) For the purpose of eliminating pain or discomfort, removing loose, broken or irritating orthodontic appliances;

(4) Giving oral health instructions;

(5) Irrigating and aspirating the oral cavity;

(6) Performing dietary analyses for dental disease control;

(7) Placing and recementing with temporary cement an existing crown that has fallen out as long as the dentist is promptly notified that this procedure was performed so that appropriate follow-up can occur;

(8) Placing and removing periodontal dressing;

(9) Pouring and trimming dental models;

(10) Removing sutures and scheduling a follow-up appointment with the dentist within 7 to 10 days of suture removal;

(11) Retracting lips, cheek, tongue and other tissue parts;

(12) Obtaining impressions for study casts;

(13) Taking and recording the vital signs of blood pressure, pulse and temperature;

(14) Taking dental plaque smears for microscopic inspection and patient education; and

(15) Taking intraoral photographs. [2017, c. 388, §15 (AMD)].

B. If the unlicensed person has successfully passed a certification examination administered by a national dental assisting board, the dentist may delegate to that unlicensed person the following additional activities, as long as these activities are conducted under the general supervision of the dentist:

(1) Placing temporary fillings on an emergency basis as long as the patient is informed of the temporary nature of the fillings; and

(2) Removing excess cement from the supragingival surfaces of teeth. [2015, c. 429, §21 (NEW)].

C. A dentist may delegate to an unlicensed person the following intraoral activities, which must be conducted under the direct supervision of the delegating dentist:

(1) Applying cavity varnish;

(2) Applying liquids, pastes and gel topical anesthetics;

(3) Assisting a dentist who provides orthodontic services in preparation of teeth for attaching, bonding and cementing fixed appliances in a manner appropriate and according to manufacturer's directions;

(4) Delivering, but not condensing or packing, amalgam or composite restoration material;

(5) Fabricating temporary crowns and bridges, limiting handpiece rotary instrumentation used in the fabrication to extraoral use only, as long as the dentist checks the occlusion and fit prior to releasing the patient;

(6) Irrigating and drying root canals;

(7) Isolating the operative field;

(8) Performing pulp vitality testing with confirmation by the dentist;

(9) Performing electronic vitality scanning with confirmation by the dentist;

(10) Performing preliminary selection and fitting of orthodontic bands, with final placement and cementing in the patient's mouth by the dentist;

(11) Placing and cementing temporary crowns with temporary cement;
(12) Placing and removing matrix bands, rubber dams and wedges;
(13) Placing elastics and instructing in their use;
(14) Placing, holding or removing celluloid and other plastic strips prior to or subsequent to the placement of a filling by the dentist;
(15) Placing or removing temporary separating devices;
(16) Placing wires, pins and elastic ligatures to tie in orthodontic arch wires that have been fitted and approved by the dentist at the time of insertion;
(17) Preparing tooth sites and surfaces with a rubber cup and pumice for banding or bonding of orthodontic brackets. This procedure may not be intended or interpreted as an oral prophylaxis, which is a procedure specifically reserved to be performed by dental hygienists or dentists. This procedure also may not be intended or interpreted as a preparation for restorative material. A dentist or dental hygienist shall check and approve the procedure;
(18) Reapplying, on an emergency basis only, orthodontic brackets;
(19) Recording readings with a digital caries detector and reporting them to the dentist for interpretation and evaluation;
(20) Removing composite material using slow-speed instrumentation for debonding brackets, as long as the dentist conducts a final check prior to release of the patient;
(21) Removing excess cement from the supragingival surfaces of teeth;
(22) Removing gingival retraction cord;
(23) Removing orthodontic arch wires and tension devices and any loose bands or bonds, but only as directed by the dentist;
(24) Selecting and trying in stainless steel or other preformed crowns for insertion by the dentist;
(25) Obtaining impressions for opposing models and retainers;
(26) Obtaining impressions for single-arch athletic mouth guards, bleaching trays, custom trays and fluoride trays; and
(27) Taking intraoral measurements and making preliminary selection of arch wires and intraoral and extraoral appliances, including head gear. [2017, c. 388, §15 (AMD).]

4. Delegation not authorized. A dentist may not delegate any dental activity not listed in subsection 3 or 6 to an unlicensed person.

5. Supervision of dental hygiene therapists. A dentist, referred to in this section as the "supervising dentist," who employs a dental hygiene therapist shall comply with this subsection.

A. A supervising dentist shall arrange for another dentist or specialist to provide any services needed by a patient of a dental hygiene therapist supervised by that dentist that are beyond the scope of practice of the dental hygiene therapist and that the supervising dentist is unable to provide. [2015, c. 429, §21 (NEW).]

B. The supervising dentist is responsible for all authorized services and procedures performed by the dental hygiene therapist pursuant to a written practice agreement executed by the dentist pursuant to section 18377. [2015, c. 429, §21 (NEW).]

C. Revisions to a written practice agreement must be documented in a new written practice agreement signed by the supervising dentist and the dental hygiene therapist. [2015, c. 429, §21 (NEW).]
D. A supervising dentist who signs a written practice agreement shall file a copy of the agreement with
the board, keep a copy for the dentist's own records and make a copy available to patients of the dental
hygiene therapist upon request. [2015, c. 429, §21 (NEW).]

[ 2015, c. 429, §21 (NEW) .]

6. Prescription for laboratory services. A dentist who uses the services of a person not licensed to
practice dentistry in this State to construct, alter, repair or duplicate a denture, plate, partial plate, bridge,
splint, orthodontic or prosthetic appliance shall first furnish the unlicensed person with a written prescription,
which must contain:

A. The name and address of the unlicensed person; [2015, c. 429, §21 (NEW).]
B. The patient's name or number. In the event the number is used, the name of the patient must be
written upon the duplicate copy of the prescription retained by the dentist; [2015, c. 429, §21
(NEW).]
C. The date on which the prescription was written; [2015, c. 429, §21 (NEW).]
D. A description of the work to be done, with diagrams if necessary; [2015, c. 429, §21
(NEW).]
E. A specification of the type and quality of materials to be used; and [2015, c. 429, §21
(NEW).]
F. The signature of the dentist and the number of the dentist's state license. [2015, c. 429, §21
(NEW).]

The dentist shall retain for 2 years a duplicate copy of all prescriptions issued pursuant to this subsection for
inspection by the board.

[ 2015, c. 429, §21 (NEW) .]

SECTION HISTORY

§18372. DENTAL RADIOGRAPHER

1. Scope of practice. A licensed dental radiographer may practice dental radiography under the general
supervision of a dentist or an independent practice dental hygienist.

[ 2017, c. 388, §16 (AMD) .]

SECTION HISTORY

§18373. EXPANDED FUNCTION DENTAL ASSISTANT

1. Scope of practice; direct supervision. An expanded function dental assistant may perform under
the direct supervision of a dentist all of the activities that may be delegated by a dentist to an unlicensed
person pursuant to section 18371, subsection 3, paragraph C. An expanded function dental assistant may also
perform the following activities authorized under the direct supervision of a dentist:

A. Apply cavity liners and bases as long as the dentist:

(1) Has ordered the cavity liner or base;
(2) Has checked the cavity liner or base prior to the placement of the restoration; and
(3) Has checked the final restoration prior to patient dismissal; [2015, c. 429, §21 (NEW).]

B. Apply pit and fissure sealants after an evaluation of the teeth by the dentist at the time of sealant placement; [2015, c. 429, §21 (NEW).]

C. Apply supragingival desensitizing agents to an exposed root surface or dentinal surface of teeth; [2015, c. 429, §21 (NEW).]

D. Apply topical fluorides recognized for the prevention of dental caries; [2015, c. 429, §21 (NEW).]

E. Cement provisional or temporary crowns and bridges and remove excess cement; [2015, c. 429, §21 (NEW).]

F. Perform pulp vitality tests; [2017, c. 388, §17 (AMD).]

G. Place and contour amalgam, composite and other restorative materials prior to the final setting or curing of the material; [2015, c. 429, §21 (NEW).]

H. [2017, c. 388, §17 (RP).]

I. Place and remove gingival retraction cord; [2017, c. 388, §17 (AMD).]

J. [2017, c. 388, §17 (RP).]

K. Size, place and cement or bond orthodontic bands and brackets with final inspection by the dentist; [2015, c. 429, §21 (NEW).]

L. Supragingival polishing. A dentist or a dental hygienist must first determine that the teeth to be polished are free of calculus or other extraneous material prior to polishing. Dentists may permit an expanded function dental assistant to use only a slow-speed rotary instrument and rubber cup. Dentists may allow an expanded function dental assistant to use high-speed, power-driven handpieces or instruments to contour or finish newly placed composite materials; and [2017, c. 388, §17 (AMD).]

M. Obtain impressions for athletic mouth guards, provisional or temporary crowns and bridges. [2017, c. 388, §17 (AMD).]

N. [2017, c. 388, §17 (RP).]

O. [2017, c. 388, §17 (RP).]

P. [2017, c. 388, §17 (RP).]

Q. [2017, c. 388, §17 (RP).]

R. [2017, c. 388, §17 (RP).]

S. [2017, c. 388, §17 (RP).]

T. [2017, c. 388, §17 (RP).]

U. [2017, c. 388, §17 (RP).]

V. [2017, c. 388, §17 (RP).]

W. [2017, c. 388, §17 (RP).]

X. [2017, c. 388, §17 (RP).]

Y. [2017, c. 388, §17 (RP).]

Z. [2017, c. 388, §17 (RP).]

AA. [2017, c. 388, §17 (RP).]

BB. [2017, c. 388, §17 (RP).]

CC. [2017, c. 388, §17 (RP).]
2. **Scope of practice; general supervision.** An expanded function dental assistant may perform under the general supervision of a dentist all of the activities that may be delegated by a dentist to an unlicensed person pursuant to section 18371, subsection 3, paragraphs A and B.

A. [2017, c. 388, §17 (RP).]
B. [2017, c. 388, §17 (RP).]
C. [2017, c. 388, §17 (RP).]
D. [2017, c. 388, §17 (RP).]
E. [2017, c. 388, §17 (RP).]
F. [2017, c. 388, §17 (RP).]
G. [2017, c. 388, §17 (RP).]
H. [2017, c. 388, §17 (RP).]
I. [2017, c. 388, §17 (RP).]
J. [2017, c. 388, §17 (RP).]
K. [2017, c. 388, §17 (RP).]
L. [2017, c. 388, §17 (RP).]
M. [2017, c. 388, §17 (RP).]
N. [2017, c. 388, §17 (RP).]
O. [2017, c. 388, §17 (RP).]
P. [2017, c. 388, §17 (RP).]
Q. [2017, c. 388, §17 (RP).]

[ 2017, c. 388, §17 (AMD) .]

3. **Procedures not authorized.** An expanded function dental assistant may not engage in the following activities:

A. Complete or limited examination, diagnosis or treatment planning; [2015, c. 429, §21 (NEW).]
B. Surgical or cutting procedures of hard or soft tissue; [2015, c. 429, §21 (NEW).]
C. Prescribing drugs, medicaments or work authorizations; [2015, c. 429, §21 (NEW).]
D. Pulp capping, pulpotomy or other endodontic procedures; [2015, c. 429, §21 (NEW).]
E. Placement and intraoral adjustments of fixed or removable prosthetic appliances; or [2015, c. 429, §21 (NEW).]
F. Administration of local anesthesia, parenteral or inhalation sedation or general anesthesia. [2015, c. 429, §21 (NEW).]

[ 2015, c. 429, §21 (NEW) .]

SECTION HISTORY

§18374. DENTAL HYGIENIST

1. Scope of practice; direct supervision. A dental hygienist and faculty dental hygienist may perform the following procedures under the direct supervision of a dentist:

A. Administer local anesthesia or nitrous oxide analgesia, as long as the dental hygienist or faculty dental hygienist has authority to administer the relevant medication pursuant to section 18345, subsection 2, paragraph D or E; [2015, c. 429, §21 (NEW).]

B. Irrigate and dry root canals; [2015, c. 429, §21 (NEW).]

C. Record readings with a digital caries detector and report them to the dentist for interpretation and evaluation; [2015, c. 429, §21 (NEW).]

D. Remove socket dressings; [2015, c. 429, §21 (NEW).]

E. Take cytological smears as requested by the dentist; and [2015, c. 429, §21 (NEW).]

F. Obtain impressions for nightguards and occlusal splints. [2017, c. 388, §18 (AMD).]

[ 2017, c. 388, §18 (AMD) .]

2. Scope of practice; general supervision. A dental hygienist and faculty dental hygienist may perform under the general supervision of a dentist all of the activities that may be delegated to an unlicensed person pursuant to section 18371, subsection 3, except the activities in section 18371, subsection 3, paragraph C, subparagraphs (6), (17) and (19). A dental hygienist and faculty dental hygienist may also perform the following procedures under the general supervision of a dentist:

A. Prescribe, dispense or administer anticavity toothpastes or topical gels with 1.1% or less sodium fluoride and oral rinses with 0.05%, 0.2%, 0.44% or 0.5% sodium fluoride, as well as chlorhexidine gluconate oral rinse; [2015, c. 429, §21 (NEW).]

B. [2017, c. 388, §19 (RP).]

C. Apply desensitizing agents to teeth; [2015, c. 429, §21 (NEW).]

D. Apply fluoride to control caries; [2015, c. 429, §21 (NEW).]

E. [2017, c. 388, §19 (RP).]

F. Apply sealants; [2017, c. 388, §19 (AMD).]

G. [2017, c. 388, §19 (RP).]

H. [2017, c. 388, §19 (RP).]

I. [2017, c. 388, §19 (RP).]

J. Expose and process radiographs; [2015, c. 429, §21 (NEW).]

K. [2017, c. 388, §19 (RP).]

L. [2017, c. 388, §19 (RP).]

M. [2017, c. 388, §19 (RP).]

N. [2017, c. 388, §19 (RP).]

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O. Interview patients and record complete medical and dental histories; [2015, c. 429, §21 (NEW).]

P. [2017, c. 388, §19 (RP).]

Q. [2017, c. 388, §19 (RP).]

R. Obtain bacterial sampling when treatment is planned by the dentist; [2015, c. 429, §21 (NEW).]

S. Perform all procedures necessary for a complete prophylaxis, including root planing; [2015, c. 429, §21 (NEW).]

T. [2017, c. 388, §19 (RP).]

U. Perform complete periodontal and dental restorative charting; [2015, c. 429, §21 (NEW).]

V. [2017, c. 388, §19 (RP).]

W. [2017, c. 388, §19 (RP).]

X. Perform oral inspections, recording all conditions that should be called to the attention of the dentist; [2015, c. 429, §21 (NEW).]

Y. Perform postoperative irrigation of surgical sites; [2015, c. 429, §21 (NEW).]

Z. [2017, c. 388, §19 (RP).]

AA. [2017, c. 388, §19 (RP).]

BB. [2017, c. 388, §19 (RP).]

CC. Place and remove gingival retraction cord without vasoconstrictor; [2015, c. 429, §21 (NEW).]

DD. [2017, c. 388, §19 (RP).]

EE. [2017, c. 388, §19 (RP).]

FF. [2017, c. 388, §19 (RP).]

GG. Place localized delivery of chemotherapeutic agents when treatment is planned by the dentist; [2015, c. 429, §21 (NEW).]

HH. [2017, c. 388, §19 (RP).]

II. [2017, c. 388, §19 (RP).]

JJ. Place temporary restorations as an emergency procedure, as long as the patient is informed of the temporary nature of the restoration; [2015, c. 429, §21 (NEW).]

KK. [2017, c. 388, §19 (RP).]

LL. Prepare tooth sites and surfaces with a rubber cup and pumice for banding or bonding of orthodontic brackets. This procedure may not be interpreted as a preparation for restorative material; [2015, c. 429, §21 (NEW).]

MM. [2017, c. 388, §19 (RP).]

NN. [2017, c. 388, §19 (RP).]

OO. [2017, c. 388, §19 (RP).]

PP. [2017, c. 388, §19 (RP).]

QQ. [2017, c. 388, §19 (RP).]

RR. [2017, c. 388, §19 (RP).]

SS. [2017, c. 388, §19 (RP).]

TT. Smooth and polish amalgam restorations; and [2017, c. 388, §19 (AMD).]

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UU. [2017, c. 388, §19 (RP).]

VV. Obtain impressions for study casts, athletic mouth guards, custom trays, bleaching trays, fluoride trays, opposing models, retainers and stents. [2017, c. 388, §19 (AMD).]

WW. [2017, c. 388, §19 (RP).]

XX. [2017, c. 388, §19 (RP).]

YY. [2017, c. 388, §19 (RP).]

[ 2017, c. 388, §19 (AMD) .]

3. Limitation. An individual with a faculty dental hygienist license may provide the services described in this section only as part of the education program for which the license was issued by the board.

[ 2015, c. 429, §21 (NEW) .]

SECTION HISTORY

§18375. INDEPENDENT PRACTICE DENTAL HYGIENIST

1. Scope of practice. An independent practice dental hygienist may perform only the following duties without supervision by a dentist:

A. Interview patients and record complete medical and dental histories; [2015, c. 429, §21 (NEW).]

B. Take and record the vital signs of blood pressure, pulse and temperature; [2015, c. 429, §21 (NEW).]

C. Perform oral inspections, recording all conditions that should be called to the attention of a dentist; [2015, c. 429, §21 (NEW).]

D. Perform complete periodontal and dental restorative charting; [2015, c. 429, §21 (NEW).]

E. Perform all procedures necessary for a complete prophylaxis, including root planing; [2015, c. 429, §21 (NEW).]

F. Apply fluoride to control caries; [2015, c. 429, §21 (NEW).]

G. Apply desensitizing agents to teeth; [2015, c. 429, §21 (NEW).]

H. Apply topical anesthetics; [2015, c. 429, §21 (NEW).]

I. Apply sealants; [2015, c. 429, §21 (NEW).]

J. Smooth and polish amalgam restorations, limited to slow-speed application only; [2015, c. 429, §21 (NEW).]

K. [2017, c. 388, §20 (RP).]

L. Obtain impressions for athletic mouth guards and custom fluoride trays; [2017, c. 388, §21 (AMD).]

M. Place and remove rubber dams; [2015, c. 429, §21 (NEW).]

N. Place temporary restorations in compliance with the protocol adopted by the board; [2015, c. 429, §21 (NEW).]

O. Apply topical antimicrobials, including fluoride but excluding antibiotics, for the purposes of bacterial reduction, caries control and desensitization in the oral cavity. The independent practice dental hygienist shall follow current manufacturer's instructions in the use of these medicaments; [2015, c. 429, §21 (NEW).]
P. Expose and process radiographs, including but not limited to vertical and horizontal bitewing films, periapical films, panoramic images and full-mouth series, under protocols developed by the board as long as the independent practice dental hygienist has a written agreement with a licensed dentist that provides that the dentist is available to interpret all dental radiographs within 21 days from the date the radiograph is taken and that the dentist will sign a radiographic review and findings form; and [2015, c. 429, §21 (NEW).]

Q. Prescribe, dispense or administer anticavity toothpastes or topical gels with 1.1% or less sodium fluoride and oral rinses with 0.05%, 0.2%, 0.44% or 0.5% sodium fluoride, as well as chlorhexidine gluconate oral rinse. For the purposes of this paragraph, "topical" includes superficial and intraoral application. [2015, c. 429, §21 (NEW).]

[ 2017, c. 388, §§20, 21 (AMD). ]

2. Practice standards. An independent practice dental hygienist has the duties and responsibilities set out in this subsection with respect to each patient seen in an independent capacity.

A. Prior to an initial patient visit, an independent practice dental hygienist shall obtain from the patient or the parent or guardian of a minor patient written acknowledgment of the patient's or parent's or guardian's understanding that the independent practice dental hygienist is not a dentist and that the service to be rendered does not constitute restorative care or treatment. [2015, c. 429, §21 (NEW).]

B. An independent practice dental hygienist shall provide to a patient or the parent or guardian of a minor patient a written plan for referral to a dentist for any necessary dental care. The referral plan must identify all conditions that should be called to the attention of the dentist. [2015, c. 429, §21 (NEW).]

[ 2015, c. 429, §21 (NEW). ]

§18376. PUBLIC HEALTH DENTAL HYGIENIST

1. Scope of practice. A public health dental hygienist may perform the following procedures in a public health setting under a supervision agreement with a dentist that outlines the roles and responsibilities of the collaboration:

A. Prescribe, dispense or administer anticavity toothpastes or topical gels with 1.1% or less sodium fluoride and oral rinses with 0.05%, 0.2%, 0.44% or 0.5% sodium fluoride, as well as chlorhexidine gluconate oral rinse; [2015, c. 429, §21 (NEW).]

B. Apply cavity varnish; [2015, c. 429, §21 (NEW).]

C. Apply desensitizing agents to teeth; [2015, c. 429, §21 (NEW).]

D. Apply fluoride to control caries; [2015, c. 429, §21 (NEW).]

E. Apply liquids, pastes or gel topical anesthetics; [2015, c. 429, §21 (NEW).]

F. Apply sealants; [2015, c. 429, §21 (NEW).]

G. Apply topical antimicrobials, including fluoride but excluding antibiotics, for the purposes of bacterial reduction, caries control and desensitization in the oral cavity. The public health dental hygienist shall follow current manufacturer’s instructions in the use of these medicaments. For the purposes of this paragraph, "topical" includes superficial and intramuscular application; [2015, c. 429, §21 (NEW).]

H. [2017, c. 388, §22 (RP).]
I. Expose and process radiographs upon written standing prescription orders from a dentist who is available to interpret all dental radiographs within 21 days and who will complete and sign a radiographic review and findings form; [2015, c. 429, §21 (NEW).]

J. For instruction purposes, demonstrate to a patient how the patient should place and remove removable prostheses, appliances or retainers; [2015, c. 429, §21 (NEW).]

K. For the purposes of eliminating pain or discomfort, remove loose, broken or irritating orthodontic appliances; [2015, c. 429, §21 (NEW).]

L. Give oral health instruction; [2015, c. 429, §21 (NEW).]

M. Interview patients and record complete medical and dental histories; [2015, c. 429, §21 (NEW).]

N. Irrigate and aspirate the oral cavity; [2015, c. 429, §21 (NEW).]

O. Isolate operative fields; [2015, c. 429, §21 (NEW).]

P. Perform all procedures necessary for a complete prophylaxis, including root planing; [2015, c. 429, §21 (NEW).]

Q. Perform complete periodontal and dental restorative charting; [2015, c. 429, §21 (NEW).]

R. Perform dietary analyses for dental disease control; [2015, c. 429, §21 (NEW).]

S. Perform temporary filling procedures without a dentist present under protocols adopted by board rule; [2015, c. 429, §21 (NEW).]

T. Perform oral inspections, recording all conditions that should be called to the attention of the dentist; [2015, c. 429, §21 (NEW).]

U. Perform pulp vitality tests pursuant to the direction of a dentist; [2017, c. 388, §23 (AMD).]

V. Place and remove gingival retraction cord without vasoconstrictor; [2015, c. 429, §21 (NEW).]

W. Place and remove matrix bands for purposes of fabricating or placing temporary restorations; [2015, c. 429, §21 (NEW).]

X. Place and remove rubber dams; [2015, c. 429, §21 (NEW).]

Y. Place and remove wedges for purposes of fabricating or placing temporary restorations; [2015, c. 429, §21 (NEW).]

Z. Place temporary restorations in compliance with the protocol adopted by board rule; [2015, c. 429, §21 (NEW).]

AA. Remove excess cement from the supragingival surfaces of teeth; [2015, c. 429, §21 (NEW).]

BB. Retract lips, cheek, tongue and other tissue parts; [2015, c. 429, §21 (NEW).]

CC. Smooth and polish restorations, limited to slow-speed application only; [2015, c. 429, §21 (NEW).]

DD. Take and record the vital signs of blood pressure, pulse and temperature; [2015, c. 429, §21 (NEW).]

EE. Take dental plaque smears for microscopic inspection and patient education; [2015, c. 429, §21 (NEW).]

FF. Obtain impressions for and deliver athletic mouth guards and custom fluoride trays; and [2017, c. 388, §23 (AMD).]
MRS Title 32, Chapter 143: DENTAL PROFESSIONS

GG. Take intraoral photographs. [2015, c. 429, §21 (NEW).] [2017, c. 388, §§22, 23 (AMD)].

SECTION HISTORY

§18377. DENTAL HYGIENE THERAPIST

1. Scope of practice. A dental hygiene therapist may perform the following procedures in limited practice settings, if authorized by a written practice agreement with a dentist licensed in this State pursuant to subsection 3.

A. To the extent permitted in a written practice agreement, a dental hygiene therapist may provide the care and services listed in this paragraph only under the direct supervision of the supervising dentist:

(1) Perform oral health assessments, pulpal disease assessments for primary and young teeth, simple cavity preparations and restorations and simple extractions;

(2) Prepare and place stainless steel crowns and aesthetic anterior crowns for primary incisors and prepare, place and remove space maintainers;

(3) Provide referrals;

(4) Administer local anesthesia and nitrous oxide analgesia;

(5) Perform preventive services;

(6) Conduct urgent management of dental trauma, perform suturing, extract primary teeth and perform nonsurgical extractions of periodontally diseased permanent teeth if authorized in advance by the supervising dentist;

(7) Provide, dispense and administer anti-inflammatory, nonprescription analgesics, antimicrobials, antibiotics and anticaries materials;

(8) Administer radiographs; and

(9) Perform other related services and functions authorized by the supervising dentist and for which the dental hygiene therapist is trained. [2015, c. 429, §21 (NEW).]

B. To the extent permitted in a written practice agreement, a dental hygiene therapist may provide the care and services listed in section 18374, subsections 1 and 2 under the general supervision of the supervising dentist. [2015, c. 429, §21 (NEW).]

[2015, c. 429, §21 (NEW).]

2. Supervision responsibilities. A dental hygiene therapist may be delegated a dentist’s responsibility to supervise up to 2 dental hygienists and 3 unlicensed persons in any one practice setting through a written practice agreement pursuant to subsection 3.

[2015, c. 429, §21 (NEW).]

3. Practice requirements. A dental hygiene therapist must comply with the following practice limitations.

A. A dental hygiene therapist may provide services only in a hospital; a public school, as defined in Title 20-A, section 1, subsection 24; a nursing facility licensed under Title 22, chapter 405; a residential care facility licensed under Title 22, chapter 1663; a clinic; a health center reimbursed as a federally qualified health center as defined in 42 United States Code, Section 1395x(aa)(4) (1993) or that has been determined by the federal Department of Health and Human Services, Centers for Medicare and Medicaid Services to meet the requirements for funding under Section 330 of the Public Health Service...
Act, 42 United States Code, Section 254(b); a federally qualified health center licensed in this State; a public health setting that serves underserved populations as recognized by the federal Department of Health and Human Services; or a private dental practice in which at least 50% of the patients who are provided services by that dental hygiene therapist are covered by the MaineCare program under Title 22 or are underserved adults. [2015, c. 429, §21 (NEW).]

B. A dental hygiene therapist may practice only under the direct supervision of a dentist through a written practice agreement signed by both parties. A written practice agreement is a signed document that outlines the functions that the dental hygiene therapist is authorized to perform, which may not exceed the scopes of practice specified in subsections 1 and 2. A dental hygiene therapist may practice only under the standing order of the supervising dentist, may provide only care that follows written protocols and may provide only services that the dental hygiene therapist is authorized to provide by the written practice agreement. [2015, c. 429, §21 (NEW).]

C. A written practice agreement between a supervising dentist and a dental hygiene therapist must include the following elements:

1. The services and procedures and the practice settings for those services and procedures that the dental hygiene therapist may provide, together with any limitations on those services and procedures;
2. Any age-specific and procedure-specific practice protocols, including case selection criteria, assessment guidelines and imaging frequency;
3. Procedures to be used with patients treated by the dental hygiene therapist for obtaining informed consent and for creating and maintaining dental records;
4. A plan for review of patient records by the supervising dentist and the dental hygiene therapist;
5. A plan for managing medical emergencies in each practice setting in which the dental hygiene therapist provides care;
6. A quality assurance plan for monitoring care, including patient care review, referral follow-up and a quality assurance chart review;
7. Protocols for administering and dispensing medications, including the specific circumstances under which medications may be administered and dispensed;
8. Criteria for providing care to patients with specific medical conditions or complex medical histories, including requirements for consultation prior to initiating care; and
9. Specific written protocols, including a plan for providing clinical resources and referrals, governing situations in which the patient requires treatment that exceeds the scope of practice or capabilities of the dental hygiene therapist. [2015, c. 429, §21 (NEW).]

D. Revisions to a written practice agreement must be documented in a new written practice agreement signed by the supervising dentist and the dental hygiene therapist. [2015, c. 429, §21 (NEW).]

E. A dental hygiene therapist shall file a copy of a written practice agreement with the board, keep a copy for the dental hygiene therapist's own records and make a copy available to patients of the dental hygiene therapist upon request. [2015, c. 429, §21 (NEW).]

F. A dental hygiene therapist shall refer patients in accordance with a written practice agreement to another qualified dental or health care professional to receive needed services that exceed the scope of practice of the dental hygiene therapist. [2015, c. 429, §21 (NEW).]

G. A dental hygiene therapist who provides services or procedures beyond those authorized in a written agreement engages in unprofessional conduct and is subject to discipline pursuant to section 18325. [2015, c. 429, §21 (NEW).]

[ 2015, c. 429, §21 (NEW). ]
4. **Dental coverage and reimbursement.** Notwithstanding Title 24-A, section 2752, any service performed by a dentist, dental assistant or dental hygienist licensed in this State that is reimbursed by private insurance, a dental service corporation, the MaineCare program under Title 22 or the Cub Care program under Title 22, section 3174-T must also be covered and reimbursed when performed by a dental hygiene therapist authorized to practice under this chapter.

[ 2015, c. 429, §21 (NEW) ]

**SECTION HISTORY**
2015, c. 429, §21 (NEW).

### §18378. DENTURIST

1. **Scope of practice.** A denturist and faculty denturist may:

   A. Obtain denture impressions and bite registrations for the purpose of or with a view to making, producing, reproducing, constructing, finishing, supplying, altering or repairing a denture to be fitted to an edentulous or partially edentulous arch or arches; [2017, c. 388, §24 (AMD)].

   B. Fit a denture to an edentulous or partially edentulous arch or arches, including by making, producing, reproducing, constructing, finishing, supplying, altering or repairing dentures without performing alteration to natural or reconstructed tooth structure. A denturist may perform clinical procedures related to the fabrication of a removable tooth-borne partial denture, including cast frameworks; [2015, c. 429, §21 (NEW)].

   C. Perform procedures incidental to the procedures specified in paragraphs A and B, as specified by board rule; and [2015, c. 429, §21 (NEW)].

   D. Make, place, construct, alter, reproduce or repair nonorthodontic removable sports mouth guards and provide teeth whitening services, including by fabricating whitening trays, providing whitening solutions determined to be safe for public use and providing any required follow-up care and instructions for use of the trays and solutions at home. [2015, c. 429, §21 (NEW)].

[ 2017, c. 388, §24 (AMD) ]

2. **Limitation.** An individual with a faculty denturist license may provide the services described in this section only as part of the education program for which the license was issued by the board.

[ 2015, c. 429, §21 (NEW) ]

**SECTION HISTORY**

### §18379. SEDATION AND GENERAL ANESTHESIA PERMITS

The board shall adopt by rule the qualifications a dentist must have to obtain a permit from the board authorizing the administration of sedation and general anesthesia. The board shall also adopt the guidelines for such administration, including but not limited to practice setting requirements. [2015, c. 429, §21 (NEW)].

**SECTION HISTORY**
2015, c. 429, §21 (NEW).

Subchapter 5: PRACTICE STANDARDS
§18391. AMALGAM BROCHURES; POSTERS

1. Brochure; poster. The Director of the Bureau of Health within the Department of Health and Human Services shall develop a brochure that explains the potential advantages and disadvantages to oral health, overall human health and the environment of using mercury or mercury amalgam in dental procedures. The brochure must describe what alternatives are available to mercury amalgam in various dental procedures and what potential advantages and disadvantages are posed by the use of those alternatives. The brochure may also include other information that contributes to the patient’s ability to make an informed decision when choosing between the use of mercury amalgam or an alternative material in a dental procedure, including, but not limited to, information on the durability, cost, aesthetic quality or other characteristics of the mercury amalgam and alternative materials. The director shall also develop a poster that informs patients of the availability of the brochure.

The Director of the Bureau of Health shall, in consultation with the Department of Environmental Protection, adopt the brochure and the poster described in this subsection through major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

[ 2015, c. 429, §21 (NEW) .]

2. Display. A dentist who uses mercury or a mercury amalgam in any dental procedure shall display the poster adopted by the Department of Health and Human Services, Bureau of Health under this section in the public waiting area of the practice setting and shall provide each patient a copy of the brochure adopted by the bureau under this section. The Department of Health and Human Services shall also post on its publicly accessible website a copy of the brochure that is suitable for downloading and printing by dentists, patients and other interested parties.

[ 2015, c. 429, §21 (NEW) .]

SECTION HISTORY
2015, c. 429, §21 (NEW).

§18392. REMOVABLE DENTAL PROSTHESIS; OWNER IDENTIFICATION

1. Identification required. Every complete upper and lower denture and removable dental prosthesis fabricated by a dentist or denturist, or fabricated pursuant to the dentist's or denturist's work order or under the dentist's or denturist's direction or supervision, must be marked with the name and social security number of the patient for whom the prosthesis is intended. The markings must be made during fabrication and must be permanent, legible and cosmetically acceptable. The exact location of the markings and the methods used to apply or implant the markings must be determined by the dentist or dental laboratory fabricating the prosthesis. If, in the professional judgment of the dentist or dental laboratory, this identification is not practical, identification must be provided as follows:

A. The social security number of the patient may be omitted if the name of the patient is shown; [2015, c. 429, §21 (NEW) .]

B. The initials of the patient may be shown alone, if use of the name of the patient is impracticable; or [2015, c. 429, §21 (NEW).]

C. The identification marks may be omitted in their entirety if none of the forms of identification specified in paragraphs A and B are practicable or clinically safe. [2015, c. 429, §21 (NEW).]

[ 2015, c. 429, §21 (NEW) .]
2. **Applicability.** A removable dental prosthesis in existence prior to September 23, 1983 that was not marked in accordance with subsection 1 at the time of its fabrication must be marked in accordance with subsection 1 at the time of a subsequent rebasing.

[ 2015, c. 429, §21 (NEW) .]

3. **Violation.** Failure of a dentist or denturist to comply with this section constitutes grounds for discipline pursuant to section 18325, as long as the dentist or denturist is charged with the violation within 2 years of initial insertion of the dental prosthetic device.

[ 2015, c. 429, §21 (NEW) .]

**SECTION HISTORY**

2015, c. 429, §21 (NEW).

### §18393. Confidentiality

1. **Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

   A. "Confidential communication" means a communication not intended to be disclosed to 3rd persons other than those present to further the interest of the patient in the consultation, examination or interview or persons who are participating in the diagnosis and treatment under the direction of the dentist, including members of the patient's family. [2015, c. 429, §21 (NEW).]

   B. "Patient" means a person who consults or is examined or interviewed by a dentist or dental auxiliary. [2015, c. 429, §21 (NEW).]

[ 2015, c. 429, §21 (NEW) .]

2. **General rule of privilege.** A patient has a privilege to refuse to disclose, and to prevent another person from disclosing confidential communications made for the purpose of diagnosis or treatment of the patient's physical, mental or emotional conditions, including substance use disorder, among the patient, the patient's dentist and persons who are participating in the diagnosis or treatment under the direction of the dentist, including members of the patient's family.

[ 2017, c. 407, Pt. A, §149 (AMD) .]

3. **Who may claim the privilege.** The privilege under subsection 2 may be claimed by the patient, by the patient's guardian or conservator or by the personal representative of a deceased patient. The dentist or dental auxiliary at the time of the communication is presumed to have authority to claim the privilege, but only on behalf of the patient.

[ 2015, c. 429, §21 (NEW) .]

4. **Exceptions.** Notwithstanding any other provision of law, the following are exceptions to the privilege under subsection 2.

   A. If the court orders an examination of the physical, mental or emotional condition of a patient, whether a party or a witness, communications made in the course of the examination are not privileged under this section with respect to the particular purpose for which the examination is ordered unless the court orders otherwise. [2015, c. 429, §21 (NEW).]

   B. There is not any privilege under this section as to communications relevant to an issue of the physical, mental or emotional condition of a patient in a proceeding in which the condition of the patient is an element of the claim or defense of the patient or of a party claiming through or under the patient...
or because of the patient's condition or claiming as a beneficiary of the patient through a contract to which the patient is or was a party or, after the patient's death, in a proceeding in which a party puts the condition in issue. [2015, c. 429, §21 (NEW).]

C. There is not any privilege under this section as to information regarding a patient that is sought by the Chief Medical Examiner or the Chief Medical Examiner's designee in a medical examiner case, as defined by Title 22, section 3025, in which the Chief Medical Examiner or the Chief Medical Examiner's designee has reason to believe that information relating to dental treatment may assist in determining the identity of a deceased person. [2015, c. 429, §21 (NEW).]

D. There is not any privilege under this section as to disclosure of information concerning a patient when that disclosure is required by law, and nothing in this section may modify or affect the provisions of Title 22, sections 4011-A to 4015 and Title 29-A, section 2405. [2015, c. 429, §21 (NEW).]

SECTION HISTORY
An Act To Align the Laws Governing Dental Therapy with Standards Established by the American Dental Association Commission on Dental Accreditation

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA §3174-XX, as amended by PL 2015, c. 429, §5, is further amended to read:

§3174-XX. Dental therapy reimbursement

1. Reimbursement. By October 1, 2015, the department shall provide for the reimbursement under the MaineCare program of dental hygiene therapists practicing as authorized under Title 32, section 18377 for the procedures identified in their scope of practice. Reimbursement must be provided to dental hygiene therapists directly or to a federally qualified health center pursuant to section 3174-V when a dental hygiene therapist is employed as a core provider at the center.

2. Rulemaking. The department shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

Sec. 2. 24 MRSA §2317-B, sub-§21, as enacted by PL 2013, c. 575, §4 and affected by §10, is amended to read:

21. Title 24-A, sections 2765-A and 2847-U. The practice of dental hygiene therapy by a dental hygiene therapist, Title 24-A, sections 2765-A and 2847-U.

Sec. 3. 24-A MRSA §2765-A, as amended by PL 2015, c. 429, §12, is further amended to read:

§2765-A. Coverage for services provided by dental therapist

1. Services provided by dental therapist. An insurer that issues individual dental insurance or health insurance that includes coverage for dental services shall provide
coverage for dental services performed by a dental hygiene therapist licensed under Title 32, chapter 143 when those services are covered services under the contract and when they are within the lawful scope of practice of the dental hygiene therapist.

2. **Limits; coinsurance; deductibles.** A contract that provides coverage for the services required by this section may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the extent that these provisions are not inconsistent with the requirements of this section.

3. **Coordination of benefits with dental insurance.** If an enrollee eligible for coverage under this section is eligible for coverage under a dental insurance policy or contract and a health insurance policy or contract, the insurer providing dental insurance is the primary payer responsible for charges under subsection 1 and the insurer providing individual health insurance is the secondary payer.

4. **Application.** The requirements of this section apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State. For purposes of this section, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

Sec. 4. 24-A MRSA §2847-U, as amended by PL 2015, c. 429, §14, is further amended to read:

§2847-U. **Coverage for services provided by dental therapist**

1. **Services provided by dental therapist.** An insurer that issues group dental insurance or health insurance that includes coverage for dental services shall provide coverage for dental services performed by a dental hygiene therapist licensed under Title 32, chapter 143 when those services are covered services under the contract and when they are within the lawful scope of practice of the dental hygiene therapist.

2. **Limits; coinsurance; deductibles.** A contract that provides coverage for the services required by this section may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the extent that these provisions are not inconsistent with the requirements of this section.

3. **Coordination of benefits with dental insurance.** If an enrollee eligible for coverage under this section is eligible for coverage under a dental insurance policy or contract and a health insurance policy or contract, the insurer providing dental insurance is the primary payer responsible for charges under subsection 1 and the insurer providing group health insurance is the secondary payer.

Sec. 5. 32 MRSA §18302, sub-§§5, 7 and 8, as enacted by PL 2015, c. 429, §21, are further amended to read:

5. **Dental auxiliary.** "Dental auxiliary" means a dental radiographer, expanded function dental assistant, dental hygienist, independent practice dental hygienist, public health dental hygienist, dental hygiene therapist or denturist.
7. Dental therapist. "Dental hygiene therapist" means a person who holds a valid
license as a dental hygienist issued by the board and is authorized to practice dental
hygiene therapy under this chapter.

8. Dental therapy. "Dental hygiene therapy" means the delivery of dental hygiene
services, including performance of certain dental procedures in accordance with this
chapter.

Sec. 6. 32 MRSA §18302, sub-§29, as enacted by PL 2015, c. 429, §21, is
amended to read:

29. Provisional dental therapist. "Provisional dental hygiene therapist" means a
person who holds a valid license as a dental hygienist issued by the board and who is
authorized to practice dental hygiene therapy under the supervision of a dentist in
accordance with this chapter.

Sec. 7. 32 MRSA §18345, sub-§2, ¶¶C and F, as enacted by PL 2015, c. 429,
§21, are amended to read:

C. For dental hygiene therapist authority:
   (1) Verification of having successfully completed a dental hygiene therapy
       program that:
           (a) Is accredited by the American Dental Association Commission on Dental
               Accreditation or a successor organization;
           (b) Is a minimum of 4 semesters;
           (c) Is consistent with the model curriculum for educating dental hygiene
               therapists adopted by the American Association of Public Health Dentistry or
               a successor organization;
           (d) Is consistent with existing dental hygiene therapy programs in other
               states approved by the board; and
           (e) Meets the requirements for dental hygiene therapy education programs
               adopted by board rule;
       (2) Verification of a bachelor's master's degree or higher in dental hygiene,
           dental hygiene therapy or in dental therapy from a school accredited by the
           American Dental Association Commission on Dental Accreditation or a its
           successor organization or a master's degree in dental therapy from a program that
           meets the requirements adopted by board rule consistent with the accreditation
           standards identified by the American Dental Association Commission on Dental
           Accreditation or its successor organization;
       (3) Verification of passing a clinical examination and all other examinations
           required by board rule. The clinical examination must be a comprehensive,
           competency-based clinical examination approved by the board and administered
           independently of an institution providing dental hygiene therapy education;
(4) Verification of having engaged in 2,000 hours of supervised clinical practice under the supervision of a dentist and in conformity with rules adopted by the board, during which supervised clinical practice the applicant is authorized to practice pursuant to paragraph F.

For purposes of meeting the clinical requirements of this subparagraph, an applicant's hours of supervised clinical experience while enrolled in the dental hygiene therapy program under subparagraph (1) may be included as well as hours completed under the supervision of a dentist licensed in another state or a Canadian province may be included, provided that as long as the applicant was operating lawfully under the laws and rules of that state or province; and

(5) A copy of the written practice agreement and standing orders required by section 18377, subsection 3; and

(6) Verification of a current advanced cardiac life support certification;

F. For provisional dental hygiene therapist authority:

(1) Verification of meeting the requirements of paragraph C, subparagraphs (1) to (2), (3) and (6); and

(2) A copy of the written agreement between the applicant and a dentist who will provide levels of supervision consistent with the scope of practice outlined in section 18377 and in conformity with rules adopted by the board.

During the period of provisional authority the applicant may be compensated for services performed as a dental hygiene therapist. The period of provisional authority may not exceed 3 years.

Sec. 8. 32 MRSA §18351, last ¶, as amended by PL 2017, c. 388, §12, is further amended to read:

An individual who practices under a resident dentist license or as a provisional dental hygiene therapist may not apply for inactive status.

Sec. 9. 32 MRSA §18371, sub-§5, as enacted by PL 2015, c. 429, §21, is amended to read:

5. Supervision of dental therapists. A dentist, referred to in this section as the "supervising dentist," who employs a dental hygiene therapist shall comply with this subsection.

A. A supervising dentist shall arrange for another dentist or specialist to provide any services needed by a patient of a dental hygiene therapist supervised by that dentist that are beyond the scope of practice of the dental hygiene therapist and that the supervising dentist is unable to provide.

B. The supervising dentist is responsible for all authorized services and procedures performed by the dental hygiene therapist pursuant to a written practice agreement executed by the dentist pursuant to section 18377.
C. Revisions to a written practice agreement must be documented in a new written practice agreement signed by the supervising dentist and the dental hygiene therapist.

D. A supervising dentist who signs a written practice agreement shall file a copy of the agreement with the board, keep a copy for the dentist's own records and make a copy available to patients of the dental hygiene therapist upon request.

Sec. 10. 32 MRSA §18377, as enacted by PL 2015, c. 429, §21, is amended to read:

§18377. Dental therapist

1. Scope of practice. A dental hygiene therapist may perform the following procedures in limited practice settings, if authorized by a written practice agreement with a dentist licensed in this State pursuant to subsection 3.

A. To the extent permitted in a written practice agreement, a dental hygiene therapist may provide the care and services listed in this paragraph only under the direct supervision of the supervising dentist:

   (1) Perform oral health assessments, pulpal disease assessments for primary and young teeth, simple cavity preparations and restorations and simple extractions;
   
   (2) Prepare and place stainless steel crowns and aesthetic anterior crowns for primary incisors and prepare, place and remove space maintainers;
   
   (3) Provide referrals;
   
   (4) Administer local anesthesia and nitrous oxide analgesia;
   
   (5) Perform preventive services;
   
   (6) Conduct urgent management of dental trauma, perform suturing, extract primary teeth and perform nonsurgical extractions of periodontally diseased permanent teeth if authorized in advance by the supervising dentist;
   
   (7) Provide, dispense and administer anti-inflammatories, nonprescription analgesics, antimicrobials, antibiotics and anticaries materials;
   
   (8) Administer radiographs; and
   
   (9) Perform other related services and functions authorized by the supervising dentist and for which the dental hygiene therapist is trained.

B. To the extent permitted in a written practice agreement, a dental hygiene therapist may provide the care and services listed in section 18374, subsections 1 and 2 under the general supervision of the supervising dentist.

2. Supervision responsibilities. A dental hygiene therapist may be delegated a dentist's responsibility to supervise up to 2 dental hygienists and 3 unlicensed persons in any one practice setting through a written practice agreement pursuant to subsection 3.

3. Practice requirements. A dental hygiene therapist must comply with the following practice limitations.
A. A dental hygiene therapist may provide services only in a hospital; a public school, as defined in Title 20-A, section 1, subsection 24; a nursing facility licensed under Title 22, chapter 405; a residential care facility licensed under Title 22, chapter 1663; a clinic; a health center reimbursed as a federally qualified health center as defined in 42 United States Code, Section 1395x(aa)(4) (1993) or that has been determined by the federal Department of Health and Human Services, Centers for Medicare and Medicaid Services to meet the requirements for funding under Section 330 of the Public Health Service Act, 42 United States Code, Section 254(b); a federally qualified health center licensed in this State; a public health setting that serves underserved populations as recognized by the federal Department of Health and Human Services; or a private dental practice in which at least 50% of the patients who are provided services by that dental hygiene therapist are covered by the MaineCare program under Title 22 or are underserved adults.

B. A dental hygiene therapist may practice only under the direct supervision of a dentist through a written practice agreement signed by both parties. A written practice agreement is a signed document that outlines the functions that the dental hygiene therapist is authorized to perform, which may not exceed the scopes of practice specified in subsections 1 and 2. A dental hygiene therapist may practice only under the standing order of the supervising dentist, may provide only care that follows written protocols and may provide only services that the dental hygiene therapist is authorized to provide by the written practice agreement.

C. A written practice agreement between a supervising dentist and a dental hygiene therapist must include the following elements:

   (1) The services and procedures and the practice settings for those services and procedures that the dental hygiene therapist may provide, together with any limitations on those services and procedures;

   (2) Any age-specific and procedure-specific practice protocols, including case selection criteria, assessment guidelines and imaging frequency;

   (3) Procedures to be used with patients treated by the dental hygiene therapist for obtaining informed consent and for creating and maintaining dental records;

   (4) A plan for review of patient records by the supervising dentist and the dental hygiene therapist;

   (5) A plan for managing medical emergencies in each practice setting in which the dental hygiene therapist provides care;

   (6) A quality assurance plan for monitoring care, including patient care review, referral follow-up and a quality assurance chart review;

   (7) Protocols for administering and dispensing medications, including the specific circumstances under which medications may be administered and dispensed;

   (8) Criteria for providing care to patients with specific medical conditions or complex medical histories, including requirements for consultation prior to initiating care; and
(9) Specific written protocols, including a plan for providing clinical resources and referrals, governing situations in which the patient requires treatment that exceeds the scope of practice or capabilities of the dental hygiene therapist.

D. Revisions to a written practice agreement must be documented in a new written practice agreement signed by the supervising dentist and the dental hygiene therapist.

E. A dental hygiene therapist shall file a copy of a written practice agreement with the board, keep a copy for the dental hygiene therapist's own records and make a copy available to patients of the dental hygiene therapist upon request.

F. A dental hygiene therapist shall refer patients in accordance with a written practice agreement to another qualified dental or health care professional to receive needed services that exceed the scope of practice of the dental hygiene therapist.

G. A dental hygiene therapist who provides services or procedures beyond those authorized in a written agreement engages in unprofessional conduct and is subject to discipline pursuant to section 18325.

4. Dental coverage and reimbursement. Notwithstanding Title 24-A, section 2752, any service performed by a dentist, dental assistant or dental hygienist licensed in this State that is reimbursed by private insurance, a dental service corporation, the MaineCare program under Title 22 or the Cub Care program under Title 22, section 3174-T must also be covered and reimbursed when performed by a dental hygiene therapist authorized to practice under this chapter.

Sec. 11. Board of Dental Practice to review dental practice laws and recommend changes. The Board of Dental Practice, in consultation with interested parties, shall review the Maine Revised Statutes, Title 32, chapter 143 and any rules adopted by the board and recommend changes to the statutory definitions of supervision and recommend a definition of "teledentistry" for the purpose of aligning current supervision practices and reflecting advancements in technology. The Board of Dental Practice shall submit its report and recommendations to the Joint Standing Committee on Health Coverage, Insurance and Financial Services no later than February 1, 2020. The Joint Standing Committee on Health Coverage, Insurance and Financial Services may report out a bill to the Second Regular Session of the 129th Legislature based on the board's recommendations.
Dental Hygiene Practice

- Dental Hygiene License
- Nitrous Oxide Authority
- Local Anesthesia Authority
- Public Health Authority*
- Dental Therapy Authority*
- Independent Practice Authority

Dentist Supervision Required

Written Practice Agreement with Dentist Required

Neither Dentist Supervision nor Practice Agreement Required

*Denotes expanded scope of procedures:

Public health – temporary fillings
Dental therapy and provisional dental therapy: see 32 MRS §18377
# Activities Authorized to be Delegated by a Dentist under Direct Supervision

32 M.R.S. § 18302(18) defines direct supervision is defined as:

“Direct supervision” means the supervision required by the board by rule of those tasks and procedures requiring the physical presence of the supervisor in the practice setting at the time such tasks or procedures are being performed. In order to provide direct supervision of patient treatment, the supervisor must at least diagnose the condition to be treated, authorize the treatment procedure prior to implementation and examine the condition after treatment and prior to the patient’s discharge.

<table>
<thead>
<tr>
<th>1.</th>
<th>Apply cavity varnish</th>
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<tr>
<td>2.</td>
<td>Apply liquids, pastes, or gel topical anesthetics</td>
</tr>
<tr>
<td>3.</td>
<td>Assisting a dentist who provides orthodontic services in preparation of teeth for attaching, bonding and cementing fixed appliances in a manner appropriate and according to manufacturer’s directions</td>
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<tr>
<td>4.</td>
<td>Delivering, but not condensing or packing, amalgam or composite restoration material</td>
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<tr>
<td>5.</td>
<td>Fabricating temporary crowns and bridges, limiting handpiece rotary instrumentation used in the fabrication to extraoral use only, as long as the dentist checks the occlusion and fit prior to releasing the patient</td>
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<tr>
<td>6.</td>
<td>Apply sealants, provided that a licensed dentist first makes the determination and diagnosis as to the surfaces on which the sealants shall be applied. In Public health or school sealant programs only, determination, and diagnosis of the sealant site by a dentist need not occur</td>
</tr>
<tr>
<td>7.</td>
<td>Irrigating and drying root canals (*Note: general supervision for dental hygienists)</td>
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<tr>
<td>8.</td>
<td>Isolating the operative field</td>
</tr>
<tr>
<td>9.</td>
<td>Performing pulp vitality testing with confirmation by the dentist</td>
</tr>
<tr>
<td>10.</td>
<td>Performing electronic vitality scanning with confirmation by the dentist</td>
</tr>
<tr>
<td>11.</td>
<td>Performing preliminary selection and fitting of orthodontic bands, with final placement and cementing in the patient’s mouth by the dentist</td>
</tr>
<tr>
<td>12.</td>
<td>Placing and cementing temporary crowns with temporary cement</td>
</tr>
<tr>
<td>13.</td>
<td>Placing and removing matrix bands, rubber dams and wedges</td>
</tr>
<tr>
<td>14.</td>
<td>Placing elastics and instructing their use</td>
</tr>
<tr>
<td>15.</td>
<td>Placing, holding or removing celluloid and other plastic strips prior to or subsequent to the placement of a filling by the dentist</td>
</tr>
<tr>
<td>Activity</td>
<td></td>
</tr>
<tr>
<td>----------</td>
<td></td>
</tr>
<tr>
<td>16. Placing or removing temporary separating devices</td>
<td></td>
</tr>
<tr>
<td>17. Placing wires, pins, and elastic ligatures to tie in orthodontic arch wires that have been fitted and approved by the dentist at the time of insertion;</td>
<td></td>
</tr>
<tr>
<td>18. Preparing tooth sites and surfaces with a rubber cup and pumice for banding or bonding of orthodontic brackets. This procedure may not be intended or interpreted as an oral prophylaxis, which is a procedure specifically reserved to be performed by dental hygienists or dentists. This procedure also may not be intended or interpreted as a preparation for restorative material. A dentist or dental hygienist shall check and approve the procedure (*Note: general supervision for dental hygienists)</td>
<td></td>
</tr>
<tr>
<td>19. Reapplying, on an emergency basis only, orthodontic brackets</td>
<td></td>
</tr>
<tr>
<td>20. Recording readings with a digital caries detector and reporting them to the dentist for interpretation and evaluation (*Note: general supervision for dental hygienists)</td>
<td></td>
</tr>
<tr>
<td>21. Removing composite material using slow speed instrumentation for de-bonding brackets, as long as the dentist conducts a final check prior to release of the patient</td>
<td></td>
</tr>
<tr>
<td>22. Removing excess cement from the supragingival surfaces of teeth</td>
<td></td>
</tr>
<tr>
<td>23. Removing gingival retraction cord</td>
<td></td>
</tr>
<tr>
<td>24. Removing orthodontic arch wires and tension devices and any loose bands or bonds, but only as directed by the dentist</td>
<td></td>
</tr>
<tr>
<td>25. Selecting and trying in stainless steel or other preformed crowns for insertion by the dentist</td>
<td></td>
</tr>
<tr>
<td>26. Obtaining impressions for opposing models and retainers</td>
<td></td>
</tr>
<tr>
<td>27. Obtaining impressions for single-arch athletic mouth guards, bleaching trays, custom trays and fluoride trays</td>
<td></td>
</tr>
<tr>
<td>28. Taking intraoral measurements and making preliminary selection of arch wires and intraoral and extraoral appliances, including head gear</td>
<td></td>
</tr>
</tbody>
</table>

**Activities Authorized to be Delegated by a Dentist under General Supervision**

32 M.R.S. § 18302(22) defines general supervision as defined as:

“General supervision” means the supervision required by the board by rule of those tasks and procedures when the physical presence of the supervisor is not required in the practice setting while procedures are being performed.

<table>
<thead>
<tr>
<th>Authorized Activities</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Changing or replacing dry socket packets after diagnosed and treatment planned by a dentist</td>
</tr>
<tr>
<td>2. For instruction purposes, demonstrating to a patient how the patient should place and remove removable prostheses, appliances, or retainers</td>
</tr>
</tbody>
</table>
3. For the purpose of eliminating pain or discomfort, removing loose, broken or irritating orthodontic appliances
4. Giving oral health instructions
5. Interview patients and record complete medical and dental histories;
6. Irrigating and aspirating the oral cavity
7. Performing dietary analyses for dental disease control
8. Placing and recementing with temporary cement an existing crown that has fallen out as long as the dentist is promptly notified that this procedure was performed so that appropriate follow-up can occur
9. Placing and removing periodontal dressing
10. Pouring and trimming dental models
11. Removing sutures and scheduling a follow-up appointment with the dentist within 7 to 10 days of suture removal
12. Retracting lips, cheek, tongue and other tissue parts
13. Obtaining impressions for study casts
14. Taking and recording the vital signs of blood pressure, pulse and temperature
15. Taking dental plaque smears for microscopic inspection and patient education
16. Take intraoral photographs

**Activities Authorized to be Delegated by a Dentist under General Supervision to individual who has successfully passed a certification examination administered by a national dental assisting board**

17. Placing temporary fillings on an emergency basis as long as the patient is informed of the temporary nature of the fillings
18. Removing excess cement from the supragingival surfaces of teeth
Maine Board of Dental Practice – Dental Therapy Supervision Requirements 32 M.R.S. § 18377(1) October 2019

<table>
<thead>
<tr>
<th>Services Authorized by a Dental Therapist under the Direct Supervision of a Dentist</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>32 M.R.S. § 18302(18) defines direct supervision is defined as:</strong></td>
</tr>
<tr>
<td>“Direct supervision” means the supervision required by the board by rule of those tasks and procedures requiring the physical presence of the supervisor in the practice setting at the time such tasks or procedures are being performed. In order to provide direct supervision of patient treatment, the supervisor must at least diagnose the condition to be treated, authorize the treatment procedure prior to implementation and examine the condition after treatment and prior to the patient’s discharge.</td>
</tr>
<tr>
<td>1. Perform oral health assessments, pulpal disease assessments for primary and young teeth, simple cavity preparations and restorations and simple extractions</td>
</tr>
<tr>
<td>2. Prepare and place stainless steel crowns and aesthetic anterior crowns for primary incisors and prepare, place and remove space maintainers</td>
</tr>
<tr>
<td>3. Provide referrals</td>
</tr>
<tr>
<td>4. Administer local anesthesia and nitrous oxide analgesia</td>
</tr>
<tr>
<td>5. Perform preventive services</td>
</tr>
<tr>
<td>6. Conduct urgent management of dental trauma, perform suturing, extract primary teeth and perform nonsurgical extractions of periodontally diseased permanent teeth if authorized in advance by the supervising dentist</td>
</tr>
<tr>
<td>7. Provide, dispense and administer anti-inflammatories, nonprescription analgesics, antimicrobials, antibiotics and anticaries materials;</td>
</tr>
<tr>
<td>8. Administer radiographs</td>
</tr>
<tr>
<td>9. Perform other related services and functions authorized by the supervising dentist and for which the dental hygiene therapist is trained</td>
</tr>
</tbody>
</table>
Services Authorized by a Dental Therapist under the General Supervision of a Dentist

32 M.R.S. § 18302(22) defines general supervision is defined as:

“General supervision” means the supervision required by the board by rule of those tasks and procedures when the physical presence of the supervisor is not required in the practice setting while procedures are being performed.

1. RDH scope as identified in sections 18374 subsection 1 and 2
Maine Board of Dental Practice – Supervision Requirements – October 2019

- Expanded Function Dental Assistant 32 M.R.S. § 18373(1)
- Dental Radiography 32 M.R.S. § 18372
- Resident Dentist 32 M.R.S. § 18371(2)(E)
- Registrations pursuant to 32 M.R.S. § 18348

<table>
<thead>
<tr>
<th>Services Authorized by an Expanded Function Dental Assistant under the Direct Supervision of a Dentist</th>
</tr>
</thead>
<tbody>
<tr>
<td>32 M.R.S. § 18302(18) defines direct supervision is defined as:</td>
</tr>
<tr>
<td>“Direct supervision” means the supervision required by the board by rule of those tasks and procedures requiring the physical presence of the supervisor in the practice setting at the time such tasks or procedures are being performed. In order to provide direct supervision of patient treatment, the supervisor must at least diagnose the condition to be treated, authorize the treatment procedure prior to implementation and examine the condition after treatment and prior to the patient’s discharge.</td>
</tr>
<tr>
<td>1.</td>
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<tr>
<td>9.</td>
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<tr>
<td>10.</td>
</tr>
<tr>
<td>11.</td>
</tr>
</tbody>
</table>
### Services Authorized by a Dental Radiographer under the General Supervision

32 M.R.S. § 18302(22) defines general supervision is defined as:

“General supervision” means the supervision required by the board by rule of those tasks and procedures when the physical presence of the supervisor is not required in the practice setting while procedures are being performed.

| 1. Practice dental radiography which is defined as “the use of ionizing radiation on the maxilla, mandible and adjacent structures of human beings for diagnostic purposes while under the general supervision of a dentist or an independent practice dental hygienist |

### Clinical Supervision of Resident Dentists

| 1. Level of supervision is not identified in statute |

### Clinical Supervision of Individuals Seeking Additional Training by a Dentist or Denturist (Registrations)

| 1. Level of supervision is not identified in statute |
Activities Authorized by an RDH under Direct Supervision of a Dentist

32 M.R.S. § 18302(18) defines direct supervision is defined as:

“Direct supervision” means the supervision required by the board by rule of those tasks and procedures requiring the physical presence of the supervisor in the practice setting at the time such tasks or procedures are being performed. In order to provide direct supervision of patient treatment, the supervisor must at least diagnose the condition to be treated, authorize the treatment procedure prior to implementation and examine the condition after treatment and prior to the patient’s discharge.

1. Administer local anesthesia or nitrous oxide analgesia, as long as the dental hygienist has the practice authority to administer
2. Remove socket dressing
3. Take cytological smears as required by the dentist
4. Obtain impressions for nightguards and occlusal splints

Activities Authorized by an RDH under General Supervision of a Dentist

32 M.R.S. § 18302(22) defines general supervision is defined as:

“General supervision” means the supervision required by the board by rule of those tasks and procedures when the physical presence of the supervisor is not required in the practice setting while procedures are being performed.

1. Prescribe, dispense or administer anticavity toothpastes or topical gels with 1.1% or less sodium fluoride and oral rinses with 0.05%, 0.2%, 0.44% or 0.5% sodium fluoride, as well as chlorhexidine gluconate oral rinse
2. Apply desensitizing agents to teeth;
3. Apply fluoride to control caries
4. Apply sealants;
5. Expose and process radiographs
6. Interview patients and record complete medical and dental histories
7. Obtain bacterial sampling when treatment is planned by the dentist
8. Perform all procedures necessary for a complete prophylaxis, including root planing
9. Perform complete periodontal and dental restorative charting
10. Perform oral inspections, recording all conditions that should be called to the attention of the dentist
11. Perform postoperative irrigation of surgical sites
12. Place and remove gingival retraction cord without vasoconstrictor
13. Place localized delivery of chemotherapeutic agents when treatment is planned by the dentist
14. Place temporary restorations as an emergency procedure, as long as the patient is informed of the temporary nature of the restoration
15. Prepare tooth sites and surfaces with a rubber cup and pumice for banding or bonding of orthodontic brackets. This procedure may not be interpreted as a preparation for restorative material
16. Smooth and polish amalgam restorations; and
17. Obtain impressions for study casts, athletic mouth guards, custom trays, bleaching trays, fluoride trays, opposing models, retainers and stents.
### Maine – Dental Hygiene Therapy
- Provisional DHT
- DHT
- DHT program approved by the Board; and
- BS or higher in dental hygiene, or dental therapy
- Direct
- Written practice agreement
- CDCA
- Must be licensed as a dental hygienist
- 2,000 hours of supervised experience while provisionally license required for DHT
- Rules not final

### Minnesota – Dental Therapy
- Dental Therapy
- Advanced Dental Therapy
- MS degree in DT program approved by the board or accredited by CODA
- General / Indirect
- Written practice agreement
- CRDTS-CT or CDCA
- Cannot practice dental hygiene
- MS degree required for ADT
- 2,000 hours of indirect supervised experience required for ADT

### Vermont – Dental Therapy
- Dental Therapy
- DT program approved by the Board (institution must have a program CODA accredited)
- Completed emergency office procedures training
- General (defined as either direct or indirect)
- Written practice agreement
- Not identified
- Must be licensed as a dental hygienist, and surrender license once approved for dental therapy licensure
- 1,000 hours of direct supervised experience
- Rules not final
<table>
<thead>
<tr>
<th>STATE – LICENSE TYPE</th>
<th>EDUCATION</th>
<th>SUPERVISION</th>
<th>EXAMINATION</th>
<th>OTHER</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Arizona – Dental Therapy</strong>&lt;br&gt;• Dental Therapy</td>
<td>• DT program that is CODA accredited or holds initial accreditation</td>
<td>• Direct&lt;br&gt;• Written practice agreement*</td>
<td>• WREB or&lt;br&gt;• Equivalent as approved by the Board</td>
<td>• Must be licensed as a dental hygienist, and surrender license once approved for dental therapy licensure&lt;br&gt;• 1,000 hours of direct supervised experience must be completed before entering into an agreement&lt;br&gt;• Rules not final</td>
</tr>
<tr>
<td><strong>Michigan – Dental Therapy</strong>&lt;br&gt;• Dental Therapy</td>
<td>• DT program meeting 4 criteria: meets accreditation standards; meets degree granting standards; meets standards developed by CODA; other requirements adopted by board rule</td>
<td>• Supervision level determined by dentist&lt;br&gt;• Written practice agreement*</td>
<td>• Not identified</td>
<td>• 500 hours of direct supervised experience&lt;br&gt;• Supervision defined as either direct/general – both require physical presence&lt;br&gt;• Rules not final</td>
</tr>
<tr>
<td><strong>New Mexico – Dental Therapy</strong>&lt;br&gt;• Dental Therapy&lt;br&gt;• (pending Governor’s signature)</td>
<td>• DT degree program accredited by CODA</td>
<td>• Complete Dental Therapy Education Residency&lt;br&gt;• General/Indirect as determined by dentist&lt;br&gt;• Written practice agreement*</td>
<td>• Not identified</td>
<td>• Must be dental hygienist&lt;br&gt;• 12 months post-graduate&lt;br&gt;• General requires dx/tx by dentist – no physical presence&lt;br&gt;• Indirect – no physical presence</td>
</tr>
</tbody>
</table>
# Delegated Duties for Dental Therapists and Advanced Dental Therapists

<table>
<thead>
<tr>
<th>General Supervision</th>
<th>Indirect Supervision</th>
<th>PROCEDURE(S)</th>
</tr>
</thead>
<tbody>
<tr>
<td>DT</td>
<td>ADT</td>
<td>Perform preliminary charting of the oral cavity, oral health instruction and disease prevention, including nutritional counseling, dietary analysis.</td>
</tr>
<tr>
<td>DT</td>
<td>ADT</td>
<td>Apply topical medications such as, but not limited to, topical fluoride and cavity varnishes in appropriate dosages.</td>
</tr>
<tr>
<td>DT</td>
<td>ADT</td>
<td>Perform mechanical polishing.</td>
</tr>
<tr>
<td>DT</td>
<td>ADT</td>
<td>Etch appropriate enamel surfaces, apply and adjust pit and fissure sealants.</td>
</tr>
<tr>
<td>DT</td>
<td>ADT</td>
<td>Placement of temporary restorations.</td>
</tr>
<tr>
<td>DT</td>
<td>ADT</td>
<td>Fabrication of soft occlusal guards and athletic mouthguards.</td>
</tr>
<tr>
<td>DT</td>
<td>ADT</td>
<td>Pulp vitality testing.</td>
</tr>
<tr>
<td>DT</td>
<td>ADT</td>
<td>Administer local anesthesia.</td>
</tr>
<tr>
<td>DT</td>
<td>ADT</td>
<td>Administer nitrous oxide inhalation analgesia.</td>
</tr>
<tr>
<td>DT</td>
<td>ADT</td>
<td>Take radiographs.</td>
</tr>
<tr>
<td>DT</td>
<td>ADT</td>
<td>Application of desensitizing medication or resin.</td>
</tr>
<tr>
<td>DT</td>
<td>ADT</td>
<td>Tissue conditioning and soft reline.</td>
</tr>
<tr>
<td>DT</td>
<td>ADT</td>
<td>Atraumatic restorative therapy.</td>
</tr>
<tr>
<td>DT</td>
<td>ADT</td>
<td>Tooth reimplantation.</td>
</tr>
<tr>
<td>DT</td>
<td>ADT</td>
<td>Dressing changes.</td>
</tr>
<tr>
<td>DT</td>
<td>ADT</td>
<td>Dispense and administer analgesics, anti-inflammatories, and antibiotics as permitted by the collaborative management agreement. Advanced Dental Therapist may provide, dispense and administer.</td>
</tr>
<tr>
<td>ADT DT</td>
<td></td>
<td>Cavity preparation; and restoration of primary and permanent teeth.</td>
</tr>
<tr>
<td>ADT DT</td>
<td></td>
<td>Pulpotomies on primary teeth; and indirect and direct pulp capping on primary and permanent teeth.</td>
</tr>
<tr>
<td>ADT DT</td>
<td></td>
<td>Stabilization of reimplanted teeth.</td>
</tr>
<tr>
<td>ADT DT</td>
<td></td>
<td>Remove sutures.</td>
</tr>
<tr>
<td>ADT DT</td>
<td></td>
<td>Brush biopsies.</td>
</tr>
<tr>
<td>ADT DT</td>
<td></td>
<td>Repair of defective prosthetic devices.</td>
</tr>
<tr>
<td>ADT DT</td>
<td></td>
<td>Placement of temporary crowns; and preparation and placement of preformed crowns.</td>
</tr>
<tr>
<td>ADT DT</td>
<td></td>
<td>Provide emergency palliative treatment of dental pain.</td>
</tr>
<tr>
<td>ADT DT</td>
<td></td>
<td>Recement permanent crowns.</td>
</tr>
<tr>
<td>ADT DT</td>
<td></td>
<td>Extractions of primary teeth.</td>
</tr>
<tr>
<td>ADT DT</td>
<td></td>
<td>Extraction of periodontally diseased permanent teeth with mobility of +3 to +4 as permitted by the collaborative management agreement. Not to include unerupted, impacted, fractured, or need for sectioning.</td>
</tr>
<tr>
<td>ADT</td>
<td></td>
<td>Oral evaluation and assessment of dental disease and the formation of an individualized treatment plan authorized by a collaborating dentist.</td>
</tr>
<tr>
<td>ADT</td>
<td></td>
<td>Make appropriate referrals to dentists, physicians, and other practitioners in consultation with the collaborating dentist.</td>
</tr>
</tbody>
</table>

**Key**
- DT = Dental Therapist
- ADT = Advanced Dental Therapist

Effective 11/9/2016
SUMMARY: Chapter 6 establishes standards for the practice of medicine using telemedicine in providing health care.

SECTION 1. STATEMENT REGARDING TELEMEDICINE

1. The Board recognizes that technological advances have made it possible for licensees in one location to provide health care to patients in another location with or without an intervening health care provider.

2. Telemedicine is a useful tool that, if applied appropriately, can provide important benefits to patients, including increased access to health care, expanded utilization of specialty expertise, rapid availability of patient records, and potential cost savings.

3. The Board advises that licensees using telemedicine in providing health care will be held to the same standards of care and professional ethics as licensees providing traditional in-person health care.

4. Failure to conform to the appropriate standards of care or professional ethics while using telemedicine in providing health care may subject the licensee to potential discipline by the Board.

SECTION 2. DEFINITIONS

1. “Asynchronous store-and-forward transmission” means the collection of a patient’s relevant health information and the subsequent transmission of the information from an originating site to a health care provider at a distant site without the presence of the patient.

2. “Board” means the Maine Board of Licensure in Medicine or the Board of Osteopathic Licensure.

3. “Distant site” means the location of the licensee providing telemedicine services.

4. “In-person encounter” means that the licensee and the patient are in the physical presence of each other and are in the same physical location during the physician-patient encounter.

5. “Licensee” means a physician or physician assistant licensed or registered by the Board.
6. “Originating site” means the location of the patient at the time of the examination, diagnosis, consultation or treatment.

7. “Patient-Physician Relationship” has the same meaning as defined by Opinion 10.015 in the American Medical Association Code of Medical Ethics 2014-2015 Edition.

8. “Synchronous” means an interactive telemedicine encounter between a patient and a licensee that occurs at the same time.

9. “Telemedicine” means the practice of medicine or the rendering of health care services using electronic audio-visual communications and information technologies or other means, including interactive audio with asynchronous store-and-forward transmission, between a licensee in one location and a patient in another location with or without an intervening health care provider. Telemedicine includes asynchronous store-and-forward technologies, remote monitoring, and real-time interactive services, including teleradiology and telepathology. Telemedicine shall not include the provision of medical services only through an audio-only telephone, e-mail, instant messaging, facsimile transmission, or U.S. mail or other parcel service, or any combination thereof.

10. “Telemedicine technologies” means technologies and devices enabling secure electronic communications and information exchanges between a licensee in one location and a patient in another location with or without an intervening health care provider.

SECTION 3. PRACTICE GUIDELINES

1. A licensee who uses telemedicine shall utilize evidence-based telemedicine practice guidelines and standards of practice, to the degree they are available, to ensure patient safety, quality of care, and positive outcomes. The Board acknowledges that some nationally recognized medical specialty organizations have established comprehensive telemedicine practice guidelines that address the clinical and technological aspects of telemedicine for many medical specialties.

2. MAINE MEDICAL LICENSE REQUIRED

A licensee who uses telemedicine in the examination, diagnosis, consultation or treatment of a patient located in Maine shall hold an active Maine medical license or shall hold an active registration in Maine to provide interstate consultative telemedicine services.

3. STANDARDS OF CARE AND PROFESSIONAL ETHICS

A licensee who uses telemedicine in providing health care shall be held to the same standards of care and professional ethics as a licensee using traditional in-person encounters with patients. Failure to conform to the appropriate standards of care or professional ethics while using telemedicine may be a violation of the laws and rules governing the practice of medicine and may subject the licensee to potential discipline by the Board.
4. SCOPE OF PRACTICE

A licensee who uses telemedicine in providing health care shall ensure that the services provided are consistent with the licensee’s scope of practice, including the licensee’s education, training, experience, ability, licensure, and certification.

5. IDENTIFICATION OF PATIENT AND PHYSICIAN

A licensee who uses synchronous telemedicine technology in providing health care shall verify the identity of the patient and ensure that the patient has the ability to verify the identity, licensure status, certification, and credentials of all health care providers who provide telemedicine services prior to the provision of care.

6. PHYSICIAN-PATIENT RELATIONSHIP

A. A licensee who uses telemedicine in providing health care shall establish a valid physician-patient relationship with the person who receives telemedicine services. The physician-patient relationship begins when:

(1) The person with a health-related matter seeks assistance from the licensee;

(2) The licensee agrees to undertake examination, diagnosis, consultation or treatment of the person; and

(3) The person agrees to receive health care services from the licensee whether or not there has been an in-person encounter between the licensee and the person.

B. A valid physician-patient relationship may be established between a licensee who uses telemedicine in providing health care and a patient who receives telemedicine services through any of the following circumstances:

(1) Consultation with another licensee. Through consultation with another licensee (or other health care provider) who has an established relationship with the patient upon agreement to participate in, or supervise, the patient’s care; or

(2) Telemedicine encounter. Through telemedicine, if the standard of care does not require an in-person encounter, and in accordance with evidence-based standards of practice and telemedicine practice guidelines that address the clinical and technological aspects of telemedicine.

7. MEDICAL HISTORY AND PHYSICAL EXAMINATION

Generally a licensee shall perform an in-person medical interview and physical examination for each patient. However, the medical interview and physical examination may not be in-person if the technology utilized in a telemedicine encounter is sufficient to establish an informed diagnosis as though the medical interview and physician examination had been performed in-person. Prior to providing treatment, including issuing prescriptions, electronically or otherwise, a licensee who uses telemedicine in providing
health care shall interview the patient to collect the relevant medical history and perform a physical examination, when medically necessary, sufficient for the diagnosis and treatment of the patient. An internet questionnaire that is a static set of questions provided to the patient, to which the patient responds with a static set of answers, in contrast to an adaptive interactive and responsive online interview, does not constitute an acceptable medical interview and physical examination for the provision of treatment, including issuance of prescriptions, electronically or otherwise, by the licensee.

8. NON-PHYSICIAN HEALTH CARE PROVIDERS

A. If a licensee who uses telemedicine in providing health care relies upon or delegates the provision of telemedicine services to a non-physician health care provider, the licensee shall:

   (1) Ensure that systems are in place to ensure that the non-physician health care provider is qualified, trained, and authorized to provide that service; and

   (2) Ensure that the licensee is available in person or electronically to consult with the non-physician health care provider, particularly in the case of injury or an emergency.

9. INFORMED CONSENT

A licensee who uses telemedicine in providing health care shall ensure that the patient provides appropriate informed consent for the health care services provided, including consent for the use of telemedicine to examine, consult, diagnose and treat the patient, and that such informed consent is timely documented in the patient’s medical record.

10. COORDINATION OF CARE

A licensee who uses telemedicine in providing health care shall, when medically appropriate, identify the location and treating physician(s) for the patient, when available, where in-person services can be delivered in coordination with the telemedicine services. The licensee shall provide a copy of the medical records to the location or treating physician(s).

11. FOLLOW-UP CARE

A licensee who uses telemedicine in providing health care shall have access to, or adequate knowledge of, the nature and availability of local medical resources to provide appropriate follow-up care to the patient following a telemedicine encounter.

12. EMERGENCY SERVICES

A licensee who uses telemedicine in providing health care shall:

   A. Obtain emergency contact information and/or telephone contact information of the patient; and
B. Refer a patient to an acute care facility or an emergency department when referral is necessary for the safety of the patient or in the case of an emergency.

13. MEDICAL RECORDS

A licensee who uses telemedicine in providing health care shall ensure that complete, accurate and timely medical records are maintained for the patient when appropriate, including all patient-related electronic communications, records of past care, physician-patient communications, laboratory and test results, evaluations and consultations, prescriptions, and instructions obtained or produced in connection with the use of telemedicine technologies. The licensee shall note in the patient’s record when telemedicine is used to provide diagnosis and treatment. The licensee shall ensure that the patient or another licensee designated by the patient has timely access to all information obtained during the telemedicine encounter. The licensee shall ensure that the patient receives, upon request, a summary of each telemedicine encounter in a timely manner and in accordance with applicable law.

14. PRIVACY AND SECURITY

A. A licensee who uses telemedicine in providing health care shall ensure that all telemedicine encounters comply with the privacy and security measures of the Health Insurance Portability and Accountability Act and applicable law to ensure that all patient communications and records are secure and remain confidential.

(1) Written protocols shall be established that address the following:

(a) Privacy;
(b) Health care personnel who will process messages;
(c) Hours of operation;
(d) Types of transactions that will be permitted electronically;
(e) Required patient information to be included in any communication, including patient name, identification number and type of transaction;
(f) Archiving and retrieval; and
(g) Quality oversight mechanisms.

(2) The written protocols should be periodically evaluated for currency and should be maintained in an accessible and readily available manner for review. The written protocols shall include sufficient privacy and security measures to ensure the confidentiality and integrity of patient-identifiable information, including password protection, encryption or other reliable authentication techniques.
15. TECHNOLOGY AND EQUIPMENT

A. The Board recognizes that three broad categories of telemedicine technologies currently exist, including asynchronous store-and-forward technologies, remote monitoring, and real-time interactive services. While some telemedicine programs are multispecialty in nature, others are tailored to specific diseases and medical specialties. The technology and equipment utilized for telemedicine shall comply with the following requirements:

1. The technology and equipment utilized in the provision of telemedicine services must comply with all relevant safety laws, rules, regulations, and codes for technology and technical safety for devices that interact with patients or are integral to diagnostic capabilities.

2. The technology and equipment utilized in the provision of telemedicine services must be of sufficient quality, size, resolution and clarity such that the licensee can safely and effectively provide the telemedicine services.

3. The technology and equipment utilized in the provision of telemedicine services must be compliant with the Health Insurance Portability and Accountability Act and other applicable law.

4. The technology and equipment utilized in the provision of telemedicine services must be able to verify the identity and location of the patient; and

5. The technology and equipment utilized in the provision of telemedicine services must be able to specify and disclose the identity and credentials of the health care provider(s).

16. DISCLOSURE AND FUNCTIONALITY OF TELEMEDICINE SERVICES

A. Except for health care provider to health care provider direct consultation, a licensee who uses telemedicine in providing health care shall ensure that the following information is clearly disclosed to the patient:

1. Types of services provided;

2. Contact information for the licensee;

3. Identity, licensure, certification, credentials and qualifications of all health care providers who are providing the telemedicine services;

4. Limitations in the drugs and services that can be provided via telemedicine;

5. Fees for services, cost-sharing responsibilities, and how payment is to be made;

6. Financial interests, other than fees charged, in any information, products, or services provided by the licensee(s);
(7) Appropriate uses and limitations of the technologies, including in emergency situations;

(8) Uses of and response times for e-mails, electronic messages and other communications transmitted via telemedicine technologies;

(9) To whom patient health information may be disclosed and for what purpose;

(10) Rights of patients with respect to patient health information; and

(11) Information collected and passive tracking mechanisms utilized.

17. PATIENT ACCESS AND FEEDBACK

A. A licensee who uses telemedicine in providing health care shall ensure that the patient has easy access to a mechanism for the following purposes:

   (1) To access, supplement and amend patient-provided personal health information;

   (2) To provide feedback regarding the quality of the telemedicine services provided; and

   (3) To register complaints. The mechanism shall include information regarding the filing of complaints with the Board.

18. FINANCIAL INTERESTS

Advertising or promotion of goods or products from which the licensee(s) receives direct remuneration, benefit or incentives (other than the fees for the health care services) is prohibited to the extent that such activities are prohibited by state or federal law. Notwithstanding such prohibition, Internet services may provide links to general health information sites to enhance education; however, the licensee(s) should not benefit financially from providing such links or from the services or products marketed by such links. When providing links to other sites, licensees should be aware of the implied endorsement of the information, services or products offered from such sites. The maintenance of a preferred relationship with any pharmacy is prohibited unless pursuant to a collaborative practice agreement. Licensees shall not transmit prescriptions to a specific pharmacy, or recommend a pharmacy, in exchange for any type of consideration or benefit from the pharmacy unless pursuant to a collaborative practice agreement.

19. CIRCUMSTANCES WHERE THE STANDARD OF CARE MAY NOT REQUIRE A LICENSEE TO PERSONALLY INTERVIEW OR EXAMINE A PATIENT

A. Under the following circumstances, whether or not such circumstances involve the use of telemedicine in providing health care, a licensee may treat a patient who has not been personally interviewed, examined and diagnosed by the licensee:
(1) Situations in which the licensee prescribed medications on a short-term basis for a new patient and has scheduled an appointment to personally examine the patient;

(2) For institutional settings, including writing initial admission orders for a newly hospitalized patient;

(3) Call situations in which a licensee is taking call for another licensee who has an established physician-patient relationship with the patient;

(4) Cross-coverage situations in which a licensee is taking call for another licensee who has an established physician-patient relationship with the patient;

(5) Situations in which the patient has been examined in person by an advanced registered nurse practitioner or a physician assistant or other licensed practitioner with whom the licensee has a supervisory or collaborative relationship;

(6) Emergency situations in which the life or health of the patient is in imminent danger;

(7) Emergency situations that constitute an immediate threat to the public health including, but not limited to, empiric treatment or prophylaxis to prevent or control an infectious disease outbreak;

(8) Situations in which the licensee has diagnosed a sexually transmitted disease in a patient and the licensee prescribes or dispenses antibiotics to the patient’s named sexual partner(s) for the treatment of the sexually transmitted disease as recommended by the U.S. Centers for Disease Control and Prevention;

(9) Situations where the patients are in a licensed or certified long term care facility, nursing facility, residential care facility, intermediate care facility, assisted living facility or hospice setting and doing so is within the practice standards for that setting; and

(10) Circumstances in which a patient’s treating physician determines that a radiology or pathology consultation is warranted.

20. PRESCRIBING BASED SOLELY ON AN INTERNET REQUEST, INTERNET QUESTIONNAIRE OR A TELEPHONIC INTERVIEW PROHIBITED

Prescribing to a patient based solely on an Internet request or Internet questionnaire (i.e. static questionnaire provided to a patient, to which the patient responds with a static set of answers, in contrast to an adaptive, interactive and responsive online interview) is prohibited. Absent a valid physician-patient relationship, a licensee’s prescribing to a patient based solely on a telephonic evaluation is prohibited, with the exception of the circumstances described in Section 19, subsection 3 of this rule.
Telemedicine technologies, where prescribing may be contemplated, must implement measures to uphold patient safety in the absence of traditional physical examination. Such measures should guarantee that the identity of the patient and provider is clearly established and that detailed documentation for the clinical evaluation and resulting prescription is required. Measures to assure informed, accurate and error prevention prescribing practices (e.g. integration with e-Prescription systems) are encouraged. All applicable law shall be complied with.

Prescribing medications, in-person or via telemedicine, is at the professional discretion of the physician. The physician prescribing via telemedicine must ensure that the clinical evaluation, indication, appropriateness, and safety consideration for the resulting prescription are appropriately documented and meet the applicable standard of care. Consequently, prescriptions via telemedicine carry the same accountability as prescriptions delivered during an encounter in person. However, where such measures are upheld, and the appropriate clinical consideration is carried out and documented, physicians may exercise their judgment and prescribe medications as part of telemedicine encounters.

STATUTORY AUTHORITY:
32 M.R.S. §§ 3269(3), 3269(7) (Board of Licensure in Medicine)
32 M.R.S. §2562 (Board of Osteopathic Licensure)

EFFECTIVE DATE:
December 10, 2016 – filings 2016-209, 210
ADA Policy on Teledentistry

Teledentistry refers to the use of telehealth systems and methodologies in dentistry. Telehealth refers to a broad variety of technologies and tactics to deliver virtual medical, health, and education services. Telehealth is not a specific service, but a collection of means to enhance care and education delivery.

Teledentistry can include patient care and education delivery using, but not limited to, the following modalities:

- Live video (synchronous): Live, two-way interaction between a person (patient, caregiver, or provider) and a provider using audiovisual telecommunications technology.
- Store-and-forward (asynchronous): Transmission of recorded health information (for example, radiographs, photographs, video, digital impressions and photomicrographs of patients) through a secure electronic communications system to a practitioner, who uses the information to evaluate a patient’s condition or render a service outside of a real-time or live interaction.
- Remote patient monitoring (RPM): Personal health and medical data collection from an individual in one location via electronic communication technologies, which is transmitted to a provider (sometimes via a data processing service) in a different location for use in care and related support of care.
- Mobile health (mHealth): Health care and public health practice and education supported by mobile communication devices such as cell phones, tablet computers, and personal digital assistants (PDA).

General Considerations: The treatment of patients who receive services via teledentistry must be properly documented and should include providing the patient with a summary of services. Dentists who deliver services using teledentistry must establish protocols for appropriate referrals when necessary.

Patients’ Rights: Dental patients whose care is rendered or coordinated using teledentistry modalities have the right to expect:

1. That any dentist delivering services using teledentistry technologies will be licensed in the state where the patient receives services, or be providing these services as otherwise authorized by that state’s dental board.
2. Access to the licensure and board certification qualifications of the oral health care practitioner who is providing the care in advance of the visit.

3. That the delivery of services through teledentistry technologies will follow evidence-based practice guidelines, to the degree they are available, as a means of ensuring patient safety, quality of care and positive health outcomes.

4. That they will be informed about the identity of the providers collecting or evaluating their information or providing treatment, and of any costs they will be responsible for in advance of the delivery of services.

5. That relevant patient information will be collected prior to performing services using teledentistry technologies and methods including medical, dental, and social history, and other relevant demographic and personal information.

6. That the provision of services using teledentistry technologies will be properly documented and the records and documentation collected will be provided to the patient upon their request.

7. That services provided using teledentistry technologies and methods include care coordination as a part of a dental home and that the patient’s records be made available to any entity that is serving as the patient’s dental home.

8. That the patient will be actively involved in treatment decisions, will be able to choose how they receive a covered service, including considerations for urgency, convenience and satisfaction and without such penalties as higher deductibles, co-payments or coinsurance relative to that of in-person services.

9. That the delivery of services using teledentistry technologies are performed in accordance with applicable laws and regulations addressing the privacy and security of patients’ private health information.

**Quality of Care:** The dentist is responsible for, and retains the authority for ensuring, the safety and quality of services provided to patients using teledentistry technologies and methods. Services delivered via teledentistry should be consistent with in-person services, and the delivery of services utilizing these modalities must abide by laws addressing privacy and security of a patient’s dental/medical information.

**Supervision of Allied Dental Personnel:** The extent of the supervision of allied dental personnel should conform to the applicable dental practice act in the state where the patient receives services and where the dentist is licensed. The dentist should be knowledgeable regarding the competence and qualifications of the allied personnel utilized, and should have the capability of immediately contacting both the allied dental personnel providing service and the patient receiving services. All services delivered by allied dental personnel should be consistent with the ADA Comprehensive Statement on Allied Dental Personnel.

**Licensure:** Dentists and allied dental personnel who deliver services through teledentistry modalities must be licensed or credentialed in accordance with the laws of the state in which the patient receives service. The delivery of services via
teledentistry must comply with the state’s scope of practice laws, regulations or rules. The American Dental Association opposes a single national federalized system of dental licensure for the purposes of teledentistry.

**Reimbursement:** Dental benefit plans and all other third-party payers, in both public (e.g. Medicaid) and private programs, shall provide coverage for services using teledentistry technologies and methods (synchronous or asynchronous) delivered to a covered person to the same extent that the services would be covered if they were provided through in-person encounters. Coverage for services delivered via teledentistry modalities will be at the same levels as those provided for services provided through in-person encounters and not be limited or restricted based on the technology used or the location of either the patient or the provider as long as the health care provider is licensed in the state where the patient receives service.

**Technical Considerations:** Dentists are encouraged to consider conformance with applicable data exchange standards to facilitate delivery of services via teledentistry modalities. These include, but are not limited to, Digital Imaging and Communications in Medicine (DICOM) standards when selecting and using imaging systems, X12/HL7 for the exchange of information and ICD-9/10-CM/SNOMED/SNODENT for documentation consistency.

*Policy adopted in 2015.*
D9995 and D9996 – ADA Guide to Understanding and Documenting Teledentistry Events

Developed by the ADA, this guide is published to educate dentists and others in the dental community on these procedures and their codes first published in CDT 2018 and effective January 1, 2018.

Introduction

CDT 2018 marks the first time teledentistry codes have been added to the code set. Teledentistry provides the means for a patient to receive services when the patient is in one physical location and the dentist or other oral health or general health care practitioner overseeing the delivery of those services is in another location. This mode of patient care makes use of telecommunication technologies to convey health information and facilitate the delivery of dental services without the physical constraints of a brick and mortar dental office.

The two full CDT Code entries are:

D9995 teledentistry – synchronous; real-time encounter
Reported in addition to other procedures (e.g., diagnostic) delivered to the patient on the date of service.

D9996 teledentistry – asynchronous; information stored and forwarded to dentist for subsequent review
Reported in addition to other procedures (e.g., diagnostic) delivered to the patient on the date of service.

The following pages contain a number of Questions and Answers, and Scenarios, all intended to provide readers with insight and understanding of how care is delivered and reported when teledentistry is a facet of the process.

Questions and Answers

1. What is telehealth and teledentistry?

Telehealth is not a specific service; it refers to a broad variety of technologies and tactics to deliver virtual medical, health, and education services. As an umbrella term, it is further defined when applied to specific health care disciplines, such as dentistry.

Teledentistry, according to the ADA’s Comprehensive Policy Statement on Teledentistry, refers to the use of telehealth systems and methodologies in dentistry. Teledentistry can include patient care and education delivery using, but not limited to, the following modalities:

- Live video (synchronous): Live, two-way interaction between a person (patient, caregiver, or provider) and a provider using audiovisual telecommunications technology.

- Store-and-forward (asynchronous): Transmission of recorded health information (for example, radiographs, photographs, video, digital impressions and photomicrographs of patients) through a secure electronic communications system to a practitioner, who uses the information to evaluate a patient’s condition or render a service outside of a real-time or live interaction.

- Remote patient monitoring (RPM): Personal health and medical data collection from an individual in one location via electronic communication technologies, which is transmitted
to a provider (sometimes via a data processing service) in a different location for use in care and related support of care.

- Mobile health (mHealth): Health care and public health practice and education supported by mobile communication devices such as cell phones, tablet computers, and personal digital assistants (PDA).

2. Why are there two teledentistry CDT Codes, but four delivery modalities?

Delivery of Remote Patient Monitoring (RPM) and Mobile Health (mHealth) may occur in either a synchronous or asynchronous information exchange environment.

3. What prompts the need for teledentistry?

Teledentistry is a means to an end – a patient’s oral health. The reason or reasons why a teledentistry event occurs depends on the circumstances, such as when all persons who must be involved are not able to be in the same physical location. Another determining facet is the judgment of the dentist or other oral health or general health practitioner, all acting in accordance with applicable state law, regulation or licensure.

4. How is a teledentistry event affected when the health care practitioners are in different states?

A teledentistry event is subject to applicable state law, regulation or licensure. All involved persons (the dentist or other oral health or general health care practitioner) must determine if a teledentistry event can occur when all participants are not in the same state.

5. What are the notable attributes of a synchronous encounter reported with D9995, and asynchronous teledentistry reported with D9996?

Synchronous teledentistry (D9995) is delivery of patient care and education where there is live, two-way interaction between a person or persons (e.g., patient; dental, medical or health caregiver) at one physical location, and an overseeing supervising or consulting dentist or dental provider at another location. The communication is real-time and continuous between all participants who are working together as a group. Use of audiovisual telecommunications technology means that all involved persons are able to see what is happening and talk about it in a natural manner.

Asynchronous teledentistry (D9996) is different as there is no real-time, live, continuous interaction with anyone who is not at the same physical location as the patient. Also known as store-and-forward, asynchronous teledentistry involves transmission of recorded health information (e.g., radiographs, photographs, video, digital impressions and photomicrographs of patients) through a secure electronic communications system to another practitioner for use at a later time.

6. Who would document and report a D9995 or D9996 CDT Code?

The dentist who oversees the teledentistry event, and who via diagnosis and treatment planning completes the oral evaluation, documents and reports the appropriate teledentistry CDT code. Applicable state regulations may also determine the oral health or general health practitioner who documents and reports these codes.

As noted in their descriptors, either one or the other teledentistry code is reported in addition to other procedures delivered to the patient on the date of service. In addition, both the individuals collecting records in the off-site setting and the dentist reviewing the records should document those activities in the progress notes in the patient’s chart.
7. Are there CDT Codes for: a) documenting collection and transmission of information in a teledentistry event; and b) for receipt of the information?

There are no such discrete codes. As noted in the answer to question #6, the collection, transmission and receipt actions should be noted in the patient’s record. An unspecified procedure by report code may also be used as part of this documentation, with the required narrative report containing the pertinent information.

8. Who would document and report other procedures delivered during a teledentistry event?

The dentist or other oral health or general health practitioner acting in accordance with applicable state law, regulation or licensure, reports the appropriate CDT Code for these procedures, such as prophylaxis, topical fluoride application, diagnostic images. Supervision requirements within a state practice act determine whether the dentist must document and report all the other procedures, or if they may be reported whole or in part by another type of licensed practitioner.

More than one claim submission may be necessary when:

- there is a continuum of care that begins with a teledentistry encounter at a remote location, and continues with other services being delivered at a dental practice location, or
- state practice acts permit different licensed health care practitioners to submit claims for the particular services they provided during the teledentistry encounter.

Notes:

a) Teledentistry is a mode of dental service delivery that, when applicable, is reported in addition to the other procedures provided to the patient.

b) Procedure delivery is by a natural person (e.g., dentist); the billing entity may be a natural person or a legal person (i.e., the facility where the service is delivered).

c) The ADA’s “Comprehensive Policy Statement on Teledentistry” states that dentists and allied dental personnel who deliver services through teledentistry modalities must be licensed or credentialed in accordance with the laws of the state in which the patient receives service. The delivery of services via teledentistry must comply with the state’s scope of practice laws, regulations or rules.

9. Who has responsibility for services delivered via teledentistry?

Responsibility, and liability, for services delivered is determined by applicable state law and regulations. Each dentist, hygienist and others involved in a teledentistry appointment should become familiar with applicable state or federal regulations to determine their liability exposure, and whether or not the person receiving care becomes their patient of record. Please note that “patient of record” may be defined differently under applicable state regulations. This could be a factor to consider in a teledentistry event where the patient and some members of the team of providers are in different states.

10. With responsibility comes potential liability – what should I do to protect myself and my practice when I engage in teledentistry?

As noted in the answer to question #9 (immediately above) liability is determined by applicable state law and regulations. This concern should be discussed with your personal legal counsel and insurance advisor to determine whether or not your existing liability insurance policies cover...
this risk. Additional personal, professional and practice insurance coverage may be needed to address any coverage gaps.

11. How would D9995 or D9996 be reported on a dental claim submission?

A claim submission includes the services provided to one patient. Each claim detail line identifies the particular procedure and the date it was delivered to the patient. D9995 or D9996 are reported in addition to the codes for other procedures (e.g., prophylaxis; diagnostic imaging) reported separately when the patient presents for care.

Appendix 1 contains special claim completion instructions for the ADA Dental Claim Form (©2012). These instructions are envisioned as the model for reporting teledentistry CDT Codes on the HIPAA standard electronic dental claim transaction (837Dv5010).

12. Are D9995 and D9996 used when a claim for teledentistry is submitted to a medical benefit plan?

D9995 and D9996 are CDT Codes that are applicable to claims filed against a dental benefit plan. Dental claim content, format and completion instructions differ from claims filed against a medical benefit plan. Claims filed against a medical benefit plan use a unique format, are prepared with different code sets, and follow their own completion instructions. Medical benefit claims are outside the scope of this guide.

13. What documentation should I maintain in my patient records, and what will be needed on a claim submission when reporting D9995 and D9996?

The patient record must include the CDT Code that reflects the type of teledentistry encounter, and there may be additional state documentation requirements to satisfy. A claim submission must include all required information as described in the completion instructions for the ADA paper claim form and the HIPAA standard electronic dental claim. Some government programs (e.g., Medicaid) may have additional claim reporting requirements.

14. What dental benefit plan coverage – commercial or governmental – is anticipated?

Current dental benefit plan coverage and reimbursement provisions should apply to services delivered in-office and via teledentistry. However, there is no expectation that commercial and government dental benefit plans must create new coverage provisions pertaining to teledentistry. Further, coverage and reimbursement for D9995 and D9996 is likely to vary between commercial benefit plan offerings and by state for government programs (e.g. Medicaid).

The ADA’s “Comprehensive Policy Statement on Teledentistry” sets an expectation of consistent and equitable coverage for all procedures associated with teledentistry services – as noted in the following extract.

**Reimbursement:** Dental benefit plans and all other third-party payers, in both public (e.g. Medicaid) and private programs, shall provide coverage for services using teledentistry technologies and methods (synchronous or asynchronous) delivered to a covered person to the same extent that the services would be covered if they were provided through in-person encounters. Coverage for services delivered via teledentistry modalities will be at the same levels as those provided for services provided through in-person encounters and not be limited or restricted based on the technology used or the location of either the patient or the provider as long as the health care provider is licensed in the state where the patient receives service.
This policy statement concerns equitable application of existing coverage and reimbursement provisions, and recognizes that dental benefit plan coverage and reimbursement provisions are likely to vary.

15. How would dental benefit plan reimbursements, meaning claim payments, be processed when more than one oral health or medical health practitioner is involved in a teledentistry encounter?

Dental benefit plan reimbursements are, as today, payable to the billing entity on the claim submission, who may be a natural person (e.g., dentist) or a legal person (e.g., dental practice). Allocation of reimbursements is subject to the business relationships between the reimbursement’s recipient and other oral health or medical health practitioners involved in the teledentistry event – such relationships are outside the scope of this guide.
Coding Scenarios

Note: These two scenarios assume that the persons and services involved are in accordance with local state practice act, laws, rules, and regulations

1. Assessments at Senior Living Facility – A “Real-Time” Teledentistry Encounter

A hygienist is scheduled to meet with residents of a local senior living facility in order to assess their potential need for dental treatment. The facility does not have dedicated space or equipment for dental assessments, so the hygienist brings a laptop computer and an intraoral camera. This equipment is used to enable information capture and a real-time connection with the dentists via a HIPAA-compliant (Security and Privacy) connection that uses encryption and a secure “cloud” server.

During her or his visit the hygienist records patient information that includes perio probing and charting, a visual oral cancer examination, and capture of high-quality intraoral diagnostic images. The dentist through this real-time connection sees 10 patients exhibiting evidence of the need for immediate or further care (e.g., restorations; soft tissue biopsies). Several of the senior living facility residents schedule their care at the affiliated brick and mortar dental practice.

What CDT Codes would be used to document the services provided on the day of this real-time encounter?

In this scenario patients present for diagnostic and evaluative procedures. The dentist is at a different physical location with complete and immediate access to patient information being captured, and the ability to interact vocally and visually with the patient.

The following procedure codes are reported by the oral health or general health practitioner, as applicable, for each patient who received the services described.

D0191 assessment of a patient

D0350 2D oral/facial photographic image obtained intra-orally or extra-orally

D0351 3D photographic image

Note: The types of diagnostic image (2-D or 3-D), as well as the number of separate images captured would be determined by the dentist to adequately document the clinical condition.

D01xx (oral evaluation CDT Code – determined and reported by the dentist – or by another oral health or general health practitioner in accordance with applicable state law)

D9995 teledentistry – synchronous; real-time encounter

Note: D9995 is reported once for each patient, in the same manner as CDT Code “D9410 house/extended care facility call” (once per date of service per patient) to document the type of teledentistry interaction in this setting on the date of service.
2. **Screening Services at an Off-Site Setting - A “Store and Forward” Teledentistry Encounter**

A hygienist in an off-site setting collects a full set of electronic dental records as allowed in the state where the facility is located. These records include radiographs, photographs, charting of dental conditions, health history, consent, and applicable progress notes. This stored information is forwarded to the dentist via a HIPAA-compliant (Security and Privacy) connection that uses encryption and a secure “cloud” server. At a later time the dentist completes a comprehensive oral examination, diagnosis, and treatment plan.

**What CDT Codes would be used to document the services provided in this scenario?**

In this scenario the individual interacts only with the hygienist. Information collected is conveyed to the dentist for diagnosis, evaluation and treatment planning at a later time, and possibly at a different location. This dentist has no live vocal or visual interaction with the individual or hygienist during information collection.

The following procedure codes are reported, as applicable, for each individual who received the services described above.

- **D0190** screening of a patient
- **D0350** 2D oral/facial photographic image obtained intra-orally or extra-orally
- **D0351** 3D photographic image
  
  **Note:** The types of diagnostic image (2-D or 3-D), as well as the number of separate images captured would be determined by the clinical condition being documented.

- **D9996** teledentistry – asynchronous; information stored and forwarded to dentist for subsequent review
  
  **Note:** D9996 is reported once for each individual to document the type of teledentistry interaction in this setting on the date of service.
Appendix 1

Special Claim Completion Instructions – Coding a Teledentistry Event

A teledentistry event claim or encounter submission involves reporting the appropriate Place of Service (POS) code and CDT Code.

- POS code **02** (Telehealth – the location where health services and health related services are provided or received, through telecommunication technology) was added to that code set effective January 1, 2017.

- CDT Codes **D9995** and **D9996** are effective January 1, 2018. These codes are reported in addition to other services (e.g., diagnostic) reported separately when the patient presents for care. They document services provided by the dentist, or other practitioner providing care, who is not in direct contact with the patient at the time of the encounter.

These instructions apply only to the ADA Dental Claim Form. Please contact your practice management system vendor for guidance when reporting D9995 or D9996 on the HIPAA standard electronic dental claim (837D v 5010).

POS code **02** is recorded in Item # 38 on the claim form.

**ANCILLARY CLAIM/TREATMENT INFORMATION**

38. Place of Treatment

(e.g. 11=office; 22=Outpatient Hospital)

(Use Place of Service Codes for Professional Claims)

**Note:** POS is at the Claim level for dental services, which means it pertains to all services reported on the claim submission.

**D9995** or **D9996** is recorded on any unused line (1 through 10) in the ‘Record of Services Provided’ section of the form.

<table>
<thead>
<tr>
<th>RECORD OF SERVICES PROVIDED</th>
</tr>
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<tbody>
<tr>
<td>1</td>
</tr>
</tbody>
</table>

The following special instructions for Items 24 - 31 apply to the service line on which D9995 or D9996 is reported.

24. **Procedure Date (MM/DD/CCYY):** Enter date the dental procedures delivered in the teledentistry encounter were performed. The date must have two digits for the month, two for the day, and four for the year.

25. **Area of Oral Cavity:** Not Used
26. **Tooth System**: Not Used

27. **Tooth Number(s) or Letter(s)**: Not Used

28. **Tooth Surface**: Not Used

29. **Procedure Code**: Enter D9995 or D9996 as applicable. Only one type of teledentistry service may be reported for the encounter.
   
   29a **Diagnosis Code Pointer**: Not Used
   
   29b **Quantity**: Cannot be greater than “1”

30. **Description**: Enter “Teledentistry – Synchronous” or “Teledentistry – Asynchronous” as applicable.

31. **Fee**: Enter the full fee for the reported teledentistry procedure that is related to the other procedures delivered in the encounter.
   
   **Note**: A full fee may be zero dollars.

In addition to the above, Item # 56 in the claim’s “Treating Dentist and Treatment Location” block is the location where the patient being treated is physically located, and may differ from the where the “treating dentist” is located.

### Treating Dentist and Treatment Location Information

<table>
<thead>
<tr>
<th>X</th>
<th>Signed (Treating Dentist)</th>
<th>Date</th>
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</thead>
<tbody>
<tr>
<td>54. NPI</td>
<td>55. License Number</td>
<td></td>
</tr>
<tr>
<td>56. <strong>Address, City, State, Zip Code</strong></td>
<td>56a. Provider Specialty Code</td>
<td></td>
</tr>
</tbody>
</table>

56. **Address, City, State, Zip Code**: Enter the physical location where the treatment was rendered. Must be a street address, not a Post Office Box.
Questions or Assistance?

Call 800-621-8099 or send an email to dentalcode@ada.org

Notes:

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• This document includes content from the ADA publication – *ADA Dental Claim Form* ©2012 American Dental Association (ADA). All rights reserved.

• Version History

<table>
<thead>
<tr>
<th>Date</th>
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MDAC Quarterly Meeting

Telehealth 101 &
Looking at the Teledentistry Landscape

September 11, 2019

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Program Manager - Northeast Telehealth Resource Center
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About Us
Presentation Outline

• NETRC Overview
• Brief Telehealth Lay of the Land
• Teledentistry Landscape
• Teledentistry Use Case Examples
• Q & A
Mission & Aim

Our Mission
Foster the use of telehealth technologies to provide health care information and education for health care providers who serve rural and medically underserved areas and populations.

Our Aim
Connecting rural communities and helping them overcome geographic barriers to receive quality healthcare services.

The TRCs are funded by the Federal Office of Rural Health Policy (FORHP), under HRSA’s Office for the Advancement of Telehealth.
Recent Telehealth Headlines

- **Teledentistry Reaches the Tipping Point with CDT 2018 Codes**
- **Medicare Proposes (and Rejects) New Telehealth Services for 2019**
- **FCC approves $100M Connected Care Pilot Program**
- **Medicare’s New Virtual Care Codes: A Monumental Change and Validation of Asynchronous Telemedicine**
- **Medicare Expands Remote Patient Monitoring for Home Health Agencies**
- **VA 'anywhere-to-anywhere' telehealth goes live**
- **State Medicaid Programs Are Seeing the Value of Telehealth at Home**
- **87% of healthcare execs rank telehealth as a priority, study finds**
Telehealth Landscape
What is Telehealth?

Broadly: the provision of health care, public health, and health education at a distance using telecommunications technologies.

See also: Telemedicine, Telepractice, Tele-X (specialties like telepsychiatry), Virtual Health, Connected Care, Digital Health, eHealth, eVisits

**Telehealth vs. Telemedicine**
While “telemedicine” has been more commonly used in the past, “telehealth” is a more universal term for the current broad array of applications in the field. Its use crosses most health service disciplines, including dentistry, counseling, physical therapy, and home health, and many other domains. Further, telehealth practice has expanded beyond traditional diagnostic and monitoring activities to include consumer and professional education.

**Note:** Telehealth is not a service or medical specialty, but a tool used to deliver care.
Telehealth Drivers & Barriers

Drivers
- Aging Population
- Consumer Demand
- Expanding Reimbursement
- Provider Shortages
- Payment Reform
- Readmission Penalties
- Competitive Forces

Barriers
- Access to Broadband/Technology
- Cost
- Licensure
- Limited Reimbursement
- Privacy and Security Concerns
- Resistance to Change
- Legal/Regulatory Questions
Types of Telehealth

- Video-conferencing (Synchronous)
- Store And Forward (Asynchronous)
- Remote Patient Monitoring (RPM)
- Mobile Health (mHealth)
- Provider to Provider (eConsults, Project ECHO, etc.)
Teledentistry Defined

Teledentistry or Telemedicine in Dentistry
The use of information technology and telecommunications for dental care, consultation, education, and public awareness (compare telehealth and telemedicine). Teledentistry can also be used to assist general dentists with specialty work and improve services to underserved populations such as in rural or less developed areas.

The patient outcomes of teledentistry can be similar to those of visiting a brick-and-mortar dental office. In addition, teledentistry can increase access to care and practice revenue streams by providing profitable outreach to the community without adding more chairs.
Telehealth Policy & Reimbursement
Live Video
50 states and DC

Store and Forward
Only in 11 states

Remote Patient Monitoring
20 states
REIMBURSEMENT REQUIREMENTS FOR PRIVATE PAYERS

39 states and DC have telehealth private payer laws

Some go into effect at a later date.

Parity is difficult to determine:
- Parity in services covered vs. parity in payment
- Many states make their telehealth private payer laws “subject to the terms and conditions of the contract”
ADA Code on Dental Procedures and Nomenclature (CDT Code) 2018

D9995 and D9996 – ADA Guide to Understanding and Documenting Teledentistry Events

The two full CDT Code entries are:

**D9995 teledentistry** – *synchronous*; real-time encounter Reported in addition to other procedures (e.g., diagnostic) delivered to the patient on the date of service.

**D9996 teledentistry** – *asynchronous*; information stored and forwarded to dentist for subsequent review Reported in addition to other procedures (e.g., diagnostic) delivered to the patient on the date of service.

The ADA Guide contains definitions, Q&A, and Scenarios to help end users understand care delivery and reporting as it pertains to teledentistry. It does NOT include information on medical benefit claims.
The ADA’s “Comprehensive Policy Statement on Teledentistry” sets an expectation of consistent and equitable coverage for all procedures associated with teledentistry services:

“Reimbursement:

- Dental benefit plans and all other third-party payers, in both public (e.g. Medicaid) and private programs, shall provide coverage for services using teledentistry technologies and methods (synchronous or asynchronous) delivered to a covered person to the same extent that the services would be covered if they were provided through in-person encounters.

- Coverage for services delivered via teledentistry modalities will be at the same levels as those provided for services provided through in-person encounters and not be limited or restricted based on the technology used or the location of either the patient or the provider as long as the health care provider is licensed in the state where the patient receives service.”

However, the ADA stated no expectation that commercial and government dental benefit plans must create new coverage provisions pertaining to teledentistry.
MaineCare

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Office of MaineCare Services
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View Webinar Recording on MaineCare Telehealth Policy:
https://zoom.us/recording/play/uX5SM_ufvo61xmlS1gsyqbj25uBbgPre7Gp5fP_VFdekJEsNztsJvQ3f8RRfTLquh?continueMode=true

Covers the following:
- Eligibility
- TH Equipment, Technology, Security
- Covered Services
- Documentation
- Billing Procedure
- FAQs
- Definitions
"This new law amends the Dental Practice Act by clarifying the name of the practice authority from “dental hygiene therapist” to “dental therapist.” The new law further clarifies the educational requirements as well as the practice requirements. The Board is currently engaged in rulemaking to fully implement the new statutory provisions.

This new law also requires the Board to report back to the Joint Standing Committee on Health Coverage, Insurance and Financial Services recommended changes to the statutory definitions of supervision, as well as identify a proposed statutory definition of teledentistry.” Source: Maine Board of Dental Practice Advisory letter, August 5 2019

Link to LD 1441 Text: http://www.mainelegislature.org/legis/bills/bills_129th/chapters/PUBLIC388.asp
Maine Board of Dental Providers Rules and Definitions

• “Teledentistry” is currently defined, but does not appear again within the rules as they stand

• “A. The practice of dentistry at a distance through the use of any electronic means.

• i. CONSULTATION: Consultations shall be considered to occur when a dentist and/or physician not licensed in the State of Maine reviews records or interviews or examines a patient in any way, and provides a professional opinion or recommendation to a dentist licensed in the State of Maine who is a dentist of record for the patient being diagnosed or treated. Such consultant must be fully licensed in another state. A non-resident dentist and/or physician does not need a license in this State if he/she consults with a dentist licensed in this State.

• ii. DISTANCE DENTISTRY – TELEDENTISTRY: For the purposes of Teledentistry the practice of dentistry occurs in the state where the patient is located at the time of the examination.”

• https://www.maine.gov/sos/cec/rules/02/chaps02.htm#313
Teledentistry Landscape
Surveying the Teledentistry Landscape

• **Live video (synchronous):**
  – Live, two-way interaction between a person (patient, caregiver, or provider) and a provider using audiovisual telecommunications technology.

• **Store-and-forward (asynchronous):**
  – Transmission of recorded health information (for example, radiographs, photographs, video, digital impressions and photomicrographs of patients) through a secure electronic communications system to a practitioner, who uses the information to evaluate a patient’s condition or render a service outside of a real-time or live interaction.
Surveying the Teledentistry Landscape

• **Remote patient monitoring (RPM):**
  – Personal health and medical data collection from an individual in one location via electronic communication technologies, which is transmitted to a provider (sometimes via a data processing service) in a different location for use in care and related support of care.

• **Mobile health (mHealth):**
  – Health care and public health practice and education supported by mobile communication devices such as cell phones, tablet computers, and personal digital assistants (PDA).
  – at the very least (say for example, a store and forward methodology for Consultations) the site would need a laptop/computer capable of utilizing HIPPA compliant software and programs, and Electronic Health Record of some facet, and a digital camera/video platform.
Teledentistry Tech
Pediatric Teledentistry

Finger Lakes Community Health (NY):
• Community/Migrant Health Center (FQHC) with 9 locations.

Program Description:
• Uses point-to-point telehealth network to connect clinic pediatric patients in rural NY with dental providers in Rochester, NY
• MouthWatch with AmCap software; cameras ~ $300 each
• Benefits include:
  – Decreased travel time for patient/families and Health Liaisons
  – Treatment and follow-up compliance rates > 90%
Virtual Dental Home

Based out of University of the Pacific

- **Virtual Dental Home Model** leverages variety of dental hygienists (RDHAP, RDH, RDAEF) to increase access to dental health services and resources in community settings – 10 sites across California: Schools, Head Starts, Pre-schools, Nursing Homes

**Key Services Provided:**

- Health Promotion/Prevention Education
- Dental disease risk assessment
- Preventive procedures
- Interim therapeutic restorations
- Tracking and support for individual needs for follow up services

Access program [Policy Briefs and Reports](http://www.netrc.org)
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Access program [Policy Briefs and Reports](http://www.netrc.org)
Teledentistry - Senior Living Facility

Case Study

• RDH from a local practice scheduled to provide hygiene services in local senior living facility
• Uses MouthWatch TeleDent system with laptop and intraoral camera
• Performs 50 reimbursable screenings—records patient info, individual exam details, and high-quality intraoral images during visit
  – Sessions can be live videoconferencing with dentist (synchronous) or recorded to the cloud to be reviewed at a later time by the assigned provider (asynchronous)
• Outcomes:
  – 5–10 residents schedule restorative care at affiliated dental practice
  – Practice increases revenue by providing outreach to the community without adding more chairs
Teledentistry Literature and Media

- **D9995 and D9996 - ADA guide to understanding and documenting teledentistry events;** 2017 - American Dental Association
- **Diagnostic accuracy of teledentistry in the detection of dental caries: a systematic review;** 2016 - Estai
- **Cost savings from a teledentistry model for school dental screening: an Australian health system perspective;** 2017 - Estai
- **The efficacy of remote screening for dental caries by mid-level dental providers using a mobile teledentistry model;** 2016 - Estai
- **A systematic review of the research evidence for the benefits of teledentistry;** 2017 - Estai
- **End-user acceptance of a cloud-based teledentistry system and Android phone app for remote screening for oral diseases;** 2017 - Estai
- **Challenges in the uptake of telemedicine in dentistry;** 2016 – Estai
- **Case studies of 6 teledentistry programs: strategies to increase access to general and specialty dental services;** 2016 – Langelier
- **Accuracy of teledentistry for diagnosing dental pathology using direct examination as a gold standard: results of the Tel-e-Dent Study of older adults living in nursing homes;** 2017 - Queyroux
Teledentistry Resources

- **American Dental Association (ADA) Teledentistry Guidance**
- **American Tele Dentistry Association (ATDA)**
- **ASTDD Guidance**
- **Mobile-Portable Dental Manual (ASTDD)**
  - this online manual provides basic information on developing and operating various mobile, portable and hybrid systems
- **National Network for Oral Health Access (NNOHA) Telehealth Resources**
- **Case Studies of 6 Teledentistry Programs: Strategies to Increase Access to General and Specialty Dental Services**, Oral Health Workforce Resource Center, University at Albany, State University of NY.
Contact Us

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Questions?

Thanks for Listening!

www.netrc.org | 800-379-2021
Manchester, New Hampshire
June 8-9, 2020
Hosted at: DoubleTree by Hilton, Manchester Downtown
700 Elm Street, Manchester NH
MAINE BOARD OF DENTAL PRACTICE
DRAFT LANGUAGE FOR SUPERVISION AND TELEDENTISTRY

October 25, 2019

COLORADO

Direct supervision: means the supervision of those tasks or procedures that do not require the presence of the dentist in the room where performed but require the dentist's presence on the premises and availability for prompt consultation and treatment.

Indirect supervision: means the supervision of those tasks or procedures that do not require the presence of the dentist in the office or on the premises at the time the tasks or procedures are being performed, but do require that the tasks be performed with the prior knowledge and consent of the dentist.

Premises means within the same building, dental office, or treatment facility and within close enough proximity to respond in a timely manner to an emergency or the need for assistance.

Telehealth supervision: means indirect supervision by a dentist of a dental hygienist performing a statutorily authorized procedure using telecommunications systems.

Telehealth by store-and-forward transfer: means an asynchronous transmission of medical or dental information to be reviewed by a dentist at a later time at a distant site without the patient present in real time.

OREGON

Direct supervision: means super-vision requiring that a dentist diagnose the condition to be treated, that a dentist authorize the procedure to be performed, and that a dentist remain in the dental treatment room while the procedures are performed.

General supervision: means super-vision requiring that a dentist authorize the procedures by standing orders, practice agreements or collaboration agreements, but not requiring that a dentist be present when the authorized procedures are performed. The authorized procedures may also be performed at a place other than the usual place of practice of the dentist.

Indirect supervision: means super-vision requiring that a dentist authorize the procedures and that a dentist be on the premises while the procedures are performed.
Teledentistry: is defined as the use of information technology and telecommunications to facilitate the providing of dental primary care, consultation, education, and public awareness in the same manner as telehealth and telemedicine.
A. A person is deemed to be practicing as a dental hygienist if the person does any of the acts or performs any of the operations included in the general practice of dental hygienists, dental hygiene and all related and associated duties.

B. A licensed dental hygienist may perform the following:

1. Prophylaxis.
2. Scaling.
3. Closed subgingival curettage.
4. Root planing.
5. Administering local anesthetics and nitrous oxide.
6. Inspecting the oral cavity and surrounding structures for the purposes of gathering clinical data to facilitate a diagnosis.
7. Periodontal screening or assessment.
8. Recording clinical findings.
9. Compiling case histories.
10. Exposing and processing dental radiographs.
11. All functions authorized and deemed appropriate for dental assistants.
12. Except as provided in paragraph 13 of this subsection, those restorative functions permissible for an expanded function dental assistant if qualified pursuant to section 32-1291.01.
13. Placing interim therapeutic restorations after successfully completing a course at an institution accredited by the commission on dental accreditation of the American dental association.

C. The board by rule shall prescribe the circumstances under which a licensed dental hygienist may:

1. Apply preventive and therapeutic agents, used in relation to dental hygiene procedures, to the hard and soft tissues.
2. Use emerging scientific technology and prescribe the necessary training, experience and supervision to operate newly developed scientific technology. A dentist who supervises a dental hygienist whose duties include the use of emerging scientific technology must have training on the use of the emerging technology that is equal to or greater than the training the dental hygienist is required to obtain.
3. Perform other procedures not specifically authorized by this section.

D. Except as provided in subsections E, F and I of this section, a dental hygienist shall practice under the general supervision of a dentist licensed pursuant to this chapter.

E. A dental hygienist may practice under the general supervision of a physician who is licensed pursuant to chapter 13 or 17 of this title in an inpatient hospital setting.

F. A dental hygienist may perform the following procedures on meeting the following criteria and under the following conditions:
1. Administering local anesthetics under the direct supervision of a dentist who is licensed pursuant to this chapter after:

(a) The dental hygienist successfully completes a course in the administration of local anesthetics that includes didactic and clinical components in both block and infiltration techniques offered by a dental or dental hygiene program accredited by the commission on dental accreditation of the American dental association.

(b) The dental hygienist successfully completes an examination in local anesthesia given by the western regional examining board or a written and clinical examination of another state or regional examination that is substantially equivalent to the requirements of this state, as determined by the board.

(c) The board issues to the dental hygienist a local anesthesia certificate on receipt of proof that the requirements of subdivisions (a) and (b) of this paragraph have been met.

2. Administering local anesthetics under general supervision to a patient of record if all of the following are true:

(a) The dental hygienist holds a local anesthesia certificate issued by the board.

(b) The patient is at least eighteen years of age.

(c) The patient has been examined by a dentist who is licensed pursuant to this chapter within the previous twelve months.

(d) There has been no change in the patient's medical history since the last examination. If there has been a change in the patient's medical history within that time, the dental hygienist must consult with the dentist before administering local anesthetics.

(e) The supervising dentist who performed the examination has approved the patient for the administration of local anesthetics by the dental hygienist under general supervision and has documented this approval in the patient's record.

3. Administering nitrous oxide analgesia under the direct supervision of a dentist who is licensed pursuant to this chapter after:

(a) The dental hygienist successfully completes a course in administering nitrous oxide analgesia that includes didactic and clinical components offered by a dental or dental hygiene program accredited by the commission on dental accreditation of the American dental association.

(b) The board issues to the dental hygienist a nitrous oxide analgesia certificate on receipt of proof that the requirements of subdivision (a) of this paragraph have been met.

G. The board may issue local anesthesia and nitrous oxide analgesia certificates to a licensed dental hygienist on receipt of evidence satisfactory to the board that the dental hygienist holds a valid certificate or credential in good standing in the respective procedure issued by a licensing board of another jurisdiction of the United States that maintains a standard of certification that is substantially equivalent to that of this state as determined by the board.

H. A dental hygienist may perform dental hygiene procedures in the following settings:

1. On a patient of record of a dentist within that dentist's office.

2. Except as prescribed in section 32-1289.01, in a health care facility, long-term care facility, public health agency or institution, public or private school or homebound setting on patients who have been examined by a dentist within the previous year.

3. In an inpatient hospital setting pursuant to subsection E of this section.

I. A dental hygienist may provide dental hygiene services under an affiliated practice relationship with a dentist as prescribed in section 32-1289.01.
J. For the purposes of this article:

1. "Assessment" means a limited, clinical inspection that is performed to identify possible signs of oral or systemic disease, malformation or injury and the potential need for referral for diagnosis and treatment, and may include collecting clinical information to facilitate an examination, diagnosis and treatment plan by a dentist.

2. "Direct supervision" means that the dentist is present in the office while the dental hygienist is treating a patient and is available for consultation regarding procedures that the dentist authorizes and for which the dentist is responsible.

3. "General supervision" means:

   (a) That the dentist is available for consultation, whether or not the dentist is in the dentist's office, over procedures that the dentist has authorized and for which the dentist remains responsible.

   (b) With respect to an inpatient hospital setting, that a physician who is licensed pursuant to chapter 13 or 17 of this title is available for consultation, whether or not the physician is physically present at the hospital.

4. "Screening" means determining an individual's need to be seen by a dentist for diagnosis and does not include an examination, diagnosis or treatment planning.
Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor’s Regulatory Review Council or the Attorney General’s Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information. Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

TITLE 04. Professions and Occupations
Chapter 11. State Board of Dental Examiners
Sections Expired
R4-11-801, R4-11-802, R4-11-905, R4-11-906, R4-11-1001, R4-11-1002
☐ REMOVE Supp. 16-4
☐ Pages: 1 - 35
☐ REPLACE with Supp. 17-3
☐ Pages: 1 - 35

The agency’s contact person who can answer questions about rules in this Chapter:

Name:  Governor’s Regulatory Review Council
Address:  100 N. 15th Ave #305
          Phoenix, AZ 85007
Telephone:  (602) 542-2058

Disclaimer: Please be advised the person listed is the contact of record as submitted in the rulemaking package for this supplement. The contact and other information may change and is provided as a public courtesy.

PUBLISHER
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Office of the Secretary of State, Administrative Rules Division
PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director  
ADMINISTRATIVE RULES DIVISION  
September 30, 2017

RULES

A.R.S. § 41-1001(17) states: “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions. Virtually everything in your life is affected in some way by rules published in the Arizona Administrative Code, from the quality of air you breathe to the licensing of your dentist. This chapter is one of more than 230 in the Code compiled in 21 Titles.

ADMINISTRATIVE CODE SUPPLEMENTS

Rules filed by an agency to be published in the Administrative Code are updated quarterly. Supplement release dates are printed on the footers of each chapter:

First Quarter: January 1 - March 31  
Second Quarter: April 1 - June 30  
Third Quarter: July 1 - September 30  
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2017 is cited as Supp. 17-1.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

ARTICLES AND SECTIONS

Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering system separated into subsections.

HISTORICAL NOTES AND EFFECTIVE DATES

Historical notes inform the user when the last time a Section was updated in the Administrative Code. Be aware, since the Office publishes each quarter by entire chapters, not all Sections are updated by an agency in a supplement release. Many times just one Section or a few Sections may be updated in the entire chapter.

ARIZONA REVISED STATUTE REFERENCES

The Arizona’s Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in the introduction of a chapter can be found at the Secretary of State’s website, www.azsos.gov/services/legislative-filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Arizona Administrative Register online at www.azsos.gov/rules, click on the Administrative Register link.

In the Administrative Code the Office includes editor’s notes at the beginning of a chapter indicating that certain rulemaking Sections were made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

If you are researching rules and come across rescinded chapters on a different paper color, this is because the agency filed a Notice of Exempt Rulemaking. At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

PERSONAL USE/COMMERCIAL USE

This chapter is posted as a public courtesy online, and is for private use only. Those who wish to use the contents for resale or profit should contact the Office about Commercial Use fees. For information on commercial use fees review A.R.S. § 39-121.03 and 1 A.A.C. 1, R1-1-113.

Public Services managing rules editor, Rhonda Paschal, assisted with the editing of this chapter.
TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 11. STATE BOARD OF DENTAL EXAMINERS

(Authority: A.R.S. § 32-1203 et seq.)

All former rules renumbered, new Article 11 added (Supp. 81-4).

ARTICLE 1. DEFINITIONS

Article 1, consisting of Section R4-11-101, adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

Article 1, consisting of Sections R4-11-101 through R4-11-103, renumbered to Article 2, Sections R4-11-201 through R4-11-203; Sections R4-11-104 and R4-11-105 repealed, by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

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R4-11-103. Renumbered .....................................................6
R4-11-104. Repealed .........................................................6
R4-11-105. Repealed .........................................................6

ARTICLE 2. LICENSURE BY CREDENTIAL

New Article 2, consisting of Sections R4-11-201 through R4-11-205, made by final rulemaking at 9 A.A.R. 4126, effective November 8, 2003 (Supp. 03-3).

Article 2, consisting of Sections R4-11-201 through R4-11-203, expired under A.R.S. § 41-1056(E), effective April 30, 2001 (Supp. 01-2).

Article 2, consisting of Sections R4-11-201 through R4-11-203, renumbered from Article 1, Sections R4-11-101 through R4-11-103 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

Article 2, consisting of Sections R4-11-201 and R4-11-203, renumbered to Article 3, Sections R4-11-301 and R4-11-302; Sections R4-11-301 and R4-11-302 repealed, by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

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ARTICLE 1. DEFINITIONS

R4-11-101. Definitions

The following definitions, and definitions in A.R.S. § 32-1201, apply to this Chapter:

“Analgesia” means a state of decreased sensibility to pain produced by using nitrous oxide (N2O) and oxygen (O2) with or without local anesthesia.

“Application” means, for purposes of Article 3 only, forms designated as applications and all documents and additional information the Board requires to be submitted with an application.

“Business Entity” means a business organization that offers to the public professional services regulated by the Board and is established under the laws of any state or foreign country, including a sole practitioner, partnership, limited liability partnership, corporation, and limited liability company, unless specifically exempted by A.R.S. § 32-1213(J).

“Certificate holder” means a dentist who practices denture hygiene, or denturism due to a permanent medical disability that a licensed dentist is present in the office and available to provide immediate treatment or care to a patient and observe a dental assistant’s work.

“Clinical evaluation” means a dental examination of a patient named in a complaint regarding the patient's dental condition as it exists at the time the examination is performed.

“Closed subgingival curettage” means the removal of the inner surface of the soft tissue wall of a periodontal pocket in a situation where a flap of tissue has not been intentionally or surgically opened.

“Controlled substance” has the meaning prescribed in A.R.S. § 36-2501(A)(3).

“Credit hour” means one clock hour of participation in a recognized continuing dental education program.

“Deep sedation” is a drug-induced depression of consciousness during which a patient cannot be easily aroused but responds purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. The patient may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is maintained.

“Dental laboratory technician” or “dental technician” has the meaning prescribed in A.R.S. § 32-1201(7).

“Dentist of record” means a dentist who examines, diagnoses, and formulates treatment plans for a patient and may provide treatment to the patient.

“Designee” means a person to whom the Board delegates authority to act on the Board’s behalf regarding a particular task specified by this Chapter.

“Direct supervision” means, for purposes of Article 7 only, that a licensed dentist is present in the office and available to provide immediate treatment or care to a patient and observe a dental assistant’s work.

“Disabled” means a dentist, dental hygienist, or denturist has totally withdrawn from the active practice of dentistry, dental hygiene, or denturism due to a permanent medical disability and based on a physician’s order.

“Dispense for profit” means selling a drug or device for any amount above the administrative overhead costs to inventory.

“Documentation of attendance” means documents that contain the following information:

- Name of sponsoring entity;
- Course title;
- Number of credit hours;
- Name of speaker; and
- Date, time, and location of the course.

“Drug” means:

Articles recognized, or for which standards or specifications are prescribed, in the official compendium;

Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in the human body;

Articles other than food intended to affect the structure of any function of the human body; or

Articles intended for use as a component of any articles specified in this definition but does not include devices or components, parts, or accessories of devices.

“Emerging scientific technology” means any technology used in the treatment of oral disease that is not currently generally accepted or taught in a recognized dental or dental hygiene school and use of the technology poses material risks.

“Epithelial attachment” means the layer of cells that extends apically from the depth of the gingival (gum) sulcus (crevice) along the tooth, forming an organic attachment.

“Ex-parte communication” means a written or oral communication between a decision maker, fact finder, or Board member and one party to the proceeding, in the absence of other parties.

“General anesthesia” is a drug-induced loss of consciousness during which the patient is not arousable, even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. The patient often requires assistance in maintaining a patent airway, and positive-pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

“General supervision” means, for purposes of Article 7 only, a licensed dentist is available for consultation, whether or not the dentist is in the office, regarding procedures or treatment that the dentist authorizes and for which the dentist remains responsible.

“Homebound patient” means a person who is unable to receive dental care in a dental office as a result of a medically diagnosed disabling physical or mental condition.

“Irreversible procedure” means a single treatment, or a step in a series of treatments, that causes change in the affected hard or soft tissues and is permanent or may require reconstructive or corrective procedures to correct the changes.

“Jurisdiction” means the Board’s power to investigate and rule on complaints that allege grounds for disciplinary action under A.R.S. Title 32, Chapter 11 or this Chapter.

“Licensee” means a dentist, dental hygienist, dental consultant, retired licensee, or person who holds a restricted permit under A.R.S. §§ 32-1237 or 32-1292.
“Local anesthesia” is the elimination of sensations, such as pain, in one part of the body by the injection of an anesthetic drug.

“Minimal sedation” is a minimally depressed level of consciousness that retains a patient’s ability to independently and continuously maintain an airway and respond appropriately to light tactile stimulation, not limited to reflex withdrawal from a painful stimulus, or verbal command and that is produced by a pharmacological or non-pharmacological method or a combination thereof. Although cognitive function and coordination may be modestly impaired, ventilatory and cardiovascular functions are unaffected. In accordance with this particular definition, the drugs or techniques used should carry a margin of safety wide enough to render unintended loss of consciousness unlikely.

“Moderate sedation” is a drug-induced depression of consciousness during which a patient responds purposefully to verbal commands either alone or accompanied by light tactile stimulation, not limited to reflex withdrawal from a painful stimulus. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is maintained. The drugs or techniques used should carry a margin of safety wide enough to render unintended loss of consciousness unlikely. Repeated dosing of a drug before the effects of previous dosing can be fully recognized may result in a greater alteration of the state of consciousness than intended by the permit holder.

“Nitrous oxide analgesia” means nitrous oxide (N2O/O2) used as an inhalation analgesic.

“Nonsurgical periodontal treatment” means plaque removal, plaque control, supragingival and subgingival scaling, root planing, and the adjunctive use of chemical agents.

“Official compendium” means the latest revision of the United States Pharmacopeia and the National Formulary and any current supplement.

“Oral sedation” is the enteral administration of a drug or non-drug substance or combination inhalation and enterally administered drug or non-drug substance in a dental office or dental clinic to achieve minimal or moderate sedation.

“Parenteral sedation” is a minimally depressed level of consciousness that allows the patient to retain the ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command and is induced by a pharmacological or non-pharmacological method or a combination of both methods of administration in which the drug bypasses the gastrointestinal tract.

“Patient of record” means a patient who has undergone a complete dental examination performed by a licensed dentist.

“Periodontal examination and assessment” means to collect and correlate clinical signs and patient symptoms that point to either the presence of or the potential for periodontal disease.

“Periodontal pocket” means a pathologic fissure bordered on one side by the tooth and on the opposite side by crevicular epithelium and limited in its depth by the epithelial attachment.

“Plaque” means a film-like sticky substance composed of mucoidal secretions containing bacteria and toxic products, dead tissue cells, and debris.

“Polish” means, for the purposes of A.R.S. § 32-1291(B) only, a procedure limited to the removal of plaque and extrinsic stain from exposed natural and restored tooth surfaces that utilizes an appropriate rotary instrument with rubber cup or brush and polishing agent. A licensee or dental assistant shall not represent that this procedure alone constitutes an oral prophylaxis.

“Prescription-only device” means:
- Any device that is restricted by the federal act, as defined in A.R.S. § 32-1901, to use only under the supervision of a medical practitioner; or
- Any device required by the federal act, as defined in A.R.S. § 32-1901, to bear on its label the legend “Rx Only.”

“Prescription-only drug” does not include a controlled substance but does include:
- Any drug, because of its toxicity or other potentiality for harmful effect, the method of its use, or the collateral measures necessary to its use, is not generally recognized among experts, qualified by scientific training and experience to evaluate its safety and efficacy, as safe for use except by or under the supervision of a medical practitioner; or
- Any drug that is limited by an approved new drug application under the federal act or A.R.S. § 32-1962 to use under the supervision of a medical practitioner; or
- Every potentially harmful drug, the labeling of which does not bear or contain full and adequate directions for use by the consumer; or
- Any drug required by the federal act to bear on its label the legend “Rx Only.”

“President’s designee” means the Board’s executive director, an investigator, or a Board member acting on behalf of the Board president.

“Preventative and therapeutic agents” means substances used in relation to dental hygiene procedures that affect the hard or soft oral tissues to aid in preventing or treating oral disease.

“Prophylaxis” means a scaling and polishing procedure performed on patients with healthy tissues to remove coronal plaque, calculus, and stains.

“Public member” means a person who is not a dentist, dental hygienist, dental assistant, denturist, or dental technician.

“Recognized continuing dental education” means a program whose content directly relates to the art and science of oral health and treatment, provided by a recognized dental school as defined in A.R.S. § 32-1201(18), recognized dental hygiene school as defined in A.R.S. § 32-1201(17), or recognized denturist school as defined in A.R.S. § 32-1201(19), or sponsored by a national or state dental, dental hygiene, or denturist association, American Dental Association, Continuing Education Recognition Program (ADA CERP) or Academy of General Dentistry, Program Approval for Continuing Education (AGD PACE) approved provider, dental, dental hygiene, or denturist study club, governmental agency, commercial dental supplier, non-profit organization, accredited hospital, or programs or courses approved by other state, district, or territorial dental licensing boards.

“Restricted permit holder” means a dentist who meets the requirements of A.R.S. § 32-1237 or a dental hygienist who meets the requirements of A.R.S. § 32-1292 and is issued a restricted permit by the Board.
“Retired” means a dentist, dental hygienist, or denturist is at least 65 years old and has totally withdrawn from the active practice of dentistry, dental hygiene, or denturism.

“Root planing” means a definitive treatment procedure designed to remove cementum or surface dentin that is rough, impregnated with calculus, or contaminated with toxins or microorganisms.

“Scaling” means use of instruments on the crown and root surfaces of the teeth to remove plaque, calculus, and stains from these surfaces.

“Section 1301 permit” means a permit to administer general anesthesia and deep sedation, employ or work with a physician anesthesiologist, or employ or work with a Certified Registered Nurse Anesthetist (CRNA) under Article 13.

“Section 1302 permit” means a permit to administer parenteral sedation, employ or work with a physician anesthesiologist, or employ or work with a Certified Registered Nurse Anesthetist (CRNA) under Article 13.

“Section 1303 permit” means a permit to administer oral sedation, employ or work with a physician anesthesiologist, or employ or work with a Certified Registered Nurse Anesthetist (CRNA) under Article 13.

“Section 1304 permit” means a permit to employ or work with a physician anesthesiologist, or employ or work with a Certified Registered Nurse Anesthetist (CRNA) under Article 13.

“Study club” means a group of at least five Arizona licensed dentists, dental hygienists, or denturists who provide written course materials or a written outline for a continuing education presentation that meets the requirements of Article 12.

“Treatment records” means all documentation related directly or indirectly to the dental treatment of a patient.

Historical Note
Adopted effective May 12, 1977 (Supp. 77-3). Former Section R4-11-02 renumbered as Section R4-11-102 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-101 renumbered to R4-11-201, new Section R4-11-101 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 9 A.A.R. 4126, effective November 8, 2003 (Supp. 03-3).

R4-11-104. Repealed
Historical Note
Adopted effective May 12, 1977 (Supp. 77-3). Former Section R4-11-04 renumbered as Section R4-11-104 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-104 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-105. Repealed
Historical Note
Adopted effective May 12, 1977 (Supp. 77-3). Former Section R4-11-05 renumbered as Section R4-11-105 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-105 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

ARTICLE 2. LICENSURE BY CREDENTIAL

New Article 2, consisting of Sections R4-11-201 through R4-11-205, made by final rulemaking at 9 A.A.R. 4126, effective November 8, 2003 (Supp. 03-3).

R4-11-201. Clinical Examination: Requirements
A. If an applicant is applying under A.R.S. §§ 32-1240(A) or 32-1292.01(A), the Board shall ensure that the applicant has passed the clinical examination of another state, United States territory, District of Columbia or a regional testing agency. Satisfactory completion of the clinical examination may be demonstrated by one of the following:
1. Certified documentation, sent directly from another state, United States territory, District of Columbia or a regional testing agency, that confirms successful completion of the clinical examination or multiple examinations administered by the state, United States territory, District of Columbia or regional testing agency. The certified documentation shall contain the name of the applicant, date of examination or examinations and proof of a passing score; or
2. Certified documentation sent directly from another state, United States territory or District of Columbia dental board that shows the applicant passed that state's, United States territory's or District of Columbia's clinical examination before that state's, United States territory's or District of Columbia's participation in a regional examination. The certified documentation shall contain the name of applicant, date of examination or examinations and proof of a passing score.
B. An applicant shall meet the licensure requirements in R4-11-301 and R4-11-303.

Historical Note
Former Rule 2a; Amended effective November 20, 1979 (Supp. 79-6). Amended effective November 28, 1980 (Supp. 80-6). Former Section R4-11-11 renumbered as Section R4-11-201 and amended effective July 29, 1981 (Supp. 81-4). Former Section R4-11-201 renumbered to R4-11-301, new Section R4-11-201 renumbered from R4-11-101 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section expired under A.R.S. § 41-1056(E), effective April 30, 2001 (Supp. 01-2). New Section made by final rulemaking at 9 A.A.R. 4126, effective November 8, 2003 (Supp. 03-3). Amended by final rulemaking at 22 A.A.R. 371,
R4-11-202. Dental Licensure by Credential; Application
A. A dentist applying under A.R.S. § 32-1240(A) shall comply with all other applicable requirements in A.R.S. Title 32, Chapter 11 and this Article.
B. A dentist applying under A.R.S. § 32-1240(A)(1) shall:
   1. Have a current dental license in another state, territory or district of the United States;
   2. Submit a written affidavit affirming that the dentist has practiced dentistry for a minimum of 5000 hours during the five years immediately before applying for licensure by credential. For purposes of this subsection, dental practice includes experience as a dental educator at a dental program accredited by the American Dental Association Commission on Dental Accreditation or employment as a dentist in a public health setting;
   3. Submit a written affidavit affirming that the applicant has complied with the continuing dental education requirement of the state in which the applicant is currently licensed; and
   4. Provide evidence regarding the clinical examination by complying with one of the subsections in R4-11-201(A)(1).
C. A dentist applying under A.R.S. § 32-1240(A)(2) shall submit certified documentation sent directly from the applicable state, United States territory, District of Columbia or regional testing agency to the Board that contains the name of applicant, date of examination or examinations and proof of a passing score.
D. For any application submitted under A.R.S. § 32-1240(A), the Board may request additional clarifying evidence required under the applicable subsection in R4-11-201(A)(1).
E. An applicant for dental licensure by credential shall pay the fee prescribed in A.R.S. § 32-1240, except the fee is reduced by 50% for applicants who will be employed or working under contract in:
   1. Underserved areas, such as declared or eligible Health Professional Shortage Areas (HPSAs); or
   2. Other facilities caring for underserved populations as recognized by the Arizona Department of Health Services and approved by the Board.
F. An applicant for dental licensure by credential who works in areas or facilities described in subsection (E) shall:
   1. Commit to a three-year, exclusive service period,
   2. File a copy of a contract or employment verification statement with the Board, and
   3. As a licensee, submit an annual contract or employment verification statement to the Board by December 31 of each year.
G. A licensee’s failure to comply with the requirements in subsection (F) is considered unprofessional conduct and may result in disciplinary action based on the circumstances of the case.

Historical Note
Former Rule 2b; Former Section R4-11-12 renumbered as Section R4-11-202 and amended effective July 29, 1981 (Supp. 81-4). Former Section R4-11-202 repealed, new Section R4-11-202 renumbered from R4-11-102 and the heading amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Labeling changes made to reflect current style requirements (Supp. 99-1). Section expired under A.R.S. § 41-1056(E), effective April 30, 2001 (Supp. 01-2). New Section made by final rulemaking at 9 A.A.R. 4126, effective November 8, 2003 (Supp. 03-3). Amended by final rulemaking at 22 A.A.R. 371, effective April 3, 2016 (Supp. 16-1).

R4-11-203. Dental Hygienist Licensure by Credential; Appli-
R4-11-204. Dental Assistant Radiography Certification by Credential
Eligibility. To be eligible for dental assistant radiography certification by credential, an applicant shall have a current certificate or other form of approval for taking dental radiographs, issued by a professional licensing agency in another state, United States territory or the District of Columbia that required successful completion of a written dental radiography examination.

A. An applicant for dental assistant radiography certification by credential shall provide to the Board a completed application, on a form furnished by the Board that contains the following information:
1. A sworn statement of the applicant’s eligibility, and
2. A letter of endorsement that verifies compliance with R4-11-204.

B. Based upon review of information provided under subsection (A), the Board or its designee shall request that an applicant for dental assistant radiography certification by credential provide a copy of a certified document that indicates the reason for name change if the applicant’s documentation contains different names.

R4-11-205. Application for Dental Assistant Radiography Certification by Credential

A. An applicant for dental assistant radiography certification by credential shall provide to the Board a completed application, on a form furnished by the Board that contains the following information:
1. A sworn statement of the applicant’s eligibility, and
2. A letter of endorsement that verifies compliance with R4-11-204.

B. Based upon review of information provided under subsection (A), the Board or its designee shall request that an applicant for dental assistant radiography certification by credential provide a copy of a certified document that indicates the reason for name change if the applicant’s documentation contains different names.

R4-11-206. Repealed

R4-11-207. Repealed

R4-11-208. Repealed

R4-11-209. Repealed

R4-11-210. Repealed

R4-11-211. Repealed

R4-11-212. Repealed

R4-11-213. Repealed

R4-11-214. Repealed

Historical Note
Former Rule 2d; Former Section R4-11-14 repealed, new Section R4-11-14 adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-14 renumbered as Section R4-11-204, repealed, and new Section R4-11-204 adopted effective July 29, 1981 (Supp. 81-4). Former Section R4-11-204 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

Adopted effective March 23, 1976 (Supp. 76-2). Former Section R4-11-19 renumbered as R4-11-209 and repealed. Former Section R4-11-21 renumbered as Section R4-11-209 and amended effective July 29, 1981 (Supp. 81-4). Former Section R4-11-209 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).


Adopted effective March 28, 1978 (Supp. 78-2). Former Section R4-11-23 renumbered as Section R4-11-211 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-211 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).


Adopted as an emergency effective July 7, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-4). Former emergency adoption now adopted and amended effective September 7, 1979 (Supp. 79-5). Former Section R4-11-16 renumbered as Section R4-11-206 and amended effective July 29, 1981 (Sup. 81-4). Former Section R4-11-206 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

Former Rule 2h; Amended effective March 23, 1976 (Supp. 76-2). Former Section R4-11-18 renumbered as Section R4-11-214 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-214 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999.
R4-11-215. Repealed

Historical Note
Adopted effective June 16, 1982 (Supp. 82-3). Former Section R4-11-215 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-216. Repealed

Historical Note
Adopted effective June 16, 1982 (Supp. 82-3). Former Section R4-11-216 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

ARTICLE 3. EXAMINATIONS, LICENSING QUALIFICATIONS, APPLICATION AND RENEWAL, TIME-FRAMES

R4-11-301. Application

A. An applicant for licensure or certification shall provide the following information and documentation:

1. A sworn statement of the applicant’s qualifications for the license or certificate on a form provided by the Board;

2. A photograph of the applicant that is no more than 6 months old;

3. An official, sealed transcript sent directly to the Board from either:
   a. The applicant’s dental, dental hygiene, or denturist school, or
   b. A verified third-party transcript provider.

4. Except for a dental consultant license applicant, dental and dental hygiene license applicants provide proof of successfully completing a clinical examination by submitting:
   a. If applying for dental licensure by examination, a copy of the certificate or score card from the Western Regional Examining Board, indicating that the applicant passed the Western Regional Examining Board examination within the five years immediately before the date the application is filed with the Board;
   b. If applying for dental hygiene licensure by examination, a copy of the certificate or scorecard from the Western Regional Examining Board or an Arizona Board-approved clinical examination administered by a state, United States territory, District of Columbia or regional testing agency. The certificate or scorecard must indicate that the applicant passed the examination within the five years immediately before the date the application is filed with the Board;
   c. If applying for licensure by credential, certified documentation sent directly from the applicable state, United States territory, District of Columbia or regional testing agency to the Board containing the name of the applicant, date of examination or examinations and proof of a passing score;

5. Except for a dental consultant license applicant as provided in A.R.S. § 32-1234(A)(7), dental and dental hygiene license applicants must have an official score card sent directly from the National Board examination to the Board;

6. A copy showing the expiration date of the applicant’s current cardiopulmonary resuscitation healthcare provider level certificate from the American Red Cross, the American Heart Association, or another certifying agency that follows the same procedures, standards, and techniques for CPR training and certification as the American Red Cross or American Heart Association;

7. A license or certification verification from any other jurisdiction in which an applicant is licensed or certified, sent directly from that jurisdiction to the Board. If the license verification cannot be sent directly to the Board from the other jurisdiction, the applicant must submit a written affidavit affirming that the license verification submitted was issued by the other jurisdiction;

8. If a dental or dental hygiene applicant has been licensed in another jurisdiction for more than six months, a copy of the self-inquiry from the National Practitioner Data Bank that is no more than 30 days old;

9. If a denturist applicant has been certified in another jurisdiction for more than six months, a copy of the self-inquiry from the Health Integrity and Protection Data Bank that is no more than 30 days old;

10. If the applicant is in the military or employed by the United States government, a letter of endorsement from the applicant’s commanding officer or supervisor that confirms the applicant’s military service or United States government employment record; and

11. The jurisprudence examination fee.

B. The Board may request that an applicant provide:

1. An official copy of the applicant’s dental, dental hygiene, or denturist school diploma,

2. A copy of a certified document that indicates the reason for a name change if the applicant’s application contains different names,

3. Written verification of the applicant’s work history, and

4. A copy of a high school diploma or equivalent certificate.

C. An applicant shall pass the Arizona jurisprudence examination with a minimum score of 75%.

Historical Note
Former Rule 3A; Former Section R4-11-29 repealed, new Section R4-11-29 adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-29 renumbered as Section R4-11-301 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-301 repealed, new Section R4-11-301 renumbered from R4-11-201 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 22 A.A.R. 371, effective April 3, 2016 (Supp. 16-1).

R4-11-302. Repealed

Historical Note
Former Rule 3B; Former Section R4-11-30 repealed, new Section R4-11-30 adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-30 renumbered as Section R4-11-302 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-302 repealed, new Section R4-11-302 renumbered from R4-11-203 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section repealed by final rulemaking at 22 A.A.R. 371, effective April 3, 2016 (Supp. 16-1).

R4-11-303. Application Processing Procedures: Issuance, Denial, and Renewal of Dental Licenses, Restricted Permits, Dental Hygiene Licenses, Dental Consultant Licenses, Denturist Certificates, Drug or Device Dispensing Registrations, Business Entity Registration and Mobile Dental Facility and Portable Dental Unit Permits

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A. The Board office shall complete an administrative completeness review within 24 days of the date of receipt of an application for a license, certificate, permit, or registration.
   1. Within 14 calendar days of receiving an initial or renewal application for a dental license, restricted permit, dental hygiene license, dental consultant license, dentist certificare, drug dispensing registration, business entity registration, mobile dental facility or portable dental unit permit, the Board office shall notify the applicant, in writing, whether the application package is complete or incomplete.
   2. If the application package is incomplete, the Board office shall provide the applicant with a written notice that includes a comprehensive list of the missing information. The 24-day time-frame for the Board office to finish the administrative completeness review is suspended from the date the notice of incompleteness is served until the applicant provides the Board office with all missing information.
   3. If the Board office does not provide the applicant with notice regarding administrative completeness, the application package shall be deemed complete 24 days after receipt by the Board office.

B. An applicant with an incomplete application package shall submit all missing information within 60 calendar days of service of the notice of incompleteness.

C. Upon receipt of all missing information, the Board office shall notify the applicant, in writing, within 10 calendar days, that the application package is complete. If an applicant fails to submit a complete application package within the time allowed in subsection (B), the Board office shall close the applicant's file. An applicant whose file is closed and who later wishes to obtain a license, certificate, permit, or registration shall apply again as required in R4-11-301.

D. The Board shall not approve or deny an application until the applicant has fully complied with the requirements of A.A.C. Title 4, Chapter 11, Article 3.

E. The Board shall complete a substantive review of the applicant's qualifications in no more than 90 calendar days from the date on which the administrative completeness review of an application package is complete.
   1. If the Board finds an applicant to be eligible for a license, certificate, permit, or registration and grants the license, certificate, permit, or registration, the Board office shall notify the applicant in writing.
   2. If the Board finds an applicant to be ineligible for a license, certificate, permit, or registration, the Board office shall issue a written notice of denial to the applicant that includes:
      a. Each reason for the denial, with citations to the statutes or rules on which the denial is based;
      b. The applicant's right to request a hearing on the denial, including the number of days the applicant has to file the request;
      c. The applicant's right to request an informal settlement conference under A.R.S. § 41-1092.06; and
      d. The name and telephone number of an agency contact person who can answer questions regarding the application process.
   3. If the Board finds deficiencies during the substantive review of an application package, the Board office may issue a comprehensive written request to the applicant for additional documentation. An additional supplemental written request for information may be issued upon mutual agreement between the Board or Board office and the applicant.

F. The following time-frames apply for an initial or renewal application governed by this Section:
   1. Administrative completeness review time-frame: 24 calendar days.
   2. Substantive review time-frame: 90 calendar days.
   3. Overall time-frame: 114 calendar days.

G. An applicant whose license is denied has a right to a hearing, an opportunity for rehearing, and, if the denial is upheld, may seek judicial review pursuant to A.R.S. Title 41, Chapter 6, Article 10, and A.R.S. Title 12, Chapter 7, Article 6.

Historical Note
Former Rule 3C; Former Section R4-11-303 renumbered as Section R4-11-303 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-303 repealed, new Section R4-11-303 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 22 A.A.R. 371, effective April 3, 2016 (Supp. 16-1).

R4-11-304. Application Processing Procedures: Issuance and Denial of Dental Assistant Certificates Radiography Certification by Credential
A. Within 14 calendar days of receiving an application from an applicant for a dental assistant radiography certification by credential, the Board or its designee shall notify the applicant, in writing, that the application package is complete or incomplete. If the package is incomplete, the notice shall specify what information is missing.
B. An applicant with an incomplete application package shall supply the missing information within 60 calendar days from the date of the notice. If the applicant fails to do so, an applicant shall begin the application process anew.
C. Upon receipt of all missing information, within 10 calendar days, the Board or its designee shall notify the applicant, in writing, that the application is complete.
D. The Board or its designee shall not process an application until the applicant has fully complied with the requirements of this Article.
E. The Board or its designee shall notify an applicant, in writing, whether the certificate is granted or denied, no later than 90 calendar days after the date of the notice advising the applicant that the package is complete.
F. The notice of denial shall inform the applicant of the following:
   1. The reason for the denial, with a citation to the statute or rule which requires the applicant to pass the examination;
   2. The applicant’s right to request a hearing on the denial, including the number of days the applicant has to file the request;
   3. The applicant’s right to request an informal settlement conference under A.R.S. § 41-1092.06; and
   4. The name and telephone number of an agency contact person or a designee who can answer questions regarding the application process.
G. The following time-frames apply for certificate applications governed by this Section:
1. Administrative completeness review time-frame: 24 calendar days.
2. Substantive review time-frame: 90 calendar days.
3. Overall time-frame: 114 calendar days.

H. An applicant whose certificate is denied has a right to a hearing, an opportunity for rehearing, and, if the denial is upheld, may seek judicial review pursuant to A.R.S. Title 41, Chapter 6, Article 10, and A.R.S. Title 12, Chapter 7, Article 6.

Historical Note
Former Rule 3D; Former Section R4-11-32 renumbered as Section R4-11-304 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-304 repealed, new Section R4-11-304 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 22 A.A.R. 371, effective April 3, 2016 (Supp. 16-1).

R4-11-305. Application Processing Procedures: Issuance, Denial, and Renewal of General Anesthesia and Deep Sedation Permits, Parenteral Sedation Permits, Oral Sedation Permits, and Permit to Employ a Physician Anesthesiologist or CRNA

A. The Board office shall complete an administrative completeness review within 24 days from the date of the receipt of an application for a permit.
1. Within 14 calendar days of receiving an initial or renewal application for a general anesthesia and deep sedation permit, parenteral sedation permit, oral sedation permit or permit to employ a physician anesthesiologist or CRNA the Board office shall notify the applicant, in writing, whether the application package is complete or incomplete.
2. If the application package is incomplete, the Board office shall provide the applicant with a written notice that includes a comprehensive list of the missing information. The 24-day time-frame for the Board office to finish the administrative completeness review is suspended from the date the notice of incompleteness is served until the applicant provides the Board office with all missing information.
3. If the Board office does not provide the applicant with notice regarding administrative completeness, the application package shall be deemed complete 24 days after receipt by the Board office.

B. An applicant with an incomplete application package shall submit all missing information within 60 calendar days of service of the notice of incompleteness.

C. Upon receipt of all missing information, the Board office shall notify the applicant, in writing, within 10 calendar days, that the application package is complete. If an applicant fails to submit a complete application package within the time allowed in subsection (B), the Board office shall close the applicant's file. An applicant whose file is closed and who later wishes to obtain a permit shall apply again as required in A.A.C. Title 4, Chapter 11, Article 13.

D. The Board shall not approve or deny an application until the applicant has fully complied with the requirements of this Section and A.A.C. Title 4, Chapter 11, Article 13.

E. The Board shall complete a substantive review of the applicant's qualifications in no more than 120 calendar days from the date on which the administrative completeness review of an application package is complete.
1. If the Board finds an applicant to be eligible for a permit and grants the permit, the Board office shall notify the applicant in writing.
2. If the Board finds an applicant to be ineligible for a permit, the Board office shall issue a written notice of denial to the applicant that includes:
   a. Each reason for the denial, with citations to the statutes or rules on which the denial is based;
   b. The applicant's right to request a hearing on the denial;
   c. The applicant's right to request an informal settlement conference under A.R.S. § 41-1092.06; and
   d. The name and telephone number of an agency contact person who can answer questions regarding the application process.
3. If the Board finds deficiencies during the substantive review of an application package, the Board office shall issue a comprehensive written request to the applicant for additional documentation.
4. The 120-day time-frame for a substantive review of an applicant's qualifications is suspended from the date of a written request for additional documentation until the date that all documentation is received.
5. If the applicant and the Board office mutually agree in writing, the 120-day substantive review time-frame may be extended once for no more than 36 days.

F. The following time-frames apply for an initial or renewal application governed by this Section:
1. Administrative completeness review time-frame: 24 calendar days.
2. Substantive review time-frame: 120 calendar days.
3. Overall time-frame: 144 calendar days.

Historical Note

ARTICLE 4. FEES

R4-11-401. Retired or Disabled Licensure Renewal Fee
As expressly authorized under A.R.S. § 32-1207(B)(3)(c), the licensure renewal fee for a retired or disabled dentist or dental hygienist is $15.

Historical Note
Adopted effective December 6, 1974 (Supp. 75-1). Amended effective March 23, 1976 (Supp. 76-2). Former Section R4-11-42 renumbered as Section R4-11-401 and repealed effective July 29, 1981 (Supp. 81-4). Adopted effective February 16, 1995 (Supp. 95-1). Former Section R4-11-401 repealed, new Section R4-11-401 renumbered from R4-11-901 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 748, effective February 2, 2000 (Supp. 00-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 22 A.A.R. 3697, effective February 6, 2017 (Supp. 16-4).

R4-11-402. Business Entity Fees
As expressly authorized under A.R.S. § 32-1213, the Board establishes and shall collect the following fees from a Business Entity offering dental services:
1. Initial triennial registration, $300 per location;
2. Renewal of triennial registration, $300 per location; and
The following license-related fees are established in or expressly authorized under A.R.S. §§ 32-1236, 32-1287, 16, 1995 (Supp. 95-1). Former Section R4-11-402 renumbered as Section R4-11-401, new Section R4-11-402 renumbered from R4-11-902 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 2019 (Supp. 99-1). Repealed effective February 16, 1995 (Supp. 95-1). New Section R4-11-404 renumbered from R4-11-904 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 748, effective February 2, 2000 (Supp. 00-1). Section repealed by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (05-1).

R4-11-405. Charges for Board Services
The Board shall charge the following for the services provided:
1. Duplicate license: $25;
2. Duplicate certificate: $25;
3. License verification:
   a. For licensee: $25; and
   b. For non-licensee: $5;
4. Copy of audio recording: $10;
5. Photocopies (per page): $.25;
6. Mailing lists:
   a. Dentists:
      i. In-state licensees - paper or labels: $150;
      ii. All licensees - paper or labels: $175; and
      iii. Mailing list in digital format: $100;
   b. Dental hygienists:
      i. In-state licensees - paper or labels: $150;
      ii. All licensees - paper or labels: $175; and
      iii. Mailing list in digital format: $100; and
   c. Denturists: All certificate holders - paper, labels, or digital format: $5; and
7. Board meeting agendas and minutes (mailed directly to consumer):
   a. Agendas and minutes: $75 for 12 months;
   b. Agendas only: $25 for 12 months; and
   c. Minutes only: $50 for 12 months.

Historical Note
Adopted effective December 6, 1974 (Supp. 75-1). Repealed effective February 16, 1995 (Supp. 95-1). New Section R4-11-404 renumbered from R4-11-904 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 748, effective February 2, 2000 (Supp. 00-1). Amended by final rulemaking at 22 A.A.R. 3697, effective February 6, 2017 (Supp. 16-4).

R4-11-406. Anesthesia and Sedation Permit Fees
A. As expressly authorized under A.R.S. § 32-1207, the Board establishes and shall collect the following fees:
1. Section 1301 permit fee: $300 plus $25 for each additional location;
2. Section 1302 permit fee: $300 plus $25 for each additional location;
3. Section 1303 permit fee: $300 plus $25 for each additional location; and
4. Section 1304 permit fee: $300 plus $25 for each additional location.
B. Upon successful completion of an initial onsite evaluation and upon receipt of the required permit fee, the Board shall issue a separate Section 1301, 1302, 1303, or 1304 permit to a dentist for each location requested by the dentist. A permit expires on December 31 of every fifth year.
C. Permit renewal fees:
   1. Section 1301 permit renewal fee: $300 plus $25 for each additional location;
2. Section 1302 permit renewal fee: $300 plus $25 for each additional location;
3. Section 1303 permit renewal fee: $300 plus $25 for each additional location; and
4. Section 1304 permit renewal fee: $300 plus $25 for each additional location.

Historical Note

R4-11-407. Renumbered

Historical Note

R4-11-408. Repealed

Historical Note

R4-11-409. Repealed

Historical Note

ARTICLE 5. DENTISTS

R4-11-501. Dentist of Record
A. A dentist of record shall ensure that each patient record has the treatment records for a patient treated in any dental office, clinic, hospital dental clinic, or charitable organization that offers dental services, and the full name of a dentist who is responsible for all of the patient’s treatment.
B. A dentist of record shall obtain a patient’s consent to change the treatment plan before changing the treatment plan that the patient originally agreed to, including any additional costs the patient may incur because of the change.
C. When a dentist who is a dentist of record decides to leave the practice of dentistry or a particular place of practice in which the dentist is the dentist of record, the dentist shall ensure before leaving the practice that a new dentist of record is entered on each patient record.
D. A dentist of record is responsible for the care given to a patient while the dentist was the dentist of record even after being replaced as the dentist of record by another dentist.
E. A dentist of record shall:

1. Remain responsible for the care of a patient during the course of treatment; and
2. Be available to the patient through the dentist’s office, an emergency number, an answering service, or a substituting dentist.
F. A dentist’s failure to comply with subsection (E) constitutes patient abandonment, and the Board may impose discipline under A.R.S. Title 32, Chapter 11, Article 3.

Historical Note
Adopted effective December 6, 1974 (Supp. 75-1). Former Section R4-11-62 renumbered as Section R4-11-501 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-501 repealed, new Section R4-11-501 renumbered from R4-11-1102 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

R4-11-502. Affiliated Practice
A. A dentist in a private for profit setting shall not enter into more than 15 affiliated practice relationships under A.R.S. § 32-1289 at one time.
B. There is no limit to the number of affiliated practice relationships a dentist may enter into when working in a government, public health, or non-profit organization under Section 501(C)(3) of the Internal Revenue Code.
C. Each affiliated practice dentist shall be available telephonically or electronically during the business hours of the affiliated practice dental hygienist to provide an appropriate level of contact, communication, and consultation.
D. The affiliated practice agreement shall include a provision for a substitute dentist in addition to the requirements of A.R.S. § 32-1289(F), to cover an extenuating circumstance that renders the affiliated practice dentist unavailable for contact, communication, or consultation with the affiliated practice dental hygienist.

Historical Note

R4-11-503. Repealed

Historical Note
Adopted effective December 6, 1974 (Supp. 75-1). Former Section R4-11-64 repealed, new Section R4-11-64 adopted effective March 23, 1976 (Supp. 76-2). Former Section R4-11-64 renumbered as Section R4-11-503 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-503 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-504. Renumbered

Historical Note
Adopted effective December 6, 1974 (Supp. 75-1). Former Section R4-11-65 renumbered as Section R4-11-504, repealed, and new Section R4-11-504 adopted effective July 29, 1981 (Supp. 81-4). Former Section R4-11-504 renumbered to R4-11-702 by final rulemaking at 5 A.A.R. 580, effective July 29, 1981 (Supp. 81-4).
The Board shall ensure that a dental hygienist is qualified to:

A. A dental hygienist may apply preventative and therapeutic agents under the general supervision of a licensed dentist.
B. A dental hygienist may perform a procedure not specifically authorized by A.R.S. § 32-1281 when all of the following conditions are satisfied:
1. The procedure is recommended or prescribed by the supervising dentist;
2. The hygienist has received instruction, training, or education to perform the procedure in a safe manner; and
3. The procedure is performed under the general supervision of a licensed dentist.

C. The Board shall ensure that a dental hygienist is qualified to administer local anesthesia and nitrous oxide analgesia as authorized by A.R.S. § 32-1281(F)(1) and (2), by requiring evidence that the hygienist has completed courses in techniques taught at a recognized dental hygiene school or recognized dental school, as defined in A.R.S. § 32-1201(16) and (17), that consist of a minimum of 36 clock hours of instruction, and has passed examinations in theoretical knowledge and clinical competency in the following subject areas:
1. Review of head and neck anatomy;
2. Pharmacology of anesthetic and analgesic agents;
3. Medical-dental history considerations;
4. Emergency procedures;
5. Selection of appropriate armamentarium and agents;
6. Nitrous oxide administration;
7. Clinical practice, under direct supervision, as defined in A.R.S. § 32-1281(H)(1), including at least three experiences administering each of the following:
   a. Posterior superior alveolar injection,
   b. Middle superior alveolar injection,
   c. Anterior superior alveolar injection,
   d. Nasopalatine injection,
   e. Greater - palatine injection,
   f. Inferior alveolar nerve injection,
   g. Lingual injection,
   h. Mental injection,
   i. Long buccal injections, and
   j. Nitrous oxide analgesia.
D. In addition to the recognized course of study described in subsection (C), the hygienist shall successfully complete the examination in local anesthesia given by the Western Regional Examining Board. The hygienist shall submit proof of the successful completion of the local anesthesia examination to the Board. The Board shall then issue a Local Anesthesia Certificate.

E. For purposes of qualification of a dental hygienist to place interrupted sutures as authorized by A.R.S. § 32-1281(F)(3), the Board recognizes courses in advanced periodontal therapy offered by a recognized dental hygiene school or a recognized dental school, as defined in A.R.S. § 32-1201(16) and (17), that consist of a minimum of 200 clock hours of instruction and require a dental hygienist’s successful completion of those examinations of a theoretical knowledge and clinical competency in the following subject areas:
1. A review of oral histology,
2. Inflammation and pathogenesis of a periodontal pocket,
3. Patient assessment,
4. Dental hygiene treatment planning,
5. Advanced root planing and debridement,
6. Subgingival curettage,
7. Suturing,
8. Wound repair and new attachment, and
9. Clinical experience in each of the following:
   a. Root planing,
   b. Subgingival curettage, and
   c. Suturing.

F. The hygienist shall submit proof of the successful completion of a recognized course in advanced periodontal therapy, as described in subsection (E), to the Board. The Board shall then issue a certification sticker for Suture Placement, which shall be affixed to the hygienist’s license.

G. A dental hygienist shall not perform an irreversible procedure.

H. To qualify to use emerging scientific technology as authorized by A.R.S. § 32-1281(D)(2), a dental hygienist shall successfully complete a course of study that meets the following criteria:
1. Is a course offered by a recognized dental school as defined in A.R.S. § 32-1201(17), a recognized dental hygiene school as defined in A.R.S. § 32-1201(16), or sponsored by a national or state dental or dental hygiene association or government agency;
2. Includes didactic instruction with a written examination;
3. Includes hands-on clinical instruction; and
4. Is technology that is scientifically based and supported by studies published in peer reviewed dental journals.

R4-11-505. Repealed

Historical Note
Adopted effective March 23, 1976 (Supp. 76-2). Former Section R4-11-66 renumbered as Section R4-11-505 and repealed effective July 29, 1981 (Supp. 81-4).

R4-11-506. Repealed

Historical Note

ARTICLE 6. DENTAL HYGIENISTS

R4-11-601. Duties and Qualifications

A. A dental hygienist may apply preventative and therapeutic agents under the general supervision of a licensed dentist.
B. A dental hygienist may perform a procedure not specifically authorized by A.R.S. § 32-1281 when all of the following conditions are satisfied:
1. The procedure is recommended or prescribed by the supervising dentist;
2. The hygienist has received instruction, training, or education to perform the procedure in a safe manner; and
3. The procedure is performed under the general supervision of a licensed dentist.
C. The Board shall ensure that a dental hygienist is qualified to administer local anesthesia and nitrous oxide analgesia as authorized by A.R.S. § 32-1281(F)(1) and (2), by requiring evidence that the hygienist has completed courses in techniques taught at a recognized dental hygiene school or recognized dental school, as defined in A.R.S. § 32-1201(16) and (17), that consist of a minimum of 36 clock hours of instruction, and has passed examinations in theoretical knowledge and clinical competency in the following subject areas:
1. Review of head and neck anatomy;
2. Pharmacology of anesthetic and analgesic agents;
3. Medical-dental history considerations;
4. Emergency procedures;
5. Selection of appropriate armamentarium and agents;
6. Nitrous oxide administration;
7. Clinical practice, under direct supervision, as defined in A.R.S. § 32-1281(H)(1), including at least three experiences administering each of the following:
   a. Posterior superior alveolar injection,
   b. Middle superior alveolar injection,
   c. Anterior superior alveolar injection,
   d. Nasopalatine injection,
   e. Greater - palatine injection,
   f. Inferior alveolar nerve injection,
   g. Lingual injection,
   h. Mental injection,
   i. Long buccal injections, and
   j. Nitrous oxide analgesia.
D. In addition to the recognized course of study described in subsection (C), the hygienist shall successfully complete the examination in local anesthesia given by the Western Regional Examining Board. The hygienist shall submit proof of the successful completion of the local anesthesia examination to the Board. The Board shall then issue a Local Anesthesia Certificate.
E. For purposes of qualification of a dental hygienist to place interrupted sutures as authorized by A.R.S. § 32-1281(F)(3), the Board recognizes courses in advanced periodontal therapy offered by a recognized dental hygiene school or a recognized dental school, as defined in A.R.S. § 32-1201(16) and (17), that consist of a minimum of 200 clock hours of instruction and require a dental hygienist’s successful completion of those examinations of a theoretical knowledge and clinical competency in the following subject areas:
1. A review of oral histology,
2. Inflammation and pathogenesis of a periodontal pocket,
3. Patient assessment,
4. Dental hygiene treatment planning,
5. Advanced root planing and debridement,
6. Subgingival curettage,
7. Suturing,
8. Wound repair and new attachment, and
9. Clinical experience in each of the following:
   a. Root planing,
   b. Subgingival curettage, and
   c. Suturing.
F. The hygienist shall submit proof of the successful completion of a recognized course in advanced periodontal therapy, as described in subsection (E), to the Board. The Board shall then issue a certification sticker for Suture Placement, which shall be affixed to the hygienist’s license.
G. A dental hygienist shall not perform an irreversible procedure.
H. To qualify to use emerging scientific technology as authorized by A.R.S. § 32-1281(D)(2), a dental hygienist shall successfully complete a course of study that meets the following criteria:
1. Is a course offered by a recognized dental school as defined in A.R.S. § 32-1201(17), a recognized dental hygiene school as defined in A.R.S. § 32-1201(16), or sponsored by a national or state dental or dental hygiene association or government agency;
2. Includes didactic instruction with a written examination;
3. Includes hands-on clinical instruction; and
4. Is technology that is scientifically based and supported by studies published in peer reviewed dental journals.

Historical Note
Adopted effective December 6, 1974 (Supp. 75-1). Former Section R4-11-82 renumbered as Section R4-11-601 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-601 repealed, new Section R4-11-601 renumbered from R4-11-402 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 13 A.A.R. 962, effective May 5, 2007 (Supp. 07-1).

R4-11-602. Care of Homebound Patients
Dental hygienists treating homebound patients shall provide only treatment prescribed by the dentist of record in the diagnosis and treatment plan. The diagnosis and treatment plan shall be based on examination data obtained not more than 12 months before the treatment is administered.

Historical Note
Adopted effective December 6, 1974 (Supp. 75-1). Former Section R4-11-83 renumbered as Section R4-11-602 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-602 repealed, new Section R4-11-602 renumbered from R4-11-402 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-603. Limitation on Number Supervised
A dentist shall not supervise more than three dental hygienists at a time.

Historical Note
Adopted effective December 6, 1974 (Supp. 75-1). For-
A dental hygienist who seeks membership on the dental hygiene committee shall possess a license in good standing, issued by the Board.

A. The Board shall appoint three members to the dental hygiene committee as follows:
1. One dentist appointed at the annual December Board meeting, currently serving as a Board member, for a one-year term;
2. One dental hygienist appointed at the annual December Board meeting, currently serving as a Board member and possessing the qualifications required in Article 6, for a one-year term;
3. Four dental hygienists that possess the qualifications required in Article 6; and
4. One lay person.

B. Except for members appointed as prescribed in subsections (A)(1) and (2), the Board shall appoint dental hygiene committee members for staggered terms of three years, beginning January 1, 1999, and limit each member to two consecutive terms. The Board shall fill any vacancy for the unexpired portion of the term.

C. The dental hygiene committee shall annually elect a chairperson at the first meeting convened during the calendar year.

**R4-11-605. Dental Hygiene Committee**

A. The Board shall appoint seven members to the dental hygiene committee as follows:
1. One dentist appointed at the annual December Board meeting, currently serving as a Board member, for a one-year term;
2. One dental hygienist appointed at the annual December Board meeting, currently serving as a Board member and possessing the qualifications required in Article 6, for a one-year term;
3. Four dental hygienists that possess the qualifications required in Article 6; and
4. One lay person.

B. Except for members appointed as prescribed in subsections (A)(1) and (2), the Board shall appoint dental hygiene committee members for staggered terms of three years, beginning January 1, 1999, and limit each member to two consecutive terms. The Board shall fill any vacancy for the unexpired portion of the term.

C. The dental hygiene committee shall annually elect a chairperson at the first meeting convened during the calendar year.

**Historical Note**

New Section R4-11-605 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-606. Candidate Qualifications and Submissions**

A. A dental hygienist who seeks membership on the dental hygiene committee shall possess a license in good standing, issued by the Board.

B. A dental hygienist who is not a Board member and qualifies under subsection (A) shall submit a letter of intent and resume to the Board.

C. The selection committee shall consider all of the following criteria when nominating a candidate for the dental hygiene committee:
1. Geographic representation,
2. Experience in postsecondary curriculum analysis and course development,
3. Public health experience, and
4. Dental hygiene clinical experience.

**Historical Note**

New Section R4-11-606 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).
A. To perform dental hygiene services under an affiliated practice relationship pursuant to A.R.S. § 32-1289, a dental hygienist shall:
1. Provide evidence to the Board of successfully completing a total of 12 hours of recognized continuing dental education that consists of the following subject areas:
   a. A minimum of four hours in medical emergencies; and
   b. A minimum of eight hours in at least two of the following areas:
      i. Pediatric or other special health care needs,
      ii. Preventative dentistry, or
      iii. Public health community-based dentistry, and
2. Hold a current certificate in basic cardiopulmonary resuscitation (CPR).

B. A dental hygienist shall complete the required continuing dental education before entering an affiliated practice relationship. The dental hygienist shall complete the continuing dental education in subsection (A) before renewing the dental hygienist’s license. The dental hygienist may take the continuing dental education online but shall not exceed the allowable hours indicated in R4-11-1209(B)(1).

C. To comply with A.R.S. § 32-1289(E) and (F) and this Section, a dental hygienist shall submit a completed affidavit on a form supplied by the Board office. Board staff shall review the affidavit to determine compliance with all requirements.

D. A dental hygienist who practices or applies to practice under an affiliated practice relationship shall ensure that all signatures in an affiliated practice agreement, amendment, notification, and affidavit are notarized.

E. Each affiliated practice dentist shall be available telephonically or electronically during the business hours of the affiliated practice's office to provide an appropriate level of contact, communication, and consultation.

F. The affiliated practice agreement shall include a provision for a substitute dentist, to cover an extenuating circumstance that renders the affiliated practice dentist unavailable for contact, communication, and consultation with the affiliated practice dental hygienist.

Historical Note
New Section made by final rulemaking at 13 A.A.R. 962, effective May 5, 2007 (Supp. 07-1).

ARTICLE 7. DENTAL ASSISTANTS

R4-11-701. Procedures and Functions Performed by a Dental Assistant under Supervision

A. A dental assistant may perform the following procedures and functions under the direct supervision of a licensed dentist:
1. Place dental material into a patient’s mouth in response to a licensed dentist’s instruction;
2. Cleanse the supragingival surface of the tooth in preparation for:
   a. The placement of bands, crowns, and restorations;
   b. Dental dam application;
   c. Acid etch procedures; and
   d. Removal of dressings and packs;
3. Remove excess cement from inlays, crowns, bridges, and orthodontic appliances with hand instruments;
4. Remove temporary cement, interim restorations, and periodontal dressings with hand instruments;
5. Remove sutures;
6. Place and remove dental dams and matrix bands;
7. Fabricate and place interim restorations with temporary cement;
8. Apply sealants;
9. Apply topical fluorides;
10. Prepare a patient for nitrous oxide and oxygen analgesia administration upon the direct instruction and presence of a dentist;
11. Observe a patient during nitrous oxide and oxygen analgesia as instructed by the dentist.

B. A dental assistant may perform the following procedures and functions under the general supervision of a licensed dentist:
1. Train or instruct patients in oral hygiene techniques, preventative procedures, dietary counseling for caries and plaque control, and provide pre-and post-operative instructions relative to specific office treatment;
2. Collect and record information pertaining to extraoral conditions;
3. Collect and record information pertaining to existing intraoral conditions.

Historical Note
Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-100 renumbered as Section R4-11-701 and amended effective July 29, 1981 (Supp. 81-4). Former Section R4-11-701 renumbered to R4-11-1701, new Section R4-11-701 renumbered from R4-11-502 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-702. Limitations on Procedures or Functions Performed by a Dental Assistant under Supervision

A dental assistant shall not perform the following procedures or functions:
1. A procedure which by law only licensed dentists, licensed dental hygienists, or certified denturists can perform;
2. Intraoral carvings of dental restorations or prostheses;
3. Final jaw registrations;
4. Taking final impressions for any activating orthodontic appliance, fixed or removable prosthesis;
5. Activating orthodontic appliances; or
6. An irreversible procedure.

Historical Note
Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-101 renumbered as Section R4-11-702 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-702 repealed, new Section R4-11-702 renumbered from R4-11-504 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-703. Repealed

Historical Note
Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-102 renumbered as Section R4-11-703 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-703 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-704. Repealed

Historical Note
Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-103 renumbered as Section R4-11-704 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-704 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-705. Repealed

Historical Note
Adopted effective April 27, 1977 (Supp. 77-2). Former
Section R4-11-104 renumbered as Section R4-11-705 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-705 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-706. Repealed

Historical Note
Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-105 renumbered as Section R4-11-706 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-706 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-707. Repealed

Historical Note
Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-106 renumbered as Section R4-11-707 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-707 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-708. Repealed

Historical Note
Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-107 renumbered as Section R4-11-708 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-708 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-709. Repealed

Historical Note
Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-108 renumbered as Section R4-11-709 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-709 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-710. Repealed

Historical Note
Adopted effective April 27, 1977 (Supp. 77-2). Former Section R4-11-109 renumbered as Section R4-11-710 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-710 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

ARTICLE 8. DENTURISTS

R4-11-801. Expired

Historical Note

R4-11-802. Expired

Historical Note

R4-11-803. Renumbered

Historical Note

R4-11-804. Renumbered

Historical Note

R4-11-805. Renumbered

Historical Note

R4-11-806. Renumbered

Historical Note

ARTICLE 9. RESTRICTED PERMITS

R4-11-901. Application for Restricted Permit

A. An applicant for a restricted permit shall provide the following information and documentation on a form provided by the Board:
1. A sworn statement of the applicant’s qualifications for a restricted permit;
2. A photograph of the applicant that is no more than six months old;
3. A letter of endorsement from any other jurisdiction in which an applicant is licensed, sent directly from that jurisdiction to the Board;
4. A letter of endorsement from the applicant’s commanding officer or superior if the applicant is in the military or employed by the United States government;
5. A copy of the applicant’s current cardiopulmonary resuscitation certification that meets the requirements of R4-11-301(A)(6); and
6. A copy of the applicant’s pending contract with a charitable dental clinic or organization offering dental or dental hygiene services.

B. The Board may request that an applicant provide a copy of a certified document that indicates the reason for a name change if the applicant’s application contains different names.

**Historical Note**


**R4-11-902. Issuance of a Restricted Permit**

Before issuing a restricted permit under A.R.S. §§ 32-1237 through 32-1239 or 32-1292, the Board shall investigate the statutory qualifications of the charitable dental clinic or organization. The Board shall not recognize a dental clinic or organization under A.R.S. §§ 32-1237 through 32-1239 or 32-1292 as a charitable dental clinic or organization permitted to employ dentists or dental hygienists not licensed in Arizona who hold restricted permits unless the Board makes the following findings of fact:

1. That the entity is a dental clinic or organization offering professional dental or dental hygiene services in a manner consistent with the public health;
2. That the dental clinic or organization offering dental or dental hygiene services is operated for charitable purposes only, offering dental or dental hygiene services either without compensation to the clinic or organization or with compensation at the minimum rate to provide only reimbursement for dental supplies and overhead costs;
3. That the persons performing dental or dental hygiene services for the dental clinic or organization do so without compensation; and
4. That the charitable dental clinic or organization operates in accordance with applicable provisions of law.

**Historical Note**


**R4-11-903. Recognition of a Charitable Dental Clinic Orga-**

In order for the Board to make the findings required in R4-11-902, the charitable clinic or organization shall provide information to the Board, such as employment contracts with restricted permit holders, Articles and Bylaws, and financial records.

**Historical Note**

Adopted effective September 7, 1979 (Supp. 79-5). Former Section R4-11-132 renumbered as Section R4-11-903, repealed, and new Section R4-11-903 adopted effective July 29, 1981 (Supp. 81-4). Former Section R4-11-903 renumbered to R4-11-403, new Section R4-11-903 renumbered from R4-11-1003 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

**R4-11-904. Determination of Minimum Rate**

In determining whether professional services are provided at the minimum rate to provide reimbursement for dental supplies and overhead costs under A.R.S. §§ 32-1237(1) or 32-1292(A)(1), the Board shall obtain and review information relating to the actual cost of dental supplies to the dental clinic or organization, the actual overhead costs of the dental clinic or organization, the amount of charges for the dental or dental hygiene services offered, and any other information relevant to its inquiry.

**Historical Note**

Adopted effective September 7, 1979 (Supp. 79-5). Former Section R4-11-133 renumbered as Section R4-11-904 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-904 renumbered to R4-11-404, new Section R4-11-904 renumbered from R4-11-1004 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

**R4-11-905. Expired**

**Historical Note**


**R4-11-906. Expired**

**Historical Note**


**R4-11-907. Repealed**
ARTICLE 10. DENTAL TECHNICIANS

R4-11-1001. Expired

Historical Note
Adopted effective November 28, 1980 (Supp. 80-6). Former Section R4-11-1101 renumbered as Section R4-11-1001 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-11002 renumbered to R4-11-901, new Section R4-11-11001 renumbered from R4-11-602 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-1002. Expired

Historical Note
Adopted effective November 28, 1980 (Supp. 80-6). Former Section R4-11-1102 renumbered as Section R4-11-1002 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-11002 renumbered to R4-11-902, new Section R4-11-11001 renumbered from R4-11-603 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 2575, effective August 25, 2017 (Supp. 17-3).

R4-11-1003. Renumbered

Historical Note
Adopted effective November 28, 1980 (Supp. 80-6). Former Section R4-11-1103 renumbered as Section R4-11-1003 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-1003 renumbered to R4-11-903 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-1004. Renumbered

Historical Note
Adopted effective November 28, 1980 (Supp. 80-6). Former Section R4-11-1104 renumbered as Section R4-11-1004 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-1004 renumbered to R4-11-904 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-1005. Renumbered

Historical Note
Adopted effective November 28, 1980 (Supp. 80-6). Former Section R4-11-144 renumbered as Section R4-11-1005 without change effective July 29, 1981 (Supp. 81-4). Former Section R4-11-1005 renumbered to R4-11-905 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).
A licensee or certificate holder shall:

A. Satisfy a continuing dental education requirement that is designed to provide an understanding of current developments, skills, procedures, or treatment related to the licensee’s or certificate holder’s practice; and

B. Complete the recognized continuing dental education requirement required by this Article each renewal period.

(4) A licensee or certificate holder receiving an initial license or certificate shall complete the prescribed credit hours of recognized continuing dental education by the end of the first full renewal period.

(5) A licensee or certificate holder selected for audit shall provide the Board with documentation of attendance that shows compliance with the requirements established by the American Dental Association in a specialty area recognized by the Board, if the specialty board:

(a) Has established examination requirements and standards,
(b) Appraised an applicant’s qualifications,
(c) Administered comprehensive examinations, and
(d) Upon completion issues a certificate to a dentist who has achieved diplomate status; or

(6) A dentist, dental hygienist, or dentist whose advertising implies that services rendered in a dental office are of a specialty area other than those listed in subsection (B) and recognized by a specialty board that has been accredited by the Commission on Dental Accreditation of the American Dental Association violates this Article and A.R.S. § 32-1201(18)(u), and is subject to discipline under A.R.S. Title 32, Chapter 11.

Historical Note

R4-11-1103. Reserved

R4-11-1104. Repealed

Historical Note

R4-11-1105. Repealed

Historical Note

ARTICLE 12. CONTINUING DENTAL EDUCATION AND RENEWAL REQUIREMENTS

R4-11-1201. Continuing Dental Education

A. A licensee or certificate holder shall:

1. Satisfy a continuing dental education requirement that is designed to provide an understanding of current developments, skills, procedures, or treatment related to the licensee’s or certificate holder’s practice; and

2. Complete the recognized continuing dental education required by this Article each renewal period.

B. A licensee or certificate holder receiving an initial license or certificate shall complete the prescribed credit hours of recognized continuing dental education by the end of the first full renewal period.

Historical Note
Adopted effective May 21, 1982 (Supp. 82-3). Former Section R4-11-1201 renumbered to R4-11-801, new Section R4-11-1201 renumbered from R4-11-1402 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

R4-11-1202. Continuing Dental Education Compliance and Renewal Requirements

A. When applying for a renewal license, certificate, or restricted permit, a licensee, certificate holder, or restricted permit holder shall complete a renewal application provided by the Board.

B. Before receiving a renewal license or certificate, each licensee or certificate holder shall possess a current form of one of the following:

1. A current cardiopulmonary resuscitation (CPR) health-care provider certificate from the American Red Cross, the American Heart Association, or another certifying agency;

2. Advanced cardiac life support (ACLS) course completion confirmation from the American Heart Association or another agency. The confirmation must indicate that the course was completed within two years immediately before submitting a renewal application; or

3. Pediatric advanced life support (PALS) course completion confirmation from the American Heart Association or another agency. The confirmation must indicate that the course was completed within two years immediately before submitting a renewal application.

C. A licensee or certificate holder shall include an affidavit affirming the licensee’s or certificate holder’s completion of the prescribed credit hours of recognized continuing dental education with a renewal application. A licensee or certificate holder shall include on the affidavit the licensee’s or certificate holder’s name, license or certificate number, the number of hours completed in each category, and the total number of hours completed for activities defined in R4-11-1209(A)(4).

D. A licensee or certificate holder shall submit a written request for an extension before the June 30 deadline. If a licensee or certificate holder fails to meet the credit hour requirement because of military service, dental or religious missionary activity, residence in a foreign country, or other extenuating circumstances as determined by the Board, the Board, upon written request, may grant an extension of time to complete the recognized continuing dental education credit hour requirement.

E. The Board shall:

1. Only accept recognized continuing dental education credits accrued during the prescribed period immediately before license or certificate renewal, and

2. Not allow recognized continuing dental education credit hours in a renewal period in excess of the amount required in this Article to be carried forward to the next renewal period.

F. A licensee or certificate holder shall maintain documentation of attendance for each program for which credit is claimed that verifies the recognized continuing dental education credit hours the licensee or certificate holder participated in during the most recently completed renewal period.

G. Each year, the Board shall audit continuing dental education requirement compliance on a random basis or when information is obtained which indicates a licensee or certificate holder may not be in compliance with this Article. A licensee or certificate holder selected for audit shall provide the Board with documentation of attendance that shows compliance with the continuing dental education requirements within 60 days from the date the licensee or certificate holder received notice of the audit by certified mail.

H. If a licensee or certificate holder is found to not be in compliance with the continuing dental education requirements, the
Board may take any disciplinary or non-disciplinary action authorized by A.R.S. Title 32, Chapter 11.

Historical Note
Adopted effective May 21, 1982 (Supp. 82-3). Former Section R4-11-1202 renumbered from R4-11-802, new Section R4-11-1202 renumbered from R4-11-1403 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section amended by final rulemaking at Section R4-11-793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 19 A.A.R. 3873, effective January 5, 2014 (Supp. 13-4). Amended by final rulemaking at 21 A.A.R. 921, effective August 3, 2015 (Supp. 15-2).

R4-11-1203. Dentists and Dental Consultants
Dentists and dental consultants shall complete 72 hours of recognized continuing dental education in each renewal period as follows:

1. At least 42 credit hours in any of the following areas: Dental and medical health, preventive services, dental diagnosis and treatment planning, dental recordkeeping, dental clinical procedures, managing medical emergencies, pain management, dental public health, and courses in corrective and restorative oral health and basic dental sciences, which may include current research, new concepts in dentistry, and behavioral and biological sciences that are oriented to dentistry. A licensee who holds a permit to administer general anesthesia, deep sedation, parenteral sedation, or oral sedation who is required to obtain continuing education pursuant to Article 13 may apply those credit hours to the requirements of this Section;
2. No more than 18 credit hours in the following areas: Dental practice organization and management, patient management skills, and methods of health care delivery;
3. At least three credit hours in chemical dependency, which may include tobacco cessation;
4. At least three credit hours in infectious diseases or infectious disease control;
5. At least three credit hours in CPR healthcare provider, ACLS and PALS. Coursework may be completed online if the course requires a physical demonstration of skills; and
6. At least three credit hours in ethics or Arizona dental jurisprudence.

Historical Note

R4-11-1204. Dental Hygienists
A. A dental hygienist shall complete 54 credit hours of recognized continuing dental education in each renewal period as follows:

1. At least 31 credit hours in any of the following areas: Dental and medical health, and dental hygiene services, periodontal disease, care of implants, maintenance of cosmetic restorations and sealants, radiology safety and techniques, managing medical emergencies, pain management, dental recordkeeping, dental public health, and new concepts in dental hygiene;
2. No more than 14 credit hours in one or more of the following areas: Dental hygiene practice organization and management, patient management skills, and methods of health care delivery;
3. At least three credit hours in one or more of the following areas: Chemical dependency, tobacco cessation, ethics, risk management, or Arizona dental jurisprudence;
4. At least three credit hours in infectious diseases or infectious disease control; and
5. At least three credit hours in CPR healthcare provider, ACLS and PALS. Coursework may be completed online if the course requires a physical demonstration of skills.

B. A licensee who performs dental hygiene services under an affiliated practice relationship who is required to obtain continuing education under R4-11-609 may apply those credit hours to the requirements of this Section.

Historical Note

R4-11-1205. Denturists
Denturists shall complete 36 credit hours of recognized continuing dental education in each renewal period as follows:

1. At least 21 credit hours in any of the following areas: Medical and dental health, laboratory procedures, clinical procedures, dental recordkeeping, removable prosthetics, pain management, dental public health, and new technology in dentistry;
2. No more than six credit hours in one or more of the following areas: Denturist practice organization and management, patient management skills, and methods of health care delivery;
3. At least one credit hour in chemical dependency, which may include tobacco cessation;
4. At least two credit hours in infectious diseases or infectious disease control;
5. At least three credit hours in CPR healthcare provider, ACLS and PALS. Coursework may be completed online if the course requires a physical demonstration of skills; and
6. At least three credit hours in ethics or Arizona dental jurisprudence.

Historical Note

R4-11-1206. Restricted Permit Holders - Dental
In addition to the requirements in R4-11-1202, a dental restricted permit holder shall comply with the following requirements:

1. When applying for renewal under A.R.S. § 32-1238, the restricted permit holder shall provide information to the Board that the restricted permit holder has completed 24 credit hours of recognized continuing dental education yearly.
2. To determine whether to grant the renewal, the Board shall only consider recognized continuing dental educa-
tion credits accrued between July 1 and June 30 immediately before the restricted permit holder submits the renewal application.

3. A dental restricted permit holder shall complete the 24 hours of recognized continuing dental education before renewal as follows:
   a. At least 12 credit hours in one or more of the subjects enumerated in R4-11-1203(1);
   b. No more than six credit hours in one or more of the subjects enumerated in R4-11-1203(2);
   c. At least one credit hour in the subjects enumerated in R4-11-1203(3);
   d. At least one credit hour in the subjects enumerated in R4-11-1203(4);
   e. At least three credit hours in the subjects enumerated in R4-11-1203(5); and
   f. At least one credit hour in the subjects enumerated in R4-11-1203(6).

**Historical Note**

**R4-11-1207. Restricted Permit Holders - Dental Hygiene**
In addition to the requirements in R4-11-1202, a dental hygiene restricted permit holder shall comply with the following:

1. When applying for renewal under A.R.S. § 32-1292, the restricted permit holder shall provide information to the Board that the restricted permit holder has completed 18 credit hours of recognized continuing dental education yearly.

2. To determine whether to grant renewal, the Board shall only consider recognized continuing dental education credits accrued between July 1 and June 30 immediately before the restricted permit holder submits the renewal application.

3. A dental hygiene restricted permit holder shall complete the 18 hours of recognized continuing dental education before renewal as follows:
   a. At least 9 credit hours in one or more of the subjects enumerated in R4-11-1204(1);
   b. No more than three credit hours in one or more of the subjects enumerated in R4-11-1204(2);
   c. At least one credit hour in the subjects enumerated in R4-11-1204(3);
   d. At least two credit hours in the subjects enumerated in R4-11-1204(4) and
   e. At least three credit hours in the subjects enumerated in R4-11-1204(5).

**Historical Note**
New Section R4-11-1207 renumbered from R4-11-1408 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section repealed; new Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 19 A.A.R. 3873, effective January 5, 2014 (Supp. 13-4).

**R4-11-1208. Retired Licensees or Certificate Holders**
A retired licensee or certificate holder shall:

1. Except for the number of credit hours required, comply with the requirements in R4-11-1202; and

2. When applying for renewal under A.R.S. § 32-1236 for a dentist, A.R.S. § 32-1287 for a dental hygienist, and A.R.S. § 32-1297.06 for a dentist, provide information to the Board that the retired licensee or certificate holder has completed the following credit hours of recognized continuing dental education per renewal period:
   a. Dentist - 27 credit hours of which no less than three credit hours shall be for CPR;
   b. Dental hygienist - 21 credit hours of which no less than three credit hours shall be for CPR; and
   c. Denturist - 9 credit hours of which no less than three credit hours shall be for CPR.

**Historical Note**
New Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

**R4-11-1209. Types of Courses**
A. A licensee or certificate holder shall obtain recognized continuing dental education from one or more of the following activities:

1. Seminars, symposiums, lectures, or programs designed to provide an understanding of current developments, skills, procedures, or treatment related to the practice of dentistry;

2. Seminars, symposiums, lectures, or programs designed to provide an understanding of current developments, skills, procedures, or treatment related to the practice of dentistry. A licensee or certificate holder may only attend one seminar, symposium, lecture, or program materials and the technology permits attendee to fully participate; or

3. Curricula designed to prepare for specialty board certification as a specialist or recertification examinations or advanced training at an accredited institution as defined in A.R.S. Title 32, Chapter 11; and

4. Subject to the limitations in subsection (B), any of the following activities that provide an understanding of current developments, skills, procedures, or treatment related to the practice of dentistry:
   a. A correspondence course, video, internet or similar self-study course, if the course includes an examination and the licensee or certificate holder passes the examination;
   b. Participation on the Board, in Board complaint investigations including clinical evaluations or anesthesia and sedation permit examinations;
   c. Participation in peer review of a national or state dental, dental hygiene, or denturist association or participation in quality of care or utilization review in a hospital, institution, or governmental agency;
   d. Providing dental-related instruction to dental, dental hygiene, or denturist students, or allied health professionals in recognized dental school or recognized dental hygiene school, or recognized denturist school or providing dental-related instruction sponsored by a national, state, or local dental, dental hygiene, or denturist association;
   e. Publication or presentation of a dental paper, report, or book authored by the licensee or certificate holder that provides information on current developments, skills, procedures, or treatment related to the practice of dentistry. A licensee or certificate holder may claim credit hours:
      i. Only once for materials presented;
To obtain or renew a Section 1301 permit, a dentist shall:

B. Before administering general anesthesia, or deep sedation by

R4-11-1301. General Anesthesia and Deep Sedation

Arizona Administrative Code

The following limitations apply to the total number of credit hours earned per renewal period in any combination of the activities listed in subsection (A)(4):

1. Dentists and Dental Hygienists, no more than 24 hours;
2. Denturists, no more than 12 hours;
3. Retired or Restricted Permit Holder Dentists or Dental Hygienists, no more than nine hours; and
4. Retired Denturists, no more than three hours.

Historical Note
New Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 19 A.A.R. 3873, effective January 5, 2014 (Supp. 13-4).

ARTICLE 13. GENERAL ANESTHESIA AND SEDATION

R4-11-1301. General Anesthesia and Deep Sedation

A. Before administering general anesthesia, or deep sedation by any means, in a dental office or dental clinic, a dentist shall possess a Section 1301 permit issued by the Board. The dentist may renew a Section 1301 permit every five years by complying with R4-11-1307.

B. To obtain or renew a Section 1301 permit, a dentist shall:
1. Submit a completed application on a form provided by the Board office that, in addition to the requirements of subsections (B)(2) and (3), and R4-11-1307, includes:
   a. General information about the applicant such as:
      i. Name;
      ii. Home and office addresses and telephone numbers;
      iii. Limitations of practice;
      iv. Hospital affiliations;
      v. Denial, curtailment, revocation, or suspension of hospital privileges;
      vi. Denial of membership in, denial of renewal of membership in, or disciplinary action by a dental organization; and
      vii. Denial of licensure by, denial of renewal of licensure by, or disciplinary action by a dental regulatory body; and
   b. The dentist’s dated and signed affidavit stating that the information provided is true, and that the dentist has read and complied with the Board’s statutes and rules;
2. On forms provided by the Board, provide a dated and signed affidavit attesting that any office or dental clinic where the dentist will administer general anesthesia or deep sedation:
   a. Contains the following properly operating equipment and supplies during the provision of general anesthesia and deep sedation:
      i. Emergency drugs;
      ii. Electrocardiograph monitor;
      iii. Pulse oximeter;
      iv. Cardiac defibrillator or automated external defibrillator (AED);
      v. Positive pressure oxygen and supplemental oxygen;
   vi. Suction equipment, including endotracheal, tonsillar, or pharyngeal and emergency backup medical suction device;
   vii. Laryngoscope, multiple blades, backup batteries, and backup bulbs;
   viii. Endotracheal tubes and appropriate connectors;
   ix. Magill forceps;
   x. Oropharyngeal and nasopharyngeal airways;
   xi. Auxiliary lighting;
   xii. Stethoscope; and
   xiii. Blood pressure monitoring device; and
3. Maintain a staff of supervised personnel capable of handling procedures, complications, and emergency incidents. All personnel involved in administering and monitoring general anesthesia or deep sedation shall hold a current course completion confirmation in cardiopulmonary resuscitation (CPR) Health Care Provider Level;
4. Maintain a current permit to prescribe and administer controlled substances in this state issued by the United States Drug Enforcement Administration; and
5. Provide confirmation of completing coursework within the two years prior to submitting the permit application in one or more of the following:
   a. Advanced cardiac life support (ACLS) from the American Heart Association or another agency that follows the same procedures, standards, and techniques for training as the American Heart Association;
   b. Pediatric advanced life support (PALS) in a practice treating pediatric patients; or
   c. A recognized continuing education course in advanced airway management.

C. Initial applicants shall meet one or more of the following conditions:
1. Complete, within the three years before submitting the permit application, a full credit load, as defined by the training program, during one calendar year of training, in anesthesiology or related academic subjects, beyond the undergraduate dental school level in a training program described in R4-11-1306(A), offered by a hospital accredited by the Joint Commission on Accreditation of Hospitals Organization, or sponsored by a university accredited by the American Dental Association Commission on Dental Accreditation;
2. Be, within the three years before submitting the permit application, a Diplomate of the American Board of Oral and Maxillofacial Surgeons or eligible for examination by the American Board of Oral and Maxillofacial surgeons, a Fellow of the American Association of Oral and Maxillofacial surgeons, a Fellow of the American Dental Society of Anesthesiology, a Diplomate of the National Dental Board of Anesthesiology, or a Diplomate of the American Dental Board of Anesthesiology; or
3. For an applicant who completed the requirements of subsections (C)(1) or (C)(2) more than three years before submitting the permit application, provide the following documentation:
   a. On a form provided by the Board, a written affidavit affirming that the applicant has administered general anesthesia or deep sedation to a minimum of 25 patients within the year before submitting the permit application or 75 patients within the last five years before submitting the permit application;
After submitting the application and written evidence of compliance with requirements in subsection (B) and, if applicable, subsection (C) to the Board, the applicant shall schedule an onsite evaluation by the Board during which the applicant shall administer general anesthesia or deep sedation. After the applicant completes the application requirements and successfully completes the onsite evaluation, a Section 1301 permit shall be issued to the applicant.

1. The onsite evaluation team shall consist of:
   a. Two dentists who are Board members, or Board designees for initial applications; or
   b. One dentist who is a Board member or Board designee for renewal applications.

2. The onsite team shall evaluate the following:
   a. The availability of equipment and personnel as specified in subsection (B)(2);
   b. Proper administration of general anesthesia or deep sedation to a patient by the applicant in the presence of the evaluation team;
   c. Successful responses by the applicant to oral examination questions from the evaluation team about patient management, medical emergencies, and emergency medications;
   d. Proper documentation of controlled substances, that includes a perpetual inventory log showing the receipt, administration, dispensing, and destruction of controlled substances;
   e. Proper recordkeeping as specified in subsection (E) by reviewing the records generated for the patient specified in subsection (D)(2)(b); and
   f. For renewal applicants, records supporting continued competency as specified in R4-11-1306.

3. The evaluation team shall recommend one of the following:
   a. Pass. Successful completion of the onsite evaluation;
   b. Conditional Approval for failing to have appropriate equipment, proper documentation of controlled substances, or proper recordkeeping. The applicant must submit proof of correcting the deficiencies before a permit is issued;
   c. Category 1 Evaluation Failure. The applicant must review the appropriate subject matter and schedule a subsequent evaluation by two Board Members or Board designees not less than 30 days from the failed evaluation. An example is failure to recognize and manage one emergency;
   d. Category 2 Evaluation Failure. The applicant must complete Board approved continuing education in subject matter within the scope of the onsite evaluation as identified by the evaluators and schedule a subsequent evaluation by two Board Members or Board designees not less than 60 days from the failed evaluation. An example is failure to recognize and manage more than one emergency; or
   e. Category 3 Evaluation Failure. The applicant must complete Board approved remedial continuing education with the subject matter outlined in R4-11-1306 as identified by the evaluators and reapply not less than 90 days from the failed evaluation. An example is failure to recognize and manage an anesthetic urgency.

4. The onsite evaluation of an additional dental office or dental clinic in which general anesthesia or deep sedation is administered by an existing Section 1301 permit holder may be waived by the Board staff upon receipt in the Board office of an affidavit verifying compliance with subsection (D)(2)(a).

5. A Section 1301 mobile permit may be issued if a Section 1301 permit holder travels to dental offices or dental clinics to provide anesthesia or deep sedation. The applicant must submit a completed affidavit verifying:
   a. That the equipment and supplies for the provision of anesthesia or deep sedation as required in subsection (B)(2)(a) either travel with the Section 1301 permit holder or are in place and in appropriate condition at the dental office or dental clinic where anesthesia or deep sedation is provided, and
   b. Compliance with subsection (B)(2)(b).

E. A Section 1301 permit holder shall keep an anesthesia or deep sedation record for each general anesthesia and deep sedation procedure that includes the following entries:

1. Pre-operative and post-operative electrocardiograph documentation;
2. Pre-operative, intra-operative, and post-operative pulse oximeter documentation;
3. Pre-operative, intra-operative, and post-operative blood pressure and vital sign documentation;
4. A list of all medications given, with dosage and time intervals, and route and site of administration;
5. Type of catheter or portal with gauge;
6. Indicate nothing by mouth or time of last intake of food or water;
7. Consent form; and
8. Time of discharge and status, including name of escort.

F. The Section 1301 permit holder, for intravenous access, shall use a new infusion set, including a new infusion line and new bag of fluid, for each patient.

G. The Section 1301 permit holder shall utilize supplemental oxygen for patients receiving general anesthesia or deep sedation for the duration of the procedure.

H. The Section 1301 permit holder shall continuously supervise the patient from the initiation of anesthesia or deep sedation until termination of the anesthesia or deep sedation procedure and oxygenation, ventilation, and circulation are stable. The Section 1301 permit holder shall not commence with the administration of a subsequent anesthetic case until the patient is in monitored recovery or meets the guidelines for discharge.

I. A Section 1301 permit holder may employ the following health care professionals to provide anesthesia or sedation services and shall ensure that the health care professional continuously supervises the patient from the administration of anesthesia or sedation until termination of the anesthesia or sedation procedure and oxygenation, ventilation, and circulation are stable:

1. An allopathic or osteopathic physician currently licensed in Arizona by the Arizona Medical Board or the Arizona Board of Osteopathic Examiners who has successfully completed a residency program in anesthesiology approved by the American Council on Graduate Medical Education (ACGME) or the American Osteopathic Association (AOA) or who is certified by either the American Board of Anesthesiology or the American Osteopathic Board of Anesthesiology and is credentialed with anes-
thecia privileges through an Arizona licensed medical facility, or
2. A Certified Registered Nurse Anesthetist (CRNA) currently licensed in Arizona who provides services under the Nurse Practice Act in A.R.S. Title 32, Chapter 15.

J. A Section 1301 permit holder may also administer parenteral sedation without obtaining a Section 1302 permit.

Historical Note

R4-11-1302. Parenteral Sedation
A. Before administering parenteral sedation in a dental office or dental clinic, a dentist shall possess a Section 1301 permit issued by the Board. The dentist may renew a Section 1302 permit every five years by complying with R4-11-1307.
   1. A Section 1301 permit holder may also administer parenteral sedation.
   2. A Section 1302 permit holder shall not administer or employ any agents which have a narrow margin for maintaining consciousness including, but not limited to, ultrashort acting barbiturates, propofol, parenteral ketamine, or similarly acting drugs, agents, or techniques, or any combination thereof that would likely render a patient deeply sedated, generally anesthetized or otherwise not meeting the conditions of moderate sedation.

B. To obtain or renew a Section 1302 permit, the dentist shall:
   1. Submit a completed application on a form provided by the Board office that, in addition to the requirements of subsections (B)(2) and (3) and R4-11-1307, includes:
      a. General information about the applicant such as:
         i. Name;
         ii. Home and office addresses and telephone numbers;
         iii. Limitations of practice;
         iv. Hospital affiliations;
         v. Denial, curtailment, revocation, or suspension of hospital privileges;
         vi. Denial of membership in, denial of renewal of membership in, or disciplinary action by a dental organization; and
         vii. Denial of licensure by, denial of renewal of licensure by, or disciplinary action by a dental regulatory body; and
      b. The dentist’s dated and signed affidavit stating that the information provided is true, and that the dentist has read and complied with the Board’s statutes and rules;
   2. On forms provided by the Board, provide a dated and signed affidavit attesting that any dental office or dental clinic where the dentist will administer parenteral sedation by intravenous or intramuscular route:
      a. Contains the following properly operating equipment and supplies during the provision of parenteral sedation by the permit holder or general anesthesia or deep sedation by a physician anesthesiologist or Certified Registered Nurse Anesthetist (CRNA):
         i. Emergency drugs;
         ii. Positive pressure oxygen and supplemental oxygen;
         iii. Stethoscope;
      b. Maintains a staff of supervised personnel capable of handling procedures, complications, and emergency incidents, including at least one staff member who:
         i. Holds a current course completion confirmation in cardiopulmonary resuscitation (CPR) health care provider level;
         ii. Is present during the parenteral sedation procedure; and
         iii. After the procedure, monitors the patient until discharge;
      c. Hold a valid license to practice dentistry in this state;
      d. Maintain a current permit to prescribe and administer controlled substances in this state issued by the United States Drug Enforcement Administration;
      e. Provide confirmation of completing coursework within the two years prior to submitting the permit application in one or more of the following:
         a. Advanced cardiac life support (ACLS) from the American Heart Association or another agency that follows the same procedures, standards, and techniques for training as the American Heart Association;
         b. Pediatric advanced life support (PALS) in a practice treating pediatric patients; or
         c. A recognized continuing education course in advanced airway management.

C. Initial applicants shall meet one of the following conditions:
   1. Successfully complete Board-recognized undergraduate, graduate, or postgraduate education within the three years before submitting the permit application, that includes the following:
      a. Sixty (60) didactic hours of basic parenteral sedation to include:
         i. Physical evaluation;
         ii. Management of medical emergencies;
         iii. The importance of and techniques for maintaining proper documentation; and
         iv. Monitoring and the use of monitoring equipment; and
      b. Hands-on administration of parenteral sedative medications to at least 20 patients in a manner consistent with this Section; or
   2. An applicant who completed training in parenteral sedation more than three years before submitting the permit application shall provide the following documentation:
      a. On a form provided by the Board, a written affidavit affirming that the applicant has administered parenteral sedation to a minimum of 25 patients within the year or 75 patients within the last five years before submitting the permit application;
      b. A copy of the parenteral sedation permit in effect in another state or certification of military training in parenteral sedation from the applicant’s commanding officer; and
      c. On a form provided by the Board, a written affidavit affirming the completion of 30 clock hours of con-
D. After submitting the application and written evidence of compliance with requirements outlined in subsection (B) and, if applicable, subsection (C) to the Board, the applicant shall schedule an onsite evaluation by the Board during which the applicant shall administer parenteral sedation. After the applicant completes the application requirements and successfully completes the onsite evaluation, the Board shall issue a Section 1302 permit to the applicant.

1. The onsite evaluation team shall consist of:
   a. Two dentists who are Board members, or Board designees for initial applications, or
   b. One dentist who is a Board member or Board designee for renewal applications.

2. The onsite team shall evaluate the following:
   a. The availability of equipment and personnel as specified in subsection (B)(2);
   b. Proper administration of parenteral sedation to a patient by the applicant in the presence of the evaluation team;
   c. Successful responses by the applicant to oral examination questions from the evaluation team about patient management, medical emergencies, and emergency medications;
   d. Proper documentation of controlled substances, that includes a perpetual inventory log showing the receipt, administration, dispensing, and destruction of all controlled substances;
   e. Proper recordkeeping as specified in subsection (E) by reviewing the records generated for the patient receiving parenteral sedation as specified in subsection (D)(2)(b); and
   f. For renewal applicants, records supporting continued competency as specified in R4-11-1306.

3. The evaluation team shall recommend one of the following:
   a. Pass. Successful completion of the onsite evaluation;
   b. Conditional Approval for failing to have appropriate equipment, proper documentation of controlled substances, or proper recordkeeping. The applicant must submit proof of correcting the deficiencies before a permit is issued;
   c. Category 1 Evaluation Failure. The applicant must review the appropriate subject matter and schedule a subsequent evaluation by two Board Members or Board designees not less than 30 days from the failed evaluation. An example is failure to recognize and manage one emergency;
   d. Category 2 Evaluation Failure. The applicant must complete Board approved continuing education in subject matter within the scope of the onsite evaluation as identified by the evaluators and schedule a subsequent evaluation by two Board Members or Board designees not less than 60 days from the failed evaluation. An example is failure to recognize and manage more than one emergency; or
   e. Category 3 Evaluation Failure. The applicant must complete Board approved remedial continuing education with the subject matter outlined in R4-11-1306 as identified by the evaluators and reapply not less than 90 days from the failed evaluation. An example is failure to recognize and manage an anesthetic urgency.

4. The onsite evaluation of an additional dental office or dental clinic in which parenteral sedation is administered by an existing Section 1302 permit holder may be waived by the Board staff upon receipt in the Board office of an affidavit verifying compliance with subsection (D)(2)(a).

5. A Section 1302 mobile permit may be issued if a Section 1302 permit holder travels to dental offices or dental clinics to provide parenteral sedation. The applicant must submit a completed affidavit verifying:
   a. That the equipment and supplies for the provision of parenteral sedation as required in R4-11-1302(B)(2)(a) either travel with the Section 1302 permit holder or are in place and in appropriate working condition at the dental office or dental clinic where parenteral sedation is provided, and
   b. Compliance with R4-11-1302(B)(2)(b).

E. A Section 1302 permit holder shall keep a parenteral sedation record for each parenteral sedation procedure that:
   1. Includes the following entries:
      a. Pre-operative, intra-operative, and post-operative pulse oximeter documentation;
      b. Pre-operative, intra-operative, and post-operative blood pressure and vital sign documentation;
      c. A list of all medications given, with dosage and time intervals and route and site of administration;
      d. Type of catheter or portal with gauge;
      e. Indicate nothing by mouth or time of last intake of food or water;
      f. Consent form; and
      g. Time of discharge and status, including name of escort; and
   2. May include pre-operative and post-operative electrocardiograph report.

F. The Section 1302 permit holder shall establish intravenous access on each patient receiving parenteral sedation utilizing a new infusion set, including a new infusion line and new bag of fluid.

G. The Section 1302 permit holder shall utilize supplemental oxygen for patients receiving parenteral sedation for the duration of the procedure.

H. The Section 1302 permit holder shall continuously supervise the patient from the initiation of parenteral sedation until termination of the parenteral sedation procedure and oxygenation, ventilation and circulation are stable. The Section 1302 permit holder shall not commence with the administration of a subsequent anesthetic case until the patient is in monitored recovery or meets the guidelines for discharge.

I. A Section 1302 permit holder may employ a health care professional as specified in R4-11-1301(I).

Historical Note

R4-11-1303. Oral Sedation

A. Before administering oral sedation in a dental office or dental clinic, a dentist shall possess a Section 1303 permit issued by the Board. The dentist may renew a Section 1303 permit every five years by complying with R4-11-1307.
   1. A Section 1301 permit holder or Section 1302 permit holder may also administer oral sedation without obtaining a Section 1303 permit.
2. The administration of a single drug for minimal sedation does not require a Section 1303 permit if:
   a. The administered dose is within the Food and Drug Administration’s (FDA) maximum recommended dose as printed in FDA approved labeling for unmonitored home use;
      i. Incremental multiple doses of the drug may be administered until the desired effect is reached, but does not exceed the maximum recommended dose; and
      ii. During minimal sedation, a single supplemental dose may be administered. The supplemental dose may not exceed one-half of the initial dose and the total aggregate dose may not exceed one and one-half times the FDA maximum recommended dose on the date of treatment; and
   b. Nitrous oxide/oxygen may be administered in addition to the oral drug as long as the combination does not exceed minimal sedation.

B. To obtain or renew a Section 1303 permit, a dentist shall:
   1. Submit a completed application on a form provided by the Board office that, in addition to the requirements of subsections (B)(2) and (3) and R4-11-1307, includes:
      a. General information about the applicant such as:
         i. Name;
         ii. Home and office addresses and telephone numbers;
         iii. Limitations of practice;
         iv. Hospital affiliations;
         v. Denial, curtailment, revocation, or suspension of hospital privileges;
         vi. Denial of membership in, denial of renewal of, membership in, or disciplinary action by a dental organization; and
         vii. Denial of licensure by, denial of renewal of licensure by, or disciplinary action by a dental regulatory body; and
      b. The dentist’s dated and signed affidavit stating that the information provided is true, and that the dentist has read and complied with the Board’s statutes and rules;
   2. On forms provided by the Board, a written affidavit affirming that the applicant has administered oral sedation to a minimum of 25 patients within the year or 75 patients within the last five years before submitting the permit application. After the applicant completes subsection (C) to the Board, the applicant shall schedule an onsite evaluation by the Board. After the applicant completes the application requirements and successfully completes the onsite evaluation, the Board shall issue a Section 1303 permit to the applicant.

C. Initial applicants shall meet one of the following:
   1. Complete a Board-recognized post-doctoral residency program that includes documented training in oral sedation within the last three years before submitting the permit application; or
   2. Complete a Board recognized post-doctoral residency program that includes documented training in oral sedation more than three years before submitting the permit application shall provide the following documentation:
      a. On a form provided by the Board, a written affidavit affirming that the applicant has administered oral sedation to a minimum of 25 patients within the year or 75 patients within the last five years before submitting the permit application;
      b. A copy of the oral sedation permit in effect in oral sedation from the applicant’s commanding officer; and
      c. On a form provided by the Board, a written affidavit affirming the completion of 30 hours of continuing education taken within the last five years as outlined in R4-11-1306(C)(1)(a) through (f); or
   3. Provide proof of participation in 30 clock hours of Board-recognized undergraduate, graduate, or post-graduate education in oral sedation within the three years before submitting the permit application that includes:
      a. Training in basic oral sedation,
      b. Pharmacology,
      c. Physical evaluation,
      d. Management of medical emergencies,
      e. The importance of and techniques for maintaining proper documentation, and
      f. Monitoring and the use of monitoring equipment.

D. After submitting the application and written evidence of compliance with requirements in subsection (B) and, if applicable, subsection (C) to the Board, the applicant shall schedule an onsite evaluation by the Board. After the applicant completes the application requirements and successfully completes the onsite evaluation, the Board shall issue a Section 1303 permit to the applicant.
   1. The onsite evaluation team shall consist of:
      a. For initial applications, two dentists who are Board members, or Board designees.
      b. For renewal applications, one dentist who is a Board member, or Board designee.
2. The onsite team shall evaluate the following:
   a. The availability of equipment and personnel as specified in subsection (B)(2);
   b. Successful responses by the applicant to oral examination questions from the evaluation team about patient management, medical emergencies, and emergency medications;
   c. Proper documentation of controlled substances, that includes a perpetual inventory log showing the receipt, administration, dispensing, and destruction of controlled substances;
   d. Proper recordkeeping as specified in subsection (E) by reviewing the forms that document the oral sedation record; and
   e. For renewal applicants, records supporting continued competency as specified in R4-11-1306.
3. The evaluation team shall recommend one of the following:
   a. Pass. Successful completion of the onsite evaluation;
   b. Conditional Approval for failing to have appropriate equipment, proper documentation of controlled substance, or proper recordkeeping. The applicant must submit proof of correcting the deficiencies before permit will be issued;
   c. Category 1 Evaluation Failure. The applicant must review the appropriate subject matter and schedule a subsequent evaluation by two Board Members or Board designees not less than 30 days from the failed evaluation. An example is failure to recognize and manage one emergency; or
   d. Category 2 Evaluation Failure. The applicant must complete Board approved continuing education in subject matter within the scope of the onsite evaluation as identified by the evaluators and schedule a subsequent evaluation by two Board Members or Board designees not less than 60 days from the failed evaluation. An example is failure to recognize and manage more than one emergency.
4. The onsite evaluation of an additional dental office or dental clinic in which oral sedation is administered by a Section 1303 permit holder may be waived by the Board staff upon receipt in the Board office of an affidavit verifying compliance with subsection (D)(2).
5. A Section 1303 mobile permit may be issued if the Section 1303 permit holder travels to dental offices or dental clinics to provide oral sedation. The applicant must submit a completed affidavit verifying:
   a. That the equipment and supplies for the provision of oral sedation as required in R4-11-1303(B)(2) either travel with the Section 1303 permit holder or are in place and in appropriate condition at the dental office or dental clinic where oral sedation is provided, and
   b. Compliance with R4-11-1303(B)(2)(b).
E. A Section 1303 permit holder shall keep an oral sedation record for each oral sedation procedure that:
1. Includes the following entries:
   a. Pre-operative, intra-operative, and post-operative, pulse oximeter oxygen saturation and pulse rate documentation;
   b. Pre-operative and post-operative blood pressure;
   c. Documented reasons for not taking vital signs if a patient’s behavior or emotional state prevents monitoring personnel from taking vital signs;
   d. List of all medications given, including dosage and time intervals;
   e. Patient’s weight;
   f. Consent form;
   g. Special notes, such as, nothing by mouth or last intake of food or water; and
   h. Time of discharge and status, including name of escort; and
2. May include the following entries:
   a. Pre-operative and post-operative electrocardiograph report; and
   b. Intra-operative blood pressures.
F. The Section 1303 permit holder shall utilize supplemental oxygen for patients receiving oral sedation for the duration of the procedure.
G. The Section 1303 permit holder shall ensure the continuous supervision of the patient from the administration of oral sedation until oxygenation, ventilation and circulation are stable and the patient is appropriately responsive for discharge from the dental office or dental clinic.
H. A Section 1303 permit holder may employ a health care professional to provide anesthesia services, if all of the following conditions are met:
1. The physician anesthesiologist or CRNA meets the requirements as specified in R4-11-1301(I);
2. The Section 1303 permit holder has completed coursework within the two years prior to submitting the permit application in one or more of the following:
   a. ACLS from the American Heart Association or another agency that follows the same procedures, standards, and techniques for training as the American Heart Association;
   b. PALS in a practice treating pediatric patients;
   c. A recognized continuing education course in advanced airway management;
3. The Section 1303 permit holder ensures that:
   a. The dental office or clinic contains the equipment and supplies listed in R4-11-1304(B)(2)(a) during the provision of anesthesia or sedation by the physician anesthesiologist or CRNA;
   b. The anesthesia or sedation record contains all the entries listed in R4-11-1304(D);
   c. For intravenous access, the physician anesthesiologist or CRNA uses a new infusion set, including a new infusion line and new bag of fluid for each patient; and
   d. The patient is continuously supervised from the administration of anesthesia or sedation until the termination of the anesthesia or sedation procedure and oxygenation, ventilation and circulation are stable. The Section 1303 permit holder shall not commence with a subsequent procedure or treatment until the patient is in monitored recovery or meets the guidelines for discharge.

Historical Note
New Section R4-11-1303 renumbered from R4-11-805 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Former Section R4-11-1303 renumbered to R4-11-1304; new Section R4-11-1303 made by final rulemaking at 9 A.A.R. 1054, effective May 6, 2003 (Supp. 03-1). Amended by final rulemaking at 19 A.A.R. 341, effective April 6, 2013 (Supp. 13-1).

R4-11-1304. Permit to Employ or Work with a Physician Anesthesiologist or Certified Registered Nurse Anesthetist
(CRNA)

A. This Section does not apply to a Section 1301 permit holder or a Section 1302 permit holder practicing under the provisions of R4-11-1302(I) or a Section 1303 permit holder practicing under the provisions of R4-11-1303(H). A dentist may utilize a physician anesthesiologist or certified registered nurse anesthetist (CRNA) for anesthesia or sedation services while the dentist provides treatment in the dentist’s office or dental clinic after obtaining a Section 1304 permit issued by the Board.

1. The physician anesthesiologist or CRNA meets the requirements as specified in R4-11-1301(I).

2. The dentist permit holder shall provide all dental treatment and ensure that the physician anesthesiologist or CRNA remains on the dental office or dental clinic premises until any patient receiving anesthesia or sedation services is discharged.

3. A dentist may renew a Section 1304 permit every five years by complying with R4-11-1307.

B. To obtain or renew a Section 1304 permit, a dentist shall:

1. Submit a completed application on a form provided by the Board office that, in addition to the requirements of subsections (B)(2) and (3) and R4-11-1307 includes:
   a. General information about the applicant such as:
      i. Name;
      ii. Home and office addresses and telephone numbers;
      iii. Limitations of practice;
      iv. Hospital affiliations;
      v. Denial, curtailment, revocation, or suspension of hospital privileges;
      vi. Denial of membership in, denial of renewal of membership in, or disciplinary action by a dental organization; and
      vii. Denial of licensure by, denial of renewal of licensure by, or disciplinary action by a dental regulatory body; and
   b. The dentist’s dated and signed affidavit stating that the information provided is true, and that the dentist has read and complied with the Board’s statutes and rules;

2. On forms provided by the Board, provide a dated and signed affidavit attesting that any dental office or dental clinic where the dentist provides treatment during administration of general anesthesia or sedation by a physician anesthesiologist or CRNA:
   a. Contains the following properly operating equipment and supplies during the provision of general anesthesia and sedation:
      i. Emergency drugs;
      ii. Electrocardiograph monitor;
      iii. Pulse oximeter;
      iv. Cardiac defibrillator or automated external defibrillator (AED);
      v. Positive pressure oxygen and supplemental continuous flow oxygen;
      vi. Suction equipment, including endotrachael, tonsillar or pharyngeal and emergency backup medical suction device;
      vii. Laryngoscope, multiple blades, backup batteries and backup bulbs;
      viii. Endotrachael tubes and appropriate connectors;
      ix. Magill forceps;
      x. Oropharyngeal and nasopharyngeal airways;
      xi. Auxiliary lighting;
      xii. Stethoscope; and
   b. Maintains a staff of supervised personnel capable of handling procedures, complications, and emergency incidents. All personnel involved in administering and monitoring general anesthesia or sedation shall hold a current course completion confirmation in cardiopulmonary resuscitation (CPR) Health Care Provider level;

3. Hold a valid license to practice dentistry in this state; and

4. Provide confirmation of completing coursework within the last two years prior to submitting the permit application in one or more of the following:
   a. Advanced cardiac life support (ACLS) from the American Heart Association or another agency that follows the same procedures, standards, and techniques for training as the American Heart Association;
   b. Pediatric advanced life support (PALS) in a practice treating pediatric patients; or
   c. A recognized continuing education course in advanced airway management.

C. After submitting the application and written evidence of compliance with requirements in subsection (B) to the Board, the applicant shall schedule an onsite evaluation by the Board. After the applicant completes the application requirements and successfully completes the onsite evaluation, the Board shall issue the applicant a Section 1304 permit.

1. The onsite evaluation team shall consist of one dentist who is a Board member, or Board designee.

2. The onsite team shall evaluate the following:
   a. The availability of equipment and personnel as specified in subsection (B)(2);
   b. Proper documentation of controlled substances, that includes a perpetual inventory log showing the receipt, administration, dispensing, and destruction of controlled substances; and
   c. Proper recordkeeping as specified in subsection (E) by reviewing previous anesthesia or sedation records.

3. The evaluation team shall recommend one of the following:
   a. Pass. Successful completion of the onsite evaluation; or
   b. Conditional approval for failing to have appropriate equipment, proper documentation of controlled substances, or proper recordkeeping. The applicant must submit proof of correcting the deficiencies before a permit is issued.

4. The evaluation of an additional dental office or dental clinic in which a Section 1304 permit holder provides treatment during the administration general anesthesia or sedation by a physician anesthesiologist or CRNA may be waived by the Board staff upon receipt in the Board office of an affidavit verifying compliance with subsection (B)(2).

D. A Section 1304 permit holder shall keep an anesthesia or sedation record for each general anesthesia and sedation procedure that includes the following entries:

1. Pre-operative and post-operative electrocardiograph documentation;
2. Pre-operative, intra-operative, and post-operative, pulse oximeter documentation;
3. Pre-operative, intra-operative, and post-operative blood pressure and vital sign documentation; and
4. A list of all medications given, with dosage and time intervals and route and site of administration;
5. Type of catheter or portal with gauge;
6. Indicate nothing by mouth or time of last intake of food or water;
7. Consent form; and
8. Time of discharge and status, including name of escort.

E. For intravenous access, a Section 1304 permit holder shall ensure that the physician anesthesiologist or CRNA uses a new infusion set, including a new infusion line and new bag of fluid for each patient.

F. A Section 1304 permit holder shall ensure that the physician anesthesiologist or CRNA utilizes supplemental continuous flow oxygen for patients receiving general anesthesia or sedation for the duration of the procedure.

G. The Section 1304 permit holder shall continuously supervise the patient from the administration of anesthesia or sedation until termination of the anesthesia or sedation procedure and oxygenation, ventilation and circulation are stable. The Section 1304 permit holder shall not commence with a subsequent procedure or treatment until the patient is in monitored recovery or meets the guidelines for discharge.

Historical Note
New Section R4-11-1304 renumbered from R4-11-805 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Former Section R4-11-1304 renumbered to R4-11-1305; new Section R4-11-1304 renumbered from R4-11-1303 and amended by final rulemaking at 9 A.A.R. 1054, effective May 6, 2003 (Supp. 03-1). Section repealed; new Section made by final rulemaking at 19 A.A.R. 341, effective April 6, 2013 (Supp. 13-1).

R4-11-1305. Reports of Adverse Occurrences
If a death, or incident requiring emergency medical response, occurs in a dental office or dental clinic during the administration of or recovery from general anesthesia, deep sedation, moderate sedation, or minimal sedation, the permit holder and the treating dentist involved shall submit a complete report of the incident to the Board within 10 days after the occurrence.

Historical Note
New Section R4-11-1305 renumbered from R4-11-806 and amended by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Former Section R4-11-1305 renumbered to R4-11-1306; new Section R4-11-1305 renumbered from R4-11-1304 and amended by final rulemaking at 9 A.A.R. 1054, effective May 6, 2003 (Supp. 03-1). Section repealed; new Section made by final rulemaking at 19 A.A.R. 341, effective April 6, 2013 (Supp. 13-1).

R4-11-1306. Education: Continued Competency
A. To obtain a Section 1301, permit by satisfying the education requirement of R4-11-1301(B)(6), a dentist shall successfully complete an advanced graduate or post-graduate education program in pain control.
1. The program shall include instruction in the following subject areas:
   a. Anatomy and physiology of the human body and its response to the various pharmacologic agents used in pain control;
   b. Physiological and psychological risks for the use of various modalities of pain control;
   c. Psychological and physiological need for various forms of pain control and the potential response to pain control procedures;
   d. Techniques of local anesthesia, sedation, and general anesthesia, and psychological management and behavior modification, as they relate to pain control in dentistry; and
   e. Handling emergencies and complications related to pain control procedures, including the maintenance of respiration and circulation, immediate establishment of an airway, and cardiopulmonary resuscitation.
2. The program shall consist of didactic and clinical training. The didactic component of the program shall:
   a. Be the same for all dentists, whether general practitioners or specialists; and
   b. Include each subject area listed in subsection (A)(1).
3. The program shall provide at least one calendar year of training as prescribed in R4-11-1301(B)(6)(a).
B. To maintain a Section 1301 or 1302 permit under R4-11-1301 or R4-11-1302 a permit holder shall:
1. Participate in 30 clock hours of continuing education every five years in one or more of the following areas:
   a. General anesthesia,
   b. Parenteral sedation,
   c. Physical evaluation,
   d. Medical emergencies,
   e. Monitoring and use of monitoring equipment, or
   f. Pharmacology of drugs and non-drug substances used in general anesthesia or parenteral sedation; and
2. Provide confirmation of completing coursework within the two years prior to submitting the renewal application from one or more of the following:
   a. Advanced cardiac life support (ACLS) from the American Heart Association or another agency that follows the same procedures, standards, and techniques for training as the American Heart Association;
   b. Pediatric advanced life support (PALS) in a practice treating pediatric patients; or
   c. A recognized continuing education course in advanced airway management;
3. Complete at least 10 general anesthesia, deep sedation or parenteral sedation cases a calendar year; and
4. Apply a maximum of six hours from subsection (B)(2) toward the continuing education requirements for subsection (B)(1).
C. To maintain a Section 1303 permit issued under R4-11-1303, a permit holder shall:
1. Participate in 30 clock hours of continuing education every five years in one or more of the following areas:
   a. Oral sedation,
   b. Physical evaluation,
   c. Medical emergencies,
   d. Monitoring and use of monitoring equipment, or
   e. Pharmacology of oral sedation drugs and non-drug substances; and
2. Provide confirmation of completing coursework within the two years prior to submitting the renewal application from one or more of the following:
   a. Cardiopulmonary resuscitation (CPR) Health Care Provider level from the American Heart Association, American Red Cross or another agency that follows the same procedures, standards, and techniques for training as the American Heart Association or American Red Cross;
   b. Advanced cardiac life support (ACLS) from the American Heart Association or another agency that follows the same procedures, standards, and tech-
A. R4-11-1307. Renewal of Permit

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After the permit holder successfully completes the evaluation

C. To renew a Section 1304 permit, the permit holder shall:

1. Provide written documentation of compliance with the applicable continuing education requirements in R4-11-1306;

2. Provide written documentation of compliance with the continued competency requirements in R4-11-1306;

3. Before December 31 of the year the permit expires, submit a completed application on a form provided by the Board office as described in R4-11-1301, R4-11-1302, or R4-11-1303; and

4. Not less than 90 days before the expiration of a permit holder’s current permit, arrange for an onsite evaluation as described in R4-11-1301, R4-11-1302, or R4-11-1303.

B. To renew a Section 1301, 1302, or 1303 permit, the permit holder shall:

1. Before December 31 of the year the permit expires, submit a completed application on a form provided by the Board office as described in R4-11-1304; and

2. Not less than 90 days before the expiration of a permit holder’s current permit, arrange for an onsite evaluation as described in R4-11-1304.

A. R4-11-1401. Prescribing

In addition to the requirements of A.R.S. § 32-1298(C), a dentist shall ensure that a prescription order contains the following information:

A. A dentist shall include the following information on the label of all drugs and devices dispensed:

1. The dentist’s name, address, and telephone number;

2. The serial number;

3. The date the drug or device is dispensed;

4. The patient’s name;

5. Name, strength, and quantity of drug or name and quantity of device dispensed;

6. The name of the drug or device manufacturer or distributor;

7. Directions for use and cautionary statement necessary for safe and effective use of the drug or device; and

8. If a controlled substance is prescribed, the cautionary statement “Caution: Federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed.”

B. Before delivery to the patient, the dentist shall prepare and package the drug or device to ensure compliance with the prescription and personally inform the patient of the name of the drug or device, directions for its use, precautions, and storage requirements.

C. A dentist shall purchase all dispensed drugs and devices from a manufacturer, distributor, or pharmacy that is properly licensed in this state or one of the other 49 states, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States of America.

D. When dispensing a prescription drug or device from a prescription order, a dentist shall perform the following professional practices:

1. Verify the legality and pharmaceutical feasibility of dispensing a drug based upon:

a. A patient’s allergies;

b. Incompatibilities with a patient’s currently-taken medications,

c. A patient’s use of unusual quantities of dangerous drugs or narcotics, and

d. The frequency of refills;

2. Verify that the dosage is within proper limits;

3. Interpret the prescription order;

4. Prepare, package, and label, or assume responsibility for preparing, packaging, and labeling, the drug or device dispensed under each prescription order;

5. Check the label to verify that the label precisely communicates the prescriber’s directions and hand-initial each label;

6. Record, or assume responsibility for recording, the serial number and date dispensed on the front of the original prescription order; and

7. Record on the original prescription order the name or initials of the dentist who dispensed the order.

Historical Note

Made by final rulemaking at 19 A.A.R. 341, effective April 6, 2013 (Supp. 13-1).

ARTICLE 14. DISPENSING DRUGS AND DEVICES

R4-11-1402. Labeling and Dispensing

A. A dentist shall include the following information on the label of all drugs and devices dispensed:

1. The dentist’s name, address, and telephone number;

2. The serial number;

3. The date the drug or device is dispensed;

4. The patient’s name;

5. Name, strength, and quantity of drug or name and quantity of device dispensed;

6. The name of the drug or device manufacturer or distributor;

7. Directions for use and cautionary statement necessary for safe and effective use of the drug or device; and

8. If a controlled substance is prescribed, the cautionary statement “Caution: Federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed.”

B. Before delivery to the patient, the dentist shall prepare and package the drug or device to ensure compliance with the prescription and personally inform the patient of the name of the drug or device, directions for its use, precautions, and storage requirements.

C. A dentist shall purchase all dispensed drugs and devices from a manufacturer, distributor, or pharmacy that is properly licensed in this state or one of the other 49 states, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States of America.

D. When dispensing a prescription drug or device from a prescription order, a dentist shall perform the following professional practices:

1. Verify the legality and pharmaceutical feasibility of dispensing a drug based upon:

a. A patient’s allergies;

b. Incompatibilities with a patient’s currently-taken medications,

c. A patient’s use of unusual quantities of dangerous drugs or narcotics, and

d. The frequency of refills;

2. Verify that the dosage is within proper limits;

3. Interpret the prescription order;

4. Prepare, package, and label, or assume responsibility for preparing, packaging, and labeling, the drug or device dispensed under each prescription order;

5. Check the label to verify that the label precisely communicates the prescriber’s directions and hand-initial each label;

6. Record, or assume responsibility for recording, the serial number and date dispensed on the front of the original prescription order; and

7. Record on the original prescription order the name or initials of the dentist who dispensed the order.

Historical Note

Adopted effective July 21, 1995 (Supp. 95-3). Former Section 441-11-1402 renumbered to R4-11-1201, new Section R4-11-1402 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section repealed; new Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).
A dentist shall maintain:

1. Chronologically date and sequentially number prescription orders in the order that the drugs or devices are originally dispensed;
2. Sequentially file orders separately from patient records, as follows:
   a. File Schedule II drug orders separately from all other prescription orders;
   b. File Schedule III, IV, and V drug orders separately from all other prescription orders; and
   c. File all other prescription orders separately from orders specified in subsections (A)(2)(a) and (b);
3. Record the name of the manufacturer or distributor of the drug or device dispensed on each prescription order and label;
4. Record the name or initials of the dentist dispensing the drug or device on each prescription order and label; and
5. Record the date the drug or device is dispensed on each prescription order and label.

B. A dentist shall record in the patient’s dental record the name, dosage form, and strength of the drug or device dispensed, the quantity or volume dispensed, the date the drug or device is dispensed, and the dental therapeutic reasons for dispensing the drug or device.

C. A dentist shall maintain:
   1. Purchase records of all drugs and devices for three years from the date purchased; and
   2. Dispensing records of all drugs and devices for three years from the date dispensed.

D. A dentist who dispenses controlled substances:
   1. Shall inventory Schedule II, III, IV, and V controlled substances as prescribed by A.R.S. § 36-2523;
   2. Shall perform a controlled substance inventory on March 1 annually, if directed by the Board, and at the opening or closing of a dental practice;
   3. Shall maintain the inventory for three years from the inventory date;
   4. May use one inventory book for all controlled substances;
   5. When conducting an inventory of Schedule II controlled substances, shall take an exact count;
   6. When conducting an inventory of Schedule III, IV, and V controlled substances, shall take an exact count or may take an estimated count if the stock container contains fewer than 1001 units.

E. A dentist shall maintain invoices for drugs and devices dispensed for three years from the date of the invoices, filed as follows:
   1. File Schedule II controlled substance invoices separately from records that are not Schedule II controlled substance invoices;
   2. File Schedule III, IV, and V controlled substance invoices separately from records that are not Schedule III, IV, and V controlled substance invoices; and
   3. File all non-controlled substance invoices separately from the invoices referenced in subsections (E)(1) and (2).

F. A dentist shall file Drug Enforcement Administration order form (DEA Form 222) for a controlled substance sequentially and separately from every other record.

Historical Note
Adopted effective July 21, 1995 (Supp. 95-3). Former Section R4-11-1403 renumbered to R4-11-1202, new Section R4-11-1403 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-1405. Compliance
A. A dentist who determines that there has been a theft or loss of drugs or controlled substances from the dentist’s office shall immediately notify a local law enforcement agency and the Board and provide written notice of the theft or loss in the following manner:
   1. For non-controlled substance drug theft or loss, provide the law enforcement agency and the Board with a written report explaining the theft or loss; or
   2. For controlled substance theft or loss, complete a DEA 106 form; and
   3. Provide copies of the DEA 106 form to the Drug Enforcement Administration and the Board within seven days of the discovery.

B. A dentist who dispenses drugs or devices in a manner inconsistent with this Article is subject to discipline under A.R.S. Title 32, Chapter 11, Article 3.

Historical Note
Adopted effective July 21, 1995 (Supp. 95-3). Former Section R4-11-1405 renumbered to R4-11-1204, new Section R4-11-1405 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-1406. Dispensing for Profit Registration and Renewal
A. A dentist who is currently licensed to practice dentistry in Arizona may dispense controlled substances, prescription-only drugs, and prescription-only devices for profit only after providing the Board the following information:

1. A completed registration form that includes the following information:
   a. The dentist’s name and dental license number;
   b. A list of the types of drugs and devices to be dispensed for profit, including controlled substances; and
   c. Locations where the dentist desires to dispense the drugs and devices for profit; and

2. A copy of the dentist’s current Drug Enforcement Administration Certificate of Registration for each dispensing location from which the dentist desires to dispense the drugs and devices for profit.

B. The Board shall issue a numbered certificate indicating the dentist is registered with the Board to dispense drugs and devices for profit.

C. A dentist shall renew a registration to dispense drugs and devices for profit by complying with the requirements in subsection (A) before the dentist’s license renewal date. When a dentist has made timely and complete application for the renewal of a registration, the dentist may continue to dispense until the Board approves or denies the application. Failure to renew a registration shall result in immediate loss of dispensing for profit privileges.

R4-11-1407. Renumbered

Historical Note
Adopted effective July 21, 1995; inadvertently not published with Supp. 95-3 (Supp. 95-4). Former Section R4-11-1406 renumbered to R4-11-1205, new Section R4-11-1406 adopted by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1). Section repealed; new Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).

R4-11-1408. Renumbered

Historical Note
Adopted effective July 21, 1995 (Supp. 95-3). Former Section R4-11-1407 renumbered to R4-11-1206 by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

R4-11-1409. Repealed

Historical Note
Adopted effective July 21, 1995 (Supp. 95-3). Former Section R4-11-1409 repealed by final rulemaking at 5 A.A.R. 580, effective February 4, 1999 (Supp. 99-1).

ARTICLE 15. COMPLAINTS, INVESTIGATIONS, DISCIPLINARY ACTION

R4-11-1501. Ex-parte Communication
A complainant, licensee, certificate holder, business entity or mobile dental permit holder against whom a complaint is filed, shall not engage in ex-parte communication by means of a written or oral communication between a decision maker, fact finder, or Board member and only one party to the proceeding.

Historical Note
R4-11-1504. Postponement of Interview
A. The licensee, certificate holder, business entity, or mobile dental permit holder may request a postponement of a formal interview. The Board or its designee shall grant a postponement until the next regularly scheduled Board meeting if the licensee, certificate holder, business entity, or mobile dental permit holder makes a postponement request and the request:
1. Is made in writing,
2. States the reason for the postponement, and
3. Is received by the Board within 15 calendar days after the date the respondent received the formal interview request.

B. Within 48 hours of receipt of a request for postponement of a formal interview, the Board or its designee shall:
1. Review and either deny or approve the request for postponement; and
2. Notify in writing the complainant and licensee, certificate holder, business entity, or mobile dental permit holder of the decision to either deny or approve the request for postponement.

C. A licensee, certificate holder, or business entity filing a motion for rehearing or review is filed. The Board or its designee shall:
1. Is made in writing,
2. States the reason for the postponement, and
3. Is received by the Board within 15 calendar days after the date the respondent received the formal interview request.

D. The Board may affirm or modify the order or grant a rehearing or review to all or part of the issues for any of the reasons in subsection (C). The Board, within the time for filing a motion for rehearing or review, may grant a rehearing or review on its own initiative for any reason for which it might have granted relief on motion of a party. An order granting a rehearing or review shall specify the grounds on which rehearing or review is granted, and any rehearing or review shall cover only those matters specified.

E. When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after such service, serve opposing affidavits.

F. If the Board makes specific findings that the immediate effectiveness of the order is necessary for the preservation of public health and safety and that a rehearing or review is impracticable, unnecessary, or contrary to the public interest, the order may be issued as a final order without an opportunity for a rehearing or review. If an order is issued as a final order without an opportunity or rehearing or review, the aggrieved party shall make an application for judicial review of the order within the time limits permitted for application for judicial review of the Board's final order.

G. The Board shall rule on the motion for rehearing or review within 15 days after the response has been filed, or at the Board's next meeting after the motion is received, whichever is later.

H. If an order is issued as a final order without an opportunity or rehearing or review, the aggrieved party may be issued as a final order without an opportunity for a rehearing or review, the aggrieved party may be issued an opportunity or rehearing or review.

ARTICLE 16. EXPIRED
R4-11-1601. Expired

ARTICLE 17. REHEARING OR REVIEW
R4-11-1701. Procedure
A. Except as provided in subsection (F), a licensee, certificate holder, or business entity who is aggrieved by an order issued by the Board may file a written motion for rehearing or review with the Board, pursuant to A.R.S. Title 41, Chapter 6, Article 10, specifying the grounds for rehearing or review.

B. A licensee, certificate holder, or business entity filing a motion for rehearing or review under this rule may amend the motion at any time before it is ruled upon by the Board. The opposing party may file a response within 15 days after the date the motion for rehearing or review is filed. The Board may require that the parties file supplemental memoranda explaining the issues raised in the motion, and may permit oral argument.

C. The Board may grant a rehearing or review of the order for any of the following causes materially affecting a licensee, certificate holder, or business entity's rights:
1. Irregularity in the proceedings of the Board or any order or abuse of discretion, which deprived a licensee, certificate holder, or business entity of a fair hearing;
2. Misconduct of the Board, its personnel, the administrative law judge, or the prevailing party;
3. Accident or surprise which could not have been prevented by ordinary prudence;
4. Excessive or insufficient penalties;
5. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceeding;
6. That the findings of fact or decision is arbitrary, capricious, or an abuse of discretion;
7. That the findings of fact or decision is not justified by the evidence or is contrary to law; or
8. Newly discovered, material evidence which could not, with reasonable diligence, have been discovered and produced at the original hearing.

D. The Board may affirm or modify the order or grant a rehearing or review to all or part of the issues for any of the reasons in subsection (C). The Board, within the time for filing a motion for rehearing or review, may grant a rehearing or review on its own initiative for any reason for which it might have granted relief on motion of a party. An order granting a rehearing or review shall specify the grounds on which rehearing or review is granted, and any rehearing or review shall cover only those matters specified.

E. When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after such service, serve opposing affidavits.

F. If the Board makes specific findings that the immediate effectiveness of the order is necessary for the preservation of public health and safety and that a rehearing or review is impracticable, unnecessary, or contrary to the public interest, the order may be issued as a final order without an opportunity for a rehearing or review. If an order is issued as a final order without an opportunity or rehearing or review, the aggrieved party shall make an application for judicial review of the order within the time limits permitted for application for judicial review of the Board's final order.

G. The Board shall rule on the motion for rehearing or review within 15 days after the response has been filed, or at the Board's next meeting after the motion is received, whichever is later.

ARTICLE 18. BUSINESS ENTITIES
R4-11-1801. Application
Before offering dental services, a business entity required to be registered under A.R.S. § 32-1213 shall apply for registration on an application form supplied by the Board. In addition to the requirements of A.R.S. §§ 32-1213(B) and the fee under R4-11-402, the registration application shall include a sworn statement from the applicant that:
1. The information provided by the business entity is true and correct, and
2. No information is omitted from the application.

R4-11-1802. Display of Registration
A. A business entity shall ensure that the receipt for the current registration period is:
1. Conspicuously displayed in the dental practice in a manner that is always readily observable by patients and visitors, and
2. Exhibited to members of the Board or to duly authorized agents of the Board on request.

B. A business entity’s receipt for the licensure period immediately preceding shall be kept on display until replaced by the receipt for the current period.

Historical Note
New Section made by final rulemaking at 11 A.A.R. 793, effective April 2, 2005 (Supp. 05-1).
A. A person is deemed to be a practicing dental therapist if the person does any of the acts or performs any operations included in the general practice of dental therapists or dental therapy or any related and associated duties.

B. Either under the direct supervision of a dentist or pursuant to a written collaborative practice agreement, a licensed dental therapist may do any of the following:

1. Perform oral evaluations and assessments of dental disease and formulate individualized treatment plans.

2. Perform comprehensive charting of the oral cavity.

3. Provide oral health instruction and disease prevention education, including motivational interviewing, nutritional counseling and dietary analysis.

4. Expose and process dental radiographic images.

5. Perform dental prophylaxis, scaling, root planing and polishing procedures.

6. Dispense and administer oral and topical nonnarcotic analgesics and anti-inflammatory and antibiotic medications as prescribed by a licensed health care provider.

7. Apply topical preventive and prophylactic agents, including fluoride varnishes, antimicrobial agents, silver diamine fluoride and pit and fissure sealants.

8. Perform pulp vitality testing.

9. Apply desensitizing medicaments or resins.

10. Fabricate athletic mouth guards and soft occlusal guards.


12. Administer nitrous oxide analgesics and local anesthetics.

13. Perform simple extraction of erupted primary teeth.

14. Perform nonsurgical extractions of periodontally diseased permanent teeth that exhibit plus three or grade three mobility and that are not impacted, fractured, unerupted or in need of sectioning for removal.

15. Perform emergency palliative treatments of dental pain that is related to care or a service described in this section.

16. Prepare and place direct restorations in primary and permanent teeth.

17. Fabricate and place single-tooth temporary crowns.

18. Prepare and place preformed crowns on primary teeth.

19. Perform indirect and direct pulp capping on permanent teeth.

20. Perform indirect pulp capping on primary teeth.


22. Provide minor adjustments and repairs on removable prostheses.
23. Place and remove space maintainers.

24. Perform all functions of a dental assistant and expanded function dental assistant.

25. Perform other related services and functions that are authorized by the supervising dentist within the dental therapist's scope of practice and for which the dental therapist is trained.


27. Perform any other duties of a dental therapist that are authorized by the board by rule.

C. A dental therapist may not:

1. Dispense or administer a narcotic drug.

2. Independently bill for services to any individual or third-party payor.

D. A person may not claim to be a dental therapist unless that person is licensed as a dental therapist under this article.
32-1201. Definitions

In this chapter, unless the context otherwise requires:

1. "Affiliated practice dental hygienist" means any licensed dental hygienist who is able, pursuant to section 32-1289.01, to initiate treatment based on the dental hygienist's assessment of a patient's needs according to the terms of a written affiliated practice agreement with a dentist, to treat the patient without the presence of a dentist and to maintain a provider-patient relationship.

2. "Auxiliary personnel" means all dental assistants, dental technicians, dental x-ray technicians and other persons employed by dentists or firms and businesses providing dental services to dentists.

3. "Board" means the state board of dental examiners.

4. "Business entity" means a business organization that has an ownership that includes any persons who are not licensed or certified to provide dental services in this state, that offers to the public professional services regulated by the board and that is established pursuant to the laws of any state or foreign country.

5. "Dental assistant" means any person who acts as an assistant to a dentist, dental therapist or dental hygienist by rendering personal services to a patient that involve close proximity to the patient while the patient is under treatment or observation or undergoing diagnostic procedures.

6. "Dental hygienist" means any person who is licensed and engaged in the general practice of dental hygiene and all related and associated duties, including educational, clinical and therapeutic dental hygiene procedures.

7. "Dental incompetence" means lacking in sufficient dentistry knowledge or skills, or both, in that field of dentistry in which the dentist, dental therapist, denturist or dental hygienist concerned engages, to a degree likely to endanger the health of that person's patients.

8. "Dental laboratory technician" means any person, other than a licensed dentist, who, pursuant to a written work order of a dentist, fabricates artificial teeth, prosthetic appliances or other mechanical and artificial contrivances designed to correct or alleviate injuries or defects, both developmental and acquired, disorders or deficiencies of the human oral cavity, teeth, investing tissues, maxilla or mandible or adjacent associated structures.

9. "Dental therapist" means any person who is licensed and engaged in the general practice of dental therapy and all related and associated duties, including educational, clinical and therapeutic dental therapy procedures.

10. "Dental x-ray laboratory technician" means any person, other than a licensed dentist, who, pursuant to a written work order of a dentist, performs dental and maxillofacial radiography, including cephalometrics, panoramic and maxillofacial tomography and other dental related nonfluoroscopic diagnostic imaging modalities.

11. "Dentistry", "dentist" and "dental" mean the general practice of dentistry and all specialties or restricted practices of dentistry.

12. "Denturist" means a person practicing denture technology pursuant to article 5 of this chapter.

13. "Disciplinary action" means regulatory sanctions that are imposed by the board in combination with, or as an alternative to, revocation or suspension of a license and that may include:

(a) Imposition of an administrative penalty in an amount not to exceed two thousand dollars for each violation of this chapter or rules adopted under this chapter.

(b) Imposition of restrictions on the scope of practice.

(c) Imposition of peer review and professional education requirements.
(d) Imposition of censure or probation requirements best adapted to protect the public welfare, which may include a requirement for restitution to the patient resulting from violations of this chapter or rules adopted under this chapter.

14. "Irregularities in billing" means submitting any claim, bill or government assistance claim to any patient, responsible party or third-party payor for dental services rendered that is materially false with the intent to receive unearned income as evidenced by any of the following:

(a) Charges for services not rendered.

(b) Any treatment date that does not accurately reflect the date when the service and procedures were actually completed.

(c) Any description of a dental service or procedure that does not accurately reflect the actual work completed.

(d) Any charge for a service or procedure that cannot be clinically justified or determined to be necessary.

(e) Any statement that is material to the claim and that the licensee knows is false or misleading.

(f) An abrogation of the copayment provisions of a dental insurance contract by a waiver of all or a part of the copayment from the patient if this results in an excessive or fraudulent charge to a third party or if the waiver is used as an enticement to receive dental services from that provider. This subdivision does not interfere with a contractual relationship between a third-party payor and a licensee or business entity registered with the board.

(g) Any other practice in billing that results in excessive or fraudulent charges to the patient.

15. "Letter of concern" means an advisory letter to notify a licensee or a registered business entity that, while the evidence does not warrant disciplinary action, the board believes that the licensee or registered business entity should modify or eliminate certain practices and that continuation of the activities that led to the information being submitted to the board may result in board action against the practitioner's license or the business entity's registration. A letter of concern is not a disciplinary action. A letter of concern is a public document and may be used in a future disciplinary action.

16. "Licensed" means licensed pursuant to this chapter.

17. "Place of practice" means each physical location at which a person who is licensed pursuant to this chapter performs services subject to this chapter.

18. "Primary mailing address" means the address on file with the board and to which official board correspondence, notices or documents are delivered in a manner determined by the board.

19. "Recognized dental hygiene school" means a school that has a dental hygiene program with a minimum two academic year curriculum, or the equivalent of four semesters, and that is approved by the board and accredited by the American dental association commission on dental accreditation.

20. "Recognized dental school" means a dental school that is accredited by the American dental association commission on dental accreditation.

21. "Recognized dental therapy school" means a school that is accredited or that has received initial accreditation by the American dental association commission on dental accreditation.

22. "Recognized denturist school" means a denturist school that maintains standards of entrance, study and graduation and that is accredited by the United States department of education or the council on higher education accreditation.

24. "Teledentistry" means the use of data transmitted through interactive audio, video or data communications for the purposes of examination, diagnosis, treatment planning, consultation and directing the delivery of treatment by dentists and dental providers in settings permissible under this chapter or specified in rules adopted by the board.
**DENTAL ASSISTING TABLE OF PERMITTED DUTIES**

The following is a table of duties which Dental Assistants (DA), Orthodontic Assistants (OA), Dental Sedation Assistants (DSA), Registered Dental Assistants (RDA) and Registered Dental Assistants in Extended Functions (RDAEF) are allowed to perform in California.

This table is intended to provide summary information to interested parties. It is not intended to cover all aspects of applicable laws or provide a substitute for reviewing the laws that are cross-referenced below. It is highly recommended that applicants and licensees review the actual text of the laws cited at the link provided below. If a duty is not listed in the sections of law cited below, assistants are NOT allowed to perform the duty. Under each category of assistant is one of the following notations: “D”, “C”, “G” or “DD”.

“D” = the assistant may perform the duty under the Direct supervision of a dentist, which means supervision of dental procedures based on instructions given by a licensed dentist who must be physically present in the treatment facility during the performance of those procedures. The duty must be performed pursuant to the order, control and full professional responsibility of the supervising dentist. Such procedures must be checked and approved by the supervising dentist prior to dismissal of the patient from the office of said dentist.

Note: Dental Sedation Assistant permit holders may also perform the listed duty under a licensed health care professional authorized to administer conscious sedation or general anesthesia in the dental office.

“C” = the assistant may perform the duty in the specified setting under the supervision of a dentist, Registered Dental Hygienist, or Registered Dental Hygienist in Alternative Practice.

“G” = the assistant can perform the duty under the General supervision of a dentist, which means based on instructions given by a licensed dentist, but not requiring the physical presence of the supervising dentist during the performance of those procedures.

“DD” = The supervising licensed dentist shall be responsible for determining whether each authorized procedure performed by a registered dental assistant should be performed under general or direct supervision, except as provided in Section 1777.

The sections of law noted below are contained in the Dental Practice Act located in Chapter 4 of Division 2 of the California Business and Professions Code (BPC). For the actual text of the laws, the following link will take you to the page on the Dental Board’s web site https://www.dbc.ca.gov/about_us/lawsregs/laws.shtml.

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<table>
<thead>
<tr>
<th>ALLOWABLE DUTIES</th>
<th>SECTION OF LAW (Statute or Regulation)</th>
<th>D</th>
<th>C</th>
<th>G</th>
<th>DD</th>
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<tbody>
<tr>
<td><strong>DENTAL ASSISTANT (DA) BPC, SECTION 1750.1</strong></td>
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<tr>
<td>Extra-oral duties or procedures specified by the supervising licensed dentist, provided that these duties or procedures meet the definition of a basic supportive procedure specified in Section 1750</td>
<td>1750.1</td>
<td>X</td>
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<tr>
<td>Operate dental radiography equipment for the purpose of oral radiography if the dental assistant has complied with the requirements of Section 1656</td>
<td>1750.1</td>
<td>X</td>
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<tr>
<td>Perform intraoral and extraoral photography</td>
<td>1750.1</td>
<td>X</td>
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<tr>
<td>Apply nonaerosol and noncaustic topical agents</td>
<td>1750.1</td>
<td>X</td>
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<tr>
<td>Apply topical fluoride</td>
<td>1750.1</td>
<td>X</td>
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<tr>
<td>Take extraoral impressions for all nonprosthodontic appliances</td>
<td>1750.1</td>
<td>X</td>
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<tr>
<td>Take facebow transfers and bite registrations</td>
<td>1750.1</td>
<td></td>
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<tr>
<td>Place and remove rubber dams or other isolation devices</td>
<td>1750.1</td>
<td>X</td>
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<tr>
<td>Place, wedge, and remove matrices for restorative procedures</td>
<td>1750.1</td>
<td>X</td>
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<tr>
<td>Remove postextraction dressings after inspection of the surgical site by the supervising licensed dentist</td>
<td>1750.1</td>
<td>X</td>
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<tr>
<td>Perform measurements for the purposes of orthodontic treatment</td>
<td>1750.1</td>
<td>X</td>
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<tr>
<td>Cure restorative or orthodontic materials in operative site with a light-curing device</td>
<td>1750.1</td>
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<tr>
<td>Examine orthodontic appliances</td>
<td>1750.1</td>
<td>X</td>
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<tr>
<td>Place and remove orthodontic separators</td>
<td>1750.1</td>
<td>X</td>
<td></td>
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<td></td>
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<tr>
<td>Remove ligature ties and archwires</td>
<td>1750.1</td>
<td>X</td>
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<tr>
<td>After adjustment by the dentist, examine and seat removable orthodontic appliances and deliver care instructions to the patient</td>
<td>1750.1</td>
<td>X</td>
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<tr>
<td>Remove periodontal dressings</td>
<td>1750.1</td>
<td>X</td>
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<tr>
<td>Remove sutures after inspection of the site by the dentist</td>
<td>1750.1</td>
<td>X</td>
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<tr>
<td>Place patient monitoring sensors</td>
<td>1750.1</td>
<td>X</td>
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<tr>
<td>Monitor patient sedation, limited to reading and transmitting information from the monitor display during the intraoperative phase of surgery for electrocardiogram waveform, carbon dioxide and end tidal carbon dioxide concentrations, respiratory cycle data, continuous noninvasive blood pressure data, or pulse arterial oxygen saturation measurements, for the purpose of interpretation and evaluation by a supervising licensed dentist who shall be at the patient’s chairside during this procedure</td>
<td>1750.1</td>
<td>X</td>
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<tr>
<td>Assist in the administration of nitrous oxide when used for analgesia or sedation. A dental assistant shall not start the administration of the gases and shall not adjust the flow of the gases unless instructed to do so by the supervising licensed dentist who shall be present at the patient’s chairside during the implementation of these instructions. This paragraph shall not be construed to prevent any person from taking appropriate action in the event of a medical emergency</td>
<td>1750.1</td>
<td>X</td>
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<tr>
<td>Apply topical fluoride under the general direction of a licensed dentist or physician, when operating in a school-based setting or a public health program created or administered by a federal, state, county, or local governmental entity pursuant to Sections 104762 and 104830 of the Health and Safety Code</td>
<td>1750.1</td>
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<tr>
<td>Intraoral retraction and suctioning under the supervision of a registered dental hygienist in alternative practice</td>
<td>1750.1</td>
<td>X</td>
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<tr>
<td>ALLOWABLE DUTIES</td>
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<tr>
<td><strong>ORTHODONTIC ASSISTANT PERMIT (OA) BPC, SECTION 1750.3</strong></td>
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<tr>
<td>All duties that a dental assistant is allowed to perform</td>
<td>1750.3</td>
<td>X</td>
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<tr>
<td>Prepare teeth for bonding, and select, preposition, and cure orthodontic brackets after their position has been approved by the supervising licensed dentist</td>
<td>1750.3</td>
<td>X</td>
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<tr>
<td>Remove only orthodontic brackets and attachments with removal of the bonding material by the supervising licensed dentist.</td>
<td>1750.3</td>
<td>X</td>
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<tr>
<td>Size, fit, and cement orthodontic bands</td>
<td>1750.3</td>
<td>X</td>
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<tr>
<td>Remove orthodontic bands and remove excess cement from supragingival surfaces of teeth with a hand instrument</td>
<td>1750.3</td>
<td>X</td>
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<tr>
<td>Place and ligate archwires</td>
<td>1750.3</td>
<td>X</td>
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<tr>
<td>Remove excess cement with an ultrasonic scaler from supragingival surfaces of teeth undergoing orthodontic treatment</td>
<td>1750.3</td>
<td>X</td>
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<tr>
<td><strong>DENTAL SEDATION ASSISTANT PERMIT (DSA) BPC, SECTION 1750.5</strong></td>
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<tr>
<td>All duties that a dental assistant is allowed to perform</td>
<td>1750.5</td>
<td>X</td>
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<tr>
<td>Monitor patients undergoing conscious sedation or general anesthesia utilizing data from noninvasive instrumentation such as pulse oximeters, electrocardiograms, capnography, blood pressure, pulse, and respiration rate monitoring devices. Evaluation of the condition of a sedated patient shall remain the responsibility of the dentist or other licensed health care professional authorized to administer conscious sedation or general anesthesia, who shall be at the patient’s chairside while conscious sedation or general anesthesia is being administered</td>
<td>1750.5</td>
<td>X</td>
<td></td>
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<tr>
<td>Drug identification and draw, limited to identification of appropriate medications, ampule and vial preparation, and withdrawing drugs of correct amount as verified by the supervising licensed dentist</td>
<td>1750.5</td>
<td>X</td>
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<tr>
<td>Add drugs, medications, and fluids to intravenous lines using a syringe, provided that a supervising licensed dentist is present at the patient’s chairside, limited to determining patency of intravenous line, selection of injection port, syringe insertion into injection port, occlusion of intravenous line and blood aspiration, line release and injection of drugs for appropriate time interval. The exception to this duty is that the initial dose of a drug or medication shall be administered by the supervising licensed dentist</td>
<td>1750.5</td>
<td>X</td>
<td></td>
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<tr>
<td>Removal of intravenous lines</td>
<td>1750.5</td>
<td>X</td>
<td></td>
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<tr>
<td><strong>REGISTERED DENTAL ASSISTANT (RDA) BPC, SECTION 1752.4</strong></td>
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<tr>
<td>All duties that a dental assistant is allowed to perform</td>
<td>1752.4</td>
<td>X</td>
<td></td>
<td></td>
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<tr>
<td>Mouth-mirror inspections of the oral cavity, to include charting of obvious lesions, existing restorations, and missing teeth</td>
<td>1752.4</td>
<td>X</td>
<td></td>
<td></td>
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<tr>
<td>Apply and activate bleaching agents using a nonlaser light-curing device</td>
<td>1752.4</td>
<td>X</td>
<td></td>
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<tr>
<td>Use of automated caries detection devices and materials to gather information for diagnosis by the dentist</td>
<td>1752.4</td>
<td>X</td>
<td></td>
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<tr>
<td>Obtain intraoral images for computer-aided design (CAD), milled restorations</td>
<td>1752.4</td>
<td>X</td>
<td></td>
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<tr>
<td>ALLOWABLE DUTIES</td>
<td>SECTION OF LAW (Statute or Regulation)</td>
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<tr>
<td><strong>REGISTERED DENTAL ASSISTANT (RDA) BPC, SECTION 1752.4 – Continued</strong></td>
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<tr>
<td>Pulp vitality testing and recording of findings</td>
<td>1752.4</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
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<tr>
<td>Place bases, liners, and bonding agents</td>
<td>1752.4</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
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<tr>
<td>Chemically prepare teeth for bonding</td>
<td>1752.4</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
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<tr>
<td>Place, adjust, and finish direct provisional restorations</td>
<td>1752.4</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Fabricate, adjust, cement, and remove indirect provisional restorations,</td>
<td>1752.4</td>
<td></td>
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<td>X</td>
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<td>including stainless steel crowns when used as a provisional restoration</td>
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<tr>
<td>Place post-extraction dressings after inspection of the surgical site by the</td>
<td>1752.4</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
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<tr>
<td>supervising licensed dentist</td>
<td></td>
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<tr>
<td>Place periodontal dressings</td>
<td>1752.4</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
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<tr>
<td>Dry endodontically treated canals using absorbent paper points</td>
<td>1752.4</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
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<tr>
<td>Adjust dentures extra-orally</td>
<td>1752.4</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Remove excess cement from surfaces of teeth with a hand instrument</td>
<td>1752.4</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Polish coronal surfaces of the teeth</td>
<td>1752.4</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Place ligature ties and archwires</td>
<td>1752.4</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Remove orthodontic bands</td>
<td>1752.4</td>
<td></td>
<td></td>
<td>X</td>
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<tr>
<td><em>A registered dental assistant may only perform the following additional duties if he or she has completed a board-approved registered dental assistant educational program in those duties, or if he or she has provided evidence, satisfactory to the board, of having completed a board-approved course in those duties</em></td>
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<tr>
<td><em>Remove excess cement with an ultrasonic scaler from supragingival surfaces of teeth undergoing orthodontic treatment</em></td>
<td>1752.4</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td><em>The allowable duties of an orthodontic assistant permitholder as specified in Section 1750.3. A registered dental assistant shall not be required to complete further instruction in the duties of placing ligature ties and archwires, removing orthodontic bands, and removing excess cement from tooth surfaces with a hand instrument</em></td>
<td>1752.4</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td><em>The allowable duties of a dental sedation assistant permitholder as specified in Section 1750.5</em></td>
<td>1752.4</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td><em>The application of pit and fissure sealants</em></td>
<td>1752.4</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td><strong>REGISTERED DENTAL ASSISTANT in EXTENDED FUNCTIONS (RDAEF) BPC, SECTION 1753.5</strong></td>
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<tr>
<td>Licensed on or after January 1, 2010</td>
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<tr>
<td>All duties that a dental assistant is allowed to perform</td>
<td>1753.5</td>
<td>X</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>All duties that a registered dental assistant is allowed to perform as specified in and limited by Section 1752.4</td>
<td>1753.5</td>
<td>X</td>
<td></td>
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<tr>
<td>Conduct preliminary evaluation of the patient’s oral health, including, but not limited to, charting, intraoral and extra-oral evaluation of soft tissue, classifying occlusion, and myofunctional evaluation</td>
<td>1753.5</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Perform oral health assessments in school-based, community health project settings under the direction of a dentist, registered dental hygienist, or registered dental hygienist in alternative practice</td>
<td>1753.5</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
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<tr>
<td>Cord retraction of gingiva for impression procedures</td>
<td>1753.5</td>
<td>X</td>
<td></td>
<td></td>
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<tr>
<td>Size and fit endodontic master points and accessory points</td>
<td>1753.5</td>
<td>X</td>
<td></td>
<td></td>
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<tr>
<td>Cement endodontic master points and accessory points</td>
<td>1753.5</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Take final impressions for permanent indirect restorations</td>
<td>1753.5</td>
<td>X</td>
<td></td>
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<tr>
<td>Take final impressions for tooth-borne removable prosthesis</td>
<td>1753.5</td>
<td>X</td>
<td></td>
<td></td>
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<tr>
<td>Polish and contour existing amalgam restorations</td>
<td>1753.5</td>
<td>X</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Place, contour, finish, and adjust all direct restorations</td>
<td>1753.5</td>
<td>X</td>
<td></td>
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<tr>
<td>Adjust and cement permanent indirect restorations</td>
<td>1753.5</td>
<td>X</td>
<td></td>
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<tr>
<td>ALLOWABLE DUTIES</td>
<td>SECTION OF LAW (Statute or Regulation)</td>
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<tr>
<td>Additional authorized duties of a registered dental assistant in extended functions (RDAEF), BPC, Section 1753.55. A registered dental assistant in extended functions is authorized to perform the additional duties as set forth in subdivision (b) pursuant to the order, control, and full professional responsibility of a supervising dentist, if the licensee meets one of the following requirements:</td>
<td></td>
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<tr>
<td>(1) Is licensed on or after January 1, 2010.</td>
<td>1753.55</td>
<td>X</td>
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<tr>
<td>(2) Is licensed prior to January 1, 2010, has successfully completed a board-approved course in the additional procedures specified in paragraphs (1), (2), (5), and (7) to (11), inclusive, of subdivision (b) of Section 1753.5, and passed the examination as specified in Section 1753.4. The pocket license of the authorized licensee will state the RDAEF perform the duties per B&amp;P 1753.5 and 1753.55.</td>
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<td>Determine which radiographs to perform on a patient who has not received an initial examination by the supervising dentist for the specific purpose of the dentist making a diagnosis and treatment plan for the patient. In these circumstances, the dental assistant in extended functions shall follow protocols established by the supervising dentist. This paragraph only applies in the following settings:</td>
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<tr>
<td>(A) In a dental office setting.</td>
<td>1753.55</td>
<td>X</td>
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<tr>
<td>(B) In public health settings, using telehealth, as defined by Section 2290.5, for the purpose of communication with the supervising dentist, including, but not limited to, schools, head start and preschool programs, and community clinics, under the general supervision of a dentist.</td>
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<tr>
<td>Place protective restorations in a dental office setting, under the direct or general supervision of a dentist as determined by the dentist.</td>
<td>1753.55</td>
<td>X</td>
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<tr>
<td>Place protective restorations after the diagnosis, treatment plan, and instruction to perform the procedure provided by a dentist in public health settings, using telehealth, as defined by Section 2290.5, for the purpose of communication with the supervising dentist, including, but not limited to, schools, head start and preschool programs, and community clinics, under the general supervision of a dentist.</td>
<td>1753.55</td>
<td>X</td>
<td></td>
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</tbody>
</table>

**REGISTERED DENTAL ASSISTANT in EXTENDED FUNCTIONS (RDAEF) BPC, SECTION 1753.6**

Licensed prior to January 1, 2010 and has not completed a Board-approved course in the additional procedures specified in paragraphs (1), (2), (5) and (7) to (11) inclusive, of Section 1753.5 (b) and an examination as specified in Section 1753.4.

| All duties that a registered dental assistant is allowed to perform as specified in and limited by Section 1752.4 | 1753.6 | X |  |  |  |
| Cord retraction of gingiva for impression procedures | 1753.6 | X |  |  |  |
| Take final impressions for permanent indirect restorations | 1753.6 | X |  |  |  |
| Formulate indirect patterns for endodontic post and core castings | 1753.6 | X |  |  |  |
| Fit trial endodontic filling points | 1753.6 | X |  |  |  |
| Apply pit and fissure sealants | 1753.6 | X |  |  |  |
| Remove excess cement from subgingival tooth surfaces with a hand instrument | 1753.6 | X |  |  |  |
State of California

BUSINESS AND PROFESSIONS CODE

Section 1741

1741. As used in this article:
   (a) "Board" means the Dental Board of California.
   (b) "Direct supervision" means supervision of dental procedures based on instructions given by a licensed dentist, who must be physically present in the treatment facility during the performance of those procedures.
   (c) "General supervision" means supervision of dental procedures based on instructions given by a licensed dentist but not requiring the physical presence of the supervising dentist during the performance of those procedures.

(Amended by Stats. 2008, Ch. 499, Sec. 4. Effective January 1, 2009.)
State of California

BUSINESS AND PROFESSIONS CODE

Section 1902

1902. For purposes of this article, the following definitions apply:
(a) "Hygiene board" means the Dental Hygiene Board of California.
(b) "Dental board" means the Dental Board of California.
(c) "Direct supervision" means the supervision of dental procedures based on instructions given by a licensed dentist who is required to be physically present in the treatment facility during the performance of those procedures.
(d) "General supervision" means the supervision of dental procedures based on instructions given by a licensed dentist who is not required to be physically present in the treatment facility during the performance of those procedures.
(e) "Oral prophylaxis" means preventive and therapeutic dental procedures that include bacterial debridements with complete removal, supra and subgingivally, of calculus, soft deposits, plaque, and stains, and the smoothing of tooth surfaces. The objective of this treatment is to create an environment in which the patient can maintain healthy hard and soft tissues.

(Amended by Stats. 2018, Ch. 858, Sec. 6. (SB 1482) Effective January 1, 2019.)
2290.5. (a) For purposes of this division, the following definitions shall apply:

(1) “Asynchronous store and forward” means the transmission of a patient’s medical information from an originating site to the health care provider at a distant site without the presence of the patient.

(2) “Distant site” means a site where a health care provider who provides health care services is located while providing these services via a telecommunications system.

(3) “Health care provider” means either of the following:

(A) A person who is licensed under this division.

(B) An associate marriage and family therapist or marriage and family therapist trainee functioning pursuant to Section 4980.43.3.

(4) “Originating site” means a site where a patient is located at the time health care services are provided via a telecommunications system or where the asynchronous store and forward service originates.

(5) “Synchronous interaction” means a real-time interaction between a patient and a health care provider located at a distant site.

(6) “Telehealth” means the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient’s health care while the patient is at the originating site and the health care provider is at a distant site. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.

(b) Prior to the delivery of health care via telehealth, the health care provider initiating the use of telehealth shall inform the patient about the use of telehealth and obtain verbal or written consent from the patient for the use of telehealth as an acceptable mode of delivering health care services and public health. The consent shall be documented.

(c) Nothing in this section shall preclude a patient from receiving in-person health care delivery services during a specified course of health care and treatment after agreeing to receive services via telehealth.

(d) The failure of a health care provider to comply with this section shall constitute unprofessional conduct. Section 2314 shall not apply to this section.

(e) This section shall not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.
(f) All laws regarding the confidentiality of health care information and a patient’s rights to his or her medical information shall apply to telehealth interactions.

(g) This section shall not apply to a patient under the jurisdiction of the Department of Corrections and Rehabilitation or any other correctional facility.

(h) (1) Notwithstanding any other provision of law and for purposes of this section, the governing body of the hospital whose patients are receiving the telehealth services may grant privileges to, and verify and approve credentials for, providers of telehealth services based on its medical staff recommendations that rely on information provided by the distant-site hospital or telehealth entity, as described in Sections 482.12, 482.22, and 485.6.6 of Title 42 of the Code of Federal Regulations.

(2) By enacting this subdivision, it is the intent of the Legislature to authorize a hospital to grant privileges to, and verify and approve credentials for, providers of telehealth services as described in paragraph (1).

(3) For the purposes of this subdivision, “telehealth” shall include “telemedicine” as the term is referenced in Sections 482.12, 482.22, and 485.6.6 of Title 42 of the Code of Federal Regulations.

(Amended by Stats. 2018, Ch. 743, Sec. 2.5. (AB 93) Effective January 1, 2019.)
1100 Board of Dentistry and Dental Hygiene

1.0 Supervision: Definitions - There are 3 recognized levels of supervision:

1.1 Direct Supervision - The dentist is present in the office, personally examines the patient and specifically authorized the work to be performed. The dentist checks the work before the patient leaves the office.

1.2 Indirect Supervision - A dentist is present in the office and generally authorizes the work to be performed. The dentist may examine the patient, either before or after work is performed. The dentist is available for consultation during the patient visit.

1.3 General Supervision - A dentist may or may not be present in the office while the work is performed. The dentist authorizes the work to be performed. Emergency care and consultant services are provided by an "on-call" dentist not present in the treatment facility, if the primary dentist is not present.

1.4 Dental Technician - Any person not licensed to practice dentistry in this State, engaged in the business of constructing, altering, repairing or duplicating full dentures ("plates"), partial dentures, splints, orthodontic appliances, fixed bridges or any other prosthetic appliances.

2.0 Auxiliary Personnel

2.1 Expanded Duties: A legally licensed and registered dentist may delegate to competent dental auxiliary personnel, those procedures for which the dentist exercises direct supervision and full responsibility except as follows:

2.1.1 Those procedures which require professional judgment and skill, such as diagnosis and treatment planning, and the cutting of hard and/or soft tissues, or any intra-oral procedure which would lead to the fabrication of an appliance and/or restoration which, when received by the patient, would come in direct contact with hard or soft tissue and which could result in tissue irritation or injury.

2.1.2 Those procedures allocated by the Dental Code to registered dental hygienists.

2.2 Interpretation of Regulation - Competency of the dental auxiliary personnel must be determined by the individual dentist in assigning specific duties. The dentist is given full responsibility in deciding the scope of work to be allocated to the auxiliary personnel.

2.3 Training of Auxiliary Personnel - Adequate training of dental auxiliary personnel will be the responsibility of the dentist.

2.4 Assignment of Duties - Following are some of the procedures that may be assigned to auxiliary personnel under the conditions and provisions stated above:

- Take and develop x-rays. This involves placing an x-ray film in the patient’s mouth and exposing that film.
- Give and demonstrate home-care procedures to the patient, including those procedures the patient is expected to carry out in preventive care.
- Placing a rubber dam.
- Placing cotton rolls.
- Taking impressions for study models.
- Removal of excess cements from dental restorations and appliances with hand instruments only.
- Removal of temporary medicinal fillings or packs under direct orders of the dentist.

2.5 Responsibilities - In summary, the Dental Board places full responsibility for the work done by auxiliary personnel directly upon the dentist. Violations of the regulations will be subject to penalties as spelled out in 24 Del.C. §1131(5).

3.0 Prescriptions to Dental Technicians

3.1 Written Prescriptions - Any dentist who uses the services of a dental technician in this State shall furnish him/her with a written prescription, which shall contain:

3.1.1 the name and address of the technician,
3.1.2 the patient's name and/or identification number,
2

TITLE 24 REGULATED PROFESSIONS AND OCCUPATIONS
DELAWARE ADMINISTRATIVE CODE

3.1.3 the date on which the prescription was written,
3.1.4 a prescription of the work to be done,
3.1.5 specification of the type and quality of materials to be used and
3.1.6 signature of the dentist and his/her license number.

3.2 Record of Prescriptions - The dentist shall retain a duplicate copy thereof for inspection by the Board or its agent for a period of two years of the original.

3.3 The Dental Technician as an Auxiliary - Dentists employing a dental technician as an auxiliary within the confines of his/her office, may elect to maintain the required date of the prescription as an entry on the patient's record, in lieu of duplicating the prescription form to the technician.

4.0 Qualifications of Applicant; Education and Residency Requirements [24 Del.C. §1122(a)(3)]

4.1 An applicant for licensure as a dentist shall have received one of the following: a doctoral degree from a US dental college accredited by the Commission on Dental Accreditation; or a doctoral degree from a dental college or university, plus a post-doctoral degree or certificate from a US CODA approved specialty program in Oral and Maxillofacial Surgery, Periodontics, Pediatric Dentistry, Endodontics, Orthodontics, or Prosthodontics.

4.2 An applicant for licensure as a dentist must have completed 1 year as a dental intern within a general practice residency accredited by the Commission on Dental Accreditation (CODA).

4.3 An applicant who has completed a CODA approved specialty residency of 4 years or more will be deemed to have satisfied the general practice residency requirement.

4.4 An applicant who has completed a CODA approved specialty residency of less than 4 years must demonstrate that the specialty residency program meets the following criteria:

4.4.1 The program must meet the goals, objectives, proficiencies and competencies set forth in Standard 2.4 of the CODA Accreditation Standards for Advanced Education Programs in General Practice Residency, ©2007.

4.4.2 The program must include a rotation of at least 70 hours in anesthesia and a rotation of at least 70 hours in medicine.

4.5 An applicant for licensure as a dentist by reciprocity who has had at least 3 years of active dental practice in another state or territory of the United States is not required to provide evidence of a general practice or specialty residency.

4.5.1 Active practice shall be defined as an average of at least 1000 hours of direct patient care per year. Satisfactory evidence of active practice may include, but is not limited to, W-2 forms, 1099 forms, tax returns, and/or written verification of hours from the dental practice administrator. The Board reserves the right to request supplemental verification and to reject incomplete documentation.

4.6 An applicant for licensure as a dental hygienist by reciprocity must demonstrate active practice during 3 of the 5 years immediately preceding the application in the state in which the applicant currently is or has been licensed.

4.6.1 Active practice shall be defined as an average of at least 350 hours of direct patient care per year. Satisfactory evidence of active practice may include, but is not limited to, W-2 forms, 1099 forms, tax returns, and/or written verification of hours from the dental practice administrator. The Board reserves the right to request supplemental verification and to reject incomplete documentation.

14 DE Reg. 1239 (05/01/11)
16 DE Reg. 328 (09/01/12)
20 DE Reg. 651 (02/01/17)

5.0 Supervision

5.1 Conditions Applicable to General Supervision - A licensed dental hygienist, by virtue of having passed a licensure examination and being duly licensed by the State, is capable of performing those services allowed by law under supervision, the following conditions shall exist:

5.2 Advance Notice to Patient - The patient is notified, as soon as it is known, that the dentist will not be present, and is given the option to reschedule to a time when the dentist will be present in the office.

5.3 Dentist Review of Records - The dentist shall review the treatment records of each patient prior to and following the patient treatment.
5.4 The dentist must perform at least one clinical examination of the patient within a 12 month period.

5.5 Patient Contraindications - Patients for whom it is medically or dentally contraindicated, will not be scheduled when the dentist is not present.

5.6 Office Requirements - A second office employee shall be present in the treatment facility at all times when patient care is performed. This is both for safety and security reasons.

5.7 Practice in a Public Health Institution - A licensed dental hygienist, per 24 Del.C. §1121(c), may operate under the general direction of a dentist in an institution, provided that all of the conditions of general supervision are met.

15 DE Reg. 1621 (05/01/12)

6.0 Continuing Professional Education (CPE) and Renewal

6.1 Renewal. Each license shall be renewed biennially. The failure of the Board to notify a licensee of his/her license expiration date and subsequent renewal does not, in any way, relieve the licensee of the requirement to renew his/her license pursuant to the Board's regulations and 24 Del.C. Ch. 11.

6.1.1 License renewal is accomplished online at the Division of Professional Regulation's website. Licensees must submit an online application along with payment of the renewal fee prescribed by the Division of Professional Regulation and an attestation of completion of the continuing education requirements.

6.1.1.1 Attestation must be completed electronically at the time of renewal. Licensees selected for random audit will be required to supplement the attestation with attendance verification pursuant to Section 6.8.

6.2 Any licensee who fails to renew his/her license by the renewal date may reactivate his/her license during the one year period immediately following the license expiration date provided the licensee pays a late fee in addition to the prescribed renewal fee, and provides proof that he/she completed the required continuing education.

6.3 Continuing Education. All persons licensed to practice dentistry in the State of Delaware shall be required to acquire fifty (50) hours of continuing professional education (CPE) credit every two (2) years. Two (2) of the 50 credit hours shall be obtained in courses covering infection control. In addition to the CPE, licensees must provide evidence that they have successfully completed a current course in cardiopulmonary resuscitation (CPR) every two (2) years. The CPR course must encompass hands on clinical participation. On-line courses will not be accepted to satisfy the CPR requirement. Examples of acceptable courses include, but are not limited to, courses offered by the American Red Cross and the American Heart Association and courses offered or approved by any of the organizations listed in 6.4.1 through 6.4.4 of these regulations. All dentists, upon initial licensure in Delaware and prior to registration renewal, shall be given a written notice of these CPE requirements.

6.4 CPE credits may be granted upon proof of successful completion of scientific CPE programs or courses, including live webinars, sponsored or approved by:

6.4.1 American Dental Association (ADA), its constituents and components including CERP (Continuing Education Recognition Program)

6.4.2 American Dental Hygienists' Association (ADHA), its constituents and components

6.4.3 American Dental Assisting Association (ADAA), its constituents and components

6.4.4 Academy of General Dentistry (AGD) its constituents and components including PACE (Program Approval for Continuing Education)

6.4.5 Recognized national, regional, state and local dental and dental hygiene specialty organizations

6.4.6 Recognized dental and dental hygiene study clubs

6.4.7 Accredited dental and dental hygiene CPE programs offered by dental and dental hygiene schools.

6.4.8 Approved hospital programs.

6.4.9 Such other organizations and associations as may be approved by the Board.

6.5 A maximum of 30 hours of the total CPE requirement may be satisfied by self-study.

6.5.1 Not more than ten hours of the fifty hour biennial CPE requirement may be satisfied by self-study without testing from sources approved by the Board which shall include but not be limited to:

6.5.1.1 Reading dental textbooks

6.5.1.2 Reading dental tape journals
6.5.1.3 Viewing and listening to dental audio-visual materials.

6.5.2 In addition to the maximum of ten (10) hours of the CPE requirement which may be satisfied by self-study without testing and certification, a maximum of twenty (20) hours of the total CPE requirements may be fulfilled by self-study with test and certificate of completion from bona fide dental educational sources including but not limited to:

6.5.2.1 Dental journals
6.5.2.2 Dental textbooks
6.5.2.3 Dental video and audio tape presentations
6.5.2.4 Dental mail-in courses
6.5.2.5 Dental courses presented on the Internet, which are not live

6.6 Special Provisions

6.6.1 A dentist, employed as a faculty member in a recognized school of dentistry, dental hygiene, dental assisting or any dentally-related field will be allowed not more than ten (10) hours credit for teaching per year.

6.6.2 A dentist presenting a CPE course shall be allowed the hours involved in preparation and presentation on a one-time-per-course basis for a maximum of ten (10) hours for the two-year period.

6.6.3 Table Clinics will be allowed, one (1) hour of credit per hour of presentation for a maximum of two (2) hours.

6.6.4 Twelve (12) hours of credit shall be allowed for a scientific article published in a component or state society journal. 25 hours of credit shall be allowed for a scientific article published in a national journal or for a published scientific textbook or a chapter therein.

6.6.5 Any public health dentally-related presentation will be allowed one (1) hour of credit per hour of participation for a maximum of two (2) hours for the two year period.

6.6.6 Practice management or personal self-improvement courses shall be limited to a total of ten (10) hours for the two (2) year period.

6.6.7 The Board reserves the right to approve any and all activities deemed appropriate for CPE credit. The Board also reserves the right and is the final word to disapprove any activities submitted for credit which it deems inappropriate.

6.6.8 All dentists licensed to practice in Delaware shall be given written notice of these CPE requirements when receiving their initial license.

6.6.9 For existing holders of an Unrestricted Permit for anesthesia, at least twelve (12) hours of the required CPE credits must be taken on an Anesthesia topic by the end of the six (6) year re-evaluation period (i.e. by the end of the third biennial licensure renewal period).

6.6.10 For existing holders of a Restricted I Permit, at least six (6) hours of the required CPE credits must be taken on an Anesthesia topic by the end of the six (6) year re-evaluation period (i.e. by the end of the third biennial license renewal period).

6.7 Exceptions

6.7.1 An exception will be granted to any dentist who can demonstrate to the Board an acceptable cause as to why he/she should be relieved of this obligation. Exemptions will be granted only in unusual or extraordinary circumstances. Licensees must petition the Board for exemptions. Should the Board deny the request, the licensee must complete the requirements. Examples of circumstances for which the Board might grant exemptions include prolonged illness, extended absence from the country, or the like.

6.7.2 An individual initially licensed by the Board within the last 2 years shall meet the following schedule of reporting CPE credits for license renewal:

6.7.2.1 If, as of May 31st of the year for license renewal, the licensee has been licensed for less than 1 year, zero hours of CPE is required for license renewal; for licensees who are 1 or more but less than 2 years from their initial licensure, one-half of the required CPE must be presented; for individuals 2 years or more from their initial licensure, the full CPE requirement must be presented for renewal.

6.8 Audit of Continuing Education Contact Hours

6.8.1 Audit. Each biennium, the Division of Professional Regulation shall randomly select from the list of renewed licensees a percentage of licensees, determined by the Board, to be audited. The Board may
also audit based on complaints or charges against an individual license, relative to compliance with continuing education requirements or based on a finding of past non-compliance during prior audits.

6.8.2 Documentation. When a licensee is selected for audit, the licensee shall be required to submit documentation showing detailed accounting of the various CPEs claimed by the licensee. Licensees selected for random audit are required to supplement the attestation with supporting materials which may include a syllabus, agenda, itinerary or brochure published by the sponsor of the activity and a document showing proof of attendance (i.e., certificate, a signed letter from the sponsor attesting to attendance, report of passing test score). The Board shall attempt to verify the CPEs shown on the documentation provided by the licensee. Upon completion of the review, the Board will decide whether the licensee's CPEs meet the requirements of these regulations.

6.8.2.1 Any continuing education not meeting all provisions of these regulations shall be rejected in part or in whole by the Board.

6.8.2.2 Any incomplete or inaccurate documentation of continuing education may be rejected in part or in whole by the Board.

6.8.2.3 Any continuing education that is rejected must be replaced by acceptable continuing education within a reasonable period of time established by the Board. This continuing education will not be counted towards the next renewal period.

6.8.3 Board Review and Hearing Process. The Board shall review all documentation requested of any licensee shown on the audit list. If the Board determines the licensee has met the requirements, the licensee's license shall remain in effect. If the Board initially determines the licensee has not met the requirements, the licensee shall be notified and a hearing may be held pursuant to the Administrative Procedures Act. This hearing will be conducted to determine if there are any extenuating circumstances justifying the apparent noncompliance with these regulations. Unjustified noncompliance with these regulations shall be considered unprofessional conduct and grounds for discipline pursuant to 24 Del.C. §1128(6).

6.8.4 Sanctions for Unjustified Noncompliance. If the Board finds unjustified non-compliance, the Board will impose discipline in accordance with 29 Del.C. §1129 which may include, but is not limited to monetary penalties up to $1,000, suspension and/or revocation of a practitioner's license.

6.9 Continuing Professional Education (CPE) - Dental Hygienists [24 Del.C. §1106(a)(1) and (7)]

All persons licensed to practice dental hygiene in the State of Delaware shall be required to acquire twenty-four (24) hours of CPE credit every two (2) years. Two (2) of the 24 credit hours shall be obtained in courses covering infection control. In addition to the CPE, licensees must provide evidence that they have and successfully completed a current course in cardiopulmonary resuscitation (CPR) every two (2) years. The CPR course must encompass hands on clinical participation. On-line courses will not be accepted to satisfy the CPR requirement. Examples of acceptable courses include, but are not limited to, courses offered by the American Red Cross and the American Heart Association. All Dental hygienists, upon initial licensure and prior to registration renewal, shall be given written notice of these CPE requirements.

6.9.1 Proof of continuing education is satisfied with an attestation by the licensee that he or she has satisfied the Requirements of Rule 6.9.

6.9.2 Attestation must be completed electronically at the time of renewal.

6.9.3 Licensees selected for random audit will be required to supplement the attestation with attendance verification pursuant to Rule 6.12.

6.9.4 CPE credits may be granted upon proof of successful completion of programs including, but not limited to, the following categories:

6.9.4.1 Scientific CPE programs or courses, including live webinars, sponsored or approved by:

6.9.4.1.1 American Dental Hygienists Association, its constituents and components
6.9.4.1.2 American Dental Association, its constituents and components
6.9.4.1.3 American Dental Assisting Association, its constituents, and components
6.9.4.1.4 Recognized national, regional, state, and local dental and dental hygiene specialty societies
6.9.4.1.5 Recognized dental and dental hygiene study clubs
6.9.4.1.6 Accredited dental and dental hygiene schools
6.9.4.1.7 Approved hospital programs
6.9.4.1.8 Such other organizations and associations as may be approved by the Board
6.9.4.2 A maximum of five (5) hours of the total twenty-four (24) hour requirement may be satisfied by self-study without testing from sources approved by the Board which shall include but not be limited to:

6.9.4.2.1 Reading of dental or dental hygiene journals
6.9.4.2.2 Reading dental or dental hygiene textbooks
6.9.4.2.3 Viewing and listening to dental or dental hygiene audio-visual materials

6.9.4.3 In addition to the maximum of five (5) hours which may be satisfied by self-study without testing, a maximum of ten (10) hours of the total twenty-four (24) hour requirement may be fulfilled by self-study with test and certificate of completion from bona fide dental hygiene educational sources including but not limited to:

6.9.4.3.1 Cental or dental hygiene journals
6.9.4.3.2 Central or dental hygiene textbooks
6.9.4.3.3 Central or dental hygiene video and audio tape presentations
6.9.4.3.4 Central or dental hygiene mail-in courses
6.9.4.3.5 Central or dental hygiene courses presented on the Internet, which are not live

Where CPE credits are not specified, one (1) hour of CPE credit will be given for each hour of scientific session attended.

The final approval of acceptable dental hygiene CPE credits shall be made by the Board of Central Examiners in consultation with the Dental Hygiene Advisory Committee.

6.10 Special Provisions
6.10.1 A dental hygienist, employed as a faculty member in a recognized school of dentistry, dental hygiene or dental assisting, will be allowed not more than five (5) hours credit for teaching per year.
6.10.2 A dental hygienist presenting a CPE course shall be allowed the hours involved in preparation and presentation on a one-time-per-course basis for a maximum of five (5) credits for the two-year period.
6.10.3 Table clinics will be allowed one (1) hour of credit per hour of presentation for a maximum of two (2) hours.
6.10.4 Twelve (12) hours of credit shall be granted for a scientific article published in a component or state society journal. Twelve (12) hours of credit shall be allowed for a scientific article published in a national journal or for a published scientific textbook or a chapter therein.
6.10.5 A dental hygienist giving public education instruction in a school will receive credit up to one (1) hour per year.
6.10.6 Practice management or personal self-improvement courses shall be limited to five (5) hours for the two (2) year period.
6.10.6.1 Practice management, personal self-improvement and computer courses shall be limited to 2.5 hours a year for a total of five (5) hours for the two year period.
6.10.7 The Board reserves the right to approve any and all activities deemed appropriate for CPE credit. The Board also reserves the right and is the final word to disapprove any activities submitted for credit which it deems inappropriate.
6.10.8 All dental hygienists licensed to practice in Delaware shall be given written notice of these CPE requirements when receiving their initial license.

6.11 Exceptions
6.11.1 An exception will be granted to any dental hygienist who can demonstrate to the Board an acceptable cause as to why he/she should be relieved of this obligation. Exemptions will be granted only in unusual or extraordinary circumstances. Licensees must petition the Board for exemptions. Should the Board deny the request, the licensee must complete the requirements. Examples of circumstances for which the Board might grant exemptions include prolonged illness, extended absence from the country, or the like.
6.11.2 An individual initially licensed by the Board within the last 2 years shall meet the following schedule of reporting CPE credits for license renewal:
6.11.2.1 If, as of May 31st of the year for license renewal, the licensee has been licensed for less than 1 year, zero hours of CPE is required for license renewal; for licensees who are 1 or more but less than 2 years from their initial licensure, one-half of the required CPE must be presented; for individuals 2 years or more from their initial licensure, the full CPE requirement must be presented for renewal.

6.12 Audit of Continuing Education Contact Hours
6.12.1 Audit. Each biennium, the Division of Professional Regulation shall randomly select from the list of renewed licensees a percentage of licensees, determined by the Board, to be audited. The Board may also audit based on complaints or charges against an individual license, relative to compliance with continuing education requirements or based on a finding of past non-compliance during prior audits.

6.12.2 Documentation. When a licensee is selected for audit, the licensee shall be required to submit documentation showing detailed accounting of the various CPEs claimed by the licensee. Licensees selected for random audit are required to supplement the attestation with supporting materials which may include a syllabus, agenda, itinerary or brochure published by the sponsor of the activity and a document showing proof of attendance (i.e., certificate, a signed letter from the sponsor attesting to attendance, report of passing test score). The Board shall attempt to verify the CPEs shown on the documentation provided by the licensee. Upon completion of the review, the Board will decide whether the licensee's CPEs meet the requirements of these regulations.

6.12.2.1 Any continuing education not meeting all provisions of these regulations shall be rejected in part or in whole by the Board.

6.12.2.2 Any incomplete or inaccurate documentation of continuing education may be rejected in part or in whole by the Board.

6.12.2.3 Any continuing education that is rejected must be replaced by acceptable continuing education within a reasonable period of time established by the Board. This continuing education will not be counted towards the next renewal period.

6.12.3 Board Review and Hearing Process. The Board shall review all documentation requested of any licensee shown on the audit list. If the Board determines the licensee has met the requirements, the licensee's license shall remain in effect. If the Board initially determines the licensee has not met the requirements, the licensee shall be notified and a hearing may be held pursuant to the Administrative Procedures Act. This hearing will be conducted to determine if there are any extenuating circumstances justifying the apparent noncompliance with these regulations. Unjustified noncompliance with these regulations shall be considered unprofessional conduct and grounds for discipline pursuant to 24 Del.C. §1129(5).

6.12.4 Sanctions for Unjustified Noncompliance. If the Board finds unjustified non-compliance, the Board will impose discipline in accordance with 29 Del.C. §1129 which may include, but is not limited to monetary penalties up to $1,000, suspension and/or revocation of a practitioner's license.

5 DE Reg. 1251 (12/01/01)
9 DE Reg. 1583 (04/01/06)
16 DE Reg. 328 (09/01/12)
16 DE Reg. 881 (02/01/13)
18 DE Reg. 399 (11/01/14)
21 DE Reg. 642 (02/01/18)

7.0 Anesthesia Regulations:

7.1 Definitions:

The following definitions are taken from the Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry, American Dental Association, Council on Dental Education (July 1993). These terms refer to the extent of a drug's depressant effect upon the central nervous system and should not be confused with the route by which the drug is administered.

7.1.1 Analgesia -- the diminution or elimination of pain in the conscious patient.

7.1.2 Local Anesthesia -- the elimination of sensations, especially pain, in one part of the body by the topical application or regional injection of a drug.

7.1.3 Conscious Sedation -- a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal command and that is produced by a pharmacologic or non-pharmacologic method or a combination thereof.

In accord with this definition, the conscious patient is also defined as "one who has intact protective reflexes, including the ability to maintain an airway, and who is capable of rational response to question or command." The drugs and techniques used should carry a margin of safety wide enough to render unintended loss of consciousness unlikely.
For purposes of these regulations, Conscious Sedation Permits shall be divided into two classifications:

Restricted and Unrestricted Permits -- Conscious Sedation induced by parenteral or enteral or rectal routes as well as nitrous oxide inhalation. This does not preclude the use of usual and customary pre-operative oral sedation.

Restricted Permit II -- Conscious Sedation induced by nitrous oxide inhalation only.

7.1.4 Deep Sedation -- is a controlled state of depressed consciousness accompanied by partial loss of protective reflexes, including the inability to continually maintain an airway independently and/or to respond purposefully to verbal command, and is produced by a pharmacologic or non-pharmacologic method or combination thereof.

7.1.5 General Anesthesia -- is a controlled state of unconsciousness accompanied by partial or complete loss of protective reflexes, including inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, and is produced by a pharmacologic or non-pharmacologic method or a combination thereof.

The same level of advanced training is necessary for the administration of both Deep Sedation and General Anesthesia.

7.1.6 Adverse Occurrences -- any mortality or other incident occurring in the out-patient facilities of such dentist which results in temporary or permanent physical or mental injury requiring hospitalization of said patient during, or as a direct result of, the conscious sedation, or deep sedation, or general anesthesia related thereto.

7.2 Conscious Sedation:

7.2.1 No dentist shall employ or use Conscious Sedation, Restricted Permit I or Restricted Permit II, for dental patients unless such dentist possesses a permit of authorization issued by the Delaware State Board of Dentistry and Dental Hygiene. The dentist holding such a permit shall be subject to review and such permit must be renewed biennially.

7.2.2 In order to receive such a permit, the dentist shall produce evidence showing that he or she:

7.2.2.1 For Restricted Permit I Conscious Sedation:

7.2.2.1.1 Has completed a minimum of 60 hours of instruction, including management of at least 20 patients per participant (to achieve competency in this technique).

7.2.2.1.2 Must be certified in CPR as documented by the American Heart Association or the American Red Cross. Advanced Cardiac Life Support Certification is encouraged.

7.2.2.1.3 Must also have a properly equipped facility for the administration of Restricted Permit I Conscious Sedation, staffed with a supervised team of auxiliary personnel capable of reasonably handling procedures, problems and emergencies incident thereto. Adequacy of the facility and competence of the team is to be determined by the Anesthesia Advisory Consultants appointed by the Board. A certified registered nurse anesthetist may be utilized for Restricted Permit I Conscious Sedation only if the dentist also possesses such a permit.

7.2.3 A list of emergency drugs and equipment that should be on hand would consist of the following:

7.2.3.1 Agen's capable of treating:

7.2.3.1.1 hypotension and bradycardia

7.2.3.1.2 allergy/bronchospasm

7.2.3.1.3 seizures

7.2.3.1.4 narcotic-induced respiratory depression (e.g., narcotic antagonists)

7.2.3.1.5 angina pectoris

7.2.3.1.6 adrenal insufficiency (e.g., steroids)

7.2.3.1.7 nausea

7.2.3.2 Equipment necessary to provide artificial respiration and assist in airway maintenance.

7.2.3.3 Equipment necessary to establish an intravenous infusion and to inject medications.

7.2.4 For Restricted Permit II Conscious Sedation:

7.2.4.1 Has completed a minimum of 14 instructional hours including supervised clinical experience in managing patients (in a course required to achieve competency in nitrous oxide inhalation sedation).
7.4.4.2 Must also show certification in cardio-pulmonary resuscitation as certified by the American Heart Association or the American Red Cross.

7.3 Deep Sedation and General Anesthesia (Unrestricted Permit - Individual):

7.3.1 No dentist shall administer deep sedation or general anesthesia for his/her dental patients unless such dentist possesses a permit of authorization issued from the Delaware State Board of Dentistry and Dental Hygiene. This permit also includes all Conscious Sedation techniques. The dentist holding such a permit shall be subject to review and such permit must be renewed biennially.

7.3.2 In order to receive such a permit, the dentist must produce evidence showing that he/she:

7.3.2.1 Has completed a minimum of two years of advanced training in anesthesiology and related academic subjects (or its equivalent) beyond the undergraduate dental school level in a training program as described in Part II of the Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry or, is a Diplomat of the American Board of Oral and Maxillofacial Surgeons, or has satisfactorily completed a residency in Oral and Maxillofacial Surgery at an institution approved by the Council of Dental Education, American Dental Association or is a fellow of the American Dental Society of Anesthesiology. A certified registered nurse anesthetist may be utilized for deep sedation or general anesthesia only if the dentist also possesses an Unrestricted Permit.

7.3.2.2 Has a properly equipped facility for the administration of deep sedation and general anesthesia, staffed with a supervised team of auxiliary personnel capable of reasonably handling procedures, problems and emergencies incident thereto. Adequacy of the facility and competence of the anesthesiology team is determined by the Anesthesia Advisory Committee Consultants appointed by Delaware State Board of Dentistry and Dental Hygiene.

7.3.2.3 And is certified in Advanced Cardiac Life Support by the American Heart Association.

7.4 Deep Sedation and General Anesthesia (Unrestricted Facility Permit):

7.4.1 General anesthesia, deep sedation, conscious sedation by means other than nitrous oxide, may be administered in a dental office that has these services provided by an individual meeting the requirements of 7.3.2.1 and 7.3.2.2 or employs or works in conjunction with a board certified anesthesiologist with an active Delaware license, provided that such anesthesiologist must remain on the premises of the dental facility until any patient given a general anesthetic or deep sedation regains consciousness. The requirements of regulations 7.4, 7.5 and 7.6 shall apply to the facility.

7.4.2 Inspections: Prior to the issuance of a permit for Restricted Permit I (parenteral, enteral, or rectal Conscious Sedation) or an Unrestricted Permit (Deep Sedation or General Anesthesia), the Board shall require an on site inspection of the facility, equipment and personnel to determine if, in fact, the aforementioned requirements have been met. The evaluation shall be carried out in a manner described by the Board. The evaluation shall be carried out by the Anesthesia Advisory Consultants appointed by the Board. Each office that the dentist utilizes for Restricted Permit I Conscious Sedation or Deep Sedation or General Anesthesia requires individual inspection and must meet the requirements of that permit for which the dentist is applying.

7.4.3 Anesthesia Advisory Consultants:

7.4.3.1 The Board of Dentistry and Dental Hygiene shall appoint a team of Advisory Consultants and alternates who will visit the facility concurrently to conduct the on-site inspection and evaluation of the facilities, equipment and personnel of a licensed dentist applying for written authorization to administer or to employ another to administer Restricted Permit I Conscious Sedation, or Deep Sedation or General Anesthesia (Unrestricted Permit). The Advisory Consultants shall also aid the Board in the adoption of criteria and standards relative to the regulation and control of Conscious Sedation, Deep Sedation and General Anesthesia. The Anesthesia Advisory Consultants shall utilize the "Guidelines for the use of conscious sedation, deep sedation and general anesthesia for Dentist", as approved by the American Dental Association in October 1996, or any current update thereof. If the applicant has been satisfactorily evaluated by another similar organization (e.g., the Delaware Society of Oral and Maxillofacial Surgeons which uses the AAOMS Office Anesthesia Evaluation Manual Standards), then the Board may accept this evaluation and not require additional on-site evaluation.

7.4.3.2 If the results of the initial evaluation of an applicant are deemed unsatisfactory, upon written request of the applicant, a second evaluation shall be conducted by a different team of consultants.
7.4.4 Re-evaluation: The Board may at any time re-evaluate credentials, facilities, equipment, personnel and procedures of a licensed dentist who has previously received a written authorization or permit from the Board to determine if he/she is still qualified to have such written authorization. If the Board determines that the licensed dentist is no longer qualified to have such written authorization, it may revoke or refuse to renew such authorization, after an opportunity for a hearing is given to the licensed dentist.

7.5 Report of Adverse Occurrences:

7.5.1 All licensed dentists engaged in the practice of dentistry in the State of Delaware must submit a complete report within a period of thirty (30) days to the Delaware State Board of Dentistry and Dental Hygiene of any mortality or other incident occurring in the out-patient facilities of such dentist which results in temporary or permanent physical or mental injury requiring hospitalization of said patient during or as a direct result of, the Conscious Sedation or Deep Sedation or General Anesthesia related thereto.

7.5.2 Failure to comply with this rule when said occurrence is related to the use of Conscious Sedation or Deep Sedation or General Anesthesia may result in the loss of such permit described above, and will be considered unprofessional conduct.

7.6 Applications and Reapplications:

7.6.1 A dentist who desires to obtain a permit to administer Conscious Sedation, Deep Sedation, or General Anesthesia or to maintain a facility where such services are provided shall submit an application on the form provided by the Board, pay the permit fee, and meet the requirements for the permit described herein.

7.6.2 A dentist who desires to renew a permit shall submit a renewal application on the form provided by the Board and pay the permit renewal fee. Re-inspection of the facility, equipment, and staff shall not be necessary unless new techniques or criteria arise, as determined by the Board with the aid of the Anesthesia Advisory Committee.

7.6.3 A permit issued by the Board under these regulations will expire at the same time as the permit holder’s dental license and may be renewed biennially at the same time as the dental license is renewed.

1 DE Reg. 852 (01/01/98)
14 DE Reg. 1239 (05/01/11)
15 DE Reg. 1359 (03/01/12)
16 DE Reg. 880 (02/01/13)

8.0 Inactive Status

8.1 A licensee may be placed on inactive status by the Board for a period of no more than four years. Requests for inactive status shall be made, in writing, to the Board, and requests which exceed one year shall be renewed biennially at the time of regular license renewals.

8.2 To apply for reactivation of an inactive license, a licensee shall:

8.2.1 Submit a letter requesting reactivation;

8.2.2 Submit a prorated reactivation fee;

8.2.3 Submit proof of completion of the continuing education requirements set forth below:

8.2.3.1 All licensees who are inactive for one year or less must complete one half of the required CPE requirement prior to reactivation;

8.2.3.2 All licensees who are inactive for more than one year must complete the full CPE requirement within 24 months prior to reapplication.

14 DE Reg. 1239 (05/01/11)
21 DE Reg. 337 (10/01/17)
21 DE Reg. 642 (02/01/18)

9.0 Voluntary Treatment Option for Chemically Dependent or Impaired Professionals

9.1 If the report is received by the chairperson of the regulatory Board, that chairperson shall immediately notify the Director of Professional Regulation or his/her designee of the report. If the Director of Professional Regulation receives the report, he/she shall immediately notify the chairperson of the regulatory Board, or that chairperson's designee or designates.

9.2 The chairperson of the regulatory Board or that chairperson's designee or designates shall, within 7 days of receipt of the report, contact the individual in question and inform him/her in writing of the report, provide the
individual written information describing the Voluntary Treatment Option, and give him/her the opportunity to enter the Voluntary Treatment Option.

9.3 In order for the individual to participate in the Voluntary Treatment Option, he/she shall agree to submit to a voluntary drug and alcohol screening and evaluation at a specified laboratory or health care facility. This initial evaluation and screen shall take place within 30 days following notification to the professional by the participating Board chairperson or that chairperson’s designate(s).

9.4 A regulated professional with chemical dependency or impairment due to addiction to drugs or alcohol may enter into the Voluntary Treatment Option and continue to practice, subject to any limitations on practice the participating Board chairperson or that chairperson’s designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional, deem necessary, only if such action will not endanger the public health, welfare or safety, and the regulated professional enters into an agreement with the Director of Professional Regulation or his/her designate and the chairperson of the participating Board or that chairperson’s designate for a treatment plan and progresses satisfactorily in such treatment program and complies with all terms of that agreement. Treatment programs may be operated by professional Committees and Associations or other similar professional groups with the approval of the Director of Professional Regulation and the chairperson of the participating Board.

9.5 Failure to cooperate fully with the participating Board chairperson or that chairperson’s designate or designates or the Director of the Division of Professional Regulation or his/her designate in regard to the Voluntary Treatment Option or to comply with their requests for evaluations and screens may disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board chairperson or that chairperson’s designate or designates shall cause to be activated an immediate investigation and institution of disciplinary proceedings, if appropriate, as outlined in section 9.8.

9.6 The Voluntary Treatment Option may require a regulated professional to enter into an agreement which includes, but is not limited to, the following provisions:

9.6.1 Entry of the regulated professional into a treatment program approved by the participating Board. Board approval shall not require that the regulated professional be identified to the Board. Treatment and evaluation functions must be performed by separate agencies to assure an unbiased assessment of the regulated professional’s progress.

9.6.2 Consent to the treating professional of the approved treatment program to report on the progress of the regulated professional to the chairperson of the participating Board or to that chairperson’s designate or designates or to the Director of the Division of Professional Regulation or his/her designate at such intervals as required by the chairperson of the participating Board or that chairperson’s designate or designates or the Director of the Division of Professional Regulation or his/her designate, and such person making such report will not be liable when such reports are made in good faith and without malice.

9.6.3 Consent of the regulated professional, in accordance with applicable law, to the release of any treatment information from anyone within the approved treatment program.

9.6.4 Agreement by the regulated professional to be personally responsible for all costs and charges associated with the Voluntary Treatment Option and treatment program(s). In addition, the Division of Professional Regulation may assess a fee to be paid by the regulated professional to cover administrative costs associated with the Voluntary Treatment Option. The amount of the fee imposed under this subparagraph shall approximate and reasonably reflect the costs necessary to defray the expenses of the participating Board, as well as the proportional expenses incurred by the Division of Professional Regulation in its services on behalf of the Board in addition to the administrative costs associated with the Voluntary Treatment Option.

9.6.5 Agreement by the regulated professional that failure to satisfactorily progress in such treatment program shall be reported to the participating Board’s chairperson or his/her designate or designates or to the Director of the Division of Professional Regulation or his/her designate by the treating professional who shall be immune from any liability for such reporting made in good faith and without malice.

9.6.6 Compliance by the regulated professional with any terms or restrictions placed on professional practice as outlined in the agreement under the Voluntary Treatment Option.

9.7 The regulated professional’s records of participation in the Voluntary Treatment Option will not reflect disciplinary action and shall not be considered public records open to public inspection. However, the participating Board may consider such records in setting a disciplinary sanction in any future matter in which the regulated professional’s chemical dependency or impairment is an issue.
9.8 The participating Board's chairperson, his/her designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional at any time during the Voluntary Treatment Option, restrict the practice of a chemically dependent or impaired professional if such action is deemed necessary to protect the public health, welfare or safety.

9.9 If practice is restricted, the regulated professional may apply for unrestricted licensure upon completion of the program.

9.10 Failure to enter into such agreement or to comply with the terms and make satisfactory progress in the treatment program shall disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board shall be notified and cause to be activated an immediate investigation and disciplinary proceedings as appropriate.

9.11 Any person who reports pursuant to this section in good faith and without malice shall be immune from any civil, criminal or disciplinary liability arising from such reports, and shall have his/her confidentiality protected if the matter is handled in a nondisciplinary matter.

9.12 Any regulated professional who complies with all of the terms and completes the Voluntary Treatment Option shall have his/her confidentiality protected unless otherwise specified in a participating Board's rules and regulations. In such an instance, the written agreement with the regulated professional shall include the potential for disclosure and specify those to whom such information may be disclosed.

10.0 Practical (Clinical) Examination

10.1 No person shall be eligible to take the practical (clinical) examination in dentistry administered by the Delaware Board of Dentistry and Dental Hygiene unless the applicant has received a degree in dentistry from an accredited dental college or university accredited by the Commission on Dental Accreditation of the American Dental Association.

10.2 No person shall be eligible to take the practical (clinical) examination in dental hygiene administered by the Delaware Board of Dentistry and Dental Hygiene unless the applicant has graduated from a dental hygiene college or university program accredited by the Commission on Dental Accreditation of the American Dental Association of at least 2 academic years' duration or has graduated, prior to 1953, from a dental hygiene program of at least 1 year's duration which program had been approved by the Board at the time of the person's graduation.

10.3 The Board reserves the right to waive the requirement set forth above in sections 10.1 and 10.2 if the Applicant can establish to the satisfaction of the Board's Credentialing Committee that he or she is a student in good standing in an educational facility accredited by the Commission on Dental Accreditation of the American Dental Association and will graduate within sixty (60) days of the administration of the practical (clinical) examination with a degree in dentistry or dental hygiene.

10.4 Dentistry or dental hygiene candidates, other than dental hygiene candidates who qualify for licensure under 24 Del.C. §1124, must have passed the applicable practical clinical examination within five years of application for licensure in Delaware. The Board reserves the right to waive this requirement for just cause.

10.5 Prior to the examination, all candidates will be provided a copy of the Examination Guidelines, which can be found at http://dpr.delaware.gov/boards/dental/exams/. The Board hereby adopts the guidelines in their entirety by reference.

10.6 Any dentistry or dental hygiene applicant who fails the practical clinical examination may appeal the Board's decision. Such appeal shall be filed in writing with the Director of the Division of Professional Regulation within 20 days of the date of notification by the Board. Appeals are based on the facts surrounding the examiners' decisions during the examination. Appeals based on patient behavior, tardiness, or failure to appear will not be considered.

10.6.1 Appeal hearings shall be conducted in accordance with the Administrative Procedures Act, Chapter 101 of Title 29.

10.6.2 The Board's scoring of the examination is presumed correct, and the burden of proof at an appeal hearing is on the appellant to prove otherwise. The appeal is limited to a determination of whether there exists substantial evidence to support the judgment of the examiners at the time of the examination.

10.6.2.1 The appeal panel may only consider documents, radiographs, and materials submitted during the examination that remain in the possession of the Board. The panel will not consider documentation or evidence that was not part of the examination, including opinions of the candidate or any other party, academic records, or letters of reference. The panel will not consider radiographs,
11.0 Crimes Substantially Related to the Practice of Dentistry and Dental Hygiene.

Authority. Pursuant to 74 Del. Laws. c. 262, (Senate Bill No. 229 of the 142nd General Assembly, 2004, as amended), the Board was directed to promulgate regulations specifically identifying those crimes which are substantially related to the practice of dentistry and dental hygiene.

Purpose. The Board of Dentistry and Dental Hygiene believes that the State of Delaware has a compelling public policy interest in ensuring that its licensed professionals not only have specified levels of educational and professional competence but also possess sufficient character and judgment necessary to practice safely in their chosen fields and to do so in a manner which will not undermine the community's confidence in the expertise and professionalism of the members of the profession. Licensed professionals, particularly those in health care related fields, often come into contact with clients and patients and other members of the public at times when they may be sick, infirmed or otherwise extremely vulnerable to undue influence or other forms of misuse, fraud and abuse. It is therefore critical that all reasonable steps are taken to determine, to the extent possible, that the regulation of such professionals takes into consideration not only the individual’s technical competence but his or her demonstrated propensity to behave in a way that does not expose the client population to risk or diminish legitimate expectations of honest and honorable behavior by such licensed health care professionals. Therefore, the Board finds that for purposes of licensing, renewal, reinstatement and discipline, the conviction of any of the following crimes, or of the attempt to commit or a conspiracy to commit or conceal the following crimes or substantially similar crimes in another state or jurisdiction, is deemed to be substantially related to the practice of Dentistry and Dental Hygiene in the State of Delaware without regard to the place of conviction:

Definitions.

"Conviction", unless otherwise defined by specific statute, means a verdict of guilty by whether entered by a judge or jury, or a plea of guilty or a plea of nolo contendere or other similar plea such as a "Robinson" or "Alford" plea unless the individual has been discharged under §4218 of Title 11 of the Delaware Code (probation before judgment) or under §1024 of Title 10 (domestic violence diversion program) or by §4764 of Title 16 (first offenders controlled substances diversion program).

"Substantially similar crimes in another state or jurisdiction" includes all crimes prohibited by or punishable under Title 18 of the United Stated Code Annotated (U.S.C.A.) such as, but not limited to, Federal Health Care offenses.

11.1 Any crime which involves the use of physical force or violence toward or upon the person of another and shall include by way of example and not of limitation the following crimes set forth in Title 11 of the Delaware Code Annotated:

Assaults and Related Offenses

11.1.1 §602(b). Aggravated Menacing;
11.1.2 §603. Reckless endangering in the second degree;
11.1.3 §604. Reckless endangering in the first degree;
11.1.4 §606. Abuse of a pregnant female in the second degree;
11.1.5 §606. Abuse of a pregnant female in the first degree;
11.1.6 §611. Assault in the third degree;
11.1.7 §612. Assault in the second degree;
11.1.8 §613. Assault in the first degree;
11.1.9 §614. Abuse on a sports official;
11.1.10 §615. Assault by abuse or neglect;
11.1.11 §616. Gang Participation;
11.1.12 §621. Terroristic threatening;
11.1.13 §625. Unlawfully administering drugs;
11.1.14 §626. Unlawfully administering controlled substance or counterfeit substance or narcotic drugs;
11.1.15 §629. Vehicular assault in the first degree;
11.1.16 §630. Vehicular homicide in the second degree;
11.1.17 §630A. Vehicular homicide in the first degree;
11.1.18 §631. Criminally negligent homicide;
11.1.19 §632. Manslaughter;
11.1.20 §633. Murder by abuse or neglect in the second degree;
11.1.21 §634. Murder by abuse or neglect in the first degree;
11.1.22 §635. Murder in the second degree;
11.1.23 §636. Murder in the first degree;

Sexual Offenses
11.1.24 §763. Sexual harassment;
11.1.25 §764. Indecent exposure in the second degree;
11.1.26 §765. Indecent exposure in the first degree;
11.1.27 §766. Incest;
11.1.28 §767. Unlawful sexual contact in the third degree;
11.1.29 §768. Unlawful sexual contact in the second degree;
11.1.30 §769. Unlawful sexual contact in the first degree;
11.1.31 §770. Rape in the fourth degree;
11.1.32 §771. Rape in the third degree;
11.1.33 §772. Rape in the second degree;
11.1.34 §773. Rape in the first degree;
11.1.35 §774. Sexual extortion;
11.1.36 §776. Continuous sexual abuse of a child;
11.1.37 §780. Female genital mutilation;

Kidnapping and Related Offenses
11.1.38 §781. Unlawful imprisonment in the second degree;
11.1.39 §782. Unlawful imprisonment in the first degree;
11.1.40 §783. Kidnapping in the second degree;
11.1.41 §783A. Kidnapping in the first degree;

11.2 Any crime which involves dishonesty or false, fraudulent or aberrant behavior and shall include by way of example and not of limitation the following crimes listed in Title 11 of the Delaware Code Annotated:

Arson and Related Offenses
11.2.1 §801. Arson in the third degree;
11.2.2 §802. Arson in the second degree;
11.2.3 §803. Arson in the first degree;

Criminal Trespass and Burglary
11.2.4 §820. Trespassing with intent to peer or peep into a window or door of another;
11.2.5 §823. Criminal trespass in the first degree;
11.2.6 §824. Burglary in the third degree;
11.2.7 §825. Burglary in the second degree;
11.2.8 §826. Burglary in the first degree;
11.2.9 §828. Possession of burglar’s tools or instruments facilitating theft;

Robbery
11.2.10 §831. Robbery in the second degree;
11.2.11 §832. Robbery in the first degree;
11.2.12 §835. Carjacking in the second degree;
11.2.13 §836. Carjacking in the first degree;

Theft and Related Offenses
11.2.14 §840. Shoplifting; class G felony;
11.2.15 §841. Theft;
11.2.16 §841C Possession or theft of a prescription form or a pad.
11.2.17 §854. Identity theft;
    Forgery and Related Offenses
11.2.18 §861. Forgery; class F felony;
11.2.19 §862. Possession of forgery devices;
    Bribery Not Involving Public Servants
11.2.20 §881. Bribery
11.2.21 §882. Bribe receiving;
    Frauds on Creditors
11.2.22 §891. Defrauding secured creditors;
11.2.23 §892. Fraud in insolvency;
    Other Frauds and Cheats
11.2.24 §900. Issuing a bad check (felony);
11.2.25 §903. Unlawful use of a payment card;
11.2.26 §907A. Criminal impersonation, accident related;
11.2.27 §907B. Criminal impersonation of a police officer, firefighter, emergency medical technician (EMT), paramedic or fire police;
11.2.28 §913. Insurance fraud;
11.2.29 §913A. Health care fraud;
11.2.30 §917. New home construction fraud;

11.3 Any crime which involves misuse or abuse of children or animals and shall include by way of example and not of limitation the following crimes listed in Title 11 of the Delaware Code Annotated:
    Child Welfare; Sexual Offenses, Animal Offenses
11.3.1 §1100A. Dealing in children;
11.3.2 §1101. Abandonment of child;
11.3.3 §1102. Endangering the welfare of a child;
11.3.4 §1105. Crime against a vulnerable adult;
11.3.5 §1106. Unlawfully dealing with a child;
11.3.6 §1107. Endangering children;
11.3.7 §1108. Sexual exploitation of a child;
11.3.8 §1109. Dealing in child pornography;
11.3.9 §1111. Possession of child pornography;
11.3.10 §1112. Sexual offenders; prohibitions from school zones;
11.3.11 §1112A Sexual solicitation of a child;
11.3.12 §1113 Criminal non-support and aggravated criminal non-support;
11.3.13 §1114A. Tongue-splitting;
11.3.14 §1325. Cruelty to animals;
11.3.15 §1320. Animals, fighting and baiting prohibited;

11.4 Any crime which involves offenses against the public order the commission of which may tend to bring discredit upon the profession and which are thus substantially related to one's fitness to practice such profession and shall include by way of example and not of limitation the following crimes listed in Title 11 of the Delaware Code Annotated:
    Bribery and Improper Influence
11.4.1 §1201. Bribery;
11.4.2 §1203. Receiving a bribe;
11.4.3 §1207. Improper influence;
11.4.4 §1211. Official Misconduct;
11.4.5 §1212. Profiteering;
Perjury, Escape and related offenses
11.4.6 §1221. Perjury in the third degree;
11.4.7 §1222. Perjury in the second degree;
11.4.8 §1223. Perjury in the first degree;
11.4.9 §1233. Making a false written statement;
11.4.10 §1239. Wearing a disguise during commission of a felony;
11.4.11 §1240. Terroristic threatening of public officials or public servants;
11.4.12 §1244. Felony hindering prosecution;
11.4.13 §1245. Felony false reporting an incident
11.4.14 §1252. Felony escape;
11.4.15 §1253. Escape after conviction.
11.4.16 §1254. Assault in a detention facility;
11.4.17 §1256. Felony promoting prison contraband;
Offenses Relating to Judicial and Similar Proceedings
11.4.18 §1261. Bribing a witness;
11.4.19 §1262. Bribe receiving by a witness;
11.4.20 §1263. Tampering with a witness;
11.4.21 §1263A. Interfering with child witness;
11.4.22 §1264. Bribing a juror;
11.4.23 §1265. Bribe receiving by a juror;
11.4.24 §1266. Tampering with a juror;
11.4.25 §1267. Misconduct by a juror;
11.4.26 §1269. Tampering with physical evidence.

11.5 Any crime which involves offenses against a public health order and decency which may tend to bring discredit upon the profession, specifically including the below listed crimes from Title 11 of the Delaware Code Annotated which evidence a lack of appropriate concern for the safety and well being of another person or persons in general or sufficiently flawed judgment to call into question the individuals ability to make health care decisions or advise upon health care related matters for other individuals.
Disorderly Conduct and Related Offenses
11.5.1 §1302. Riot;
11.5.2 §1304. Hate crimes;
11.5.3 §1312A. Felony Stalking;
11.6 Any crime which involves the illegal possession or the misuse or abuse of narcotics, or other addictive substances and those non-addictive substances with a substantial capacity to impair reason or judgment and shall include by way of example and not of limitation the following crimes listed in Chapter 47 of Title 16 of the Delaware Code Annotated:

11.6.1 §4798. Misuse of the PMP;
11.6.2 §4752. Drug dealing—Aggravated possession; Class B felony;
11.6.3 §4753. Drug dealing—Aggravated possession; Class C felony;
11.6.4 §4754. Drug dealing—Aggravated possession; Class D felony;
11.6.5 §4758. Unlawful dealing in a counterfeit or purported controlled substance;
11.6.6 §4756 Drug dealing—Aggravated possession; Class F felony;
11.6.7 §4757 Miscellaneous drug crimes; Class B, C, and F Felonies;
11.6.8 §4774. Drug paraphernalia;
11.7 Any crime which involves the misuse or illegal possession or sale of a deadly weapon or dangerous instrument and shall include by way of example and not of limitation the following crimes listed in Title 11 of the Delaware Code Annotated:

Offenses Involving Deadly Weapons and Dangerous Instruments
11.7.1 §1442. Carrying a concealed deadly weapon;
11.7.2 §1445. Felony unlawfully dealing with a dangerous weapon;
11.7.3 §1447. Possession of a deadly weapon during commission of a felony;
11.7.4 §1447A. Possession of a firearm during commission of a felony;
11.7.5 §1448. Possession and purchase of deadly weapons by persons prohibited;
11.7.6 §1450. Receiving a stolen firearm;
11.7.7 §1451. Theft of a firearm;
11.7.8 §1454. Giving a firearm to person prohibited;
11.7.9 §1455. Engaging in a firearms transaction on behalf of another;
11.7.10 §1456. Unlawfully permitting a minor access to a firearm;
11.7.11 §1457. Felony Possession of a weapon in a Safe School and Recreation Zone;
11.7.12 §1458. Removing a firearm from the possession of a law enforcement officer;
11.7.13 §1459. Possession of a weapon with a removed, obliterated or altered serial number;
11.7.14 §1471. Prohibited Acts; Offenses Involving Organized Crime and Racketeering
11.7.15 §1504. Criminal Penalties for Organized Crime & Racketeering;
   Offenses Involving Intimidation of Victims or Witnesses
11.7.16 §3533. Aggravated act of intimidation;

11.8 Other Crimes
   Title 16 Health and Safety
   11.8.1 §1136. Abuse or neglect of a patient or resident of a nursing facility;
   Title 23 Navigation and Waters
   11.8.2 §2302. Operation of a vessel or boat while under the influence of intoxicating liquor and/or drugs (felony);
   Title 30 State Taxes
   11.8.3 §571. Attempt to evade or defeat tax; class E felony;
   11.8.4 §572. Failure to collect or pay over tax; class E felony;
   11.8.5 §573. Failure to file return, supply information or pay tax; class A misdemeanor;
   11.8.6 §574. Fraud and false statements; class E felony;
   Title 21 Motor Vehicles
   11.8.7 §4177. Felony Driving a vehicle while under the influence or with a prohibited alcohol content; evidence;
   11.8.8 §4177M. Operating a commercial motor vehicle with a prohibited blood alcohol concentration or while
              impaired by drugs;
   11.8.9 §4202. Felony Duty of driver involved in accident resulting in injury or death to any person; penalty;
   11.8.10 §6704. Receiving or transferring stolen vehicle; penalty;
   Title 12 Descendants’ Estates
   11.8.11 §210. Alteration, Theft or Destruction of Will
   Title 16 Health & Safety
   11.8.12 §2513. Felony Penalties Relating to Improper Health-Care Decisions;
   11.8.13 §7113. Felony Penalties for Violations of Chapter;
   11.8.14 §7416. Penalties for Violating Statute Governing Radiation Control;
   Title 24 Professions and Occupations
   11.8.15 §903. Deadly Weapons Dealers – Sale to Persons under 21 or Intoxicated Persons,
   Title 31 Welfare
   11.8.16 §3913. Felony Violations – Knowing or Reckless Abuse of an Adult Who Is Impaired.

11.9 Any crime which is a violation of either Title 24, Chapter 11 (Board of Dental Examiners) as it may be amended
from time to time or of any other statute which requires the reporting of a medical/dental situation or condition
state, federal or local authorities or a crime which constitutes a violation of the dental or hygiene practice act
of the state in which the conviction occurred or in which the dentist or dental hygienist is licensed.

11.10 The Board reserves the jurisdiction and authority to modify this regulation as and if it becomes necessary to
either add or delete crimes including such additions as may be required on an emergency basis under 29
Del.C. §10119 to address imminent peril to the public health, safety or welfare.

9 DE Reg. 77 (07/01/05)
14 DE Reg. 1239 (05/01/11)
12.0 Unprofessional Conduct

12.1 Dentists and dental hygienists whose behavior fails to conform to legal and accepted standards of the profession and who thus may adversely affect the health and welfare of the public may be found guilty of unprofessional conduct.

12.2 Unprofessional conduct shall include but is not limited to the following:

12.2.1 Performing acts beyond the authorized scope of the level of dental/dental hygiene practice for which the individual is licensed.

12.2.2 Assuming duties and responsibilities within the practice of dentistry or dental hygiene without adequate preparation, or without maintenance of competency.

12.2.3 Performing new techniques and/or procedures without education and practice.

12.2.4 Inaccurately and willfully recording, falsifying or altering a patient or agency document record related to patient care, employment, or licensure.

12.2.5 Committing or threatening violence, verbal or physical abuse of patients or co-workers or the public.

12.2.6 Violating professional boundaries of the dentist/hygienist-patient relationship including but not limited to physical, sexual, emotional or financial exploitation of the patient or patient's significant other(s).

12.2.7 Engaging in sexual conduct with a patient, touching a patient in a sexual manner, requesting or offering sexual favors, or language or behavior suggestive of the same.

12.2.8 Assigning unlicensed persons to perform the practice of licensed dentists/hygienists.

12.2.9 Delegating dental practice to unqualified persons.

12.2.10 Failing to supervise persons to whom dental/hygiene practice has been delegated.

12.2.11 Leaving a patent assignment except in documented emergency situations.

12.2.12 Failing to safeguard a patient's dignity and right to privacy in providing services.

12.2.13 Violating the confidentiality of information concerning a patient.

12.2.14 Failing to take appropriate action to safeguard a patient from incompetent, unethical or illegal health care practice.

12.2.15 Practicing dentistry or dental hygiene when unfit to perform procedures and make decisions in accordance with the license held because of physical or mental impairment or dependence on alcohol or drugs.

12.2.16 Diverting or misappropriating monies, drugs, supplies or property of a patient agency or governmental program.

12.2.17 Diverting, possessing, obtaining, supplying or administering prescription drugs to any person, including self, except as directed by a person authorized by law to prescribe drugs.

12.2.18 Practicing dentistry or dental hygiene with an expired license.

12.2.19 Allowing another person to use her/his license or temporary permit.

12.2.20 Aiding, abetting and/or assisting an individual to violate or circumvent any law or duly promulgated rule and regulation intended to guide the conduct of a dentist, dental hygienist, or other health care provider.

12.2.21 Committing fraud, misrepresentation or deceit in taking the licensure exam, or in obtaining a license or temporary permit.

12.2.22 Disclosing the contents of the licensing examination or soliciting, accepting or compiling information regarding the examination before, during or after its administration.

12.2.23 Failing to report unprofessional conduct by another licensee.

12.2.24 Practicing or holding oneself out as a dentist or dental hygienist without a current license.

12.2.25 Failing to comply with the requirements for continuing professional education, unless exempt.

12.2.26 Failing to take appropriate action or to follow policies and procedures in the practice situation designed to safeguard the patient.

12.2.27 Failing to comply with the terms and conditions set out in a disciplinary action of the Board.
12.2.28 Knowingly making or receiving any payment to another dentist, dental hygienist, or employee of a dental office or to divide or split any fee received for professional services for directly bringing or referring a patient. Furthermore, a corporation cannot be established to evade the above regulation.

12.3 Licensees must provide the Division of Professional Regulation with their current home mailing address. Any change in home mailing address must be reported to the Division within ten days of such change. All notifications and correspondence pertaining to a dentist or dental hygienist's license that are sent through the mail will be sent only to the most recent address provided by the licensee. The failure to provide the Division with a current home mailing address will not operate to excuse any duty or responsibility of the licensee and confirmed delivery to the most recent address provided by the licensee will be considered proper notice.

17 DE Reg. 862 (02/C/14)
20 DE Reg. 851 (02/C/17)
21 DE Reg. 642 (02/C/18)

13.0 Telehealth

13.1 Telehealth is the use of electronic communications to provide and deliver a host of health-related information and health-care services, including dentistry and dental hygiene-related information and services, over large and small distances. Telehealth encompasses a variety of health care and health promotion activities, including education, advice, reminders, interventions, and monitoring of interventions.

13.2 In order to deliver Telehealth services one must hold a current, valid license issued by the Board.

13.3 Licensees understand that this rule does not provide licensees with authority to deliver Telehealth Services to anyone located in a jurisdiction other than Delaware, and licensees bear responsibility for complying with laws, rules, and/or policies for the delivery of Telehealth Services set forth by other jurisdictional regulatory boards.

13.4 Licensees delivering Telehealth services shall comply with all of the rules of professional conduct and state and federal statutes relevant to Dentistry and Dental Hygiene.

13.5 Informed consent

13.5.1 Before services are provided through telehealth, the licensee shall obtain written, informed consent from the patient, or other appropriate person with authority to make health care treatment decisions for the patient. At minimum, the informed consent shall inform the patient and document acknowledgement of the risk and limitations of:

13.5.1.1 The use of electronic communications in the provision of care;

13.5.1.2 The potential breach of confidentiality, or inadvertent access, of protected health information using electronic communication in the provision of care; and

13.5.1.3 The potential disruption of electronic communication in the use of telehealth.

13.6 Confidentiality: The licensee shall ensure that the electronic communication is secure to maintain confidentiality of the patient's medical information as required by the Health Insurance Portability and Accountability Act (HIPAA) and other applicable Federal and State laws. Confidentiality shall be maintained through appropriate processes, practices and technology, including disposal of electronic equipment and data.

13.7 Competence and scope of practice

13.7.1 The licensee shall be responsible for determining and documenting that telehealth is an appropriate level of care for the patient.

13.7.2 The licensee shall comply with the Board's law and rules and regulations and all current standards of care requirements applicable to onsite care.

13.7.3 The licensee shall limit the practice of telehealth to the area of competence in which proficiency has been gained through education, training and experience.

13.7.4 The licensee shall document in the file or record which services were provided by telehealth.

1 DE Reg. 852 (01/01/98)
5 DE Reg. 1251 (12/01/01)
9 DE Reg. 77 (07/01/05)
9 DE Reg. 1583 (04/01/06)
14 DE Reg. 1239 (05/31/11)
15 DE Reg. 1183 (02/01/12)
15 DE Reg. 1359 (03/01/12)
15 DE Reg. 1621 (05/01/12)
16 DE Reg. 328 (09/01/12)
16 DE Reg. 881 (02/01/13)
17 DE Reg. 862 (02/01/14)
18 DE Reg. 399 (11/01/14)
19 DE Reg. 431 (11/01/15)
20 DE Reg. 651 (02/01/17)
21 DE Reg. 337 (10/01/17)
21 DE Reg. 642 (02/01/18)
TITLE 24

Professions and Occupations

CHAPTER 11. Dentistry and Dental Hygiene

Subchapter I. State Board of Dentistry and Dental Hygiene

§ 1100 Objectives.
The primary objective of the State Board of Dentistry and Dental Hygiene, to which all other objectives and purposes are secondary, is to protect the general public, specifically those persons who are the direct recipients of services regulated by this chapter, from unsafe and unprofessional practices.

The secondary objectives of the Board are to maintain minimum standards of practitioner competency and to maintain certain standards in the delivery of services to the public. In meeting its objectives, the Board shall develop standards assuring professional competence; shall monitor complaints brought against practitioners regulated by the Board; shall adjudicate at formal hearings; shall promulgate rules and regulations; and shall impose sanctions where necessary against licensees or former licensees.

71 Del. Laws, c. 31, § 1; 77 Del. Laws, c. 463, § 3;

§ 1101 Definitions [Effective until Jan. 1, 2021].
The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them under this section except where the context clearly indicates a different meaning:

(1) “Academic license” means a license issued under § 1132A of this title to a full-time director, chairperson, or attending faculty member of a hospital based dental, oral and maxillofacial surgery or other specialty dental residency program for the purposes of teaching.

(2) “Board” shall mean the State Board of Dentistry and Dental Hygiene established in this chapter.

(3) “Dental assistant” shall mean any person not licensed to practice dentistry and/or dental hygiene in this State, who aids a dentist in the performance of generalized tasks, including chair-side aid, clerical work, reception, radiography, dental laboratory work, and any other such tasks delegated by the dentist.

(4) “Dental auxiliary personnel” shall mean any person not licensed to practice dentistry in this State, who works in a dental office as either a dental assistant, dental hygienist, dental technician, or otherwise.

(5) “Dental hygienist” shall mean a person who is qualified to practice dental hygiene as prescribed in this chapter.

(6) “Dental technician” shall mean any person not licensed to practice dentistry in this State, engaged in the business of constructing, altering, repairing or duplicating full dentures (“plates”), partial dentures, splints, orthodontic appliances, fixed bridges or any other prosthetic appliances.

(7) “Dentist” shall mean a person who is qualified to practice dentistry as prescribed in the chapter.

(8) “Distant site” means a site at which a health-care provider legally allowed to practice in the State is located while providing health-care services by means of telemedicine or telehealth.
(9) “Division” shall mean the State Division of Professional Regulation.

(10) “Excessive use or abuse of drugs” shall mean any use of narcotics, controlled substances or illegal drugs without a prescription from a licensed individual with valid prescriptive authority or the abuse of alcoholic beverage or prescription or nonprescription drugs, such that it impairs a person’s ability to perform the work of a dentist or dental hygienist.

(11) “Originating site” means a site in Delaware at which a patient is located at the time health-care services are provided to him or her by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(12) “Person” shall mean a corporation, company, association or partnership, as well as an individual.

(13) “Practice of dental hygiene” shall mean the removal of calculus deposits, plaque and stains from all surfaces of the teeth, and making instrumental examinations of the oral cavity, and assembling all necessary information for use by the dentist in diagnosis and treatment planning, and the performance of such prophylactic or preventive measures in the case of teeth, including the application of chemicals to the teeth and periodontal tissues, designed and approved for the prevention of dental caries and/or periodontal disease, as the Board may authorize; but the “practice of dental hygiene” shall not include any other operation on the teeth or tissues of the mouth.

(14) “Practice of dentistry” is defined as the evaluation, diagnosis, prevention and/or treatment (nonsurgical, surgical or related procedures) of diseases, disorders and/or conditions of the oral cavity, maxillofacial area and/or the adjacent and associated structures and their impact on the human body provided by a dentist within the scope of the dentist’s education, training and experience, in accordance with the ethics of the profession and applicable law. The practice includes the use of telemedicine and may also include participation in telehealth as further defined in regulation. A person shall be construed to practice dentistry who by verbal claim, sign, advertisement, opening of an office, or in any other way, including use of the word’s “dentist,” “dental surgeon,” the letters “D.D.S.,” “D.M.D.,” or other letters or titles, represents the person to be a dentist or who holds himself or herself out as able to perform, or who does perform, dental services or work. A person shall be regarded as practicing dentistry who is a manager, proprietor, operator or conductor of a place for performing dental operations or who for a fee, salary or other reward paid, or to be paid either to himself or herself or to another person, performs or advertises to perform dental operations of any kind.

(15) “State” shall mean the State of Delaware.

(16) “Store and forward transfer” means the transmission of a patient’s medical information either to or from an originating site or to or from the provider at the distant site, but does not require the patient being present nor must it be in real time.

(17) “Substantially related” means the nature of the criminal conduct, for which the person was convicted, has a direct bearing on the fitness or ability to perform one or more of the duties or responsibilities necessarily related to the practice of dentistry or dental hygiene.

(18) “Telehealth” means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation.

(19) “Telemedicine” means a form of telehealth which is the delivery of clinical health-care services by means of real time 2-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support health-care delivery, which facilitate the assessment, diagnosis, consultation,
treatment, education, care management and self-management of a patient's health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation.


§ 1101 Definitions [Effective Jan. 1, 2021].

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them under this section except where the context clearly indicates a different meaning:

(1) “Academic license” means a license issued under § 1132A of this title to a full-time director, chairperson, or attending faculty member of a hospital based dental, oral and maxillofacial surgery or other specialty dental residency program for the purposes of teaching.

(2) “Board” shall mean the State Board of Dentistry and Dental Hygiene established in this chapter.

(3) “Dental assistant” shall mean any person not licensed to practice dentistry and/or dental hygiene in this State, who aids a dentist in the performance of generalized tasks, including chair-side aid, clerical work, reception, radiography, dental laboratory work, and any other such tasks delegated by the dentist.

(4) “Dental auxiliary personnel” shall mean any person not licensed to practice dentistry in this State, who works in a dental office as either a dental assistant, dental hygienist, dental technician, or otherwise.

(5) “Dental hygienist” shall mean a person who is qualified to practice dental hygiene as prescribed in this chapter.

(6) “Dental technician” shall mean any person not licensed to practice dentistry in this State, engaged in the business of constructing, altering, repairing or duplicating full dentures (“plates”), partial dentures, splints, orthodontic appliances, fixed bridges or any other prosthetic appliances.

(7) “Dentist” shall mean a person who is qualified to practice dentistry as prescribed in the chapter.

(8) “Distant site” means a site at which a health-care provider legally allowed to practice in the State is located while providing health-care services by means of telemedicine or telehealth.

(9) “Division” shall mean the State Division of Professional Regulation.

(10) “Electronic prescription” means a prescription that is generated on an electronic application and transmitted as an electronic data file.

(11) “Excessive use or abuse of drugs” shall mean any use of narcotics, controlled substances or illegal drugs without a prescription from a licensed individual with valid prescriptive authority or the abuse of alcoholic beverage or prescription or nonprescription drugs, such that it impairs a person's ability to perform the work of a dentist or dental hygienist.

(12) “Originating site” means a site in Delaware at which a patient is located at the time health-care services are provided to him or her by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(13) “Person” shall mean a corporation, company, association or partnership, as well as an individual.

(14) “Practice of dental hygiene” shall mean the removal of calculus deposits, plaque and stains from all surfaces of the teeth, and making instrumental examinations of the oral cavity, and assembling all necessary information for use by the dentist in diagnosis and treatment planning, and the performance of such prophylactic or preventive measures in the case of teeth, including the application of chemicals
to the teeth and periodontal tissues, designed and approved for the prevention of dental caries and/or periodontal disease, as the Board may authorize; but the “practice of dental hygiene” shall not include any other operation on the teeth or tissues of the mouth.

(15) “Practice of dentistry” is defined as the evaluation, diagnosis, prevention and/or treatment (nonsurgical, surgical or related procedures) of diseases, disorders and/or conditions of the oral cavity, maxillofacial area and/or the adjacent and associated structures and their impact on the human body provided by a dentist within the scope of the dentist’s education, training and experience, in accordance with the ethics of the profession and applicable law. The practice includes the use of telemedicine and may also include participation in telehealth as further defined in regulation. A person shall be construed to practice dentistry who by verbal claim, sign, advertisement, opening of an office, or in any other way, including use of the words “dentist,” “dental surgeon,” the letters “D.D.S.,” “D.M.D.,” or other letters or titles, represents the person to be a dentist or who holds himself or herself out as able to perform, or who does perform, dental services or work. A person shall be regarded as practicing dentistry who is a manager, proprietor, operator or conductor of a place for performing dental operations or who for a fee, salary or other reward paid, or to be paid either to himself or herself or to another person, performs or advertises to perform dental operations of any kind.

(16) “State” shall mean the State of Delaware.

(17) “Store and forward transfer” means the transmission of a patient’s medical information either to or from an originating site or to or from the provider at the distant site, but does not require the patient being present nor must it be in real time.

(18) “Substantially related” means the nature of the criminal conduct, for which the person was convicted, has a direct bearing on the fitness or ability to perform or more of the duties or responsibilities necessarily related to the practice of dentistry or dental hygiene.

(19) “Telehealth” means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation.

(20) “Telemicine” means a form of telehealth which is the delivery of clinical health-care services by means of real time 2-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support health-care delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient’s health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation.

73 Del. Laws, c. 332, § 3; 70 Del. Laws, c. 186, § 1; 74 Del. Laws, c. 262, § 20; 75 Del. Laws, c. 436, § 8; 77 Del. Laws, c. 463, §§ 1, 2, 3; 79 Del. Laws, c. 261, § 1; 80 Del. Laws, c. 80, § 9; 81 Del. Laws, c. 79, § 37; 82 Del. Laws, c. 75, § 2.;

§ 1102 State Board of Dentistry and Dental Hygiene; appointments; qualifications; term; vacancies; suspension or removal; unexcused absences; compensation.

(a) There is created a State Board of Dentistry and Dental Hygiene which shall administer and enforce this chapter.

(b) The Board shall consist of 9 members, appointed by the Governor, who are residents of this State, 5 of whom shall be dentists licensed under this chapter and who have been actively practicing dentistry in this State for a period of 5 years immediately preceding appointment to the Board; 1 member shall be a dental hygienist who has been actively practicing dental hygiene in this State for a period of 5 years immediately preceding appointment to the Board; and 3 public members who shall have been residents of this State for a period of 5 years immediately preceding appointment to the Board. The public members shall not be, nor
ever have been, dentists or dental hygienists, nor members of the immediate family of a dentist or dental hygienist; shall not have been employed by a dentist; and shall not have a material interest in the providing of goods and services to dentists or dental hygienists, nor have been engaged in an activity directly related to dentistry or dental hygiene. The public members shall be accessible to inquiries, comments and suggestions from the general public. No public member shall have been licensed in any health related field or be licensed to practice law. No person shall be eligible for appointment to the Board who is in any manner connected with or interested in any dental college or the dental department of any college or university or the dental supply business.

(c) Except as provided in subsection (d) of this section, each member shall serve a term of 3 years, and may succeed himself or herself for 1 additional term; provided, however, that where a member was initially appointed to fill a vacancy, such member may succeed himself or herself for only 1 additional full term. Any person appointed to fill a vacancy on the Board shall hold office for the remainder of the unexpired term of the former member. Each term of office shall expire on the date specified in the appointment; however, the Board member shall remain eligible to participate in Board proceedings unless and until replaced by the Governor.

(d) A person who has never served on the Board may be appointed to the Board for 2 consecutive terms; but, no such person shall thereafter be eligible for 2 consecutive appointments. No person who has been twice appointed to the Board or who has served on the Board for 6 years within any 9-year period shall again be appointed to the Board until an interim period of at least 1 year has expired since such person last served.

(e) Any act or vote by a person appointed in violation of this section shall be invalid. An amendment or revision of this chapter is not sufficient cause for any appointment or attempted appointment in violation of subsection (d) of this section, unless such an amendment or revision amends this section to permit such an appointment.

(f) A member of the Board shall be suspended or removed by the Governor for misfeasance, nonfeasance, malfeasance, misconduct, incompetency or neglect of duty. A member subject to disciplinary hearing shall be disqualified from Board business until the charge is adjudicated or otherwise concluded. A Board member may appeal any suspension or removal to the Superior Court.

(g) No member of the Board, while serving on the Board, shall hold elective office in any professional association of dentists or dental hygienists, including the Delaware State Dental Society and the Delaware Dental Hygienists’ Association.

(h) The provisions set forth for “employees” in Chapter 58 of Title 29 shall apply to all members of the Board.

(i) Any member who is absent without adequate reason for 3 consecutive meetings or fails to attend at least ½ of all regular business meetings during any calendar year shall be guilty of neglect of duty.

(j) Each member of the Board shall be reimbursed for all expenses involved in each meeting, including travel; and in addition, shall receive compensation per meeting attended in an amount determined by the Division in accordance with Del. Const. art. III, § 9.

(k) A dentist and a dental hygienist from the same practice, or 2 dentists from the same practice, or 2 dental hygienists from the same practice, may not serve on the Board or the Dental Hygiene Advisory Committee at the same time.


§ 1103 Organization; meetings; officers; quorum.
(a) The Board shall hold regularly scheduled business meetings at least once in each quarter of a calendar year and at such times as the President deems necessary, or at the request of a majority of the Board members.

(b) The Board annually shall elect a President and Secretary. Each officer shall serve for 1 year and shall not succeed himself or herself for more than 2 consecutive terms.

(c) A majority of the members shall constitute a quorum for the purpose of transacting business. No disciplinary action shall be taken without the affirmative vote of 5 members of the Board.

(d) When members of the Dental Hygiene Advisory Committee participate in voting on matters listed in § 1105(c)(1)-(5) of this title, the Board composition shall be 12 voting members, so that 7 members shall constitute a quorum.

(e) Minutes of all meetings shall be recorded and copies shall be maintained by the Division of Professional Regulation. At any hearing where evidence is presented, a record from which a verbatim transcript can be prepared shall be made. The expense of preparing any transcript shall be incurred by the person requesting it.


§ 1104 Records.

The Division of Professional Regulation shall keep a register of all approved applications for license as a dentist or a dental hygienist and complete records relating to meetings of the Board, examinations, rosters, changes and additions to the Board’s rules and regulations, complaints, hearings and such other matters as the Board shall determine. Such records shall be prima facie evidence of the proceedings of the Board.


§ 1105 Dental Hygiene Advisory Committee [Effective until Jan. 1, 2021].

(a) There is created a State Dental Hygiene Advisory Committee which shall serve the Board on matters pertaining to the policy and practice of dental hygiene.

(b) The Committee shall consist of 3 licensed dental hygienists, appointed by the Governor, who are residents of this State and who have been actively practicing dental hygiene in this State for 2 years immediately preceding appointment to the Committee.

(1) No person shall be eligible for appointment to the Committee who is in any manner connected with or who has an interest in any dental hygiene college or the dental hygiene department of any college or university or any commercial dental enterprise.

(2) Each member shall serve a term of 3 years and remain eligible to participate in proceedings unless and until replaced by the Governor.

(3) All terms shall be staggered so that 1 new member is added and 1 member is retired each year.

(4) A member of the Committee shall be suspended or removed by the Governor for misfeasance, nonfeasance, malfeasance, misconduct, incompetency or neglect of duty.

(5) No member of the Committee shall hold elective office in any professional association of dental hygienists.

(6) Each member of the Committee shall be reimbursed, according to the policy of the Division of Professional Regulation, for all expenses involved in each meeting, including travel; and in addition, shall receive $50 for each meeting attended but not more than $500 in any calendar year. After 10
meetings have been attended, the member shall not be compensated for any subsequent meetings
attended in that year.

(7) No 2 dental hygienists from the same practice may serve on the Advisory Committee at the same
time.

(c) The Committee shall participate with members of the Board in:
    (1) Voting on the qualifications of candidates who apply for licensure to practice dental hygiene;
    (2) Voting on the composition of the state dental hygiene clinical/practical examination;
    (3) Voting on the requirements for renewal of dental hygiene licenses;
    (4) Voting on disciplinary actions involving hygienists; and
    (5) Voting on other matters involving the policy and practice of dental hygiene as defined in § 1101(13)
of this title and further defined in the Board's rules and regulations. The Committee shall not vote on
matters involving changing the scope of practice as defined in § 1101(13) of this title.

65 Del. Laws, c. 210, § 16; 71 Del. Laws, c. 31, § 1; 73 Del. Laws, c. 332, § 3; 77 Del. Laws, c. 463, §§ 6-8; 79
Del. Laws, c. 261, § 1; 80 Del. Laws, c. 80, § 9.;

§ 1105 Dental Hygiene Advisory Committee [Effective Jan. 1, 2021].

(a) There is created a State Dental Hygiene Advisory Committee which shall serve the Board on matters
pertaining to the policy and practice of dental hygiene.

(b) The Committee shall consist of 3 licensed dental hygienists, appointed by the Governor, who are
residents of this State and who have been actively practicing dental hygiene in this State for 2 years
immediately preceding appointment to the Committee.

    (1) No person shall be eligible for appointment to the Committee who is in any manner connected with
or who has an interest in any dental hygiene college or the dental hygiene department of any college or
university or any commercial dental enterprise.

    (2) Each member shall serve a term of 3 years and remain eligible to participate in proceedings unless
and until replaced by the Governor.

    (3) All terms shall be staggered so that 1 new member is added and 1 member is retired each year.

    (4) A member of the Committee shall be suspended or removed by the Governor for misfeasance,
nonfeasance, malfeasance, misconduct, incompetency or neglect of duty.

    (5) No member of the Committee shall hold elective office in any professional association of dental
hygienists.

    (6) Each member of the Committee shall be reimbursed, according to the policy of the Division of
Professional Regulation, for all expenses involved in each meeting, including travel; and in addition,
shall receive $50 for each meeting attended but not more than $500 in any calendar year. After 10
meetings have been attended, the member shall not be compensated for any subsequent meetings
attended in that year.

    (7) No 2 dental hygienists from the same practice may serve on the Advisory Committee at the same
time.

(c) The Committee shall participate with members of the Board in:

    (1) Voting on the qualifications of candidates who apply for licensure to practice dental hygiene;
    (2) Voting on the composition of the state dental hygiene clinical/practical examination;
    (3) Voting on the requirements for renewal of dental hygiene licenses;
(4) Voting on disciplinary actions involving hygienists; and

(5) Voting on other matters involving the policy and practice of dental hygiene as defined in § 1101(14) of this title and further defined in the Board's rules and regulations. The Committee shall not vote on matters involving changing the scope of practice as defined in § 1101(14) of this title.

65 Del. Laws, c. 210, § 16; 71 Del. Laws, c. 31, § 1; 73 Del. Laws, c. 332, § 3; 77 Del. Laws, c. 463, §§ 6-8; 79 Del. Laws, c. 261, § 1; 80 Del. Laws, c. 80, § 9; 82 Del. Laws, c. 75, § 2;

§ 1106 Powers and duties of the Board.

(a) The State Board of Dentistry and Dental Hygiene shall have authority to:

(1) Formulate rules and regulations, with appropriate notice to those affected; all rules and regulations shall be promulgated in accordance with the procedures specified in the Administrative Procedures Act [Chapter 101 of Title 29] of this State. Each rule or regulation shall implement or clarify a specific section of this chapter;

(2) Designate the application form to be used by all applicants, and to process all applications;

(3) Examine candidates for licensure subject to § 8735(d)(5) of Title 29;

a. Designate the written, standardized examination administered by the National Board of Dental Examiners to be taken by all persons applying for licensure;

b. Prepare and administer a practical examination in dentistry and dental hygiene;

b. Designate a written jurisprudence examination on the Delaware laws pertaining to dentistry to be taken by all persons applying for licensure;

(4) Provide for the administration of all applicable examinations, including notice and information to applicants;

(5) Evaluate the credentials of all persons applying for a license to practice dentistry and dental hygiene in order to determine whether such persons meet the qualifications for licensing set forth in this chapter;

(6) Grant licenses to and renew licenses of all persons who meet the qualifications for licensure and/or renewal of licenses;

(7) Establish by rule and regulation continuing education standards required for license renewal for dentists and dental hygienists;

(8) Evaluate certified records to determine whether an applicant for licensure who has been previously licensed, certified or registered in another jurisdiction to practice dentistry or dental hygiene has engaged in any act or offense that would be grounds for disciplinary action under this chapter and whether there are disciplinary proceedings or unresolved complaints pending against such applicants for such acts or offenses;

(9) Refer all complaints from licensees and the public concerning licensed dentists and dental hygienists or concerning practices of the Board or of the profession to the Division of Professional Regulation for investigation pursuant to § 8735 of Title 29 and assign a member of the Board to assist the Division in an advisory capacity with the investigation of the technical aspects of the complaint;

(10) Conduct hearings and issue orders in accordance with procedures established pursuant to this chapter, Chapter 101 of Title 29 and § 8735 of Title 29. Where such provisions conflict with the provisions of this chapter, this chapter shall govern. The Board shall determine whether or not a dentist or dental hygienist shall be subject to a disciplinary hearing and, if so, shall conduct such hearing in accordance with this chapter and the Administrative Procedures Act [Chapter 101 of Title 29];

(11) Where it has been determined after a disciplinary hearing that penalties or sanctions should be imposed, to designate and impose the appropriate sanction or penalty after time for appeal has lapsed;
(12) Working in conjunction with the Board of Directors of the Delaware Institute of Dental Education and Research, develop programs to encourage and allow dentists to practice in under-served areas of the State, as designated by the Delaware Health Care Commission, in lieu of hospital-based residency training as a condition of licensure;

(13) Issue a volunteer license to an individual who is duly licensed as a dentist or dental hygienist in this State or to any individual who has ever been so licensed provided proof of continued competence is provided to the satisfaction of the Board. Such individuals shall certify on the license application that the individual will perform no dental or dental hygiene services for any direct compensation and that the individual volunteers his or her time exclusively in a nonprofit dental clinic or nonprofit dental service designated by the Delaware Health Care Commission and approved by the Delaware State Board of Dentistry and Dental Hygiene. A volunteer license shall be issued at no charge to a qualified individual approved by the Board. All other costs associated with meeting the requirements for such license will remain the responsibility of the applicant. The applicant for a volunteer license shall be responsible for completing the continuing education required for an active Delaware licensee by the Board and shall adhere to all standards of practice and supervision required of a Delaware licensed dentist or dental hygienist. Any dentist or dental hygienist having a volunteer license shall not practice dentistry or dental hygiene in this State in any setting other than in an approved nonprofit dental clinic or nonprofit dental service.

(14) Define 3 levels of supervision by rule and regulation.

(15) Establish by rule and regulation the requirement to and standards for permits that authorize dentist to administer anesthetic agents.

(16) Issue subpoenas requiring the production of and receive information regarding changes in hospital privileges as a result of disciplinary or other adverse action taken by a hospital, or regarding disciplinary or other adverse action taken by a dental society against any person certified under this chapter to practice dentistry or dental hygiene.

(b) The State Board of Dentistry and Dental Hygiene shall promulgate regulations specifically identifying those crimes which are substantially related to the practice of dentistry and dental hygiene.


§§ 1107-1110 [Reserved.]
Editor's note: This title 12 was repealed and reenacted, with relocations, in 2019, resulting in the addition, relocation, or elimination of sections as well as subject matter. For amendments to this title 12 prior to 2019, consult the 2018 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in Title 12, 2019 Colorado Revised Statutes. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this title 12, see the comparative tables located in the back of the index or https://leg.colorado.gov/sites/default/files/images/olls/title-12-2019-comparative-table.pdf

Cross references: For practicing a profession or operating a business without a license, see § 16-13-306; for rule-making procedures and license suspension and revocation procedures by state agencies, see article 4 of title 24; for an alternative disciplinary action for persons licensed, registered, or certified pursuant to this title 12, see § 24-34-106; for disposition of money collected under this title 12, see §§ 24-35-101 and 24-36-103.

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PART 1

GENERAL PROVISIONS

12-220-101. Short title. The short title of this article 220 is the "Dental Practice Act".


Editor's note: This section is similar to former § 12-35-101 as it existed prior to 2019.

12-220-102. Legislative declaration. The practice of dentistry and dental hygiene in this state is declared to affect the public health, safety, and welfare and to be subject to regulation and control in the public interest. It is further declared to be a matter of public interest and concern that the dental profession merit and receive the confidence of the public and that only qualified dentists and dental hygienists be permitted to practice dentistry or dental hygiene in this state. It is the purpose of this article 220 to promote the public health, safety, and welfare by regulating the practice of dentistry and dental hygiene and to ensure that no one shall practice dentistry or dental hygiene without qualifying under this article 220. The provisions of this article 220 relating to licensure by credentials are not intended to reduce competition or restrain trade with respect to the oral health needs of the public. All provisions of this article 220 relating to the practice of dentistry and dental hygiene shall be liberally construed to carry out these objects and purposes.


Editor's note: This section is similar to former § 12-35-102 as it existed prior to 2019.

12-220-103. Applicability of common provisions. Articles 1, 20, and 30 of this title 12 apply, according to their terms, to this article 220.

12-220-104. Definitions - rules. As used in this article 220, unless the context otherwise requires:

1. "Accredited" means a program that is nationally recognized for specialized accrediting for dental, dental hygiene, and dental auxiliary programs by the United States department of education.

2. "Board" means the Colorado dental board created in section 12-220-105.

3. "Dental assistant" means any person not a dentist or dental hygienist licensed in Colorado who may be assigned or delegated to perform dental tasks or procedures as authorized by this article 220 or by rules of the board.

4. "Dental hygiene" means the delivery of preventive, educational, and clinical services supporting total health for the control of oral disease and the promotion of oral health provided by a dental hygienist within the scope of his or her education, training, and experience and in accordance with applicable law.

5. "Dental hygiene diagnosis" means the identification of an existing oral health problem that a dental hygienist is qualified and licensed to treat within the scope of dental hygiene practice. The dental hygiene diagnosis focuses on behavioral risks and physical conditions that are related to oral health. A dentist shall confirm any dental hygiene diagnosis that requires treatment that is outside the scope of dental hygiene practice pursuant to sections 12-220-122, 12-220-123, and 12-220-127.

6. "Dentistry" means the evaluation, diagnosis, prevention, or treatment, including nonsurgical, surgical, or related procedures, of diseases, disorders, or conditions of the oral cavity, maxillofacial area, or the adjacent and associated structures and the impact of the disease, disorder, or condition on the human body so long as a dentist is practicing within the scope of his or her education, training, and experience and in accordance with applicable law.

7. (a) "Direct supervision" means the supervision of those tasks or procedures that do not require the presence of the dentist in the room where performed but require the dentist's presence on the premises and availability for prompt consultation and treatment.

(b) For purposes of this subsection (7) only, "premises" means within the same building, dental office, or treatment facility and within close enough proximity to respond in a timely manner to an emergency or the need for assistance.

8. "Independent advertising or marketing agent" means a person, firm, association, or corporation that performs advertising or other marketing services on behalf of licensed dentists, including referrals of patients to licensees resulting from patient-initiated responses to the advertising or marketing services.

9. (a) "Indirect supervision" means the supervision of those tasks or procedures that do not require the presence of the dentist in the office or on the premises at the time the tasks or procedures are being performed, but do require that the tasks be performed with the prior knowledge and consent of the dentist.

(b) For purposes of this subsection (9) only, "premises" means within the same building, dental office, or treatment facility and within close enough proximity to respond in a timely manner to an emergency or the need for assistance.
(10) (a) "Interim therapeutic restoration" or "ITR" means a direct provisional restoration placed to stabilize a tooth until a licensed dentist can assess the need for further definitive treatment.

(b) (I) "Interim therapeutic restoration" involves the removal of soft material using hand instrumentation, without the use of rotary instrumentation, and the subsequent placement of a glass ionomer restoration.

(II) The board may promulgate rules regarding the use of new restorative materials in addition to the materials described in subsection (10)(b)(I) of this section that are appropriate to the interim therapeutic restoration procedure as they become available.

(c) "Interim therapeutic restoration" includes protective restoration for adults delivered in accordance with section 12-220-128.

(11) "Laboratory work order" means the written instructions of a dentist licensed in Colorado authorizing another person to construct, reproduce, or repair any prosthetic denture, bridge, appliance, or other structure to function in the oral cavity, maxillofacial area, or adjacent and associated regions.

(12) "License" has the meaning specified in section 12-20-102(9) and includes an academic license to practice dentistry pursuant to section 12-220-116. A license is a privilege personal to the licensee, and the board may revoke, suspend, or impose disciplinary conditions on the license for a violation of this article 220.

(13) "Proprietor" includes any person who:

(a) Employs dentists, dental hygienists, or dental assistants in the operation of a dental office, except as provided in sections 12-220-110 and 12-220-127;

(b) Places in possession of a dentist, dental hygienist, dental assistant, or other agent dental material or equipment that may be necessary for the management of a dental office on the basis of a lease or any other agreement for compensation for the use of the material, equipment, or offices; or

(c) Retains the ownership or control of dental equipment or material or a dental office and makes the same available in any manner for use by dentists, dental hygienists, dental assistants, or other agents; except that nothing in this subsection (13)(c) shall apply to bona fide sales of dental equipment or material secured by a chattel mortgage or retain-title agreement or to the loan of articulators.

(14) "Telehealth by store-and-forward transfer" means an asynchronous transmission of medical or dental information to be reviewed by a dentist at a later time at a distant site without the patient present in real time.

(15) "Telehealth supervision" means indirect supervision by a dentist of a dental hygienist performing a statutorily authorized procedure using telecommunications systems.


Editor's note: This section is similar to former § 12-35-103 as it existed prior to 2019.
state and to carry out the purposes of this article 220. The board is subject to the supervision and control of the division as provided by section 12-20-103 (2).

(b) The board consists of seven dentist members, three dental hygienist members, and three members from the public at large. The governor shall appoint each member for a term of four years, and each member shall have the qualifications provided in this article 220. No member shall serve more than two consecutive terms of four years. Each board member shall hold office until his or her term expires or until the governor appoints a successor.

(c) In making appointments to the board, the governor shall attempt to create geographical, political, urban, and rural balance among the board members. If a vacancy occurs in any board membership before the expiration of the member's term, the governor shall fill the vacancy by appointment for the remainder of the term in the same manner as in the case of original appointments.

(d) The governor may remove any member of the board for misconduct, incompetence, or neglect of duty.

(2) A person shall be qualified to be appointed to the board if the person:

(a) Is a legal resident of Colorado;

(b) Is currently licensed as a dentist or dental hygienist, if fulfilling that position on the board; and

(c) Has been actively engaged in a clinical practice in this state for at least five years immediately preceding the appointment, if fulfilling the position of dentist or dental hygienist on the board.

(3) The board shall organize annually by electing one of its members as chairperson and one as vice-chairperson. It may adopt such rules for its government as it may deem proper. The board shall meet at least quarterly, and more often if necessary, at such times and places as it may from time to time designate.

(4) A majority of the members of the board shall constitute a quorum for the transaction of business, but if less than a quorum is present on the day appointed for a meeting, those present may adjourn until a quorum is present. Any action taken by a quorum of the assigned panel shall constitute action by the board; except that, for disciplinary matters concerning a dentist, a majority of dentist members is required for a quorum.

(5) (a) Before the repeal of this article 220 pursuant to subsection (5)(b) of this section, all functions of the board are scheduled for review in accordance with section 24-34-104.

(b) This article 220 is repealed, effective September 1, 2025.


Editor's note: Subsection (1) is similar to former § 12-35-104 (1); subsection (2) is similar to former § 12-35-105 (1); subsection (3) is similar to former § 12-35-104 (2); subsection (4) is similar to former § 12-35-106; and subsection (5) is similar to former § 12-35-104 (4), as those sections existed prior to 2019.

12-220-106. Powers and duties of board - rules - limitation on authority. (1) The board shall exercise, in accordance with this article 220, the following powers and duties:

(a) Make, publish, declare, and periodically review reasonable rules pursuant to section 12-20-204, including rules regarding:
(I) The use of lasers for dental and dental hygiene purposes within defined scopes of
practice, subject to appropriate education and training, and with appropriate supervision, as
applicable;

(II) Minimum training, experience, and equipment requirements to obtain an anesthesia
or sedation permit under section 12-220-146;

(III) Criteria and procedures consistent with section 12-220-146 for an office inspection
program to be completed upon application and renewal of sedation and anesthesia permits
pursuant to section 12-220-146;

(IV) A uniform system and schedule of fines pursuant to section 12-220-131 (5)(b);

(V) The granting of temporary licenses, which rules shall include, but not be limited to,
restrictions with respect to effective dates, areas of practice that may be performed, and licensing
fees that may be charged to the applicant;

(b) (I) (A) Conduct hearings in accordance with section 12-20-403 to revoke, suspend, or
deny the issuance of a license or renewal of a license granted under the authority of this article
220 or of previous laws;

(B) Issue a confidential letter of concern in accordance with section 12-20-404 (5);

(C) Issue a letter of admonition in accordance with section 12-20-404 (4);

(D) Impose an administrative fine in accordance with section 12-20-404 (1)(c); or

(E) Reprimand, censure, or, in accordance with section 12-20-404 (1)(b), place a
licensee on probation when evidence has been presented showing a violation of any of the
provisions of this article 220 by a holder of or an applicant for a license.

(II) The board may elect to hear the matter itself pursuant to the provisions of section 12-
220-131 (1), or it may elect to hear the matter with the assistance of an administrative law judge
or an advisory attorney from the office of the attorney general, and, in such case, the advisor or
administrative law judge shall advise the board on legal and procedural matters and rule on
evidence and otherwise conduct the course of the hearing.

(c) Conduct investigations in accordance with section 12-20-403 and inspections for
compliance with the provisions of this article 220;

(d) Grant and issue licenses and renewal certificates in conformity with this article 220
to such applicants as have been found qualified. The board may also grant and issue temporary
licenses in accordance with rules adopted under subsection (1)(a)(V) of this section.

(e) Through the department and subject to appropriations made to the department,
employ hearing officers or administrative law judges on a full-time or part-time basis to conduct
any hearings required by this article 220;

(f) In accordance with section 12-220-146, issue anesthesia and sedation permits to
licensed dentists and dental hygienists and set and collect fees for permit issuance; except that
the board shall only collect fees for local anesthesia permits issued to dental hygienists on or
after July 1, 2014.

(2) The board may recognize those dental specialties defined by the American Dental
Association.

(3) To facilitate the licensure of qualified applicants, the board may, in its discretion,
establish a subcommittee of at least six board members to perform licensing functions in
accordance with this article 220. Four subcommittee members shall constitute a quorum of the
subcommittee. The chairperson of the board may serve on a subcommittee as deemed necessary
by the chairperson. Any action taken by a quorum of the subcommittee shall constitute action by
the board.
(4) The authority granted the board under the provisions of this article 220 shall not be construed to authorize the board to arbitrate or adjudicate fee disputes between licensees or between a licensee and any other party.


Editor's note: Subsection (1) is similar to former § 12-35-107 (1); subsection (2) is similar to former § 12-35-107 (2); subsection (3) is similar to former § 12-35-107 (3); and subsection (4) is similar to former § 12-35-108, as those sections existed prior to 2019.

12-220-107. Indebtedness - appropriations - publications. (1) The board shall not have the power to create any indebtedness on behalf of the state.
   (2) Appropriations made to the board may be applied only to the payment of:
      (a) The necessary traveling, hotel, and clerical expenses of the members of the board in the performance of their duties;
      (b) Dues for membership in the American Association of Dental Boards, or its successor association, and the expense of sending delegates to the association's convention; and
      (c) Other expenditures necessary or proper to carry out and execute the powers and duties of the board and implement this article 220.
   (3) Publications of the board circulated in quantity outside the executive branch shall be issued in accordance with the provisions of section 24-1-136.


Editor's note: This section is similar to former § 12-35-110 as it existed prior to 2019.

12-220-108. Change of address - duplicate licenses and certificates. (1) Every person licensed under this article 220, upon changing the licensee's place of business, shall furnish to the board the licensee's new mailing address within thirty days.
   (2) The board may issue a duplicate of any license upon attestation by the licensee of loss or destruction and shall charge a fee established pursuant to section 12-20-105 for a duplicate.


Editor's note: This section is similar to former § 12-35-111 as it existed prior to 2019.

12-220-109. Persons entitled to practice dentistry or dental hygiene. (1) It is unlawful for any person to practice dentistry or dental hygiene in this state except those:
   (a) Who are duly licensed as dentists or dental hygienists pursuant to this article 220;
   (b) Who are designated by this article 220 as dental assistants, but only to the extent of the procedures authorized by this article 220 and the rules adopted by the board.

Editor's note: This section is similar to former § 12-35-112 as it existed prior to 2019.

12-220-110. What constitutes practicing dentistry - authority to electronically prescribe. (1) A person is practicing dentistry if the person:
   (a) Performs, or attempts or professes to perform, any dental operation, oral surgery, or dental diagnostic or therapeutic services of any kind; except that nothing in this subsection (1)(a) shall be construed to prohibit a dental hygienist or dental assistant from providing preventive dental or nutritional counseling, education, or instruction services;
   (b) Is a proprietor of a place where dental operation, oral surgery, or dental diagnostic or therapeutic services are performed; except that nothing in this subsection (1)(b) shall be construed to prohibit a dental hygienist or dental assistant from performing those tasks and procedures consistent with section 12-220-127;
   (c) Directly or indirectly, by any means or method, takes impression of the human tooth, teeth, jaws, maxillofacial area, or adjacent and associated structures, performs any phase of any operation incident to the replacement of a part of a tooth, or supplies artificial substitutes for the natural teeth, jaws, or adjacent and associated structures; except that nothing in this subsection (1)(c) prohibits a dental hygienist or dental assistant from performing tasks and procedures consistent with sections 12-220-122 (1)(d) and 12-220-127 (3)(b)(III);
   (d) Furnishes, supplies, constructs, reproduces, or repairs any prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth or upon the jaws, maxillofacial area, or adjacent and associated structures other than on the written laboratory work order of a duly licensed and practicing dentist;
   (e) Places an appliance or structure described in subsection (1)(d) of this section in the human mouth;
   (f) Adjusts or attempts or professes to adjust an appliance or structure described in subsection (1)(d) of this section;
   (g) Delivers an appliance or structure described in subsection (1)(d) of this section to any person other than the dentist upon whose laboratory work order the work was performed;
   (h) Professes to the public by any method to furnish, supply, construct, reproduce, or repair any prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth or upon the jaws, maxillofacial area, or adjacent and associated structures;
   (i) Examines, diagnoses, plans treatment of, or treats natural or artificial structures or conditions associated with, adjacent to, or functionally related to the oral cavity, jaws, maxillofacial area, or adjacent and associated structures and their impact on the human body;
   (j) Extracts, or attempts to extract, human teeth or corrects, or attempts to correct, malformations of human teeth or jaws;
   (k) Repairs or fills cavities in human teeth;
   (l) Prescribes ionizing radiation or the use of an X ray for the purpose of taking dental X rays or roentgenograms; except that nothing in this subsection (1)(l) shall be construed to prohibit these procedures from being delegated to appropriately trained personnel in accordance with this article 220 and rules of the board;
   (m) Gives, or professes to give, interpretations or readings of dental X rays or roentgenograms, CT scans, or other diagnostic methodologies; except that nothing in this
subsection (1)(m) shall be construed to prohibit a dental hygienist from performing tasks and procedures consistent with sections 12-220-122 and 12-220-123;

(n) Represents himself or herself to an individual or the general public as practicing dentistry, by using the words "dentist" or "dental surgeon", or by using the letters "D.D.S.", "D.M.D.", "D.D.S./M.D.", or "D.M.D./M.D." Nothing in this subsection (1)(n) prohibits a dental hygienist or dental assistant from performing tasks and procedures consistent with section 12-220-127 (2) or (3)(b).

(o) States, permits to be stated, or professes by any means or method whatsoever that he or she can perform or will attempt to perform dental operations or render a diagnosis connected therewith;

(p) Prescribes drugs or medications and administers local anesthesia, analgesia including nitrous oxide/oxygen inhalation, medication prescribed or administered for the relief of anxiety or apprehension, minimal sedation, moderate sedation, deep sedation, or general anesthesia as necessary for the proper practice of dentistry; except that nothing in this subsection (1)(p) shall be construed to prohibit a dental hygienist from performing those tasks and procedures consistent with sections 12-220-122 (1)(e) and (1)(g), 12-220-123 (1)(c), and 12-220-127, and in accordance with rules promulgated by the board;

(q) Prescribes, induces, and sets dosage levels for inhalation anesthesia; except that nothing in this subsection (1)(q) shall be construed to prohibit the delegation of monitoring and administration to appropriately trained personnel in accordance with this article 220 and rules of the board;

(r) Gives or professes to give interpretations or readings of dental charts or records or gives treatment plans or interpretations of treatment plans derived from examinations, patient records, dental X rays, or roentgenograms; except that nothing in this subsection (1)(r) shall be construed to prohibit a dental hygienist or dental assistant from performing tasks and procedures consistent with sections 12-220-122, 12-220-123, and 12-220-127 (2) and (3).

(2) A licensed dentist may prescribe orders electronically.


Editor's note: This section is similar to former § 12-35-113 as it existed prior to 2019.

12-220-111. Dentists may prescribe drugs - surgical operations - anesthesia - limits on opioid prescriptions - repeal. (1) A licensed dentist is authorized to prescribe drugs or medicine; perform surgical operations; administer, pursuant to board rules, local anesthesia, analgesia including nitrous oxide/oxygen inhalation, medication prescribed or administered for the relief of anxiety or apprehension, minimal sedation, moderate sedation, deep sedation, or general anesthesia; and use appliances as necessary to the proper practice of dentistry. A dentist shall not prescribe, distribute, or give to any person, including himself or herself, any habit-forming drug or any controlled substance, as defined in section 18-18-102 (5) or as contained in schedule II of 21 U.S.C. sec. 812, other than in the course of legitimate dental practice and pursuant to the rules promulgated by the board regarding controlled substance record keeping.

(2) (a) A dentist is subject to the limitations on prescribing opioids specified in section 12-30-109.

(b) This subsection (2) is repealed, effective September 1, 2021.
12-220-112. Persons exempt from operation of this article. (1) This article 220 does not apply to the following practices, acts, and operations:
   (a) Practice of his or her profession by a physician or surgeon licensed as such under the laws of this state unless the physician or surgeon practices dentistry as a specialty;
   (b) The administration of an anesthetic by a qualified anesthetist or registered nurse for a dental operation;
   (c) The practice of dentistry or dental hygiene in the discharge of their official duties by graduate dentists or dental surgeons or dental hygienists in the United States armed forces, public health service, Coast Guard, or veterans administration;
   (d) Students or residents regularly employed by a private hospital or by a city, county, city and county, or state hospital under an advanced dental education program accredited by the Commission on Dental Accreditation or its successor commission and approved and registered by the board;
   (e) The practice of dental hygiene by instructors and students or the practice of dentistry by students or residents in schools or colleges of dentistry, schools of dental hygiene, or schools of dental assistant education while the instructors, students, or residents are participating in accredited programs of the schools or colleges;
   (f) The practice of dentistry or dental hygiene by dentists or dental hygienists licensed in good standing by other states or countries while appearing in programs of dental education or research at the invitation of any group of licensed dentists or dental hygienists in this state who are in good standing, so long as the practice is limited to five consecutive days in a twelve-month period and the name of each person engaging in the practice is submitted to the board, in writing and on a form approved by the board, at least ten days before the person performs the practice;
   (g) The filling of laboratory work orders of a licensed dentist, as provided by section 12-220-139, by any person, association, corporation, or other entity for the construction, reproduction, or repair of prosthetic dentures, bridges, plates, or appliances to be used or worn as substitutes for natural teeth or for restoration of natural teeth, or replacement of structures relating to the jaws, maxillofacial area, or adjacent and associated structures;
   (h) The performance of acts by a person under the direct or indirect supervision of a dentist licensed in Colorado when authorized pursuant to the rules of the board or when authorized under other provisions of this article 220;
   (i) The practicing of dentistry or dental hygiene by an examiner representing a testing agency approved by the board, during the administration of an examination; or
   (j) The practice of dentistry or dental hygiene by dentists or dental hygienists licensed in good standing by other states while providing care as a volunteer, at the invitation of any group of licensed dentists or dental hygienists in this state who are in good standing, so long as the practice is limited to five consecutive days in a twelve-month period and the name of each person engaging in the practice is submitted to the board, in writing and on a form approved by the board, at least ten days before the person performs the practice.
12-220-113. Names and status under which dental practice may be conducted. (1) The conduct of the practice of dentistry or dental hygiene in a corporate capacity is prohibited, but the prohibition shall not be construed to prevent the practice of dentistry or dental hygiene by a professional service corporation of licensees so constituted that they may be treated under the federal internal revenue laws as a corporation for tax purposes only. Any such professional service corporation may exercise such powers and shall be subject to such limitations and requirements, insofar as applicable, as are provided in section 12-240-138, relating to professional service corporations for the practice of medicine.

(2) The group practice of dentistry or dental hygiene is permitted.

(3) The practice of dentistry or dental hygiene by a limited liability company of licensees or by a limited liability partnership of licensees is permitted subject to the limitations and requirements, insofar as are applicable, set forth in section 12-240-138, relating to a limited liability company or limited liability partnership for the practice of medicine.

or dental hygienist providing care to patients on behalf of the organization or political subdivision.

(d) (I) A dentist may conduct a dental or dental hygiene business collaboratively as a provider network in accordance with part 3 of article 18 of title 6.

(II) A dental hygienist may conduct a dental hygiene business collaboratively as a provider network in accordance with part 3 of article 18 of title 6.

(2) (a) The name, license number, ownership percentage, and other information, as required by the board, of each proprietor of a dental or dental hygiene practice, including an unlicensed heir who is the temporary proprietor of the practice, as specified in subsection (3) of this section, shall be available at the reception desk of the dental or dental hygiene practice during the practice's hours of operation. The information required by this subsection (2)(a) shall be available in a format approved by the board.

(b) Upon request, the dental or dental hygiene practice shall promptly make available to the requesting person a copy of the information required by subsection (2)(a) of this section.

(c) The dental or dental hygiene practice shall ensure that the information required by subsection (2)(a) of this section is accurate and current. Any change in the information shall be updated within thirty days after the change.

(3) (a) Notwithstanding sections 12-20-405 (1) and (2) and 12-220-130 (1)(h), if a dentist or dental hygienist who was the proprietor of a dental or dental hygiene practice and was engaged in the active practice of dentistry or dental hygiene dies:

(I) An heir to the dentist may serve as a proprietor of the deceased dentist's dental or dental hygiene practice for up to one year after the date of the dentist's death, regardless of whether the heir is licensed to practice dentistry or dental hygiene; or

(II) An heir to the dental hygienist may serve as a proprietor of the deceased dental hygienist's dental hygiene practice for up to one year after the date of the dental hygienist's death, regardless of whether the heir is licensed to practice dentistry or dental hygiene.

(b) Upon good cause shown by the heir or the heir's representative, the board may extend the period described in subsection (3)(a) of this section by up to an additional twelve months, if necessary, to allow the heir sufficient time to sell or otherwise dispose of the practice.

(c) If an heir to a deceased dentist or dental hygienist serves as a proprietor of the deceased dentist's or dental hygienist's practice as specified in subsection (3)(a) of this section, all patient care provided during the time the heir is a proprietor of the practice shall be provided by an appropriately licensed dentist or dental hygienist.

(d) The temporary proprietorship of a dental or dental hygiene practice by an unlicensed heir shall not affect the exercise of the independent professional judgment of the licensed dentist or dental hygienist providing care to patients on behalf of the practice.


Editor's note: This section is similar to former § 12-35-116.5 as it existed prior to 2019.

12-220-115. Application for dentist license - fee. (1) Every person not currently holding a license to practice dentistry in this state who desires to practice dentistry in this state shall file with the board an application for a license on a form provided by the board, verified by
the oath of the applicant, and accompanied by a fee required by section 12-220-144 (1)(a) or established pursuant to section 12-20-105, indicating that the applicant:

(a) Has attained the age of twenty-one years;
(b) Is a graduate of a dental school or college that, at the time of the applicant's graduation, was accredited. An official transcript prepared by the dental college or school attended shall be submitted to the board.
(c) Has listed any act the commission of which would be grounds for disciplinary action under section 12-220-130 against a licensed dentist, along with an explanation of the circumstances of the act;
(d) Has proof that the applicant has not been subject to final or pending disciplinary action by any state in which the applicant is or has been previously licensed; except that, if the applicant has been subject to disciplinary action, the board may review the disciplinary action to determine whether it warrants grounds for refusal to issue a license; and
(e) Has proof that the applicant has met any more stringent criteria established by the board.

(2) An applicant for licensure shall demonstrate to the board that he or she has maintained the professional ability and knowledge required by this article 220 when the applicant has not graduated from an accredited dental school or college within the twelve months immediately preceding the application and has not, for at least one year of the five years immediately preceding the application, engaged in:

(a) The active clinical practice of dentistry;
(b) Teaching dentistry in an accredited program; or
(c) Service as a dentist in the military.

(3) The board may require other pertinent information on the application that the board deems necessary to process the application, including demonstration of compliance with the financial responsibility requirements set forth in section 13-64-301 (1)(a).


Editor's note: This section is similar to former § 12-35-117 as it existed prior to 2019.

12-220-116. Dentist academic license. (1) (a) A dentist who is employed at an accredited school or college of dentistry in this state and who practices dentistry in the course of his or her employment responsibilities shall either make written application to the board for an academic license in accordance with this section or shall otherwise become licensed pursuant to sections 12-220-115 and 12-220-117, as applicable.

(b) Nothing in this section shall require a dentist who appears in a program of dental education or research, as described in section 12-220-112 (1)(f), to obtain an academic license pursuant to this section.

(2) A person who applies for an academic license shall submit proof to the board that the person:

(a) Graduated from a school of dentistry located in the United States or another country; and
(b) Is employed by an accredited school or college of dentistry in this state.
(3) An applicant for an academic license shall satisfy the credentialing standards of the accredited school or college of dentistry that employs the applicant.

(4) An academic license shall authorize the licensee to practice dentistry only while engaged in the performance of his or her official duties as an employee of the accredited school or college of dentistry and only in connection with programs affiliated or endorsed by the school or college. An academic licensee may not use an academic license to practice dentistry outside of his or her academic responsibilities.

(5) In addition to the requirements of this section, an applicant for an academic license shall complete all procedures for academic licensing established by the board to become licensed, including payment of any fee imposed pursuant to section 12-220-115 (1).


Editor's note: This section is similar to former § 12-35-117.5 as it existed prior to 2019.

12-220-117. Examination - how conducted - dentist license issued to successful applicants. (1) Applicants for dental licensure shall submit to the board proof of having successfully passed the following:

(a) The examination administered by the Joint Commission on National Dental Examinations; and

(b) An examination or other methodology, as determined by the board, designed to test the applicant's clinical skills and knowledge, which may include residency and portfolio models.

(2) All examination results required by the board must be filed with the board and kept for reference for a period of not less than one year. If the applicant successfully completes the examinations and is otherwise qualified, the board shall grant a license to the applicant and shall issue a license certificate to the applicant.


Editor's note: This section is similar to former § 12-35-119 as it existed prior to 2019.

12-220-118. Dentist - licensure by endorsement. (1) The board shall provide for licensure upon application of any person licensed in good standing to practice dentistry in another state or territory of the United States who provides the credentials and meets the qualifications set forth in this section in the manner prescribed by the board.

(2) The board shall issue a license to an applicant licensed as a dentist in another state or territory of the United States if the applicant has submitted credentials and qualifications for licensure that include:

(a) Proof of graduation from an accredited dental school;

(b) Proof the applicant is currently licensed in another state or United States territory;

(c) Proof the applicant has been in practice or teaching dentistry, which involves personally providing care to patients for not less than three hundred hours annually in an accredited dental school for a minimum of five years out of the seven years immediately
preceding the date of the receipt of the application, or evidence that the applicant has demonstrated competency as a dentist as determined by the board;

(d) Proof the applicant has not been subject to final or pending disciplinary action by any state in which the applicant is or has been previously licensed; except that, if the applicant has been subject to disciplinary action, the board may review the disciplinary action to determine whether the underlying conduct warrants refusal to issue a license;

(e) Proof the applicant has passed an entry level examination acceptable to the board; and

(f) Proof the applicant has met any more stringent criteria established by the board.


Editor's note: This section is similar to former § 12-35-120 as it existed prior to 2019.

12-220-119. Renewal of dental and dental hygienist licenses - fees. [Editor's note: This version of this section is effective until July 1, 2023.] Licenses issued pursuant to this article 220 are subject to the renewal, expiration, reinstatement, and delinquency fee provisions specified in section 12-20-202 (1) and (2). Any person whose license expires is subject to the penalties provided in this article 220 or section 12-20-202 (1).

12-220-119. Renewal of dental and dental hygienist licenses - fees - questionnaire. [Editor's note: This version of this section is effective July 1, 2023.] (1) Licenses issued pursuant to this article 220 are subject to the renewal, expiration, reinstatement, and delinquency fee provisions specified in section 12-20-202 (1) and (2). Any person whose license expires is subject to the penalties provided in this article 220 or section 12-20-202 (1).

(2) On and after July 1, 2023, the board shall require a dentist who applies for license renewal to complete a questionnaire that requires the dentist to indicate whether the dentist has complied with section 12-30-111. The failure of an applicant to answer the questionnaire accurately constitutes grounds for discipline pursuant to section 12-220-130.


Editor's note: (1) This section is similar to former § 12-35-121 as it existed prior to 2019.

(2) Section 26 of chapter 86 (SB 19-079), Session Laws of Colorado 2019, provides that the act changing this section takes effect July 1, 2023, only if HB 19-1172 becomes law. HB 19-1172 became law and took effect October 1, 2019.

12-220-120. Inactive dental or dental hygienist license. (1) Any person licensed to practice dentistry or dental hygiene pursuant to this article 220 may apply to the board to be transferred to an inactive status. The licensee shall submit an application in the form and manner designated by the board. The board may grant inactive status by issuing an inactive license or deny the application for any of the causes set forth in section 12-220-130.

(2) Any person applying for a license under this section shall:
(a) Provide an affidavit to the board that the applicant, after a date certain, will not practice dentistry or dental hygiene in this state unless he or she is issued a license to practice dentistry or dental hygiene pursuant to subsection (5) of this section;
(b) Pay the license fee as authorized pursuant to section 12-20-105; and
(c) Comply with any financial responsibility or professional liability insurance requirements established by the board under section 12-220-147, as applicable.
(3) The inactive status shall be plainly indicated on the face of any inactive license certificate issued under this section.
(4) The board is authorized to conduct disciplinary proceedings as set forth in section 12-220-130 against any person licensed under this section for any act committed while the person was licensed pursuant to this article 220.
(5) Any person licensed under this section who wishes to resume the practice of dentistry or dental hygiene shall file an application in the form and manner the board designates, pay the license fee promulgated by the board pursuant to section 12-20-105, and meet the financial responsibility requirements or the professional liability insurance requirements in section 12-220-147, as applicable. The board may approve the application and issue a license to practice dentistry or dental hygiene or may deny the application for any of the causes set forth in section 12-220-130.


Editor's note: This section is similar to former § 12-35-122 as it existed prior to 2019.

12-220-121. Retired dental and dental hygienist licenses. (1) Any person licensed to practice dentistry or dental hygiene pursuant to this article 220 may apply to the board for retired licensure status. The application shall be in the form and manner designated by the board. The board may grant retired licensure status by issuing a retired license, or it may deny the application if the licensee has been disciplined for any of the causes set forth in section 12-220-130.
(2) Any person applying for a license under this section shall:
(a) Provide an affidavit to the board stating that, after a date certain, the applicant shall not practice dentistry or dental hygiene, shall no longer earn income as a dentist or dental hygiene administrator or consultant, and shall not perform any activity that constitutes practicing dentistry or dental hygiene pursuant to sections 12-220-110, 12-220-122, and 12-220-123 unless the applicant is issued a license to practice dentistry or dental hygiene pursuant to subsection (5) of this section; and
(b) Pay the license fee authorized by section 12-20-105, which fee shall not exceed fifty dollars.
(3) The retired status of a licensee shall be plainly indicated on the face of any retired license certificate issued under this section.
(4) The board may take disciplinary action pursuant to sections 12-220-131 to 12-220-135 against any person licensed under this section for an act committed while the person was licensed pursuant to this article 220.
(5) Any person licensed under this section may apply to the board for a return to active licensure status by filing an application in the form and manner the board designates, paying the
appropriate license fee established pursuant to section 12-20-105, and meeting the financial responsibility requirements or the professional liability insurance requirements in section 12-220-147, as applicable. The board may approve the application and issue a license to practice dentistry or dental hygiene or may deny the application if the licensee has been disciplined for any of the causes set forth in section 12-220-130.

(6) A dentist or dental hygienist on retired status may provide dental or dental hygiene services on a voluntary basis to the indigent if the retired dentist or dental hygienist provides the services on a limited basis and does not charge a fee for the services. A retired dentist or dental hygienist providing voluntary care pursuant to this subsection (6) is immune from any liability resulting from the voluntary care he or she provided.


Editor's note: This section is similar to former § 12-35-123 as it existed prior to 2019.

12-220-122. What constitutes practicing unsupervised dental hygiene. (1) Unless licensed to practice dentistry, a person shall be deemed to be practicing unsupervised dental hygiene who, within the scope of the person's education, training, and experience:

(a) Removes deposits, accretions, and stains by scaling with hand, ultrasonic, or other devices from all surfaces of the tooth and smooths and polishes natural and restored tooth surfaces, including root planing;

(b) Removes granulation and degenerated tissue from the gingival wall of a periodontal pocket;

(c) Provides preventive measures including the application of fluorides, sealants, and other recognized topical agents for the prevention of oral disease;

(d) Gathers and assembles information including, but not limited to:

(I) Fact-finding and patient history;

(II) Preparation of study casts for the purpose of fabricating a permanent record of the patient's present condition; as a visual aid for patient education, dental hygiene diagnosis, and dental hygiene treatment planning; and to provide assistance during forensic examination;

(III) Extra- and intra-oral inspection;

(IV) Dental and periodontal charting; and

(V) Radiographic and X ray survey for the purpose of assessing and diagnosing dental hygiene-related conditions for treatment planning for dental hygiene services as described in this section and identifying dental abnormalities for immediate referral to a dentist;

(e) Administers a topical anesthetic to a patient in the course of providing dental care;

(f) Performs dental hygiene assessment, dental hygiene diagnosis, and dental hygiene treatment planning for dental hygiene services as described in this section and identifies dental abnormalities for immediate referral to a dentist; or

(g) (I) Prescribes, administers, and dispenses fluoride, fluoride varnish, antimicrobial solutions for mouth rinsing, other nonsystemic antimicrobial agents, and related emergency drugs and reversal agents in collaboration with a licensed dentist. The board may, by rule, further define the permissible and appropriate emergency drugs and reversal agents. Dental hygienists shall maintain clear documentation in the patient record of the drug or agent prescribed, administered, or dispensed; the date of the action; and the rationale for prescribing, administering, or dispensing the drug or agent.
(II) A dental hygienist shall not prescribe, administer, or dispense the following:
   (A) Drugs whose primary effect is systemic, with the exception of fluoride supplements permitted under subsection (1)(g)(III)(A) of this section; and
   (B) Dangerous drugs or controlled substances, as defined in section 18-18-102 (5).

(III) A dental hygienist may prescribe the following:
   (A) Fluoride supplements as follows, all using sodium fluoride: Tablets: 0.5 mg, 1.1 mg, or 2.2 mg; lozenges: 2.21 mg; and drops: 1.1 mL;
   (B) Topical anti-caries treatments as follows, all using sodium fluoride unless otherwise indicated: Toothpastes: 1.1 % or less (or stannous fluoride 0.4%); topical gels: 1.1% or less (or stannous fluoride 0.4%); oral rinses: 0.05%, 0.2%, 0.44%, or 0.5%; oral rinse concentrate used in periodontal disease: 0.63% stannous fluoride; fluoride varnish: 5%; and prophy pastes containing approximately 1.23% sodium fluoride and used for polishing procedures as part of professional dental prophylaxis treatment;
   (C) Topical anti-infectives as follows: Chlorhexidine gluconate rinses: 0.12%; chlorhexidine gluconate periodontal chips for subgingival insertion into a periodontal pocket/sulcus; tetracycline impregnated fibers, inserted subgingivally into a periodontal pocket/sulcus; doxycycline hyclate periodontal gel, inserted subgingivally into a periodontal pocket/sulcus; and minocycline hydrochloride periodontal powder, inserted subgingivally into a periodontal pocket/sulcus; and
   (D) Related emergency drugs and reversal agents as authorized by the collaborating dentist.

(2) A dental hygienist shall state in writing and require a patient to acknowledge by signature that any diagnosis or assessment is for the purpose of determining necessary dental hygiene services only and that it is recommended by the American Dental Association, or any successor organizations, that a thorough dental examination be performed by a dentist twice each year.

(3) Unsupervised dental hygiene may be performed by licensed dental hygienists without the supervision of a licensed dentist.

(4) (a) Notwithstanding section 12-220-104 (13) or 12-220-110 (1)(b), a dental hygienist may be the proprietor of a place where supervised or unsupervised dental hygiene is performed and may purchase, own, or lease equipment necessary to perform supervised or unsupervised dental hygiene.

   (b) A dental hygienist proprietor, or a professional corporation or professional limited liability corporation of dental hygienists, in addition to providing dental hygiene services, may enter into an agreement with one or more dentists for the lease or rental of equipment or office space in the same physical location as the dental hygiene practice, but only if the determination of necessary dental services provided by the dentist and professional responsibility for those services, including but not limited to dental records, appropriate medication, and patient payment, remain with the treating dentist. It shall be the responsibility of the dental hygienist to inform the patient as to whether there is a supervisory relationship between the dentist and the dental hygienist. An agreement under this subsection (4)(b) shall not constitute employment and shall not constitute cause for discipline pursuant to section 12-220-130 (1)(h).

Editor's note: This section is similar to former § 12-35-124 as it existed prior to 2019.

12-220-123. What constitutes practicing supervised dental hygiene. (1) Unless licensed to practice dentistry, a person who performs any of the following tasks under the supervision of a licensed dentist is deemed to be practicing supervised dental hygiene:
   (a) Any task described in section 12-220-122 (1);
   (b) Prepares study casts;
   (c) Administers local anesthesia under the indirect supervision of a licensed dentist pursuant to rules of the board, including minimum education requirements and procedures for local anesthesia administration;
   (d) Places interim therapeutic restorations pursuant to section 12-220-128; or
   (e) Applies silver diamine fluoride pursuant to section 12-220-129.


Editor's note: This section is similar to former § 12-35-125 as it existed prior to 2019.

12-220-124. Application for dental hygienist license - fee. (1) Every person who desires to qualify for practice as a dental hygienist within this state shall file with the board:
   (a) A written application for a license, on which application the applicant shall list:
      (I) Any act the commission of which would be grounds for disciplinary action under section 12-220-130 against a licensed dental hygienist; and
      (II) An explanation of the circumstances of such act; and
   (b) Satisfactory proof of graduation from a school of dental hygiene that, at the time of the applicant's graduation, was accredited, and proof that the program offered by the accredited school of dental hygiene was at least two academic years or the equivalent of two academic years.

   (2) The application must be on the form prescribed and furnished by the board, verified by the oath of the applicant, and accompanied by a fee established pursuant to section 12-20-105.

   (3) An applicant for licensure who has not graduated from an accredited school or program of dental hygiene within the twelve months immediately preceding application, or who has not engaged either in the active clinical practice of dental hygiene or in teaching dental hygiene in an accredited program for at least one year during the five years immediately preceding the application, shall demonstrate to the board that the applicant has maintained the professional ability and knowledge required by this article 220.


Editor's note: This section is similar to former § 12-35-126 as it existed prior to 2019.

12-220-125. Dental hygienist examinations - license. (1) Every applicant for dental hygiene licensure shall submit to the board proof of having successfully completed the following:
   (a) An examination administered by the Joint Commission on National Dental Examinations; and
(b) An examination designed to test the applicant’s clinical skills and knowledge, which must be administered by a regional testing agency composed of at least four states or an examination of another state, or a methodology adopted by the board by rule that is designed to test the applicant’s clinical skills and knowledge.

(2) All examination results required by the board must be filed with the board and kept for reference for a period of not less than one year. If an applicant successfully completes the examinations and is otherwise qualified, the board shall grant a license to the applicant and shall issue a license certificate signed by the officers of the board.


Editor's note: This section is similar to former § 12-35-127 as it existed prior to 2019.

12-220-126. Dental hygienist - licensure by endorsement. (1) The board shall provide for licensure upon application of any person licensed in good standing to practice dental hygiene in another state or territory of the United States who has met the requirements of section 12-220-124 and provides the credentials and meets the qualifications set forth in this section in the manner prescribed by the board.

(2) The board shall issue a license to an applicant duly licensed as a dental hygienist in another state or territory of the United States who has submitted credentials and qualifications for licensure in Colorado that include:

(a) Verification of licensure from any other jurisdiction where the applicant has held a dental hygiene or other health care license;

(b) Evidence of the applicant's successful completion of the national board dental examination administered by the Joint Commission on National Dental Examinations;

(c) (I) Verification that the applicant has been engaged either in clinical practice or in teaching dental hygiene or dentistry in an accredited program for at least one year during the three years immediately preceding the date of the receipt of the application; or

(II) Evidence that the applicant has demonstrated competency as a dental hygienist as determined by the board;

(d) A report of any pending or final disciplinary actions against any health care license held by the applicant at any time; and

(e) A report of any pending or final malpractice actions against the applicant.


Editor's note: This section is similar to former § 12-35-127.5 as it existed prior to 2019.

12-220-127. Tasks authorized to be performed by dental assistants or dental hygienists - rules. (1) (a) (I) Except as provided in subsection (1)(a)(II) of this section, the responsibility for dental diagnosis, dental treatment planning, or the prescription of therapeutic measures in the practice of dentistry remains with a licensed dentist and may not be assigned to any dental hygienist.

(II) A dental hygienist may:
(A) Perform dental hygiene assessment, dental hygiene diagnosis, and dental hygiene treatment planning for dental hygiene services pursuant to section 12-220-122 (1)(f);

(B) Identify dental abnormalities for immediate referral to a dentist as described in section 12-220-122 (1)(f);

(C) In collaboration with a licensed dentist, prescribe, administer, and dispense, as described in section 12-220-122 (1)(g): Fluoride; fluoride varnish; antimicrobial solutions for mouth rinsing; other nonsystemic antimicrobial agents; and resorbable antimicrobial agents pursuant to rules of the board; and

(D) In collaboration with a licensed dentist, apply silver diamine fluoride pursuant to section 12-220-129.

(b) A dental procedure that involves surgery or that will contribute to or result in an irremediable alteration of the oral anatomy shall not be assigned to anyone other than a licensed dentist.

(2) Except as provided in subsection (1) of this section, a dental hygienist may perform any dental task or procedure assigned to the hygienist by a licensed dentist that does not require the professional skill of a licensed dentist; except that the dental hygienist may perform the task or procedure only under the indirect supervision of a licensed dentist or as authorized in sections 12-220-122 and 12-220-123.

(3) (a) A dental assistant shall not perform the following tasks:

(I) Diagnosis;

(II) Treatment planning;

(III) Prescription of therapeutic measures;

(IV) Any procedure that contributes to or results in an irremediable alteration of the oral anatomy;

(V) Administration of local anesthesia;

(VI) Scaling (supra and sub-gingival), as it pertains to the practice of dental hygiene;

(VII) Root planing;

(VIII) Soft tissue curettage;

(IX) Periodontal probing.

(b) A dental assistant may perform the following tasks under the indirect supervision of a licensed dentist:

(I) Smoothing and polishing natural and restored tooth surfaces;

(II) Provision of preventive measures, including the application of fluorides and other recognized topical agents for the prevention of oral disease;

(III) Gathering and assembling information including, but not limited to, fact-finding and patient history, oral inspection, and dental and periodontal charting;

(IV) Administering topical anesthetic to a patient in the course of providing dental care;

(V) Any other task or procedure that does not require the professional skill of a licensed dentist;

(VI) Repairing and relining dentures pursuant to a dental laboratory work order signed by a licensed dentist.

(c) A dental assistant may, under the direct supervision of a licensed dentist in accordance with rules promulgated by the board, administer and monitor the use of nitrous oxide on a patient.
(d) (I) A dental assistant may perform intraoral and extraoral tasks and procedures necessary for the fabrication of a complete or partial denture under the direct supervision of a licensed dentist. These tasks and procedures shall include:
   (A) Making of preliminary and final impressions;
   (B) Jaw relation records and determination of vertical dimensions;
   (C) Tooth selection;
   (D) A preliminary try-in of the wax-up trial denture prior to and subject to a try-in and approval in writing of the wax-up trial denture by the licensed dentist;
   (E) Denture adjustments that involve the periphery, occlusal, or tissue-bearing surfaces of the denture prior to the final examination of the denture.

   (II) The tasks and procedures in subsection (3)(d)(I) of this section shall be performed in the regularly announced office location of a licensed practicing dentist, and the dentist shall be personally liable for all treatment rendered to the patient. A dental assistant performing these tasks and procedures shall be properly identified as a dental assistant. No dentist shall utilize more than the number of dental assistants the dentist can reasonably supervise.

   (III) Prior to any work being performed pursuant to subsection (3)(d)(I) of this section, the patient shall first be examined by the treating dentist licensed to practice in this state who shall certify that the patient has no pathologic condition that requires surgical correction or other treatment prior to complete denture service.

   (4) The board may make such reasonable rules as may be necessary to implement and enforce the provisions of this section.


Editor's note: This section is similar to former § 12-35-128 as it existed prior to 2019.

12-220-128. Interim therapeutic restorations by dental hygienists - permitting process - rules - subject to review - repeal. (1) Upon application, accompanied by a fee in an amount determined by the director, the board shall grant a permit to place interim therapeutic restorations to any dental hygienist applicant who:
   (a) Holds a license in good standing to practice dental hygiene in Colorado;
   (b) Has completed a course developed at the postsecondary educational level that complies with the rules adopted by the board. The course must be offered under the direct supervision of a member of the faculty of a Colorado dental or dental hygiene school accredited by the Commission on Dental Accreditation or its successor agency. All faculty responsible for clinical evaluation of students must be dentists with a faculty appointment at an accredited Colorado dental or dental hygiene school.
   (c) Carries current professional liability insurance in the amount specified in section 12-220-147; and
   (d) Has completed the following hours of dental hygiene practice as evidenced in documentation required by the board:
      (I) Two thousand hours of supervised dental hygiene practice after initial dental hygiene licensure;
      (II) Four thousand hours of unsupervised dental hygiene practice after initial dental hygiene licensure; or
(III) A combination of the hours specified in subsections (1)(d)(I) and (1)(d)(II) of this section as determined by the board by rule.

(2) The board may waive the requirement in subsection (1)(d) of this section for a dental hygienist who performs interim therapeutic restorations exclusively under the direct supervision of a dentist.

(3) A dental hygienist shall not use local anesthesia for the purpose of placing interim therapeutic restorations.

(4) (a) A dental hygienist may place an interim therapeutic restoration only after a dentist provides a diagnosis, treatment plan, and instruction to perform the procedure.

(b) If an interim therapeutic restoration is authorized by a supervising dentist at a location other than the dentist's practice location, the dental hygienist shall provide the patient or the patient's representative with written notification that the care was provided at the direction of the supervising dentist. The dental hygienist shall include in the written notification the dentist's name, practice location address, and telephone number.

(c) A dental hygienist who obtains a dentist's diagnosis, treatment plan, and instruction to perform an ITR utilizing telehealth by store-and-forward transfer shall notify the patient of the patient's right to receive interactive communication with the distant dentist upon request. Communication with the distant dentist may occur either at the time of the consultation or within thirty days after the dental hygienist notifies the patient of the results of the consultation.

(5) A dental hygienist who obtains a permit pursuant to this section may place interim therapeutic restorations in a dental office setting under the direct or indirect supervision of a dentist or through telehealth supervision for purposes of communication with the dentist.

(6) A dentist shall not supervise more than five dental hygienists who place interim therapeutic restorations under telehealth supervision. A dentist who supervises a dental hygienist who provides interim therapeutic restorations under telehealth supervision must have a physical practice location in Colorado for purposes of patient referral for follow-up care.

(7) A dental hygienist shall inform the patient or the patient's legal guardian, in writing, and require the patient or the patient's legal guardian to acknowledge by signature, that the interim therapeutic restoration is a temporary repair to the tooth and that appropriate follow-up care with a dentist is necessary.

(8) This section is repealed, effective September 1, 2021. Before the repeal, the permitting of dental hygienists to place interim therapeutic restorations is scheduled for review in accordance with section 24-34-104.


Editor's note: This section is similar to former § 12-35-128.5 as it existed prior to 2019.

12-220-129. Application of silver diamine fluoride by dental hygienists - authorization - limitations - rules - subject to review - repeal. (1) A dental hygienist may apply silver diamine fluoride if the dental hygienist:

(a) Holds a license in good standing to practice dental hygiene in Colorado;

(b) Has completed a postsecondary course or continuing education course developed at the postsecondary level that satisfies the requirements established by the board by rule and that provides instruction on the use and limitations of applying silver diamine fluoride;
(c) Is covered by professional liability insurance in the amount established by the board pursuant to section 12-220-147; and

(d) Has a collaborative agreement with a dentist that describes the silver diamine fluoride protocols, any restrictions or limitations, follow-up and referral mechanisms, and any other requirements established by the board by rule.

(2) (a) If the application of silver diamine fluoride is authorized by a supervising dentist at a location other than the dentist's practice location, the dental hygienist shall provide the patient or the patient's representative with written notification that the application of silver diamine fluoride is being provided in collaboration with the supervising dentist. The dental hygienist shall include in the written notification the dentist's name, practice location address, and telephone number.

(b) A dental hygienist who applies silver diamine fluoride in collaboration with a supervising dentist utilizing telehealth by store-and-forward transfer shall notify the patient or the patient's representative of the patient's right to receive interactive communication with the distant dentist upon request. Communication with the distant dentist may occur either at the time of the consultation or within thirty days after the dental hygienist notifies the patient of the results of the consultation.

(3) A dental hygienist who meets the requirements of subsections (1) and (2) of this section may apply silver diamine fluoride under the direct or indirect supervision of a dentist or through telehealth supervision for purposes of communication with the dentist.

(4) (a) The board shall promulgate rules to:

(I) Define requirements for the education course required in subsection (1)(b) of this section, including qualifications for entities offering the course and faculty oversight requirements; and

(II) Address appropriate indications and limitations for the application of silver diamine fluoride by a dental hygienist.

(b) The board may establish additional requirements for the collaborative agreement required by subsection (1)(d) of this section.

(5) This section is repealed, effective September 1, 2021. Before the repeal, the application of silver diamine fluoride by dental hygienists is scheduled for review in accordance with section 24-34-104.


Editor's note: This section is similar to former § 12-35-128.8 as it existed prior to 2019.

12-220-130. Grounds for disciplinary action - definition. (1) The board may take disciplinary action against an applicant or licensee in accordance with sections 12-20-404 and 12-220-131 for any of the following causes:

(a) Engaging in fraud, misrepresentation, or deception in applying for, securing, renewing, or seeking reinstatement of a license to practice dentistry or dental hygiene in this state, in applying for professional liability coverage required pursuant to section 12-220-147, or in taking the examinations provided for in this article 220;
(b) Conviction of a felony or any crime that constitutes a violation of this article 220. For purposes of this subsection (1)(b), "conviction" includes the entry of a plea of guilty or nolo contendere or a deferred sentence.

(c) Administering, dispensing, or prescribing a habit-forming drug or controlled substance, as defined in section 18-18-102 (5), to a person, including the applicant or licensee, other than in the course of legitimate professional practice;

(d) Conviction of a violation of a federal or state law regulating the possession, distribution, or use of a controlled substance, as defined in section 18-18-102 (5), and, in determining if a license should be denied, revoked, or suspended or if the licensee should be placed on probation, the board shall be governed by sections 12-20-202 (5) and 24-5-101;

(e) Habitually abusing or excessively using alcohol, a habit-forming drug, or a controlled substance, as defined in section 18-18-102 (5);

(f) Misusing a drug or controlled substance, as defined in section 18-18-102 (5);

(g) Aiding or abetting, in the practice of dentistry or dental hygiene, a person who is not licensed to practice dentistry or dental hygiene under this article 220 or whose license to practice dentistry or dental hygiene is suspended;

(h) Except as otherwise provided in sections 25-3-103.7, 12-220-113, and 12-220-122 (4), practicing dentistry or dental hygiene as a partner, agent, or employee of or in joint venture with any person who does not hold a license to practice dentistry or dental hygiene within this state or practicing dentistry or dental hygiene as an employee of or in joint venture with any partnership, association, or corporation. A licensee holding a license to practice dentistry or dental hygiene in this state may accept employment from any person, partnership, association, or corporation to examine, prescribe, and treat the employees of the person, partnership, association, or corporation.

(i) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision or term of this article 220, an applicable provision of article 20 or 30 of this title 12, or any lawful rule or order of the board;

(j) (I) Failing to notify the board of a physical illness, physical condition, or behavioral, mental health, or substance use disorder that renders the licensee unable, or limits the licensee's ability, to perform dental or dental hygiene services with reasonable skill and with safety to the patient;

(II) Failing to act within the limitations created by a physical illness, physical condition, or behavioral, mental health, or substance use disorder that renders the licensee unable to practice dental or dental hygiene services with reasonable skill and safety or that may endanger the health or safety of persons under his or her care; or

(III) Failing to comply with the limitations agreed to under a confidential agreement entered pursuant to sections 12-30-108 and 12-220-136;

(k) Committing an act or omission that constitutes grossly negligent dental or dental hygiene practice or that fails to meet generally accepted standards of dental or dental hygiene practice;

(l) Advertising in a manner that is misleading, deceptive, or false;

(m) Engaging in a sexual act with a patient during the course of patient care or within six months immediately following the termination of the licensee's professional relationship with the patient. "Sexual act", as used in this subsection (1)(m), means sexual contact, sexual intrusion, or sexual penetration as defined in section 18-3-401.
(n) Refusing to make patient records available to a patient pursuant to a written authorization-request under section 25-1-802;

(o) False billing in the delivery of dental or dental hygiene services, including, but not limited to, performing one service and billing for another, billing for any service not rendered, or committing a fraudulent insurance act, as defined in section 10-1-128;

(p) Committing abuse of health insurance in violation of section 18-13-119;

(q) Failing to notify the board, in writing and within ninety days after a judgment is entered, of a final judgment by a court of competent jurisdiction in favor of any party and against the licensee involving negligent malpractice of dentistry or dental hygiene, which notice must contain the name of the court, the case number, and the names of all parties to the action;

(r) Failing to report a dental or dental hygiene malpractice judgment or malpractice settlement to the board by the licensee within ninety days;

(s) Failing to furnish unlicensed persons with laboratory work orders pursuant to section 12-220-139;

(t) Employing a solicitor or other agent to obtain patronage, except as provided in section 12-220-143;

(u) Willfully deceiving or attempting to deceive the board or its agents with reference to any matter relating to this article 220;

(v) Sharing any professional fees with anyone except those with whom the dentist or dental hygienist is lawfully associated in the practice of dentistry or dental hygiene; except that:

(I) A licensed dentist or dental hygienist may pay an independent advertising or marketing agent compensation for advertising or marketing services rendered by the agent for the benefit of the licensed dentist or dental hygienist, including compensation that is based on the results or performance of the services on a per-patient basis; and

(II) Nothing in this section prohibits a dentist or dental hygienist practice owned or operated by a proprietor authorized under section 12-220-114 from contracting with any person or entity for business management services or paying a royalty in accordance with a franchise agreement if the terms of the contract or franchise agreement do not affect the exercise of the independent professional judgment of the dentist or dental hygienist.

(w) Failing to provide reasonably necessary referral of a patient to other licensed dentists or licensed health care professionals for consultation or treatment when the failure to provide referral does not meet generally accepted standards of dental care;

(x) Failure of a dental hygienist to recommend that a patient be examined by a dentist, or to refer a patient to a dentist, when the dental hygienist detects a condition that requires care beyond the scope of practicing supervised or unsupervised dental hygiene;

(y) Engaging in any of the following activities and practices:

(I) Willful and repeated ordering or performance, without clinical justification, of demonstrably unnecessary laboratory tests or studies;

(II) The administration, without clinical justification, of treatment that is demonstrably unnecessary;

(III) In addition to the provisions of subsection (1)(x) of this section, the failure to obtain consultations or perform referrals when failing to do so is not consistent with the standard of care for the profession;

(IV) Ordering or performing, without clinical justification, any service, X ray, or treatment that is contrary to recognized standards of the practice of dentistry or dental hygiene as interpreted by the board;
(z) Falsifying or repeatedly making incorrect essential entries or repeatedly failing to make essential entries on patient records;
(aa) Violating section 8-42-101 (3.6);
(bb) Violating section 12-220-202 or any rule of the board adopted pursuant to that section;
(cc) Administering local anesthesia, minimal sedation, moderate sedation, or deep sedation/general anesthesia without obtaining a permit from the board in accordance with section 12-220-146;
(dd) Failing to report to the board, within ninety days after final disposition, the surrender of a license to, or adverse action taken against a license by, a licensing agency in another state, territory, or country, a governmental agency, a law enforcement agency, or a court for an act or conduct that would constitute grounds for discipline pursuant to this article 220;
(ee) Failing to provide adequate or proper supervision when employing unlicensed persons in a dental or dental hygiene practice;
(ff) Engaging in any conduct that constitutes a crime as defined in title 18, which conduct relates to the licensee's practice as a dentist or dental hygienist;
(gg) Practicing outside the scope of dental or dental hygiene practice;
(hh) Failing to establish and continuously maintain financial responsibility or professional liability insurance as required by section 12-220-147;
(ii) Advertising or otherwise holding oneself out to the public as practicing a dental specialty in which the dentist has not successfully completed the education specified for the dental specialty as defined by the American Dental Association;
(jj) Failing to respond in an honest, materially responsive, and timely manner to a complaint filed against the licensee pursuant to this article 220;
(kk) Committing an act or omission that fails to meet generally accepted standards for infection control;
(ll) Administering moderate sedation or deep sedation/general anesthesia without a licensed dentist or other licensed health care professional qualified to administer the relevant level of sedation or anesthesia present in the operatory;
(mm) Failing to complete and maintain records of completing continuing education as required by section 12-220-145;
(nn) [Editor's note: This version of subsection (1)(nn) is effective until July 1, 2023.] Failing to comply with section 12-220-128 regarding the placement of interim therapeutic restorations; or
(oo) [Editor's note: This version of subsection (1)(oo) is effective until July 1, 2023.] Failing to comply with section 12-220-128 regarding the placement of interim therapeutic restorations;
(pp) [Editor's note: Subsection (1)(pp) is effective July 1, 2023.] Failing to accurately complete and submit the questionnaire required by section 12-220-119 (2).
**12-220-131. Disciplinary actions.** (1) If, after notice and hearing conducted in accordance with article 4 of title 24 and section 12-20-403, the board determines that an applicant or licensee has engaged in an act specified in section 12-220-130, the board may:

(I) Issue a letter of admonition under the circumstances specified in and in accordance with section 12-20-404 (4);

(II) Reprimand, censure, or, in accordance with section 12-20-404 (1)(b), place on probation any licensed dentist or dental hygienist;

(III) Impose an administrative fine in accordance with section 12-20-404 (1)(c) and subsection (5) of this section; or

(IV) In accordance with section 12-20-404 (1)(d), deny the issuance of, refuse to renew, suspend, or revoke any license provided for in this article 220.

(b) Hearings under this section must be conducted by the board or by an administrative law judge pursuant to section 12-20-403.

(2) The board shall send a confidential letter of concern to a licensee under the circumstances specified in section 12-20-404 (5). The board shall send the person making the complaint a notice that the board has issued a letter of concern to the licensee.

(3) The board may include, in any disciplinary order that allows a dentist or dental hygienist to continue to practice, conditions the board deems appropriate to assure that the dentist or dental hygienist is physically, mentally, and otherwise qualified to practice dentistry or dental hygiene in accordance with generally accepted professional standards of practice. The order may include any or all of the following:

(a) A condition that the licensee submit to examinations to determine the licensee's physical or mental condition or professional qualifications;

(b) A condition that the licensee take therapy, courses of training, or education as needed to correct deficiencies found by the board or by examinations required pursuant to subsection (3)(a) of this section;

(c) Review or supervision of the licensee's practice as necessary to determine the quality of the practice and to correct any deficiencies;

(d) The imposition of restrictions on the licensee's practice to assure that the practice does not exceed the limits of the licensee's capabilities.
(4) The board may suspend the license of a dentist or dental hygienist who fails to comply with an order of the board issued in accordance with this section. The board may impose the license suspension until the licensee complies with the board's order.

(5) (a) In addition to any other penalty permitted under this article 220, when a licensed dentist or dental hygienist violates a provision of this article 220 or of any rule promulgated pursuant to this article 220, the board may impose a fine on the licensee. If the licensee is a dentist, the fine must not exceed five thousand dollars. If the licensee is a dental hygienist, the fine must not exceed three thousand dollars.

(b) The board shall adopt rules establishing a uniform system and schedule of fines that set forth fine tiers based on the severity of the violation, the type of violation, and whether the licensee repeatedly violates this article 220, board rules, or board orders.

(6) If the board finds the charges proven and orders that discipline be imposed, the board may also order the licensee to take courses of training or education the board deems necessary to correct deficiencies found as a result of the hearing.


Editor's note: This section is similar to former § 12-35-129.1 as it existed prior to 2019.

12-220-132. Disciplinary proceedings - professional review committees. (1) (a) Any person may submit a complaint relating to the conduct of a dentist or dental hygienist, which complaint must be in writing and signed by the person. The board, on its own motion, may initiate a complaint. The board shall notify the dentist or dental hygienist of the complaint against him or her.

(b) (I) For complaints related to the standard of care delivered to a patient that are submitted by a person other than the patient, the person submitting the complaint shall notify the patient of the complaint before filing the complaint with the board.

(II) The requirements of this subsection (1)(b) do not apply when a complaint is submitted to the board by a state department or agency.

(2) (a) Except as provided in subsection (2)(b) of this section, investigations, examinations, hearings, meetings, and other proceedings of the board conducted pursuant to this section or section 12-220-131, 12-220-133, 12-220-134, or 12-220-135 are exempt from the provisions of any law requiring that proceedings of the board be conducted publicly or that the minutes or records of the board with respect to action of the board taken pursuant to this section or those sections are open to public inspection.

(b) The final action of the board taken pursuant to this section is open to the public.

(3) In addition to the persons specified in section 12-20-402, any member of a professional review committee authorized by the board, any member of a professional review committee's staff, any person acting as a witness or consultant to a professional review committee, any witness testifying in a proceeding authorized under this article 220, and any person who lodges a complaint pursuant to this article 220 is granted the same immunity, and is subject to the same conditions for immunity, as specified in section 12-20-402.

(4) The discipline of a licensee by another state, territory, or country is deemed the equivalent of unprofessional conduct under this article 220; except that this subsection (4) applies only to discipline that is based upon an act or omission in the other state, territory, or
country that is defined substantially the same as unprofessional conduct pursuant to this article 220.

(5) (a) Nothing in this section:
(I) Deprives a dental patient of the right to choose or replace any professionally recognized restorative material;
(II) Permits disciplinary action against a dentist solely for removing or placing any professionally recognized restorative material.

(b) Nothing in subsection (5)(a) of this section prevents disciplinary action against a dentist for practicing dentistry in violation of this article 220.

(6) (a) If a professional review committee is established pursuant to this section to investigate complaints against a person licensed to practice dentistry under this article 220, the committee must include in its membership at least three persons licensed to practice dentistry under this article 220. The committee may be authorized to act only by:
(I) The board; or
(II) A society or an association of persons licensed to practice dentistry under this article 220 whose membership includes not less than one-third of the persons licensed to practice dentistry under this article 220 residing in this state, if the licensee whose services are the subject of review is a member of the society or association.

(b) Any member of the board or a professional review committee authorized by the board and any witness or consultant appearing before the board or professional review committee is immune from suit in any civil action brought by a licensee who is the subject of a professional review proceeding if the member, witness, or consultant acts in good faith within the scope of the function of the board or committee, has made a reasonable effort to obtain the facts of the matter as to which the member, witness, or consultant acts, and acts in the reasonable belief that his or her action is warranted by the facts. The immunity provided by this subsection (6)(b) extends to the members of an authorized professional review committee of a society or an association of persons licensed pursuant to this article 220 and witnesses or consultants appearing before the committee if the committee is authorized to act as provided in subsection (6)(a)(II) of this section.

(c) A professional review committee of a society or an association of persons licensed pursuant to this article 220 shall:
(I) Notify the board within sixty days after the review committee analyzes care provided by a licensee and determines that the care may not meet generally accepted standards or that the licensee has otherwise violated any provision of this article 220. The licensee may be subject to disciplinary action by the board.
(II) Allow the board or its designee to conduct a periodic audit of records of the review committee. A person designated by the board to conduct the audit must be a licensed or retired dentist from any state. The board or its designee shall conduct the audit no more than twice annually. If any pattern of behavior of a licensee is identified that may constitute reasonable grounds to believe there has been a violation of this article 220, all relevant records of the review committee are subject to a subpoena issued by the board.

(d) (I) The proceedings and records of a review committee must be held in confidence and are not subject to discovery or introduction into evidence in any civil action against a dentist arising out of the matters that are the subject of evaluation and review by the committee. However, records of closed proceedings and investigations are available to the particular licensee under review and the complainant involved in the proceedings.
(II) A person who was in attendance at a meeting of the committee shall not be permitted or required to testify in any civil action as to any evidence or other matters produced or presented during the proceedings of the committee or as to any findings, recommendations, evaluations, opinions, or other actions of the committee or any members of the committee. However, information, documents, or records otherwise available from original sources are not protected from discovery or use in a civil action merely because they were presented during proceedings of the committee, and any documents or records that have been presented to the review committee by any witness must be returned to the witness, if requested by the witness or if ordered to be produced by a court in any action, with copies to be retained by the committee at its discretion.

(III) Any person who testifies before the committee or who is a member of the committee is not prevented from testifying as to matters within the person's knowledge, but the person may not be asked about his or her testimony before the committee or opinions the person formed as a result of the committee hearings.


Editor's note: This section is similar to former § 12-35-129.2 as it existed prior to 2019.

12-220-133. Board panels. (1) The chairperson of the board shall divide the members of the board, other than the chairperson, into two panels of six members each.

(2) Each panel shall act as both an inquiry panel and a hearing panel. The chairperson may reassign members of the board from one panel to the other. The chairperson may be a member of both panels, but neither the chairperson nor any other member who has considered a complaint as a member of a panel acting as an inquiry panel shall take any part in the consideration of a formal complaint involving the same matter.

(3) If the inquiry panel refers a matter for formal hearing, the hearing panel or a committee of the hearing panel shall hear the matter. However, in its discretion, either inquiry panel may elect to refer a case for formal hearing to a qualified administrative law judge in lieu of a hearing panel of the board for an initial decision pursuant to section 24-4-105.

(4) A licensee who is the subject of an initial decision by an administrative law judge, or by the hearing panel that would have heard the case upon its own motion, may seek review of the initial decision pursuant to section 24-4-105 (14) and (15) by filing an exception to the initial decision with the hearing panel that would have heard the case if it had not been referred to an administrative law judge. The respondent or the board's counsel may file the exception.

(5) The inquiry panel to whom an investigation is assigned shall supervise the investigation, and the person conducting the investigation shall report the results of the investigation to the panel for appropriate action.


Editor's note: This section is similar to former § 12-35-129.3 as it existed prior to 2019.

12-220-134. Cease-and-desist orders. The board may issue cease-and-desist orders under the circumstances and in accordance with the procedures specified in section 12-20-405.

Editor's note: This section is similar to former § 12-35-129.4 as it existed prior to 2019.

12-220-135. Mental and physical examinations. (1) (a) If the board has reasonable cause to believe that a person licensed to practice dentistry or dental hygiene in this state is unable to practice dentistry or dental hygiene with reasonable skill and safety to patients because of a physical or mental disability or because of excessive use of alcohol, a habit-forming drug or substance, or a controlled substance, as defined in section 18-18-102 (5), the board may require the licensed dentist or dental hygienist to submit to a mental or physical examination by a qualified professional designated by the board.

(b) Upon the failure of the licensed dentist or dental hygienist to submit to a mental or physical examination required by the board, unless the failure is due to circumstances beyond the dentist's or dental hygienist's control, the board may suspend the dentist's or dental hygienist's license to practice dentistry or dental hygiene in this state until the dentist or dental hygienist submits to the examination.

(2) Every person licensed to practice dentistry or dental hygiene in this state is deemed, by so practicing or by applying for a renewal of the person's license to practice dentistry or dental hygiene in this state, to have:

(a) Given consent to submit to a mental or physical examination when directed in writing by the board; and

(b) Waived all objections to the admissibility of the examining qualified professional's testimony or examination reports on the ground of privileged communication.

(3) The results of any mental or physical examination ordered by the board cannot be used as evidence in any proceeding other than before the board.


Editor's note: This section is similar to former § 12-35-129.5 as it existed prior to 2019.

12-220-136. Confidential agreement to limit practice. Section 12-30-108 concerning confidential agreements to limit practice applies to this article 220.


Editor's note: This section is similar to former § 12-35-129.6 as it existed prior to 2019.

12-220-137. Review of board action. (1) Section 12-20-408 governs judicial review of any final action of the board to:

(a) Deny or refuse to issue or renew a license;

(b) Suspend a license;

(c) Revoke a license;
(d) Censure a licensee;
(e) Issue a letter of admonition to a licensee;
(f) Place a licensee on probation;
(g) Issue a reprimand to a licensee; or
(h) Issue an order to cease and desist.

(2) The provisions of this section apply to a license issued to a dentist or dental hygienist.


Editor's note: This section is similar to former § 12-35-130 as it existed prior to 2019.

12-220-138. Use or sale of forged or invalid diploma or license certificate. (1) It is unlawful for any person to use or attempt to use as his or her own a diploma of a dental college or school or school of dental hygiene, or a license or license renewal certificate, of any other person or to use or attempt to use a forged diploma, license, license renewal certificate, or identification. It is also unlawful for any person to file with the board a forged document in response to a request by the board for documentation of an applicant's qualifications for licensure.

(2) It is unlawful to sell or offer to sell a diploma conferring a dental or dental hygiene degree or a license or license renewal certificate granted pursuant to this article 220 or prior dental practice laws, or to procure such diploma or license or license renewal certificate:

(a) With the intent that it be used as evidence of the right to practice dentistry or dental hygiene by a person other than the one upon whom it was conferred or to whom the license or license renewal certificate was granted; or

(b) With fraudulent intent to alter the document and use or attempt to use it when it is so altered.


Editor's note: Subsection (1) is similar to former § 12-35-131; and subsection (2) is similar to former § 12-35-132 (1), as those sections existed prior to 2019.

12-220-139. Construction of dental devices by unlicensed technician. (1) (a) A licensed dentist who uses the services of an unlicensed technician for the purpose of constructing, altering, repairing, or duplicating any denture, bridge, splint, or orthodontic or prosthetic appliance shall furnish the unlicensed technician with a written or electronic laboratory work order in a form approved by the board, which form must be dated and signed by the dentist for each separate and individual piece of work. The dentist shall make the laboratory work order in a reproducible form, and the dentist and the unlicensed technician shall each retain a copy in a permanent file for two years. The permanent files of the licensed dentist and the unlicensed technician shall be open to inspection at any reasonable time by the board or its duly constituted agent. The licensed dentist that furnishes the laboratory work order shall have
appropriate training, education, and experience related to the prescribed treatment and is responsible for directly supervising all intraoral treatment rendered to the patient.

(b) An unlicensed technician that possesses a valid laboratory work order may provide extraoral construction, manufacture, fabrication, supply, or repair of identified dental and orthodontic devices but shall not provide intraoral service in a human mouth except under the direct supervision of a licensed dentist in accordance with section 12-220-127 (3)(d).

(2) If the dentist fails to keep permanent records of laboratory work orders as required in subsection (1)(a) of this section, the dentist is subject to disciplinary action as deemed appropriate by the board.

(3) If an unlicensed technician fails to have in his or her possession a laboratory work order signed by a licensed dentist with each denture, bridge, splint, or orthodontic or prosthetic appliance in his or her possession, the absence of the laboratory work order is prima facie evidence of a violation of this section and constitutes the practice of dentistry without an active license in violation of, and subject to the penalties specified in, section 12-220-141.


Editor's note: This section is similar to former § 12-35-133 as it existed prior to 2019.

12-220-140. Soliciting or advertisements by unlicensed persons. It is unlawful for any unlicensed person, corporation, entity, partnership, or group of persons to solicit or advertise to the general public to construct, reproduce, or repair prosthetic dentures, bridges, plates, or other appliances to be used or worn as substitutes for natural teeth.


Editor's note: This section is similar to former § 12-35-134 as it existed prior to 2019.

12-220-141. Unauthorized practice - penalties. Any person who practices or offers or attempts to practice dentistry or dental hygiene without an active license issued under this article 220 is subject to penalties pursuant to section 12-20-407 (1)(a).


Editor's note: This section is similar to former § 12-35-135 as it existed prior to 2019.

12-220-142. Attorney general shall represent board and members. The attorney general of the state of Colorado shall counsel with and advise the board in connection with its duties and responsibilities under this article 220. If litigation is brought against the board or any of its individual members in connection with actions taken by it or them under the provisions of this article 220 and the actions are free of malice, fraud, or willful neglect of duty, the attorney general shall defend the litigation without cost to the board or to any individual member thereof.
12-220-143. Independent advertising or marketing agent - injunctive proceedings.

(1) Notwithstanding section 12-220-130 (1)(t), a licensed dentist or dental hygienist may employ an independent advertising or marketing agent to provide advertising or marketing services on the dentist's or dental hygienist's behalf, and the same shall not be considered unprofessional conduct.

(2) The board shall not have the authority to regulate, directly or indirectly, advertising or marketing activities of independent advertising or marketing agents except as provided in this section. The board may, in the name of the people of the state of Colorado, apply for an injunction in district court to enjoin any independent advertising or marketing agent from the use of advertising or marketing that the court finds on the basis of the evidence presented by the board to be misleading, deceptive, or false; except that a licensed dentist or dental hygienist shall not be subject to discipline by the board, injunction, or prosecution in the courts under this article 220 or any other law for advertising or marketing by an independent advertising or marketing agent if the factual information that the licensed dentist or dental hygienist provides to the independent advertising or marketing agent is accurate and not misleading, deceptive, or false.


Editor's note: This section is similar to former § 12-35-136 as it existed prior to 2019.

12-220-144. Dentist peer health assistance program - fees - rules.

(1) (a) Effective July 1, 2004, as a condition of renewal in this state, every renewal applicant shall pay to the administering entity that has been selected by the board pursuant to the provisions of subsection (1)(b) of this section an amount not to exceed fifty-nine dollars per year, which maximum amount may be adjusted on January 1, 2005, and annually thereafter by the board to reflect changes in the United States department of labor, bureau of labor statistics, consumer price index for Denver-Aurora-Lakewood for all urban consumers or goods, or its successor index. The fee shall be used to support designated providers that have been selected by the board to provide assistance to dentists needing help in dealing with physical, emotional, or psychological problems that may be detrimental to their ability to practice dentistry. The fee shall not exceed one hundred dollars per year per licensee.

(b) The board shall select one or more peer health assistance programs as designated providers. To be eligible for designation by the board, a peer health assistance program shall:

(I) Provide for the education of dentists with respect to the recognition and prevention of physical, emotional, and psychological problems and provide for intervention when necessary or under circumstances that may be established by rules promulgated by the board;

(II) Offer assistance to a dentist in identifying physical, emotional, or psychological problems;

(III) Evaluate the extent of physical, emotional, or psychological problems and refer the dentist for appropriate treatment;
(IV) Monitor the status of a dentist who has been referred for treatment;
(V) Provide counseling and support for the dentist and for the family of any dentist referred for treatment;
(VI) Agree to receive referrals from the board;
(VII) Agree to make its services available to all licensed Colorado dentists.

(c) The administering entity shall be a qualified, nonprofit private foundation that is qualified under section 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended, and shall be dedicated to providing support for charitable, benevolent, educational, and scientific purposes that are related to dentistry, dental education, dental research and science, and other dental charitable purposes.

(d) The responsibilities of the administering entity shall be to:
(I) Collect the required annual payments, directly or through the board;
(II) Verify to the board, in a manner acceptable to the board, the names of all dentist applicants who have paid the fee set by the board;
(III) Distribute the money collected, less expenses, to the designated provider, as directed by the board;
(IV) Provide an annual accounting to the board of all amounts collected, expenses incurred, and amounts disbursed; and
(V) Post a surety performance bond in an amount specified by the board to secure performance under the requirements of this section. The administering entity may recover the actual administrative costs incurred in performing its duties under this section in an amount not to exceed ten percent of the total amount collected.

(e) The board, at its discretion, may collect the required annual payments payable to the administering entity for the benefit of the administering entity and shall transfer the payments to the administering entity. All required annual payments collected or due to the board for each fiscal year shall be deemed custodial funds that are not subject to appropriation by the general assembly, and the funds shall not constitute state fiscal year spending for purposes of section 20 of article X of the state constitution.

(2) (a) Any dentist who is a referred participant in a peer health assistance program shall enter into a written agreement with the board prior to the dentist becoming a participant in the program. The agreement shall contain specific requirements and goals to be met by the participant, including the conditions under which the program will be successfully completed or terminated, and a provision that a failure to comply with the requirements and goals shall be promptly reported to the board and that the failure shall result in disciplinary action by the board.

(b) Notwithstanding section 12-220-130 and section 24-4-104, the board may immediately suspend the license of any dentist who is referred to a peer health assistance program by the board and who fails to attend or to complete the program. If the dentist objects to the suspension, the dentist may submit a written request to the board for a formal hearing on the suspension within ten days after receiving notice of the suspension, and the board shall grant the request. In the hearing the dentist shall bear the burden of proving that the dentist's license should not be suspended.

(c) Any dentist who is accepted into a peer health assistance program in lieu of disciplinary action by the board shall affirm that, to the best of the dentist's knowledge, information, and belief, the dentist knows of no instance in which the dentist has violated this article 220 or the rules of the board, except in those instances affected by the dentist's physical, emotional, or psychological problems.
(3) If a dentist is arrested for a drug- or alcohol-related offense, the dentist shall refer himself or herself to the peer health assistance program within thirty days after the arrest for an evaluation and referral for treatment as necessary. If the dentist self-refers, the evaluation by the program is confidential and cannot be used as evidence in any proceeding other than before the board. If a dentist fails to comply with this subsection (3), the failure, alone, is not grounds for discipline under sections 12-220-130 and 12-220-131 unless the dentist has also committed an act or omission specified in section 12-220-130, other than an act or omission specified in section 12-220-130 (1)(e) or (1)(f).

(4) Nothing in this section shall be construed to create any liability on behalf of the board or the state of Colorado for the actions of the board members in making grants to peer assistance programs, and no civil action may be brought or maintained against the board or the state for an injury alleged to have been the result of the activities of any state-funded peer assistance program or the result of an act or omission of a dentist participating in or referred by a state-funded peer assistance program. However, the state shall remain liable under the provisions of the "Colorado Governmental Immunity Act", article 10 of title 24, if an injury alleged to have been the result of an act or omission of a dentist participating in or referred by a state-funded peer assistance program occurred while the dentist was performing duties as an employee of the state.

(5) The board is authorized to promulgate rules necessary to implement the provisions of this section.


Editor's note: This section is similar to former § 12-35-138 as it existed prior to 2019.

12-220-145. Continuing education requirements - rules. (1) As a condition of renewing, reactivating, or reinstating a license issued under this article 220, every dentist and dental hygienist shall obtain at least thirty hours of continuing education every two years to ensure patient safety and professional competency.

(2) The board may adopt rules establishing the basic requirements for continuing education, including the types of programs that qualify, exemptions for persons holding an inactive or retired license, requirements for courses designed to enhance clinical skills for certain licenses, and the manner by which dentists and dental hygienists are to report compliance with the continuing education requirements.


Editor's note: This section is similar to former § 12-35-139 as it existed prior to 2019.

12-220-146. Anesthesia and sedation permits - dentists and dental hygienists - training and experience requirements - office inspections - rules. (1) Upon application in a form and manner determined by the board and payment of the applicable fees established by the board, the board may issue an anesthesia or sedation permit to a licensed dentist or a local anesthesia permit to a dental hygienist in accordance with this section.
(2) (a) A licensed dentist who obtains an anesthesia or sedation permit pursuant to this section may administer minimal sedation, moderate sedation, or deep sedation/general anesthesia.

(b) A licensed dentist who administers minimal sedation, moderate sedation, or deep sedation/general anesthesia to pediatric dental patients shall obtain a permit designated by the board to allow for administration to pediatric dental patients.

(c) An anesthesia or sedation permit issued to a licensed dentist is valid for five years, unless the dentist's license expires. As a condition of renewing an anesthesia or sedation permit, a licensed dentist shall attest, when applying to renew the permit, that he or she completed seventeen continuing education credits specific to anesthesia or sedation administration during the five-year permit period. Continuing education credits obtained as required by this section may be used to satisfy the continuing education requirements in section 12-220-145.

(3) (a) A licensed dental hygienist who obtains a local anesthesia permit pursuant to this section may administer local anesthesia.

(b) A local anesthesia permit issued to a dental hygienist is valid as long as the dental hygienist's license is active.

(4) (a) The board shall establish, by rule, minimum training, experience, and equipment requirements for the administration of local anesthesia, analgesia including nitrous oxide/oxygen inhalation, and medication prescribed or administered for the relief of anxiety or apprehension, minimal sedation, moderate sedation, deep sedation, or general anesthesia, including procedures that may be used by and minimum training requirements for dentists, dental hygienists, and dental assistants.

(b) In order to fulfill the training and experience requirements for an anesthesia or sedation permit, an applicant must be the primary provider and directly provide care for all required case work.

(c) The rules relating to anesthesia and sedation are not intended to:

(I) Permit administration of local anesthesia, analgesia, medication prescribed or administered for the relief of anxiety or apprehension, minimal sedation, moderate sedation, deep sedation, or general anesthesia by dental assistants; except that this section does not prohibit a dental assistant from monitoring and administering nitrous oxide/oxygen inhalation performed under the supervision of a licensed dentist pursuant to section 12-220-110 (1)(q) and board rules; or

(II) Reduce competition or restrain trade with respect to the dentistry needs of the public.

(5) The board shall establish, by rule, criteria and procedures for an office inspection program to be completed upon application and renewal of anesthesia or sedation permits, which must include:

(a) Designation of qualified inspectors who are experts in dental outpatient deep sedation/general anesthesia and moderate sedation;

(b) A requirement for each licensee that is inspected to bear the cost of inspection by allowing designated inspectors to charge a reasonable fee as established by the board;

(c) A requirement that an inspector notify the board in writing of the results of an inspection; and

(d) A requirement for reinspection of an office prior to the renewal of a moderate sedation or deep sedation/general anesthesia permit.
12-220-147. Professional liability insurance required - rules. (1) A licensed dentist and a licensed dental hygienist must meet the financial responsibility requirements established by the board pursuant to section 13-64-301 (1)(a).

(2) Upon request of the board, a licensed dentist or licensed dental hygienist shall provide proof of professional liability insurance to the board.

(3) The board may, by rule, exempt from or establish lesser financial responsibility standards for licensed dentists and licensed dental hygienists who meet the criteria in section 13-64-301 (1)(a)(II).


Editor's note: This section is similar to former § 12-35-140 as it existed prior to 2019.

PART 2

SAFETY TRAINING FOR UNLICENSED X-RAY TECHNICIANS

Cross references: For similar provisions in article 215 of this title 12 regulating chiropractors, see part 2 of said article 215; for similar provisions in article 290 of this title 12 regulating podiatrists, see part 2 of said article 290.

12-220-201. Legislative declaration. (1) The general assembly hereby finds, determines, and declares that public exposure to the hazards of ionizing radiation used for diagnostic purposes should be minimized wherever possible. Accordingly, the general assembly finds, determines, and declares that for any dentist or dental hygienist to allow an untrained person to operate a machine source of ionizing radiation, including without limitation a device commonly known as an "X-ray machine", or to administer radiation to a patient for diagnostic purposes is a threat to the public health and safety.

(2) It is the intent of the general assembly that dentists and dental hygienists utilizing unlicensed persons in their practices provide those persons with a minimum level of education and training before allowing them to operate machine sources of ionizing radiation; however, it is not the general assembly's intent to discourage education and training beyond this minimum. It is further the intent of the general assembly that established minimum training and education requirements correspond as closely as possible to the requirements of each particular work setting as determined by the board pursuant to this part 2.

(3) The general assembly seeks to ensure, and accordingly declares its intent, that in promulgating the rules authorized by this part 2, the board will make every effort, consistent with its other statutory duties, to avoid creating a shortage of qualified individuals to operate machine sources of ionizing radiation for beneficial medical purposes in any area of the state.
12-220-202. Board authorized to issue rules - definition. (1) (a) The board shall adopt rules prescribing minimum standards for the qualifications, education, and training of unlicensed persons operating machine sources of ionizing radiation and administering radiation to patients for diagnostic medical use. A licensed dentist or dental hygienist shall not allow an unlicensed person to operate a machine source of ionizing radiation or to administer radiation to any patient unless the person meets standards then in effect under rules adopted pursuant to this section. The board may adopt rules allowing a grace period in which newly hired operators of machine sources of ionizing radiation are to receive the training required by this section. (b) For purposes of this part 2, "unlicensed person" means a person who does not hold a current and active license entitling the person to practice dentistry or dental hygiene under the provisions of this article 220.

(2) The board shall seek the assistance of licensed dentists or licensed dental hygienists in developing and formulating the rules promulgated pursuant to this section.

(3) The required number of hours of training and education for all unlicensed persons operating machine sources of ionizing radiation and administering radiation to patients shall be established by the board by rule. This standard shall apply to all persons in dental settings other than hospitals and similar facilities licensed by the department of public health and environment pursuant to section 25-1.5-103. The training and education may be obtained through programs approved by the appropriate authority of any state or through equivalent programs and training experience, including on-the-job training as determined by the board.


Editor's note: This section is similar to former § 12-35-201 as it existed prior to 2019.
§ 43-11-74. Direct supervision required; scope of duties; exceptions to required supervision for dental screenings

(a) As used in this Code section the term:

(1) "Direct supervision" means that a licensed dentist is in the dental office or treatment facility, personally diagnoses the condition to be treated, personally authorizes the procedure and remains in the dental office or treatment facility while the procedure is being performed by the dental hygienist, and before dismissal of the patient, examines the patient.

(2) "General supervision" means that a licensed dentist has authorized the delegable duties of a licensed dental hygienist but does not require that a licensed dentist be present when such duties are performed.

(b) Licensed dental hygienists shall perform their duties only under the direct supervision of a licensed dentist, except as otherwise provided in this Code section. No licensed dental hygienist shall diagnose, prescribe, determine the initial dosage, or increase the initial dosage of nitrous oxide, practice dentistry, or do any kind of dental work other than to remove calcareous deposits, secretions, and stains from the surfaces of the teeth, to apply ordinary wash or washes of a soothing character, and to perform those acts, services, procedures, and practices which the board shall prescribe by rule or regulation.

(c) After meeting such additional education and training requirements as the board may require by rule or regulation, a licensed dental hygienist may perform such other acts, practices, services, or procedures under the direct supervision of a licensed dentist, which the board may prescribe by rule or regulation subject, however, to the limitations set forth in subsection (b) of this Code section.

(d) The requirement of direct supervision shall not apply to the educational training of dental hygiene students at an institution approved by the board and the Commission on Dental Accreditation of the American Dental Association, or its successor agency, when such instruction is carried out under such degree of supervision by a licensed dentist as the board may prescribe by rule or regulation.

(e) The requirement of direct supervision shall not apply to the performance of dental hygiene duties at approved dental facilities of the Department of Public Health, county boards of health, or the Department of Corrections or
the performance of dental hygiene duties by personnel of the Department of Public Health or county boards of health at approved offsite locations.

(f)

(1) As used in this subsection, the term "dental screening" means a visual assessment of the oral cavity without the use of X-rays, laboratory tests, or diagnostic models to determine if it appears that a more thorough clinical examination and diagnosis should be conducted by a licensed dentist.

(2) The requirement of direct supervision shall not apply to the performance of licensed dental hygienists providing dental screenings in settings which include: schools; hospitals; clinics; state, county, local, and federal public health programs; federally qualified health centers; volunteer community health settings; senior centers; and family violence shelters, as defined in Code Section 19-13-20. Other health fair settings must be preapproved by the board.

(3) Each person who receives a dental screening pursuant to this subsection, or the parent or legal guardian if the person is a minor, must be informed in writing of the purpose and limitations of a dental screening and advised to seek a more thorough clinical examination by a licensed dentist to determine whether or not problems exist that might not be discovered in a dental screening. There shall be no fees charged for providing a dental screening pursuant to this subsection except for dental screenings provided by employees of the Department of Public Health or county boards of health. These fees must be paid directly to that department or county board of health and not to the individual who performs the dental screening.

(g) (1) In a private dental office setting, a licensed dental hygienist may perform only the following functions under general supervision:

(A) Application of sealants and oral prophylaxis and assessment;
(B) Fluoride treatment;
(C) Oral hygiene instruction and education; and
(D) Exposure and processing of radiographs if provided for by specific standing orders of the authorizing licensed dentist, including any protocols regarding urgent dental issues that arise.

(2) A licensed dentist in a private dental office setting may authorize general supervision of a licensed dental hygienist only upon meeting the following criteria:

(A) A new patient of record must be clinically examined by the authorizing licensed dentist during the initial visit;
(B) A patient must be examined by the authorizing licensed dentist at a minimum of 12 month intervals; and
(C) A patient must be notified in advance of the appointment that he or she will be treated by the licensed dental hygienist under general supervision without the authorizing licensed dentist being present or being examined by the authorizing licensed dentist.

(h) In school settings, licensed dental hygienists may apply topical fluoride and perform the application of sealants and oral prophylaxis under general supervision, with written permission of the student's parent or guardian. Such written permission may be obtained by the school in the same manner as other parental permissions are obtained. Licensed dental hygienists may also, without prior written permission of the student's parent or guardian, provide oral hygiene instruction and counseling. Confidentiality of any records related to services provided to a student pursuant to this subsection shall be maintained by the licensed dental hygienist and authorizing licensed dentist in compliance with the federal Family Educational Rights and Privacy Act of 1974, 20 U.S.C. Section 1232g. School settings shall include only schools that are Title I schools under the federal Elementary and Secondary Education Act, schools in which at least 65 percent of the student population is eligible for free or reduced price lunch under federal guidelines, Head Start programs, and Georgia's Pre-K Program.
(i) In hospitals, nursing homes, long-term care facilities, rural health clinics, federally qualified health centers, health facilities operated by federal, state, county, or local governments, hospices, family violence shelters as defined in Code Section 19-13-20, and free health clinics as defined in Code Section 51-1-29.4, licensed dental hygienists may apply topical fluoride and perform the application of sealants and oral prophylaxis under general supervision.

(j) A licensed dental hygienist providing dental hygiene services pursuant to subsection (h) or (i) of this Code section shall:

(1) Not perform any dental hygiene services on a patient that has dental pain or clearly visible evidence of widespread dental disease. The licensed dental hygienist shall immediately refer such patient to the authorizing licensed dentist for clinical examination and treatment. The licensed dental hygienist shall notate such patient's file and the patient shall not be eligible to receive dental hygiene services pursuant to subsection (h) or (i) of this Code section until a licensed dentist provides written authorization that such services may be performed on the patient;

(2) Prior to providing any dental hygiene services, obtain, study, and comprehend the school's or facility's protocols and procedures regarding medical emergencies and implement and comply with such protocols and procedures if a medical emergency arises during the provision of dental hygiene services; and

(3) Provide to each patient receiving such services written notice containing:

(A) The name and license number of the licensed dental hygienist and the authorizing licensed dentist;

(B) Any dental hygiene issues that the licensed dental hygienist identified during the performance of dental hygiene duties. If dental hygiene services are not performed on the patient pursuant to paragraph (1) of this subsection, the written notice shall include a statement that the patient is not eligible to receive dental hygiene services until a clinical examination is performed by a licensed dentist and a licensed dentist provides written authorization that services may be performed; and

(C) A statement advising each patient who receives dental hygiene services to seek a more thorough clinical examination by a licensed dentist within 90 days, unless the authorizing licensed dentist performed an initial clinical examination of the patient.

The licensed dental hygienist shall make all reasonable efforts to provide such written notice to parents or legal guardians of minors or incapacitated adults who receive dental hygiene services and to the long-term care facility or nursing home for residents of such facilities who receive dental hygiene services.

(k)

(1) Any licensed dental hygienist performing dental hygiene services under general supervision pursuant to this Code section shall have at least two years of experience in the practice of dental hygiene, shall be in compliance with continuing education requirements pursuant to Code Section 43-11-73.1 and cardiopulmonary resuscitation certification requirements contained in Code Section 43-11-73, and shall be licensed in good standing.

(2) Licensed dental hygienists practicing under general supervision shall maintain professional liability insurance in accordance with board rules and regulations.

(l)

(1) No licensed dentist shall be required to authorize a licensed dental hygienist or dental hygienists to perform dental hygiene duties pursuant to subsection (g), (h), or (i) of this Code section.

(2) It shall be in the sole discretion of the authorizing licensed dentist as to whether or not to require an initial examination of the patient prior to the performance by a licensed dental hygienist of dental hygiene services under general supervision.

(3) A licensed dentist may only authorize up to four licensed dental hygienists to provide dental hygiene services pursuant to subsection (g), (h), or (i) of this Code section at any one time.
(4) A licensed dentist authorizing one or more licensed dental hygienists to provide dental hygiene services pursuant to subsection (h) or (i) of this Code section shall practice dentistry and treat patients in a physical ancillary operational dental office located in this state within 50 miles of the setting in which the dental hygiene services are to be provided under general supervision.

(m) Dental hygiene services provided by licensed dental hygienists in mobile dental vans shall always be provided under direct supervision.

(n) Dental assistants may use rubber cup prophylaxis on a patient with primary dentition under the direct supervision of a licensed dentist in accordance with any guidelines or rules established by the board. Dental assistants shall meet any education, training, or other requirements as established by the board.

(o) Nothing in this Code section shall be construed to require a school or facility receiving dental hygiene services provided pursuant to subsection (h) or (i) of this Code section to purchase any equipment.

(p) Nothing in this Code section shall be construed to establish independent dental hygiene practice.

(q) The Department of Community Health shall collect or cause to be collected data regarding changes to utilization rates for dental services provided to recipients of Medicaid and shall make such data readily available to members of the General Assembly upon written request.

The Georgia Board of Dentistry shall provide a report to the House Committee on Health and Human Services and the Senate Health and Human Services Committee by January 1 in 2018, 2019, and 2020 on the number of licensed dentists providing dental hygienist services under general supervision in each of the following settings: hospitals; nursing homes; long-term care facilities; rural health clinics; federally qualified health centers; health facilities operated by federal, state, county, or local governments; hospices; family violence shelters as defined in Code Section 19-13-20; and free health clinics as defined in Code Section 51-1-29.4.

History


OFFICIAL CODE OF GEORGIA Annotated
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O.C.G.A. § 43-11-81

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Current through the 2019 Regular Session of the General Assembly

GA - Official Code of Georgia Annotated TITLE 43. PROFESSIONS AND BUSINESSES CHAPTER 11. DENTISTS, DENTAL HYGIENISTS, AND DENTAL ASSISTANTS ARTICLE 4. DENTAL ASSISTANTS

§ 43-11-81. Direct supervision required

Dental assistants shall perform their duties only under the direct, personal supervision of a licensed dentist. No dental assistant shall practice dentistry, dental hygiene, or do any kind of dental work other than those acts, services, procedures, and practices prescribed by rule or regulation of the board.

History


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Ga. Comp. R. & Regs. r. 150-5-.03 Supervision of Dental Hygienists

Georgia Administrative Code
Department 150, RULES OF GEORGIA BOARD OF DENTISTRY
Chapter 150-5, DENTAL HYGIENE

Current through Rules and Regulations filed through September 27, 2019

Rule 150-5-.03. Supervision of Dental Hygienists

(1) Definitions.
(a) "Authorizing dentist" shall mean a dentist licensed to practice in Georgia who permits a dental hygienist to practice under general supervision.
(b) "Dental hygiene duties" and "dental hygiene services" shall mean those tasks which a dental hygienist may lawfully perform under O.C.G.A. § 43-11-74 and this Rule.
(c) "Dental hygienist" shall mean an individual licensed to practice dental hygiene in Georgia.
(d) "Dental screening" shall mean a visual assessment of the oral cavity without the use of x-rays, laboratory tests, or diagnostic models to determine if it appears that a more thorough clinical examination and diagnosis should be conducted by a licensed dentist.
(e) "Dentist" shall mean an individual licensed to practice dentistry in Georgia.
(f) "Direct supervision" shall mean that a licensed dentist is in the dental office or treatment facility, personally diagnoses the condition to be treated, personally authorizes the procedure and remains in the dental office or treatment facility while the procedure is being performed by the dental hygienist, and before dismissal of the patient, examines the patient.
(g) "General supervision" shall mean that a licensed dentist has authorized the delegable duties of a dental hygienist but does not require that a licensed dentist be present when such duties are performed.

(2) No dentist shall be required to authorize a dental hygienist to perform dental hygiene duties under general supervision, and no part of this Rule shall be construed as to establish independent dental hygiene practice.

(3) A dental hygienist shall perform duties only under the direct supervision of a duly licensed dentist who is licensed to practice in the State of Georgia, except where otherwise provided in O.C.G.A. § 43-11-74 and this rule.

(4) The requirement of direct supervision shall not apply to:
   (a) The educational training of dental hygiene students at an institution approved by the Board and the Commission on Dental Accreditation of the American Dental Association, or its successor agency.
   (b) The performance of dental hygiene duties at approved dental facilities of the Department of
Public Health, county boards of health, or the Department of Corrections, or the performance of dental hygiene duties by personnel of the Department of Public Health or county boards of health at approved off-site locations.

(c) The performance of dental hygienists providing dental screenings in settings which include: schools; hospitals; clinics; state, county, local, and federal public health programs; federally qualified health centers; volunteer community health settings; senior centers; family violence shelters, as defined in O.C.G.A. § 19-13-20; and free health clinics, as defined in O.C.G.A. § 51-1-29.4. Other health fair settings must be pre-approved by the board.

1. School settings.

(i) School settings shall include only schools that are Title I schools under the federal Elementary and Secondary Education Act, schools in which at least 65% of the student population is eligible for free or reduced price lunch under federal guidelines, Head Start programs, and Georgia's Pre-K Program.

(ii) Dental hygienists may apply topical fluoride and perform the application of sealants and oral prophylaxis under general supervision, with written permission of the student's parent or guardian. A dental hygienist may also, without prior written permission of the student's parent or guardian, provide oral hygiene instruction and counseling.

(iii) A dental hygienist and the authorizing dentist shall maintain the confidentiality of any records related to services provided to a student under subparagraph (4) (c) in compliance with laws including without limitation the federal Family Education Rights and Privacy Act of 1974, 20 U.S.C. Section 1232g.

2. Hospitals; nursing homes; long-term care facilities; rural health clinics; federally qualified health centers, health facilities operated by federal, state, county or local governments; hospices; family violence shelters, as defined in O.C.G.A. § 19-13-20; and free health clinics, as defined in O.C.G.A. § 51-1-29.4.

(i) Dental hygienists may apply topical fluoride and perform the application of sealants and oral prophylaxis under general supervision.

3. A dental hygienist performing duties under subparagraphs (4)(c)(1.) or (4)(c)(2.) shall:

(i) Not perform any dental hygiene services on a patient that has dental pain or clearly visible evidence of widespread dental disease. The dental hygienist shall immediately refer such patient to the authorizing dentist for clinical examination and treatment. The dental hygienist shall notate such patient's file, and the patient shall not be eligible to receive dental hygiene services under subparagraphs (4)(c)(1.) or (4)(c)(2.) until a dentist provides written authorization that such services may be performed on the patient.

(ii) Prior to providing any dental hygiene services, obtain, study, and comprehend the school's or facility's protocols and procedures regarding medical emergencies and implement and comply with such protocols and procedures if a medical emergency arises during the provision of dental hygiene services; and

(iii) Provide to each patient receiving such services written notice containing:

(I) The name and license number of the dental hygienist and the authorizing dentist;

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performance of dental hygiene duties. If dental hygiene services are not performed on a patient under subparagraph (4)(c)(3.)(i), the written notice shall include a statement that the patient is not eligible to receive dental hygiene services until a clinical examination is performed by a dentist, and a dentist provides written authorization that services may be performed;

(III) A statement advising each patient who receives dental hygiene services to seek a more thorough clinical examination by a dentist within 90 days, unless the authorizing dentist performed a clinical examination of the patient.

(iv) Make all reasonable efforts to provide such written notice as required in subparagraph (4)(c)(3.)(iii) to parents or legal guardians of minors or incapacitated adults who receive dental hygiene services and to the long-term care facility or nursing home for residents of such facilities who receive dental hygiene services, as applicable.

(v) Not charge a fee for a dental screening provided under subparagraph (4)(c), except where provided by an employee of the Department of Public Health or county boards of health. However, these fees must be paid directly to the Department of Public Health or that county board of health and not to the dental hygienist who performed the screening.

(vi) Not require a school or facility receiving dental hygiene services under subparagraphs (4)(c)(1.) and (4)(c)(2.) to purchase any equipment.

(5) General Supervision in a Private Office Setting.

(a) A dental hygienist may perform only the following functions under general supervision:
   1. Application of sealants and oral prophylaxis and assessment;
   2. Fluoride treatment;
   3. Oral hygiene instruction and education; and
   4. Exposure and processing of radiographs if provided for by specific, individualized standing orders of the authorizing dentist, including any protocols regarding urgent dental issues that arise.

(b) A dentist in a private dental office setting may authorize general supervision of a dental hygienist only upon meeting the following criteria:
   1. A new patient of record must be clinically examined by the authorizing dentist during the initial visit;
   2. A patient must be examined by the authorizing dentist at a minimum of twelve-month intervals; and
   3. A patient must be notified in advance of the appointment that the patient will be treated by the dental hygienist under general supervision without the authorizing dentist being present or being examined by the authorizing dentist.
(6) A dental hygienist performing dental hygiene services under general supervision shall have at least two (2) years of experience in the practice of dental hygiene, shall be in compliance with the continuing education requirements under O.C.G.A. § 43-11-73.1 and the cardiopulmonary resuscitation certification requirements under O.C.G.A. § 43-11-73., shall be licensed in good standing, and shall maintain coverage under a professional liability occurrence or claims insurance policy with a policy limit minimum of $1,000,000.

(7) In schools; hospitals; clinics; state, county, local, and federal public health programs; federally qualified health centers; volunteer community health settings; senior centers; family violence shelters, as defined in O.C.G.A. § 19-13-20; and free health clinics, as defined in O.C.G.A. § 51-1-29.4, it shall be in the sole discretion of the authorizing dentist as to whether to require an initial examination of the patient prior to the performance by a dental hygienist of dental hygiene services under general supervision.

(8) A dentist may only authorize up to four dental hygienists total to provide dental hygiene services in any setting or number of settings at any one time. A dentist authorizing one or more dental hygienists to provide dental hygiene services under (4)(c)(1.) and (4)(c)(2.) shall practice dentistry and treat patients in a physical and operational dental office located in this State within 50 miles of the setting in which the dental hygiene services are to be provided under general supervision.

(9) Dental hygiene services provided by dental hygienists in mobile dental vans shall always be provided under direct supervision.

(10) In addition to routine duties and the procedures of any of the operations or procedures authorized in O.C.G.A. § 43-11-74, the following activities may be performed by a dental hygienist working under the direct supervision of a dentist:

(a) All the duties that are usually performed by a dental assistant pursuant to Title 43, Chapter 11, Article 4 of the Official Code of Georgia Annotated and Chapter 150-9 of the Rules of the Georgia Board of Dentistry, under the limitations and stipulations set forth in Title 43, Chapter 11, Article 3 of the Official Code of Georgia Annotated and Chapter 150-5 of the Rules of the Georgia Board of Dentistry.

(b) Take and mount oral x-rays;

(c) Apply medications and/or solutions approved by the Board and prescribed by the dentist that can be applied by methods approved by the Board, be that by irrigation, tray, or inserter or bioresorbable materials;

(d) Remove calcareous deposits, secretions, and stains from the surfaces of teeth. Ultrasonic technologies are authorized for use by dental hygienists;

(e) Utilize techniques and materials necessary for the application of sealant(s) to pits of and fissures of teeth;

(f) Perform root planning and curettage with hand instruments; and

(g) Perform periodontal probing.

(11) Nothing in these rules shall be construed as authorizing dental hygienists to utilize other techniques in the course of the performance of their duties, otherwise authorized by these rules. Only dentists licensed by the Georgia Board of Dentistry shall be authorized to perform procedures involving laser technology which alters tissue, creates thermal effect, or is intended to cut, coagulate, photocoagulate, vaporize, or ablate essentially any soft or hard tissues of the body. Additionally, only dentists licensed by the Board shall be authorized to perform procedures utilizing air abrasive.
technology, which is normally intended for cavity preparation or enamel removal. This is to be distinguished from "micro etching" and "air polishing" technologies which are intended for stain removal and roughening the surfaces of enamel to enhance bonding, similar to acid etching, (i.e., Micro etching and air polishing are technologies authorized for use by dental hygienists).

Cite as Ga. Comp. R. & Regs. R. 150-5-.03
Ga. Comp. R. & Regs. r. 150-9-.01 General Duties of Dental Assistants

Georgia Administrative Code
Department 150. RULES OF GEORGIA BOARD OF DENTISTRY
Chapter 150-9. DELEGATED DUTIES

Current through Rules and Regulations filed through September 27, 2019

Rule 150-9-.01. General Duties of Dental Assistants

(1) A dental assistant shall be defined as one who is employed in a dental office to perform certain duties that assist the dentist. It is expected that the dental assistant will be familiar with the operations performed in the conduct of a dental practice; specifically, the sterilization of instruments, the general hygiene of the mouth, secretarial work, making appointments and bookkeeping. Under no circumstances may he or she perform any of the operations catalogued as dental hygiene treatments in Board Rule 150-5-.03(5).

(2) Direct supervision and control as it pertains to a dental assistant shall mean that a dentist licensed in Georgia is in the dental office or treatment facility, personally diagnoses the condition to be treated, personally authorizes the procedures and remains in the dental office or treatment facility while the procedures are being performed by the dental assistant and, before dismissal of the patient, evaluates the performance of the dental assistant.

(3) In addition to routine duties, the general duties identified below may be delegated to dental assistants under the direct supervision of a licensed dentist. These duties may only be delegated in those instances when they are easily reversible and will not result in increased risk to the patient:

(a) Make impressions for diagnostic models and opposing models.

(b) Place and expose radiographs after completing the training required by Ga. Comp. R. &Regs. 290-5-22-.04 titled X-Rays in the Health Arts.

(c) Remove sutures - other than wire sutures.

(d) Remove periodontal dressing.

(e) Place and remove rubber dams.

(f) Apply topical anesthetic.

(g) Remove visible excess cement from supramarginal areas of dental restorations and appliances with non-mechanical hand instruments.

(h) Fabricate extraorally temporary crowns and bridges.

(i) Cement temporary crowns and bridges with intermediate cement.

(j) Remove temporary crowns and bridges seated with intermediate cement.

(k) Place intracoronial temporary restorations using intermediate cement.
(I) Place drying and deoiling agents prior to the cementation of permanent crowns and bridges.

(m) Remove dry socket medication.

(n) Place and take off a removable prosthesis with a pressure sensitive paste after the appliance has been initially seated by the dentist.

(o) Etch unprepared enamel.

(p) Polish the enamel and restorations of the anatomical crown; however, this procedure may only be executed through the use of a slow speed handpiece (not to exceed 10,000 rpm), rubber cup and polishing agent. This procedure shall in no way be represented to patient as a prophylaxis. This procedure shall be used only for the purpose of enamel preparation for:
   1. Bleaching.
   2. Cementation of fixed restorations,
   3. Bonding procedures including supramarginal enamel restorations after removal of orthodontic appliances. No direct charge shall be made to the patient for such procedure.

(q) Dry canals with absorbent points and place soothing medicaments (not to include endodontic irrigation); and place and remove temporary stopping with non-mechanical hand instruments only.

(r) Place matrix bards and wedges.

(s) Select, pre-size and seat orthodontic arch wires with brackets which have been placed by the dentist. Adjustment of the arch wire may only be made by the dentist.

(t) Select and pre-size orthodontic bands which initially must be seated by the dentist.

(u) Place and remove pre-treatment separators.

(v) Cut and tuck ligatures, remove ligatures and arch wires, remove loose or broken bands.

(w) Remove and recement loose bands that previously have been contoured and fitted by a dentist, but only after a dentist has examined the affected tooth and surrounding gingival and found no evidence of pathology.

(x) Perform phlebotomy and venipuncture procedures after appropriate training is acquired.

(y) Use a rubber cup prophyl on a patient with primary dentition. A dental assistant may only begin providing rubber cup prophies after the dental assistant has completed a curriculum approved by the Board or a minimum of eight hours of on-the-job training in the provision of rubber cup prophies by a dentist licensed to practice in Georgia.
Amended: F. May 2, 2018; eff. May 22, 2018.
Dr. Carlon established that a quorum was present and the meeting that was scheduled to begin at 9:35 a.m., was called to order at 9:42 a.m.

Introduction of visitors – Dr. Carlon welcomed the visitors.

Open Session

Minutes from the August 13, 2010 Board meeting

- Dr. Hadley made a motion to approve as. Dr. Cook seconded the motion and it carried unanimously.

Conscious Sedation/General Anesthesia Committee – Dr. Barry Stacey

- Dr. Stacey discussed with the Board the Conscious Sedation permitting requirements. He requested that the Board consider allowing the applicant to check off on the application that the additional site meets the criteria outlined in the laws and rules. The Board agreed that evaluations were not required for additional sites. Dr. Stacey and Executive Director Martin will work on updating the application concerning this change. There is no Board Rule change required for this. Dr. Stacey will present back to the Board at the October 8, 2010 Board meeting.

Examination & CRDTS Committee Reports – Drs. Carroll, Nalley and Ms. Bush

- Dr. Carroll stated the Central Regional Dental Testing Service (CRDTS) meeting went very well.
• Dr. Nalley stated Georgia was the only state that had 100% Board member participation in the CRDTS meeting.
• Ms. Bush stated some changes are coming for the 2011 dental hygiene examination; calculus evaluation will be enhanced; the medical history examination manuals were reviewed and updated during this meeting. Ms. Bush stated that 86% of Dental Hygiene candidates qualified for the examination first time/first submission for the year 2010.
• Dr. Holcomb stated that Ms. Bush is now a Team Captain. Dr. Holcomb further stated that all senior students taking the Curriculum Integrated Format training (CIF) Central Regional Dental Testing Service (CRDTS) for the year 2010 had a 100% pass rate.
• Dr. Holcomb stated that CRDTS has been approved by UAB to participate in CIF.
• Dr. Holcomb is talking with Nova SE about participation in CRDTS.
• Dr. Holcomb stated Meharry Medical College utilized full CIF for 2010.

Legislative Committee – Drs. Steve Holcomb & Henry Cook, Sr.
• Dr. Cook stated Legislation passed requiring insurance companies to pay the provider within fifteen days of service.
• Dr. Cook stated administration of local anesthesia by a Dental Hygienist is no longer being considered.
• Dr. Cook stated legislation for a single provider was vetoed by the Governor.

Rules Committee – Dr. Barry Stacey

Dr. Hadley made a motion to post Board Rule 150-7-.02 Teaching Faculty Licenses. Dr. Nalley seconded the motion and it carried unanimously.

150-7-.02 TEACHING FACULTY LICENSES.
(1) DENTAL HYGIENE - The board may issue in its discretion without examination a teacher’s or instructor’s dental hygiene faculty license to a dental hygienist for the sole purpose of teaching or instructing in an American Dental Association (ADA) accredited dental hygiene school or program in this state, those procedures and services recognized in this state to be within the scope of practice of such person’s professional license, subject to the following qualifications:
(a) An applicant must be a graduate of a dental hygiene school or college accredited by the American Dental Association (ADA) or its successor agency, and approved by the Board;
(b) All dental hygiene licenses held by an applicant in the profession for which the applicant is seeking a teaching license in the state of Georgia must be in good standing and unencumbered by past or pending disciplinary action;
(c) All applicants must show passage with a score of 75 or higher on the National
Board Examination and on a jurisprudence examination on the laws and rules governing the practice of dental hygiene in the State of Georgia. Such examinations shall be administered in the English language;
(d) The application shall be accompanied by a letter of recommendation from the dean or director of the teaching institution at which he or she is seeking employment and a copy of the employment contract for the full-time or part-time position that the applicant is applying to fill.
(e) After an applicant has demonstrated his or her qualifications by completing the application and complying with the requirements, the Board, in its discretion, may then issue a teaching dental hygiene faculty license to a qualified dental hygienist for the sole purpose of teaching dental hygiene in an ADA accredited dental college, dental hygiene school, or other dental clinic as approved by the Board in the State of Georgia.
(f) A teaching dental hygiene faculty licensee may engage in the practice of dental hygiene only on the premises of the school where employed within the scope of their employment as a faculty member for the sole purpose of teaching and instructing.
(g) A teaching dental hygiene faculty licensee shall comply with all the applicable laws relating to the practice of dental hygiene and the rules of the Georgia Board of Dentistry, including those pertaining to continuing education and CPR requirements.
(h) A teaching dental hygiene faculty license may be transferred to another educational institution in the State of Georgia upon written request and approval of the Board of Dentistry.
(i) A teaching license shall only be valid as long as the licensee is an active faculty member and will be revoked with the termination of employment. Notification must be provided to the Georgia Board of Dentistry by certified mail and shall be made within thirty (30) days of the occurrence of the termination.
(j) Furnish a criminal background check. The applicant shall be responsible for all fees associated with the performance of a background check.
(k) A faculty licensee may not establish practice outside of the physical primary campus of the dental hygiene school without first obtaining an unrestricted dental hygiene license to practice in Georgia.
(2) DENTAL - The board may issue, in its discretion, without examination, a teacher’s or instructor’s dental faculty license to dentists. A teacher’s or instructor’s license may be issued to a dentist who has graduated from a school or college approved by the Commission on Dental Accreditation of the American Dental Association (ADA) or its successor agency, for the sole purpose of teaching or instructing, in an accredited dental college or training clinic in this state, those procedures and services recognized in this state to be within the scope of practice of such person’s professional license.
(a) All applicants for a dental teaching or instructors faculty license must comply with the following requirements in order to submit an application for licensure:
1. All dental licenses held by an applicant for a teaching dental faculty license in the State of Georgia must be in good standing and unencumbered by past or pending disciplinary action.
2. All applicants must show passage with a score of 75 or higher on jurisprudence
examination on the laws and rules governing the practice of dentistry in the State of Georgia. Such examinations shall be administered in the English language;

3. The application shall be accompanied by a letter of recommendation from the dean or director of the teaching institution at which he or she is seeking employment and verification of an executed employment contract for the full-time or part-time position that the applicant is applying to fill.

4. After an applicant has demonstrated his or her qualifications by completing the application and complying with the requirements, the Board, in its discretion, may then issue a teaching dental faculty license to a qualified dentist for the sole purpose of teaching dentistry in an ADA accredited dental college, or other dental clinic in the State of Georgia as approved by the Board.

5. A teaching dental faculty licensee may engage in the practice of dentistry only on the premises of the school where employed within the scope of their employment as a faculty member for the sole purpose of teaching and instructing.

6. A teaching dental faculty licensee shall comply with all the applicable laws relating to the practice of dentistry and the rules of the Georgia Board of Dentistry, including those pertaining to continuing education and CPR requirements.

7. A teaching license may be transferred to another educational institution in the State of Georgia upon written request and approval of the Board of Dentistry.

(b) In addition to the requirements as set forth in sub-section (2)(a) of this rule, those applicants who have received a doctoral degree in dentistry from a dental school not so accredited by the American Dental Association or its successor agency must comply with the following requirements in order to submit an application for licensure:

1. Successful completion at an accredited dental school approved by the board of the last two years of a program leading to the doctor of dental surgery (D.D.S.) or doctor of dental medicine (D.M.D) degree; or

2. Successful completion at an accredited dental school or college approved by the board of at least a two-year advanced education program in one of the dental specialties recognized by the American Dental Association (ADA) or in general dentistry; and

3. Certification by the dean of the accredited dental school where such supplementary program was taken that the candidate has achieved the same level of didactic and clinical competency as expected of a graduate of the school receiving a doctor of dental surgery (D.D.S.) or doctor of dental medicine (D.M.D.) degree.

(c) Furnish a criminal background check. The applicant shall be responsible for all fees associated with the performance of a background check.

(d) A teaching dental faculty license shall only be valid as long as the licensee is an active faculty member and will be revoked with the termination of employment. Notification must be provided to the Georgia Board of Dentistry by certified mail and shall be made within thirty (30) days of the occurrence of the termination.

(3) A faculty licensee may not establish practice outside of the physical primary campus of the dental school without first obtaining an unrestricted dental license to
practice in Georgia. Authority O.C.G.A. Secs. 43-11-7 to 43-11-9, 43-11-20, 43-11-42, 43-11-52.

- Dr. Holcomb made a motion to post Board Rule 150-8-.02 Fee Splitting. Ms. Bush seconded the motion and it carried unanimously.

**150-8-.02 Fee Splitting.**

(1) A dentist shall not compensate, give rebates, split fees or give anything of value to a person or organization to secure the services of said dentist.

- Dr. Cook made a motion to post Board Rule 150-13-.01 Conscious Sedation Permits. Dr. Nalley seconded the motion and it carried unanimously.

**150-13-.01 Conscious Sedation Permits.**

(1) When the intent is minimal sedation (anxiolysis), which is defined as a minimally depressed level of consciousness that retains the patient’s ability to independently and continuously maintain an airway with unaffected ventilatory and cardiovascular function and respond normally to tactile and verbal stimulation, a permit for conscious sedation is not required.

(a) When the intent is minimal sedation for adults, the initial dosing is no more than the maximum recommended dose (MRD) of a drug that can be prescribed for unmonitored home use. Nitrous oxide/oxygen may be used in combination with a single enteral drug in minimal sedation. For adults, supplemental dosing that may be necessary for prolonged procedures should not exceed one-half of the initial drug dose and should not be administered until the dentist has determined that the clinical half-life of the initial dosing has passed. The total aggregate dose must not exceed 1.5x the MRD on the day of treatment.

(b) The use of preoperative sedatives for children (age 12 and under) except in extraordinary situations must be avoided due to the risk of unobserved respiratory obstruction during transport by untrained individuals. Children can become moderately sedated despite the intended level of minimal sedation. Should this occur, the guidelines for moderate sedation apply. For children, the American Dental Association supports the use of the American Academy of Pediatrics/American Academy of Pediatric Dentists Guidelines for Monitoring and Management of Pediatric Patients During and After Sedation for Diagnostic and Therapeutic Procedures.

(2) No dentist shall administer conscious sedation at the moderate level in Georgia in accordance with the definition of conscious sedation as defined by O.C.G.A. 43-11-1 unless such dentist possesses a permit based on a credentials review. The permits issued are Moderate Enteral Conscious Sedation or Moderate Parenteral Conscious Sedation.

(3) Moderate Conscious Sedation is defined as a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either
alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained.

(4) Moderate Enteral Conscious Sedation is any technique of administration in which the drugs are absorbed through the gastrointestinal tract or oral mucosa, i.e. oral, rectal, and sublingual.

(a) To obtain a Moderate Enteral Conscious Sedation Permit for adults, a dentist must provide certification of the following:
1. Completion of an ADA-accredited postdoctoral training program, which affords comprehensive training necessary to administer and manage moderate enteral conscious sedation; or
2. Completion of a continuing education course of a board approved organization, which consists of a minimum of twenty-four (24) hours of didactic instruction plus management of at least ten (10) adult case experiences which provides competency in moderate enteral conscious sedation which may include simulated cases.

(b) To obtain a Moderate Enteral Conscious Sedation Permit for pediatric patients (age 12 and under) a dentist must provide certification of a continuing education course of a board approved organization in pediatric sedation including twenty-four (24) hours of pediatric-specific instruction after adult training and ten (10) pediatric patient experiences to include supervised administration of sedation of at least five (5) patients; or completion of an ADA-accredited postdoctoral training program that provides pediatric sedation experience commensurate with these guidelines.

(5) Moderate Parenteral Conscious Sedation is any technique utilizing multiple sedation modalities, including intravenous, enteral, parenteral, and inhalation.

(a) To obtain a Moderate Parenteral Conscious Sedation Permit for adults, a dentist must provide certification of the following:
1. Completion of an ADA-accredited postdoctoral training program, which affords comprehensive training to administer and manage moderate parenteral conscious sedation; or
2. Completion of a continuing education course of a board approved organization consisting of a minimum of sixty (60) hours of didactic instruction plus management of at least twenty (20) patients, which provides competency in moderate parenteral conscious sedation.

(b) To obtain a Moderate Parenteral Conscious Sedation Permit for pediatric patients (age 12 and under) a dentist must provide certification of a continuing education course of a board approved organization in pediatric sedation including not less than sixty (60) hours didactic and supervised administration of sedation of twenty (20) patients; or completion of an ADA-accredited postdoctoral training program that provides pediatric sedation experience commensurate with these guidelines.

(6) The dentist issued a permit in either Moderate Enteral Conscious Sedation or Moderate Parenteral Conscious Sedation shall maintain a properly equipped facility for...
the administration of such sedation, staffed with appropriately trained and supervised personnel. The facility must have equipment capable of delivering positive pressure oxygen ventilation, a pulse oximeter, suction equipment that allows aspiration of the oral and pharyngeal cavities, an operating table or chair that allows for the patient to be positioned to maintain an airway, a firm platform for cardiopulmonary resuscitation, a fail-safe inhalation system if nitrous oxide/oxygen is used, equipment necessary to establish intravascular access, equipment to continuously monitor blood pressure and heart rate, appropriate emergency drugs per ACLS or PALS protocol, a manual or automatic external defibrillator, and a recovery area with available oxygen and suction. All of the aforementioned equipment, drugs, and supplies must be stationary and not subject to transfer from one facility to another. The applicant must submit verification that the facility meets the above requirements and shall be subject to an on-site inspection. The dentist and all support personnel must be certified in cardiopulmonary resuscitation at the basic life support healthcare provider level given by a board approved sponsor with update not to exceed two years per board rules 150-3-.08, 150-3-.09, 150-5-.04, 150-5-.05. Additionally, the dentist must have current certification in advanced cardiovascular life support (ACLS) for adult permits or pediatric advanced life support (PALS) for pediatric permits or an appropriate dental sedation/anesthesia emergency management course as approved by the board.

(a) The dentist must take four (4) hours of continuing education every two (2) years in pharmacology, anesthesia, emergency medicine or sedation, as part of the 40 hour requirement for license renewal, to maintain certification for the Enteral and/or Parenteral Conscious Sedation Permits. Certification of this continuing education must be submitted at renewal.

(b) The Georgia Board of Dentistry shall be given a written, thirty (30) day advance notification of the relocation of a facility, the addition of a facility or significant change to the facility.

(c) When a Certified Registered Nurse Anesthetist (CRNA) is permitted to function under the direction and responsibility of a dentist for the administration of conscious sedation, the operating dentist must have completed training and hold a valid conscious sedation permit issued by the board that incorporates the level and mode of sedation administered by the CRNA.

(d) The dentist and all support personnel must be certified in cardiopulmonary resuscitation at the basic life support level given by a board approved sponsor with an update not to exceed two years. While any conscious sedation procedure is underway, a minimum of two support personnel certified in cardiopulmonary resuscitation at the basic life support level must be present.

(7) The requirements as set forth in this rule apply to all new permit applicants upon its effective date. Current, active sedation permit holders are grandfathered for educational requirements and will have until December 31, 2011 to comply with facility requirements including monitoring and emergency equipment, drugs, and supplies, and periodic
emergency training requirements for the dentist and all support personnel.

(8) Permit fees: As shown in the schedule of fees adopted by the Board of Dentistry.

(9) Renewal Fees: As shown in the schedule of fees adopted by the Board of Dentistry.

(10) Late Renewal Fees: As shown in the schedule of fees adopted by the Board of Dentistry.


- Dr. Cook made a motion to post Board Rule 150-13-.02 Deep Sedation/General Anesthesia Permits. Dr. Hadley seconded the motion and it carried unanimously.

150-13-.02 Deep Sedation/General Anesthesia Permits.

(1) The educational requirements for a permit to use deep sedation/ general anesthesia in Georgia shall be equal to those set forth in O.C.G.A. § 43-11-21.1.

(2) The following guidelines shall apply to the administration of deep sedation/general anesthesia in the dental office or a site approved by the Board:

(a) When administration of deep sedation/general anesthesia is provided by another qualified dentist holding a current (Georgia) deep sedation/general anesthesia permit or by a physician anesthesiologist, the operating dentist and the staff must be certified in cardiopulmonary resuscitation at the basic life support level given by a board-approved sponsor with an update not to exceed two years per board rules 150-3-.08, 150-3-.09, 150-5-.04, and 150-5-.05.

(b) When a certified Registered Nurse Anesthetist (CRNA) is permitted to function under the direction and responsibility of a dentist, administration of deep sedation/general anesthesia by a CRNA shall require the operating dentist to have completed training in deep sedation/general anesthesia, commensurate with these guidelines.

(c) A dentist administering deep sedation/general anesthesia must document current successful completion of an advanced cardiac life support (ACLS) course (or an appropriate equivalent).

(d) All staff must be certified in cardiopulmonary resuscitation at the basic life support level given by a board-approved sponsor with an update not to exceed two years per board rules 150-3-.08, 150-3-.09, 150-5-.04, and 150-5-.05.

(3) In all areas in which this level of anesthesia is being conducted, the dentist shall maintain a properly equipped facility for the administration of deep sedation/general anesthesia, staffed with appropriately trained and supervised personnel. The facility must have equipment capable of delivering positive pressure oxygen ventilation, a pulse oximeter, suction equipment that allows aspiration of the oral and pharyngeal cavity, an operating table or chair that allows for the patient to be positioned to maintain an airway, a firm platform for cardiopulmonary resuscitation, a fail-safe inhalation system if nitrous oxide/oxygen is used, equipment to continuously monitor blood pressure and heart rate and rhythm, EKG monitor, appropriate emergency drugs per ACLS protocol, a manual or automatic external defibrillator, and a recovery area with available oxygen and suction.
All of the aforementioned equipment and supplies must be stationary and not subject to transfer from one facility to another. The applicant must submit verification that the facility meets the above requirements and shall be subject to an on-site inspection.

(a) The dentist and all support personnel must be certified in cardiopulmonary resuscitation at the basic life support level given by a board approved sponsor with an update not to exceed two years. While any deep sedation/general anesthesia procedure is underway, a minimum of two support personnel certified in cardiopulmonary resuscitation at the basic life support level must be present.

(4) The Georgia Board of Dentistry shall be given a written thirty (30) day advance notification of the relocation of a facility, the addition of a facility or significant changes in the facility. Changes in the method of administration of deep sedation/general anesthesia should also be brought to the attention of the Board. The permit holder shall be subject to an on-site inspection.

(5) The dentist must take four (4) hours of continuing education every two (2) years in pharmacology, anesthesia, emergency medicine or sedation as part of the forty (40) hour requirement for license renewal to maintain certification for the deep sedation/general anesthesia permit. Certification of this continuing education must be submitted at renewal.

(6) Permit fees: As shown in the schedule of fees adopted by the Board.

(7) Renewal fees: As shown in the schedule of fees adopted by the Board.

(8) Late renewal fees: As shown in the schedule of fees adopted by the Board.


- Dr. Nalley made a motion to post 150-13-.03 Renewal of Conscious Sedation and Deep Sedation/General Anesthesia Permits. Dr. Holcomb seconded the motion and it carried unanimously.

150-13-.03 Renewal of Conscious Sedation and Deep Sedation/ General Anesthesia Permits.

(1) Conscious sedation and deep sedation/general anesthesia permits shall be renewable biennially, on or prior to December 31st of all odd-numbered years, and upon payment of the renewal fee as provided in Rule 150-12-.01. The permit shall be administratively revoked for failure to renew on July 1st of the following even-numbered year. Permits, which have been administratively revoked, shall be reinstated only in the discretion of the Board, upon completion of a reinstatement application. The former permit holder may also be subject to an on-site inspection prior to renewal of the permit.

(2) The dentist and all support personnel must be certified in cardiopulmonary resuscitation at the basic life support level given by a board approved sponsor with an update not to exceed two years.

(3) The dentist must take four (4) hours of continuing education every 2 years in pharmacology, anesthesia, emergency management or sedation, as part of the 40 hour requirement for license renewal.
renewal, to maintain certification for the Deep Sedation/General Anesthesia, Enteral and/or Parenteral Conscious Sedation permits. Certification of this CE must be submitted at license renewal.

- Dr. Holcomb made a motion to post Board Rule 150-15.-01 Definition. Dr. Nalley seconded the motion and it carried unanimously.

150-15-.01 Definition. (Teledentistry)

(1) Teledentistry is defined as the practice of dentistry at a distance through the use of electronic information, imaging and communication technologies, including interactive audio, video, and data communications as well as store-and-forward technologies, to provide and support dental care delivery, diagnosis, consultation, treatment, transfer of medical data and education. Neither a telephone conversation nor an electronic mail message between a dentist licensed in this state and a patient constitutes teledentistry.

(a) When teledentistry is confined to within the state of Georgia borders, it is restricted to Georgia licensed dentists and/or Georgia licensed physicians.

(b) The licensed dentist in this state who requests the teledentistry consultation retains ultimate authority and responsibility for the diagnosis or treatment of the patient unless transferred to another licensed dentist.

(c) For purposes of this section, the “practice of dentistry across state lines” means:

1. The rendering of any written or otherwise documented dental opinion concerning the diagnosis or treatment of a patient within this state by a dentist located outside this state as a result of transmission of individual patient data by electronic, telephonic, or other means from within this state or any other state to such dentist or dentist’s agent; or
2. The rendering of treatment to a patient within this state by a dentist located outside this state as a result of transmission of individual patient data by electronic, telephonic, or other means from within this state or any other state to such dentist or dentist’s agent.

(d) Any person or entity not licensed to practice dentistry in Georgia shall not engage in the practice of dentistry across state lines into this state except as follows when:

1. A consultation is requested by a licensed dentist in this state who retains ultimate authority and responsibility for the diagnosis or treatment of a patient located within this state; and
2. The out-of-state dentist/physician holds an active license in a state.

Authority O.C.G.A. §§ 43-11-1, 43-11-7, 43-11-8, and 43-11-17.

Ratify Licenses – Dr. Cook made a motion to approve the ratified license list. Dr. Nalley seconded the motion and it carried unanimously

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<tr>
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<td>DH011073</td>
<td>Rupani, Umgum Hanif</td>
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<p>| DH011074 | Kissel, Megan Elizabeth | Dental Hygienist |
| DH011075 | Bishop, Robyn Aretha | Dental Hygienist |
| DH011076 | Panto, Gina Marie | Dental Hygienist |
| DH011077 | Wright, Lindsey Marie | Dental Hygienist |
| DH011078 | Dignan, Martha Lauren | Dental Hygienist |
| DH011079 | Tran, Khuong LeMien | Dental Hygienist |
| DH011080 | Smail, Chelsea Lynn | Dental Hygienist |
| DH011081 | Capps, Holly Elizabeth | Dental Hygienist |
| DH011082 | Tyler, Teresa Maria | Dental Hygienist |
| DH011083 | Raines, Amanda Marie | Dental Hygienist |
| DH011084 | Elam, Karin Jamill | Dental Hygienist |
| DH011085 | Childress, Vanessa Ann | Dental Hygienist |
| DH011086 | Minish, Stephanie Lynn | Dental Hygienist |
| DH011087 | Kessler, Tiffany Lynn | Dental Hygienist |
| DH011088 | Tessereau, Erica Brooke | Dental Hygienist |
| DH011089 | Raye, Erika Lynn | Dental Hygienist |
| DH011090 | Miller, Kelly Leanne | Dental Hygienist |
| DH011091 | King, Natasha Dell | Dental Hygienist |
| DH011092 | Hernandez, Janet R. | Dental Hygienist |
| DH011093 | Rutledge, Erynne Ilyse | Dental Hygienist |
| DH011094 | Winske, Amanda Nicole | Dental Hygienist |
| DH011095 | Williams, Crystal Dianne | Dental Hygienist |
| DH011096 | Davis, Tricia Lynn | Dental Hygienist |
| DH011097 | Schultz, Rebecca Ann | Dental Hygienist |
| DH011098 | Hawkins, Heather Lynn | Dental Hygienist |
| DH011099 | Noble, Erica Teresa Castro | Dental Hygienist |
| DH011100 | Saylors, Hannah Marie | Dental Hygienist |
| DH011101 | Wear, Brooke Ashley | Dental Hygienist |
| DH011102 | Brown, Jennifer Carlan | Dental Hygienist |
| DH011103 | Folsom, Amy Prince | Dental Hygienist |
| DH011104 | Price, Alison W. | Dental Hygienist |
| DH011105 | Brannen, Britiany Leigh | Dental Hygienist |
| DH011106 | Blocker, Joni Tucker | Dental Hygienist |
| DH011107 | Berni, Renata Martins | Dental Hygienist |
| DH011108 | Hobbs, Crystal Foskey | Dental Hygienist |
| DH011109 | Sanders, Olivia Brooke | Dental Hygienist |
| DH011110 | Floyd, Kina Marie | Dental Hygienist |</p>
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Rule Variance request from Melvin Goldstein for Soritza Dubose regarding Board Rule 150-3-.01. Dr. Hadley made a motion to deny the rule variance request. Dr. Cook seconded the motion and it carried unanimously.

Correspondence from Stefanie Orlamuende regarding tooth jewelry. Dr. Holcomb made a motion to notify Ms. Orlamuende that the practice as described in her letter is considered the practice of dentistry in the state of Georgia. Dr. Nalley seconded the motion and it carried unanimously.

Correspondence from Frank R. Recker & Associates Co., LPA regarding Advertising Regulations. Dr. Holcomb made a motion to refer to the Attorney General’s office for review; once the board attorney has reviewed correspondence the Board will send a written response to Mr. Recker.

Correspondence from Brian Hudson, Forba Dental Management regarding continuing education. The Board will refer this matter to the Rules Committee to consider defining the difference between interactive computer education and journal study.

Rule Variance request from Anthony J. Koagel, DMD regarding Board Rule 150-7-.04(e). Dr. Hadley made a motion to deny the rule variance request. The Board advises Dr. Koagel that he may wish to consider taking the prosthodontics portion of the CRDTS examination. Ms. Bush seconded the motion and it carried unanimously.

Executive Director’s Open Session - Ms. Anita Martin
- Ms. Martin presented a letter from Christina Vico regarding licensure of a foreign trained dentist. The Board viewed as informational.
- Ms. Martin presented a letter to the board for its consideration. The letter would notify local business licensure authorities to use caution when issuing business licenses to dental entities (teeth whitening, denturist) who do not have a licensed dentist on staff. The Board referred this matter to the Board Attorney who will advise the Board further.
Ms. Martin presented the Board with the proposed 2011 meeting calendar. The Board will consider at the October 8, 2010 Board meeting.

**Attorney General’s Report** – Mr. Reagan Dean
- Mr. Dean informed the Board that the Petition for Judicial Review in Bibb Superior Court has been denied on Dr. Martin Boechk.
- Mr. Dean informed the Board concerning OSAH’s change in its rules.

### Public Hearing 12:00 p.m.

The Public Hearing was called to order at 12:28 p.m.– Dr. Sara Farahani. A court reporter was present to record the hearing. The Public Hearing was adjourned at 2:54 p.m.

### Executive Session

Dr. Nally made a motion, Dr. Cook seconded, and the Board voted to enter into Executive Session in accordance with O.C.G.A. §43-1-19(h)(2), 43-11-47(h) and §43-1-2(k) to deliberate on applications and enforcement matters and to receive information on applications, investigative reports and the Assistant Attorney General’s report. Voting in favor of the motion were those present who included Drs. Carroll, Hadley, Holcomb, Stacey, Ms. Richardson, and Ms. Bush. The Board concluded the Executive Session in order to vote on these matters and continue with the public session.

**Licensure Overview Committee** – Dr. Isaac Hadley

1. S.N.S. – Approved
2. G.C. – Approved
3. K.C. – Request information from the Abundant Life Center, upon receipt refer to Attorney General’s office for a Private Consent Order
4. W.L.J. – Request letter from physician that applicant is safe to practice dentistry with reasonable skill and safety to the public. Once information has been received and approved by the Board, approve
5. A.S.J. – Approved
6. S.W. – Approved
7. J.M.P. – Approved
8. D.B. – Approved under Private Impairment Consent Order

**Applications/Licensure** –

1. H.S.B. – Dental Hygiene Applicant - Approved
2. S.B.M. – Dental Hygiene Reinstatement Applicant - Approved
3. A.F.M. – Dental Applicant – Approved
4. J.L.M. – Dental Hygiene Reinstatement Applicant – Applicant must take and pass CRDTS exam and must submit 11 hours of CE taken in person.
5. V.A.N. – Dental Applicant – Denied – Applicant did not have GA. Board approval for remediation prior to the 4th attempt. Applicant must also provide a letter from his infectious disease M.D. stating that he is safe to practice without posing an infectious disease risk to his patients.
6. P.G. – Dental Reinstatement Applicant – Require applicant to complete a dental competency evaluation at the Medical College of Georgia prior to further consideration. Upon receipt of satisfactory competency evaluation, Board will reinstate under a Public Standard Impairment Consent Order.
7. H.K.B. – Dental Applicant - Approved
8. E.H.W. – Dental Hygiene Applicant - Approved
10. S.L. – Dental Applicant – Notify applicant that Board will not further consider the application until it is in receipt of the final disposition of the Texas Board complaint issue. Further notify applicant that incomplete applications are only valid for one year.

Examination Report
- Ms. Martin informed the Board Dr. K.K.’s file could not be found in archives. Ms. Martin stated that she has requested information directly from Dr. K.K.
- Ms. Martin provided a letter from Jane Walters regarding reinstatement of Dr. Henry Hall. The Board denied the request.
- Ms. Martin provided the Board with the 2009-2010 ADEX Annual Report. The Board viewed as informational.
- Ms. Martin provided the Board for acceptance upon receipt a copy of Consent Order on Dr. Nicole Lewis-Jackson.
- Ms. Martin provided the Board for acceptance a Consent Order on Dr. Emile Sanders, Dr. Farah Sayyeda Khan and Julie Toler.

Investigative Report – Dr. Logan Nalley, Jr.
- The Board voted to approve the Investigative Report.
- The Board accepted a Cease and Desist on Martha Ardila-Ramierz.

Dr. Nalley motioned, Dr. Cook seconded and the Board voted to approve all recommendations made in Executive Session.

The Board meeting adjourned at 3:30 p.m.

Minutes recorded by: Carol White, Board Support Specialist
Minutes reviewed and edited by: Anita O. Martin, Executive Director
Idaho Statutes

Idaho Statutes are updated to the web July 1 following the legislative session.

TITLE 54
PROFESSIONS, VOCATIONS, AND BUSINESSES
CHAPTER 9
DENTISTS

54-903. GENERAL DEFINITIONS. As used in this chapter:
(1) "Association" means the Idaho state dental association and the Idaho dental hygienists’ association.
(2) "Board" means the state board of dentistry.
(3) "Conviction" or "convicted" means a finding of guilt by a judge or jury, an entry of a guilty plea by a defendant and its acceptance by the court, a forfeiture of a bail bond or collateral deposited to secure a defendant’s appearance, a judgment of conviction, a suspended sentence, probation, a withheld judgment, or a finding of guilt under the uniform code of military justice.
(4) "Dental assistant" is a person who need not be licensed under this chapter, but who is regularly employed at a dental office, who works under a dentist’s supervision, and is adequately trained and qualified according to standards established by the board to perform the dental services permitted to be performed by assistants by this chapter and applicable rules of the board.
(5) "Dental hygienist" is a person both qualified and licensed by the laws of Idaho to practice dental hygiene.
(6) "Dental specialist" is a dentist who has graduated from a board-approved postgraduate program in the dentist’s specialty and is a person both qualified and licensed by the laws of Idaho to practice a dental specialty recognized by the board.
(7) "Dental therapist" is a person both qualified and licensed by the laws of Idaho to practice dental therapy.
(8) "Dentist" is a person both qualified and licensed by the laws of Idaho to practice dentistry.
(9) "Direct supervision" is supervision of a dental therapist, dental assistant, or dental hygienist requiring that a dentist diagnose the condition to be treated, that a dentist authorize the procedure to be performed, that a dentist remain in the practice setting while the procedure is performed, and that before dismissal of the patient a dentist approves the work performed by the dental therapist, dental assistant, or dental hygienist.
(10) "Extended access oral health care setting" means and includes:
(a) Dental and dental hygiene treatment and services provided at locations including, but not limited to, a school district, county, state or federal agency, hospital, medical office, long-term care facility, public health district, dental or dental hygiene school, tribal clinic, or federally qualified health center; or
(b) Oral health care programs approved by the board and conducted by or through a nonprofit public or private entity, organized in accordance with section 501(c)(3) or 501(c)(4) of the federal Internal
Revenue Code, that provide free dental or dental hygiene services to persons who, due to age, infirmity, indigence, disability or other similar reason, may be unable to receive regular dental and dental hygiene treatment. The board may require reapproval of the oral health care programs on an annual basis or at such other times as may be deemed by the board to be necessary or appropriate.

(c) Dental therapy preventative treatment and preventative services provided in a school or long-term care facility in an incorporated city that is wholly or partially within or has a border contiguous to the boundaries of a tribal reservation.

(11) "General supervision" is supervision of a dental therapist, dental assistant, or dental hygienist requiring that a dentist authorize the procedure which is carried out, but not requiring that a dentist be in the practice setting when the authorized procedure is performed.

(12) "Indirect supervision" is supervision of a dental therapist, dental assistant, or dental hygienist requiring that a dentist authorize a procedure and that a dentist be in the practice setting while the procedure is performed by the therapist, assistant, or hygienist.

History:

How current is this law?

Search the Idaho Statutes and Constitution
Idaho Statutes

Idaho Statutes are updated to the web July 1 following the legislative session.

TITLE 54
PROFESSIONS, VOCATIONS, AND BUSINESSES
CHAPTER 9
DENTISTS

54-904. AUTHORIZATION FOR PROCEDURES PERFORMED UNDER GENERAL SUPERVISION BY DENTAL HYGIENISTS. A dental hygienist is authorized to practice under general supervision when:

(1) In a dental office where the dental hygienist works, a dentist has diagnosed the condition to be treated and determined the procedure to be performed, or has authorized a dental hygienist to perform the prescribed treatment; or

(2) In an extended access oral health care setting, the supervising dentist has determined the dental hygiene procedures that may be performed and has issued written orders to a dental hygienist holding a license with an extended access dental hygiene endorsement to provide the authorized treatment. The supervising dentist shall be responsible to treat the patient’s dental needs or refer the patient to another dentist for treatment.

History:

How current is this law?

Search the Idaho Statutes and Constitution
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19.01.01 – Rules of the Idaho State Board of Dentistry  

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000. LEGAL AUTHORITY.
This Chapter is adopted under the legal authority of Chapter 9, Title 54, Idaho Code. 

001. TITLE AND SCOPE.
These rules are titled IDAPA 19.01.01, “Rules of the Idaho State Board of Dentistry.” These rules constitute the minimum requirements for licensure and regulation of dentists, dental hygienists, and dental therapists. 

002. WRITTEN INTERPRETATIONS.
There are no written interpretations to these rules. 

003. ADMINISTRATIVE APPEALS.
All contested cases will be governed by the provisions of IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General,” and the Idaho Administrative Procedure Act, Chapter 52, Title 67, Idaho Code. 

004. INCORPORATION BY REFERENCE.
Pursuant to Section 67-5229, Idaho Code, this chapter incorporates by reference the following documents:

01. Professional Standards.


b. CDC, Guidelines for Infection Control in Dental Health-Care Settings, 2003. 


d. ADHA Hygienists’ Association, Standards for Clinical Dental Hygiene Practice, 2016. 

02. Availability. These documents are available for public review at the Idaho State Board of Dentistry, 350 North 9th Street, Suite M-100, Boise, Idaho 83720. 

005. OFFICE INFORMATION.
The Board of Dentistry office is located at 350 North 9th Street, Suite M-100, Boise, Idaho. The mailing address is P.O. Box 83720, Boise, Idaho 83720-0021. The telephone number is (208) 334-2369, the fax number is (208) 334-3247. 

006. PUBLIC RECORDS ACT COMPLIANCE.
Board of Dentistry records are subject to the provisions of the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. 

007. -- 009. (RESERVED) 

010. DEFINITIONS AND ABBREVIATIONS.

01. ACLS. Advanced Cardiovascular Life Support or Pediatric Advanced Life Support. 

02. ADA. American Dental Association.
03. **ADHA.** American Dental Hygienists Association. (6-30-19)

04. **AAOMS.** American Association of Oral and Maxillofacial Surgeons. (6-30-19)

05. **Analgesia.** The diminution or elimination of pain. (6-30-19)

06. **BLS.** Basic Life Support. (6-30-19)

07. **CDC.** Centers for Disease Control and Prevention. (6-30-19)

08. **CE.** Continuing Education: one (1) hour of instruction equals one (1) CE credit. (6-30-19)

09. **CODA.** Commission on Dental Accreditation. (6-30-19)

10. **CRNA.** Certified Registered Nurse Anesthetist. (6-30-19)

11. **Deep Sedation.** A drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilator function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained. (6-30-19)

12. **Enteral.** Administration of a drug in which the agent is absorbed through the GI or mucosa. (6-30-19)

13. **EPA.** United States Environmental Protection Agency. (6-30-19)

14. **General Anesthesia.** A drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilator function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired. (6-30-19)

15. **GI.** Gastrointestinal tract. (6-30-19)

16. **Incremental Dosing.** Administration of multiple doses of a drug until a desired effect is reached, but not to exceed the MRD. (6-30-19)

17. **Inhalation.** Administration of a gaseous or volatile agent introduced into the lungs and whose primary effect is due to absorption through the gas/blood interface. (6-30-19)

18. **Local Anesthesia.** The elimination of sensation, especially pain, in one (1) part of the body by the topical application or regional injection of a drug. (6-30-19)

19. **Minimal Sedation.** A minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command. Although cognitive function and coordination may be modestly impaired, ventilator and cardiovascular functions are unaffected. In accord with this particular definition, the drugs and/or techniques used should carry a margin of safety wide enough never to render unintended loss of consciousness. Further, patients whose only response is reflex withdrawal from repeated painful stimuli would not be considered to be in a state of minimal sedation. (6-30-19)

20. **Moderate Sedation.** A drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained. (6-30-19)
21. **Monitor or Monitoring.** The direct clinical observation of a patient during the administration of sedation by a person trained to observe the physical condition of the patient and capable of assisting with emergency or other procedures. (6-30-19)

22. **MRD.** Maximum FDA-recommended dose of a drug, as printed in FDA-approved labeling for unmonitored home use. (6-30-19)

23. **NBDE.** National Board Dental Examination. (6-30-19)

24. **NBDHE.** National Board Dental Hygiene Examination. (6-30-19)

25. **Operator.** The supervising dentist or another person who is authorized by these rules to induce and administer sedation. (6-30-19)

26. **Parenteral.** Administration of a drug which bypasses the GI tract [i.e., intramuscular, intravenous, intranasal, submucosal, subcutaneous, intraosseous]. (6-30-19)

27. **PARQ.** Procedure, Alternatives, Risks and Questions. (6-30-19)

28. **PMP.** Idaho Prescription Monitoring Program. (6-30-19)

29. **Sedation.** The administration of minimal, moderate, and deep sedation and general anesthesia. (6-30-19)

30. **SOAP.** Subjective Objective Assessment Plan. (6-30-19)

31. **Titration.** The administration of incremental doses of a drug until a desired effect is reached. Knowledge of each drug's time of onset, peak response and duration of action is essential to avoid over sedation. Although the concept of titration of a drug to effect is critical for patient safety, when the intent is moderate sedation one must know whether the previous dose has taken full effect before administering an additional drug increment. (6-30-19)

32. **Transdermal.** A technique of administration in which the drug is administered by patch or iontophoresis through skin. (6-30-19)

33. **Transmucosal.** A technique of administration in which the drug is administered across mucosa such as intranasal, sublingual, or rectal. (6-30-19)

011. **APPLICATION AND LICENSE FEES.**

Application fees are not refunded. A license shall not be issued or renewed unless fees have been paid. License fees are prorated from date of initial licensure to the next successive license renewal date. The application fees and license fees are as follows:

<table>
<thead>
<tr>
<th>License/Permit Type</th>
<th>Application Fee</th>
<th>License/Permit Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dentist/Dental Specialist</td>
<td>$300</td>
<td>Active Status: $375 Inactive Status: $160</td>
</tr>
<tr>
<td>Dental Hygienist</td>
<td>$150</td>
<td>Active Status: $175 Inactive Status: $85</td>
</tr>
<tr>
<td>Dental Therapist</td>
<td>$200</td>
<td>Active Status: $250 Inactive Status: $125</td>
</tr>
<tr>
<td>Sedation Permit</td>
<td>$300</td>
<td>$300</td>
</tr>
</tbody>
</table>

(7-27-19)
012. EXAMINATIONS FOR LICENSURE.

01. Written Examination. Successful completion of the NBDE may be required of all applicants for a license to practice dentistry or a dental specialty. Successful completion of the NBDHE may be required of all applicants for a license to practice dental hygiene. Dental therapists must successfully complete a board-approved written examination. Any other written examination will be specified by the Board. (7-27-19)

02. Clinical Examination. All applicants for a license to practice general dentistry, dental hygiene or dental therapy are required to pass a Board-approved clinical examination upon such subjects as specified by the Board. Applicants for dental hygiene and dental therapy licensure must pass a clinical local anesthesia examination. Clinical examination results will be valid for licensure by examination for a period of (5) five years from the date of successful completion of the examination. (7-27-19)

013. REQUIREMENTS FOR LICENSURE.
Applicants for licensure to practice dentistry must furnish proof of graduation from a school of dentistry accredited by CODA at the time of applicant’s graduation. Applicants for licensure to practice dental hygiene must furnish proof of graduation from a dental hygiene program accredited by CODA at the time of applicant's graduation. Applicants for licensure to practice dental therapy must furnish proof of graduation from a dental therapy program accredited by CODA at the time of applicant’s graduation. (7-27-19)

014. REQUIREMENT FOR BLS.
Applicants for initial licensure will provide proof of current BLS certification. Practicing licensees must maintain current BLS certification. (7-27-19)

015. CONTINUING EDUCATION REQUIREMENTS.
A licensee renewing an active status license shall report to the Board completion of verifiable CE or volunteer practice which meets the following requirements:

01. Number of Credits.

<table>
<thead>
<tr>
<th>License/Endorsement Type</th>
<th>Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dentist/Dental Specialist</td>
<td>30 credits, one of the credits must be related to opioid prescribing</td>
</tr>
<tr>
<td>Dental Hygienist</td>
<td>24 credits</td>
</tr>
<tr>
<td>Dental Hygienist with Extended Access License Endorsement</td>
<td>28 credits, four of the credits must be in the specific practice areas of medical emergencies, local anesthesia, oral pathology, care and treatment of geriatric, medically compromised or disabled patients and treatment of children.</td>
</tr>
<tr>
<td>Dental Therapist</td>
<td>30 credits</td>
</tr>
</tbody>
</table>

(7-27-19)

02. Nature of Education. Continuing education must be oral health/health-related for the licensee's professional development. (6-30-19)

03. Volunteer Practice. Licensees are allowed one (1) credit of continuing education for every two (2) hours of verified volunteer practice performed during the biennial renewal period up to a maximum of ten (10) credits. (6-30-19)

04. Prorated Credits. Any person who is granted a license with active during any biennial renewal period shall be required at the time of the next successive license renewal to report a prorated amount of continuing education credits as specified by the Board. (6-30-19)

05. Documentation. In conjunction with license renewal, the licensee shall provide a list of continuing education credits obtained and verification of hours of volunteer practice performed and certify that the minimum requirements were completed in the biennial renewal period. (6-30-19)
016. – 020. (RESERVED)

021. PROVISIONAL LICENSURE.
This type of license may be granted at the Board's discretion to applicants who meet the following requirements:

01. Active Practice. Active practice within the previous two (2) years.


03. Evidence. Evidence that the applicant has not failed an exam given by the Board or its agent.

04. Provisional License. The provisional license shall be valid for the period of time specified on the provisional license which shall not exceed one (1) year from the date of issuance.

022. VOLUNTEER DENTAL HYGIENE SERVICES.
A person holding an unrestricted active status dental hygienist's license issued by the Board may provide dental hygiene services in an extended access oral health care setting without being issued an extended access dental hygiene license endorsement under the following circumstances:

01. Extended Access Oral Health Care Setting. The dental hygiene services must be performed in an extended access oral health care setting under the supervision of a dentist who has issued written orders to the dental hygienist;

02. Dental Hygiene Services Performed. The dental hygiene services performed shall be limited to oral health screening and patient assessment, preventive and oral health education, preparation and review of health history, non-surgical periodontal treatment, oral prophylaxis, the application of caries preventive agents including fluoride, the application of pit and fissure sealants with recommendation that the patient will be examined by a dentist;

03. Volunteers. The dental hygienist must perform the dental hygiene services on a volunteer basis and shall not accept any form of remuneration for providing the services; and

04. Volunteer Time Limit. The dental hygienist may not provide dental hygiene services under this provision for more than five (5) days within any calendar month.

023. DENTAL HYGIENISTS – LICENSE ENDORSEMENTS.
The Board may grant license endorsements to qualified dental hygienists as follows:

01. Extended Access Dental Hygiene Endorsement. Upon application, the Board may grant an extended access dental hygiene endorsement to a person holding an unrestricted active status dental hygienist's license issued by the Board who provides satisfactory proof that all of the following requirements are met:

a. The person has been licensed as a dental hygienist during the two (2) year period immediately prior to the date of application for an extended access dental hygiene endorsement;

b. For a minimum of one thousand (1000) total hours within the previous two (2) years, the person has either been employed as a dental hygienist in supervised clinical practice or has been engaged as a clinical practice educator in an approved dental hygiene school;

c. The person has not been disciplined by the Board or another licensing authority upon grounds that bear a demonstrable relationship to the ability of the dental hygienist to safely and competently practice under general supervision in an extended access oral health care setting; and
d. Any person holding an unrestricted active status dental hygienist's license issued by the Board who is employed as a dental hygienist in an extended access oral health care setting in this state shall be granted an extended access dental hygiene endorsement without being required to satisfy the experience requirements specified in this rule.

02. Extended Access Dental Hygiene Restorative Endorsement. Notwithstanding any other provision of these rules, a qualified dental hygienist holding an extended access dental hygiene restorative endorsement may perform specified restorative functions under the direct supervision of a dentist in an extended access oral health care setting. Permissible restorative functions under this endorsement shall be limited to the placement of a restoration into a tooth prepared by a dentist and the carving, contouring and adjustment of the contacts and occlusion of the restoration. Upon application, the Board may grant an extended access dental hygiene restorative endorsement to a person holding an unrestricted active status dental hygienist's license issued by the Board who provides satisfactory proof that the following requirements are met:

a. The person has successfully completed the Western Regional Examining Board's restorative examination or an equivalent restorative examination approved by the Board; or

b. The person has not been disciplined by the Board or another licensing authority upon grounds that bear a demonstrable relationship to the ability of the dental hygienist to safely and competently practice under in an extended access oral health care setting.

03. Renewal. Upon payment of the appropriate license fee and completion of required continuing education credits specified for a dental hygiene license endorsement, a person meeting all other requirements for renewal of a license to practice dental hygiene shall also be entitled to renewal of a dental hygiene license endorsement for the effective period of the license. An endorsement shall immediately expire and be cancelled at such time as a person no longer holds an unrestricted active status dental hygienist's license issued by the Board or upon a person's failure to complete the required continuing education credits.

024. LICENSURE OF DENTAL SPECIALISTS.

01. Requirements for Specialty Licensure. Each applicant for specialty licensure must have graduated from a CODA accredited dental school and hold a license to practice general dentistry in the state of Idaho or another state. The Board may grant licensure in specialty areas of dentistry for which a dentist has completed a CODA accredited postdoctoral advanced dental education program of at least two full-time academic years.

02. Application. Application for license to practice a recognized dental specialty must be filed in the office of the Board of Dentistry, P.O. Box 83720, Boise, Idaho. The application must be attested before a notary public.

03. Examination. Specialty licensure in those specialties recognized may be granted solely at the discretion of the Board. An examination covering the applicant's chosen field may be required and, if so, will be conducted by the Board or a testing agent. Applicants who have met the requirements for licensure as a specialist may be required to pass an examination as follows:

a. Applicants who have passed a general licensure examination acceptable to the Board may be granted specialty licensure by Board approval.

b. Applicants who have passed a general licensure examination not acceptable to the Board may be required to pass a specialty examination.

c. Applicants who are certified by the American Board of that particular specialty as of the date of application for specialty licensure may be granted specialty licensure by Board approval.

04. Limitation of Practice. No dentist shall announce or otherwise hold himself out to the public as a specialist unless he has first complied with the requirements established by the Idaho State Board of Dentistry for such specialty and has been issued a specialty license authorizing him to do so. Any individual granted a specialty
license must limit his practice to the specialty(s) in which he is licensed. (6-30-19)

025. SPECIALTY ADVERTISING.
The specialty advertising rules are intended to allow the public to be informed about dental specialties and to require appropriate disclosures to avoid misperceptions on the part of the public. (6-30-19)

01. Recognized Specialty License. An advertisement shall not state that a licensee is a specialist unless the licensee has been granted a license in that specialty area of dental practice by the Board. Use of words or terms in advertisements such as “Specialist,” “Board Certified,” “Diplomate,” “Practice Limited To,” and “Limited To Specialty Of” shall be prima facie evidence that the licensee is holding himself out to the public as a licensed specialist in a specialty area of dental practice. (6-30-19)

02. Disclaimer. A licensee who has not been granted a specialty license by the Board may advertise as being qualified in a recognized specialty area of dental practice so long as each such advertisement, regardless of form, contains a prominent, clearly worded disclaimer that the licensee is “licensed as a general dentist” or that the specialty services “will be provided by a general dentist.” Any disclaimer in a written advertisement shall be in the same font style and size as that in the listing of the specialty area. (6-30-19)

03. Unrecognized Specialty. A licensee shall not advertise as being a specialist in or as specializing in any area of dental practice which is not a Board recognized and licensed specialty area unless the advertisement, regardless of form, contains a prominent, clearly worded disclaimer that the advertised area of dental practice is not recognized as a specialty area of dental practice by the Idaho Board of Dentistry. Any disclaimer in a written advertisement shall be in the same font style and size as that in the listing of the specialty area. (6-30-19)

026. PATIENT RECORDS.

01. Individual Records. Each licensee shall have prepared and maintained an accurate record for each person receiving dental services, regardless of whether any fee is charged. The record shall contain the name of the licensee rendering the service and include:

a. Name and address of patient and, if a minor, name of guardian; (6-30-19)

b. Date and description of examination and diagnosis; (6-30-19)

c. An entry that informed consent has been obtained and the date the informed consent was obtained. Documentation may be in the form of an acronym such as “PARQ” (Procedure, Alternatives, Risks and Questions) or “SOAP” (Subjective Objective Assessment Plan) or their equivalent. (6-30-19)

d. Date and description of treatment or services rendered; (6-30-19)

e. Date and description of treatment complications; (6-30-19)

f. Date and description of all radiographs, study models, and periodontal charting; (6-30-19)

g. Health history; and (6-30-19)

h. Date, name of, quantity of, and strength of all drugs dispensed, administered, or prescribed. (6-30-19)

02. Charges and Payments. Each dentist shall have prepared and maintained an accurate record of all charges and payments for services including source of payments. (6-30-19)

03. Record Retention. Each dentist shall maintain patient records as long as practicable, but in no event less than seven (7) years from the date of last entry unless:

a. The patient requests the records be transferred to another dentist who shall maintain the records. (6-30-19)
b. The dentist gives the records to the patient; or

(6-30-19)T

c. The dentist transfers the dentist's practice to another dentist who shall maintain the records.

(6-30-19)T

027. – 030. (RESERVED)

031. INFECTION CONTROL.

In determining what constitutes unacceptable patient care with respect to infection control, the Board may consider current infection control guidelines such as those of the Centers for Disease Control and Prevention. Additionally, licensees and dental assistants must comply with the following requirements:

01. Gloves. Disposable gloves shall be worn whenever placing fingers into the mouth of a patient or when handling blood or saliva contaminated instruments or equipment. Appropriate hand hygiene shall be performed prior to gloving.

(6-30-19)T

02. Masks and Eyewear. Masks and protective eyewear or chin-length shields shall be worn when spattering of blood or other body fluids is likely.

(6-30-19)T

03. Instrument Sterilization. Between each patient use, instruments and other equipment that come in contact with body fluids shall be sterilized.

(6-30-19)T

04. Sterilizing Devices Testing. Heat sterilizing devices shall be tested for proper function by means of a biological monitoring system that indicates micro-organisms kill. Devices shall be tested each calendar week in which scheduled patients are treated. Testing results shall be retained by the licensee for the current calendar year and the two (2) preceding calendar years.

(6-30-19)T

05. Non-Critical Surfaces. Environmental surfaces that are contaminated by blood or saliva shall be disinfected with an EPA registered hospital disinfectant.

(6-30-19)T

06. Clinical Contact Surfaces. Impervious backed paper, aluminum foil, or plastic wrap should be used to cover surfaces that may be contaminated by blood or saliva. The cover shall be replaced between patients. If barriers are not used, surfaces shall be cleaned and disinfected between patients by using an EPA registered hospital disinfectant.

(6-30-19)T

07. Disposal. All contaminated wastes and sharps shall be disposed of according to any governmental requirements.

(6-30-19)T

032. EMERGENCY MEDICATIONS OR DRUGS.

The following emergency medications or drugs are required in all sites where anesthetic agents of any kind are administered:

01. Anti-anaphylactic Agent.

(6-30-19)T

02. Antihistaminic.

(6-30-19)T

03. Aspirin.

(6-30-19)T

04. Bronchodilator.

(6-30-19)T

05. Coronary Artery Vasodilator.

(6-30-19)T

06. Glucose.

(6-30-19)T

033. DENTAL HYGIENISTS – PRACTICE.

Dental hygienists are hereby authorized to perform the activities specified below:

(6-30-19)T
01. **General Supervision.** A dental hygienist may perform specified duties under general supervision as follows:

   a. Oral prophylaxis (removal of stains and plaque biofilm and if present, supragingival and/or subgingival calculus);
   
   b. Medical history assessments and intra-oral and extra-oral assessments (including charting of the oral cavity and surrounding structures, taking case histories and periodontal assessment);
   
   c. Developing patient care plans for prophylaxis, non-surgical periodontal therapy and supportive and evaluative care in accordance with the treatment parameters set by supervising dentist;
   
   d. Root planing;
   
   e. Non-surgical periodontal therapy;
   
   f. Closed subgingival curettage;
   
   g. Administration of local anesthesia;
   
   h. Removal of marginal overhangs (use of high speed handpieces or surgical instruments is prohibited);
   
   i. Application of topical antibiotics or antimicrobials (used in non-surgical periodontal therapy);
   
   j. Provide patient education and instruction in oral health education and preventive techniques;
   
   k. Placement of antibiotic treated materials pursuant to dentist authorization;
   
   l. Administration and monitoring of nitrous oxide/oxygen; and
   
   m. All duties which may be performed by a dental assistant.

02. **Indirect Supervision.** A dental hygienist may perform specified duties under indirect supervision.

   a. All dental hygienist duties specified under general supervision.

03. **Direct Supervision.** A dental hygienist may perform specified duties under direct supervision as follows:

   a. Use of a laser restricted to gingival curettage and bleaching;
   
   b. All dental hygienist duties specified under general and indirect supervision.

034. **DENTAL HYGIENISTS – PROHIBITED PRACTICE.**

01. **Diagnosis and Treatment.** Definitive diagnosis and dental treatment planning.

02. **Operative Preparation.** The operative preparation of teeth for the placement of restorative materials.

03. **Intraoral Placement or Carving.** The intraoral placement or carving of restorative materials unless authorized by issuance of an extended access restorative license endorsement.
04. **Anesthesia.** Administration of any general anesthesia or moderate sedation. (6-30-19)

05. **Final Placement.** Final placement of any fixed or removable appliances. (6-30-19)

06. **Final Removal.** Final removal of any fixed appliance. (6-30-19)

07. **Cutting Procedures.** Cutting procedures utilized in the preparation of the coronal or root portion of the tooth, or cutting procedures involving the supportive structures of the tooth. (6-30-19)

08. **Root Canal.** Placement of the final root canal filling. (6-30-19)

09. **Final Impressions.** Final impressions of any type, including digital, of any tissue-bearing area, whether hard or soft tissue. (6-30-19)

10. **Occlusal Equilibration Procedures.** Occlusal equilibration procedures for any prosthetic restoration, whether fixed or removable. (6-30-19)

11. **Other Final Placement.** Final placement of prefabricated or cast restorations or crowns. (6-30-19)

035. **DENTAL THERAPISTS – PRACTICE.**
Subject to the provisions of the Dental Practice Act, Chapter 9, Title 54, Idaho Code, dental therapists are hereby authorized to perform activities specified by the supervising dentist in conformity with a written collaborative practice agreement at the supervision levels set forth in the agreement. The supervising dentist must practice in the same practice setting as the dental therapist. (7-27-19)

036. **DENTAL THERAPISTS – PROHIBITED PRACTICE.**

01. **Sedation.** Administration of minimal, moderate or deep sedation or general anesthesia except as otherwise allowed by these rules; (7-27-19)

02. **Cutting Procedures.** Cutting procedures involving the supportive structures of the tooth including both the soft and hard tissues. (7-27-19)

03. **Periodontal Therapy.** Periodontal scaling and root planing, including the removal of subgingival calculus. (7-27-19)

04. **All Extractions with Exception.** All extractions except:
   a. Under direct supervision. (7-27-19)
   b. Under general supervision or as specified in IDAPA 19.01.01.035. (7-27-19)
      i. Removal of periodontally diseased teeth with class III mobility. (7-27-19)
      ii. Removal of coronal remnants of deciduous teeth. (7-27-19)

037. **DENTAL ASSISTANTS – PRACTICE.**

01. **Direct Supervision.** A dental assistant may perform specified duties under direct supervision as follows:
   a. Recording the oral cavity (existing restorations, missing and decayed teeth); (6-30-19)
b. Placement of topical anesthetic agents (prior to administration of a local anesthetic by a dentist or dental hygienist); (6-30-19)

c. Removal of excess bonding material from temporary and permanent restorations and orthodontic appliances (using hand instruments or contra-angle handpieces with disks or polishing wheels only); (6-30-19)

d. Expose and process radiographs; (6-30-19)

e. Make impressions for preparation of diagnostic models, bleach trays, fabrication of night guards, temporary appliances, temporary crowns or bridges; (6-30-19)

f. Record diagnostic bite registration; (6-30-19)

g. Record bite registration for fabrication of restorations; (6-30-19)

h. Provide patient education and instruction in oral hygiene and preventive services; (6-30-19)

i. Placement of cotton pellets and temporary restorative materials into endodontic access openings; (6-30-19)

j. Placement and removal of arch wire; (6-30-19)

k. Placement and removal of orthodontic separators; (6-30-19)

l. Placement and removal of ligature ties; (6-30-19)

m. Cutting arch wires; (6-30-19)

n. Removal of loose orthodontic brackets and bands to provide palliative treatment; (6-30-19)

o. Adjust arch wires; (6-30-19)

p. Etching of teeth prior to placement of restorative materials; (6-30-19)

q. Etching of enamel prior to placement of orthodontic brackets or appliances by a Dentist; (6-30-19)

r. Placement and removal of dental dam; (6-30-19)

s. Placement and removal of matrices; (6-30-19)

t. Placement and removal of periodontal pack; (6-30-19)

u. Removal of sutures; (6-30-19)

v. Application of cavity liners and bases; (6-30-19)

w. Placement and removal of gingival retraction cord; and (6-30-19)

x. Application of topical fluoride agents. (6-30-19)

02. **Prohibited Duties.** A dental assistant is prohibited from performing the following duties: (6-30-19)

a. Definitive diagnosis and treatment planning. (6-30-19)

b. The intraoral placement or carving of permanent restorative materials. (6-30-19)
c. Any irreversible procedure using lasers. (6-30-19)

d. The administration of any sedation or local injectable anesthetic. (6-30-19)

e. Any oral prophylaxis (removal of stains and plaque biofilm and if present, supragingival and/or subgingival calculus). (6-30-19)

f. Use of an air polisher. (6-30-19)

g. Any intra-oral procedure using a high-speed handpiece, except to the extent authorized by a Certificate of Registration or certificate or diploma of course completion issued by an approved teaching entity. (6-30-19)

h. Any dental hygiene prohibited duty. (6-30-19)

i. The following expanded functions, unless authorized by a Certificate of Registration or certificate or diploma of course completion issued by an approved teaching entity and performed under direct supervision:

   i. Fabrication and placement of temporary crowns; (6-30-19)

   ii. Perform the mechanical polishing of restorations; (6-30-19)

   iii. Initiating, regulating and monitoring the administration of nitrous oxide/oxygen to a patient; (6-30-19)

   iv. Application of pit and fissure sealants; (6-30-19)

   v. Coronal polishing (removal of plaque biofilm and stains from the teeth using an abrasive agent with a rubber cup or brush). (6-30-19)

   vi. Use of a high-speed handpiece only for the removal of orthodontic cement or resin. (6-30-19)

03. Expanded Functions Qualifications. A dental assistant may be considered Board qualified in expanded functions, authorizing the assistant to perform any or all of the expanded functions described in Subsection 053.02.h. upon satisfactory completion of the following requirements: (6-30-19)

   a. Completion of Board-approved training in each of the expanded functions with verification of completion of the training to be provided to the Board upon request by means of a Certificate of Registration or other certificate evidencing completion of approved training. The required training shall include adequate training in the fundamentals of dental assisting, which may be evidenced by:

      i. Current certification by the Dental Assisting National Board; or (6-30-19)

      ii. Successful completion of Board-approved curriculum in the fundamentals of dental assisting; or (6-30-19)

      iii. Successfully challenging the fundamentals course. (6-30-19)

   b. Successful completion of a Board-approved competency examination in each of the expanded functions. There are no challenges for expanded functions. (6-30-19)

04. Curriculum Approval. Any school, college, institution, university or other teaching entity may apply to the Board to obtain approval of its course curriculum. Before approving such curriculum, the Board may require satisfactory evidence of the content of the instruction, hours of instruction, content of examinations or faculty credentials. (6-30-19)
05. **Other Credentials.** Assistants, who have completed courses or study programs in expanded functions that have not been previously approved by the Board, may submit evidence of the extent and nature of the training completed, and, if in the opinion of the Board the same is at least equivalent to other Board-approved curriculum, and demonstrates the applicant's fitness and ability to perform the expanded functions, the Board may consider the assistant qualified to perform any expanded function(s). (6-30-19)T

038. – 040. (RESERVED)

041. **LOCAL ANESTHESIA.**
Dental offices in which local anesthesia is administered to patients shall, at a minimum, have and maintain suction equipment capable of aspirating gastric contents from the mouth and pharynx, a portable oxygen delivery system including full face masks and a bag-valve mask combination capable of delivering positive pressure, oxygen-enriched ventilation to the patient, a blood pressure cuff of appropriate size and a stethoscope. (7-27-19)T

042. **NITROUS OXIDE/OXYGEN.**
Persons licensed to practice and dental assistants certified in accordance with these rules may administer nitrous oxide/oxygen to patients. Nitrous oxide/oxygen when used in combination with other sedative agents may produce an alteration of the state of consciousness in a patient to the level of moderate sedation, general anesthesia, or deep sedation. A dentist must first qualify for and obtain the appropriate permit from the Board of Dentistry to be authorized to sedate patients to the level of moderate sedation, general anesthesia, or deep sedation. (7-27-19)T

01. **Patient Safety.** In connection with the administration of nitrous oxide/oxygen, a dentist shall:
   a. Evaluate the patient to insure that the patient is an appropriate candidate for nitrous/oxygen; and (6-30-19)T
   b. Insure that any patient under nitrous/oxygen be continually monitored; and (7-27-19)T
   c. Insure that a second person be in the practice setting who can immediately respond to any request from the person administering the nitrous/oxygen. (7-27-19)T

02. **Required Facilities and Equipment.** Dental offices in which nitrous oxide/oxygen is administered to patients shall, at a minimum and in addition to emergency medications, maintain appropriate facilities and have equipment on site for immediate use as follows:
   a. A nitrous oxide delivery system with a fail-safe system that is maintained in working order: (6-30-19)T
      i. A functioning device that prohibits the delivery of less than thirty percent (30%) oxygen; or (6-30-19)T
      ii. An appropriately calibrated and functioning in-line oxygen analyzer with audible alarm; and (6-30-19)T
   b. An appropriate scavenging system must be available; and (6-30-19)T
   c. A positive-pressure oxygen delivery system suitable for the patient being treated. (6-30-19)T

03. **Personnel.** For nitrous oxide/oxygen administration, personnel shall include:
   a. An operator; and (6-30-19)T
   b. An assistant currently certified in BLS. (6-30-19)T
   c. Auxiliary personnel must have documented training in BLS, have specific assignments, and have
current knowledge of the emergency cart inventory. The dentist and all office personnel must participate in periodic reviews of office emergency protocol. (7-27-19)

043. MINIMAL SEDATION.
Persons licensed to practice dentistry in accordance with the Idaho Dental Practice Act and these rules are not required to obtain a permit to administer minimal sedation to patients of sixteen (16) years of age or older. When the intent is minimal sedation, the appropriate dosing of a single enteral drug is no more than the MRD of a drug that can be prescribed for unmonitored home use. In cases where the patient weighs less than one hundred (100) pounds, or is under the age of sixteen (16) years, minimal sedation may be administered without a permit by use of nitrous oxide, or with a single enteral dose of a sedative agent administered in the dental office. (6-30-19)

01. Patient Safety. The administration of minimal sedation is permissible so long as it does not produce an alteration of the state of consciousness in a patient to the level of moderate sedation, general anesthesia, or deep sedation. A dentist must qualify for and obtain the appropriate permit from the Board of Dentistry to be authorized to sedate patients to the level of moderate sedation, general anesthesia, or general anesthesia. Nitrous oxide/oxygen may be used in combination with a single enteral drug in minimal sedation, except as described in Section 043 of these rules. Notwithstanding any other provision in these rules, a dentist shall initiate and regulate the administration of nitrous oxide/oxygen when used in combination with minimal sedation. (6-30-19)

02. Personnel. At least one (1) additional person currently certified in BLS must be present in addition to the dentist. (6-30-19)

044. MODERATE SEDATION, GENERAL ANESTHESIA AND DEEP SEDATION.
Dentists licensed in the state of Idaho cannot administer moderate sedation, general anesthesia, or deep sedation in the practice of dentistry unless they have obtained the proper permit from the Idaho State Board of Dentistry. A moderate sedation permit may be either enteral or parenteral. A dentist shall not administer moderate sedation to children under sixteen (16) years of age and one hundred (100) pounds unless they have qualified for and been issued a moderate parenteral sedation permit. A moderate enteral sedation permit authorizes dentists to administer sedation by either enteral or combination inhalation-ental routes of administration. A moderate parenteral, general anesthesia, or deep sedation permit authorizes a dentist to administer sedation by any route of administration. To qualify for a moderate, general anesthesia, or deep sedation permit, a dentist shall provide proof of the following:

01. Training Requirements. (6-30-19)

a. For Moderate Sedation Permits, completion of training in the administration of moderate sedation to a level consistent with requirements established by the Board within the five (5) year period immediately prior to the date of application for a moderate sedation permit. The five (5) year requirement shall not be applicable to applicants who hold an equivalent permit in another state which has been in effect for the twelve (12) month period immediately prior to the application date. Qualifying training courses must be sponsored by or affiliated with a dental school accredited by CODA, or be approved by the Board. (6-30-19)

i. For a moderate enteral sedation permit, the applicant must provide proof of a minimum of twenty-four (24) hours of instruction plus management of at least ten (10) adult case experiences by the enteral and/or enteral-nitrous oxide/oxygen route. These ten (10) cases must include at least three live clinical dental experiences managed by participants in groups no larger than five (5). The remaining cases may include simulations and/or video presentations but must include one experience in returning a patient from deep to moderate sedation. (6-30-19)

ii. For a moderate parenteral sedation permit, the applicant must provide proof of a minimum of sixty (60) hours of instruction, plus management of at least twenty (20) patients by the intravenous route. (6-30-19)

b. For General Anesthesia and Deep Sedation Permits, completion of an advanced education program accredited by CODA that affords comprehensive training necessary to administer and manage deep sedation or general anesthesia within the five (5) year period immediately preceding the date of application. The five (5) year requirement shall not be applicable to applicants who hold an equivalent permit in another state which has been in effect for the twelve (12) month period immediately prior to the application date. (6-30-19)
02. **ACLS.** Verification of current certification in ACLS or PALS, whichever is appropriate for the patient being sedated. (6-30-19)

03. **General Requirements** The qualified dentist is responsible for the sedative management, adequacy of the facility and staff, diagnosis and treatment of emergencies related to the administration of moderate sedation, general anesthesia, or deep sedation and providing the equipment, drugs and protocol for patient rescue. Evaluators appointed by the Idaho State Board of Dentistry will periodically assess the adequacy of the facility and competence of the sedation team. For general anesthesia and deep sedation, the Board adopts the standards incorporated by reference in Section 004 of these rules, as set forth by the AAOMS in their office anesthesia evaluation manual. (6-30-19)

   a. **Facility, Equipment and Drug Requirements.** The following facilities, equipment and drugs shall be available for immediate use during the sedation and recovery phase:

   i. An operating room large enough to adequately accommodate the patient on an operating table or in an operating chair and to allow an operating team of at least two (2) individuals to freely move about the patient;

   ii. An operating table or chair that permits the patient to be positioned so the operating team can maintain the patient's airway, quickly alter the patient's position in an emergency, and provide a firm platform for the administration of basic life support;

   iii. A lighting system that permits evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit completion of any operation underway in the event of a general power failure;

   iv. Suction equipment that permits aspiration of the oral and pharyngeal cavities and a backup suction device which will function in the event of a general power failure;

   v. An oxygen delivery system with adequate full face mask and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate backup system;

   vi. A recovery area that has available oxygen, adequate lighting, suction and electrical outlets. The recovery area can be the operating room

   vii. A sphygmomanometer, pulse oximeter, oral and nasopharyngeal airways, supraglottic airway devices, and automated external defibrillator (AED); and

   viii. Emergency drugs including, but not limited to, pharmacologic antagonists appropriate to the drugs used, bronchodilators, and antihistamines.

   ix. Additional emergency equipment and drugs required for moderate parenteral sedation permits include precordial/pretracheal stethoscope or end-tidal carbon dioxide monitor, intravenous fluid administration equipment, vasopressors, and anticonvulsants.

   x. Additional emergency equipment and drugs required for general anesthesia and deep sedation permits include precordial/pretracheal stethoscope and end-tidal carbon dioxide monitor, intravenous fluid administration equipment, vasopressors, and anticonvulsants.

   b. **Personnel**

   i. For moderate sedation, the minimum number of personnel shall be two (2) including: the operator and one (1) additional individual currently certified in BLS.

   ii. For general anesthesia or deep sedation, the minimum number of personnel shall be three (3) including: the operator and two (2) additional individuals currently certified in BLS. When the same individual
administering the general anesthesia or deep sedation is performing the dental procedure one (1) of the additional individuals must be designated for patient monitoring. (6-30-19)

iii. Auxiliary personnel must have documented training in BLS, shall have specific assignments, and shall have current knowledge of the emergency cart inventory. The dentist and all office personnel must participate in documented periodic reviews of office emergency protocol, including simulated exercises, to assure proper equipment function and staff interaction. (6-30-19)

c. Pre-sedation Requirements. Before inducing moderate sedation, general anesthesia, or deep sedation a dentist shall:

i. Evaluate the patient's medical history and document, using the American Society of Anesthesiologists Patient Physical Status Classifications, that the patient is an appropriate candidate for moderate sedation, general anesthesia, or deep sedation; (6-30-19)

ii. Give written preoperative and postoperative instructions to the patient or, when appropriate due to age or psychological status of the patient, the patient's guardian; (6-30-19)

iii. Obtain written informed consent from the patient or patient's guardian for the sedation; and (6-30-19)

iv. Maintain a sedation record and enter the individual patient's sedation into a case/drug log. (6-30-19)

d. Patient Monitoring. Patients shall be monitored as follows:

i. For moderate sedation the patient shall be continuously monitored using pulse oximetry. For general anesthesia or deep sedation, the patient shall be continuously monitored using pulse oximetry and end-tidal carbon dioxide monitors. (6-30-19)

ii. The patient's blood pressure, heart rate, and respiration shall be recorded every five (5) minutes during the sedation and then continued every fifteen (15) minutes until the patient meets the requirements for discharge. These recordings shall be documented in the patient record. The record must also include documentation of preoperative and postoperative vital signs, all medications administered with dosages, time intervals and route of administration. If this information cannot be obtained, the reasons shall be documented in the patient's record. (6-30-19)

iii. During the recovery phase, the patient shall be monitored by an individual trained to monitor patients recovering from sedation; (6-30-19)

iv. A dentist shall not release a patient who has undergone sedation except to the care of a responsible third party; (6-30-19)

v. The dentist shall assess the patient's responsiveness using preoperative values as normal guidelines and discharge the patient only when the following criteria are met: vital signs are stable, patient is alert and oriented, and the patient can ambulate with minimal assistance; and (6-30-19)

vi. A discharge entry shall be made by the dentist in the patient's record indicating the patient's condition upon discharge and the name of the responsible party to whom the patient was discharged. (6-30-19)

e. Sedation of Other Patients. The permit holder shall not initiate sedation on another patient until the previous patient is in a stable monitored condition and in the recovery phase following discontinuation of their sedation. (6-30-19)

045. SEDATION PERMIT RENEWAL.

01. Permit Renewal. Before the expiration date of a permit, the board shall provide notice of renewal
to the licensee's address of record on file with the board. Failure to timely submit a renewal application and permit fee shall result in expiration of the permit and termination of the licensee's right to administer sedation. Failure to submit a complete renewal application and permit fee within thirty (30) days of expiration of the permit shall result in cancellation of the permit. A licensee whose permit is canceled due to failure to renew within the prescribed time is subject to the provisions of Paragraph 045.02 of these rules. Renewal of the permit will be required every five (5) years. Proof of a minimum of twenty-five (25) continuing education credit hours in sedation which may include training in medical/office emergencies will be required to renew a permit. In addition to the continuing education credit hours, a dentist must:

a. For a moderate enteral sedation permit, maintain current certification in BLS or ACLS. (6-30-19)

b. For a moderate parenteral, general anesthesia, or deep sedation permit, maintain current certification in ACLS. (6-30-19)

02. Reinstatement. A dentist may make application for the reinstatement of a canceled or surrendered permit issued by the Idaho State Board of Dentistry within five (5) years of the date of the permit's cancellation or surrender. Applicants for reinstatement of a sedation permit shall satisfy the facility and personnel requirements in rule 040 and shall be required to verify that they have obtained an average of five (5) continuing education credit hours in sedation for each year subsequent to the date upon which the permit was canceled or surrendered. A fee for reinstatement shall be assessed. (6-30-19)

046. SUSPENSION, REVOCATION OR RESTRICTION OF SEDATION PERMIT.
The Board may, at any time and for just cause, institute proceedings to revoke, suspend, or otherwise restrict a sedation permit issued pursuant to Section 045 of these rules. If the Board determines that emergency action is necessary to protect the public, summary suspension may be ordered pending further proceedings. Proceedings to suspend, revoke or restrict a permit shall be subject to applicable statutes and rules governing administrative procedures before the Board. (6-30-19)

047. DETERMINATION OF DEGREE OF SEDATION BY THE BOARD.
In any matter under review or in any proceeding being conducted in which the Board must determine the degree of central nervous system depression, the Board may base its findings or conclusions on, among other matters, the type, and dosages, and routes of administration of drugs administered to the patient and what result can reasonably be expected from those drugs in those dosages and routes administered in a patient of that physical and psychological status. (6-30-19)

048. USE OF OTHER ANESTHESIA PERSONNEL.
A dentist who does not hold a sedation permit may perform dental procedures in a dental office on a patient who receives sedation induced by an anesthesiologist, a CRNA, or another dentist with a sedation permit as follows:

01. Facility, Equipment, Drugs, and Personnel Requirements. The dentist shall have the same facility, equipment, drugs, and personnel available during the procedure and during recovery as required of a dentist who has a permit for the level of sedation being provided. (6-30-19)

02. Patient's Condition Monitored Until Discharge. The qualified sedation provider who induces sedation shall monitor the patient's condition until the patient is discharged and record the patient's condition at discharge in the patient's dental record as required by the rules applicable to the level of sedation being induced. The sedation record shall be maintained in the patient's dental record and is the responsibility of the dentist who is performing the dental procedures. (6-30-19)

03. Use of Services of a Qualified Sedation Provider. A dentist who intends to use the services of a qualified sedation provider shall notify the Board in writing of his intent. Such notification need only be submitted once every licensing period. (6-30-19)

04. Advertising. A dentist who intends to use the services of a qualified sedation provider may advertise the service provided so long as each such advertisement contains a prominent disclaimer that the service “will be provided by a qualified sedation provider.” (6-30-19)
049. INCIDENT REPORTING. 
Dentists shall report to the Board, in writing, within seven (7) days after the death or transport to a hospital or emergency center for medical treatment for a period exceeding twenty-four (24) hours of any patient to whom sedation was administered. (6-30-19)

050. – 054. (RESERVED)

055. TELEHEALTH SERVICES. 
Definitions applicable to these rules are those definitions set forth in the Idaho Telehealth Access Act and in Section 54-5703, Idaho Code. (6-30-19)

01. Licensure and Location. Any dentist or dental hygienist who provides any telehealth services to patients located in Idaho must hold an active Idaho license issued by the Idaho State Board of Dentistry for their applicable practice. Dentists who provide any telehealth services must physically practice within seventy-five (75) miles of the patient's location. (6-30-19)

02. Additional Requirements. In addition to the requirements set forth in Section 54-5705, Idaho Code, during the first contact with the patient, a provider licensed by the Idaho State Board of Dentistry who is providing telehealth services shall:
   a. Verify the location and identity of the patient; (6-30-19)
   b. Disclose to the patient the provider's identity, their current location and telephone number and Idaho license number; and (6-30-19)
   c. Obtain appropriate consents from the patient after disclosures regarding the delivery models and treatment methods or limitations, including a special informed consent regarding the use of telehealth technologies. (6-30-19)

03. Standard of Care. A provider providing telehealth services to patients located in Idaho must comply with the applicable Idaho community standard of care. The provider shall be personally responsible to familiarize themselves with the applicable Idaho community standard of care. If a patient's presenting symptoms and conditions require a physical examination in order to make a diagnosis, the provider shall not provide diagnosis or treatment through telehealth services unless or until such information is obtained. (6-30-19)

04. Informed Consent. In addition to the requirements of Section 54-5708, Idaho Code, evidence documenting appropriate patient informed consent for the use of telehealth technologies must be obtained and maintained at regular intervals consistent with the community standard of care. Appropriate informed consent should, at a minimum, include the following terms:
   a. Verification. Identification of the patient, the provider and the provider's credentials; (6-30-19)
   b. Telehealth Determination. Agreement of the patient that the provider will determine whether or not the condition being diagnosed and/or treated is appropriate for telehealth services; (6-30-19)
   c. Security Measures Information. Information on the security measures taken with the use of telehealth technologies, such as encrypting data, password protected screen savers and data files, or utilizing other reliable authentication techniques, as well as potential risks to privacy and notwithstanding such measures; (6-30-19)
   d. Potential Information Loss. Disclosure that information may be lost due to technical failures. (6-30-19)

056. UNPROFESSIONAL CONDUCT. 
A licensee shall not engage in unprofessional conduct in the course of his practice. Unprofessional conduct by a person licensed under the provisions of Title 54, Chapter 9, Idaho Code, is defined as, but not limited to, one (1) of
the following:

01. **Fraud.** Obtaining fees by fraud or misrepresentation, or over-treatment either directly or through an insurance carrier.

02. **Unlicensed Practice.** Employing directly or indirectly any suspended or unlicensed individual as defined in Title 54, Chapter 9, Idaho Code.

03. **Unlawful Practice.** Aiding or abetting licensed persons to practice unlawfully.

04. **Dividing Fees.** A dentist shall not divide a fee for dental services with another party, who is not a partner or associate with him in the practice of dentistry, unless:
   a. The patient consents to employment of the other party after a full disclosure that a division of fees will be made;
   b. The division is made in proportion to the services performed and responsibility assumed by each dentist or party.

05. **Prescription Drugs.** Prescribing or administering prescription drugs not reasonably necessary for, or within the scope of, providing dental services for a patient. A dentist may not prescribe or administer prescription drugs to himself. A dentist shall not use controlled substances as an inducement to secure or maintain dental patronage or aid in the maintenance of any person's drug addiction by selling, giving or prescribing prescription drugs.

06. **Harassment.** The use of threats or harassment to delay or obstruct any person in providing evidence in any possible or actual disciplinary action, or other legal action; or the discharge of an employee primarily based on the employee's attempt to comply with the provisions of Title 54, Chapter 9, Idaho Code, or the Board's Rules, or to aid in such compliance.

07. ** Discipline in Other States.** Conduct himself in such manner as results in a suspension, revocation or other disciplinary proceedings with respect to his license in another state.

08. **Altering Records.** Alter a patient's record with intent to deceive.

09. **Office Conditions.** Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental profession in the state of Idaho and current recommendations of the American Dental Association and the Centers for Disease Control as referred to in Section 004.

10. **Abandonment of Patients.** Abandonment of patients by licensees before the completion of a phase of treatment, as such phase of treatment is contemplated by the customary practice and standards of the dental profession in the state of Idaho, without first advising the patient of such abandonment and of further treatment that is necessary.

11. **Use of Intoxicants.** Practicing while under the influence of an intoxicant or controlled substance where the same impairs the licensee’s ability to practice with reasonable and ordinary care.

12. **Mental or Physical Condition.** The inability to practice with reasonable skill and safety to patients by reason of age, illness, or as a result of any mental or physical condition.

13. **Consent.** Revealing personally identifiable facts, data or information obtained in a professional capacity without prior consent of the patient, except as authorized or required by law.

14. **Scope of Practice.** Practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities that the licensee knows or has reason to know that he or she is not competent to perform.
15. **Delegating Duties.** Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows, or with the exercise of reasonable care and control should know, that such a person is not qualified by training or by licensure to perform them. (6-30-19)T

16. **Unauthorized Treatment.** Performing professional services that have not been authorized by the patient or his legal representative. (6-30-19)T

17. **Supervision.** Failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of a licensed professional. (6-30-19)T

18. **Legal Compliance.** Failure to comply with any provisions of federal, state or local laws, statutes, rules, and regulations governing or affecting the practice of dentistry or dental hygiene. (6-30-19)T

19. **Exploiting Patients.** Exercising undue influence on a patient in such manner as to exploit a patient for the financial or personal gain of a practitioner or of a third party. (6-30-19)T

20. **Misrepresentation.** Willful misrepresentation of the benefits or effectiveness of dental services. (6-30-19)T

21. **Disclosure.** Failure to advise patients or their representatives in understandable terms of the treatment to be rendered, alternatives, the provider rendering treatment, and disclosure of reasonably anticipated fees relative to the treatment proposed. (7-27-19)T

22. **Sexual Misconduct.** Making suggestive, sexual or improper advances toward a patient or committing any lewd or lascivious act upon or with a patient. (6-30-19)T

23. **Patient Management.** Use of unreasonable and/or damaging force to manage patients, including but not limited to hitting, slapping or physical restraints. (6-30-19)T

24. **Compliance with Dentist Professional Standards.** Failure by a dentist to comply with professional standards applicable to the practice of dentistry, as incorporated by reference in this chapter. (6-30-19)T

25. **Compliance with Dental Hygienist Professional Standards.** Failure by a dental hygienist to comply with professional standards applicable to the practice of dental hygiene, as incorporated by reference in this chapter. (6-30-19)T

26. **Failure to Provide Records to a Patient or Patient's Legal Guardian.** Refusal or failure to provide a patient or patient's legal guardian legible copies of dental records. Failure to provide a patient or patient's legal guardian with records under Subsection 040.26 within five (5) business days shall be considered unprofessional conduct. A patient or patient's legal guardian may not be denied a copy of his records for any reason, regardless of whether the person has paid for the dental services rendered. A person may be charged for the actual cost of providing the records but in no circumstances may a person be charged an additional processing or handling fee or any charge in addition to the actual cost. (6-30-19)T

27. **Failure to Cooperate with Authorities.** Failure to cooperate with authorities in the investigation of any alleged misconduct or interfering with a Board investigation by willful misrepresentation of facts, willful failure to provide information upon request of the Board, or the use of threats or harassment against any patient or witness to prevent them from providing evidence. (6-30-19)T

28. **Advertising.** Advertise in a way that is false, deceptive, misleading or not readily subject to verification. (6-30-19)T

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313.010  Definitions for chapter.

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the Kentucky Board of Dentistry;

(2) "Certified dental technician" means an individual recognized as such by the National Board for Certification in Dental Laboratory Technology;

(3) "Delegated duties list" means the list of procedures authorized in administrative regulation which may be delegated by a dentist licensed under this chapter to a licensed dental hygienist or a registered dental assistant;

(4) "Dental auxiliary personnel" means any staff member of a dental office not licensed by or registered with the board;

(5) "Dental hygiene" means the treatment of the oral cavity, including but not limited to dental hygiene assessment or screening, scaling and root planing, nonsurgical therapy, removing calcareous deposits, removing accumulated accretion from beneath the free gingival margin, cavity preventive procedures, periodontal procedures that require administering antimicrobial agents along with other general dentistry activities outlined in the treatment care plan and not prohibited by this chapter or by administrative regulation promulgated by the board;

(6) "Dental hygienist" means any person who has graduated from a CODA accredited dental hygiene program at an institute of higher learning and has been credentialed as a "Registered Dental Hygienist";

(7) "Dental laboratory" includes any person, firm, or corporation other than a licensed dentist, who directly or through an agent or employee, by any means or method, in any way supplies or manufactures artificial substitutes for the natural teeth, other than those unfinished substitutes normally available through dental supply houses, or who furnishes supplies, constructs, or reproduces or repairs any prosthetic denture, bridge, or appliance to be worn in the human mouth or who performs or offers or undertakes to perform or accomplish dental laboratory technology;

(8) "Dental laboratory technician" means any person who performs or offers or undertakes to perform or accomplish dental laboratory technology;

(9) "Dental specialist" means a dentist who practices in fields of specialty recognized and approved by the American Dental Association;

(10) "Dentist" means any person who has graduated from a Commission on Dental Accreditation (CODA) accredited dental school and has been conferred with the degree of "Doctor of Medical Dentistry" (D.M.D.) or "Doctor of Dental Surgery" (D.D.S.);

(11) "Dentistry" means the evaluation, diagnosis, prevention, or surgical, nonsurgical, or related treatment of diseases, disorders, or conditions of the oral cavity, maxillofacial area, or the adjacent and associated structures and their impact on the human body provided by a dentist within the scope of his or her education, training, and experience and in accordance with the ethics of the profession and applicable law. Any person shall be regarded as "practicing dentistry" who, for a fee, salary, or other reward paid, or to be paid either to himself or herself, or to another person, performs or advertises to perform, dental operations of any kind, including the
whitening of natural or manufactured teeth, or who diagnoses or treats diseases or lesions of human teeth or jaws, or attempts to correct malpositions thereof, or who diagnoses or treats disorders, or deficiencies of the oral cavity and adjacent associated structures, or who takes impressions of the human teeth or jaws to be used directly in the fabrication of any intraoral appliance, or shall construct, supply, reproduce or repair any prosthetic denture, bridge, artificial restoration, appliance or other structure to be used or worn as a substitute for natural teeth, except upon the written laboratory procedure work order of a licensed dentist and constructed upon or by the use of casts or models made from an impression taken by a licensed dentist, or who shall advertise, offer, sell, or deliver any such substitute or the services rendered in the construction, reproduction, supply, or repair thereof to any person other than a licensed dentist, or who places or adjusts such substitute in the oral cavity of another, or who uses the words "dentist," "dental surgeon," the letters "D.D.S.," "D.M.D.," or other letters or title in connection with his or her name, which in any way represents him or her as being engaged in the practice of dentistry;

(12) "Direct supervision" means that the dentist is physically present in the dental office or treatment facility, personally diagnoses the condition to be treated, authorizes the procedures to be performed, remains in the dental office or treatment facility while the procedures are being performed, and evaluates the performance of the individual supervised;

(13) "General supervision" means a circumstance of treatment in which a dentist licensed under this chapter must diagnose and authorize the work to be performed on a patient by the dental hygienist authorized pursuant to administrative regulation to work under general supervision but the dentist is not required to be on the premises while the treatment is carried out;

(14) "Registered dental assistant" means any person who is registered with the board and works under the direct supervision of a dentist;

(15) "Telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education; and

(16) "Volunteer community health setting" means a setting in which services are rendered at no charge to the patient or to third-party payors.

Effective: July 15, 2010


Legislative Research Commission Note (7/15/2010). Under the authority of KRS 7.136(1), the Reviser of Statutes has changed the internal numbering of this statute to place definitions in alphabetical order. No words were changed in this process.
ENROLLED SENATE BILL NO. 541

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending sections 16221, 16226, 16323, 16601, 16605, 16621, 16626, and 17031 (MCL 333.16221, 333.16226, 333.16323, 333.16601, 333.16605, 333.16621, 333.16626, and 333.17031), sections 16221 and 16226 as amended by 2017 PA 249, section 16323 as amended by 2014 PA 305, section 16605 as added by 2006 PA 429, section 16621 as amended by 2002 PA 590, section 16626 as added by 2012 PA 289, and section 17031 as amended by 2002 PA 643, and by adding sections 16651, 16652, 16653, 16654, 16655, 16656, 16657, 16658, 16659, and 20189a.

The People of the State of Michigan enact:

Sec. 16221. Subject to section 16221b, the department shall investigate any allegation that 1 or more of the grounds for disciplinary subcommittee action under this section exist, and may investigate activities related to the practice of a health profession by a licensee, a registrant, or an applicant for licensure or registration. The department may hold hearings, administer oaths, and order the taking of relevant testimony. After its investigation, the department shall provide a copy of the administrative complaint to the appropriate disciplinary subcommittee. The disciplinary subcommittee shall proceed under section 16226 if it finds that 1 or more of the following grounds exist:

(a) Except as otherwise specifically provided in this section, a violation of general duty, consisting of negligence or failure to exercise due care, including negligent delegation to or supervision of employees or other individuals, whether or not injury results, or any conduct, practice, or condition that impairs, or may impair, the ability to safely and skillfully engage in the practice of the health profession.
(b) Personal disqualifications, consisting of 1 or more of the following:

(i) Incompetence.

(ii) Subject to sections 16165 to 16170a, substance use disorder as defined in section 100d of the mental health code, 1974 PA 258, MCL 330.1100d.

(iii) Mental or physical inability reasonably related to and adversely affecting the licensee's or registrant's ability to practice in a safe and competent manner.

(iv) Declaration of mental incompetence by a court of competent jurisdiction.

(v) Conviction of a misdemeanor punishable by imprisonment for a maximum term of 2 years; conviction of a misdemeanor involving the illegal delivery, possession, or use of a controlled substance; or conviction of any felony other than a felony listed or described in another subparagraph of this subdivision. A certified copy of the court record is conclusive evidence of the conviction.

(vi) Lack of good moral character.

(vii) Conviction of a criminal offense under section 520e or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520e and 750.520g. A certified copy of the court record is conclusive evidence of the conviction.

(viii) Conviction of a violation of section 492a of the Michigan penal code, 1931 PA 328, MCL 750.492a. A certified copy of the court record is conclusive evidence of the conviction.

(ix) Conviction of a misdemeanor or felony involving fraud in obtaining or attempting to obtain fees related to the practice of a health profession. A certified copy of the court record is conclusive evidence of the conviction.

(x) Final adverse administrative action by a licensure, registration, disciplinary, or certification board involving the holder of, or an applicant for, a license or registration regulated by another state or a territory of the United States, by the United States military, by the federal government, or by another country. A certified copy of the record of the board is conclusive evidence of the final action.

(xi) Conviction of a misdemeanor that is reasonably related to or that adversely affects the licensee's or registrant's ability to practice in a safe and competent manner. A certified copy of the court record is conclusive evidence of the conviction.

(xii) Conviction of a violation of section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430. A certified copy of the court record is conclusive evidence of the conviction.

(xiii) Conviction of a criminal offense under section 83, 84, 316, 317, 321, 520b, 520c, 520d, or 520f of the Michigan penal code, 1931 PA 328, MCL 750.83, 750.84, 750.316, 750.317, 750.321, 750.520b, 750.520c, 750.520d, and 750.520f. A certified copy of the court record is conclusive evidence of the conviction.

(xiv) Conviction of a violation of section 136 or 136a of the Michigan penal code, 1931 PA 328, MCL 750.136 and 750.136a. A certified copy of the court record is conclusive evidence of the conviction.

(c) Prohibited acts, consisting of 1 or more of the following:

(i) Fraud or deceit in obtaining or renewing a license or registration.

(ii) Permitting a license or registration to be used by an unauthorized person.

(iii) Practice outside the scope of a license.

(iv) Obtaining, possessing, or attempting to obtain or possess a controlled substance as defined in section 7104 or a drug as defined in section 7105 without lawful authority; or selling, prescribing, giving away, or administering drugs for other than lawful diagnostic or therapeutic purposes.

(d) Except as otherwise specifically provided in this section, unethical business practices, consisting of 1 or more of the following:

(i) False or misleading advertising.

(ii) Dividing fees for referral of patients or accepting kickbacks on medical or surgical services, appliances, or medications purchased by or in behalf of patients.

(iii) Fraud or deceit in obtaining or attempting to obtain third party reimbursement.

(e) Except as otherwise specifically provided in this section, unprofessional conduct, consisting of 1 or more of the following:

(i) Misrepresentation to a consumer or patient or in obtaining or attempting to obtain third party reimbursement in the course of professional practice.

(ii) Betrayal of a professional confidence.

(iii) Promotion for personal gain of an unnecessary drug, device, treatment, procedure, or service.
Either of the following:
(A) A requirement by a licensee other than a physician or a registrant that an individual purchase or secure a drug, device, treatment, procedure, or service from another person, place, facility, or business in which the licensee or registrant has a financial interest.

(B) A referral by a physician for a designated health service that violates 42 USC 1395nn or a regulation promulgated under that section. For purposes of this subdivision, 42 USC 1395nn and the regulations promulgated under that section as they exist on June 3, 2002 are incorporated by reference. A disciplinary subcommittee shall apply 42 USC 1395nn and the regulations promulgated under that section regardless of the source of payment for the designated health service referred and rendered. If 42 USC 1395nn or a regulation promulgated under that section is revised after June 3, 2002, the department shall officially take notice of the revision. Within 30 days after taking notice of the revision, the department shall decide whether or not the revision pertains to referral by physicians for designated health services and continues to protect the public from inappropriate referrals by physicians. If the department decides that the revision does both of those things, the department may promulgate rules to incorporate the revision by reference. If the department does promulgate rules to incorporate the revision by reference, the department shall not make any changes to the revision. As used in this sub-subparagraph, “designated health service” means that term as defined in 42 USC 1395nn and the regulations promulgated under that section and “physician” means that term as defined in sections 17001 and 17501.

For a physician who makes referrals under 42 USC 1395nn or a regulation promulgated under that section, refusing to accept a reasonable proportion of patients eligible for Medicaid and refusing to accept payment from Medicaid or Medicare as payment in full for a treatment, procedure, or service for which the physician refers the individual and in which the physician has a financial interest. A physician who owns all or part of a facility in which he or she provides surgical services is not subject to this subparagraph if a referred surgical procedure he or she performs in the facility is not reimbursed at a minimum of the appropriate Medicaid or Medicare outpatient fee schedule, including the combined technical and professional components.

Any conduct by a health professional with a patient while he or she is acting within the health profession for which he or she is licensed or registered, including conduct initiated by a patient or to which the patient consents, that is sexual or may reasonably be interpreted as sexual, including, but not limited to, sexual intercourse, kissing in a sexual manner, or touching of a body part for any purpose other than appropriate examination, treatment, or comfort.

Offering to provide practice-related services, such as drugs, in exchange for sexual favors.

A violation of section 16655(4) by a dental therapist.
(f) Failure to notify under section 16222(3) or (4).
(g) Failure to report a change of name or mailing address as required in section 16192.
(h) A violation, or aiding or abetting in a violation, of this article or of a rule promulgated under this article.
(i) Failure to comply with a subpoena issued pursuant to this part, failure to respond to a complaint issued under this article, article 7, or article 8, failure to appear at a compliance conference or an administrative hearing, or failure to report under section 16222(1) or 16223.
(j) Failure to pay an installment of an assessment levied under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, within 60 days after notice by the appropriate board.
(k) A violation of section 17013 or 17513.
(l) Failure to meet 1 or more of the requirements for licensure or registration under section 16174.
(m) A violation of section 17015, 17015a, 17017, 17515, or 17517.
(n) A violation of section 17016 or 17516.
(o) Failure to comply with section 9206(3).
(p) A violation of section 5654 or 5655.
(q) A violation of section 16274.
(r) A violation of section 17020 or 17520.
(s) A violation of the medical records access act, 2004 PA 47, MCL 333.26261 to 333.26271.
(t) A violation of section 17764(2).
(u) Failure to comply with the terms of a practice agreement described in section 17047(2)(a) or (b), 17547(2)(a) or (b), or 18047(2)(a) or (b).
(v) A violation of section 7303a(2).
(w) A violation of section 7303a(4) or (5).
(x) A violation of section 7303b.
Sec. 16226. (1) After finding the existence of 1 or more of the grounds for disciplinary subcommittee action listed in section 16221, a disciplinary subcommittee shall impose 1 or more of the following sanctions for each violation:

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(2) Determination of sanctions for violations under this section shall be made by a disciplinary subcommittee. If, during judicial review, the court of appeals determines that a final decision or order of a disciplinary subcommittee prejudices substantial rights of the petitioner for 1 or more of the grounds listed in section 106 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.306, and holds that the final decision or order is unlawful and is to be set aside, the court shall state on the record the reasons for the holding and may remand the case to the disciplinary subcommittee for further consideration.

(3) A disciplinary subcommittee may impose a fine in an amount that does not exceed $250,000.00 for a violation of section 16221(a) or (b). A disciplinary subcommittee shall impose a fine of at least $25,000.00 if the violation of section 16221(a) or (b) results in the death of 1 or more patients.

(4) A disciplinary subcommittee may require a licensee or registrant or an applicant for licensure or registration who has violated this article, article 7, or article 8 or a rule promulgated under this article, article 7, or article 8 to satisfactorily complete an educational program, a training program, or a treatment program, a mental, physical, or professional competence examination, or a combination of those programs and examinations.
(5) A disciplinary subcommittee shall impose the sanction of permanent revocation for a violation of section 16221(b)(xiii) if the violation occurred while the licensee or registrant was acting within the health profession for which he or she was licensed or registered.

(6) Except as otherwise provided in subsection (5) and this subsection, a disciplinary subcommittee shall not impose the sanction of permanent revocation under this section without a finding that the licensee or registrant engaged in a pattern of intentional acts of fraud or deceit resulting in personal financial gain to the licensee or registrant and harm to the health of patients under the licensee's or registrant's care. This subsection does not apply if a disciplinary subcommittee finds that a licensee or registrant has violated section 16221(b)(xiv).

Sec. 16323. (1) Except as otherwise provided in subsection (2), fees for an individual licensed or seeking licensure to practice as a dentist, dental assistant, dental hygienist, or dental therapist under part 166 are as follows:

(a) Application processing fees:

(i) Dentist.......................................................................................................................... $ 20.00
(ii) Dental assistant........................................................................................................ 10.00
(iii) Dental hygienist....................................................................................................... 15.00
(iv) Dental therapist...................................................................................................... 15.00
(v) Health profession specialty field license for a dentist........................................... 20.00

(b) Examination fees:

(i) Dental assistant's examination, complete ......................................................... 70.00
(ii) Dental assistant's examination, per part ............................................................... 35.00
(iii) Dental therapist................................................................................................... 300.00
(iv) Dentist's health profession specialty field license examination, complete. ...... 300.00
(v) Dentist's health profession specialty field license examination, per part .......... 100.00

(c) License fees, per year:

(i) Dentist...................................................................................................................... 90.00
(ii) Dental assistant.................................................................................................. 10.00
(iii) Dental hygienist................................................................................................. 20.00
(iv) Dental therapist.................................................................................................. 40.00
(v) Dentist's health profession specialty field license ............................................ 15.00

(d) Temporary license fees:

(i) Dentist...................................................................................................................... 20.00
(ii) Dental assistant.................................................................................................. 5.00
(iii) Dental hygienist................................................................................................. 10.00
(iv) Dental therapist.................................................................................................. 15.00

(e) Limited license fee, per year:

(i) Dentist...................................................................................................................... 25.00
(ii) Dental assistant.................................................................................................. 5.00
(iii) Dental hygienist................................................................................................. 10.00
(iv) Dental therapist.................................................................................................. 15.00

(f) Examination review fees:

(i) Dental preclinical or dentist's health profession specialty field license ........ 50.00
(ii) Dental assistant.................................................................................................. 20.00
(iii) Dental therapist.................................................................................................. 50.00

(2) The department shall waive the application processing and license fees required under subsection (1) for an initial license to engage in practice as a dental assistant if the applicant for initial licensure, while on active duty as a member of the armed forces, served as a military dental specialist and was separated from service with an honorable character of service or under honorable conditions (general) character of service in the armed forces. The applicant shall provide a form DD214, DD215, or any other form that is satisfactory to the department to be eligible for the waiver of fees under this subsection. As used in this subsection, “armed forces” means the United States Army, Air Force, Navy, Marine Corps, or Coast Guard or other military force designated by Congress as a part of the Armed Forces of the United States.
Sec. 16601. (1) As used in this part:

(a) “Assignment” means that a dentist has designated a patient of record on whom services are to be performed and has described the procedures to be performed. The dentist need not be physically present in the office or in the treatment room at the time the procedures are being performed.

(b) “Dental laboratory” means a dental workroom that is operated as a part of a dental office or otherwise, by a person, other than a dentist, who is engaged in, or holds himself, herself, or itself out as being directly or indirectly engaged in, constructing, repairing, or altering prosthetic dentures, bridges, orthodontic or other appliances, or structures to be used as substitutes for or as a part of human teeth or jaws or associated structures, or for the correction of malocclusions or deformities.

(c) “Dentist” means an individual who is licensed under this article to engage in the practice of dentistry.

(d) “Practice of dentistry” means the diagnosis, treatment, prescription, or operation for a disease, pain, deformity, deficiency, injury, or physical condition of the human tooth, teeth, alveolar process, gums or jaws, or their dependent tissues, or an offer, undertaking, attempt to do, or holding oneself out as able to do any of these acts.

(e) “Practice as a dental assistant” means assistance in the clinical practice of dentistry based on formal education, specialized knowledge, and skill at the assignment and under the supervision of a dentist.

(f) “Practice as a dental hygienist” means practice at the assignment of a dentist in that specific area of dentistry based on specialized knowledge, formal education, and skill with particular emphasis on preventive services and oral health education.

(g) “Practice as a dental therapist” means providing any of the care and services, and performing any of the duties, described in section 16656.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

Sec. 16605. The following words, titles, or letters, or a combination of any of those words, titles, or letters, with or without qualifying words or phrases, are restricted in use only to those individuals who are authorized under this part to use the following terms and in a way prescribed in this part: “dentist”, “doctor of dental surgery”, “oral and maxillofacial surgeon”, “orthodontist”, “prosthodontist”, “periodontist”, “endodontist”, “oral pathologist”, “pediatric dentist”, “dental hygienist”, “registered dental hygienist”, “dental assistant”, “registered dental assistant”, “dental therapist”, “r.d.a.”, “d.d.s.”, “d.m.d.”, “r.d.h.”, and “d.t.”.

Sec. 16621. (1) The Michigan board of dentistry is created in the department. Subject to subsection (2), the board consists of the following 20 voting members, each of whom must meet the requirements of part 161:

(a) Nine dentists. Subject to subsection (4), 1 or more of the dentists appointed under this subdivision may have a health profession specialty certification issued under section 16608.

(b) Subject to subsection (4), 2 dentists who have been issued a health profession specialty certification under section 16608.

(c) Four dental hygienists.

(d) Two dental assistants.

(e) Three public members.

(2) Beginning 5 years after the effective date of the 2018 amendatory act that amended this subsection, the board must include 1 dental therapist, bringing the total number of voting members on the board to 21. The dental therapists appointed under this subsection must each meet the requirements of part 161.

(3) The board meeting dates and times must be concurred in by a vote of not less than 13 board members.

(4) One member of the board shall be a dentist who is a dental school faculty member.

(5) A board member who is licensed to practice as a dental hygienist, a dental assistant, or a dental therapist votes as an equal member of the board in all matters except those designated in section 16148(1) or (2) that apply only to dentists and not to dental hygienists, dental assistants, or dental therapists.

Sec. 16626. (1) Subject to subsection (2), and notwithstanding section 16601(1)(f) or the rules promulgated under section 16625(1), a dental hygienist or dental therapist may utilize a dental assistant to act as his or her second pair of hands.

(2) Notwithstanding section 16601(1)(e) or the rules promulgated under section 16625(1), a dental assistant may function as a second pair of hands for a dentist, dental hygienist, or dental therapist if all of the following are met:

(a) The dentist, dental hygienist, or dental therapist is actively performing services in the mouth of a patient at the time the dental assistant is assisting him or her.
(b) If the dental assistant is assisting a dental hygienist, a supervising dentist has assigned the dental assistant to act as the dental hygienist’s second pair of hands.

(3) This section does not require new or additional third party reimbursement or mandated worker’s compensation benefits for services rendered by an individual who is licensed as a dental assistant, dental hygienist, or dental therapist under this article.

(4) As used in this section, “second pair of hands” means that term as defined in R 338.11101 of the Michigan Administrative Code.

Sec. 16651. (1) An individual who is granted a license under this part as a dental therapist may engage in practice as a dental therapist to the extent permitted under this section and sections 16652 to 16658.

(2) To qualify for licensure under this part as a dental therapist, an individual shall apply to the department on forms provided by the department, pay the application fee under section 16323, and demonstrate to the department that he or she meets all of the following:

(a) Has graduated from a dental therapy education program that satisfies all of the following:

(i) Meets the standards established under section 16148 for accreditation of a degree-granting program in dental therapy education at an approved postsecondary education institution.

(ii) As determined by the department in consultation with the board, meets the accreditation standards for dental therapy education programs established by the Commission on Dental Accreditation.

(iii) Is accredited under section 16148.

(iv) Meets any other requirements for dental therapy education programs adopted by the board.

(b) Has passed a comprehensive, competency-based clinical examination approved by the department that includes an examination of the applicant’s knowledge of the laws of this state under this part and rules promulgated under this part.

(c) Has completed 500 hours of supervised clinical practice under the direct supervision of a dentist and in conformity with rules adopted by the board. As used in this subdivision, “direct supervision” means that a dentist complies with all of the following:

(i) Designates a patient of record upon whom the procedures are to be performed and describes the procedures to be performed.

(ii) Examines the patient before prescribing the procedures to be performed and upon completion of the procedures.

(iii) Is physically present in the office at the time the procedures are being performed.

Sec. 16652. (1) The board shall grant a license to practice as a dental therapist to an applicant for licensure under sections 16651 to 16658 who meets the requirements of sections 16651 to 16658 and rules adopted under those sections for licensure and pays the application fee under section 16323.

(2) A dental therapist shall pay to the board the license fee under section 16323.

Sec. 16653. As a condition of renewal of a license to practice under sections 16651 to 16658, a dental therapist shall certify that he or she has successfully completed 35 hours of continuing education in the 2 years before renewal. Continuing education under this section must conform with the requirements of part 161 concerning continuing education courses and must include board-approved courses, including, but not limited to, a course in cardiopulmonary resuscitation.

Sec. 16654. A dental therapist may provide services described in section 16656 included within the scope of practice as a dental therapist and under the supervision of a dentist in any of the following health settings:

(a) A hospital that is licensed under article 17.

(b) A health facility or agency, other than a hospital, that is licensed under article 17 and is reimbursed as a federally qualified health center as defined in 42 USC 1395x(aa)(4) or that has been determined by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services to meet the requirements for funding under section 330 of the public health service act, 42 USC 254b.

(c) A federally qualified health center, as defined in 42 USC 1395x(aa)(4), that is licensed as a health facility or agency under article 17.

(d) An outpatient health program or facility operated by a tribe or tribal organization under the Indian self-determination act, 25 USC 5321 to 5332, or by an urban Indian organization receiving funds under title V of the Indian health care improvement act, 25 USC 1651 to 1660h.
(e) A correctional facility. As used in this subdivision, “correctional facility” means a facility or institution that houses a prisoner population under the jurisdiction of the department of corrections.

(f) A health setting in a geographic area that is designated as a dental shortage area by the United States Department of Health and Human Services.

(g) A school-based health center, as that term is defined in 42 USC 280h-5.

(h) A local health department.

(i) Any other clinic or practice setting, including a mobile dental unit, in which at least 50% of the annual total patient base of the dental therapist will consist of patients who meet any of the following:

   (i) Are enrolled in a health care program administered by the department of health and human services.

   (ii) Have a medical disability or chronic condition that creates a significant barrier to receiving dental care.

   (iii) Do not have dental health coverage, either through a public health care program or private insurance, and have an annual gross family income equal to or less than 200% of the federal poverty level. As used in this subparagraph and subparagraph (iv), “federal poverty level” means the poverty guidelines published annually in the federal register by the United States Department of Health and Human Services under its authority to revise the poverty line under 42 USC 9902.

   (iv) Do not have dental health coverage, either through a state public health care program or private insurance, and whose family gross income is equal to or less than 200% of the federal poverty level.

Sec. 16655. (1) A dental therapist may practice only under the supervision of a dentist and through a written practice agreement signed by the dental therapist and the dentist. A dental therapist may provide only the services that are within his or her scope of practice, are authorized by a supervising dentist, and are provided according to written protocols or orders established by the supervising dentist.

(2) A dental therapist may perform an oral evaluation and assessment of dental disease and develop an individualized treatment plan if the supervising dentist has given the dental therapist written authorization to provide the services and reviews the patient records as provided in the written practice agreement. The written practice agreement may require the supervising dentist to personally examine patients either face-to-face or by the use of electronic means.

(3) A written practice agreement between a supervising dentist and a dental therapist must include all of the following elements:

   (a) The services and procedures and the practice settings for those services and procedures that the dental therapist may provide, together with any limitations on those services and procedures.

   (b) Any age-specific and procedure-specific practice protocols, including case selection criteria, assessment guidelines, and imaging frequency.

   (c) Procedures to be used with patients treated by the dental therapist for obtaining informed consent and for creating and maintaining dental records.

   (d) A plan for review of patient records by the supervising dentist and the dental therapist.

   (e) A plan for managing medical emergencies in each practice setting in which the dental therapist provides care.

   (f) A quality assurance plan for monitoring care, including patient care review, referral follow-up, and a quality assurance chart review.

   (g) Protocols for administering and dispensing medications, including the specific circumstances under which medications may be administered and dispensed.

   (h) Criteria for providing care to patients with specific medical conditions or complex medical histories, including requirements for consultation before initiating care.

   (i) Specific written protocols, including a plan for providing clinical resources and referrals, governing situations in which the patient requires treatment that exceeds the dental therapist's capabilities or the scope of practice as a dental therapist.

(4) A dental therapist who provides services or procedures beyond those authorized in the written practice agreement engages in unprofessional conduct for the purposes of section 16221.

(5) A supervising dentist shall not supervise more than 4 dental therapists.

(6) A supervising dentist shall actively participate in drafting a written practice agreement with a dental therapist. Any revision to the written practice agreement must be documented in a new written practice agreement signed by the supervising dentist and the dental therapist.

(7) A written practice agreement is valid for 3 years. A supervising dentist and dental therapist shall each review the practice agreement before renewing the practice agreement.
(8) A supervising dentist and a dental therapist who sign a written practice agreement shall keep a copy for the
dentist’s or dental therapist’s own records and make a copy available to patients of the dental therapist, or to the
department, on request.

(9) As used in this section and sections 16656 and 16657, “written practice agreement” means a document that is
signed by a dentist and a dental therapist and that, in conformity with the legal scope of practice as a dental therapist,
outlines the functions that the dental therapist is authorized to perform.

Sec. 16656. (1) Under the supervision of a dentist, a licensed dental therapist may provide any of the following care
or services:

(a) Identifying oral and systemic conditions that require evaluation or treatment by dentists, physicians, or other
health care professionals and managing referrals.

(b) Comprehensive charting of the oral cavity.

(c) Providing oral health instruction and disease prevention education, including nutritional counseling and dietary
analysis.

(d) Administering and exposing radiographic images.

(e) Dental prophylaxis including subgingival scaling or polishing procedures.

(f) Dispensing and administering via the oral or topical route nonnarcotic analgesics and anti-inflammatory and
antibiotic medications as prescribed by a health care professional.

(g) Applying topical preventative or prophylactic agents, including fluoride varnish, silver diamine fluoride and
other fluoride treatments, antimicrobial agents, and pit and fissure sealants.

(h) Pulp vitality testing.

(i) Applying desensitizing medication or resin.

(j) Fabricating athletic mouth guards.

(k) Changing periodontal dressings.

(l) Administering local anesthetic and nitrous oxide analgesia.

(m) Simple extraction of erupted primary teeth.

(n) Emergency palliative treatment of dental pain related to a care or service described in this subsection.

(o) Preparation and placement of direct restoration in primary and permanent teeth.

(p) Fabrication and placement of single-tooth temporary crowns.

(q) Preparation and placement of preformed crowns on primary teeth.

(r) Indirect and direct pulp capping on permanent teeth.

(s) Indirect pulp capping on primary teeth.

(t) Suturing and suture removal.

(u) Minor adjustments and repairs on removable prostheses.

(v) Placement and removal of space maintainers.

(w) Nonsurgical extractions of periodontally diseased permanent teeth with tooth mobility +3. However, a dental
therapist shall not extract a tooth for any patient if the tooth is unerupted, impacted, or fractured or needs to be
sectioned for removal.

(x) Performing other related services and functions authorized by the supervising dentist and for which the dental
therapist is trained.

(y) Performing any other duties of a dental therapist that are authorized by the board by rule.

(2) A dental therapist may supervise dental assistants and dental hygienists to the extent permitted in a written
practice agreement. However, a dental therapist shall not supervise more than 3 dental assistants and 2 dental hygienists
in any 1 practice setting.

(3) A dental therapist shall not prescribe a controlled substance that is included in schedules 2 to 5 of part 72.

(4) As used in this section and section 16657, “health care professional” means an individual who is authorized to
practice a health profession under this article.

Sec. 16657. (1) A supervising dentist shall arrange for another dentist or specialist to provide any services needed
by a patient of a dental therapist who is supervised by that dentist that are beyond the scope of practice of the dental
therapist and that the supervising dentist is unable to provide.
(2) A dental therapist, in accordance with a written practice agreement entered into under section 16655, shall refer patients to another qualified dental professional or health care professional to receive needed services that exceed the scope of practice of the dental therapist.

Sec. 16658. (1) Within 12 months after the effective date of the amendatory act that added this section, the department, in consultation with the board, shall promulgate any rules that the department considers necessary to implement this section and sections 16651 to 16657.

(2) Within 7 years after the effective date of the amendatory act that added this section, the department of health and human services, in consultation with the department, shall conduct and complete a study concerning the impact of licensing dental therapists on patient safety, cost-effectiveness, and access to dental services in this state. The study shall focus on the following outcome measures:

(a) Number of new patients served.
(b) Reduction in waiting time for needed services.
(c) Decreased travel time for patients.
(d) Impact on emergency room usage for dental care.
(e) Costs to the health care system.

(3) Within 30 days after the completion of the study described in subsection (2), the department of health and human services shall provide a written report concerning the results of the study to the director of the department and the chairs of the standing committees of the senate and house of representatives responsible for health policy.

Sec. 16659. Sections 16651 to 16658 do not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual who is licensed as a dental therapist under this article.

Sec. 17031. (1) Except as provided in subsection (2), an applicant, in addition to completing the requirements for the degree in medicine, shall complete a period of postgraduate education to attain proficiency in the practice of the profession, as prescribed by the board in rules, as a condition for more than limited licensure.

(2) The board may grant a full license to practice medicine to an applicant who has completed the requirements for a degree in medicine at a medical school located outside the United States or Canada if, except as provided in subsection (4), the applicant demonstrates to the board all of the following:

(a) That the applicant has engaged in the practice of medicine for not less than 10 years after completing the requirements for a degree in medicine.
(b) That the applicant has completed not less than 3 years of postgraduate clinical training in an institution that has an affiliation with a medical school that is listed in a directory of medical schools published by the World Health Organization as approved by the board.
(c) That the applicant has achieved a score determined by the board to be a passing score on an initial medical licensure examination approved by the board.
(d) That the applicant has safely and competently practiced medicine under a clinical academic limited license granted by the board under this article for 1 or more academic institutions located in this state for not less than the 2 years immediately preceding the date of application for a license under this subsection, during which time the applicant functioned not less than 800 hours per year in the observation and treatment of patients.

(3) An applicant who is required to meet the requirements of subsection (2)(d) shall file with the board a written statement from each academic institution upon which the applicant relies to satisfy that subsection. The statement shall indicate, at a minimum, that the applicant functioned for the academic institution in the observation and treatment of patients not less than 800 hours per year and that in so doing the applicant practiced medicine safely and competently. A person who in good faith makes a written statement that is filed under this subsection is not civilly or criminally liable for that statement. There is a rebuttable presumption that a person who makes a written statement that is filed under this subsection has done so in good faith.

(4) Subsection (2)(c) and (d) do not apply to an applicant who was granted a clinical academic limited license after January 1, 2011 but before January 1, 2017 and who has continuously held a license to practice medicine from the effective date of the amendatory act that added this subsection through the date of application for a full license under subsection (2).

Sec. 20189a. A health facility or agency shall not require a dentist to enter into a written practice agreement with a dental therapist as a condition of employment. As used in this section, “written practice agreement” means that term as defined in section 16655.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.
This act is ordered to take immediate effect.

Secretary of the Senate

Clerk of the House of Representatives

Approved

Governor
333.16601 Definitions; principles of construction.

Sec. 16601. (1) As used in this part:
(a) “Assignment” means that a dentist has designated a patient of record upon whom services are to be performed and has described the procedures to be performed. The dentist need not be physically present in the office or in the treatment room at the time the procedures are being performed.
(b) “Dental laboratory” means a dental workroom operated as a part of a dental office or otherwise, by a person, other than a dentist, who is engaged in, or holds himself, herself, or itself out as being directly or indirectly engaged in, constructing, repairing, or altering prosthetic dentures, bridges, orthodontic or other appliances, or structures to be used as substitutes for or as a part of human teeth or jaws or associated structures, or for the correction of malocclusions or deformities.
(c) “Dentist” means an individual licensed under this article to engage in the practice of dentistry.
(d) “Practice of dentistry” means the diagnosis, treatment, prescription, or operation for a disease, pain, deformity, deficiency, injury, or physical condition of the human tooth, teeth, alveolar process, gums or jaws, or their dependent tissues, or an offer, undertaking, attempt to do, or holding oneself out as able to do any of these acts.
(e) “Practice as a dental assistant” means assistance in the clinical practice of dentistry based on formal education, specialized knowledge, and skill at the assignment and under the supervision of a dentist.
(f) “Practice as a dental hygienist” means practice at the assignment of a dentist in that specific area of dentistry based on specialized knowledge, formal education, and skill with particular emphasis on preventive services and oral health education.
(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

Compiler’s note: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.
Popular name: Act 368

333.16605 Use of words, titles, or letters.

Sec. 16605. The following words, titles, or letters or a combination thereof, with or without qualifying words or phrases, are restricted in use only to those persons authorized under this part to use the following terms and in a way prescribed in this part: "dentist", "doctor of dental surgery", "oral and maxillofacial surgeon", "orthodontist", "prosthodontist", "periodontist", "endodontist", "oral pathologist", "pediatric dentist", "dental hygienist", "registered dental hygienist", "dental assistant", "registered dental assistant", "r.d.a.", "d.d.s.", "d.m.d.", and "r.d.h."

Popular name: Act 368

333.16608 Health profession specialty field license; qualifications; renewal; reference as specialty certification.

Sec. 16608. (1) The board may issue a health profession specialty field license to a licensed dentist who has advanced training beyond that required for initial licensure and who has demonstrated competency through examination or other evaluative processes in 1 or more of the following health profession specialty fields: prosthodontics, endodontics, oral and maxillofacial surgery, orthodontics, pediatric dentistry, periodontics, or oral pathology. A licensed dentist who holds a health profession specialty certification in 1 or more of the health profession specialty fields listed in this subsection on the effective date of the amendatory act that added subsections (3) and (4) is considered to hold a health profession specialty field license in each of those health profession specialty fields and may obtain renewal of each health profession specialty field license on the expiration date of the specialty certification.
(2) A health profession specialty field license issued pursuant to subsection (1) shall be renewed concurrently with the license to practice dentistry.
(3) This section does not prohibit a licensed dentist who has not been issued a health profession specialty
field license under subsection (1) from performing services in 1 or more of the health profession specialty fields listed in subsection (1).

(4) For purposes of the administration of the general rules of the board of dentistry in the Michigan administrative code, a reference to specialty certification is a reference to a health profession specialty field license.


Compiler's note: Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

Popular name: Act 368

333.16611 Dentist, dental hygienist, or dental assistant; license or authorization required; deep scaling, root planing, and removal of calcareous deposits; qualifications for dental hygienist licensure; administration of intraoral block and infiltration anesthesia by dental hygienist; administration of local anesthesia or nitrous oxide analgesia; requirements; additional delegation of procedures; third party reimbursement; practice guidelines; definitions.

Sec. 16611. (1) An individual shall not engage in the practice of dentistry, the practice as a dental hygienist, or the practice as a dental assistant unless he or she is licensed or otherwise authorized by this article.

(2) Deep scaling, root planing, and the removal of calcareous deposits may only be performed by an individual licensed or otherwise authorized by this article as a dental hygienist or a dentist.

(3) The department shall not issue a dental hygienist's license to an individual unless the individual has graduated from a school or college for dental hygienists whose dental hygiene program is accredited by the commission on dental accreditation of the American dental association and approved by the department. The school or college must be accredited by a regional accrediting agency for colleges, universities, or institutions of higher education that is recognized by the United States department of education and approved by the department and must conduct a curriculum consisting of not less than 2 academic years for dental hygiene graduation with courses at the appropriate level to enable matriculation into a more advanced academic degree program.

(4) Upon delegation by a dentist under section 16215 and under the direct supervision of a dentist, a dental hygienist may administer intraoral block and infiltration anesthesia or nitrous oxide analgesia, or both, to a patient 18 years of age or older, if the following criteria are met:

(a) The dental hygienist has successfully completed a course in the administration of local anesthesia or nitrous oxide analgesia, or both, as applicable, offered by a dental or dental hygiene program accredited by the commission on dental accreditation of the American dental association and approved by the department. A course described in this subdivision involving local anesthesia administration must contain a minimum of 15 hours didactic instruction and 14 hours of clinical experience. A course described in this subdivision involving nitrous oxide analgesia must contain a minimum of 4 hours of didactic instruction and 4 hours of clinical experience. The courses of instruction shall include content in all of the following:

(i) In the case of local anesthesia, the following:
   (A) Theory of pain control.
   (B) Selection of pain control modalities.
   (C) Anatomy.
   (D) Neurophysiology.
   (E) Pharmacology of local anesthetics.
   (F) Pharmacology of vasoconstrictors.
   (G) Psychological aspects of pain control.
   (H) Systemic complications.
   (I) Techniques of maxillary anesthesia.
   (J) Techniques of mandibular anesthesia.
   (K) Infection control.
   (L) Local anesthesia medical emergencies.

(ii) In the case of nitrous oxide analgesia, the following:
   (A) Nitrous oxide analgesia medical emergency techniques.
   (B) Pharmacology of nitrous oxide.
   (C) Nitrous oxide techniques.
(D) If such a course is available, selection of pain control modalities.

(b) The dental hygienist has successfully completed a state or regional board-administered written examination on either or both of the following within 18 months of completion of the course work required under subdivision (a):

(i) Local anesthesia.

(ii) Nitrous oxide analgesia, if such an examination is available and approved by the department.

(c) The dental hygienist maintains and can show evidence of current certification in basic or advanced cardiac life support in compliance with R 338.11701 of the Michigan administrative code.

(5) Application for certification in the administration of local anesthesia and nitrous oxide under subsection (4) is at the discretion of each individual dental hygienist. The department or its designee shall issue a certificate to a dental hygienist who meets the criteria in subsection (4) following the initial completion of the requirements to administer local anesthesia or nitrous oxide, or both. The certificate is not subject to renewal but is part of the dental hygienist's permanent record and must be prominently displayed in the dental hygienist's principal place of employment. The fee for the person seeking certification for completion of the requirements of subsection (4) is $10.00.

(6) Monitoring and assisting the administration of nitrous oxide analgesia is at the discretion of each individual registered dental assistant who fulfills the applicable conditions imposed in subsection (7).

(7) In addition to the rules promulgated by the department under this part, upon delegation by a dentist under section 16215 and under the direct supervision of a dentist, a registered dental assistant may assist and monitor the administration of nitrous oxide analgesia by the dentist or dental hygienist if the registered dental assistant has successfully completed a course in the assisting and monitoring of the administration of nitrous oxide analgesia offered by a dental or dental assisting program accredited by the commission on dental accreditation of the American dental association and approved by the department. The course must contain a minimum of 5 hours of didactic instruction and include content in all of the following:

(a) Nitrous oxide analgesia medical emergencies techniques.

(b) Pharmacology of nitrous oxide.

(c) Nitrous oxide techniques.

(8) The ability of a dental hygienist to administer nitrous oxide analgesia under this section is limited to circumstances in which the dental hygienist may administer not more than 50% nitrous oxide.

(9) In the assisting by a registered dental assistant otherwise qualified under this section in the administration of nitrous oxide analgesia, the nitrous oxide levels must be preset by the dentist or dental hygienist and shall not be adjusted by the registered dental assistant except in the case of an emergency, in which circumstances the registered dental assistant may turn off the nitrous oxide and administer 100% oxygen.

(10) Upon assignment by a dentist, a dental hygienist may take an impression for orthodontic appliances, mouth guards, bite splints, and bleaching trays.

(11) In addition to the rules promulgated by the department under this part, upon delegation by a dentist under section 16215 and under the direct supervision of a dentist, a registered dental assistant may place, condense, and carve amalgam restorations and take final impressions for indirect restorations if the registered dental assistant has successfully completed a course offered by a dental or dental assisting program accredited by the commission on dental accreditation of the American dental association and approved by the department. For taking final impressions and placing, condensing, and carving amalgam restorations, the registered dental assistant shall have completed a course with a minimum of 20 hours' didactic instruction followed by a comprehensive clinical experience of sufficient duration that validates clinical competence through a criterion based assessment instrument.

(12) In addition to the rules promulgated by the department under this part, upon delegation by a dentist under section 16215 and under the general supervision of a dentist, a registered dental assistant may perform the following intraoral dental procedures if the registered dental assistant has successfully completed a course meeting the standards described in subsection (13) offered by a dental or dental assisting program accredited by the commission on dental accreditation of the American dental association and approved by the department:

(a) Performing pulp vitality testing.

(b) Placing and removing matrices and wedges.

(c) Applying cavity liners and bases.

(d) Placing and packing nonepinephrine retraction cords.

(e) Applying desensitizing agents.

(f) Taking an impression for orthodontic appliances, mouth guards, bite splints, and bleaching trays.

(g) Drying endodontic canals with absorbent points.
(h) Etching and placing adhesives prior to placement of orthodontic brackets.

(13) The course in subsection (12) that involves those intraoral procedures described in subsection (12) must contain a minimum of 10 hours of didactic and clinical instruction.

(14) This section does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual licensed as a dental assistant or as a dental hygienist under this article.

(15) Within 30 days after the effective date of the amendatory act that added this subsection, the board shall develop patient safety and equipment practice guidelines for dentists delegating to dental hygienists and dental assistants the administration of nitrous oxide analgesia under this part. The practice guidelines shall be consistent with national recommendations.

(16) As used in this section:
   (a) “Assisting” means setting up equipment and placing the face mask. Assisting does not include titrating and turning on or off equipment.
   (b) “Direct supervision” means that a dentist complies with all of the following:
       (i) Designates a patient of record upon whom the procedures are to be performed and describes the procedures to be performed.
       (ii) Examines the patient before prescribing the procedures to be performed and upon completion of the procedures.
       (iii) Is physically present in the office at the time the procedures are being performed.
   (c) “General supervision” means that a dentist complies with all of the following:
       (i) Designates a patient of record upon whom services are to be performed.
       (ii) Is physically present in the office at the time the procedures are being performed.
   (d) “Monitoring” means observing levels and reporting to the dentist or dental hygienist.


Popular name: Act 368

333.16620 Terms of office.
Sec. 16620. The terms of office of individual members of the board and task force created under this part, except those appointed to fill vacancies, expire 4 years after appointment on June 30 of the year in which the term will expire.


Popular name: Act 368

333.16621 Michigan board of dentistry; creation; appointment and qualifications of members; meetings; voting.
Sec. 16621. (1) The Michigan board of dentistry is created in the department. Subject to subsection (2), the board consists of the following 19 voting members who meet the requirements of part 161:
   (a) Eight dentists. Subject to subsection (3), 1 or more of the dentists appointed under this subdivision may have a health profession specialty certification issued under section 16608.
   (b) Subject to subsection (3), 2 dentists who have been issued a health profession specialty certification under section 16608.
   (c) Four dental hygienists.
   (d) Two dental assistants.
   (e) Three public members.
   (2) A dentist, dental hygienist, public member, or other individual who is a member of the board on July 14, 2000 may serve out his or her term.
   (3) The board meeting dates and times shall be concurred in by a vote of not less than 13 board members. One member of the board shall be a dentist who is a dental school faculty member.
   (4) A board member licensed to practice as a dental hygienist or a dental assistant votes as an equal member of the board in all matters except those designated in section 16148(1) or (2) that apply only to dentists and not to dental hygienists or dental assistants.


Popular name: Act 368

333.16624 Task force; creation; purpose; membership.
Sec. 16624. A task force to advise the board is created for health profession specialty fields certified under...
this part. The task force shall consist of the following 9 members, who shall meet the requirements of part 161: 1 dentist who is not a specialist, 1 prosthodontist, 1 endodontist, 1 oral and maxillofacial surgeon, 1 orthodontist, 1 pediatric dentist, 1 periodontist, 1 oral pathologist, and 1 public member. The oral pathologist shall be certified as a dentist specializing in oral pathology by the board not later than 1 year after the effective date of the amendatory act that added an oral pathologist to the task force. If the oral pathologist is not so certified, his or her term shall terminate at the end of that year.


**Compiler's note:** For transfer of powers and duties of the dental specialty task force from the department of commerce to the director of the department of consumer and industry services, and the abolishment of the dental specialty task force, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

**Popular name:** Act 368

333.16625 Rules as to dental hygienist or dental assistant; dental hygiene services performed under supervision of dentist as part of program for dentally underserved program; designation of grantee health agency; requirements; notification; advisory committee; definitions.

Sec. 16625. (1) The board may promulgate rules to prohibit or otherwise restrict the assignment of procedures to a dental hygienist or a dental assistant if the board determines that the assignment constitutes or may constitute a danger to the health, safety, or welfare of the patient or the public.

(2) Notwithstanding section 16601(1)(f) or the rules promulgated under subsection (1), a dental hygienist may perform dental hygiene services under the supervision of a dentist as part of a program for dentally underserved populations in this state conducted by a local, state, or federal grantee health agency for patients who are not assigned by a dentist. The director of community health shall designate a person as a grantee health agency for a 2-year period if the person applies to the department of community health on a form provided by the department of community health and meets all of the following requirements:

(a) Is a public or nonprofit entity, or a school or nursing home, that administers a program of dental care to a dentally underserved population.

(b) Employs or contracts with at least 1 dentist or 1 dental hygienist.

(c) Submits a program overview indicating the approximate population to be served, the method by which the service is to be provided, the procedures for program oversight and direction, and the name and license number of the dentist and dental hygienist, if applicable, who are performing services under the program.

(3) Within 10 business days after the department approves an application and designates a grantee health agency under subsection (2), the department shall notify the board of the designation in writing or make the information electronically available.

(4) The director of community health may appoint an advisory committee to assist the director of community health in designating grantee health agencies under subsection (2). If the director of community health does appoint an advisory committee under this subsection, the director of community health shall include on the advisory committee, at a minimum, a representative from the Michigan dental hygienist association or its successor organization and a representative from the Michigan dental association or its successor organization.

(5) As used in this section:

(a) "Nursing home" means that term as defined under section 20109.

(b) "School" means a public or private elementary or secondary institution of learning for any grade from kindergarten to 12.

(c) "Supervision" means the overseeing of or participation in the work of any other individual by a health professional licensed under this article in circumstances in which 1 or more of the following exist:

(i) The continuous availability of direct communication in person or by radio, telephone, or telecommunication between the supervised individual and a licensed health professional.

(ii) The availability of a licensed health professional on a regularly scheduled basis to review the practice of the supervised individual, to provide consultation to the supervised individual, to review records, and to further educate the supervised individual in the performance of the individual's functions.

(iii) The provision by the licensed supervising health professional of predetermined procedures and drug protocol.


**Compiler's note:** For transfer of the grantee health agency advisory committee to the department of community health, and abolishment of the committee, see E.R.O. No. 2009-7, compiled at MCL 333.26330.
333.16626 Dental assistant as second pair of hands.

Sec. 16626. (1) Subject to subsection (2), and notwithstanding section 16601(1)(f) or the rules promulgated under section 16625(1), a dental hygienist may utilize a dental assistant to act as his or her second pair of hands.

(2) Notwithstanding section 16601(1)(e) or the rules promulgated under section 16625(1), a dental assistant may function as a second pair of hands for a dentist or dental hygienist if all of the following are met:

(a) The dentist or dental hygienist is actively performing services in the mouth of a patient at the time the dental assistant is assisting him or her.

(b) If the dental assistant is assisting a dental hygienist, a supervising dentist has assigned the dental assistant to act as the dental hygienist's second pair of hands.

(3) This section does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual licensed as a dental assistant or as a dental hygienist under this article.

(4) As used in this section, "second pair of hands" means that term as defined in R 338.11101 of the Michigan administrative code.


333.16627 Establishment of dental clinic by nonprofit corporation.

Sec. 16627. The board shall not by rule or other action prohibit the establishment of a dental clinic by a nonprofit corporation organized for this purpose or by trustees of a health and welfare fund if:

(a) The clinic is created, financed, and operated from trust funds derived from payments and contributions under the terms of collective bargaining agreements between employers and representatives of employees and which are subject to the terms, conditions, and regulations of the labor-management relations act of 1947, 29 U.S.C. 141 to 187.

(b) The clinic is established and operated for the benefit of employees represented or employed by the labor organization, their dependents, and retirees.

(c) The individuals employed by the clinic to practice dentistry are licensed under this article.


Popular name: Act 368

333.16631 Applicability of section to dentist who uses dental amalgam and who removes dental amalgam; exceptions; procedures; rules; violations; preemption.

Sec. 16631. (1) Except as otherwise provided, this section applies to a dentist who uses dental amalgam and to a dentist who removes dental amalgam. This section does not apply to any of the following:

(a) Oral and maxillofacial surgeons.

(b) Oral and maxillofacial radiologists.

(c) Oral pathologists.

(d) Orthodontists.

(e) Periodontists.

(f) Dentists while providing services in a dental school, in a hospital, or through a local health department.

(2) On or before December 31, 2013, a dentist described in subsection (1) shall install or have installed and use on each wastewater drain in the dentist's office that is used to discharge dental amalgam a separator that has an efficiency of 95% or more as determined through testing in accordance with standards published by the international organization for standardization in ISO 11143:2008 "Dental equipment — Amalgam separators".

(3) On or before the expiration of 90 days after the effective date of this section, the department, in consultation with the department of environmental quality, shall promulgate rules regarding best management practice for dental amalgam collection, disposal, and recycling and the retention and inspection of dental office records regarding the following:

(a) The make, model, and type of dental amalgam separator installed and in use in the office.

(b) The method used to dispose of or recycle the dental amalgam waste collected.

(c) The shipping or other delivery records documenting the transfer of the dental amalgam waste collected to licensed recyclers or disposers.

(d) The proper operation of the dental amalgam separator, including scheduled maintenance as specified in the manufacturer's owner's manual for that separator.

(e) Compliance with dental amalgam best management practices.
(4) A violation of subsection (1) or (2) or a rule promulgated under subsection (3) is a violation of section 16221(h).

(5) Beginning on the effective date of this section and subject to this subsection, this section preempts and supersedes any local ordinance, regulation, or resolution that imposes conflicting, different, or additional standards or requirements on dentists than those contained in this section or rules promulgated by the board under this section. A local unit of government may enact, adopt, maintain, amend, or enforce an ordinance, regulation, or resolution that requires implementation of the requirement in subsections (2) and (3) before the date required in subsection (2). A local unit of government shall not enact, adopt, maintain, or enforce an ordinance, regulation, or resolution that imposes conflicting, different, or additional standards or requirements on dentists than those contained in this section or rules promulgated by the board under this section, including, but not limited to, the requirement to obtain a permit that limits the discharge of mercury into wastewater with a limitation greater than that capable of being achieved by full compliance with this section.


333.16641 Work authorization for dental laboratory services required; retention and inspection of work authorizations and copies.

Sec. 16641. (1) A dentist shall not use the services of a dental laboratory without furnishing a written work authorization to the dental laboratory and a carbon copy to the patient for constructing, repairing, or altering prosthetic dentures, bridges, orthodontic or other appliances, or structures to be used as substitutes for or as a part of human teeth or jaws or associated structures, or for the correction of malocclusions or deformities.

(2) A dentist shall retain a written work authorization furnished to a dental laboratory or a copy of the authorization for not less than 3 years and allow the board, its agents, or employees to inspect the file of written work authorizations or copies.


Popular name: Act 368

333.16642 Work authorization for dental laboratory work; form; contents; name or number of work authorization to accompany invoice; prohibition.

Sec. 16642. (1) A written authorization for dental laboratory work shall be in a form prescribed by the board and shall contain the following:

(a) The name and address of the laboratory.

(b) An identification of the patient by name or number.

(c) The date on which the authorization was written.

(d) The description of the work to be done, with diagrams if necessary.

(e) A specification of the type and quality of materials to be used.

(f) The dentist's signature, complete business address, and license number.

(2) A dental laboratory shall return completed prescribed work to the prescribing dentist or the dentist's office with the name or number of the written work authorization accompanying the invoice.

(3) A dental laboratory shall not have in its possession a prosthetic denture, bridge, orthodontic or other appliance, or structure to be used as a substitute for or as a part of human teeth or jaws or associated structures or for the correction of malocclusions or deformities, completed or being fabricated without having in its possession a written work authorization therefor.


Popular name: Act 368

333.16643 Dental laboratory; prohibited conduct.

Sec. 16643. A dental laboratory shall not advertise, solicit, represent, or hold itself out to the general public that it will sell, supply, furnish, construct, repair, or alter a prosthetic denture, bridge, orthodontic or other appliance, or structure to be used as a substitute for or as a part of human teeth or jaws or associated structures or for the correction of malocclusions or deformities.


Popular name: Act 368

333.16644 Record of dental treatment required; retention; rules prescribing form and content; using record for identification purposes.

Sec. 16644. (1) A dentist shall make a record of all dental treatment which has been performed upon a patient, and shall retain that treatment record for a period of not less than 10 years after the performance of the last service upon the patient.
(2) The board shall promulgate rules to prescribe the form and content of the record required by subsection (1), so that the record may be used for identification purposes.


**Popular name:** Act 368

### 333.16645 Marking identification on denture or orthodontic appliance.

Sec. 16645. (1) Unless the patient specifically declines, a dentist or dental laboratory that sells, supplies, furnishes, constructs, or repairs a full denture, partial denture with acrylic saddle, or removable orthodontic appliance with acrylic saddle for a specific patient shall permanently mark the patient's name or social security number, whichever the patient chooses, on the denture or orthodontic appliance.

(2) A dentist shall notify a patient who is to receive a denture or orthodontic appliance described in subsection (1) that the patient has the right to decline to have identification marked on the denture or orthodontic appliance, shall ask the patient to choose the information to be marked on the denture or orthodontic appliance, and shall indicate the patient's choices on the work order to the dental laboratory.


**Popular name:** Act 368

### 333.16647 Dental laboratory; inspection; compliance; violation as misdemeanor.

Sec. 16647. (1) The board or an agent or employee of the board may inspect a dental laboratory to determine the laboratory's compliance with this part.

(2) A dental laboratory which violates this part or refuses to allow the board or an agent or employee of the board to inspect a work authorization, prosthetic denture, bridge, orthodontic or other appliance, or structure to be used as a substitute for or as a part of human teeth or jaws or associated structures or for the correction of malocclusions or deformities in its possession is guilty of a misdemeanor.


**Popular name:** Act 368

### 333.16648 Information relative to care and treatment of dental patient; confidentiality; privilege; disclosure; consent; instances not prohibiting disclosure.

Sec. 16648. (1) Information relative to the care and treatment of a dental patient acquired as a result of providing professional dental services is confidential and privileged. Except as otherwise permitted or required under the health insurance portability and accountability act of 1996, Public Law 104-191, and regulations promulgated under that act, 45 CFR parts 160 and 164, or as otherwise provided in subsection (2), a dentist or a person employed by the dentist shall not disclose or be required to disclose that information.

(2) This section does not prohibit disclosure of the information described in subsection (1) in the following instances:

(a) Disclosure as part of the defense to a claim in a court or administrative agency challenging the dentist's professional competence.

(b) Disclosure pursuant to 1967 PA 270, MCL 331.531 to 331.533.

(c) Disclosure in relation to a claim for payment of fees.

(d) Disclosure to a third party payer of information relating to fees for services in the course of a good faith examination of the dentist's records to determine the amount and correctness of fees or the type and volume of services furnished pursuant to provisions for payment established by a third party payer, or information required for a third party payer's predeterminations, post treatment reviews, or audits. For purposes of this subdivision, "third party payer" includes, but is not limited to, a nonprofit dental care corporation, nonprofit health care corporation, insurer, benefit fund, health maintenance organization, and dental capitation plan.

(e) Disclosure, pursuant to a court order, to a police agency as part of a criminal investigation.

(f) Disclosure as provided in section 2844a.

(g) Disclosure made pursuant to section 16222 if the licensee reasonably believes it is necessary to disclose the information to comply with section 16222.

(h) Disclosure under section 16281.


**Popular name:** Act 368
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<td>Perform preliminary charting of the oral cavity, oral health instruction and disease prevention, including nutritional counseling, dietary analysis.</td>
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<td>DT</td>
<td>ADT</td>
<td>Apply topical medications such as, but not limited to, topical fluoride and cavity varnishes in appropriate dosages.</td>
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<td>DT</td>
<td>ADT</td>
<td>Perform mechanical polishing.</td>
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<td>DT</td>
<td>ADT</td>
<td>Dispense and administer analgesics, anti-inflammatories, and antibiotics as permitted by the collaborative management agreement. Advanced Dental Therapist may provide, dispense and administer.</td>
</tr>
<tr>
<td>ADT</td>
<td>DT</td>
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<td>Pulpotomies on primary teeth; and indirect and direct pulp capping on primary and permanent teeth.</td>
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<td>Recement permanent crowns.</td>
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<td>ADT</td>
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<td>Extractions of primary teeth.</td>
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<td>ADT</td>
<td>DT</td>
<td>Extraction of periodontal diseased permanent teeth with mobility of +3 to +4 as permitted by the collaborative management agreement. Not to include unerupted, impacted, fractured, or need for sectioning.</td>
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<td>ADT</td>
<td>DT</td>
<td>Oral evaluation and assessment of dental disease and the formation of an individualized treatment plan authorized by a collaborating dentist.</td>
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<tr>
<td>ADT</td>
<td>DT</td>
<td>Make appropriate referrals to dentists, physicians, and other practitioners in consultation with the collaborating dentist.</td>
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**KEY**

DT = Dental Therapist      ADT = Advanced Dental Therapist
CHAPTER 150A

DENTISTRY

150A.01 DEFINITIONS.

Subdivision 1. Applicability. As used in sections 150A.01 to 150A.12, the following terms shall have the meanings given them.

Subd. 1a. Advanced dental therapist. "Advanced dental therapist" means a person licensed as a dental therapist under this chapter and who has been certified by the board to practice as an advanced dental therapist under section 150A.106.

Subd. 2. Board. "Board" means the state Board of Dentistry.

Subd. 3. Dental technician. "Dental technician" means a person performing acts authorized under section 150A.10, subdivision 3.

Subd. 4. Dental hygienist. "Dental hygienist" means a person licensed pursuant to sections 150A.01 to 150A.12 to perform the services authorized pursuant to section 150A.10, subdivision 1, or any other services authorized by sections 150A.01 to 150A.12.

Subd. 5. Dental assistant. "Dental assistant" means a person performing acts authorized under section 150A.10, subdivision 2.

Subd. 5a. Dental therapist. "Dental therapist" means a person licensed under this chapter to perform the services authorized under section 150A.105 or any other services authorized under this chapter.

Subd. 6. Dentist. "Dentist" means a dentist licensed pursuant to sections 150A.01 to 150A.12.

Subd. 6a. Faculty dentist. "Faculty dentist" means a person who is licensed to practice dentistry as a faculty member of a school of dentistry, pursuant to section 150A.06, subdivision 1a.

Subd. 7. Person. "Person" includes an individual, corporation, partnership, association or any other legal entity.
Subd. 8. **Licensed dental assistant.** "Licensed dental assistant" means a person licensed pursuant to section 150A.06.

Subd. 8a. **Resident dentist.** "Resident dentist" means a person who is licensed to practice dentistry as an enrolled graduate student or student of an advanced education program accredited by the Commission on Dental Accreditation.

Subd. 9. **State.** "State," when used in reference to a state other than Minnesota, means any other state of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

**History:** 1969 c 974 s 1; 1976 c 263 s 1; 1983 c 70 s 2; 2009 c 291 art 4 s 27

**150A.02 BOARD OF DENTISTRY.**

Subdivision 1. **Generally.** There is hereby created a Board of Dentistry whose duty it shall be to carry out the purposes and enforce the provisions of sections 150A.01 to 150A.12. The board shall consist of two public members as defined by section 214.02, five qualified resident dentists, one qualified resident licensed dental assistant, and one qualified resident dental hygienist appointed by the governor. Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214.07 to 214.09. The provision of staff, administrative services and office space; the review and processing of board complaints; the setting of board fees; and other provisions relating to board operations shall be as provided in chapter 214. Each board member who is a dentist, licensed dental assistant, or dental hygienist shall have been lawfully in active practice in this state for five years immediately preceding appointment; and no board member shall be eligible for appointment to more than two consecutive four-year terms, and members serving on the board at the time of the enactment hereof shall be eligible to reappointment provided they shall not have served more than nine consecutive years at the expiration of the term to which they are to be appointed. At least 90 days prior to the expiration of the terms of dentists, licensed dental assistants, or dental hygienists, the Minnesota Dental Association, Minnesota Dental Assistants Association, or the Minnesota Dental Hygienists' Association shall recommend to the governor for each term expiring not less than two dentists, two licensed dental assistants, or two dental hygienists, respectively, who are qualified to serve on the board, and from the list so recommended the governor may appoint members to the board for the term of four years, the appointments to be made within 30 days after the expiration of the terms. Within 60 days after the occurrence of a dentist, licensed dental assistant, or dental hygienist vacancy, prior to the expiration of the term, in the board, the Minnesota Dental Association, the Minnesota Dental Assistants Association, or the Minnesota Dental Hygienists' Association shall recommend to the governor not less than two dentists, two licensed dental assistants, or two dental hygienists, who are qualified to serve on the board and from the list so recommended the governor, within 30 days after receiving such list of dentists, may appoint one member to the board for the unexpired term occasioned by such vacancy. Any appointment to fill a vacancy shall be made within 90 days after the occurrence of such vacancy. The first four-year term of the dental hygienist and of the licensed dental assistant shall commence on the first Monday in January, 1977.

Subd. 2. [Repealed, 1975 c 136 s 77]

**History:** 1969 c 974 s 2; 1973 c 638 s 25; 1975 c 136 s 25; 1976 c 222 s 73; 1976 c 239 s 57; 1976 c 263 s 2; 1986 c 444; 1991 c 199 art 1 s 44; 2009 c 159 s 41; 2017 c 40 art 1 s 38
150A.03 OFFICERS; SALARIES; EQUIPMENT AND SUPPLIES.

Subdivision 1. Officers. The board shall elect from its members a president, a vice-president, and a secretary. The board shall have a common seal. It may hold meetings at such times as may be necessary and as it may determine. The board may affiliate and participate, both in and out-of-state, with regional and national testing agencies for the purpose of conducting examinations for licensure and registration. The fee charged by such an agency for conducting the examination may be in addition to the application fee established by the board pursuant to section 150A.06.

Subd. 2. Executive secretary; funds. The board shall appoint an executive secretary who shall not be a member of the board and who shall be in the unclassified civil service. The board may accept any funds which may be made available to the board from any source. All funds received by the board under sections 150A.01 to 150A.12 shall be paid to the executive secretary thereof. The expenses of administering sections 150A.01 to 150A.12 shall be paid from the appropriation made to the Board of Dentistry.

Subd. 3. Expenses, national associations. The board may expend the necessary funds for its offices and furniture, fixtures, and supplies. The board may affiliate with the American Association of Dental Examiners as an active member and pay regular annual dues to this association, and send members of the board as delegates to the meetings of the American Association of Dental Examiners.

History: 1969 c 974 s 3; 1973 c 507 s 45; 1973 c 638 s 26; 1975 c 136 s 26-28; 1976 c 222 s 74; 1978 c 770 s 1

150A.04 RULES OF BOARD.

Subdivision 1. [Repealed, 1976 c 222 s 209]

Subd. 2. [Repealed, 1976 c 222 s 209]

Subd. 3. [Repealed, 1976 c 222 s 209]

Subd. 4. [Repealed, 1976 c 222 s 209]

Subd. 5. Rules. The board may promulgate rules as are necessary to carry out and make effective the provisions and purposes of sections 150A.01 to 150A.12, in accordance with chapter 14. The rules may specify training and education necessary for administering general anesthesia and intravenous conscious sedation.

History: 1969 c 974 s 4; 1976 c 222 s 75; 1982 c 424 s 130; 1984 c 491 s 1; 1985 c 248 s 70; 1995 c 233 art 2 s 56; 1997 c 187 art 5 s 20

150A.05 LICENSED DENTAL PRACTICE.

Subdivision 1. Practice of dentistry. A person shall be deemed to be practicing dentistry within the meaning of sections 150A.01 to 150A.12:

(1) who uses a dental degree, or designation, or card, device, directory, sign, or other media whereby the person represents an ability to diagnose, treat, prescribe, or operate for any disease, pain, deformity, deficiency, injury, or physical condition of the human tooth, teeth, alveolar process, gums or jaw, or adjacent or associated structures;

(2) who is a manager, proprietor, operator or conductor of a place where dental operations are performed;
(3) who performs dental operations of any kind gratuitously, or for a fee, gift, compensation or reward, paid or to be paid, to any person or agency;

(4) who uses a roentgen or x-ray machine for dental treatment, roentgenograms or for dental diagnostic purposes;

(5) who extracts a human tooth or teeth, or corrects or attempts to correct malpositions of the human teeth or jaws;

(6) who offers and undertakes, by any means or method, to diagnose, treat or remove stains or accretions from human teeth or jaws;

(7) who takes impressions of the human tooth, teeth, or jaws or performs any phase of any operation incident to the replacement of a part of a tooth, a tooth, teeth or associated tissues by means of a filling, a crown, a bridge, a denture or other appliance;

(8) who furnishes, supplies, constructs, reproduces, repairs, or offers to furnish, supply, construct, reproduce or repair prosthetic dentures or plates, bridges or other substitutes for natural teeth, to the user or prospective user thereof; or

(9) who performs any clinical operation included in the curricula of recognized dental schools and colleges.

Subd. 1a. Practice of dental hygienists. A person shall be deemed to be practicing as a dental hygienist within the meaning of sections 150A.01 to 150A.12:

(1) who provides care that is educational, preventive, and therapeutic through observation, assessment, evaluation, counseling, and therapeutic services to establish and maintain oral health;

(2) who evaluates patient health status through review of medical and dental histories, assesses and plans dental hygiene care needs, performs a prophylaxis including complete removal of calciferous deposits, accretions and stains by scaling, polishing, and performs root planing and debridement;

(3) who administers local anesthesia and nitrous oxide inhalation analgesia; or

(4) who provides other related services as permitted by the rules of the board.

Subd. 1b. Practice of dental therapy. A person shall be deemed to be practicing as a dental therapist within the meaning of this chapter who:

(1) works under the supervision of a Minnesota-licensed dentist under a collaborative management agreement as specified under section 150A.105;

(2) practices in settings that serve low-income, uninsured, and underserved patients or are located in dental health professional shortage areas; and

(3) provides oral health care services, including preventive, oral evaluation and assessment, educational, palliative, therapeutic, and restorative services as authorized under sections 150A.105 and 150A.106 and within the context of a collaborative management agreement.

Subd. 2. Exemptions and exceptions of certain practices and operations. Sections 150A.01 to 150A.12 do not apply to:
(1) the practice of dentistry or dental hygiene in any branch of the armed services of the United States, the United States Public Health Service, or the United States Veterans Administration;

(2) the practice of dentistry, dental hygiene, or dental assisting by undergraduate dental students, dental therapy students, dental hygiene students, and dental assisting students of the University of Minnesota, schools of dentistry that are accredited by the Commission on Dental Accreditation (CODA), schools of dental hygiene, schools with a dental therapy education program, or schools of dental assisting approved by the board, when acting under the indirect supervision of a Minnesota licensed dentist and under the instruction of a licensed dentist, licensed dental therapist, licensed dental hygienist, or licensed dental assistant;

(3) the practice of dentistry by licensed dentists of other states or countries while appearing as clinicians under the auspices of a duly approved dental school or college, or a reputable dental society, or a reputable dental study club composed of dentists;

(4) the actions of persons while they are taking examinations for licensure administered or approved by the board pursuant to sections 150A.03, subdivision 1, and 150A.06, subdivisions 1, 2, and 2a;

(5) the practice of dentistry by dentists and dental hygienists licensed by other states during their functioning as examiners responsible for conducting licensure examinations administered by regional and national testing agencies with whom the board is authorized to affiliate and participate under section 150A.03, subdivision 1, and the practice of dentistry by the regional and national testing agencies during their administering examinations pursuant to section 150A.03, subdivision 1;

(6) the use of x-rays or other diagnostic imaging modalities for making radiographs or other similar records in a hospital under the supervision of a physician or dentist or by a person who is credentialed to use diagnostic imaging modalities or x-ray machines for dental treatment, roentgenograms, or dental diagnostic purposes by a credentialing agency other than the Board of Dentistry; or

(7) the service, other than service performed directly upon the person of a patient, of constructing, altering, repairing, or duplicating any denture, partial denture, crown, bridge, splint, orthodontic, prosthetic, or other dental appliance, when performed according to a written work order from a licensed dentist or a licensed advanced dental therapist in accordance with section 150A.10, subdivision 3.

History: 1969 c 974 s 5; 1981 c 102 s 1; 1983 c 29 s 1; 1983 c 70 s 3; 1986 c 444; 1993 c 84 s 3; 1996 c 273 s 1; 2009 c 95 art 3 s 3,4; 2009 c 159 s 42; 2017 c 11 s 1

150A.055 ADMINISTRATION OF INFLUENZA IMMUNIZATIONS.

Subdivision 1. Practice of dentistry. A person licensed to practice dentistry under sections 150A.01 to 150A.14 shall be deemed to be practicing dentistry while participating in the administration of an influenza vaccination.

Subd. 2. Qualified dentists. (a) The influenza immunization shall be administered only to patients 19 years of age and older and only by licensed dentists who:

(1) have immediate access to emergency response equipment, including but not limited to oxygen administration equipment, epinephrine, and other allergic reaction response equipment; and

(2) are trained in or have successfully completed a program approved by the Minnesota Board of Dentistry, specifically for the administration of immunizations. The training or program must include:

(i) educational material on the disease of influenza and vaccination as prevention of the disease;
(ii) contraindications and precautions;

(iii) intramuscular administration;

(iv) communication of risk and benefits of influenza vaccination and legal requirements involved;

(v) reporting of adverse events;

(vi) documentation required by federal law; and

(vii) storage and handling of vaccines.

(b) Any dentist giving influenza vaccinations under this section shall comply with guidelines established by the federal Advisory Committee on Immunization Practices relating to vaccines and immunizations, which includes, but is not limited to, vaccine storage and handling, vaccine administration and documentation, and vaccine contraindications and precautions.

Subd. 3. Coordination of care. After a dentist qualified under subdivision 2 has administered an influenza vaccine to a patient, the dentist shall report the administration of the immunization to the Minnesota Immunization Information Connection or otherwise notify the patient's primary physician or clinic of the administration of the immunization.

History: 2014 c 291 art 2 s 1

150A.06 LICENSURE.

Subdivision 1. Dentists. A person of good moral character who has graduated from a dental program accredited by the Commission on Dental Accreditation, having submitted an application and fee as prescribed by the board, may be examined by the board or by an agency pursuant to section 150A.03, subdivision 1, in a manner to test the applicant's fitness to practice dentistry. A graduate of a dental college in another country must not be disqualified from examination solely because of the applicant's foreign training if the board determines that the training is equivalent to or higher than that provided by a dental college accredited by the Commission on Dental Accreditation. In the case of examinations conducted pursuant to section 150A.03, subdivision 1, applicants shall take the examination prior to applying to the board for licensure. The examination shall include an examination of the applicant's knowledge of the laws of Minnesota relating to dentistry and the rules of the board. An applicant is ineligible to retake the clinical examination required by the board after failing it twice until further education and training are obtained as specified by the board by rule. A separate, nonrefundable fee may be charged for each time a person applies. An applicant who passes the examination in compliance with subdivision 2b, abides by professional ethical conduct requirements, and meets all other requirements of the board shall be licensed to practice dentistry and granted a general dentist license by the board.

Subd. 1a. Faculty dentists. (a) Faculty members of a school of dentistry must be licensed in order to practice dentistry as defined in section 150A.05. The board may issue to members of the faculty of a school of dentistry a license designated as either a "limited faculty license" or a "full faculty license" entitling the holder to practice dentistry within the terms described in paragraph (b) or (c). The dean of a school of dentistry and program directors of a Minnesota dental hygiene or dental assisting school accredited by the Commission on Dental Accreditation shall certify to the board those members of the school's faculty who practice dentistry but are not licensed to practice dentistry in Minnesota. A faculty member who practices dentistry as defined in section 150A.05, before beginning duties in a school of dentistry or a dental hygiene or dental assisting school, shall apply to the board for a limited or full faculty license. Pursuant to Minnesota Rules, chapter 3100, and at the discretion of the board, a limited faculty license must be renewed annually.
and a full faculty license must be renewed biennially. The faculty applicant shall pay a nonrefundable fee set by the board for issuing and renewing the faculty license. The faculty license is valid during the time the holder remains a member of the faculty of a school of dentistry or a dental hygiene or dental assisting school and subjects the holder to this chapter.

(b) The board may issue to dentist members of the faculty of a Minnesota school of dentistry, dental hygiene, or dental assisting accredited by the Commission on Dental Accreditation, a license designated as a limited faculty license entitling the holder to practice dentistry within the school and its affiliated teaching facilities, but only for the purposes of teaching or conducting research. The practice of dentistry at a school facility for purposes other than teaching or research is not allowed unless the dentist was a faculty member on August 1, 1993.

(c) The board may issue to dentist members of the faculty of a Minnesota school of dentistry, dental hygiene, or dental assisting accredited by the Commission on Dental Accreditation a license designated as a full faculty license entitling the holder to practice dentistry within the school and its affiliated teaching facilities and elsewhere if the holder of the license is employed 50 percent time or more by the school in the practice of teaching or research, and upon successful review by the board of the applicant's qualifications as described in subdivisions 1, 1c, and 4 and board rule. The board, at its discretion, may waive specific licensing prerequisites.

Subd. 1b. Resident dentists. A person who is a graduate of a dental school and is an enrolled graduate student or student of an accredited advanced dental education program and who is not licensed to practice dentistry in the state shall obtain from the board a license to practice dentistry as a resident dentist. The license must be designated “resident dentist license” and authorizes the licensee to practice dentistry only under the supervision of a licensed dentist. A University of Minnesota School of Dentistry dental resident holding a resident dentist license is eligible for enrollment in medical assistance, as provided under section 256B.0625, subdivision 9b. A resident dentist license must be renewed annually pursuant to the board's rules. An applicant for a resident dentist license shall pay a nonrefundable fee set by the board for issuing and renewing the license. The requirements of sections 150A.01 to 150A.21 apply to resident dentists except as specified in rules adopted by the board. A resident dentist license does not qualify a person for licensure under subdivision 1.

Subd. 1c. Specialty dentists. (a) The board may grant one or more specialty licenses in the specialty areas of dentistry that are recognized by the Commission on Dental Accreditation.

(b) An applicant for a specialty license shall:

(1) have successfully completed a postdoctoral specialty program accredited by the Commission on Dental Accreditation, or have announced a limitation of practice before 1967;

(2) have been certified by a specialty board approved by the Minnesota Board of Dentistry, or provide evidence of having passed a clinical examination for licensure required for practice in any state or Canadian province, or in the case of oral and maxillofacial surgeons only, have a Minnesota medical license in good standing;

(3) have been in active practice or a postdoctoral specialty education program or United States government service at least 2,000 hours in the 36 months prior to applying for a specialty license;

(4) if requested by the board, be interviewed by a committee of the board, which may include the assistance of specialists in the evaluation process, and satisfactorily respond to questions designed to determine the applicant's knowledge of dental subjects and ability to practice;
(5) if requested by the board, present complete records on a sample of patients treated by the applicant. The sample must be drawn from patients treated by the applicant during the 36 months preceding the date of application. The number of records shall be established by the board. The records shall be reasonably representative of the treatment typically provided by the applicant for each specialty area;

(6) at board discretion, pass a board-approved English proficiency test if English is not the applicant's primary language;

(7) pass all components of the National Board Dental Examinations;

(8) pass the Minnesota Board of Dentistry jurisprudence examination;

(9) abide by professional ethical conduct requirements; and

(10) meet all other requirements prescribed by the Board of Dentistry.

(c) The application must include:

(1) a completed application furnished by the board;

(2) at least two character references from two different dentists for each specialty area, one of whom must be a dentist practicing in the same specialty area, and the other from the director of each specialty program attended;

(3) a licensed physician's statement attesting to the applicant's physical and mental condition;

(4) a statement from a licensed ophthalmologist or optometrist attesting to the applicant's visual acuity;

(5) a nonrefundable fee; and

(6) a notarized, unmounted passport-type photograph, three inches by three inches, taken not more than six months before the date of application.

(d) A specialty dentist holding one or more specialty licenses is limited to practicing in the dentist's designated specialty area or areas. The scope of practice must be defined by each national specialty board recognized by the Commission on Dental Accreditation.

(e) A specialty dentist holding a general dental license is limited to practicing in the dentist's designated specialty area or areas if the dentist has announced a limitation of practice. The scope of practice must be defined by each national specialty board recognized by the Commission on Dental Accreditation.

(f) All specialty dentists who have fulfilled the specialty dentist requirements and who intend to limit their practice to a particular specialty area or areas may apply for one or more specialty licenses.

Subd. 1d. Dental therapists. A person of good moral character who has graduated with a baccalaureate degree or a master's degree from a dental therapy education program that has been approved by the board or accredited by the Commission on Dental Accreditation or another board-approved national accreditation organization may apply for licensure.

The applicant must submit an application and fee as prescribed by the board and a diploma or certificate from a dental therapy education program. Prior to being licensed, the applicant must pass a comprehensive, competency-based clinical examination that is approved by the board and administered independently of an institution providing dental therapy education. The applicant must also pass an examination testing the applicant's knowledge of the Minnesota laws and rules relating to the practice of dentistry. An applicant
who has failed the clinical examination twice is ineligible to retake the clinical examination until further education and training are obtained as specified by the board. A separate, nonrefundable fee may be charged for each time a person applies. An applicant who passes the examination in compliance with subdivision 2b, abides by professional ethical conduct requirements, and meets all the other requirements of the board shall be licensed as a dental therapist.

Subd. 1e. Resident dental providers. A person who is a graduate of an undergraduate program and is an enrolled graduate student of an advanced dental education program shall obtain from the board a license to practice as a resident dental hygienist or dental therapist. The license must be designated "resident dental provider license" and authorizes the licensee to practice only under the supervision of a licensed dentist or licensed dental therapist. A resident dental provider license must be renewed annually by the board. An applicant for a resident dental provider license shall pay a nonrefundable fee set by the board for issuing and renewing the license. The requirements of sections 150A.01 to 150A.21 apply to resident dental providers except as specified in rules adopted by the board. A resident dental provider license does not qualify a person for licensure under subdivision 1d or 2.

Subd. 2. Dental hygienists. A person of good moral character, who has graduated from a dental hygiene program accredited by the Commission on Dental Accreditation and established in an institution accredited by an agency recognized by the United States Department of Education to offer college-level programs, may apply for licensure. The dental hygiene program must provide a minimum of two academic years of dental hygiene education. The applicant must submit an application and fee as prescribed by the board and a diploma or certificate of dental hygiene. Prior to being licensed, the applicant must pass the National Board of Dental Hygiene examination and a board approved examination designed to determine the applicant's clinical competency. In the case of examinations conducted pursuant to section 150A.03, subdivision 1, applicants shall take the examination before applying to the board for licensure. The applicant must also pass an examination testing the applicant's knowledge of the laws of Minnesota relating to the practice of dentistry and of the rules of the board. An applicant is ineligible to retake the clinical examination required by the board after failing it twice until further education and training are obtained as specified by board rule. A separate, nonrefundable fee may be charged for each time a person applies. An applicant who passes the examination in compliance with subdivision 2b, abides by professional ethical conduct requirements, and meets all the other requirements of the board shall be licensed as a dental hygienist.

Subd. 2a. Licensed dental assistant. A person of good moral character, who has graduated from a dental assisting program accredited by the Commission on Dental Accreditation, may apply for licensure. The applicant must submit an application and fee as prescribed by the board and the diploma or certificate of dental assisting. In the case of examinations conducted pursuant to section 150A.03, subdivision 1, applicants shall take the examination before applying to the board for licensure. The examination shall include an examination of the applicant's knowledge of the laws of Minnesota relating to dentistry and the rules of the board. An applicant is ineligible to retake the licensure examination required by the board after failing it twice until further education and training are obtained as specified by board rule. A separate, nonrefundable fee may be charged for each time a person applies. An applicant who passes the examination in compliance with subdivision 2b, abides by professional ethical conduct requirements, and meets all the other requirements of the board shall be licensed as a dental assistant.

Subd. 2b. Examination. When the Board of Dentistry administers the examination for licensure, only those board members or board-appointed deputy examiners qualified for the particular examination may administer it. An examination which the board requires as a condition of licensure must have been taken within the five years before the board receives the application for licensure.
Subd. 2c. **Guest license.** (a) The board shall grant a guest license to practice as a dentist, dental hygienist, or licensed dental assistant if the following conditions are met:

(1) the dentist, dental hygienist, or dental assistant is currently licensed in good standing in another United States jurisdiction;

(2) the dentist, dental hygienist, or dental assistant is currently engaged in the practice of that person's respective profession in another United States jurisdiction;

(3) the dentist, dental hygienist, or dental assistant will limit that person's practice to a public health setting in Minnesota that (i) is approved by the board; (ii) was established by a nonprofit organization that is tax exempt under chapter 501(c)(3) of the Internal Revenue Code of 1986; and (iii) provides dental care to patients who have difficulty accessing dental care;

(4) the dentist, dental hygienist, or dental assistant agrees to treat indigent patients who meet the eligibility criteria established by the clinic; and

(5) the dentist, dental hygienist, or dental assistant has applied to the board for a guest license and has paid a nonrefundable license fee to the board not to exceed $75.

(b) A guest license must be renewed annually with the board and an annual renewal fee not to exceed $75 must be paid to the board. Guest licenses expire on December 31 of each year.

(c) A dentist, dental hygienist, or dental assistant practicing under a guest license under this subdivision shall have the same obligations as a dentist, dental hygienist, or dental assistant who is licensed in Minnesota and shall be subject to the laws and rules of Minnesota and the regulatory authority of the board. If the board suspends or revokes the guest license of, or otherwise disciplines, a dentist, dental hygienist, or dental assistant practicing under this subdivision, the board shall promptly report such disciplinary action to the dentist's, dental hygienist's, or dental assistant's regulatory board in the jurisdictions in which they are licensed.

(d) The board may grant a guest license to a dentist, dental hygienist, or dental assistant licensed in another United States jurisdiction to provide dental care to patients on a voluntary basis without compensation for a limited period of time. The board shall not assess a fee for the guest license for volunteer services issued under this paragraph.

The board shall issue a guest license for volunteer services if:

(1) the board determines that the applicant's services will provide dental care to patients who have difficulty accessing dental care;

(2) the care will be provided without compensation; and

(3) the applicant provides adequate proof of the status of all licenses to practice in other jurisdictions. The board may require such proof on an application form developed by the board.

The guest license for volunteer services shall limit the licensee to providing dental care services for a period of time not to exceed ten days in a calendar year. Guest licenses expire on December 31 of each year.

The holder of a guest license for volunteer services shall be subject to state laws and rules regarding dentistry and the regulatory authority of the board. The board may revoke the license of a dentist, dental hygienist, or dental assistant practicing under this subdivision or take other regulatory action against the dentist, dental hygienist, or dental assistant. If an action is taken, the board shall report the action to the
regulatory board of those jurisdictions where an active license is held by the dentist, dental hygienist, or dental assistant.

Subd. 2d. Continuing education and professional development waiver. (a) The board shall grant a waiver to the continuing education requirements under this chapter for a licensed dentist, licensed dental therapist, licensed dental hygienist, or licensed dental assistant who documents to the satisfaction of the board that the dentist, dental therapist, dental hygienist, or licensed dental assistant has retired from active practice in the state and limits the provision of dental care services to those offered without compensation in a public health, community, or tribal clinic or a nonprofit organization that provides services to the indigent or to recipients of medical assistance or MinnesotaCare programs.

(b) The board may require written documentation from the volunteer and retired dentist, dental therapist, dental hygienist, or licensed dental assistant prior to granting this waiver.

c) The board shall require the volunteer and retired dentist, dental therapist, dental hygienist, or licensed dental assistant to meet the following requirements:

1. a licensee seeking a waiver under this subdivision must complete and document at least five hours of approved courses in infection control, medical emergencies, and medical management for the continuing education cycle; and

2. provide documentation of current CPR certification from completion of the American Heart Association healthcare provider course or the American Red Cross professional rescuer course.

Subd. 3. Waiver of examination. (a) All or any part of the examination for dentists, dental therapists, dental hygienists, or dental assistants, except that pertaining to the law of Minnesota relating to dentistry and the rules of the board, may, at the discretion of the board, be waived for an applicant who presents a certificate of having passed all components of the National Board Dental Examinations or evidence of having maintained an adequate scholastic standing as determined by the board.

(b) The board shall waive the clinical examination required for licensure for any dentist applicant who is a graduate of a dental school accredited by the Commission on Dental Accreditation, who has passed all components of the National Board Dental Examinations, and who has satisfactorily completed a postdoctoral general dentistry residency program (GPR) or an advanced education in general dentistry (AEGD) program after January 1, 2004. The postdoctoral program must be accredited by the Commission on Dental Accreditation, be of at least one year's duration, and include an outcome assessment evaluation assessing the resident's competence to practice dentistry. The board may require the applicant to submit any information deemed necessary by the board to determine whether the waiver is applicable.

Subd. 4. Licensure by credentials. (a) Any dentist or dental hygienist may, upon application and payment of a fee established by the board, apply for licensure based on the applicant's performance record in lieu of passing an examination approved by the board according to section 150A.03, subdivision 1, and be interviewed by the board to determine if the applicant:

1. has passed all components of the National Board Dental Examinations;

2. has been in active practice at least 2,000 hours within 36 months of the application date, or passed a board-approved reentry program within 36 months of the application date;

3. currently has a license in another state or Canadian province and is not subject to any pending or final disciplinary action, or if not currently licensed, previously had a license in another state or Canadian
province in good standing that was not subject to any final or pending disciplinary action at the time of surrender;

(4) is of good moral character and abides by professional ethical conduct requirements;

(5) at board discretion, has passed a board-approved English proficiency test if English is not the applicant's primary language; and

(6) meets other credentialing requirements specified in board rule.

(b) An applicant who fulfills the conditions of this subdivision and demonstrates the minimum knowledge in dental subjects required for licensure under subdivision 1 or 2 must be licensed to practice the applicant's profession.

(c) If the applicant does not demonstrate the minimum knowledge in dental subjects required for licensure under subdivision 1 or 2, the application must be denied. When denying a license, the board may notify the applicant of any specific remedy that the applicant could take which, when passed, would qualify the applicant for licensure. A denial does not prohibit the applicant from applying for licensure under subdivision 1 or 2.

(d) A candidate whose application has been denied may appeal the decision to the board according to subdivision 4a.

Subd. 4a. Appeal of denial of application. A person whose application for licensure by credentials has been denied may appeal the decision to the board. The board shall establish an appeals process and inform a denied candidate of the right to appeal and the process for filing the appeal.

Subd. 5. Fraud in securing licenses. Every person implicated in employing fraud or deception in applying for or securing a license to practice dentistry, dental hygiene, dental therapy, or dental assisting, or in annually renewing a license under sections 150A.01 to 150A.12 is guilty of a gross misdemeanor.

Subd. 6. Display of name and certificates. (a) The initial license and subsequent renewal certificate of every dentist, dental therapist, dental hygienist, or dental assistant shall be conspicuously displayed in every office in which that person practices, in plain sight of patients. When available from the board, the board shall allow the display of a wallet-sized initial license and wallet-sized subsequent renewal certificate only at nonprimary practice locations instead of displaying an original-sized initial license and subsequent renewal certificate.

(b) Near or on the entrance door to every office where dentistry is practiced, the name of each dentist practicing there, as inscribed on the current license certificate, shall be displayed in plain sight.

Subd. 7. [Repealed, 1989 c 285 s 7]

Subd. 7. Additional remedies for licensure. On a case-by-case basis, for initial or renewal of licensure, the board may add additional remedies for deficiencies found based on the applicant's performance, character, and education.

Subd. 8. Licensure by credentials. (a) Any dental assistant may, upon application and payment of a fee established by the board, apply for licensure based on an evaluation of the applicant's education, experience, and performance record in lieu of completing a board-approved dental assisting program for expanded functions as defined in rule, and may be interviewed by the board to determine if the applicant:

(1) has graduated from an accredited dental assisting program accredited by the Commission on Dental Accreditation and is currently certified by the Dental Assisting National Board;
(2) is not subject to any pending or final disciplinary action in another state or Canadian province, or if not currently certified or registered, previously had a certification or registration in another state or Canadian province in good standing that was not subject to any final or pending disciplinary action at the time of surrender;

(3) is of good moral character and abides by professional ethical conduct requirements;

(4) at board discretion, has passed a board-approved English proficiency test if English is not the applicant's primary language; and

(5) has met all expanded functions curriculum equivalency requirements of a Minnesota board-approved dental assisting program.

(b) The board, at its discretion, may waive specific licensure requirements in paragraph (a).

(c) An applicant who fulfills the conditions of this subdivision and demonstrates the minimum knowledge in dental subjects required for licensure under subdivision 2a must be licensed to practice the applicant's profession.

(d) If the applicant does not demonstrate the minimum knowledge in dental subjects required for licensure under subdivision 2a, the application must be denied. If licensure is denied, the board may notify the applicant of any specific remedy that the applicant could take which, when passed, would qualify the applicant for licensure. A denial does not prohibit the applicant from applying for licensure under subdivision 2a.

(e) A candidate whose application has been denied may appeal the decision to the board according to subdivision 4a.

Subd. 9. Graduates of nonaccredited dental programs. A graduate of a nonaccredited dental program who successfully completes the clinical licensure examination, and meets all other applicant requirements of the board shall be licensed to practice dentistry and granted a limited general dentist license by the board. The board shall place limitations on the licensee's authority to practice by requiring the licensee to practice under the general supervision of a Minnesota-licensed dentist approved by the board. A person licensed under this subdivision must practice for three consecutive years in Minnesota pursuant to a written agreement, approved by the board, between the licensee and a Minnesota-licensed dentist who may limit the types of services authorized. At the conclusion of the three-year period, the board shall grant an unlimited license without further restrictions if all supervising dentists who had entered into written agreements with the licensee during any part of the three-year period recommend unlimited licensure, and if no corrective action or disciplinary action has been taken by the board against the licensee.

Subd. 10. Emeritus inactive license. A person licensed to practice dentistry, dental therapy, dental hygiene, or dental assisting pursuant to section 150A.05 or Minnesota Rules, part 3100.8500, who retires from active practice in the state may apply to the board for emeritus inactive licensure. An application for emeritus inactive licensure may be made on the biennial licensing form or by petitioning the board, and the applicant must pay a one-time application fee pursuant to section 150A.091, subdivision 19. In order to receive emeritus inactive licensure, the applicant must be in compliance with board requirements and cannot be the subject of current disciplinary action resulting in suspension, revocation, disqualification, condition, or restriction of the licensee to practice dentistry, dental therapy, dental hygiene, or dental assisting. An emeritus inactive license is not a license to practice, but is a formal recognition of completion of a person's dental career in good standing.

Subd. 11. Emeritus active licensure. (a) A person licensed to practice dentistry, dental therapy, dental hygiene, or dental assisting may apply for an emeritus active license if the person is retired from active
practice, is in compliance with board requirements, and is not the subject of current disciplinary action
resulting in suspension, revocation, disqualification, condition, or restriction of the license to practice
dentistry, dental therapy, dental hygiene, or dental assisting.

(b) An emeritus active licensee may engage only in the following types of practice:

(1) pro bono or volunteer dental practice;

(2) paid practice not to exceed 500 hours per calendar year for the exclusive purpose of providing
licensing supervision to meet the board's requirements; or

(3) paid consulting services not to exceed 500 hours per calendar year.

(c) An emeritus active licensee shall not hold out as a full licensee and may only hold out as authorized
to practice as described in this subdivision. The board may take disciplinary or corrective action against an
emeritus active licensee based on violations of applicable law or board requirements.

(d) A person may apply for an emeritus active license by completing an application form specified by
the board and must pay the application fee pursuant to section 150A.091, subdivision 20.

(e) If an emeritus active license is not renewed every two years, the license expires. The renewal date
is the same as the licensee's renewal date when the licensee was in active practice. In order to renew an
emeritus active license, the licensee must:

(1) complete an application form as specified by the board;

(2) pay the required renewal fee pursuant to section 150A.091, subdivision 20; and

(3) report at least 25 continuing education hours completed since the last renewal, which must include:

(i) at least one hour in two different required CORE areas;

(ii) at least one hour of mandatory infection control;

(iii) for dentists and dental therapists, at least 15 hours of fundamental credits for dentists and dental
therapists, and for dental hygienists and dental assistants, at least seven hours of fundamental credits; and

(iv) for dentists and dental therapists, no more than ten elective credits, and for dental hygienists and
dental assistants, no more than six elective credits.

History: 1969 c 974 s 6; 1976 c 222 s 76; 1976 c 263 s 3-5; 1978 c 770 s 2-5; 1979 c 50 s 15; 1980 c
596 s 1-3; 1982 c 424 s 130; 1983 c 70 s 4; 1986 c 444; 1989 c 285 s 3; 1993 c 84 s 4-7; 1996 c 273 s 2;
2001 c 37 s 1; 2002 c 370 s 1; 1Sp2003 c 5 s 1-3,11; 2004 c 279 art 7 s 1; 2005 c 147 art 4 s 2; 2008 c 326
art 1 s 5,47; 2009 c 95 art 3 s 5-9; 2009 c 159 s 43-50; 2012 c 180 s 1-5; 2013 c 125 art 1 s 36; 2014 c 291
art 4 s 28-36; 2015 c 71 art 11 s 2; 2016 c 158 art 2 s 39; 1Sp2017 c 6 art 11 s 49,50; 1Sp2019 c 9 art 10
s 19-21

150A.061 [Never effective, 2008 c 298 s 26; 2009 c 95 art 3 s 32]

150A.07 [Repealed, 1976 c 222 s 209]
150A.08 LICENSURE AND REGISTRATION ACTIONS.

Subdivision 1. **Grounds.** The board may refuse or by order suspend or revoke, limit or modify by imposing conditions it deems necessary, the license of a dentist, dental therapist, dental hygienist, or dental assisting upon any of the following grounds:

1. fraud or deception in connection with the practice of dentistry or the securing of a license certificate;

2. conviction, including a finding or verdict of guilt, an admission of guilt, or a no contest plea, in any court of a felony or gross misdemeanor reasonably related to the practice of dentistry as evidenced by a certified copy of the conviction;

3. conviction, including a finding or verdict of guilt, an admission of guilt, or a no contest plea, in any court of an offense involving moral turpitude as evidenced by a certified copy of the conviction;

4. habitual overindulgence in the use of intoxicating liquors;

5. improper or unauthorized prescription, dispensing, administering, or personal or other use of any legend drug as defined in chapter 151, of any chemical as defined in chapter 151, or of any controlled substance as defined in chapter 152;

6. conduct unbecoming a person licensed to practice dentistry, dental therapy, dental hygiene, or dental assisting, or conduct contrary to the best interest of the public, as such conduct is defined by the rules of the board;

7. gross immorality;

8. any physical, mental, emotional, or other disability which adversely affects a dentist's, dental therapist's, dental hygienist's, or dental assistant's ability to perform the service for which the person is licensed;

9. revocation or suspension of a license or equivalent authority to practice, or other disciplinary action or denial of a license application taken by a licensing or credentialing authority of another state, territory, or country as evidenced by a certified copy of the licensing authority's order, if the disciplinary action or application denial was based on facts that would provide a basis for disciplinary action under this chapter and if the action was taken only after affording the credentialed person or applicant notice and opportunity to refute the allegations or pursuant to stipulation or other agreement;

10. failure to maintain adequate safety and sanitary conditions for a dental office in accordance with the standards established by the rules of the board;

11. employing, assisting, or enabling in any manner an unlicensed person to practice dentistry;

12. failure or refusal to attend, testify, and produce records as directed by the board under subdivision 7;

13. violation of, or failure to comply with, any other provisions of sections 150A.01 to 150A.12, the rules of the Board of Dentistry, or any disciplinary order issued by the board, sections 144.291 to 144.298 or 595.02, subdivision 1, paragraph (d), or for any other just cause related to the practice of dentistry. Suspension, revocation, modification or limitation of any license shall not be based upon any judgment as to therapeutic or monetary value of any individual drug prescribed or any individual treatment rendered, but only upon a repeated pattern of conduct;
(14) knowingly providing false or misleading information that is directly related to the care of that patient unless done for an accepted therapeutic purpose such as the administration of a placebo; or

(15) aiding suicide or aiding attempted suicide in violation of section 609.215 as established by any of the following:

(i) a copy of the record of criminal conviction or plea of guilty for a felony in violation of section 609.215, subdivision 1 or 2;

(ii) a copy of the record of a judgment of contempt of court for violating an injunction issued under section 609.215, subdivision 4;

(iii) a copy of the record of a judgment assessing damages under section 609.215, subdivision 5; or

(iv) a finding by the board that the person violated section 609.215, subdivision 1 or 2. The board shall investigate any complaint of a violation of section 609.215, subdivision 1 or 2.

Subd. 2. [Repealed, 1976 c 222 s 209]

Subd. 3. Reinstatement. Any licensee whose license has been suspended or revoked may have the license reinstated or a new license issued, as the case may be, when the board deems the action is warranted.

Subd. 3a. Costs; additional penalties. (a) The board may impose a civil penalty not exceeding $10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive a licensee of any economic advantage gained by reason of the violation, to discourage similar violations by the licensee or any other licensee, or to reimburse the board for the cost of the investigation and proceeding, including, but not limited to, fees paid for services provided by the Office of Administrative Hearings, legal and investigative services provided by the Office of the Attorney General, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and travel costs and expenses incurred by board staff and board members.

(b) In addition to costs and penalties imposed under paragraph (a), the board may also:

(1) order the dentist, dental therapist, dental hygienist, or dental assistant to provide unremunerated service;

(2) censure or reprimand the dentist, dental therapist, dental hygienist, or dental assistant; or

(3) any other action as allowed by law and justified by the facts of the case.

Subd. 4. Records. The executive secretary of the board shall keep a record of all licenses and registration certificates issued, suspended, or revoked.

Subd. 5. Medical examinations. If the board has probable cause to believe that a dentist, dental therapist, dental hygienist, dental assistant, or applicant engages in acts described in subdivision 1, clause (4) or (5), or has a condition described in subdivision 1, clause (8), it shall direct the dentist, dental therapist, dental hygienist, assistant, or applicant to submit to a mental or physical examination or a chemical dependency assessment. For the purpose of this subdivision, every dentist, dental therapist, dental hygienist, or dental assistant licensed under this chapter or person submitting an application for a license is deemed to have given consent to submit to a mental or physical examination when directed in writing by the board and to have waived all objections in any proceeding under this section to the admissibility of the examining physician's testimony or examination reports on the ground that they constitute a privileged communication. Failure to submit to an examination without just cause may result in an application being denied or a default
and final order being entered without the taking of testimony or presentation of evidence, other than evidence which may be submitted by affidavit, that the licensee or applicant did not submit to the examination. A dentist, dental therapist, dental hygienist, dental assistant, or applicant affected under this section shall at reasonable intervals be afforded an opportunity to demonstrate ability to start or resume the competent practice of dentistry or perform the duties of a dental therapist, dental hygienist, or dental assistant with reasonable skill and safety to patients. In any proceeding under this subdivision, neither the record of proceedings nor the orders entered by the board is admissible, is subject to subpoena, or may be used against the dentist, dental therapist, dental hygienist, dental assistant, or applicant in any proceeding not commenced by the board. Information obtained under this subdivision shall be classified as private pursuant to the Minnesota Government Data Practices Act.

Subd. 6. Medical records. Notwithstanding contrary provisions of sections 13.384 and 144.651 or any other statute limiting access to medical or other health data, the board may obtain medical data and health records of a licensee or applicant without the licensee's or applicant's consent if the information is requested by the board as part of the process specified in subdivision 5. The medical data may be requested from a provider, as defined in section 144.291, subdivision 2, paragraph (h), an insurance company, or a government agency, including the Department of Human Services. A provider, insurance company, or government agency shall comply with any written request of the board under this subdivision and shall not be liable in any action for damages for releasing the data requested by the board if the data are released pursuant to a written request under this subdivision, unless the information is false and the provider giving the information knew, or had reason to believe, the information was false. Information obtained under this subdivision shall be classified as private under the Minnesota Government Data Practices Act.

Subd. 7. Self-incrimination. No person is excused from attending and testifying at any proceeding initiated by the board or from producing any document before the board on the ground that the testimony or evidence required may tend to incriminate the person; but no person may be prosecuted for any crime related to the matter about which the person testifies or produces evidence required or requested by the board if the person first claims a privilege against self-incrimination. This immunity from criminal prosecution does not apply to prosecution for perjury or contempt committed in testifying or producing the evidence.

Subd. 8. Suspension of license. In addition to any other remedy provided by law, the board may, through its designated board members pursuant to section 214.10, subdivision 2, temporarily suspend a license without a hearing if the board finds that the licensee has violated a statute or rule which the board is empowered to enforce and continued practice by the licensee would create an imminent risk of harm to others. The suspension shall take effect upon written notice to the licensee served by first class mail specifying the statute or rule violated, and the time, date, and place of the hearing before the board. If the notice is returned by the post office, the notice shall be effective upon reasonable attempts to locate and serve the licensee. Within ten days of service of the notice, the board shall hold a hearing before its own members on the sole issue of whether there is a reasonable basis to continue, modify, or lift the suspension. Evidence presented by the board or licensee shall be in affidavit form only. The licensee or counsel of the licensee may appear for oral argument. Within five working days after the hearing, the board shall issue its order and, if the suspension is continued, the board shall schedule a disciplinary hearing to be held pursuant to the Administrative Procedure Act within 45 days of issuance of the order. The administrative law judge shall issue a report within 30 days of the closing of the contested case hearing record. The board shall issue a final order within 30 days of receiving that report. The board may allow a person who was licensed by any state to practice dentistry and whose license has been suspended to practice dentistry under the supervision of a licensed dentist for the purpose of demonstrating competence and eligibility for reinstatement.
Subd. 9. Tax clearance certificate. (a) In addition to the grounds provided in subdivision 1 and notwithstanding subdivision 3, the board may not issue or renew a license to practice dentistry if the commissioner of revenue notifies the board and the licensee or applicant for a license that the licensee or applicant owes the state delinquent taxes in the amount of $500 or more. The board may issue or renew the license only if (1) the commissioner of revenue issues a tax clearance certificate and (2) the commissioner of revenue or the licensee or applicant forwards a copy of the clearance to the board. The commissioner of revenue may issue a clearance certificate only if the licensee or applicant does not owe the state any uncontested delinquent taxes.

(b) For purposes of this subdivision, the following terms have the meanings given.

(1) "Taxes" are all taxes payable to the commissioner of revenue, including penalties and interest due on those taxes.

(2) "Delinquent taxes" do not include a tax liability if (i) an administrative or court action that contests the amount or validity of the liability has been filed or served, (ii) the appeal period to contest the tax liability has not expired, or (iii) the licensee or applicant has entered into a payment agreement to pay the liability and is current with the payments.

(c) In lieu of the notice and hearing requirements of subdivision 8, when a licensee or applicant is required to obtain a clearance certificate under this subdivision, a contested case hearing must be held if the licensee or applicant requests a hearing in writing to the commissioner of revenue within 30 days of the date of the notice provided in paragraph (a). The hearing must be held within 45 days of the date the commissioner of revenue refers the case to the Office of Administrative Hearings. Notwithstanding any law to the contrary, the licensee or applicant must be served with 20 days' notice in writing specifying the time and place of the hearing and the allegations against the licensee or applicant. The notice may be served personally or by mail.

(d) The board shall require all licensees or applicants for a license to practice dentistry to provide their Social Security number and Minnesota business identification number on all license applications. Upon request of the commissioner of revenue, the board must provide to the commissioner of revenue a list of all licensees and applicants for a license to practice dentistry including the name and address, Social Security number, and business identification number. The commissioner of revenue may request a list of the licensees and applicants no more than once each calendar year.

History: 1969 c 974 s 8; 1976 c 222 s 77; 1976 c 263 s 6; 1978 c 770 s 6; 1983 c 70 s 5-10; 1984 c 608 s 1; 1984 c 640 s 32; 1984 c 654 art 5 s 58; 1986 c 444; 1Sp1986 c 1 art 7 s 9; 1989 c 184 art 2 s 6; 1992 c 559 art 1 s 5; 1992 c 577 s 4; 1993 c 84 s 8; 1999 c 227 s 22; 2003 c 66 s 6,7; 2004 c 279 art 7 s 2; 2007 c 147 art 10 s 15; 2009 c 95 art 3 s 10-12; 2009 c 159 s 51-56

150A.081 ACCESS TO MEDICAL DATA.

Subdivision 1. Access to data on licensee. When the board has probable cause to believe that a licensee's condition meets a ground listed in section 150A.08, subdivision 1, clause (4) or (8), it may, notwithstanding sections 13.384, 144.651, or any other law limiting access to medical data, obtain medical or health records on the licensee without the licensee's consent. The medical data may be requested from a provider, as defined in section 144.291, subdivision 2, paragraph (h), an insurance company, or a government agency. A provider, insurance company, or government agency shall comply with a written request of the board under this subdivision and is not liable in any action for damages for releasing the data requested by the board if the data are released under the written request, unless the information is false and the entity providing the information knew, or had reason to believe, the information was false.
Subd. 2. **Access to data on patients.** The board has access to medical records of a patient treated by a licensee under review if the patient signs a written consent permitting access. If the patient has not given consent, the licensee must delete data from which a patient may be identified before releasing medical records to the board.

Subd. 3. **Data classification; release of certain health data not required.** Information obtained under this section is classified as private data on individuals under chapter 13. Under this section, the commissioner of health is not required to release health data collected and maintained under section 13.3805, subdivision 2.

**History:** 1992 c 559 art 1 s 6; 1996 c 440 art 1 s 39; 1999 c 227 s 22; 2007 c 147 art 10 s 15; 2009 c 159 s 57

### 150A.09 REGISTRATION OF LICENSES AND REGISTRATION CERTIFICATES.

Subdivision 1. **Registration information and procedure.** On or before the license certificate expiration date every licensed dentist, dental therapist, dental hygienist, and dental assistant shall transmit to the executive secretary of the board, pertinent information required by the board, together with the fee established by the board. At least 30 days before a license certificate expiration date, the board shall send a written notice stating the amount and due date of the fee and the information to be provided to every licensed dentist, dental therapist, dental hygienist, and dental assistant.

Subd. 2. [Repealed, 1976 c 222 s 209]

Subd. 3. **Current address, change of address.** Every dentist, dental therapist, dental hygienist, and dental assistant shall maintain with the board a correct and current mailing address and electronic mail address. For dentists engaged in the practice of dentistry, the postal address shall be that of the location of the primary dental practice. Within 30 days after changing postal or electronic mail addresses, every dentist, dental therapist, dental hygienist, and dental assistant shall provide the board written notice of the new address either personally or by first class mail.

Subd. 4. **Duplicate certificates.** Duplicate licenses or duplicate certificates of license renewal may be issued by the board upon satisfactory proof of the need for the duplicates and upon payment of the fee established by the board.

Subd. 5. **Late fee.** A late fee established by the board shall be paid if the information and fee required by subdivision 1 is not received by the executive secretary of the board on or before the registration or license renewal date.

Subd. 6. [Repealed, 2009 c 159 s 112]

**History:** 1969 c 974 s 9; 1976 c 222 s 78,79; 1976 c 263 s 7,8; 1978 c 674 s 16; 1978 c 770 s 7,8; 1980 c 596 s 4; 1983 c 70 s 11; 2004 c 279 art 7 s 3; 2009 c 95 art 3 s 13,14; 2009 c 159 s 58,59; 2012 c 180 s 6

### 150A.091 FEES.

Subdivision 1. **Fee refunds.** No fee may be refunded for any reason.

Subd. 2. **Application fees.** Each applicant shall submit with a license, advanced dental therapist certificate, or permit application a nonrefundable fee in the following amounts in order to administratively process an application:

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(1) dentist, $140;
(2) full faculty dentist, $140;
(3) limited faculty dentist, $140;
(4) resident dentist or dental provider, $55;
(5) advanced dental therapist, $100;
(6) dental therapist, $100;
(7) dental hygienist, $55;
(8) licensed dental assistant, $55; and
(9) dental assistant with a permit as described in Minnesota Rules, part 3100.8500, subpart 3, $15.

Subd. 3. Initial license or permit fees. Along with the application fee, each of the following applicants shall submit a separate initial license or permit fee. The initial fee shall be established by the board not to exceed the following nonrefundable fee amounts:

(1) dentist or full faculty dentist, $168;
(2) dental therapist, $120;
(3) dental hygienist, $60;
(4) licensed dental assistant, $36; and
(5) dental assistant with a permit as described in Minnesota Rules, part 3100.8500, subpart 3, $12.

Subd. 4. Annual license fees. Each limited faculty or resident dentist shall submit with an annual license renewal application a fee established by the board not to exceed the following amounts:

(1) limited faculty dentist, $168; and
(2) resident dentist or dental provider, $85.

Subd. 5. Biennial license or permit fees. Each of the following applicants shall submit with a biennial license or permit renewal application a fee as established by the board, not to exceed the following amounts:

(1) dentist or full faculty dentist, $475;
(2) dental therapist, $300;
(3) dental hygienist, $200;
(4) licensed dental assistant, $150; and
(5) dental assistant with a permit as described in Minnesota Rules, part 3100.8500, subpart 3, $24.

Subd. 6. Annual license late fee. Applications for renewal of any license received after the time specified in Minnesota Rules, part 3100.1750, must be assessed a late fee equal to 50 percent of the annual renewal fee.
Subd. 7. **Biennial license or permit late fee.** Applications for renewal of any license or permit received after the time specified in Minnesota Rules, part 3100.1700, must be assessed a late fee equal to 25 percent of the biennial renewal fee.

Subd. 8. **Duplicate license or certificate fee.** Each applicant shall submit, with a request for issuance of a duplicate of the original license, or of an annual or biennial renewal certificate for a license or permit, a fee in the following amounts:

1. original dentist, full faculty dentist, dental therapist, dental hygiene, or dental assistant license, $35;
2. annual or biennial renewal certificates, $10; and
3. wallet-sized license and renewal certificate, $15.

Subd. 9. **Licensure by credentials.** Each applicant for licensure as a dentist, dental hygienist, or dental assistant by credentials pursuant to section 150A.06, subdivisions 4 and 8, and Minnesota Rules, part 3100.1400, shall submit with the license application a fee in the following amounts:

1. dentist, $725;
2. dental hygienist, $175; and
3. dental assistant, $35.

Subd. 9a. **Credential review; nonaccredited dental institution.** Applicants who have graduated from a nonaccredited dental college desiring licensure as a dentist pursuant to section 150A.06, subdivision 1, shall submit an application for credential review and an application fee not to exceed the amount of $200.

Subd. 9b. **Limited general license.** Each applicant for licensure as a limited general dentist pursuant to section 150A.06, subdivision 9, shall submit the applicable fees established by the board not to exceed the following amounts:

1. initial limited general license application, $140;
2. annual limited general license renewal application, $155; and
3. late fee assessment for renewal application equal to 50 percent of the annual limited general license renewal fee.

Subd. 9c. **Temporary permit.** Applications for a temporary military permit in accordance with section 197.4552 shall submit a fee not to exceed the amount of $250.

Subd. 10. **Reinstatement fee.** No dentist, dental therapist, dental hygienist, or dental assistant whose license has been suspended or revoked may have the license reinstated or a new license issued until a fee has been submitted to the board in the following amounts:

1. dentist, $140;
2. dental therapist, $85;
3. dental hygienist, $55; and
4. dental assistant, $35.
Subd. 11. **Certificate application fee for anesthesia/sedation.** Each dentist shall submit with a general anesthesia or moderate sedation application, a contracted sedation provider application, or biennial renewal, a fee as established by the board not to exceed the following amounts:

1. for both a general anesthesia and moderate sedation application, $400;
2. for a general anesthesia application only, $400;
3. for a moderate sedation application only, $400; and
4. for a contracted sedation provider application, $400.

Subd. 11a. **Certificate for anesthesia/sedation late fee.** Applications for renewal of a general anesthesia or moderate sedation certificate or a contracted sedation provider certificate received after the time specified in Minnesota Rules, part 3100.3600, subparts 9 and 9b, must be assessed a late fee equal to 50 percent of the biennial renewal fee for an anesthesia/sedation certificate.

Subd. 11b. **Recertification fee for anesthesia/sedation.** No dentist whose general anesthesia or moderate sedation certificate has been terminated by the board or voluntarily terminated by the dentist may become recertified until a fee has been submitted to the board not to exceed the amount of $500.

Subd. 12. **Duplicate certificate fee for anesthesia/sedation.** Each dentist shall submit with a request for issuance of a duplicate of the original general anesthesia or moderate sedation certificate or contracted sedation provider certificate a fee in the amount of $10.

Subd. 13. **On-site inspection fee.** An on-site inspection fee must be paid to the individual, organization, or agency conducting the inspection and be limited to a maximum fee as determined by the board. Travel, lodging, and other expenses are not part of the on-site inspection fee.

Subd. 14. **Affidavit of licensure.** Each licensee shall submit with a request for an affidavit of licensure a fee in the amount of $10.

Subd. 15. **Verification of licensure.** Each institution or corporation shall submit with a request for verification of a license a fee in the amount of $5 for each license to be verified.

Subd. 16. **Failure of professional development portfolio audit.** (a) If a licensee fails a professional development portfolio audit under Minnesota Rules, part 3100.5300, the board is authorized to take the following actions:

1. for the first failure, the board may issue a warning to the licensee;
2. for the second failure within ten years, the board may assess a penalty of not more than $250; and
3. for any additional failures within the ten-year period, the board may assess a penalty of not more than $1,000.

(b) In addition to the penalty fee, the board may initiate the complaint process to address multiple failed audits.

Subd. 17. **Advanced dental therapy examination fee.** Any dental therapist eligible to sit for the advanced dental therapy certification examination must submit with the application a fee as established by the board, not to exceed $250.
Subd. 18. **Corporation or professional firm late fee.** Any corporation or professional firm whose annual fee is not postmarked or otherwise received by the board by the due date of December 31 shall, in addition to the fee, submit a late fee as established by the board, not to exceed $15.

Subd. 19. **Emeritus inactive license.** An individual applying for emeritus inactive licensure under section 150A.06, subdivision 10, must pay a onetime fee of $50. There is no renewal fee for an emeritus inactive license.

Subd. 20. **Emeritus active license.** An individual applying for emeritus active licensure under section 150A.06, subdivision 11, must pay a fee upon application and upon renewal every two years. The fees for emeritus active license application and renewal are as follows: dentist, $212; dental therapist, $100; dental hygienist, $75; and dental assistant, $55.

**History:** 2005 c 147 art 4 s 3; 2009 c 95 art 3 s 15-19; 2009 c 159 s 60-74; 1Sp2011 c 9 art 5 s 11-16; 2014 c 291 art 4 s 37-39; 2014 c 312 art 4 s 14; 2015 c 71 art 10 s 20-24; 1Sp2019 c 9 art 10 s 22,23

### 150A.10 ALLIED DENTAL PERSONNEL.

Subdivision 1. **Dental hygienists.** Any licensed dentist, licensed dental therapist, public institution, or school authority may obtain services from a licensed dental hygienist. The licensed dental hygienist may provide those services defined in section 150A.05, subdivision 1a. The services provided shall not include the establishment of a final diagnosis or treatment plan for a dental patient. All services shall be provided under supervision of a licensed dentist. Any licensed dentist who shall permit any dental service by a dental hygienist other than those authorized by the Board of Dentistry, shall be deemed to be violating the provisions of sections 150A.01 to 150A.12, and any unauthorized dental service by a dental hygienist shall constitute a violation of sections 150A.01 to 150A.12.

Subd. 1a. **Collaborative practice authorization for dental hygienists in community settings.** (a) Notwithstanding subdivision 1, a dental hygienist licensed under this chapter may be employed or retained by a health care facility, program, or nonprofit organization to perform the dental hygiene services listed in Minnesota Rules, part 3100.8700, subpart 1, without the patient first being examined by a licensed dentist if the dental hygienist:

1. has entered into a collaborative agreement with a licensed dentist that designates authorization for the services provided by the dental hygienist; and
2. has documented completion of a course on medical emergencies within each continuing education cycle.

(b) A collaborating dentist must be licensed under this chapter and may enter into a collaborative agreement with no more than four dental hygienists unless otherwise authorized by the board. The board shall develop parameters and a process for obtaining authorization to collaborate with more than four dental hygienists. The collaborative agreement must include:

1. consideration for medically compromised patients and medical conditions for which a dental evaluation and treatment plan must occur prior to the provision of dental hygiene services;
2. age- and procedure-specific standard collaborative practice protocols, including recommended intervals for the performance of dental hygiene services and a period of time in which an examination by a dentist should occur;
3. copies of consent to treatment form provided to the patient by the dental hygienist;
(4) specific protocols for the placement of pit and fissure sealants and requirements for follow-up care to assure the efficacy of the sealants after application; and

(5) the procedure for creating and maintaining dental records for patients who are treated by the dental hygienist under Minnesota Rules, part 3100.9600, including specifying where records will be located.

The collaborative agreement must be signed and maintained by the dentist, the dental hygienist, and the facility, program, or organization; must be reviewed annually by the collaborating dentist and dental hygienist and must be made available to the board upon request.

(c) Before performing any services authorized under this subdivision, a dental hygienist must provide the patient with a consent to treatment form which must include a statement advising the patient that the dental hygiene services provided are not a substitute for a dental examination by a licensed dentist. When the patient requires a referral for additional dental services, the dental hygienist shall complete a referral form and provide a copy to the patient, the facility, if applicable, the dentist to whom the patient is being referred, and the collaborating dentist, if specified in the collaborative agreement. A copy of the referral form shall be maintained in the patient's health care record. The patient does not become a new patient of record of the dentist to whom the patient was referred until the dentist accepts the patient for follow-up services after referral from the dental hygienist.

(d) For the purposes of this subdivision, a "health care facility, program, or nonprofit organization" includes a hospital; nursing home; home health agency; group home serving the elderly, disabled, or juveniles; state-operated facility licensed by the commissioner of human services or the commissioner of corrections; and federal, state, or local public health facility, community clinic, tribal clinic, school authority, Head Start program, or nonprofit organization that serves individuals who are uninsured or who are Minnesota health care public program recipients.

(e) For purposes of this subdivision, a "collaborative agreement" means a written agreement with a licensed dentist who authorizes and accepts responsibility for the services performed by the dental hygienist.

Subd. 2. Dental assistants. Every licensed dentist and dental therapist who uses the services of any unlicensed person for the purpose of assistance in the practice of dentistry or dental therapy shall be responsible for the acts of such unlicensed person while engaged in such assistance. The dentist or dental therapist shall permit the unlicensed assistant to perform only those acts which are authorized to be delegated to unlicensed assistants by the Board of Dentistry. The acts shall be performed under supervision of a licensed dentist or dental therapist. A licensed dental therapist shall not supervise more than four licensed or unlicensed dental assistants at any one practice setting. The board may permit differing levels of dental assistance based upon recognized educational standards, approved by the board, for the training of dental assistants. The board may also define by rule the scope of practice of licensed and unlicensed dental assistants. The board by rule may require continuing education for differing levels of dental assistants, as a condition to their license or authority to perform their authorized duties. Any licensed dentist or dental therapist who permits an unlicensed assistant to perform any dental service other than that authorized by the board shall be deemed to be enabling an unlicensed person to practice dentistry, and commission of such an act by an unlicensed assistant shall constitute a violation of sections 150A.01 to 150A.12.

Subd. 2a. Collaborative practice authorization for dental assistants in community settings. (a) Notwithstanding subdivision 2, a dental assistant licensed under this chapter may be employed or retained by a health care facility, program, or nonprofit organization as defined in subdivision 1a to perform the dental assisting services described in paragraph (b) without the patient first being examined by a licensed
dentist, without a dentist's diagnosis or treatment plan, and without the dentist being present at the location where services are being performed, if:

(1) the dental assistant has entered into a collaborative agreement with a licensed dentist, which must be part of a collaborative agreement established between a licensed dentist and a dental hygienist under subdivision 1a, that designates authorization for the services provided by the dental assistant; and

(2) the dental assistant has documented completion of a course on medical emergencies within each continuing education cycle.

(b) A dental assistant operating under general supervision of a collaborating dentist under this subdivision is authorized to perform the following services:

(1) provide oral health promotion and disease prevention education;
(2) take vital signs such as pulse rate and blood pressure;
(3) obtain informed consent, according to Minnesota Rules, part 3100.9600, subpart 9, for treatments authorized by the collaborating dentist within the licensed dental assistant's scope of practice;
(4) apply topical preventative agents, including fluoride varnishes and pit and fissure sealants;
(5) perform mechanical polishing to clinical crowns not including instrumentation;
(6) complete preliminary charting of the oral cavity and surrounding structures, except periodontal probing and assessment of the periodontal structure;
(7) take photographs extraorally or intraorally; and
(8) take radiographs.

(c) A collaborating dentist must be licensed under this chapter and may enter into a collaborative agreement with no more than two licensed dental assistants, unless otherwise authorized by the board. The board shall develop a process and parameters for obtaining authorization to collaborate with more than two licensed dental assistants. The collaborative agreement must include the elements listed in subdivision 1a, paragraph (b).

Subd. 3. Dental technicians. Every licensed dentist and dental therapist who uses the services of any unlicensed person, other than under the dentist's or dental therapist's supervision and within the same practice setting, for the purpose of constructing, altering, repairing or duplicating any denture, partial denture, crown, bridge, splint, orthodontic, prosthetic or other dental appliance, shall be required to furnish such unlicensed person with a written work order in such form as shall be prescribed by the rules of the board. The work order shall be made in duplicate form, a duplicate copy to be retained in a permanent file of the dentist or dental therapist at the practice setting for a period of two years, and the original to be retained in a permanent file for a period of two years by the unlicensed person in that person's place of business. The permanent file of work orders to be kept by the dentist, dental therapist, or unlicensed person shall be open to inspection at any reasonable time by the board or its duly constituted agent.

Subd. 4. Restorative procedures. (a) Notwithstanding subdivisions 1, 1a, and 2, a licensed dental hygienist or licensed dental assistant may perform the following restorative procedures:

(1) place, contour, and adjust amalgam restorations;
(2) place, contour, and adjust glass ionomer;
(3) adapt and cement stainless steel crowns; and

(4) place, contour, and adjust class I, II, and V supragingival composite restorations on primary and permanent dentition.

(b) The restorative procedures described in paragraph (a) may be performed only if:

(1) the licensed dental hygienist or licensed dental assistant has completed a board-approved course on the specific procedures;

(2) the board-approved course includes a component that sufficiently prepares the licensed dental hygienist or licensed dental assistant to adjust the occlusion on the newly placed restoration;

(3) a licensed dentist or licensed advanced dental therapist has authorized the procedure to be performed; and

(4) a licensed dentist or licensed advanced dental therapist is available in the clinic while the procedure is being performed.

(c) The dental faculty who teaches the educators of the board-approved courses specified in paragraph (b) must have prior experience teaching these procedures in an accredited dental education program.

History: 1969 c 974 s 10; 1976 c 263 s 9; 1986 c 444; 1996 c 273 s 3,4; 1Sp2001 c 9 art 2 s 5; 2002 c 379 art 1 s 113; 1Sp2003 c 5 s 4,5; 2005 c 147 art 4 s 4; 2009 c 95 art 3 s 20-23; 2009 c 159 s 75-77; 2014 c 291 art 4 s 40; 2017 c 30 s 1,2; 1Sp2017 c 6 art 11 s 31

150A.105 DENTAL THERAPIST.

Subd. 1. General. A dental therapist licensed under this chapter shall practice under the supervision of a Minnesota-licensed dentist and under the requirements of this chapter.

Subd. 2. Limited practice settings. A dental therapist licensed under this chapter is limited to primarily practicing in settings that serve low-income, uninsured, and underserved patients or in a dental health professional shortage area.

Subd. 3. Collaborative management agreement. (a) Prior to performing any of the services authorized under this chapter, a dental therapist must enter into a written collaborative management agreement with a Minnesota-licensed dentist. A collaborating dentist is limited to entering into a collaborative agreement with no more than five dental therapists or advanced dental therapists at any one time. The agreement must include:

(1) practice settings where services may be provided and the populations to be served;

(2) any limitations on the services that may be provided by the dental therapist, including the level of supervision required by the collaborating dentist;

(3) age- and procedure-specific practice protocols, including case selection criteria, assessment guidelines, and imaging frequency;

(4) a procedure for creating and maintaining dental records for the patients that are treated by the dental therapist;

(5) a plan to manage medical emergencies in each practice setting where the dental therapist provides care;
(6) a quality assurance plan for monitoring care provided by the dental therapist, including patient care review, referral follow-up, and a quality assurance chart review;

(7) protocols for administering and dispensing medications authorized under subdivision 5, and section 150A.106, including the specific conditions and circumstance under which these medications are to be dispensed and administered;

(8) criteria relating to the provision of care to patients with specific medical conditions or complex medication histories, including requirements for consultation prior to the initiation of care;

(9) supervision criteria of dental assistants; and

(10) a plan for the provision of clinical resources and referrals in situations which are beyond the capabilities of the dental therapist.

(b) A collaborating dentist must be licensed and practicing in Minnesota. The collaborating dentist shall accept responsibility for all services authorized and performed by the dental therapist pursuant to the management agreement. Any licensed dentist who permits a dental therapist to perform a dental service other than those authorized under this section or by the board, or any dental therapist who performs an unauthorized service, violates sections 150A.01 to 150A.12.

(c) Collaborative management agreements must be signed and maintained by the collaborating dentist and the dental therapist. Agreements must be reviewed, updated, and submitted to the board on an annual basis.

Subd. 4. Scope of practice. (a) A licensed dental therapist may perform dental services as authorized under this section within the parameters of the collaborative management agreement.

(b) The services authorized to be performed by a licensed dental therapist include the oral health services, as specified in paragraphs (c) and (d), and within the parameters of the collaborative management agreement.

(c) A licensed dental therapist may perform the following services under general supervision, unless restricted or prohibited in the collaborative management agreement:

(1) oral health instruction and disease prevention education, including nutritional counseling and dietary analysis;

(2) preliminary charting of the oral cavity;

(3) making radiographs;

(4) mechanical polishing;

(5) application of topical preventive or prophylactic agents, including fluoride varnishes and pit and fissure sealants;

(6) pulp vitality testing;

(7) application of desensitizing medication or resin;

(8) fabrication of athletic mouthguards;

(9) placement of temporary restorations;

(10) fabrication of soft occlusal guards;
(11) tissue conditioning and soft reline;
(12) atraumatic restorative therapy;
(13) dressing changes;
(14) tooth reimplantation;
(15) administration of local anesthetic; and
(16) administration of nitrous oxide.
(d) A licensed dental therapist may perform the following services under indirect supervision:
(1) emergency palliative treatment of dental pain;
(2) the placement and removal of space maintainers;
(3) cavity preparation;
(4) restoration of primary and permanent teeth;
(5) placement of temporary crowns;
(6) preparation and placement of preformed crowns;
(7) pulpotomies on primary teeth;
(8) indirect and direct pulp capping on primary and permanent teeth;
(9) stabilization of reimplanted teeth;
(10) extractions of primary teeth;
(11) suture removal;
(12) brush biopsies;
(13) repair of defective prosthetic devices; and
(14) recementing of permanent crowns.
(e) For purposes of this section and section 150A.106, "general supervision" and "indirect supervision" have the meanings given in Minnesota Rules, part 3100.0100, subpart 21.

Subd. 5. Dispensing authority. (a) A licensed dental therapist may dispense and administer the following drugs within the parameters of the collaborative management agreement and within the scope of practice of the dental therapist: analgesics, anti-inflammatories, and antibiotics.

(b) The authority to dispense and administer shall extend only to the categories of drugs identified in this subdivision, and may be further limited by the collaborative management agreement.

(c) The authority to dispense includes the authority to dispense sample drugs within the categories identified in this subdivision if dispensing is permitted by the collaborative management agreement.

(d) A licensed dental therapist is prohibited from dispensing or administering a narcotic drug as defined in section 152.01, subdivision 10.
Subd. 6. **Application of other laws.** A licensed dental therapist authorized to practice under this chapter is not in violation of section 150A.05 as it relates to the unauthorized practice of dentistry if the practice is authorized under this chapter and is within the parameters of the collaborative management agreement.

Subd. 7. **Use of dental assistants.** (a) A licensed dental therapist may supervise dental assistants to the extent permitted in the collaborative management agreement and according to section 150A.10, subdivision 2.

(b) Notwithstanding paragraph (a), a licensed dental therapist is limited to supervising no more than four licensed dental assistants or nonlicensed dental assistants at any one practice setting.

Subd. 8. **Definitions.** (a) For the purposes of this section, the following definitions apply.

(b) "Practice settings that serve the low-income and underserved" mean:

1. critical access dental provider settings as designated by the commissioner of human services under section 256B.76, subdivision 4;

2. dental hygiene collaborative practice settings identified in section 150A.10, subdivision 1a, paragraph (d), and including medical facilities, assisted living facilities, federally qualified health centers, and organizations eligible to receive a community clinic grant under section 145.9268, subdivision 1;

3. military and veterans administration hospitals, clinics, and care settings;

4. a patient's residence or home when the patient is home-bound or receiving or eligible to receive home care services or home and community-based waivered services, regardless of the patient's income;

5. oral health educational institutions; or

6. any other clinic or practice setting, including mobile dental units, in which at least 50 percent of the total patient base of the dental therapist or advanced dental therapist consists of patients who:

   (i) are enrolled in a Minnesota health care program;

   (ii) have a medical disability or chronic condition that creates a significant barrier to receiving dental care;

   (iii) do not have dental health coverage, either through a public health care program or private insurance, and have an annual gross family income equal to or less than 200 percent of the federal poverty guidelines; or

   (iv) do not have dental health coverage, either through a state public health care program or private insurance, and whose family gross income is equal to or less than 200 percent of the federal poverty guidelines.

(c) "Dental health professional shortage area" means an area that meets the criteria established by the secretary of the United States Department of Health and Human Services and is designated as such under United States Code, title 42, section 254e.

**History:** 2009 c 95 art 3 s 24; 2012 c 180 s 7; 2017 c 30 s 3

150A.106 ADVANCED DENTAL THERAPIST.

Subdivision 1. **General.** In order to be certified by the board to practice as an advanced dental therapist, a person must:
(1) complete a dental therapy education program;

(2) pass an examination to demonstrate competency under the dental therapy scope of practice;

(3) be licensed as a dental therapist;

(4) complete 2,000 hours of dental therapy clinical practice under direct or indirect supervision;

(5) graduate from a master's advanced dental therapy education program;

(6) pass a board-approved certification examination to demonstrate competency under the advanced scope of practice; and

(7) submit an application and fee for certification as prescribed by the board.

Subd. 2. Scope of practice. (a) An advanced dental therapist certified by the board under this section may perform the following services and procedures pursuant to the written collaborative management agreement:

(1) an oral evaluation and assessment of dental disease and the formulation of an individualized treatment plan authorized by the collaborating dentist;

(2) the services and procedures described under section 150A.105, subdivision 4, paragraphs (c) and (d); and

(3) nonsurgical extractions of permanent teeth as limited in subdivision 3, paragraph (b).

(b) The services and procedures described under this subdivision may be performed under general supervision.

Subd. 3. Practice limitation. (a) An advanced practice dental therapist shall not perform any service or procedure described in subdivision 2 except as authorized by the collaborating dentist.

(b) An advanced dental therapist may perform nonsurgical extractions of periodontally diseased permanent teeth with tooth mobility of +3 to +4 under general supervision if authorized in advance by the collaborating dentist. The advanced dental therapist shall not extract a tooth for any patient if the tooth is unerupted, impacted, fractured, or needs to be sectioned for removal.

(c) The collaborating dentist is responsible for directly providing or arranging for another dentist or specialist to provide any necessary advanced services needed by the patient.

(d) An advanced dental therapist in accordance with the collaborative management agreement must refer patients to another qualified dental or health care professional to receive any needed services that exceed the scope of practice of the advanced dental therapist.

(e) In addition to the collaborative management agreement requirements described in section 150A.105, a collaborative management agreement entered into with an advanced dental therapist must include specific written protocols to govern situations in which the advanced dental therapist encounters a patient who requires treatment that exceeds the authorized scope of practice of the advanced dental therapist. The collaborating dentist must ensure that a dentist is available to the advanced dental therapist for timely consultation during treatment if needed and must either provide or arrange with another dentist or specialist to provide the necessary treatment to any patient who requires more treatment than the advanced dental therapist is authorized to provide.
Subd. 4. **Medications.** (a) An advanced dental therapist may provide, dispense, and administer the following drugs within the parameters of the collaborative management agreement, within the scope of practice of the advanced dental therapist practitioner, and with the authorization of the collaborating dentist: analgesics, anti-inflammatories, and antibiotics.

(b) The authority to provide, dispense, and administer shall extend only to the categories of drugs identified in this subdivision, and may be further limited by the collaborative management agreement.

(c) The authority to dispense includes the authority to dispense sample drugs within the categories identified in this subdivision if dispensing is permitted by the collaborative management agreement.

(d) Notwithstanding paragraph (a), an advanced dental therapist is prohibited from providing, dispensing, or administering a narcotic drug as defined in section 152.01, subdivision 10.

**History:** 2009 c 95 art 3 s 25; 2012 c 180 s 8

150A.11 **UNLAWFUL ACTS.**

Subdivision 1. **Unlawful practice.** It is unlawful for any person to: enable an unlicensed person to practice dentistry; to practice or attempt to practice dentistry without a license; to practice dentistry under the name of a corporation or company; or to practice under any name that may tend to deceive the public or imply professional superiority to or greater skill than that possessed by another dentist. If a dentist practices under the dentist's own name, any public display or cards shall include the initials of the dentist's dental degree, such as D.D.S. or D.M.D., following the name. If a dentist practices under another name, the name shall include some designation which makes clear that the person is practicing dentistry or a specialty of dentistry; and that the names of all of the participating dentists practicing under the name be clearly identified on letterheads and building or office signs that display a name other than the dentist's own name. Any communication between dentist and patient shall clearly indicate the name of the dentist treating the patient. The board may promulgate rules regarding the name under which a dentist may practice. No corporation shall practice dentistry or engage in it, or hold itself out as being entitled to practice dentistry, or furnish dental services or dentists, or advertise under or assume the title of dentists or dental surgeons or equivalent title. No corporation shall furnish dental advice, or advertise or hold itself out with any other person or alone, that it has or owns a dental office or can furnish dental service, dentists, or dental surgeons, or solicit, through itself, or its agents, officers, employees, directors or trustees, dental patronage for any dentist or dental surgeon. This section:

(1) Does not apply to any licensee while acting as an instructor in or under the University of Minnesota, the Mayo Foundation, or any other school in the state recognized by the state Board of Dentistry;

(2) Does not prohibit dentists from incorporating their practice of dentistry for business purposes under the special provisions of a corporate practice act for dentistry;

(3) Shall not be construed to change or amend the right of licensed dentists to provide dental care under any form of organization that is lawful under the laws of this state, or to contract to sell their services in any manner that is lawful under the laws of this state.

Subd. 2. **Professional advertising.** Public advertising by dentists may be controlled by reasonable rules of the board. Such rules shall include permission for such things as publication of a professional card, reasonable signs on or about the place of business, announcements of changes or opening of offices and telephone listings.
Subd. 3. Advertising or use of dental services and appliances. No person shall advertise in any manner the sale, supply, furnishing, construction, reproduction, relining, or repair without a written work order by a licensed dentist of prosthetic dentures, bridges, plates or other appliances to be used or worn as substitutes for natural teeth, or for the regulation thereof. All such advertisements shall contain the words "A written work order from a licensed dentist is required" in at least 10-point type size. Except for advertising permitted under this subdivision, a person not licensed to practice dentistry in this state shall not sell or offer any such service or products to other than the dental profession or its ancillary trades, provided, however that the mere delivery of such products to an ultimate consumer or person acting in the consumer's behalf for the purpose of transporting such products to the licensed dentist who provided the work order shall not violate this subdivision. This subdivision shall not apply to mailings, displays, and advertisements the primary distribution of which is to the dental profession or its ancillary trades.

Subd. 4. Dividing fees. It shall be unlawful for any dentist to divide fees with or promise to pay a part of the dentist's fee to, or to pay a commission to, any dentist or other person who calls the dentist in consultation or who sends patients to the dentist for treatment, or operation, but nothing herein shall prevent licensed dentists from forming a bona fide partnership for the practice of dentistry, nor to the actual employment by a licensed dentist of, a licensed dental therapist, a licensed dental hygienist, or another licensed dentist.

History: 1969 c 974 s 11; 1980 c 596 s 5; 1983 c 29 s 2; 1985 c 248 s 70; 1986 c 444; 2009 c 95 art 3 s 26

150A.12 VIOLATION AND DEFENSES.

Every person who violates any of the provisions of sections 150A.01 to 150A.12 for which no specific penalty is provided herein, shall be guilty of a gross misdemeanor; and, upon conviction, punished by a fine of not more than $3,000 or by imprisonment in the county jail for not more than one year or by both such fine and imprisonment. In the prosecution of any person for violation of sections 150A.01 to 150A.12, it shall not be necessary to allege or prove lack of a valid license to practice dentistry, dental hygiene, dental therapy, or dental assisting, but shall be a matter of defense to be established by the defendant.

History: 1969 c 974 s 12; 1984 c 628 art 3 s 11; 2009 c 95 art 3 s 27; 2009 c 159 s 78

150A.13 REPORTING OBLIGATIONS.

Subdivision 1. Permission to report. A person who has knowledge of a licensee unable to practice with reasonable skill and safety by reason of illness, use of alcohol, drugs, chemicals, or any other materials, or as a result of any mental, physical, or psychological condition may report the licensee to the board.

Subd. 2. Institutions. A hospital, clinic, or other health care institution or organization located in this state shall report to the board any action taken by the agency, institution, or organization or any of its administrators or dental or other committees to revoke, suspend, restrict, or condition a licensee's privilege to practice or treat patients or clients in the institution, or as part of the organization, any denial of privileges, or any other disciplinary action against a licensee described under subdivision 1. The institution or organization shall also report the resignation of any licensees prior to the conclusion of any disciplinary action proceeding against a licensee described under subdivision 1.

Subd. 3. Dental societies. A state or local dental society or professional dental association shall report to the board any termination, revocation, or suspension of membership or any other disciplinary action against a licensee. If the society or association has received a complaint against a licensee described under subdivision 1, on which it has not taken any disciplinary action, the society or association shall report the
complaint and the reason why it has not taken action on it or shall direct the complainant to the board. This
subdivision does not apply to a society or association when it performs peer review functions as an agent
of an outside entity, organization, or system.

Subd. 4. Licensed professionals. (a) A licensed health professional shall report to the board personal
knowledge of any conduct by any person who the licensed health professional reasonably believes is a
licensee described under subdivision 1.

(b) Notwithstanding paragraph (a), a licensed health professional shall report to the board knowledge
of any actions which institutions must report under subdivision 2.

Subd. 5. Insurers and other entities making liability payments. (a) Four times each year as prescribed
by the board, each insurer authorized to sell insurance described in section 60A.06, subdivision 1, clause
(13), and providing professional liability insurance to licensees, shall submit to the board a report concerning
the licensees against whom malpractice settlements or awards have been made to the plaintiff. The report
must contain at least the following information:

(1) the total number of malpractice settlements or awards made;
(2) the date the malpractice settlements or awards were made;
(3) the allegations contained in the claim or complaint leading to the settlements or awards made;
(4) the dollar amount of each malpractice settlement or award;
(5) the regular address of the practice of the licensee against whom an award was made or with whom
a settlement was made; and
(6) the name of the licensee against whom an award was made or with whom a settlement was made.

(b) A dental clinic, hospital, political subdivision, or other entity which makes professional liability
insurance payments on behalf of licensees shall submit to the board a report concerning malpractice settlements
or awards paid on behalf of licensees, and any settlements or awards paid by a clinic, hospital, political
subdivision, or other entity on its own behalf because of care rendered by licensees. This requirement excludes
forgiveness of bills. The report shall be made to the board within 30 days of payment of all or part of any
settlement or award.

Subd. 6. Courts. The court administrator of district court or any other court of competent jurisdiction
shall report to the board any judgment or other determination of the court that adjudges or includes a finding
that a licensee has a mental illness, is unable to practice with reasonable skill and safety due to a mental
condition, is guilty of a felony, is guilty of a violation of federal or state narcotics laws or controlled substances
act, or is guilty of an abuse or fraud under Medicare or Medicaid; or that appoints a guardian of the licensee
pursuant to sections 524.5-101 to 524.5-502, or commits a licensee pursuant to chapter 253B.

Subd. 7. Self-reporting. A licensee shall report to the board any personal action that would require that
a report be filed by any person, health care facility, business, or organization pursuant to subdivisions 2 to
6.

Subd. 8. Deadlines; forms. Reports required by subdivisions 2 to 7 must be submitted not later than 30
days after the occurrence of the reportable event or transaction. The board may provide forms for the
submission of reports required by this section, may require that reports be submitted on the forms provided,
and may adopt rules necessary to assure prompt and accurate reporting.
Subd. 9. **Subpoenas.** The board may issue subpoenas for the production of any reports required by subdivisions 2 to 7 or any related documents.

Subd. 10. **Failure to report.** On or after August 1, 2012, any person, institution, insurer, or organization that fails to report as required under subdivisions 2 to 6 shall be subject to civil penalties for failing to report as required by law.

**History:** 2002 c 341 s 2; 2004 c 146 art 3 s 47; 2009 c 159 s 79; 2012 c 278 art 2 s 18; 2013 c 62 s 9

### 150A.14 IMMUNITY.

Subdivision 1. **Reporting immunity.** A person, health care facility, business, or organization is immune from civil liability or criminal prosecution for submitting a report in good faith to the board under section 150A.13, or for cooperating with an investigation of a report or with staff of the board relative to violations or alleged violations of section 150A.08. Reports are confidential data on individuals under section 13.02, subdivision 3, and are privileged communications.

Subd. 2. **Investigation immunity.** (a) Members of the board, persons employed by the board, and board consultants retained by the board are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of, or relating to, their duties under sections 150A.02 to 150A.21, 214.10, and 214.103.

(b) For purposes of this section, a member of the board or a consultant described in paragraph (a) is considered a state employee under section 3.736, subdivision 9.

**History:** 2002 c 341 s 3; 2012 c 180 s 9

### 150A.21 REMOVABLE DENTAL PROSTHESES; OWNER IDENTIFICATION.

Subdivision 1. **Patient's name and Social Security number.** Every complete upper and lower denture and removable dental prosthesis fabricated by a dentist licensed under section 150A.06, or fabricated pursuant to the dentist's or dental therapist's work order, shall be marked with the name and Social Security number of the patient for whom the prosthesis is intended. The markings shall be done during fabrication and shall be permanent, legible and cosmetically acceptable. The exact location of the markings and the methods used to apply or implant them shall be determined by the dentist or dental laboratory fabricating the prosthesis. If in the professional judgment of the dentist or dental laboratory, this identification is not practicable, identification shall be provided as follows:

(a) The Social Security number of the patient may be omitted if the name of the patient is shown;

(b) The initials of the patient may be shown alone, if use of the name of the patient is impracticable;

(c) The identification marks may be omitted in their entirety if none of the forms of identification specified in clauses (a) and (b) are practicable or clinically safe.

Subd. 2. **Marking older devices.** Any removable dental prosthesis in existence prior to August 1, 1978, which was not marked in accordance with subdivision 1 at the time of its fabrication, shall be so marked at the time of any subsequent rebasing.

Subd. 3. **Technical assistance.** The commissioner of health shall provide technical assistance for marking methods and materials and other matters necessary to effectuate the provisions of this section.
Failure to comply. Failure of any dentist or dental therapist to comply with this section shall be deemed to be a violation for which the dentist or dental therapist may be subject to proceedings pursuant to section 150A.08, provided the dentist is charged with the violation within two years of initial insertion of the dental prosthetic device.

History: 1978 c 716 s 1; 1986 c 444; 2009 c 95 art 3 s 28,29

150A.22 DONATED DENTAL SERVICES.

(a) The commissioner of health shall contract with the Minnesota Dental Association, or another appropriate and qualified organization to develop and operate a donated dental services program to provide dental care to public program recipients and the uninsured through dentists who volunteer their services without compensation. As part of the contract, the commissioner shall include specific performance and outcome measures that the contracting organization must meet. The donated dental services program shall:

(1) establish a network of volunteer dentists, including dental specialties, to donate dental services to eligible individuals;

(2) establish a system to refer eligible individuals to the appropriate volunteer dentists; and

(3) develop and implement a public awareness campaign to educate eligible individuals about the availability of the program.

(b) Funding for the program may be used for administrative or technical support. The organization contracting with the commissioner shall provide an annual report that accounts for funding appropriated to the program by the state, documents the number of individuals served by the program and the number of dentists participating as program providers, and provides data on meeting the specific performance and outcome measures identified by the commissioner.

History: 2002 c 399 s 2; 1Sp2005 c 4 art 6 s 41

DENTAL LABORATORIES

150A.24 DEFINITIONS.

Subdivision 1. Scope. For the purposes of sections 150A.24 to 150A.31, the following terms have the meanings given.

Subd. 2. Dental laboratory. "Dental laboratory" means a corporation, partnership, sole proprietor, or business entity engaged in the manufacture or repair of dental prosthetic appliances. This definition does not include a dental laboratory that is physically located within a dental practice if the dental prosthetic appliances are manufactured or repaired for the exclusive use of the dentist or dentists within the dental practice.

Subd. 3. Material content notice. "Material content notice" means a notice that contains the complete material content information of a dental prosthetic appliance, including whether United States Food and Drug Administration (FDA) compliant materials were used. The notice must be provided in a manner that can be easily entered into a patient record.

Subd. 4. Work authorization. "Work authorization" means a written instrument by which a dental laboratory subcontracts to another dental laboratory all or part of the manufacture or repair of a dental prosthetic appliance authorized by a work order by a licensed dentist.
Subd. 5. **Work order.** "Work order" means a written instrument prescribed by a licensed dentist directing a dental laboratory to manufacture or repair a dental prosthetic appliance for an individual patient.

**History:** 2012 c 269 s 1

### 150A.25 REGISTRATION FOR DENTAL LABORATORIES.

Subdivision 1. **General.** All dental laboratories physically located in Minnesota must register with the Board of Dentistry.

Subd. 2. **Registration requirements.** (a) An application for an initial registration and for renewal must be submitted to the board on a form provided by the board accompanied with the registration fee required under section 150A.31. The application must contain:

1. the business name of the laboratory;
2. the physical address of the laboratory;
3. the name of the laboratory's owner or operator;
4. the telephone number or electronic mail address;
5. the certification number and the name of the certifying organization, if applicable; and
6. any other identifying information deemed necessary by the board.

(b) It is the responsibility of the dental laboratory to notify the board of any changes in the registration information required under paragraph (a).

Subd. 3. **Unique registration number.** Upon approval, the board shall issue a registration and a unique registration number to the dental laboratory.

Subd. 4. **Registration term; renewal.** Registration shall be valid for two years from the date of issuance and may be renewed upon submitting the information required in subdivision 2 and the registration renewal fee required in section 150A.31.

**History:** 2012 c 269 s 2; 2019 c 50 art 1 s 53

### 150A.26 WORK ORDER REQUIRED.

No registered dental laboratory shall perform or authorize any dental technological work without a valid work order from a licensed dentist or a work authorization issued pursuant to a valid work order. A work order or work authorization may be handwritten and may be faxed or sent electronically using an electronic signature.

**History:** 2012 c 269 s 3

### 150A.27 MATERIAL CONTENT NOTICE.

(a) A registered dental laboratory shall inform the dentist who issued the work order of:

1. the country of origin where the technological work was performed in whole or in part; and
2. the name, physical address, and registration number of the laboratory or laboratories that manufactured or repaired the dental prosthesis, either directly or indirectly.
(b) A registered dental laboratory shall provide to the dentist a material content notice for each dental prosthetic appliance. Upon receipt of the material content notice, the dentist must include the information in the record of the patient for whom the prosthesis is intended.

(c) Dentists licensed under this chapter who manufacture or repair a dental prosthetic appliance or by work order have a dental prosthetic appliance manufactured or repaired by a dental technician within their dental practice for a patient must include in the patient's record the material content notice information of the dental prosthetic appliance.

(d) It is the responsibility of the licensed dentist to obtain the material content notice information and the country of origin for dental laboratory work performed by an out-of-state dental laboratory and to include this information in the record of the patient for whom the dental work is intended.

(e) Upon request of the patient, the licensed dentist shall provide a patient with the material content information and the country of origin information.

(f) A registered dental laboratory must comply with section 150A.21.

**History:** 2012 c 269 s 4

### 150A.28 PROHIBITION AGAINST THE USE OF A NONREGISTERED DENTAL LABORATORY.

(a) A dentist licensed under this chapter must use a dental laboratory registered under sections 150A.24 to 150A.31 for any dental laboratory work that is performed in this state and outside of the office of a licensed dentist.

(b) No registered dental laboratory shall subcontract all or part of any dental laboratory work that is prescribed by a work order to another dental laboratory unless that laboratory provides the registered dental laboratory with a material content notice and the country of origin for any dental laboratory work performed by the subcontracting dental laboratory.

(c) Nothing in this section prohibits a licensed dentist from directing a nonregistered dental laboratory located outside the state to manufacture or repair a dental prosthesis pursuant to a valid work order.

**History:** 2012 c 269 s 5

### 150A.29 WEBSITE.

By May 1, 2013, the board shall provide on its website a list of the laboratories registered under section 150A.25 with the information described in section 150A.25 for each registered laboratory.

**History:** 2012 c 269 s 6

### 150A.30 CERTIFICATION.

Nothing in sections 150A.24 to 150A.31 shall prohibit the development of a voluntary certification process for dental laboratories or dental technicians.

**History:** 2012 c 269 s 7

### 150A.31 FEES.

(a) The initial biennial registration fee is $50.

(b) The biennial renewal registration fee is not to exceed $80.
(c) The fees specified in this section are nonrefundable and shall be deposited in the state government special revenue fund.

**History:** 2012 c 269 s 8; 2015 c 71 art 10 s 25
CHAPTER 3100
BOARD OF DENTISTRY
DENTISTS, HYGIENISTS, AND ASSISTANTS

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3100.9600  RECORD KEEPING.

3100.0100  DEFINITIONS.

Subpart 1. Scope. For the purpose of this chapter and unless the context otherwise requires, the terms in this part have the meanings given them.
Subp. 2. **Act.** "Act" means Minnesota Statutes, chapter 150A.

Subp. 2a. **Advanced cardiac life support or ACLS.** "Advanced cardiac life support" or "ACLS" refers to an advanced educational course for a health care provider that teaches a detailed medical protocol for the provision of lifesaving cardiac care in settings ranging from the prehospital environment to the hospital setting. The course must include advanced airway management skills, cardiac drug usage, defibrillation, and arrhythmia interpretation. An ACLS certificate must be obtained through the American Heart Association.

Subp. 2b. **Analgesia.** "Analgesia" means the diminution or elimination of pain as a result of the administration of an agent including, but not limited to, local anesthetic, nitrous oxide, and pharmacological and nonpharmacological methods.

Subp. 2c. [Repealed, 35 SR 459]

Subp. 3. **Applicant.** "Applicant" means a person who has submitted an application to become a licensee.

Subp. 4. **Assistant.** "Assistant" means a person who assists a dentist in carrying out the basic duties of a dental office described in part 3100.8400.

Subp. 5. **Allied dental personnel.** "Allied dental personnel" means an advanced dental therapist, dental therapist, dental hygienist, licensed dental assistant, dental assistant with a limited-license permit, assistant without a license or permit, and dental technician.

Subp. 5a. **Blood borne diseases.** "Blood borne diseases" means diseases that are spread through the exposure to, inoculation of, or injection of blood; or exposure to blood contained in body fluids, tissues, or organs. Blood borne diseases include infection caused by such agents as the human immunodeficiency virus (HIV) and hepatitis B virus (HBV).

Subp. 6. **Board.** "Board" means the Board of Dentistry.

Subp. 7. **CDE.** "CDE" means professional development and continuing dental education.

Subp. 7a. **Clinical subject.** "Clinical subject" means those subjects directly related to the provision of dental care and treatment to patients.

Subp. 8. [Repealed, 39 SR 1455]

Subp. 8a. [Repealed, 35 SR 459]

Subp. 8b. **Core subject.** "Core subject" means those areas of knowledge that relate to public safety and professionalism as determined by the board or a committee of the board.

Subp. 9. **Course.** "Course" means an educational offering, class, presentation, meeting, or other similar event.

Subp. 9a. **CPR.** "CPR" refers to a comprehensive, hands-on course for a health care provider that includes: cardiopulmonary resuscitation on an adult, child, and infant; two-person rescuer; barrier mask or bag for ventilation; foreign body airway obstruction; and automated external...
defibrillation. A CPR certificate shall be obtained through the American Heart Association health care provider course or the American Red Cross professional rescuer course.

Subp. 9b. **Deep sedation.** "Deep sedation" means a depressed level of consciousness produced by a pharmacological or nonpharmacological method or a combination thereof during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. Deep sedation is characterized by impairment of the patient's ability to independently maintain ventilatory function, spontaneous ventilation potentially being inadequate to meet a patient's needs, and the need for assistance in maintaining a patent airway. A patient's cardiovascular function does not typically require assistance during deep sedation.

Subp. 9c. **Dental assistant with a limited-license permit.** "Dental assistant with a limited-license permit" means a person holding a limited-license permit as a dental assistant under part 3100.8500, subpart 3.

Subp. 9d. **Dental health care personnel or DHCP.** "Dental health care personnel" or "DHCP" means individuals who work in a dental practice who may be exposed to body fluids such as blood or saliva.

Subp. 9e. **Dental hygienist.** "Dental hygienist" means a person holding a license as a dental hygienist issued by the board pursuant to the act.

Subp. 10. **Dental technician.** "Dental technician" means a person other than a licensed dentist who performs any of the services described in Minnesota Statutes, section 150A.10, subdivision 3.

Subp. 11. **Dentist.** "Dentist" means a person holding a license as a general dentist, specialty dentist, or full faculty dentist issued by the board pursuant to the act.

Subp. 11a. **Elective activities.** "Elective activities" refers to those activities directly related to, or supportive of, the practice of dentistry, dental therapy, dental hygiene, or dental assisting.

Subp. 11b. **Enteral.** "Enteral" means a technique of administration in which the agent is absorbed through the gastrointestinal tract or oral mucosa, such as with oral, rectal, or sublingual administration.

Subp. 11c. **Faculty dentist.** "Faculty dentist" has the meaning given it in Minnesota Statutes, section 150A.01, subdivision 6a.

Subp. 11d. **Fundamental activities.** "Fundamental activities" means those activities directly related to the provision of clinical dental services.

Subp. 12. [Repealed, 10 SR 1613]

Subp. 12a. **General anesthesia.** "General anesthesia" means an induced state of unconsciousness produced by a pharmacological or nonpharmacological method or a combination thereof during which patients are not arousable, even by painful stimulation. General anesthesia is characterized by the frequent impairment of the patient's ability to independently maintain ventilatory function, the patient's need for assistance in maintaining a patent airway, the need for positive
pressure ventilation due to depressed spontaneous ventilation or drug-induced depression of
neuromuscular function, and potential impairment of cardiovascular function.

Subp. 12b. **Hospital.** "Hospital" means an institution licensed by the state commissioner of
health that:

A. is adequately and properly staffed and equipped;

B. provides services, facilities, and beds for use beyond 24 hours by individuals requiring
diagnosis, treatment, or care for illness, injury, deformity, infirmity, abnormality, disease, or
pregnancy; and

C. regularly provides clinical laboratory services, diagnostic x-ray services, and treatment
facilities for surgery or obstetrical care, or other definitive medical treatment of similar extent.

For the purposes of this chapter, diagnostic or treatment centers, physicians' offices or clinics,
or dentists' offices or clinics are not hospitals.

Subp. 12c. **Infection control.** "Infection control" means programs, procedures, and methods
to reduce the transmission of agents of infection for the purpose of preventing or decreasing the
incidence of infectious diseases.

Subp. 12d. **Inhalation.** "Inhalation" means a technique of administration in which the gaseous
or volatile agent is introduced into the pulmonary tree and whose primary effect is due to absorption
through the pulmonary bed.

Subp. 12e. **Licensed dental assistant.** "Licensed dental assistant" means an assistant licensed
by the board pursuant to Minnesota Statutes, section 150A.06, subdivision 2a.

Subp. 13. **Licensee.** "Licensee" means a dentist, dental therapist, dental hygienist, licensed
dental assistant, or dental assistant with a limited-license permit.

Subp. 13a. **Minimal sedation.** "Minimal sedation" means a minimally depressed level of
consciousness produced by a pharmacological or nonpharmacological method that retains the
patient's ability to independently and continuously maintain an airway and respond normally to
tactile stimulation and verbal command. Minimal sedation is characterized by moderate impairment
to the patient's cognitive function and coordination, but leaves unaffected the patient's ventilatory
and cardiovascular functions.

Subp. 14. **Minnesota Professional Firms Act.** "Minnesota Professional Firms Act" means
Minnesota Statutes, sections 319B.01 to 319B.40.

Subp. 14a. **Moderate sedation.** "Moderate sedation" means a depressed level of consciousness
produced by a pharmacological or nonpharmacological method or a combination thereof during
which patients respond purposefully to verbal commands, either alone or accompanied by light
tactical stimulation. Moderate sedation is characterized by unaffected cardiovascular functions, no
need for intervention to maintain a patent airway for the patient, and adequate spontaneous
ventilation.
Subp. 15. National board. "National board" means an examination administered nationally that is acceptable to the board.

Subp. 15a. Nitrous oxide inhalation analgesia. "Nitrous oxide inhalation analgesia" means the administration by inhalation of a combination of nitrous oxide and oxygen, producing an altered level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command.

Subp. 15b. Parenteral. "Parenteral" means a technique of administration in which the drug bypasses the gastrointestinal tract, such as with intramuscular, intravenous, intranasal, submucosal, subcutaneous, or intraocular administration.

Subp. 15c. Pediatric advanced life support or PALS. "Pediatric advanced life support" or "PALS" refers to an advanced life support educational course for the pediatric health care provider that teaches the current certification standards of the American Academy of Pediatrics or the American Heart Association. A PALS certificate must be obtained through the American Heart Association.

Subp. 16. Person. "Person" includes an individual, firm, partnership, association, or any other legal entity.

Subp. 16a. Portfolio. "Portfolio" means an accumulation of written documentation of professional development activities.

Subp. 16b. Professional development. "Professional development" means activities that include, but are not limited to, continuing education, community services, publications, and career accomplishments throughout a professional's life.

Subp. 17. [Repealed, 35 SR 459]

Subp. 18. [Repealed, 35 SR 459]

Subp. 18a. Resident dentist. "Resident dentist" has the meaning given it in Minnesota Statutes, section 150A.01, subdivision 8a.

Subp. 18b. Self-assessment. "Self-assessment" means an ungraded examination provided by the board intended to help determine strengths and weaknesses in specific areas of dental practice.

Subp. 19. [Repealed, 10 SR 1613]

Subp. 20. [Repealed, 29 SR 306]

Subp. 21. Supervision. "Supervision" means one of the following levels of supervision, in descending order of restriction.

A. "Personal supervision" means the dentist is personally operating on a patient and authorizes the allied dental personnel to aid in treatment by concurrently performing supportive procedures.
B. "Direct supervision" means the dentist is in the dental office, personally diagnoses the condition to be treated, personally authorizes the procedure, and before dismissal of the patient, evaluates the performance of the allied dental personnel.

C. "Indirect supervision" means the dentist is in the office, authorizes the procedures, and remains in the office while the procedures are being performed by the allied dental personnel.

D. "General supervision" means the supervision of tasks or procedures that do not require the presence of the dentist in the office or on the premises at the time the tasks or procedures are being performed but require the tasks be performed with the prior knowledge and consent of the dentist.

Subp. 22. Transdermal or transmucosal. "Transdermal" or "transmucosal" means a technique of administration in which the drug is administered by patch or iontophoresis.

**Statutory Authority:** MS s 150A.04; 150A.06; 150A.08; 150A.10; 150A.11; 214.06; 319A.18

**History:** 10 SR 1613; 14 SR 1214; 16 SR 2314; 18 SR 580; 18 SR 2042; 20 SR 2623; 29 SR 306; 31 SR 1238; 35 SR 459; 36 SR 738; 39 SR 1455

**Published Electronically:** May 7, 2015

3100.0200 [Repealed, 35 SR 459]

**Published Electronically:** September 30, 2010

3100.0300 MEETINGS.

Subpart 1. Regular and special meetings. The board shall hold at least two regular meetings each year. It may hold special meetings at such other times as may be necessary and as it may determine.

Subp. 2. Open and closed meetings. Meetings conducted by the board shall be open to the public, except that those for the purpose of investigating and adjudicating charges against persons licensed or registered by the board shall be closed to public attendance unless the person or persons under investigation request that such meetings be open to the public.

Subp. 3. Quorum. A majority of the members of the board shall constitute a quorum for the conduct of business.

Subp. 4. Parliamentary procedure. When not otherwise provided, American Institute of Parliamentarians Standard Code of Parliamentary Procedure shall govern the conduct of all business meetings of the board.

**Statutory Authority:** MS s 150A.04

**History:** 39 SR 1455

**Published Electronically:** May 7, 2015
3100.0400 OFFICERS.

The officers of the board shall consist of a president, a vice-president, and a secretary, as provided in Minnesota Statutes, section 150A.03, subdivision 1. Election of officers may be held at any regular or special meeting.

Statutory Authority:  MS s 150A.04
History:  35 SR 459
Published Electronically:  September 30, 2010

LICENSING

3100.1100 APPLICATIONS FOR LICENSE TO PRACTICE DENTISTRY.

Subpart 1. Form, credentials, and certification. A person seeking licensure to practice dentistry within Minnesota must present to the board an application and credentials, as determined by the board, and meet the following requirements.

A. The application must be on a form furnished by the board and must be completely filled out.

B. The applicant shall furnish satisfactory evidence of having graduated from a school of dentistry accredited by the Commission on Dental Accreditation.

C. The applicant must furnish certification of having passed all parts of a national board examination as defined in part 3100.0100, subpart 15.

D. An applicant who wants the authority under the license to administer a pharmacological agent for the purpose of general anesthesia, deep sedation, or moderate sedation or to administer nitrous oxide inhalation analgesia must comply with part 3100.3600.

Subp. 2. Clinical skills examination. The applicant shall submit evidence of satisfactorily passing a board approved examination designed to determine the applicant's level of clinical skills.

Subp. 3. [Repealed, 18 SR 2042]

Subp. 4. Photograph. For identification purposes, the applicant shall furnish one notarized unmounted passport-type photograph, three inches by three inches, taken not more than six months before the date of application.

Subp. 5. Certification of character. The applicant shall furnish a testimonial of good professional character from an authorized representative of the dental school from which the applicant graduated and a certification by the secretary of the Board of Dental Examiners of the state or Canadian province in which the applicant is licensed. The board may in its discretion and for good cause waive the certification of good professional character by an authorized representative of the dental school.

Subp. 6. Anesthesia, sedation, and nitrous oxide. A person applying for a license to practice dentistry or a dentist already licensed who wants the authority under the license to administer a
pharmacological agent for the purpose of general anesthesia, deep sedation, or moderate sedation or to administer nitrous oxide inhalation analgesia must comply with the applicable requirements of part 3100.3600.

**Statutory Authority:**  MS s 150A.04; 150A.06; 150A.08; 150A.09; 150A.10; 214.06

**History:**  10 SR 1612; 16 SR 2314; 17 SR 1279; 18 SR 2042; 35 SR 459; 39 SR 1455

**Published Electronically:**  May 7, 2015

### 3100.1130 LICENSE TO PRACTICE DENTISTRY AS A LIMITED GENERAL DENTIST.

Subpart 1. Initial requirements for limited licensure. A person who is a graduate of a nonaccredited dental program will be granted a limited license to practice general dentistry within Minnesota upon successfully complying with the requirements in items A to E.

A. The applicant must initially submit to a credential review by the board and pay the nonrefundable fee in Minnesota Statutes, section 150A.091, subdivision 9a. The applicant shall provide the following documentation:

1. a completed board-approved evaluation of all international education;
2. an original or notarized copy of passing board-approved language testing within the previous two years if English is not the applicant's primary language;
3. an original affidavit of licensure;
4. a completed dental questionnaire;
5. a personal letter/curriculum vitae/resume;
6. an original or notarized copy of dental diploma and, if necessary, professional translation;
7. proof of clinical practice in dentistry;
8. an original or notarized copy of other credentials in dentistry and, if necessary, professional translation;
9. completed board-approved infection control training; and
10. an original or notarized copy of National Board Dental Examinations Report - Part I and Part II.

The applicant is allowed to submit to one credential review by the board.

B. Once a credential review has been completed by the board, the committee shall officially notify the applicant by letter as to whether permission to take the regional clinical examination has been denied or granted by the board. The board may also request that the applicant schedule an interview with the credential review committee, then notify the applicant by letter as to whether permission to take the regional clinical examination has been denied or granted by the committee.
An applicant denied permission to take the regional clinical examination has the option to appeal the decision to the board within 60 days from the notification date.

C. If the applicant is granted permission by the board to take the regional clinical examination, the applicant must take a board-approved regional clinical examination, successfully pass the regional clinical examination, and submit evidence of the results of the regional clinical examination within 18 months from the receipt date of the board's notification letter granting permission to take the regional clinical examination.

D. When an applicant fails twice any part of a board-approved regional clinical examination, the applicant may not take it again until the applicant successfully completes additional education provided by an institution accredited by the Commission on Dental Accreditation. The education must cover all of the subject areas failed by the applicant in each of the two clinical examinations. The applicant may retake the examination only after the institution provides the board information specifying the areas failed in the previous examinations and the instruction provided to address the areas failed, and certifies that the applicant has successfully completed the instruction. The applicant shall be allowed to retake the clinical examination one time following this additional educational instruction. If the applicant fails the clinical examination for a third time, the applicant is prohibited from retaking the clinical examination.

E. An applicant must complete and submit a limited license application for review by an appropriate committee of the board. The application must include:

1. the initial and annual application fees in Minnesota Statutes, section 150A.091, subdivision 9b;

2. evidence of having passed a board-approved regional clinical examination within five years preceding the limited license application;

3. evidence of having passed an examination designed to test knowledge of Minnesota laws relating to the practice of dentistry and the rules of the board within five years preceding the limited license application;

4. an acceptable written agreement between the applicant and a board-approved Minnesota licensed supervising dentist. The written agreement shall include all information requested by the board. The written agreement shall also include any practice limitations, and an acknowledgment that the applicant agrees to practice clinical dentistry at least 1,100 hours annually, for a period of three consecutive years after clinical practice in Minnesota begins;

5. documentation of current CPR certification;

6. a statement from a licensed physician attesting to the applicant's physical and mental condition completed within 12 months preceding the limited license application; and

7. a statement from a licensed ophthalmologist or optometrist attesting to the applicant's visual acuity completed within 12 months preceding the limited license application.
Subp. 2. Terms of limited licensure. Throughout the three consecutive years while practicing general dentistry in Minnesota under the general supervision of a Minnesota licensed dentist, the limited license dentist must maintain and comply with the requirements in items A to F:

A. submit annual payment of the renewal fee in Minnesota Statutes, section 150A.091, subdivision 9b;

B. maintain a consecutive and current CPR certification as required to renew a limited license;

C. submit written correspondence and agreement to the board requesting approval of a subsequent supervising dentist and written agreement, within 14 days prior to employment start date with subsequent supervising dentist. The written agreement shall include all information requested by the board. The written agreement shall also include any practice limitations, and an acknowledgment that the limited license dentist agrees to practice clinical dentistry at least 1,100 hours annually, for a period of three consecutive years or any remaining portion thereof;

D. within seven business days of an unforeseen event, submit written correspondence for review by an appropriate committee of the board regarding the unforeseen circumstance that may interrupt the three consecutive years of supervision;

E. maintain with the board a correct and current mailing address and electronic mail address and properly notify the board within 30 days of any changes as described in Minnesota Statutes, section 150A.09, subdivision 3; and

F. maintain a professional development portfolio containing:
   (1) acceptable documentation of required hours in professional development activities;
   (2) a minimum of two different core subjects as part of the fundamental activities;
   (3) one completed self-assessment examination; and
   (4) a consecutive and current CPR certification.

The total required hours of professional development activities is 75 hours with a minimum of 45 hours in fundamental activities and a maximum of 30 hours in elective activities. Completing at least 25 hours each year towards the total of 75 hours is required for compliance.

Subp. 3. Terms of supervising dentist. A supervising dentist must be licensed in Minnesota and provide general supervision to a limited license dentist. The supervising dentist is not required to be present in the office or on the premises when supervising the limited license dentist, but does require the supervising dentist to have knowledge and authorize the procedures being performed by the limited license dentist. For the three consecutive years or any portion thereof, the supervising dentist must be eligible to participate and comply with the requirements in items A to I.

A. A supervising dentist must be a board-approved Minnesota licensed dentist for at least five consecutive years.
B. A supervising dentist's license shall not be subject to, or pending, corrective or disciplinary action within the previous five years according to Minnesota Statutes, sections 214.10 and 214.103.

C. A supervising dentist must have an acceptable written agreement between the limited license dentist and the supervising dentist, and the supervising dentist may only supervise one limited license dentist for the duration of the agreement. The written agreement shall include all information requested by the board. The written agreement shall also include any practice limitations, and an acknowledgment that the limited license dentist agrees to practice clinical dentistry at least 1,100 hours annually, for a period of three consecutive years.

D. No more than two limited license dentists are allowed to practice general dentistry under general supervision in one dental facility.

E. Any subsequent modifications to a written agreement must be submitted in writing to the board by the supervising dentist within seven business days of the modification.

F. A supervising dentist must inform the board in writing about the termination of a written agreement with a limited license dentist within seven business days of the termination.

G. A supervising dentist must inform the board in writing about any known disciplinary or malpractice proceedings involving the limited license dentist within seven business days of the proceeding.

H. The supervising dentist must submit to the board a written performance evaluation of the limited license dentist in regards to employment including practicing clinical dentistry at least 1,100 hours annually, patient care, allied dental personnel, professionalism, billing practices, and make a general recommendation. The supervising dentist's evaluation must be submitted to the board no earlier than 90 days before completion of the limited license dentist's practice period and no later than seven business days following completion of the limited license dentist's practice period.

I. A supervising dentist who fails to comply with this subpart is subject to disciplinary proceedings on grounds specified in parts 3100.6100 and 3100.6200, and Minnesota Statutes, section 150A.08, subdivision 1.

Subp. 4. Requirements for licensure.

A. Upon completion of the three consecutive years, a dentist with a limited license to practice general dentistry in Minnesota shall be prohibited from practicing general dentistry in Minnesota due to expiration of the limited license. A dentist who has an expired or nearly expired limited license may apply for a dental license to practice general dentistry in Minnesota by presenting a license application to the board and meeting the following requirements in subitems (1) to (6). An applicant:

(1) must submit a completed application for a dental license in Minnesota no sooner than 90 days preceding the expiration date of the applicant's limited license or no later than one year after the expiration date of the applicant's limited license;
(2) must submit with the application the nonrefundable fees in Minnesota Statutes, section 150A.091, subdivisions 2 and 3;

(3) must submit required documentation of a consecutive and current CPR certification;

(4) shall provide a professional development portfolio for the three consecutive years preceding the license application date as described in subpart 2, item F;

(5) must submit a written performance evaluation from each supervising dentist regarding the applicant while practicing as a limited license dentist; and

(6) must not have been subject to corrective or disciplinary action by the board while holding a limited license during the three consecutive years.

B. An applicant whose license application has been denied may appeal the denial by initiating a contested case hearing pursuant to Minnesota Statutes, chapter 14.

Statutory Authority: MS s 150A.04

History: 37 SR 1849

Published Electronically: July 8, 2013

3100.1150 LICENSE TO PRACTICE DENTISTRY AS A FACULTY DENTIST.

Subpart 1. Licensure.

A. In order to practice dentistry, a faculty member must be licensed by the board.

B. The board must license a person to practice dentistry as a faculty dentist if:

   (1) the person completes and submits to the board an application furnished by the board;

   (2) the person is not otherwise licensed to practice dentistry in Minnesota;

   (3) the dean of a school of dentistry accredited by the Commission on Dental Accreditation certifies to the board, in accordance with the requirements of item C, that the person is a member of the school's faculty and practices dentistry; and

   (4) the person has not engaged in behavior for which licensure may be suspended, revoked, limited, modified, or denied on any of the grounds specified in Minnesota Statutes, sections 150A.08, 214.17 to 214.25, 214.33, subdivision 2, or part 3100.6100, 3100.6200, or 3100.6300.

C. The board must accept an applicant as a faculty dentist if the dean of a school of dentistry accredited by the Commission on Dental Accreditation provides to the board the following information:

   (1) the applicant's full name;

   (2) the applicant's Social Security number;

   (3) the applicant's home and work address;
(4) a statement that the applicant is a member of the faculty and practices dentistry within the school or its affiliated teaching facilities, but only for purposes of instruction or research;

(5) the dates of the applicant's employment by the school of dentistry;

(6) a statement that the applicant has been notified of the need to be licensed by the board as a faculty dentist; and

(7) a statement that the information provided is accurate and complete.

Subp. 2. **Termination of licensure.**

A. A person's license to practice dentistry as a faculty dentist is terminated when the person is no longer practicing dentistry as a member of the faculty of a school of dentistry.

B. A person licensed to practice dentistry as a faculty dentist must inform the board when the licensee is no longer practicing dentistry as a member of the faculty of a school of dentistry.

C. A person who fails to inform the board as required in item B is deemed to have committed fraud or deception within the meaning of Minnesota Statutes, section 150A.08, subdivision 1, clause (1).

Statutory Authority:  MS s 150A.04; 214.06

History: 20 SR 2623; 39 SR 1455

Published Electronically: May 7, 2015

3100.1160 **LICENSE TO PRACTICE DENTISTRY AS A RESIDENT DENTIST.**

Subpart 1. **Licensure.**

A. In order to practice dentistry as directly related to a respective graduate or advanced educational clinical experience, an enrolled graduate student or a student of an advanced education program must be licensed by the board.

B. The board must license a person to practice dentistry as a resident dentist if:

   (1) the person completes and submits to the board an application furnished by the board;

   (2) the person is not otherwise licensed to practice dentistry in Minnesota;

   (3) the person provides evidence of having graduated from a dental school;

   (4) the person provides evidence of being an enrolled graduate student or a student of an advanced dental education program accredited by the Commission on Dental Accreditation; and

   (5) the person has not engaged in behavior for which licensure may be suspended, revoked, limited, modified, or denied on any of the grounds specified in Minnesota Statutes, section 150A.08.
Subp. 2. **Termination of licensure.**

A. A person's license to practice dentistry as a resident dentist is terminated when the person is no longer an enrolled graduate student or a student of an advanced dental education program accredited by the Commission on Dental Accreditation.

B. A person licensed to practice dentistry as a resident dentist must inform the board when the licensee is no longer an enrolled graduate student or a student of an advanced dental education program accredited by the Commission on Dental Accreditation.

C. A person who fails to inform the board as required in item B is deemed to have committed fraud or deception within the meaning of Minnesota Statutes, section 150A.08, subdivision 1, clause (1).

**Statutory Authority:** MS s 150A.04; 214.06

**History:** 20 SR 2623; 39 SR 1455; 43 SR 507

**Published Electronically:** November 13, 2018

3100.1170 **LICENSE TO PRACTICE AS A RESIDENT DENTAL THERAPIST OR RESIDENT DENTAL HYGIENIST.**

Subpart 1. **Licensure.**

A. In order to practice dental therapy or dental hygiene as directly related to a respective graduate or advanced educational clinical experience, an enrolled graduate student or a student of an advanced education program must be licensed by the board.

B. The board must license a person to practice dental therapy or dental hygiene as a resident dental therapist or resident dental hygienist if:

   1. the person completes and submits to the board an application furnished by the board;
   2. the person provides evidence of being an enrolled graduate student or a student of an advanced dental education program approved by the board; and
   3. the person has not engaged in behavior for which licensure may be suspended, revoked, limited, modified, or denied on any of the grounds specified in Minnesota Statutes, section 150A.08.

Subp. 2. **Termination of licensure.**

A. A person's license to practice dental therapy or dental hygiene as a resident dental therapist or resident dental hygienist is terminated when the person is no longer an enrolled graduate student or a student of an advanced dental education program approved by the board.

B. A person licensed to practice dental therapy or dental hygiene as a resident dental therapist or resident dental hygienist must inform the board when the licensee is no longer an enrolled graduate student or a student of an advanced dental education program approved by the board.

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C. A person who fails to inform the board as required in item B within 30 days of no longer being enrolled as a student or graduate student in a program approved by the board, is deemed to have committed fraud or deception within the meaning of Minnesota Statutes, section 150A.08, subdivision 1, clause (1).

Statutory Authority: MS s 150A.04
History: 36 SR 738
Published Electronically: January 5, 2012

3100.1200 APPLICATION FOR LICENSE TO PRACTICE DENTAL HYGIENE.

A person seeking licensure to practice dental hygiene must present an application and credentials as determined by the board and meet the following requirements of the board.

A. The application must be on a form furnished by the board and must be completely filled out.
B. The applicant must furnish certification of having passed the national board examination as defined in part 3100.0100, subpart 15.
C. The applicant shall submit evidence of satisfactorily passing a board approved examination designed to determine the applicant's level of clinical skills.
D. The applicant shall furnish satisfactory evidence of having been granted a diploma or certificate in dental hygiene from a school accredited by the Commission on Dental Accreditation.
E. For identification purposes, the applicant shall furnish one notarized unmounted passport-type photograph, three inches by three inches, taken not more than six months before the date of the application.
F. The applicant shall furnish evidence of good moral character satisfactory to the board and certification from the Board of Dental Examiners in the state or Canadian province in which the applicant is already licensed.

Statutory Authority: MS s 150A.04; 150A.06; 150A.08; 150A.09; 150A.10; 214.06
History: 10 SR 1612; 16 SR 2314; 17 SR 1279; 35 SR 459; 39 SR 1455
Published Electronically: May 7, 2015

3100.1300 APPLICATION FOR LICENSE TO PRACTICE DENTAL ASSISTING.

A person desiring to be licensed as a dental assistant shall submit to the board an application and credentials as prescribed by the act and shall conform to the following:

A. An application on a form furnished by the board shall be completely filled out.
B. The applicant shall furnish a certified copy or its equivalent of a diploma or certificate of satisfactory completion of a training program approved by the Commission on Dental Accreditation or other program which, in the judgment of the board, is equivalent. If the curriculum
of the training program does not include training in the expanded duties specified in part 3100.8500, the applicant must successfully complete a course in these functions which has been approved by the board.

C. Submission of evidence of satisfactorily passing both the board's state licensing examination and the board-approved nationally recognized examination designed to determine the applicant's knowledge of the clinical duties in part 3100.8500, subparts 1 to 1b.

D. For identification purposes, the applicant shall furnish one notarized unmounted passport-type photograph, three inches by three inches, taken not more than six months before the date of the application.

E. The applicant shall furnish evidence of good moral character satisfactory to the board.

F. A dental assistant who received and maintained registration in Minnesota prior to January 1, 2010, will continue to practice as a licensed dental assistant thereafter without completing any further examinations as required by this part. The licensed dental assistant must submit the applicable fee for an original license to the board at the time of the subsequent biennial renewal as specified in the board's notice. If the applicable fee for the original license is not received by the board, the licensee's registration will expire and the licensee's right to practice as a licensed dental assistant will be terminated by the board.

**Statutory Authority:** MS s 150A.04; 150A.06; 150A.08; 150A.09; 150A.10; 214.06

**History:** 10 SR 1612; 20 SR 2474; 35 SR 459; 39 SR 1455

**Published Electronically:** May 7, 2015

### 3100.1400 APPLICATION FOR LICENSURE BY CREDENTIALS.

A person who is already a licensed dentist or dental hygienist in another state or Canadian province desiring to be licensed to practice dentistry or dental hygiene in Minnesota shall, in order to demonstrate the person's knowledge of dental subjects and ability to practice dentistry or dental hygiene in Minnesota, comply with the requirements in items A to N.

A. The applicant shall complete an application furnished by the board.

B. The applicant shall furnish satisfactory evidence of having graduated from a school of dentistry, or dental hygiene, whichever the case may be, which has been accredited by the Commission on Dental Accreditation.

C. An applicant for licensure as a dentist must have been in active practice in another state, Canadian province, or United States government service for at least 2,000 hours within 36 months prior to the board receiving a completed application and must submit at least three references from other practicing dentists.

D. An applicant for licensure as a dental hygienist must have been in active practice in another state, Canadian province, or United States government service for at least 2,000 hours within 36 months prior to the board receiving a completed application. The applicant must submit at least two character references from dentists and two references from practicing dental hygienists.
E. An applicant must provide evidence of having passed a clinical examination for licensure in another state or Canadian province, where the licensure requirements are substantially equivalent to that of Minnesota.

F. An applicant shall include a physician's statement attesting to the applicant's physical and mental condition and a statement from a licensed ophthalmologist or optometrist attesting to the applicant's visual acuity.

G. An applicant must submit with the application a fee as prescribed in Minnesota Statutes, section 150A.091, subdivision 9.

H. For identification purposes, the applicant shall furnish one notarized unmounted passport-type photograph, three inches by three inches, taken not more than six months before the date of application.

I. In advance of the appearance required by item J, an applicant for licensure by credentials as a dentist shall submit complete records on a sample of patients treated by the applicant. The sample must be drawn from patients treated by the applicant during the five years preceding the date of application. The number of records requested of the applicant shall be established by resolution of the board. The records submitted shall be reasonably representative of the treatment typically provided by the applicant.

J. An applicant must appear before the board and satisfactorily respond to questions designed to determine the applicant's knowledge of dental subjects and ability to practice dentistry or dental hygiene pursuant to Minnesota Statutes, section 150A.06, subdivision 4. Questions may be based on the records submitted pursuant to item I.

K. An applicant shall successfully complete an examination designed to test knowledge of Minnesota laws relating to the practice of dentistry and the rules of the board.

L. If the board adopts simulated dental patient examinations as part of the application process, applicants shall complete simulated dental patient examinations designed to test their knowledge of dental subjects.

M. An applicant shall provide adequate documentation of attained professional development or continuing dental education for the 60 months preceding the date of application.

N. An applicant may apply for licensure by credentials only once within any five-year period of time.

Statutory Authority: MS s 150A.04; 150A.06; 150A.08; 150A.09; 150A.10; 150A.11; 214.06; 214.15; 319A.18

History: 10 SR 1612; 14 SR 1214; 18 SR 2042; 20 SR 2316; 31 SR 1238; 35 SR 459; 39 SR 1455

Published Electronically: May 7, 2015
3100.1500 INCOMPLETE APPLICATIONS.

Incomplete applications shall be returned to the applicant with the tendered fee, together with a statement setting forth the reason for such rejection.

Statutory Authority:  MS s 150A.04
Published Electronically:  September 30, 2010

3100.1600 ADDITIONAL INFORMATION FROM ALL APPLICANTS.

Applicants must provide evidence of having fulfilled all the requirements of the act. Applicants must sign an application and swear to the truth of the statements contained in the application before a notary public or other person authorized by law to administer oaths.

In order to pass on the applicant's qualification, nothing in this chapter shall limit the board's authority to require an applicant to provide additional information as the board deems necessary that is pertinent to the character, education, and experience of the applicant as it relates to the applicant's ability to practice as a licensee.

Statutory Authority:  MS s 150A.04
History:  17 SR 1279; 35 SR 459
Published Electronically:  September 30, 2010

3100.1700 TERMS AND RENEWAL OF LICENSE OR PERMIT; GENERAL.

Subpart 1. Requirements. The requirements of this part apply to the terms and renewal of a license or limited-license permit of an applicant other than a limited faculty or resident dentist. The requirements for the terms and renewal of licensure as a limited faculty or resident dentist are specified in part 3100.1750.

Subp. 1a. Initial term. An initial license or permit issued by the board is valid from the date issued until the last day of the licensee's birth month in either the following even-numbered year for an even-numbered birthdate year or the following odd-numbered year for an odd-numbered birthdate year, or terminated according to the procedures in this part.

Subp. 1b. Biennial term. A properly renewed license or permit issued by the board is valid from the first day of the month following expiration for 24 months until renewed or terminated according to the procedures in this part.

Subp. 2. Biennial renewal applications. Each licensee shall submit an application for biennial renewal of a license or permit together with the necessary fee no later than the last day of the licensee's birth month which is the application deadline. An application for renewal is deemed timely if received by the board or postmarked no later than the last day of the licensee's birth month. The application form must provide a place for the renewal applicant's signature certifying compliance with the applicable professional development requirements including maintaining a consecutive and current CPR certification and information including the applicant's office address or addresses, the license number, whether the licensee has been engaged in the active practice of dentistry during
the two years preceding the period for which renewal is sought as a licensee, and if so, whether within or without the state, and any other information that may be reasonably requested by the board.

Subp. 3. **Failure to submit renewal application.** The procedures in this subpart shall be followed by the board for all licensees who have failed to submit the biennial renewal application according to subpart 2 and applicable fees, except as provided in subpart 5.

A. Any time after the application deadline, the board will send, to the last address on file with the board, a notice to a licensee who has not made application for the renewal of a license or permit. The notice will state that licensee has failed to make application for renewal; the amount of the renewal and late fees; that licensee may voluntarily terminate the license or permit by notifying the board; and that failure to respond to the notice by the date specified, which date must be at least 33 days after the notice is sent out by the board, either by submitting the renewal application and applicable fees, or by notifying the board that licensee has voluntarily terminated the license or permit will result in the expiration of the license or permit and termination of the right to practice.

B. If the application for renewal, including the applicant's signature certifying compliance with the applicable professional development requirements, and the applicable biennial and late fees or notice of voluntary termination is not received by the board by the date specified in the notice, the license or permit will expire and the licensee's right to practice will terminate as of the date specified in the notice. The expiration and termination will not be considered a disciplinary action against the licensee.

Subp. 4. **Reinstatement.** A license which has expired according to this part may be reinstated according to part 3100.1850.

Subp. 5. **Contested case proceedings.** The board, in lieu of the process in subpart 3, may initiate a contested case hearing to revoke or suspend a license or permit for failure to submit the fees or provide the applicant's signature certifying compliance with the applicable professional development requirements on the renewal application, at the same time that it initiates disciplinary proceedings against the licensee for other grounds specified in Minnesota Statutes, section 150A.08, subdivision 1, and parts 3100.6100 to 3100.7200 and 3100.8100.

**Statutory Authority:** MS s 150A.04; 150A.08; 150A.09; 214.06

**History:** 10 SR 1612; 17 SR 1279; 20 SR 2623; 29 SR 306; 31 SR 1238; 35 SR 459; 36 SR 738; 37 SR 1849

**Published Electronically:** October 16, 2014

**3100.1750 TERMS AND RENEWAL OF LICENSURE; LIMITED FACULTY AND RESIDENT DENTISTS.**

Subpart 1. **Requirements.** The requirements of this part apply to the terms and renewal of licensure as a limited faculty or resident dentist.

Subp. 2. **Terms.** An initial license issued by the board is valid from the date issued until renewed or terminated in accordance with the procedures specified in this part. An annually renewed
license issued by the board is valid from July 1 of the year for which it was issued until renewed no later than the following June 30 or terminated in accordance with the procedures specified in this part.

Subp. 3. Renewal applications.

A. A limited faculty or resident dentist must complete and submit to the board an application form furnished by the board, together with the applicable annual renewal fee, no later than June 30 for the 12-month period for which licensure renewal is requested. Applications for renewal will be considered timely if received by the board no later than June 30 or postmarked on June 30. If the postmark is illegible, the application will be considered timely if received in the board office via United States first class mail on the first workday after June 30.

B. An applicant must submit on the application form the following:

   (1) the applicant's signature;
   (2) the applicant's institutional addresses;
   (3) the applicant's license number; and
   (4) any additional information requested by the board.

Subp. 4. Application fees. Each applicant for initial licensure as a limited faculty or resident dentist shall submit with a license application the fee in Minnesota Statutes, section 150A.091, subdivision 2.

Subp. 5. Annual license fees. Each limited faculty or resident dentist shall submit with an annual license renewal application the fee in Minnesota Statutes, section 150A.091, subdivision 4.

Subp. 6. Annual license late fee. Applications for renewal of any license received after the time specified in this part shall be assessed a late fee equal to 50 percent of the annual renewal fee.

Statutory Authority: MS s 150A.04; 214.06

History: 20 SR 2623; 29 SR 306; 37 SR 1849

Published Electronically: July 8, 2013

3100.1850 REINSTATEMENT OF LICENSE.

Subpart 1. Requirements.

A. A person desiring the reinstatement of a license must:

   (1) submit to the board a completed reinstatement application provided by the board;
   (2) submit with the reinstatement application the fee specified in Minnesota Statutes, section 150A.091, subdivision 10;
(3) include with the reinstatement application a letter stating the reasons for applying for reinstatement; and

(4) comply with the applicable provisions of subparts 2 to 5.

B. Once the requirements of this subpart have been reviewed by the board, the board shall officially notify the applicant by letter as to whether the reinstatement of a license has been denied or granted by the board. If granted reinstatement, the person shall be assigned to the biennial term to which the licensee was assigned prior to termination of the license. An applicant denied reinstatement of a license may appeal the denial by initiating a contested case hearing pursuant to Minnesota Statutes, chapter 14.

Subp. 2. **Expiration or voluntary termination of six months or less.** An applicant whose license has expired according to part 3100.1700, subpart 3, or who voluntarily terminated the license six months or less previous to the application for reinstatement must:

A. provide evidence of having completed the professional development requirements described under part 3100.5200 that would have applied to the applicant had the license not expired. Professional development requirements must have been completed within 24 months prior to the board's receipt of the application; and

B. pay the biennial renewal fee and file a reinstatement application specified in subpart 1.

Subp. 2a. **Expiration or voluntary termination of more than six months but less than 24 months.** An applicant whose license has expired according to part 3100.1700, subpart 3, or who voluntarily terminated the license more than six months but less than 24 months previous to the application for reinstatement must:

A. provide evidence of having completed the professional development requirements in part 3100.5200 that would have applied to the applicant had the license not expired. Professional development requirements must have been completed within 24 months prior to the board's receipt of the application;

B. pay the biennial renewal fee and file a reinstatement application specified in subpart 1;

C. submit evidence of having successfully completed the examination of the laws of Minnesota relating to dentistry and the rules of the board. The examination must have been completed within 12 months prior to the board's receipt of the application;

D. submit evidence of having had a complete physical examination to include a physician's statement attesting to the applicant's physical and mental condition. The physical examination must have been completed within 12 months prior to the board's receipt of the application; and

E. submit evidence of having had a complete optical examination and having complied with required optical prescriptions. The optical examination must have been completed within 12 months prior to the board's receipt of the application.
Subp. 3. **Expiration or voluntary termination of 24 months or more.** An applicant whose license has expired according to part 3100.1700, subpart 3, or who voluntarily terminated the license 24 months or more previous to the application for reinstatement must:

A. comply with subpart 2a;

B. submit either:

   (1) evidence of having successfully completed part II of the national board examination or the clinical examination in part 3100.1100, subpart 2, for dentists; the examinations in Minnesota Statutes, section 150A.106, subdivision 1, clauses (2) and (6), for advanced dental therapists; the clinical examination in Minnesota Statutes, section 150A.06, subdivision 1d, for dental therapists; the national board examination or the clinical examination in part 3100.1200, item C, for dental hygienists; and the two examinations in part 3100.1300, item C, for licensed dental assistants. The examination must have been completed within 24 months prior to the board's receipt of the application; or

   (2) evidence of having successfully completed applicable board-approved coursework with minimal hour requirements directly relating to the practice of dentistry, advanced dental therapy, dental hygiene, or dental assisting as indicated in the reinstatement application. The board-approved coursework must have been completed within 24 months prior to the board's receipt of the application. The coursework completed under this subpart may not be used to fulfill any of the applicable professional development requirements in part 3100.5100; and

C. be available for an interview with the appropriate board committee to determine the applicant's knowledge of dental subjects and ability to practice dentistry, dental therapy, dental hygiene, or dental assisting under this subpart.

Subp. 4. [Repealed, 20 SR 2316]

Subp. 5. **Scope.** Nothing in this part prohibits a dentist or dental hygienist from applying for licensure according to part 3100.1400.

**Statutory Authority:** MS s 150A.04; 150A.06; 150A.08; 150A.09; 150A.10; 150A.11; 214.06; 214.15; 319A.18

**History:** 10 SR 1612; 20 SR 2316; 29 SR 306; 35 SR 459; 36 SR 738; 37 SR 1849; 39 SR 1455

**Published Electronically:** May 7, 2015

3100.1900 [Repealed, 10 SR 1612]

**Published Electronically:** September 30, 2010

3100.2000 Subpart 1. [Repealed, 35 SR 459]

Subp. 1a. [Repealed, 35 SR 459]

Subp. 2. [Repealed, 35 SR 459]

Subp. 3. [Repealed, 35 SR 459]
EXAMINATIONS FOR LICENSURE

3100.3100 CONDUCT OF EXAMINATIONS.

This part and parts 3100.3300 to 3100.3500 govern the conduct of examinations and must be strictly adhered to throughout each entire examination given to those applicants for licensure as a dentist, dental therapist, dental hygienist, or licensed dental assistant, or for certification as an advanced dental therapist. An examinee who violates any of the applicable rules or instructions may be declared by the board to have failed the examination.

A. The board may employ qualified persons to serve as proctors to assist members in the conduct of the examinations.

B. The board shall assign an applicant a number, and the applicant shall be known by that number throughout the entire examination.

C. The ability of an examinee to read and interpret instructions and examination material is a part of the examination.

D. An examinee who gives or receives assistance in any portion of the examination may be dismissed from the examination.

E. An examinee shall not leave the examination room without permission of an examiner or proctor.

F. Notes, textbooks, or other informative data shall not be brought to the examination rooms.

G. An examinee shall not alter questions or write explanations to answers on the examination paper.

H. Copying of examination questions is forbidden.
I. Question sheets must be returned with the answer sheets.

J. An examinee shall occupy the space assigned throughout the entire examination.

K. When finished writing during an assigned period, the examinee shall turn in the complete papers to an examiner or proctor and leave the room.

L. Under no circumstances shall an examination paper be returned to an examinee once it has been submitted as in item K.

M. Only persons directly connected with the examination shall be admitted to the examination rooms.

Statutory Authority: MS s 150A.04; 150A.08; 319A.18
History: 10 SR 1613; 35 SR 459; 36 SR 738
Published Electronically: January 5, 2012

3100.3200 CLINICAL EXAMINATIONS.

Every dentist, advanced dental therapist, dental therapist, and dental hygienist applicant shall give a demonstration of skill in those operations appropriate for the level of licensure or certification prescribed by the board. Licensed dental assistant applicants may also be examined for licensure. All operations shall be performed in the presence of a board member qualified for the particular examination being given or consultant appointed by the board for that purpose.

Statutory Authority: MS s 150A.04; 150A.06; 150A.08; 319A.18
History: 10 SR 1613; 17 SR 1279; 35 SR 459; 36 SR 738
Published Electronically: January 5, 2012

3100.3300 EXAMINATION OF DENTISTS.

Subpart 1. Scope. The act provides that the examination of applicants for a license to practice dentistry in this state shall be sufficiently thorough to test the fitness of the applicant to practice dentistry.

Subp. 2. National board examination. An applicant must pass a national board examination. At the discretion of the board, a dentist who has lawfully practiced dentistry in another state for five years may be exempted from taking a national board examination.

Subp. 3. Additional written examination content. An applicant shall be examined for general knowledge of the act, the rules of the board, and the Minnesota Professional Firms Act. Additional written theoretical examinations may be administered by the board for licensure.

Subp. 4. Diagnosis and treatment examination. A dentist applicant may be examined in oral diagnosis and treatment planning. The examination shall be formulated to test the applicant's ability to recognize and institute treatment of common oral pathologic conditions as well as to test knowledge, understanding, and judgment relative to all types of dental health service.
Subp. 4a. **Additional education for two failed clinical examinations.** When an applicant fails twice any part of the clinical examination required by Minnesota Statutes, section 150A.06, subdivision 1d, for dental therapists, or Minnesota Statutes, section 150A.106, subdivision 1, for advanced dental therapists, the applicant may not retake the examination until the applicant successfully completes additional education provided by an institution approved by the board. The education must cover all of the subject areas failed by the applicant in the clinical examination. The applicant may retake the examination only after the institution provides information to the board specifying the areas failed in the previous examinations and the instruction provided to address the areas failed, and certifies that the applicant has successfully completed the instruction. The applicant must take the additional instruction required in this subpart each time the applicant fails the clinical examination twice.

Subp. 5. **Examination for continued licensure.** The board may administer any other examination it deems necessary to determine qualification for continued licensure.

Statutory Authority: MS s 150A.04; 150A.06; 150A.08; 150A.09; 150A.10; 150A.11; 214.06

History: 10 SR 1612; 14 SR 1214; 17 SR 1279; 35 SR 459; 39 SR 1455

Published Electronically: May 7, 2015

3100.3350 **EXAMINATION OF DENTAL THERAPISTS AND ADVANCED DENTAL THERAPISTS.**

Subpart 1. **Scope.** This part provides that the examination of applicants for a license to practice dental therapy and become certified to practice advanced dental therapy in this state shall be sufficiently thorough to test the fitness of the applicant to practice dental therapy or advanced dental therapy.

Subp. 2. **Clinical examination.** An applicant must pass a board-approved clinical examination designed to determine the applicant's clinical competency.

Subp. 3. **Additional examination content.** All applicants shall be examined for general knowledge of the act and the rules of the board. Additional written theoretical examinations may be administered by the board.

Subp. 4. **Additional education for two failed clinical examinations.** If an applicant fails twice any part of the clinical examination required by Minnesota Statutes, section 150A.06, subdivision 1d, for dental therapists, or Minnesota Statutes, section 150A.106, subdivision 1, for advanced dental therapists, the applicant may not retake the examination until the applicant successfully completes additional education provided by an institution approved by the board. The education must cover all of the subject areas failed by the applicant in the clinical examination. The applicant may retake the examination only after the institution provides information to the board specifying the areas failed in the previous examinations and the instruction provided to address the areas failed, and certifies that the applicant has successfully completed the instruction. The applicant must take the additional instruction provided above each time the applicant fails the clinical examination twice.
Subp. 5. **Examination for continued licensure.** The board may administer any other examination it deems necessary to determine qualifications for continued licensure.

**Statutory Authority:** MS s 150A.04

**History:** 36 SR 738

**Published Electronically:** January 5, 2012

### 3100.3400 EXAMINATION OF DENTAL HYGIENISTS.

Subpart 1. **Scope.** The act provides that the examination of applicants for a license to practice dental hygiene in this state shall be sufficiently thorough to test the fitness of the applicant to practice dental hygiene.

Subp. 2. **National board examination.** Each applicant must pass a national board examination. At the discretion of the board, any dental hygienist duly licensed to practice as such in another state which has and maintains laws regulating the practice of dental hygiene by dental hygienists, equivalent to this state's, who is of good professional character and is desirous of licensure in this state and presents a certificate from the examining board of the state in which the applicant is licensed so certifying, may be exempted from taking a national board examination provided the applicant has been licensed for five or more years.

Subp. 3. **Additional examination content.** All applicants shall be examined for general knowledge of the act and the rules of the board. Additional written theoretical examinations may be administered by the board.

Subp. 3a. **Additional education for two failed clinical examinations.** When an applicant fails twice any part of the clinical examination required by Minnesota Statutes, section 150A.06, subdivision 2, the applicant may not take it again until the applicant successfully completes additional education provided by an institution accredited by the Commission on Dental Accreditation. The education must cover all of the subject areas failed by the applicant in each of the two clinical examinations. The applicant may retake the examination only after the institution provides to the board information specifying the areas failed in the previous examinations and the instruction provided to address the areas failed, and certifies that the applicant has successfully completed the instruction. The applicant must take the additional instruction provided above each time the applicant fails the clinical examination twice.

Subp. 4. **Examination for continued licensure.** The board may administer any other examination it deems necessary to determine qualifications for continued licensure.

**Statutory Authority:** MS s 150A.04; 150A.06; 150A.08; 150A.09; 150A.10; 150A.11; 214.06

**History:** 10 SR 1612; 14 SR 1214; 39 SR 1455

**Published Electronically:** May 7, 2015
3100.3500 EXAMINATION OF LICENSED DENTAL ASSISTANTS.

Subpart 1. Scope. The act provides that the examination of an applicant for licensure as a dental assistant in this state shall be sufficiently thorough to test the fitness of the candidate to practice the skills that a licensed dental assistant is authorized to perform.

Subp. 2. State and national examinations. An applicant must pass both the board's state licensing examination and the board-approved nationally recognized examination.

Subp. 2a. Additional education for two failed clinical examinations. When an applicant fails twice any part of the clinical examination required by Minnesota Statutes, section 150A.06, subdivision 2a, the applicant may not take it again until the applicant successfully completes additional education provided by an institution accredited by the Commission on Dental Accreditation or an independent instructor approved by the board. The education must cover all of the subject areas failed by the applicant in each of the two clinical examinations. The applicant may retake the examination only after the institution or independent instructor provides to the board information specifying the areas failed in the previous examinations and the instruction provided to address the areas failed, and certifies that the applicant has successfully completed the instruction. The applicant must take the additional instruction required in this subpart each time the applicant fails the clinical examination twice.

Subp. 3. Additional examination content. A candidate shall be examined for general knowledge of the act and the rules of the board.

Subp. 4. Examination for continued licensure. The board may administer any other examination it deems necessary to determine qualifications for continued licensure.

Statutory Authority: MS s 150A.04; 150A.06; 150A.08; 150A.10; 150A.11; 214.06

History: 14 SR 1214; 35 SR 459; 39 SR 1455

Published Electronically: May 7, 2015

ADMINISTRATION OF ANESTHESIA AND SEDATION

3100.3600 ADMINISTRATION OF GENERAL ANESTHESIA, DEEP SEDATION, MODERATE SEDATION, MINIMAL SEDATION, AND NITROUS OXIDE INHALATION ANALGESIA.

Subpart 1. Prohibitions. A dental therapist, dental hygienist, or licensed dental assistant may not administer general anesthesia, deep sedation, moderate sedation, or minimal sedation.

Subp. 2. General anesthesia or deep sedation; educational training requirements. A dentist may administer general anesthesia or deep sedation only pursuant to items A to C.

A. A dentist must complete either subitem (1) or (2) and subitems (3) and (4):

(1) a didactic and clinical program at a dental school, hospital, or graduate medical or dental program accredited by the Commission on Dental Accreditation, resulting in the dentist...
becoming clinically competent in the administration of general anesthesia. The program must be
equivalent to a program for advanced specialty education in oral and maxillofacial surgery; or

(2) a one-year residency in general anesthesia at an institution certified by the American
Society of Anesthesiology, the American Medical Association, or the Joint Commission on Hospital
Accreditation, resulting in the dentist becoming clinically competent in the administration of general
anesthesia. The residency must include a minimum of 390 hours of didactic study, 1,040 hours of
clinical anesthesiology, and 260 cases of administration of general anesthesia to an ambulatory
outpatient; and

(3) the ACLS or PALS course and maintain current advanced certification thereafter;

and

(4) a CPR certification course and maintain current CPR certification thereafter.

B. A dentist shall be prepared and competent to diagnose, resolve, and reasonably prevent
any untoward reaction or medical emergency that may develop any time after the administration
of general anesthesia or deep sedation. A dentist shall apply the current standard of care to
continuously monitor and evaluate a patient's blood pressure, pulse, respiratory function, and cardiac
activity. The current standard of care to assess respiratory function requires the monitoring of tissue
oxygenation or the use of a superior method of monitoring respiratory function.

C. A dentist shall administer general anesthesia or deep sedation only by application of the
appropriate systems and drugs for the delivery of general anesthesia or deep sedation. Prior to
discharge, the dentist or the person administering the general anesthesia or deep sedation shall
assess the patient to ensure the patient is no longer at risk for cardiorespiratory depression. The
patient must be discharged into the care of a responsible adult.

Subp. 3. Moderate sedation; educational training requirements. A dentist may administer
moderate sedation only pursuant to items A to C.

A. A dentist must complete subitems (1) to (3):

(1) a course of education resulting in the dentist becoming clinically competent for
administration of moderate sedation, to include a minimum of 60 hours of didactic education in
both enteral and parenteral administration, personally administering and managing at least ten
individual supervised cases of parenteral moderate sedation of which a maximum of five cases may
be performed on a patient-simulated manikin, and submit to the board original documentation from
the instructor of successful completion of the course;

(2) the ACLS or PALS course and maintain current advanced certification thereafter;

and

(3) a CPR certification course and maintain current CPR certification thereafter.

B. A dentist shall be prepared and competent to diagnose, resolve, and reasonably prevent
any untoward reaction or medical emergencies that may develop any time after rendering a patient
in the state of moderate sedation. The dentist shall apply the current standard of care to continuously
monitor and evaluate a patient's blood pressure, pulse, respiratory function, and cardiac activity. The current standard of care to assess respiratory function shall require the monitoring of tissue oxygenation or the use of a superior method of monitoring respiratory function.

C. A dentist shall administer moderate sedation by application of the appropriate systems and drugs for the delivery of moderate sedation. Prior to discharge, the dentist or the person administering the moderate sedation shall assess the patient to ensure the patient is no longer at risk for cardiorespiratory depression. The patient must be discharged into the care of a responsible adult.

Subp. 4. Nitrous oxide inhalation analgesia; educational training requirements. A dentist may administer nitrous oxide inhalation analgesia only according to items A to D and subpart 5, items A and C. A dental therapist may administer nitrous oxide inhalation analgesia only according to items C to F. A dental hygienist may administer nitrous oxide inhalation analgesia only according to items C to F and subpart 5, item D. A licensed dental assistant may administer nitrous oxide inhalation analgesia only after a maximum dosage has been prescribed by a dentist for a specific patient, and it is administered according to items C to F and subpart 5, item D.

A. A licensed dentist who was administering nitrous oxide inhalation analgesia on or before January 1, 1993, may register that fact with the board according to subpart 5, item A. Such registered dentists may continue to administer nitrous oxide inhalation analgesia and need not comply with item B.

B. A dentist who has not previously registered with the board pursuant to subpart 5, item A, may administer nitrous oxide inhalation analgesia only after satisfactorily completing a course on the administration of nitrous oxide inhalation analgesia from an institution accredited by the Commission on Dental Accreditation, and submitting to the board original documentation from the institution of successful completion of the course. The course must be a minimum of 12 hours total comprised of didactic instruction, personally administering and managing at least three individual supervised cases of analgesia, and supervised clinical experience using fail-safe anesthesia equipment capable of positive pressure respiration.

C. A dentist, dental therapist, dental hygienist, or licensed dental assistant must complete CPR training and maintain current CPR certification thereafter.

D. A dentist, dental therapist, dental hygienist, or licensed dental assistant must only use fail-safe anesthesia equipment capable of positive pressure respiration.

E. A dental therapist, dental hygienist, or licensed dental assistant may administer nitrous oxide inhalation analgesia only after satisfactorily completing a course on the administration of nitrous oxide inhalation analgesia from an institution accredited by the Commission on Dental Accreditation, and submitting to the board original documentation from the institution of successful completion of the course. The course must be a minimum of 12 hours total comprised of didactic instruction, personally administering and managing at least three individual supervised cases of analgesia, and supervised clinical experience using fail-safe anesthesia equipment capable of positive pressure respiration.
F. A dental therapist, dental hygienist, or licensed dental assistant may administer nitrous oxide inhalation analgesia under the appropriate level of supervision by a dentist who is current with the requirements to administer nitrous oxide inhalation analgesia according to items A to D and subpart 5, items A to C.

Subp. 5. Notice to board.

A. A dentist who is administering general anesthesia, deep sedation, or moderate sedation or who is administering nitrous oxide inhalation analgesia shall inform the board of that fact on forms provided by the board.

B. A dentist may administer general anesthesia, deep sedation, or moderate sedation only if the dentist has submitted the following information to the board on forms provided by the board: the name, address, and telephone number of the institution at which the dentist took the program or residency that complies with subparts 2, item A, subitem (1) or (2); and 3, item A, subitem (1), a certified copy of the dentist's transcript and other official record from the institution verifying that the dentist satisfactorily completed the program, residency, or course; and the name, address, and telephone number of the institution or other agency at which the dentist successfully completed the ACLS or PALS required by subparts 2, item A, subitem (3); and 3, item A, subitem (2). After this initial submission, dentists shall submit on a license renewal application or other form provided by the board a statement of the most recent course completed in ACLS or PALS.

C. A dentist not previously registered with the board according to item A or who graduated from an institution in Minnesota accredited by the Commission on Dental Accreditation prior to April 15, 2008, may administer nitrous oxide inhalation analgesia only after the dentist has submitted the information in subitems (1) and (2) to the board on forms provided by the board:

   (1) the name, address, and telephone number of the institution at which the dentist took the course that complies with subpart 4, item B, or the dentist's written attestation that the dentist has successfully completed the education to administer nitrous oxide inhalation analgesia through an institution accredited by the Commission on Dental Accreditation; and

   (2) documentation of current CPR certification as required by subpart 4, item C.

After the initial submission, a dentist must attest to maintaining consecutive and current CPR certification at the time of each license renewal.

D. A dental hygienist or licensed dental assistant who graduated from an institution in Minnesota accredited by the Commission on Dental Accreditation or received licensure by credentials prior to September 2, 2004, may administer nitrous oxide inhalation analgesia only after the dental hygienist or licensed dental assistant has submitted the information in subitems (1) and (2) to the board on forms provided by the board:

   (1) the name, address, and telephone number of the institution at which the dental hygienist or licensed dental assistant successfully completed the course required by subpart 4, item E; and

   (2) documentation of current CPR certification as required by subpart 4, item C.
After the initial submission, a dental hygienist or licensed dental assistant must attest to maintaining consecutive and current CPR certification at the time of each license renewal.

E. A dental therapist who graduated from a board-approved dental therapy program in Minnesota prior to August 1, 2013, may administer nitrous oxide inhalation analgesia only after the dental therapist has submitted the information in subitems (1) and (2) to the board on forms provided by the board:

(1) the name, address, and telephone number of the institution where the dental therapist successfully completed the course required by subpart 4, item E; and

(2) documentation of current CPR certification as required by subpart 4, item C.

After the initial submission, a dental therapist must attest to maintaining consecutive and current CPR certification at the time of each license renewal.

Subp. 6. Analgesia. A dentist who has a current license to practice dentistry in Minnesota may administer analgesia.

Subp. 7. Minimal sedation. A dentist who has a current license to practice dentistry in Minnesota may administer minimal sedation.

Subp. 8. Reporting of incidents required. A dentist, dental therapist, dental hygienist, or licensed dental assistant must report to the board any incident that arises from the administration of nitrous oxide inhalation analgesia, general anesthesia, deep sedation, moderate sedation, local anesthesia, analgesia, or minimal sedation that results in:

A. a serious or unusual outcome that produces a temporary or permanent physiological injury, harm, or other detrimental effect to one or more of a patient's body systems; or

B. minimal sedation unintentionally becoming moderate sedation, deep sedation, or general anesthesia when the licensee does not have a certificate for administering general anesthesia or moderate sedation described in subparts 9 and 9b.

The report must be submitted to the board on forms provided by the board within ten business days of the incident by the dentist, dental therapist, dental hygienist, or licensed dental assistant, even when another licensed health care professional who, under contract or employment with the dentist, was the actual person administering the analgesia or pharmacological or nonpharmacological method. A licensee who fails to comply with reporting of incidents is subject to disciplinary proceedings on grounds specified in parts 3100.6100 and 3100.6200 and Minnesota Statutes, section 150A.08, subdivision 1.

Subp. 9. General anesthesia or moderate sedation certificate.

A. The board may contract with advisory consultants as necessary for advice and recommendations to the board on requirements for general anesthesia or moderate sedation certification and approval of an applicant and facility.
B. A dentist shall not administer general anesthesia, deep sedation, or moderate sedation in the practice of dentistry unless the dentist possesses a general anesthesia or moderate sedation certificate issued by the board according to this subpart. For certification, the dentist shall meet all applicable requirements of this part, including the educational training requirements in subparts 2 and 3, the practice and equipment requirements in subpart 10, and the on-site inspection requirements in subpart 11. Failure by a dentist to obtain a general anesthesia or moderate sedation certificate subjects the dentist to disciplinary proceedings on the grounds specified in parts 3100.6100 and 3100.6200 and Minnesota Statutes, section 150A.08, subdivision 1. Certificates shall be issued by the board in the following titles:

(1) general anesthesia, which authorizes a dentist to administer general anesthesia, deep sedation, or moderate sedation, or to provide dental services to patients under general anesthesia, deep sedation, or moderate sedation when a dentist employs or contracts another licensed health care professional with the qualified training and legal qualification to administer general anesthesia, deep sedation, or moderate sedation; and

(2) moderate sedation, which authorizes a dentist to administer moderate sedation, or to provide dental services to patients under moderate sedation when a dentist employs or contracts another licensed health care professional with the qualified training and legal qualification to administer moderate sedation.

C. All certificates described in item B are issued and governed by subitems (1) to (9).

(1) A board-approved application form to obtain an initial general anesthesia or moderate sedation certificate must be filled out completely and submitted to the board along with the applicable nonrefundable fee described in Minnesota Statutes, section 150A.091, subdivision 11. An application form must include, but not be limited to, information on office facilities, support staff training, emergency protocols, monitoring equipment, and record-keeping procedures.

(2) A dentist is not required to possess an additional certificate for deep or moderate sedation if the dentist possesses a valid certificate for general anesthesia.

(3) A dentist holding a current general anesthesia or moderate sedation certificate on March 19, 2007, is considered by the board to be in compliance with this subpart until the expiration and required renewal of the certificate described in subitem (5).

(4) Upon receipt of an application for an initial general anesthesia or moderate sedation certificate, the board shall require that the dentist undergo an on-site inspection described in subpart 11 or further review of the dentist's anesthesia/sedation credentials. The board may direct an anesthesia consultant or qualified anesthetic practitioner who has been approved by the board and provided with board-established guidelines to assist in the inspection or review.

(5) For renewal of a general anesthesia or moderate sedation certificate, a board-approved application form must be obtained from the board and completed by the dentist whenever the dentist is subject to license renewal described in part 3100.1700, subpart 2. An application form must include, but not be limited to, information on office facilities, support staff training, emergency protocols, monitoring equipment, and record-keeping procedures. A dentist's general anesthesia or
A certificate issued by the board must be conspicuously displayed in plain sight of patients in every office in which the dentist administers general anesthesia, deep sedation, or moderate sedation.

Subp. 9a.  **Expiration or termination of general anesthesia or moderate sedation certificate; requirements.**  A dentist requesting renewal or recertification of a general anesthesia or moderate sedation certificate following expiration or termination must comply with the requirements for the applicable interval specified in item A or B. After successful completion of all requirements, the board shall issue a general anesthesia or moderate sedation certificate to the dentist.

A. A dentist whose anesthesia/sedation certificate has expired as described in subpart 9, item C, subitem (5), or who voluntarily terminated the anesthesia/sedation certificate, within 60 calendar days after the renewal application deadline, must comply with subitems (1) to (6):

1. submit to the board a completed board-approved renewal application form for a general anesthesia or moderate sedation certificate;
2. submit with the renewal application the applicable nonrefundable renewal fee described in Minnesota Statutes, section 150A.091, subdivision 11;
3. submit payment of the nonrefundable late fee to the board described in Minnesota Statutes, section 150A.091, subdivision 11a;
4. provide official documentation as proof of current certification in ACLS or PALS;
provide required documentation of current CPR certification; and

not administer general anesthesia, deep sedation, or moderate sedation until the board issues a general anesthesia or moderate sedation certificate to the dentist.

B. A dentist whose anesthesia/sedation certificate has been terminated by the board according to subpart 9, item C, subitem (5), or who voluntarily terminated the anesthesia/sedation certificate, more than 60 calendar days after the renewal application deadline, must comply with subitems (1) to (6):

1. submit to the board a completed board-approved recertification application form for a general anesthesia or moderate sedation certificate;

2. submit with the recertification application the applicable nonrefundable recertification fee described in Minnesota Statutes, section 150A.091, subdivision 11b;

3. provide official documentation from the institution verifying successful completion of the educational requirements for either general anesthesia described in subpart 2 or moderate sedation described in subpart 3;

4. provide official documentation of current certification in ACLS or PALS;

5. provide required documentation of current CPR certification; and

6. not administer general anesthesia, deep sedation, or moderate sedation until the board issues a general anesthesia or moderate sedation certificate to the dentist.

C. Upon receipt of a recertification application for general anesthesia or moderate sedation, the board may require that the dentist undergo an on-site inspection described in subpart 11 or further review of the dentist's anesthesia/sedation credentials.

Subp. 9b. Certificate to provide dentistry with contracted sedation provider.

A. A dentist shall not provide dental services to a patient who is under general anesthesia, deep sedation, or moderate sedation, at any location other than a hospital, unless the dentist possesses the applicable contracted sedation provider certificate for general anesthesia or moderate sedation issued by the board according to this subpart. For certification, the dentist shall meet all applicable requirements of this subpart, including the practice and equipment requirements in subpart 10 and the on-site inspection requirements in subpart 11. Failure by a dentist to obtain the applicable certificate subjects the dentist to disciplinary proceedings on grounds specified in parts 3100.6100 and 3100.6200, and Minnesota Statutes, section 150A.08, subdivision 1. Certificates shall be issued by the board in the following titles:

1. dentistry with contracted sedation provider-general anesthesia, which authorizes a dentist to provide dental services to patients under general anesthesia, deep sedation, or moderate sedation when a dentist employs or contracts another licensed health care professional with the qualified training and legal authority to administer general anesthesia, deep sedation, or moderate sedation; and
dentistry with contracted sedation provider-moderate sedation, which authorizes a dentist to provide dental services to patients under moderate sedation when a dentist employs or contracts another licensed health care professional with the qualified training and legal qualification to administer moderate sedation.

B. Certificates in item A are issued and governed by subitems (1) to (7).

(1) To obtain an initial contracted sedation provider certificate, a board-approved application form must be filled out completely and submitted to the board along with the applicable nonrefundable fee in Minnesota Statutes, section 150A.091, subdivision 11. A completed application form will provide information on the employed or contracted licensed health care professional, office facilities, emergency protocols, monitoring equipment, record-keeping procedures, and other information reasonably needed by the board to assess the certificate application.

(2) For renewal of a contracted sedation provider certificate, a board-approved application form must be completed and submitted to the board along with the applicable nonrefundable fee in Minnesota Statutes, section 150A.091, subdivision 11, whenever the dentist is subject to license renewal in part 3100.1700, subpart 2. A completed application form will provide information on the employed or contracted licensed health care professional, office facilities, emergency protocols, monitoring equipment, record-keeping procedures, and other information reasonably needed by the board to assess the certificate application. A dentist's contracted sedation provider certificate expires if the completed application and nonrefundable fee are not received by the board by the application deadline. Immediately upon expiration of a certificate, the dentist is prohibited from providing dental services to patients under general anesthesia, deep sedation, or moderate sedation until the board issues a current contracted sedation provider certificate to the dentist as described in item C. Absent a timely renewal, after 60 days from the renewal application deadline, the board will terminate the dentist's contracted sedation provider certificate and send a notice of termination to the dentist.

(3) The dentist must comply with the practice and equipment requirements in subpart 10.

(4) The dentist must comply with having an on-site inspection described in subpart 11.

(5) If a dentist possesses a moderate sedation certificate described in subpart 9 and desires to provide dental services to a patient under general anesthesia or deep sedation, at any location other than a hospital, the dentist must obtain a contracted sedation provider certificate for general anesthesia.

(6) A request for issuance of a duplicate contracted sedation provider certificate must be accompanied by the applicable nonrefundable fee specified in Minnesota Statutes, section 150A.091, subdivision 12.

(7) A certificate issued by the board must be conspicuously displayed in plain sight of patients in every office in which the dentist provides dental services to patients under general anesthesia, deep sedation, or moderate sedation.
C. A dentist desiring renewal of a contracted sedation provider certificate following expiration or termination by the board under item B, subitem (2), or who voluntarily terminated the certificate must comply with subitems (1) to (5). The dentist must:

1. submit to the board a completed board-approved renewal application form for an appropriate contracted sedation provider certificate;

2. submit with the renewal application the applicable nonrefundable renewal fee described in Minnesota Statutes, section 150A.091, subdivision 11;

3. submit payment to the board of the nonrefundable late fee specified in Minnesota Statutes, section 150A.091, subdivision 11a;

4. provide required documentation of current CPR certification; and

5. not provide dental services to patients under general anesthesia, deep sedation, or moderate sedation until the board issues an appropriate contracted sedation provider certificate to the dentist.

After successful completion of all requirements, the board shall issue an appropriate contracted sedation provider certificate to the dentist.

Subp. 10. Practice and equipment requirements.

A. Dentists who administer general anesthesia, deep sedation, or moderate sedation or who provide dental services to patients under general anesthesia, deep sedation, or moderate sedation must ensure that the practice requirements in subitems (1) to (3) are followed.

1. A dentist who employs or contracts another licensed health care professional, such as a dentist, nurse anesthetist, or physician anesthesiologist, with the qualified training and legal qualification to administer general anesthesia, deep sedation, or moderate sedation must notify the board that these services are being provided in the office facility. The dentist is also responsible for maintaining the appropriate facilities, equipment, emergency supplies, and a record of all general anesthesia, deep sedation, or moderate sedation procedures performed in the facility.

2. An individual qualified to administer general anesthesia, deep sedation, or moderate sedation, who is in charge of the administration of the anesthesia or sedation, must remain in the operatory room to continuously monitor the patient once general anesthesia, deep sedation, or moderate sedation is achieved and until all dental services are completed on the patient. Thereafter, an individual qualified to administer anesthesia or sedation must ensure that the patient is appropriately monitored and discharged as described in subparts 2, items B and C, and 3, items B and C.

3. A dentist administering general anesthesia, deep sedation, or moderate sedation to a patient must have in attendance personnel who are currently certified in CPR.

B. Dentists who administer general anesthesia, deep sedation, or moderate sedation or who provide dental services to patients under general anesthesia, deep sedation, or moderate sedation must ensure that the offices in which it is conducted have the following equipment:
an automated external defibrillator or full function defibrillator that is immediately accessible;

(2) a positive pressure oxygen delivery system and a backup system;

(3) a functional suctioning device and a backup suction device;

(4) auxiliary lighting;

(5) a gas storage facility;

(6) a recovery area;

(7) a method to monitor respiratory function; and

(8) a board-approved emergency cart or kit that must be available and readily accessible and includes the necessary and appropriate drugs and equipment to resuscitate a nonbreathing and unconscious patient and provide continuous support while the patient is transported to a medical facility. There must be documentation that all emergency equipment and drugs are checked and maintained on a prudent and regularly scheduled basis.

Subp. 11. On-site inspection; requirements and procedures. All offices in which general anesthesia, deep sedation, or moderate sedation is conducted under the terms of this part must be in compliance with items A to C. Besides these requirements, each office must be in compliance with the practice and equipment requirements in subpart 10. The dentist is responsible for all costs associated with an on-site inspection.

A. Requirements for on-site inspections are described in subitems (1) to (3).

(1) A dentist who applies for an initial general anesthesia or moderate sedation certificate or who provides dental services to patients under general anesthesia, deep sedation, or moderate sedation must have an on-site inspection conducted at one primary office facility within 12 months following receipt of a certificate from the board. Thereafter, a dentist must have an on-site inspection conducted at one primary office facility at least once every five years.

(2) A dentist who holds an existing certificate must have an on-site inspection conducted at one primary office facility or provide proof to the board of having an inspection conducted within two years of March 19, 2010. Thereafter, each dentist must have an on-site inspection conducted at one primary office facility at least once every five years.

(3) A dentist must have an on-site inspection conducted at one primary office facility if the board receives a complaint alleging violation of this part and the board finds the complaint warrants further investigation.

B. If a dentist fails to meet the on-site inspection requirements because of extenuating circumstances, the dentist may apply for an extension of time to complete the requirements by making a written request to the board. The written request must include a complete explanation of the circumstances and the dentist's plan for completing the on-site inspection requirement. If an
extension is granted after review, the board shall establish the length of the extension to obtain the on-site inspection requirements.

C. On-site inspection procedures are described in subitems (1) to (3).

(1) The dentist must be notified in writing by the board if an on-site inspection is required and provided with the name of an anesthesia consultant or qualified anesthetic practitioner who is qualified to coordinate the inspection. The dentist may have an on-site inspection performed by another individual or organization or agency that has been approved by the board. The dentist must make arrangements for the scheduling or completion of the inspection within 30 calendar days of the date the notice is mailed.

(2) Within 30 calendar days following an on-site inspection, the dentist must direct the individual or organization or agency conducting the inspection to provide the board with the written results of the inspection.

(3) A dentist who fails an on-site inspection shall have the general anesthesia or moderate sedation certificate suspended or be subject to disciplinary proceedings.

Statutory Authority: MS s 150A.04; 150A.06; 150A.08; 150A.10

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PROFESSIONAL DEVELOPMENT

3100.5100  PROFESSIONAL DEVELOPMENT.

Subpart 1.  Professional development cycles.

A.  The initial professional development cycle must coincide with the initial licensure period for each dentist, dental therapist, dental hygienist, or licensed dental assistant. The initial cycle for each licensee begins on the date of initial licensure and ends on the last day of the licensee's birth month in either an even-numbered or odd-numbered year that corresponds with the licensee's year of birth. The initial cycle varies in the number of months depending on the date of initial licensure for each licensee.

B.  A biennial professional development cycle coincides with the biennial licensure periods for each dentist, dental therapist, dental hygienist, or licensed dental assistant. Each biennial renewal cycle consists of a 24-month period beginning on the first day of the month following expiration of the previous professional development cycle. An established biennial cycle continues to apply even if the license is revoked, suspended, conditioned, or not renewed for any reason for any length of time.

Subp. 2.  Professional development requirements.

A.  For the initial professional development requirements, each dentist, dental therapist, dental hygienist, and licensed dental assistant shall establish a portfolio to record, monitor, and retain acceptable documentation of fundamental and elective professional development activities, CPR certification, and self-assessments.

B.  The minimum number of required hours of fundamental and elective professional development for each biennial cycle is 50 hours for dentists and dental therapists, and 25 hours for dental hygienists and licensed dental assistants. Each dentist, dental therapist, dental hygienist, and licensed dental assistant shall establish a portfolio to record, monitor, and retain acceptable documentation of fundamental and elective professional development activities, CPR certification, and self-assessments. Any professional development hours earned in excess of the required hours for a biennial cycle must not be carried forward to the subsequent biennial cycle. The requirements for the fundamental and elective professional development activities are described in subitems (1) and (2).

(1)  Each dentist, dental therapist, dental hygienist, and licensed dental assistant must complete a minimum of 60 percent of the required biennial hours in fundamental activities directly related to the provision of clinical dental services as follows: a minimum of 30 hours for dentists and dental therapists, and a minimum of 15 hours for dental hygienists and licensed dental assistants. A licensee may earn all required biennial hours in fundamental activities only.

(2)  Dentists, dental therapists, dental hygienists, and licensed dental assistants are allowed a maximum of 40 percent of the required biennial hours in elective activities directly related to, or supportive of, the practice of dentistry, dental therapy, dental hygiene, or dental assisting as
follows: a maximum of 20 hours for dentists and dental therapists, and a maximum of ten hours for dental hygienists and licensed dental assistants.

C. Professional development is credited on an hour-for-hour basis.

D. If a licensee fails to meet the professional development requirements because of extenuating circumstances, the licensee may apply for an extension of time to complete the requirements by making a written request to the board. The written request shall include a complete explanation of the circumstances, the renewal period, the number of hours earned, and the licensee's plan for completing the balance of the requirement. If an extension is granted after review, the board shall establish the length of the extension to obtain the professional development requirements which must be completed concurrently with the subsequent renewal period.

Subp. 3. Professional development activities. Professional development activities include, but are not limited to, continuing education, community services, publications, and career accomplishments throughout a professional's life. Professional development activities are categorized as fundamental or elective activities as described in items A and B.

A. Fundamental activities include, but are not limited to, clinical subjects, core subjects, CPR training, and the self-assessment examination. Examples of fundamental activities for an initial or biennial cycle are described in subitems (1) to (6).

(1) Clinical subjects are those seminars, symposiums, lectures, college courses pertaining to basic sciences, or programs whose contents directly relate to the provision of dental care and treatment to patients.

(2) Core subjects are those seminars, symposiums, lectures, or programs that relate to public safety and professionalism. Each licensee shall complete a minimum of two of the categories of core subjects for each biennial cycle. Examples of core subject categories include, but are not limited to:

(a) record keeping;
(b) ethics;
(c) patient communications;
(d) management of medical emergencies; and
(e) treatment and diagnosis.

(3) A CPR certification course is mandatory for each licensee to maintain licensure. The CPR course must be the American Heart Association healthcare provider course or the American Red Cross professional rescuer course. The licensee must maintain a consecutive and current CPR certificate when renewing a license or permit each biennial term.

(4) An infection control course is mandatory for each licensee to maintain licensure. The course will primarily address patient safety and health issues as referenced in part 3100.6300 and chapter 6950.
A licensee must complete one self-assessment examination obtainable through the board for each cycle.

The board shall approve other additional fundamental activities if the board finds the activity to be a seminar, symposium, lecture, or program whose contents are directly related to dental care and treatment to patients or public safety and professionalism.

B. Elective activities for an initial or biennial cycle include, but are not limited to, the examples described in subitems (1) to (7):

1. general attendance at a multiday state or national dental convention for a maximum of three credit hours;

2. volunteerism or community service directly relating to the practice of dentistry, dental therapy, dental hygiene, or dental assisting such as international or national mission work, voluntary clinic work, or dental health presentations to students or groups;

3. professional reading of published articles or other forms of self-study directly relating to the practice of dentistry, dental therapy, dental hygiene, or dental assisting;

4. scholarly activities include, but are not limited to:
   a. teaching a professional course directly related to the practice of dentistry, dental therapy, dental hygiene, or dental assisting; or presenting a continuing dental education program;
   b. presenting a table clinic directly related to the practice of dentistry, dental therapy, dental hygiene, or dental assisting;
   c. authoring a published dental article or text in a recognized publication;
   d. participating in test construction for an accredited state or nationally recognized dental association or organization; and
   e. participating in a scientific dental research program from an accredited institution or program or an evidence-based clinical study;

5. dental practice management courses include, but are not limited to, computer, insurance claims or billing, and Health Insurance Portability and Accountability Act (HIPAA) training;

6. leadership or committee involvement with the board or a dental professional association for a maximum of three credit hours; or

7. the board shall approve other additional elective activities if the board finds the contents of the activity to be directly related to, or supportive of, the practice of dentistry, dental therapy, dental hygiene, or dental assisting.

Subp. 4. Acceptable documentation of professional development activities. A licensee must record or obtain acceptable documentation of hours in professional development activities for the licensee's portfolio. Acceptable documentation includes, but is not limited to, the following:
A. a completed self-assessment examination;

B. a copy of the front and back of a completed CPR card from the American Heart Association or the American Red Cross;

C. confirming documentation from the presenting organization that provides the attendee's name, license number, name of organization or presenter, course date, number of credit hours, subject matter, or program title; and

D. a personal log of published articles read by the licensee including title of the article, name of author, name of journal or periodical, and date of published article.

Subp. 5. Retention of documentation. A licensee must keep acceptable documentation for each fundamental and elective activity as required to meet professional development requirements. The licensee must retain the documentation for 24 months after each biennial renewal period has ended for purposes of an audit by the appropriate board committee.

Statutory Authority: MS s 150A.04

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3100.5200 PORTFOLIO CONTENTS.

A licensee must establish a professional portfolio. The professional portfolio must be used to record, monitor, and retain acceptable documentation of professional development activities. Upon completion of an initial or biennial professional development cycle, a licensee must have the required number of hours, if applicable, and proof of acceptable documentation described under part 3100.5100, subpart 4, contained within the portfolio.

Statutory Authority: MS s 150A.04

Published Electronically: September 30, 2010

3100.5300 AUDIT PROCESS OF PORTFOLIO.

Subpart 1. Auditing for compliance. The board shall perform random audits of the portfolios. Besides random audits, the board may conduct a designated portfolio audit for a licensee who is the subject of any complaint, investigation, or proceeding under Minnesota Statutes, sections 150A.08 and 214.10. The licensee shall receive notification of being audited. A licensee who is selected for an audit shall provide a portfolio to the appropriate board committee within 60 days from the notification date. Failure to comply with the audit documentation request or failure to supply acceptable documentation within 60 days may result in disciplinary action. After completion of an audit, the appropriate board committee shall officially notify the licensee by indicating the determination made regarding professional development compliance. A licensee is considered to be actively licensed during the audit process.
Subp. 2. **Appropriate documentation.** The licensee shall submit true, complete, and accurate documentation. Falsification of any evidence for any renewal period or falsification or omission of documentation may result in disciplinary action.

Subp. 3. **Failure of an audit.**

A. Upon failure of an audit, the appropriate board committee must impose one or both of the following options:

(1) grant the licensee up to six months to comply with written requirements to resolve deficiencies in professional development compliance; or

(2) initiate disciplinary proceedings against the licensee on grounds specified in parts 3100.6100 and 3100.6200 and Minnesota Statutes, section 150A.08, subdivision 1. Deficiencies causing audit failure may include, but are not limited to, the following:

   (a) lack of proof of documentation or participation;
   
   (b) credit hours earned outside of renewal period being audited;
   
   (c) excess of earned hours in a category having a maximum if a deficiency exists;
   
   (d) lack of earned hours in a category having a minimum if a deficiency exists;
   
   (e) failure to submit the portfolio;
   
   (f) unacceptable professional development sources; or
   
   (g) fraudulently earned or reported hours.

B. Failing to comply with the board committee's requirements by the end of the grace period shall result in the expiration of the person's license and termination of the right to practice. A license that has expired according to this part may be reinstated according to part 3100.1850.

Subp. 4. **Audit appeal.** Upon failure of an audit, the licensee has the option to appeal the decision to the board.

Subp. 5. **Mandatory audit.** The licensee must submit to a mandatory audit of the next renewal period by the appropriate board committee when the previous audit was failed by the licensee.

Subp. 6. **Audit fee.** The licensee shall submit to the board the nonrefundable fee in Minnesota Statutes, section 150A.091, subdivision 16, after failing two professional development portfolio audits and thereafter for each failed professional development portfolio audit.

**Statutory Authority:** *MS s 150A.04*

**History:** 29 SR 306; 31 SR 1238; 35 SR 459; 37 SR 1849; 39 SR 1455

**Published Electronically:** May 7, 2015
3100.5400 PROFESSIONAL DEVELOPMENT TRANSITION.

After January 1, 2005, the board shall notify in writing each licensee regarding the number of continuing education credits earned during their current five-year CDE cycle as of that date. Each licensee shall apply the number of credits earned towards the applicable professional development requirements described in part 3100.5100 when establishing that person's biennial professional development portfolio. The CDE notification from the board serves as acceptable documentation as proof of credits earned and must be retained in the licensee's professional development portfolio.

A full faculty dentist may apply previous continuing education credits towards the applicable professional development requirements described in part 3100.5100 when establishing a biennial professional development portfolio. The full faculty dentist must have earned the continuing education credit hours within the five-year period prior to January 1, 2005, and must be able to obtain acceptable documentation of the hours according to part 3100.5100, subpart 4.

Statutory Authority: MS s 150A.04
History: 29 SR 306; 35 SR 459
Published Electronically: September 30, 2010

SUSPENSION OR REVOCATION OF LICENSE OR REGISTRATION

3100.6100 STATUTORY GROUNDS FOR DISCIPLINE.

In general terms, the grounds for suspension or revocation of licenses of dentists, dental therapists, dental hygienists, and licensed dental assistants are in Minnesota Statutes, section 150A.08, subdivision 1.

Statutory Authority: MS s 150A.04
History: 35 SR 459; 36 SR 738
Published Electronically: January 5, 2012

3100.6200 CONDUCT UNBECOMING A LICENSEE.

"Conduct unbecoming a person licensed to practice dentistry, dental therapy, dental hygiene, or dental assisting, or conduct contrary to the best interests of the public," as used in Minnesota Statutes, section 150A.08, subdivision 1, clause (6), shall include the act of a dentist, dental hygienist, licensed dental assistant, or applicant in:

A. engaging in personal conduct that brings discredit to the profession of dentistry;
B. gross ignorance or incompetence in the practice of dentistry or repeated performance of dental treatment that falls below accepted standards;
C. making suggestive, lewd, lascivious, or improper advances to a patient;
D. dentists charging a patient an unconscionable fee or charging for services not rendered;
E. performing unnecessary services;
F. dental therapists, hygienists, or licensed dental assistants performing services not authorized by the dentist under this chapter or Minnesota Statutes, chapter 150A;

G. accepting rebates, split fees, or, applicable to dentists only, commissions from any source associated with the service rendered to a patient; provided, however, that the sharing of profits in a dental partnership or association, or dental professional firm approved by and registered with the board, shall not be construed as splitting fees nor shall compensating allied dental personnel on the basis of a percentage of the fee received for the overall service be deemed accepting a commission;

H. falsifying records relating to payment for services rendered, participation in a CDE course; or other records with respect to licensure, CDE, and the practice of dentistry;

I. perpetrating fraud upon patients, third-party payers, or others relating to the practice of dentistry;

J. failing to cooperate with the board, its agents, or those working on behalf of the board required by part 3100.6350;

K. failing to maintain adequate safety and sanitary conditions for a dental office specified in part 3100.6300; and

L. failing to provide access to and transfer of medical and dental records prescribed by Minnesota Statutes, sections 144.291 to 144.298.

Statutory Authority: MS s 150A.04; 150A.06; 150A.08; 150A.10; 150A.11; 214.06; 319A.18

History: 10 SR 1613; 14 SR 1214; 16 SR 2314; L 2007 c 147 art 10 s 15; 35 SR 459; 36 SR 738

Published Electronically: January 5, 2012

3100.6300 ADEQUATE SAFETY AND SANITARY CONDITIONS FOR DENTAL OFFICES.

Subpart 1. Minimum conditions. Subparts 2 to 15 are minimum safety and sanitary conditions.

Subp. 2. Premises. The premises must be kept neat and clean, and free of rubbish, ponded water, or other conditions of similar nature that would have a tendency to create a public health nuisance.

Subp. 3. Housekeeping facilities and services. Housekeeping facilities and services necessary to ensure comfortable and sanitary conditions for patients and employees must be utilized.

Subp. 4. Control of insects and vermin. The premises must be kept free of ants, flies, roaches, rodents, and other insects or vermin. Proper methods for their eradication or control shall be utilized.

Subp. 5. Refuse disposal. Refuse must be kept in approved containers and emptied at frequent intervals.

Subp. 6. Heating, lighting, and other service equipment. The heating of offices must be by heating systems conforming to state and local heating codes and regulations. Individual room heaters
must be located to avoid direct contact with any combustible material. Installation and maintenance of electric wiring, motors, and other electrical equipment must be in compliance with applicable state and local electric codes and regulations.

Subp. 7. **Water supply.** An ample supply of water of a safe, sanitary quality, from a source that is approved by the agent of a community health board must be piped under pressure, and in an approved manner, to all equipment and fixtures where the use of water is required.

Subp. 8. **Plumbing.** Plumbing must be in compliance with all applicable plumbing codes. Adequate hand washing facilities, of an approved type, must be provided convenient to the work area. Hand washing facilities must be equipped with soap and towels, and the drain from such facility shall be properly trapped and connected directly to the waste disposal system.

Subp. 9. **Disposal of liquid and human waste.** All liquid and human waste, including floor wash water, must be disposed of through trap drains into a public sanitary sewer system in localities where a system is available. In localities where a public sanitary sewer system is not available, liquid and human waste must be disposed of through trapped drains and in a manner approved by the authorized agent.

Subp. 10. **Clean rooms.** Floors, walls, and ceilings of all rooms, including store rooms, must be clean and free of any rubbish.

Subp. 11. **Infection control.** Dental health care personnel shall comply with the most current infection control recommendations, guidelines, precautions, procedures, practices, strategies, and techniques specified by the United States Department of Health and Human Services, Public Health Service, and the Centers for Disease Control and Prevention. Infection control standards are subject to frequent change.

Subp. 12. **Sharps and infectious waste.** Sharp items and infectious wastes must be disposed of according to Minnesota Statutes, sections 116.76 to 116.83, and any adopted rules and requirements established by local government agencies.

Subp. 13. [Repealed, 35 SR 459]

Subp. 14. **Hazardous waste.** Dental health care personnel shall comply with the requirements for hazardous waste in chapter 7045.

Subp. 15. **Ionizing radiation.** Each licensee shall comply with the requirements for ionizing radiation in chapter 4732.

**Statutory Authority:** *MS s 150A.04; 150A.06; 150A.08; 150A.10; 150A.11; 214.06; 214.15; 319A.18*

**History:** *L 1987 c 309 s 24; 16 SR 2314; 18 SR 2042; 20 SR 2316; 29 SR 306; 35 SR 459; 36 SR 738; L 2015 c 21 art 1 s 109; 42 SR 226*

**Published Electronically:** *August 30, 2017*
3100.6325 VOLUNTARY TERMINATION OF LICENSE.

The board may refuse to accept a licensee's voluntary termination of license if the board has reason to believe that the licensee has violated provisions of this chapter or Minnesota Statutes, chapter 150A, and has determined that allegations are serious enough to warrant resolution other than by voluntary termination.

Statutory Authority:  MS s 150A.04; 150A.08; 319A.18

History:  10 SR 1613; 35 SR 459

Published Electronically:  September 30, 2010

3100.6350 REQUIRED COOPERATION.

A licensee or applicant who is the subject of an investigation or proceeding under this chapter or Minnesota Statutes, sections 150A.08 and 214.10, shall cooperate with the board, its agents, or those working on behalf of the board by complying with any reasonable request including requests to:

A. furnish designated papers, documents, or tangible objects;

B. furnish in writing a full and complete explanation covering the matter under consideration;

C. appear for conferences and hearings at the time and places designated.

Violation of this part is conduct unbecoming a licensee or conduct contrary to the best interests of the public. Good faith challenges to requests of the board will not be deemed a failure to cooperate. These challenges shall be brought before the appropriate agency or court.

Statutory Authority:  MS s 150A.04; 150A.08; 319A.18

History:  10 SR 1613; 35 SR 459

Published Electronically:  September 30, 2010

3100.6400 IMPROPER AND UNJUSTIFIED NAMES.

A name used for a dental practice that connotes unusual or superior dental ability, or is likely to create a false or unjustified expectation of favorable results is in violation of Minnesota Statutes, sections 150A.11, subdivision 1, and 319B.05.

Statutory Authority:  MS s 150A.04; 150A.11; 214.15; 319A.07

History:  10 SR 1613; 35 SR 459

Published Electronically:  September 30, 2010
ADVERTISING

3100.6500 COMMUNICATING DECEPTIVE STATEMENT OR CLAIM.

A person shall not, on behalf of the person, a partner, an associate, or any other dentist with whom the person is affiliated through a firm or association, use or participate in the use of any form of public communication containing a false, fraudulent, misleading, or deceptive statement or claim.

A false, fraudulent, misleading, or deceptive statement or claim is one which:

A. contains a misrepresentation of fact;
B. is likely to mislead or deceive because in context it makes only a partial disclosure of relevant facts;
C. is intended or is likely to create false or unjustified expectations of favorable results;
D. appeals to an individual's anxiety in an excessive or unfair way;
E. contains material claims of superiority that cannot be substantiated;
F. misrepresents a dentist's credentials, training, experience, or ability; or
G. contains other representations or implications that in reasonable probability will cause an ordinary, prudent person to misunderstand or be deceived.

Statutory Authority: MS s 150A.04; 150A.11; 214.15

History: 10 SR 1613; 17 SR 1279; 35 SR 459

Published Electronically: September 30, 2010

3100.6600 ADVERTISING DENTAL FEES AND SERVICES.

Subpart 1. Routine services. If the following routine dental services are advertised, either the advertised service must include the listed components or the advertisement must disclose the components which are not included.

A. Examination: a study by the dentist of all the structures of the oral cavity, including the appropriate recording or charting of the condition of all such structures and appropriate history thereof, the identification of periodontal disease and occlusal discrepancies, the detection of caries and oral abnormalities, and the development of a treatment plan. If there is a charge in addition to the examination fee for radiographs and/or the provision to the patient of a written opinion of the items found in the examination (i.e., diagnosis) or of a written itemized treatment recommendation and itemized fee (i.e., treatment plan), such fact shall be disclosed in the advertisement.

B. Radiographs (X-rays): adequate X-rays of the oral structures to provide necessary radiographic study.

C. Denture: either a complete maxillary or complete mandibular replacement of the natural dentition with artificial teeth. If the service advertised is for a denture which is partially prefabricated,
intended for a partial replacement of the natural dentition, intended to be used as an emergency or temporary denture, or if any advertised fee does not include a reasonable number of readjustments, such facts shall be disclosed in the advertisement.

D. Prophylaxis (cleaning): the removal of calculus (tartar) and stains from the clinically exposed surfaces of the teeth.

E. Extractions: the removal of nonimpacted teeth, including necessary X-rays, anesthesia, preoperative, and postoperative care.

Subp. 2. [Repealed, 10 SR 1613]

Subp. 2a. **Set fees.** Set fees may be advertised for any service where the dentist intends to charge a standard price for the service.

Subp. 3. **Identification of related services and additional fees.** Related services which may be required in conjunction with the advertised services, and for which additional fees will be charged, must be identified as such in the advertisement.

Subp. 4. **Range of fees.** When a range of fees is advertised, the advertisement must disclose the basic factors on which the actual fees will be determined.

Subp. 5. **Time period of advertised fees.** Advertised fees must be honored for those seeking the advertised services during the entire time period stated in the advertisement, whether or not the services are actually rendered in that time. If no time period is stated, the advertised fees shall be so honored for 30 days or until the next scheduled publication, whichever is later.

**Statutory Authority:**  *MS s 150A.04; 150A.11; 214.15*

**History:**  *10 SR 1613*

**Published Electronically:**  *September 30, 2010*

### 3100.6700 NAME AND ADDRESS IN ADVERTISEMENT.

Any advertising must include the firm's, partnership's, or individual dentist's name and address.

**Statutory Authority:**  *MS s 150A.04; 150A.11; 214.15*

**History:**  *35 SR 459*

**Published Electronically:**  *September 30, 2010*

### 3100.6800 NEWS MEDIA COMPENSATION.

A person shall not compensate or give anything of value to a representative of the press, radio, television, or other communicative medium in anticipation of or in return for professional publicity unless the fact of compensation is made known in such publicity.

**Statutory Authority:**  *MS s 150A.11; 214.15*

**Published Electronically:**  *September 30, 2010*
3100.6900 CONSIDERATION FOR PATIENT REFERRAL.

A person shall not directly or indirectly offer, give, receive, or agree to receive any fee or other consideration to or from a third party for referral of a patient in connection with the performance of professional services.

Statutory Authority: MS s 150A.11; 214.15
Published Electronically: September 30, 2010

3100.7000 ADVERTISING DENTAL SPECIALTY PRACTICE.

Subpart 1. Specialty areas. The following special areas of dentistry are recognized as suitable for the announcement of specialty dental practices:

A. dental public health;
B. endodontics (endodontist);
C. oral and maxillofacial pathology (oral pathologist);
D. oral and maxillofacial radiology (oral radiologist);
E. oral and maxillofacial surgery (oral surgeon/oral maxillofacial surgeon);
F. orthodontics and dentofacial orthopedics (orthodontist);
G. pediatric dentistry (pediatric dentist/pedodontist);
H. periodontics (periodontist); and
I. prosthodontics (prosthodontist).

Subp. 2. Specialty announcement. Only a licensed dentist who has successfully completed a postdoctoral course of study approved by the Commission on Dental Accreditation in any of the designated specialty areas, or who has announced a limitation of practice prior to 1967, or who has successfully completed certification by any of the following specialty examining boards may announce each specialty area and may advertise as a specialist in that area:

A. American Board of Dental Public Health;
B. American Board of Endodontics;
C. American Board of Oral and Maxillofacial Pathology;
D. American Board of Oral and Maxillofacial Radiology;
E. American Board of Oral and Maxillofacial Surgery;
F. American Board of Orthodontics;
G. American Board of Pediatric Dentistry;
H. American Board of Periodontology; and
I. American Board of Prosthodontics.

Subp. 3. **Restricting practice.** Subpart 2 does not prohibit a dentist who does not meet the above education or experience criteria from restricting a practice to one or more specific areas of dentistry. These dentists may not use the terms "specialist," "specialty," "specializing," or "limited to." The advertising must state that the services are being provided by a general dentist.

**Statutory Authority:** MS s 150A.04; 150A.06; 150A.08; 150A.10; 150A.11; 214.06; 214.15; 319A.18

**History:** 14 SR 1214; 17 SR 1279; 20 SR 2316; 35 SR 459; 37 SR 1849; 39 SR 1455

**Published Electronically:** May 7, 2015

### 3100.7100 PROHIBITED ADVERTISEMENTS.

Advertisements shall not:

A. reveal a patient's identity or personally identifiable facts, data, or information obtained in a professional capacity without having first obtained a written waiver of patient confidentiality; or

B. after one year, include the name of any dentists formerly practicing at or associated with any advertised location.

**Statutory Authority:** MS s 150A.04; 150A.11; 214.15

**History:** 10 SR 1613

**Published Electronically:** September 30, 2010

### 3100.7200 FAILURE TO RESPOND TO ADVERTISING COMPLAINT.

Failing to respond within 30 days to written communications from the Board of Dentistry or failure to make available to the board any relevant records with respect to an inquiry or complaint about the licensee's advertising practices shall constitute a violation of parts 3100.6500 to 3100.7200 and Minnesota Statutes, section 150A.08, subdivision 1, clause (6). The period of 30 days shall commence on the date when the communication was sent from the board by certified mail with return receipt requested to the address appearing in the last registration.

**Statutory Authority:** MS s 150A.04; 150A.11; 214.15

**History:** 35 SR 459

**Published Electronically:** September 30, 2010

### ALLIED DENTAL PERSONNEL

### 3100.8100 EMPLOYING, ASSISTING, OR ENABLING UNLICENSED PRACTICE.

"Employing, assisting, or enabling in any manner an unlicensed person to practice dentistry," is defined in items A to C.
A. The phrase "employing, assisting, or enabling in any manner an unlicensed person to practice dentistry" as found in Minnesota Statutes, section 150A.08, subdivision 1, clause (11), includes the practice by a licensed dentist in the same premises occupied by a dental laboratory or technician if the dental laboratory or technician advertises, solicits, represents, or holds itself out in any manner to the general public that it will sell, supply, furnish, construct, repair, or alter prosthetic, orthodontic, or other devices or structures to be used as substitutes for, or as a part of natural teeth or jaws or associated structures or for correction of malocclusions or deformities, or who in any way violates the provisions of Minnesota Statutes, section 150A.11, subdivision 3.

B. "In the same premises" as used in item A means public facilities used in common, such as office door, reception room, receptionist, files, telephone, telephone number, address, and post office box.

C. Permitting persons to perform services for which they have not been licensed.

Statutory Authority:  MS s 150A.04; 150A.08; 150A.11
History:  31 SR 1238; 35 SR 459
Published Electronically:  September 30, 2010

3100.8200 UNLAWFUL PRACTICE BY ALLIED DENTAL PERSONNEL.

An assistant, hygienist, dental therapist, or dental technician who assists a dentist in practicing dentistry in any capacity other than as an employee or independent contractor, who directly or indirectly procures a licensed dentist to act as nominal owner, proprietor, or director of a dental office as a guise or subterfuge to enable the assistant, hygienist, dental therapist, or dental technician to engage directly in acts defined by the act as the "practice of dentistry," or who performs dental services within the meaning of Minnesota Statutes, section 150A.11, subdivision 1, for members of the public, other than as an employee or independent contractor for an employing dentist, shall be deemed to be practicing dentistry without a license.

Statutory Authority:  MS s 150A.04; 150A.08; 150A.10; 150A.11
History:  35 SR 459; 36 SR 738
Published Electronically:  January 5, 2012

3100.8300 RESPONSIBILITIES OF LICENSED DENTIST.

Nothing in this chapter relating to the scope of services rendered by assistants, technicians, hygienists, or dental therapists shall diminish or abrogate the professional and legal responsibilities of employing dentists to their patients, to their profession, and to the state of Minnesota. Dentists employing assistants, technicians, hygienists, or dental therapists shall be fully responsible for all acts or omissions of these personnel performed or omitted if the acts or omissions are within the normal scope of their employment. Acts or omissions of personnel means whether or not omitted or committed by personnel at the instance and request of the employing dentist if the omission or commission is within the normal scope of their employment.

Statutory Authority:  MS s 150A.04
ASSISTANTS WITHOUT A LICENSE OR PERMIT.

Subpart 1. Permissible duties. Assistants under this subpart may:

A. perform all those duties not directly related with performing dental treatment or services on patients;

B. retract a patient's cheek, tongue, or other parts of tissue during a dental operation;

C. assist with the placement or removal of a rubber dam and accessories used for its placement and retention, as directed by an operating dentist during the course of a dental operation;

D. remove debris by the use of vacuum devices, compressed air, mouthwash, and water that is normally created or accumulated during the course of treatment rendered by a licensed dentist;

E. provide any assistance, including the placement of articles and topical medication in a patient's oral cavity, in response to a specific direction by a licensed dentist who is physically engaged in performing a dental operation as defined in the act and who is physically in a position to give personal supervision to the assistant;

F. aid dental hygienists and licensed dental assistants in the performance of their duties as defined in parts 3100.8500 and 3100.8700; and

G. apply fluoride varnish in a community setting under the authorization and direction of a licensed practitioner with prescribing authority such as a dentist or physician, as long as the licensed practitioner authorizing the service or the facility at which the fluoride varnish is administered maintains appropriate patient records of the treatment.

Subp. 1a. Compliance with minimal requirements. The dentist is responsible for ensuring that any assistant working under the dentist's supervision as defined in subpart 1 complies with items A and B:

A. completing a CPR certification course and maintaining current CPR certification thereafter; and

B. compliance with the most current infection control recommendations, guidelines, precautions, procedures, practices, strategies, and techniques specified in the United States Department of Health and Human Services, Public Health Service, Centers for Disease Control publications of the Morbidity and Mortality Weekly Report (MMWR).

Subp. 2. [Repealed, 10 SR 1612]

Subp. 3. Other duties prohibited. An assistant may not perform any dental treatment or procedure on patients not otherwise authorized by this chapter.

Statutory Authority: MS s 150A.04; 150A.06; 150A.08; 150A.10; 150A.11; 214.15; 319A.18
Subpart 1. Procedures under general supervision. A licensed dental assistant may perform the following procedures without the dentist being present in the dental office or on the premises if the procedures being performed are with prior knowledge and consent of the dentist:

A. cut arch wires on orthodontic appliances;
B. remove loose bands on orthodontic appliances;
C. remove loose brackets on orthodontic appliances;
D. re-cement intact temporary restorations;
E. place temporary fillings, not including temporization of inlays, onlays, crowns, and bridges;
F. take radiographs;
G. take impressions and bite registration;
H. deliver vacuum-formed orthodontic retainers;
I. place and remove elastic orthodontic separators;
J. complete preliminary charting of the oral cavity and surrounding structures with the exception of periodontal probing and assessment of the periodontal structure;
K. take photographs extraorally or intraorally;
L. take vital signs such as pulse rate and blood pressure as directed by a dentist;
M. obtain informed consent, according to part 3100.9600, subpart 9, for treatments authorized by the supervising dentist pursuant to the licensed dental assistant's scope of practice;
N. remove and place ligature ties and remove and replace existing arch wires on orthodontic appliances; and
O. apply topical fluoride, including foam, gel, or varnish.

Subp. 1a. Procedures under indirect supervision. A licensed dental assistant, in addition to the services performed by an assistant described in part 3100.8400, subpart 1, may perform the following services if a dentist is in the office, authorizes the procedures, and remains in the office while the procedures are being performed:

A. apply topical medications including bleaching agents and cavity varnishes as prescribed by a dentist;
B. place and remove rubber dam;
C. remove excess cement from inlays, crowns, bridges, and orthodontic appliances with hand instruments only;

D. perform mechanical polishing to clinical crowns not including instrumentation. Removal of calculus by instrumentation must be done by a dentist or dental hygienist before mechanical polishing;

E. preselect orthodontic bands;

F. place and remove periodontal dressings;

G. remove sutures;

H. monitor a patient who has been induced by a dentist into nitrous oxide inhalation analgesia;

I. place initial arch wires on orthodontic appliances. A dentist must select and, if necessary, adjust arch wires prior to placement;

J. dry root canals with paper points;

K. place cotton pellets and temporary restorative materials into endodontic access openings;

L. etch appropriate enamel surfaces, apply and adjust pit and fissure sealants. Before the application of pit and fissure sealants, a licensed dental assistant must have successfully completed a course in pit and fissure sealants at a dental, dental hygiene, or dental assisting school accredited by the Commission on Dental Accreditation;

M. restorative procedures as permitted in Minnesota Statutes, section 150A.10, subdivision 4;

N. maintain and remove intravenous lines while under indirect supervision of a dentist who holds a valid general anesthesia or moderate sedation certificate. Before managing and removing intravenous lines, a licensed dental assistant must have successfully completed board-approved allied dental personnel courses comprised of intravenous access and general anesthesia and moderate sedation training; and

O. monitor a patient during preoperative, intraoperative, and postoperative phases of general anesthesia or moderate sedation using noninvasive instrumentation such as pulse oximeters, electrocardiograms, blood pressure monitors, and capnography while under indirect supervision of a dentist who holds a valid general anesthesia or moderate sedation certificate. Before monitoring a sedated patient, a licensed dental assistant must have successfully completed board-approved allied dental personnel courses comprised of intravenous access and general anesthesia and moderate sedation training.

Subp. 1b. Procedures under direct supervision. A licensed dental assistant may perform the following services if a dentist is in the dental office, personally diagnoses the condition to be treated, personally authorizes the procedure, and evaluates the performance of the licensed dental assistant before dismissing the patient:
A. remove excess bond material from orthodontic appliances;

B. remove bond material from teeth with rotary instruments after removal of orthodontic appliances. Before utilizing rotary instruments for the removal of bond material, a licensed dental assistant must have successfully completed a course in the use of rotary instruments for the express purpose of the removal of bond material from teeth. The course must be one that is presented by a dental, dental hygiene, or dental assisting school accredited by the Commission on Dental Accreditation;

C. etch appropriate enamel surfaces before bonding of orthodontic appliances by a dentist;

D. fabricate, cement, and adjust temporary restorations extraorally or intraorally;

E. remove temporary restorations with hand instruments only;

F. place and remove matrix bands;

G. administer nitrous oxide inhalation analgesia according to part 3100.3600, subparts 4 and 5;

H. attach prefit and preadjusted orthodontic appliances;

I. remove fixed orthodontic bands and brackets;

J. initiate and place an intravenous line in preparation for intravenous medications and sedation while under direct supervision of a dentist who holds a valid general anesthesia or moderate sedation certificate. Before initiating and placing an intravenous line, a licensed dental assistant must have successfully completed board-approved allied dental personnel courses comprised of intravenous access and general anesthesia and moderate sedation training; and

K. place nonsurgical retraction material for gingival displacement. Before placing nonsurgical retraction material, a licensed dental assistant must have successfully completed a course in nonsurgical retraction material for gingival displacement at a dental, dental hygiene, or dental assisting school accredited by the Commission on Dental Accreditation.

Subp. 1c. Procedures under personal supervision. A licensed dental assistant may concurrently perform supportive services if the dentist holds a valid general anesthesia or moderate sedation certificate, is personally treating a patient, and authorizes the licensed dental assistant to aid in the physical management of medications, including the preparation and administration of medications into an existing intravenous line. Before administering any medications or agents, a licensed dental assistant must have successfully completed board-approved allied dental personnel courses comprised of general anesthesia and moderate sedation training.

Subp. 2. Other procedures prohibited. A licensed dental assistant may not perform any dental treatment or procedure on patients not otherwise authorized by this chapter.

Subp. 3. Limited-license permit. A dental assistant, who by virtue of academic achievement which is equal to or greater than that of a licensed dental assistant, and is currently qualified in Minnesota in an allied health profession may take dental radiographs under the general supervision of a licensed dentist.
of a dentist if the person complies with the requirements of this subpart. The person shall file with
the board a completed application furnished by the board and the fee prescribed in Minnesota
Statutes, section 150A.091, subdivision 2. In addition, the person shall submit evidence of the
successful completion of a course on dental radiographs and of passing an examination. The course
must be board-approved. The course shall be equivalent to the dental radiograph courses offered
by dental assisting courses approved by the board under part 3100.1300, item B. The examination
must be the radiograph part of the examination which is required of licensed dental assistant
applicants.

Statutory Authority:  MS s 150A.04; 150A.06; 150A.08; 150A.10; 214.06

History:  10 SR 1612; 16 SR 2314; 18 SR 2042; 20 SR 2474; 27 SR 1836; 31 SR 1238; 35 SR
459; 37 SR 1849; 39 SR 1455; 43 SR 507

Published Electronically: November 13, 2018

3100.8600  [Repealed, 10 SR 1612]

Published Electronically: September 30, 2010

3100.8700  DENTAL HYGIENISTS.

Subpart 1. Principal procedures under general supervision. A dental hygienist may perform
the following procedures under general supervision, as defined in part 3100.0100, subpart 21, item
D:

A. preliminary charting of the oral cavity and surrounding structures, including case histories;
initial and periodic examinations and assessments to determine periodontal status; and creation of
a dental hygiene treatment plan in coordination with a dentist's treatment plan;

B. obtain informed consent, according to part 3100.9600, subpart 9, for treatments authorized
by the supervising dentist pursuant to the dental hygienist's scope of practice;

C. take photographs extraorally or intraorally;

D. take vital signs, including pulse rate and blood pressure;

E. make referrals to dentists, physicians, and other practitioners in consultation with a
dentist;

F. complete debridement, prophylaxis, and nonsurgical periodontal therapy;

G. etch enamel surfaces, application and adjustment of pit and fissure sealants;

H. administer local anesthesia. Before administering local anesthesia, a dental hygienist
must have successfully completed a didactic and clinical program sponsored by a dental or dental
hygiene school accredited by the Commission on Dental Accreditation, resulting in the dental
hygienist becoming clinically competent in the administration of local anesthesia;

I. administer nitrous oxide inhalation analgesia according to part 3100.3600, subparts 4
and 5;
J. take radiographs;
K. apply topical medications, including topical fluoride, bleaching agents, cavity varnishes, and desensitizing agents;
L. place subgingival medicaments;
M. take impressions and bite registration;
N. fabrication and delivery of custom fitted trays;
O. nutritional counseling;
P. salivary analysis;
Q. remove marginal overhangs;
R. remove sutures;
S. place and remove periodontal dressings;
T. place and remove isolation devices or materials for restorative purposes;
U. polish restorations;
V. remove excess cement from inlays, crowns, bridges, or orthodontic appliances;
W. fabrication, placement, replacement, cementation, and adjustment of temporary crowns or restorations;
X. remove temporary crowns or restorations with hand instruments only;
Y. place and remove matrix systems and wedges; and
Z. place nonsurgical retraction material for gingival displacement. Before placing nonsurgical retraction material, a dental hygienist must have successfully completed a course in nonsurgical retraction material for gingival displacement at a dental, dental hygiene, or dental assisting school accredited by the Commission on Dental Accreditation.

Subp. 2. Restorative procedures under indirect supervision. A dental hygienist may perform restorative procedures pursuant to Minnesota Statutes, section 150A.10, subdivision 4, and under indirect supervision, as defined in part 3100.0100, subpart 21, item C, if the dental hygienist has fulfilled either item A or B:

A. successfully graduated from a Minnesota dental hygiene program accredited by the Commission on Dental Accreditation that included training for restorative procedures and received a restorative procedures certificate from the program; or

B. successfully completed a board-approved course on restorative procedures and received a restorative procedures certificate from the course sponsor.
Subp. 2a. **Orthodontic procedures under general, indirect, or direct supervision.** If a dental hygienist has fulfilled the requirements of item A, subitems (1), (2), or (3), the dental hygienist may perform the procedures listed in item B under the level of supervision indicated, as defined in part 3100.0100, subpart 21, items B, C, and D.

A. A dental hygienist must have:

1. been granted a Minnesota dental hygiene license from the board prior to September 1, 2019;
2. successfully graduated from a Minnesota dental hygiene program accredited by the Commission on Dental Accreditation after September 1, 2019, that included training for orthodontic procedures and received an orthodontic procedures certificate from the program; or
3. successfully completed a board-approved course comprised of orthodontic procedures and received an orthodontic procedures certificate from the course sponsor.

B. The dental hygienist may perform the following procedures under:

1. general supervision:
   
   a. cut arch wires on orthodontic appliances;
   
   b. remove loose bands on orthodontic appliances;
   
   c. remove loose brackets on orthodontic appliances;
   
   d. remove excess bond material from orthodontic appliances;
   
   e. preselect orthodontic bands;
   
   f. place and remove elastic orthodontic separators;
   
   g. remove and place ligature ties and remove and replace existing arch wires on orthodontic appliances; and
   
   h. deliver vacuum-formed orthodontic retainers;

2. indirect supervision: place initial arch wires on orthodontic appliances. A dentist must select and, if necessary, adjust arch wires prior to placement;

3. direct supervision:
   
   a. etch enamel surfaces before bonding of orthodontic appliances by a dentist;
   
   b. remove bond material from teeth with rotary instruments after removal of orthodontic appliances;
   
   c. attach prefit and preadjusted orthodontic appliances; and
   
   d. remove fixed orthodontic bands and brackets.
Subp. 2b. **Sedation monitoring and intravenous procedures under indirect, direct, or personal supervision.** If a dental hygienist has successfully completed board-approved allied dental personnel courses comprised of intravenous access and general anesthesia and moderate sedation training and submitted to the board documentation of completion to receive a certificate from the board, the dental hygienist may perform the following procedures under either indirect, direct, or personal supervision, as defined in part 3100.0100, subpart 21, items A, B, and C, for a dentist who holds a valid general anesthesia or moderate sedation certificate:

A. indirect supervision:

   (1) maintain and remove intravenous lines;
   
   (2) monitor a patient during preoperative, intraoperative, and postoperative phases of general anesthesia or moderate sedation using noninvasive instrumentation, including pulse oximeters, electrocardiograms, blood pressures monitors, and capnography;

B. direct supervision: initiate and place an intravenous line in preparation for intravenous medications and sedation;

C. personal supervision: aid in the physical management of medications, including the preparation and administration of medications into an existing intravenous line.

Subp. 3. **Other procedures prohibited.** A dental hygienist may not perform any dental treatment or procedure on patients not authorized by this chapter.

Statutory Authority: MS s 150A.04; 150A.06; 150A.08; 150A.10; 150A.11; 214.06

History: 10 SR 1612; 14 SR 1214; 16 SR 2314; 18 SR 2042; 20 SR 1196; 20 SR 2474; 27 SR 1836; 31 SR 1238; 35 SR 459; 39 SR 1455; 43 SR 507

Published Electronically: November 13, 2018

3100.8800 DENTAL TECHNICIANS.

Subpart 1. **Permissible duties.** As prescribed by Minnesota Statutes, section 150A.10, subdivision 3, dental technicians may only upon a written authorization prepared and signed by a licensed dentist, construct, alter, repair, reline, reproduce, or duplicate any prosthetic device or other structure to be used in the human mouth.

Subp. 2. **Written authorization forms.** A dentist may not use the services of a technician without written authorization, and a carbon copy thereof shall be on printed forms and shall include:

A. the date and city where the authorization was issued;

B. the name of the laboratory or technician to whom the authorization was issued;

C. the name of the patient, or an identifying symbol;

D. a description of the work authorized;

E. the signature of the dentist in his or her actual handwriting; and
F. the dentist's license number issued by the board.

Subp. 3. **Records and inspections.** A duplicate copy of each written authorization issued by the dentist shall be retained by the dentist for not less than two years.

The original of each written authorization issued shall be retained by the technician or dental laboratory to whom it was issued for not less than two years.

The board or its agents may inspect the original and the duplicate copy of all written authorizations retained by either the dentist issuing the same, or the technician or dental laboratory to whom it was issued.

The board or its agents may inspect any devices being fabricated by a technician or dental laboratory, as well as the casts, impressions, interocclusal records, other materials sent to the technician or dental laboratory by the dentist, and the written authorization accompanying them.

**Statutory Authority:** MS s 150A.04; 150A.10

**History:** 17 SR 1279; 35 SR 459

**Published Electronically:** September 30, 2010

### PROFESSIONAL FIRMS

#### 3100.9100 ANNUAL REPORTS.

Annual reports of professional firms organized under Minnesota Statutes, sections 319B.01 to 319B.12, inclusive, must be submitted upon forms furnished by the board and must require submission of the following information under oath:

A. name and registered office of the firm;

B. address or addresses at which the firm is providing dental services;

C. name and address of each director, officer, and shareholder, and the position title of each officer; and

D. a certification as to the licensure status of each shareholder, director, officer, employee, and agent as required by Minnesota Statutes, section 319B.11, subdivision 4, paragraph (a).

**Statutory Authority:** MS s 150A.04; 150A.08; 319A.18; 319A.21

**History:** 10 SR 1613; 35 SR 459

**Published Electronically:** September 30, 2010

#### 3100.9200 REVIEW OF ANNUAL REPORT.

The board must review its licensure records and conduct any further investigation the board deems necessary and, if the board finds that the annual report does not conform to the requirements of the Minnesota Professional Firms Act and the rules adopted thereunder, the board shall inform the applicant of the necessary requirements for conformity.
The board may delegate the review and investigation of annual reports to the executive secretary so that annual reports will be acted upon in a timely manner in the intervals between meetings of the board. Any annual reports that are not approved by the executive secretary must be considered by the full board at the board's next meeting.

**Statutory Authority:**  *MS s 150A.04; 150A.08; 319A.18*

**History:**  *10 SR 1613; 35 SR 459*

**Published Electronically:**  *September 30, 2010*

### 3100.9300  REVOCATION OF REGISTRATION.

The board shall revoke or, if appropriate, refuse to renew the registration of any firm which no longer meets all the requirements of the Minnesota Professional Firms Act. The firm's eligibility to be registered or to continue registration must be adjudicated under the applicable provisions of the Administrative Procedure Act, Minnesota Statutes, chapter 14, and the rules of the Office of Administrative Hearings, parts 1400.5100 to 1400.8401.

**Statutory Authority:**  *MS s 150A.04; 150A.06; 150A.08; 150A.10; 150A.11; 214.15; 319A.18; 319A.20*

**History:**  *10 SR 1613; 20 SR 2316; 35 SR 459*

**Published Electronically:**  *September 30, 2010*

### 3100.9400  NOTICE OF NEW SHAREHOLDERS OR MEMBERS.

Whenever a professional firm intends to admit to the firm a new shareholder or member, the firm shall notify the board in the firm's annual report indicating the identity, licensure status, and residence address of each new shareholder or member.

**Statutory Authority:**  *MS s 150A.04; 319A.18*

**History:**  *35 SR 459*

**Published Electronically:**  *September 30, 2010*

### 3100.9500  FIRM NAMES.

The names of professional firms are governed by part 3100.6400 and Minnesota Statutes, section 319B.05.

**Statutory Authority:**  *MS s 150A.04; 150A.08; 150A.11; 319A.18*

**History:**  *10 SR 1613; 35 SR 459*

**Published Electronically:**  *September 30, 2010*
RECORD KEEPING

3100.9600 RECORD KEEPING.

Subpart 1. Definitions. For the purposes of this part, "patient" means a natural person who has received dental care services from a provider for treatment of a dental condition. In the case of a minor who has received dental care services pursuant to Minnesota Statutes, sections 144.341 to 144.347, patient includes a parent or guardian, or a person acting as a parent or guardian in the absence of a parent or guardian.

Subp. 2. Dental records. Dentists shall maintain dental records on each patient. The records must contain the components specified in subparts 3 to 10.

Subp. 3. Personal data. Dental records must include at least the following information:

A. the patient's name;
B. the patient's address;
C. the patient's date of birth;
D. if the patient is a minor, the name of the patient's parent or guardian;
E. the name and telephone number of a person to contact in case of an emergency; and
F. the name of the patient's insurance carrier and insurance identification number, if applicable.

Subp. 4. Patient's reasons for visit. When a patient presents with a chief complaint, dental records must include the patient's stated oral health care reasons for visiting the dentist.

Subp. 5. Dental and medical history. Dental records must include information from the patient or the patient's parent or guardian on the patient's dental and medical history. The information must include a sufficient amount of data to support the recommended treatment plan. The dental and medical history must be updated to reflect the current status of the patient.

Subp. 6. Clinical examinations. When emergency treatment is performed, items A to C pertain only to the area treated. When a clinical examination is performed, dental records must include:

A. recording of existing oral health care status;
B. any radiographs used; and
C. the facsimiles or results of any other diagnostic aids used.

Subp. 7. Diagnosis. Dental records must include a diagnosis.

Subp. 8. Treatment plan. Dental records must include an agreed upon written and dated treatment plan except for routine dental care such as preventive services. The treatment plan must be updated to reflect the current status of the patient's oral health and treatment.
Subp. 9. **Informed consent.** Dental records must include a notation that:

A. the dentist, advanced dental therapist, dental therapist, dental hygienist, or licensed dental assistant discussed with the patient the treatment options and the prognosis, benefits, and risks of each treatment that is within the scope of practice of the respective licensee; and

B. the patient has consented to the treatment chosen.

Subp. 10. **Progress notes.** Dental records must be legible and include a chronology of the patient's progress throughout the course of all treatment and postoperative visits. The chronology must include:

A. all treatment provided;

B. all medications used and materials placed;

C. the treatment provider by license number, name, or initials;

D. when applicable, the identity of the collaborating dentist authorizing treatment by license number; and

E. administration information for nitrous oxide inhalation analgesia, including indication for use, dosage, duration of administration, posttreatment oxygenation period prior to discharge, and patient status at discharge.

Subp. 11. **Corrections of records.** Notations must be legible, written in ink, and contain no erasures or "white-outs." If incorrect information is placed in the record, it must be crossed out with one single line and initialed by a dental health care worker.

Subp. 12. **Retention of records.** A dentist shall maintain a patient's dental records for at least seven years beyond the time the dentist last treated the patient. In the case of a minor patient, a dentist shall maintain a patient's dental records for at least seven years past the age of majority.

Subp. 13. **Transfer of records.** A patient's dental records must be transferred according to Minnesota Statutes, sections 144.291 to 144.298, irrespective of the status of the patient's account. Digital radiographs shall be transferred by compact or optical disc, electronic communication, or printing on high-quality photographic paper. All transferred film or digital radiographs must reveal images of diagnostic quality using proper exposure settings and processing procedures.

Subp. 14. **Electronic record keeping.**

A. The requirements of subparts 1 to 13 apply to electronic record keeping as well as to record keeping by any other means.

B. When electronic records are kept, a dentist must keep either a duplicate hard copy record or use an unalterable electronic record.

**Statutory Authority:**  *MS s 144.335; 150A.04; 150A.08*
3100.0100 DEFINITIONS.

Subpart 1. Scope. For the purpose of this chapter and unless the context otherwise requires, the terms in this part have the meanings given them.


Subp. 2a. Advanced cardiac life support or ACLS. "Advanced cardiac life support" or "ACLS" refers to an advanced educational course for a health care provider that teaches a detailed medical protocol for the provision of lifesaving cardiac care in settings ranging from the prehospital environment to the hospital setting. The course must include advanced airway management skills, cardiac drug usage, defibrillation, and arrhythmia interpretation. An ACLS certificate must be obtained through the American Heart Association.

Subp. 2b. Analgesia. "Analgesia" means the diminution or elimination of pain as a result of the administration of an agent including, but not limited to, local anesthetic, nitrous oxide, and pharmacological and nonpharmacological methods.

Subp. 2c. [Repealed, 35 SR 459]

Subp. 3. Applicant. "Applicant" means a person who has submitted an application to become a licensee.

Subp. 4. Assistant. "Assistant" means a person who assists a dentist in carrying out the basic duties of a dental office described in part 3100.8400.

Subp. 5. Allied dental personnel. "Allied dental personnel" means an advanced dental therapist, dental therapist, dental hygienist, licensed dental assistant, dental assistant with a limited-license permit, assistant without a license or permit, and dental technician.

Subp. 5a. Blood borne diseases. "Blood borne diseases" means diseases that are spread through the exposure to, inoculation of, or injection of blood; or exposure to blood contained in body fluids, tissues, or organs. Blood borne diseases include infection caused by such agents as the human immunodeficiency virus (HIV) and hepatitis B virus (HBV).

Subp. 6. Board. "Board" means the Board of Dentistry.

Subp. 7. CDE. "CDE" means professional development and continuing dental education.

Subp. 7a. Clinical subject. "Clinical subject" means those subjects directly related to the provision of dental care and treatment to patients.

Subp. 8. [Repealed, 39 SR 1455]

Subp. 8a. [Repealed, 35 SR 459]

Subp. 8b. Core subject. "Core subject" means those areas of knowledge that relate to public safety and professionalism as determined by the board or a committee of the board.
Subp. 9. **Course.** "Course" means an educational offering, class, presentation, meeting, or other similar event.

Subp. 9a. **CPR.** "CPR" refers to a comprehensive, hands-on course for a health care provider that includes: cardiopulmonary resuscitation on an adult, child, and infant; two-person rescuer; barrier mask or bag for ventilation; foreign body airway obstruction; and automated external defibrillation. A CPR certificate shall be obtained through the American Heart Association health care provider course or the American Red Cross professional rescuer course.

Subp. 9b. **Deep sedation.** "Deep sedation" means a depressed level of consciousness produced by a pharmacological or nonpharmacological method or a combination thereof during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. Deep sedation is characterized by impairment of the patient's ability to independently maintain ventilatory function, spontaneous ventilation potentially being inadequate to meet a patient's needs, and the need for assistance in maintaining a patent airway. A patient's cardiovascular function does not typically require assistance during deep sedation.

Subp. 9c. **Dental assistant with a limited-license permit.** "Dental assistant with a limited-license permit" means a person holding a limited-license permit as a dental assistant under part 3100.8500, subpart 3.

Subp. 9d. **Dental health care personnel or DHCP.** "Dental health care personnel" or "DHCP" means individuals who work in a dental practice who may be exposed to body fluids such as blood or saliva.

Subp. 9e. **Dental hygienist.** "Dental hygienist" means a person holding a license as a dental hygienist issued by the board pursuant to the act.

Subp. 10. **Dental technician.** "Dental technician" means a person other than a licensed dentist who performs any of the services described in Minnesota Statutes, section 150A.10, subdivision 3.

Subp. 11. **Dentist.** "Dentist" means a person holding a license as a general dentist, specialty dentist, or full faculty dentist issued by the board pursuant to the act.

Subp. 11a. **Elective activities.** "Elective activities" refers to those activities directly related to, or supportive of, the practice of dentistry, dental therapy, dental hygiene, or dental assisting.

Subp. 11b. **Enteral.** "Enteral" means a technique of administration in which the agent is absorbed through the gastrointestinal tract or oral mucosa, such as with oral, rectal, or sublingual administration.
Subp. 11c. **Faculty dentist.** "Faculty dentist" has the meaning given it in Minnesota Statutes, section 150A.01, subdivision 6a.

Subp. 11d. **Fundamental activities.** "Fundamental activities" means those activities directly related to the provision of clinical dental services.

Subp. 12. [Repealed, 10 SR 1613]

Subp. 12a. **General anesthesia.** "General anesthesia" means an induced state of unconsciousness produced by a pharmacological or nonpharmacological method or a combination thereof during which patients are not arousable, even by painful stimulation. General anesthesia is characterized by the frequent impairment of the patient's ability to independently maintain ventilatory function, the patient's need for assistance in maintaining a patent airway, the need for positive pressure ventilation due to depressed spontaneous ventilation or drug-induced depression of neuromuscular function, and potential impairment of cardiovascular function.

Subp. 12b. **Hospital.** "Hospital" means an institution licensed by the state commissioner of health that:

A. is adequately and properly staffed and equipped;

B. provides services, facilities, and beds for use beyond 24 hours by individuals requiring diagnosis, treatment, or care for illness, injury, deformity, infirmity, abnormality, disease, or pregnancy; and

C. regularly provides clinical laboratory services, diagnostic x-ray services, and treatment facilities for surgery or obstetrical care, or other definitive medical treatment of similar extent.

For the purposes of this chapter, diagnostic or treatment centers, physicians' offices or clinics, or dentists' offices or clinics are not hospitals.

Subp. 12c. **Infection control.** "Infection control" means programs, procedures, and methods to reduce the transmission of agents of infection for the purpose of preventing or decreasing the incidence of infectious diseases.

Subp. 12d. **Inhalation.** "Inhalation" means a technique of administration in which the gaseous or volatile agent is introduced into the pulmonary tree and whose primary effect is due to absorption through the pulmonary bed.

Subp. 12e. **Licensed dental assistant.** "Licensed dental assistant" means an assistant licensed by the board pursuant to Minnesota Statutes, section 150A.06, subdivision 2a.

Subp. 13. **Licensee.** "Licensee" means a dentist, dental therapist, dental hygienist, licensed dental assistant, or dental assistant with a limited-license permit.
Subp. 13a. **Minimal sedation.** "Minimal sedation" means a minimally depressed level of consciousness produced by a pharmacological or nonpharmacological method that retains the patient's ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command. Minimal sedation is characterized by moderate impairment to the patient's cognitive function and coordination, but leaves unaffected the patient's ventilatory and cardiovascular functions.


Subp. 14a. **Moderate sedation.** "Moderate sedation" means a depressed level of consciousness produced by a pharmacological or nonpharmacological method or a combination thereof during which patients respond purposefully to verbal commands, either alone or accompanied by light tactical stimulation. Moderate sedation is characterized by unaffected cardiovascular functions, no need for intervention to maintain a patent airway for the patient, and adequate spontaneous ventilation.

Subp. 15. **National board.** "National board" means an examination administered nationally that is acceptable to the board.

Subp. 15a. **Nitrous oxide inhalation analgesia.** "Nitrous oxide inhalation analgesia" means the administration by inhalation of a combination of nitrous oxide and oxygen, producing an altered level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command.

Subp. 15b. **Parenteral.** "Parenteral" means a technique of administration in which the drug bypasses the gastrointestinal tract, such as with intramuscular, intravenous, intranasal, submucosal, subcutaneous, or intraocular administration.

Subp. 15c. **Pediatric advanced life support or PALS.** "Pediatric advanced life support" or "PALS" refers to an advanced life support educational course for the pediatric health care provider that teaches the current certification standards of the American Academy of Pediatrics or the American Heart Association. A PALS certificate must be obtained through the American Heart Association.

Subp. 16. **Person.** "Person" includes an individual, firm, partnership, association, or any other legal entity.

Subp. 16a. **Portfolio.** "Portfolio" means an accumulation of written documentation of professional development activities.

Subp. 16b. **Professional development.** "Professional development" means activities that include, but are not limited to, continuing education, community services, publications, and career accomplishments throughout a professional's life.
Subp. 17. [Repealed, 35 SR 459]

Subp. 18. [Repealed, 35 SR 459]

Subp. 18a. Resident dentist. "Resident dentist" has the meaning given it in Minnesota Statutes, section 150A.01, subdivision 8a.

Subp. 18b. Self-assessment. "Self-assessment" means an ungraded examination provided by the board intended to help determine strengths and weaknesses in specific areas of dental practice.

Subp. 19. [Repealed, 10 SR 1613]

Subp. 20. [Repealed, 29 SR 306]

Subp. 21. Supervision. "Supervision" means one of the following levels of supervision, in descending order of restriction.

A. "Personal supervision" means the dentist is personally operating on a patient and authorizes the allied dental personnel to aid in treatment by concurrently performing supportive procedures.

B. "Direct supervision" means the dentist is in the dental office, personally diagnoses the condition to be treated, personally authorizes the procedure, and before dismissal of the patient, evaluates the performance of the allied dental personnel.

C. "Indirect supervision" means the dentist is in the office, authorizes the procedures, and remains in the office while the procedures are being performed by the allied dental personnel.

D. "General supervision" means the supervision of tasks or procedures that do not require the presence of the dentist in the office or on the premises at the time the tasks or procedures are being performed but require the tasks be performed with the prior knowledge and consent of the dentist.

Subp. 22. Transdermal or transmucosal. "Transdermal" or "transmucosal" means a technique of administration in which the drug is administered by patch or iontophoresis.

Statutory Authority: MS s 150A.04; 150A.06; 150A.08; 150A.10; 150A.11; 214.06; 319A.18

History: 10 SR 1613; 14 SR 1214; 16 SR 2314; 18 SR 580; 18 SR 2042; 20 SR 2623; 29 SR 306; 31 SR 1238; 35 SR 459; 36 SR 738; 39 SR 1455

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24.138.301 DEFINITIONS

For the purposes of this chapter, the following definitions apply:

(1) "Advertisement" is any communication made or disseminated to the public in any manner designed to attract public attention to the practice of a dentist who is licensed to practice dentistry in Montana.

(2) "Bait and switch advertising" is an alluring but insincere offer to sell a product or provide a service that the advertiser, in truth, does not intend or want to sell and which is designed to switch the consumer from purchasing the advertised product or service to another product or service, usually at a higher fee or on a basis more advantageous to the advertiser.

(3) "Coronal polishing" is a dental procedure limited to the utilization of abrasive agents on the coronal surfaces of natural and restored teeth for the purpose of plaque and extrinsic stain removal.

(4) "Direct supervision", for the purpose of ARM 24.138.406, means the provisions of allowable functions by dental auxiliaries with the intent and knowledge of the dentist while the supervising dentist is on the premises.

(5) "Discounted fee" is a fee offered or charged by a person or organization for any dental product or service that is less than the fee the person or organization usually offers or charges for the product or service but does not include products or services explicitly offered free of charge.

(6) "Material fact" is any fact that an ordinary, reasonable, and prudent person would need to know or rely upon in making an informed decision concerning dental care or the selection of a dentist to serve the patient's particular needs.

(7) "Prophylaxis" is a preventative and therapeutic dental health treatment process by which gingival irritants, including any existing combination of calculus deposits, plaque, material alba, accretions, and stains are removed supragingivally and/or subgingivally from the natural and restored surfaces of teeth by a method or methods, which may include scaling, root planing, and subgingival curettage, that are most suitable for the patient, by an appropriately licensed dentist or licensed dental hygienist.

(8) "Retired or nonpracticing dentist or dental hygienist" is a person who has surrendered or not renewed the individual's license for nondisciplinary reasons and has ceased to practice the individual's profession for remuneration.

(9) "Volunteer licensee" is a dentist or dental hygienist licensed according to rule to provide dental healthcare related diagnosis, care, or treatment without receiving or expecting to receive compensation or any other form of remuneration.

Montana Code Annotated 2019

TITLE 37. PROFESSIONS AND OCCUPATIONS
CHAPTER 4. DENTISTRY AND DENTAL HYGIENE
Part 4. Dental Hygienists and Auxiliary Personnel

Dental Hygienist To Practice Under Supervision Of Licensed Dentist -- Exceptions -- Definitions

37-4-405. Dental hygienist to practice under supervision of licensed dentist -- exceptions -- definitions. (1) A licensed dental hygienist may:

(a) with the permission of the supervising dentist, practice in the office of a licensed and actively practicing dentist under the general supervision of a licensed dentist; or

(b) provide dental hygiene preventative services in a public health facility under the general supervision of a licensed dentist or, subject to the provisions of subsection (4), under public health supervision.

(2) A dental hygienist may give instruction in oral hygiene without the direct supervision or general supervision of a licensed dentist in a public or private institution or hospital or extended care facility or under a board of health or in a public clinic.

(3) For the purposes of this section, the following definitions apply:

(a) "direct supervision" means treatment by a dental auxiliary or licensed dental hygienist provided with the intent and knowledge of the dentist. The treatment must be performed while the dentist is on the premises.

(b) "general supervision" means treatment by a licensed dental hygienist provided with the intent and knowledge of the dentist licensed and residing in the state of Montana. The supervising dentist need not be on the premises.

(c) "public health facility" means:

(i) federally qualified health centers; federally funded community health centers, migrant health care centers, or programs for health services for the homeless established pursuant to the Public Health Service Act, 42 U.S.C. 254b; nursing homes; extended care facilities; home health agencies; group homes for the elderly, disabled, and youth; head start programs; migrant worker facilities; local public health clinics and facilities; public institutions under the department of public health and human services; and mobile public health clinics; and

(ii) other public health facilities and programs identified by the board under subsection (6); and

(d) "public health supervision" means the provision of limited dental hygiene preventative services without the prior authorization or presence of a licensed dentist in a public health facility.

(4) (a) A licensed dental hygienist practicing under public health supervision may provide dental hygiene preventative services that include removal of deposits and stains from the surfaces of teeth, the application of topical fluoride, polishing restorations, root planing, placing of sealants, oral cancer screening, exposing radiographs, charting of services provided, and prescriptive authority as allowed under 37-4-401(1)(c).
(b) A licensed dental hygienist practicing under public health supervision may not provide dental hygiene preventative services that include local anesthesia, denture soft lines, temporary restorations, or any other service prohibited under 37-4-401.

(c) A licensed dental hygienist practicing under public health supervision shall provide:

(i) for the referral to a licensed dentist of any patient needing treatment outside the scope of practice authorized for a licensed dental hygienist under this subsection (4); and

(ii) treatment based upon medical and dental health guidelines adopted by rule by the board.

(5) (a) A dental hygienist practicing under public health supervision shall obtain a limited access permit from the board.

(b) The board shall adopt rules:

(i) defining the qualifications necessary to obtain a limited access permit; and

(ii) providing a process for obtaining a limited access permit.

(c) The provision of services under a limited access permit is limited to patients or residents of facilities or programs who, due to age, infirmity, disability, or financial constraints, are unable to receive regular dental care.

(6) The board may identify, by rule, other public health facilities and programs, in addition to those listed in subsection (3)(c), at which services under a limited access permit may be provided.

History: En. Sec. 21, Ch. 48, L. 1935; re-en. Sec. 3115.21, R.C.M. 1935; amd. Sec. 9, Ch. 352, L. 1969; amd. Sec. 88, Ch. 350, L. 1974; R.C.M. 1947, 66-921(6); amd. Sec. 4, Ch. 493, L. 1979; amd. Sec. 9, Ch. 363, L. 1981; amd. Sec. 4, Ch. 66, L. 1991; amd. Sec. 1, Ch. 172, L. 2003; amd. Sec. 2, Ch. 288, L. 2017.
24.138.407 FUNCTIONS FOR DENTAL HYGIENISTS

(1) Allowable functions for the dental hygienist practicing under the supervision of a licensed dentist shall include dental procedures as allowed by Title 37, chapter 4, MCA, and board rule, and subject to (2) below, in which:

(a) the hygienist was instructed and qualified to perform in a school of dental hygiene accredited by the Commission on Dental Accreditation or its successor; or
(b) the hygienist was instructed and trained by a licensed dentist; or
(c) the hygienist was instructed and trained in a board acceptable continuing education course; or
(d) the hygienist is functioning in the capacity of a dental auxiliary as allowed by board rule.

(2) A dental hygienist will be allowed to perform the following dental auxiliary functions, under general supervision, including, but not limited to:

(a) making radiographic exposures, as prescribed by the supervising dentist;
(b) taking impressions for study or working casts;
(c) removing sutures and dressings;
(d) applying topical anesthetic agents;
(e) providing oral health instruction;
(f) applying topical fluoride agents;
(g) removing excess cement from coronal surfaces;
(h) placing and removing rubber dams;
(i) placing and removing matrices;
(j) collecting patient data;
(k) polishing amalgam restorations;
(l) placing pit and fissure sealants; and
(m) coronal polishing.

(3) A dental hygienist shall not be allowed to perform the following:

(a) diagnosis and treatment planning as per 37-4-401, MCA;
(b) cutting hard or soft tissue (except root planing and soft tissue curettage) or extracting teeth;
(c) prescribing any drug except fluoride agents, topical oral anesthetic agents, and non-systemic oral antimicrobials, under the general supervision of a licensed dentist or under public health supervision with a limited access permit, as per 37-4-401, MCA;
(d) administering or dispensing any drugs, without the prior authorization and direct supervision of the supervising dentist. This does not pertain to local anesthetic agents administered by a licensed dental hygienist qualified to administer the agents, topical agents, fluoride agents, topical oral anesthetic agents, non-systemic oral antimicrobials, or sulcular medicaments;
(e) placing, carving or condensing any permanent restorations;
(f) taking final impressions of the involved arch for crowns, bridges, implant prosthesis, partial or complete dentures;
(g) bonding or cementing orthodontic brackets, or orthodontic appliances that would provide activation upon cementation;
(h) bonding or cementing any fixed prosthesis, including veneers, except for provisional.

(4) Dentists shall refrain from delegating to dental hygienists any duties or responsibilities regarding patient care that cannot be delegated to dental hygienists under 37-4-401, MCA, and board rules.

(5) The assignment of tasks and procedures to a dental hygienist shall not relieve the dentist from liability for all treatment rendered the patient.

(6) A dentist shall not employ, supervise or otherwise use more dental hygienists than the dentist can reasonably supervise in keeping with the dentist's ethical and professional responsibilities.
(7) It shall be the responsibility of the employing dentist to verify that a dental hygienist's qualifications are in compliance with the statutes and rules of the Board of Dentistry.

(8) A dentist licensed to use or direct the use of an x-ray producing device must assure that the radiation source under the dentist's jurisdiction is used only by individuals competent to use it, as per ARM 37.14.1003.

Article 16.
Dental Hygiene Act.

§ 90-221. Definitions.
(a) "Dental hygiene" as used in this Article shall mean the performance of the following functions: Complete oral prophylaxis, application of preventive agents to oral structures, exposure and processing of radiographs, administration of medicaments prescribed by a licensed dentist, preparation of diagnostic aids, and written records of oral conditions for interpretation by the dentist, together with such other and further functions as may be permitted by rules and regulations of the Board not inconsistent herewith.
(b) "Dental hygienist" as used in this Article, shall mean any person who is a graduate of a Board-accredited school of dental hygiene, who has been licensed by the Board, and who practices dental hygiene as prescribed by the Board.
(c) "License" shall mean a certificate issued to any applicant upon completion of requirements for admission to practice dental hygiene.
(d) "Renewal certificate" shall mean the annual certificate of renewal of license to continue practice of dental hygiene in the State of North Carolina.
(e) "Board" shall mean "The North Carolina State Board of Dental Examiners" created by Chapter 139, Public Laws of 1879, and Chapter 178, Public Laws of 1915 as continued in existence by G.S. 90-22.
(f) "Supervision" as used in this Article shall mean that acts are deemed to be under the supervision of a licensed dentist when performed in a locale where a licensed dentist is physically present during the performance of such acts, except those acts performed under direction and in compliance with G.S. 90-233(a) or G.S. 90-233(a1), and such acts are being performed pursuant to the dentist's order, control and approval. (1945, c. 639, s. 1; 1971, c. 756, s. 1; 1981, c. 824, s. 1; 2007-124, s. 1.)

§ 90-222. Administration of Article.
The Board is hereby vested with the authority and is charged with the duty of administering the provisions of this Article. (1945, c. 639, s. 2.)

§ 90-223. Powers and duties of Board.
(a) The Board is authorized and empowered to:
(1) Conduct examinations for licensure,
(2) Issue licenses and provisional licenses,
(3) Issue annual renewal certificates,
(4) Renew expired licenses, and
(5) Contract with a regional or national testing agency to conduct clinical examinations. Prior to entering a contract with a regional or national testing agency, the Board shall evaluate the agency based on the following criteria:
a. The number of states that recognize the results of the testing agency's examination.
b. The cost to the applicant of the examination.
c. How long the testing agency has been conducting examinations.
d. Whether the examination includes procedures performed on human subjects as part of the assessment of clinical competencies.
(b) The Board shall have the authority to make or amend rules and regulations not inconsistent with this Article governing the practice of dental hygiene and the granting, revocation and suspension of licenses and provisional licenses of dental hygienists.
(1) Any rule adopted under this Article shall be distributed to all licensed dentists and all licensed dental hygienists within 30 days of final approval by the Board.
(2) The Board shall issue every two years a compilation or supplement of the Dental Hygiene Act and the Board rules and regulations, and, upon written request therefor, a directory of dental hygienists to each licensed dentist and dental hygienist.
(c) The Board shall keep on file in its office at all times a complete record of the names, addresses, license numbers and renewal certificate numbers of all persons entitled to practice dental hygiene in this State.
(d) The Board shall, in addition to any other requirements for Board approval of a school or program of dental hygiene for purposes of this Article, require that any school or program in North Carolina develop and implement a procedure for advanced placement of potentially qualified persons. This procedure shall be designed to encourage and allow credit for any person who has attained special capabilities in dental work through military service, on-the-job training or working experience, or other means not otherwise qualifying the person to be immediately eligible for licensure. The procedure shall include these elements: public announcement of the procedure, a method for persons who have special capabilities through training or experience to make application to the school or program for advanced placement, personal counseling on obtaining advanced placement, administration of specially prepared written and clinical examinations for all parts of the curriculum otherwise required for graduation, exemption from course requirements when results of the examinations so indicate, and appropriate modification of curriculum requirements, when necessary, to facilitate individual advancement in education programs. The procedure for advanced placement shall not be approved by the Board unless it is fairly designed to facilitate the substitution of military or civilian training and experience for regular curricula, taking into account that the special nature of military and certain civilian training and experience may be equivalent without necessarily being identical to the courses of the school or program.

(e) The Board shall have the authority to provide for programs for impaired dental hygienists as authorized in G.S. 90-48.3. (1945, c. 639, s. 3; 1971, c. 756, s. 2; 1973, c. 871, s. 2; 1979, 2nd Sess., c. 1195, s. 14; 1987, c. 827, s. 1; 1999-382, s. 2; 2000-189, s. 7; 2006-235, s. 1.)

§ 90-224. Examination.

(a) The applicant for licensure must be of good moral character, have graduated from an accredited high school or hold a high school equivalency certificate duly issued by a governmental agency or unit authorized to issue the same, and be a graduate of a program of dental hygiene in a school or college approved by the Board.

(b) The Board shall have the authority to establish in its rules and regulations:

1. The form of application;
2. The time and place of examination;
3. The type of examination;
4. The qualifications for passing the examination.

(b1) The Board also may grant a license to an applicant who is found to have passed an examination given by a Board-approved regional or national dental hygiene testing agency, provided that the Board deems the regional or national examination to be substantially equivalent to or an improvement upon the examination given by the Board, and the applicant meets the other qualifications set forth in this Article.

(c) The Department of Public Safety may provide a criminal record check to the Board for a person who has applied for a new or renewal license through the Board. The Board shall provide to the Department of Public Safety, along with the request, the fingerprints of the applicant, any additional information required by the Department of Public Safety, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The Board shall keep all information pursuant to this subsection privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.

The Department of Public Safety may charge each applicant a fee for conducting the checks of criminal history records authorized by this subsection. (1945, c. 639, s. 4; 1971, c. 756, s. 3; 2002-147, s. 10; 2006-235, s. 2; 2014-100, s. 17.1(o).)
§ 90-224.1. Licensure by credentials.

(a) The Board may issue a license by credentials to an applicant who has been licensed to practice dental hygiene in any state or territory of the United States if the applicant produces satisfactory evidence to the Board that the applicant has the required education, training, and qualifications; is in good standing with the licensing jurisdiction; has passed the National Board Dental Hygiene Examination administered by the Joint Commission on National Dental Examinations; has passed satisfactory examinations of proficiency in the knowledge and practice of dental hygiene as determined by the Board; and meets all other requirements of this section and rules adopted by the Board. The Board may, in its discretion, refuse to issue a license by credentials to an applicant who the Board determines is unfit to practice dental hygiene.

(b) The applicant for licensure shall be of good moral character, have graduated from an accredited high school or hold a high school equivalency certificate duly issued by a governmental agency or authorized unit, and have graduated from a dental hygiene program or school accredited by the Commission on Dental Accreditation of the American Dental Association and approved by the Board.

(c) The applicant must meet all of the following conditions:

1. Has been actively practicing dental hygiene, as defined in G.S. 90-221, under the supervision of a licensed dentist for a minimum of two years immediately preceding the date of application.

2. Has no history of disciplinary action or pending disciplinary action in the Armed Forces of the United States or in any state or territory in which the applicant is or has ever been licensed.

3. Has no felony convictions and has no other criminal convictions that would affect the applicant's ability to render competent dental hygiene care.

4. Has not failed a licensure examination administered by the North Carolina State Board of Dental Examiners.

(d) The applicant for licensure by credentials shall submit an application, the form of which shall be determined by the Board, pay the fee required by G.S. 90-232, successfully complete examinations in Jurisprudence and Sterilization and Infection Control, and meet other criteria or requirements established by the Board, which may include an examination or interview before the Board or its authorized agents.

(e) This section shall not be construed to include licensure by reciprocity, which is prohibited. (2002-37, s. 3; 2011-183, s. 65.)

§ 90-225. License issue and display.

(a) The Board shall issue licenses to examinees who pass the Board's examination.

(b) The Board shall determine:

1. The method and time of notifying successful candidates,

2. The time and form for issuing licenses, and

3. The place license must be displayed. (1945, c. 639, s. 5; 1971, c. 756, s. 4.)

§ 90-225.1. Continuing education courses required.

All dental hygienists licensed under G.S. 90-225 shall be required to attend Board-approved courses of study in subjects relating to dental hygiene. The Board shall have authority to consider and approve courses, or providers of courses, to the end that those attending will gain (i) information on existing and new methods and procedures used by dental hygienists, (ii) information leading to increased safety and competence in their dealings with patients and supervising dentists, and (iii) information on other matters, as they develop, that are of continuing importance to the practice of dental hygiene as a part of the practice of dentistry. The Board shall determine the number of hours of study within a particular period and the nature of course work required.
Failure to comply with continuing education requirements adopted under the authority of this section shall be grounds for the Board to decline to issue a renewal certificate under G.S. 90-227. (1993, c. 307, s. 3.)

§ 90-226. Provisional license.
(a) The North Carolina State Board of Dental Examiners shall, subject to its rules and regulations, issue a provisional license to practice dental hygiene to any person who is licensed to practice dental hygiene anywhere in the United States, or in any country, territory or other recognized jurisdiction, if the Board shall determine that said licensing jurisdiction imposed upon said person requirements for licensure no less exacting than those imposed by this State. A provisional licensee may engage in the practice of dental hygiene only in strict accordance with the terms, conditions and limitations of her license and with the rules and regulations of the Board pertaining to provisional license.
(b) A provisional license shall be valid until the date of the announcement of the results of the next succeeding Board examination of candidates for licensure to practice dental hygiene in this State, unless the same shall be earlier revoked or suspended by the Board.
(c) No person who has failed an examination conducted by the North Carolina State Board of Dental Examiners shall be eligible to receive a provisional license.
(d) Any person desiring to secure a provisional license shall make application therefor in the manner and form prescribed by the rules and regulations of the Board and shall pay the fee prescribed in G.S. 90-232.
(e) A provisional licensee shall be subject to those various disciplinary measures and penalties set forth in G.S. 90-229 upon a determination of the Board that said provisional licensee has violated any of the terms or provisions of this Article. (1571, c. 756, s. 5; 1975, c. 19, s. 5.)

§ 90-227. Renewal certificates.
(a) The Board shall issue annual renewal certificates to licensed dental hygienists.
(b) The Board shall have the authority to establish in its rules and regulations:
   (1) The form of application for renewal certificates;
   (2) The time the application must be submitted;
   (3) The type of certificate to be issued;
   (4) How the certificate must be displayed;
   (5) The penalty for late application;
   (6) The automatic loss of license if applications are not submitted. (1945, c. 639, s. 6; 1971, c. 756, s. 6.)

§ 90-228. Renewal of license.
The Board shall have the authority to renew the license of a dental hygienist who fails to obtain a renewal certificate for any year provided she
   (1) Makes application for a renewal of license and
   (2) Meets the qualifications established by the Board. (1945, c. 639, s. 7; 1971, c. 756, s. 7.)

§ 90-229. Disciplinary measures.
(a) The North Carolina State Board of Dental Examiners shall have the power and authority to (i) refuse to issue a license to practice dental hygiene; (ii) refuse to issue a certificate of renewal to practice dental hygiene; (iii) revoke or suspend a license to practice dental hygiene; [and] (iv) invoke such other disciplinary measures, censure or probative terms against a licensee as it deems proper; in any instance or instances in which the Board is satisfied that such applicant or licensee:
   (1) Has engaged in any act or acts of fraud, deceit or misrepresentation in obtaining or attempting to obtain a license or the renewal thereof;
   (2) Has been convicted of any of the criminal provisions of this Article or has entered a plea of guilty or nolo contendere to any charge or charges arising therefrom;
   (3) Has been convicted of or entered a plea of guilty or nolo contendere to any felony charge or to any misdemeanor charge involving moral turpitude;
   (4) Is a chronic or persistent user of intoxicants, drugs or narcotics to the extent that the same impairs his ability to practice dental hygiene;
   (5) Is incompetent in the practice of dental hygiene;
(6) Has engaged in any act or practice violative of any of the provisions of this Article or violative of any of the rules and regulations promulgated and adopted by the Board, or has aided, abetted or assisted any other person or entity in the violation of the same;

(7) Has practiced any fraud, deceit or misrepresentation upon the public or upon any individual in an effort to acquire or retain any patient or patients;

(8) Has made fraudulent or misleading statements pertaining to her skill, knowledge, or method of treatment or practice;

(9) Has committed any fraudulent or misleading acts in the practice of dental hygiene;

(10) Has, in the practice of dental hygiene, committed an act or acts constituting malpractice;

(11) Has employed a person not licensed in this State to do or perform any act or service, or has aided, abetted or assisted any such unlicensed person to do or perform any act or service which cannot lawfully be done or performed by such person;

(12) Has engaged in any unprofessional conduct as the same may be from time to time, defined by the rules and regulations of the Board;

(13) Is mentally, emotionally, or physically unfit to practice dental hygiene or is afflicted with such a physical or mental disability as to be deemed dangerous to the health and welfare of patients. An adjudication of mental incompetency in a court of competent jurisdiction or a determination thereof by other lawful means shall be conclusive proof of unfitness to practice dental hygiene unless or until such person shall have been subsequently lawfully declared to be mentally competent.

(b) As used in this section the term "licensee" includes licensees and provisional licensees and the term "license" includes licenses and provisional licenses. (1945, c. 639, s. 8; 1971, c. 756, s. 8; 1997-456, s. 27.)

§ 90-230. Certificate upon transfer to another state.

Any dental hygienist duly licensed by the North Carolina State Board of Dental Examiners, desiring to move from North Carolina to another state, territory or foreign country, if a holder of a certificate of renewal of license from said Board, upon application to said Board and the payment to it of the fee in this Article provided, shall be issued a certificate showing her full name and address, the date of license originally issued to her, the date and number of her renewal of license, and whether any charges have been filed with the Board against her. The Board may provide forms for such certificate, requiring such additional information as it may determine proper. (1971, c. 756, s. 10.)

§ 90-231. Opportunity for licensee or applicant to have hearing.

(a) With the exception of applicants for reinstatement after revocation, every applicant for a license or provisional license to practice dental hygiene or licensee or provisional licensee to practice dental hygiene shall after notice have an opportunity to be heard before the North Carolina State Board of Dental Examiners shall take any action the effect of which would be:

(1) To deny permission to take an examination for licensing for which application has been duly made; or

(2) To deny a license after examination for any cause other than failure to pass an examination; or

(3) To withhold the renewal of a license for any cause other than failure to pay a statutory renewal fee; or

(4) To suspend a license; or

(5) To revoke a license; or

(6) To revoke or suspend a provisional license; or

(7) To invoke any other disciplinary measures, censure or probative terms against a licensee or provisional licensee,

such proceedings to be conducted in accordance with the provisions of Chapter 150B of the General Statutes of North Carolina.

(b) In lieu of or as a part of such hearing and subsequent proceedings the Board is authorized and empowered to enter any consent order relative to the discipline, censure, or probation of a licensee, provisional licensee or an applicant for a license or provisional license, or relative to the revocation or suspension of a license or provisional license.
(c) Following the service of the notice of hearing as required by Chapter 150B of the General Statutes, the Board and the person upon whom such notice is served shall have the right to conduct adverse examinations, take depositions, and engage in such further discovery proceedings as are permitted by the laws of this State in civil matters. The Board is hereby authorized and empowered to issue such orders, commissions, notices, subpoenas, or other process as might be necessary or proper to effect the purposes of this subsection; provided, however, that no member of the Board shall be subject to examination hereunder. (1945, c. 639, s. 10; 1967, c. 489, s. 1; 1971, c. 756, s. 11; 1973, c. 1331, s. 3; 1987, c. 827, s. 1.)

§ 90-232. Fees.
(a) In order to provide the means of carrying out and enforcing the provisions of this Article and the duties devolving upon the North Carolina State Board of Dental Examiners, it is authorized to charge and collect fees established by its rules not exceeding the following:

1. Each applicant for examination................................................................. $350.00
2. Each renewal certificate, which fee shall be annually fixed by the Board and not later than November 30 of each year it shall give written notice of the amount of the renewal fee to each dental hygienist licensed to practice in this State by mailing such notice to the last address of record with the Board of each such dental hygienist........................................ 250.00
3. Each restoration of license......................................................................... 150.00
4. Each provisional license............................................................................ 150.00
5. Each certificate of license to a resident dental hygienist desiring to change to another state or territory........................................................ 50.00
6. Annual fee to be paid upon license renewal to assist in funding programs for impaired dental hygienists................................................................. 80.00
7. Each license by credentials ........................................................................ 1,500.

(b) In all instances where the Board uses the services of a regional or national testing agency for preparation, administration, or grading of examinations, the Board may require applicants to pay the actual cost of the testing agency in lieu of the fee authorized in subdivision (a)(1) of this section.

(c) In no event may the annual fee imposed on dental hygienists to fund the impaired dental hygienists program exceed the annual fee imposed on dentists to fund the impaired dentist program. All fees shall be payable in advance to the Board and shall be disposed of by the Board in the discharge of its duties under this Article. (1945, c. 639, s. 11; 1965, c. 163, s. 7; 1967, c. 489, s. 2; 1971, c. 756, s. 12; 1987, c. 555, s. 2; 1999-382, s. 3; 2002-37, s. 6; 2003-348, s. 2; 2006-235, s. 3.)

§ 90-233. Practice of dental hygiene.
(a) A dental hygienist may practice only under the supervision of one or more licensed dentists. This subsection shall be deemed to be complied with in the case of dental hygienists employed by or under contract with a local health department or State government dental public health program and especially trained by the Dental Health Section of the Department of Health and Human Services as public health hygienists, while performing their duties for the persons officially served by the local health department or State government program under the direction of a duly licensed dentist employed by that program or by the Dental Health Section of the Department of Health and Human Services.

(a1) A dental hygienist who has three years of experience in clinical dental hygiene or a minimum of 2,000 hours performing primarily prophylaxis or periodontal debridement under the supervision of a licensed dentist, who completes annual CPR certification, who completes six hours each year of Board-approved continuing education in medical emergencies in addition to the requirements of G.S. 90-225.1, and who is designated by the employing dentist as being capable of performing clinical hygiene procedures without the direct supervision of the dentist, may perform one or more dental hygiene functions as described in G.S. 90-221(a) without a licensed dentist being physically present if all of the following conditions are met:

1. A licensed dentist directs in writing the hygienist to perform the dental hygiene functions.
2. The licensed dentist has personally conducted an evaluation of the patient which shall include a complete oral examination of the patient, a thorough analysis of the patient's health history,
a diagnosis of the patient's condition, and a specific written plan for treatment.

(3) The dental hygiene functions directed to be performed in accordance with this subsection shall be conducted within 120 days of the dentist's evaluation.

(4) The services are performed in nursing homes; rest homes; long-term care facilities; rural and community clinics operated by Board-approved nonprofits; rural and community clinics operated by federal, State, county, or local governments; and any other facilities identified by the Office of Rural Health and approved by the Board as serving dental access shortage areas.

(a2) A dental hygienist shall not establish or operate a separate care facility that exclusively renders dental hygiene services.

(a3) A dental hygienist who has been disciplined by the Board may not practice outside the direct supervision of a dentist under G.S. 90-233(a1). A dentist who has been disciplined by the Board may not allow a hygienist to work outside of that dentist's direct supervision under G.S. 90-233(a1).

(a4) Each dentist who chooses to order dental hygiene services under G.S. 90-233(a1) shall report annually to the Board the number of patients who were treated outside the direct supervision of the dentist, the location in which the services were performed by the hygienist, and a description of any adverse circumstances which occurred during or after the treatment, if any. The dentist's report shall not identify hygienists or patients by name or any other identifier.

(a5) Clinical dental hygiene services shall be provided in compliance with both CDC and OSHA standards for infection control and patient treatment.

(b) A dentist in private practice may not employ more than two dental hygienists at one and the same time who are employed in clinical dental hygiene positions.

(c) Dental hygiene may be practiced only by the holder of a license or provisional license currently in effect and duly issued by the Board. The following acts, practices, functions or operations, however, shall not constitute the practice of dental hygiene within the meaning of this Article:

(1) The teaching of dental hygiene in a school or college approved by the Board in a board-approved program by an individual licensed as a dental hygienist in any state in the United States.

(2) Activity which would otherwise be considered the practice of dental hygiene performed by students enrolled in a school or college approved by the Board in a board-approved dental hygiene program under the direct supervision of a dental hygienist or a dentist duly licensed in North Carolina or qualified for the teaching of dentistry pursuant to the provisions of G.S. 90-29(c)(3), acting as an instructor.

(3) Any act or acts performed by an assistant to a dentist licensed to practice in this State when said act or acts are authorized and permitted by and performed in accordance with rules and regulations promulgated by the Board.

(4) Dental assisting and related functions as a part of their instructions by students enrolled in a course in dental assisting conducted in this State and approved by the Board, when such functions are performed under the supervision of a dentist acting as a teacher or instructor who is either duly licensed in North Carolina or qualified for the teaching of dentistry pursuant to the provisions of G.S. 90-29(c)(3). (1945, c. 639, s. 12; 1971, c. 756, s. 13; 1973, c. 476, s. 128; 1981, c. 824, ss. 2, 3; 1989, c. 727, s. 219(6a); 1997-443, s. 11A.23; 1999-237, s. 11.65; 2007-124, s. 2.)

§ 90-233.1. Violation a misdemeanor.

Any person who shall violate, or aid or abet another in violating, any of the provisions of this Article shall be guilty of a Class I misdemeanor. (1945, c. 639, s. 13; 1971, c. 756, s. 14; 1993, c. 539, s. 642; 1994, Ex. Sess., c. 24, s. 14(c).)
SUBCHAPTER 16G - DENTAL HYgienists

SECTION .0100 - Functions That May Be Delegated

21 NCAC 16G .0101 Functions That May Be Delegated

A dental hygienist may be delegated functions to be performed under the control and supervision of a dentist who shall be responsible for any and all consequences or results arising from performance of such acts and functions. In addition to the functions set out in G.S. 90-221(a) and 21 NCAC 16H .0203, functions that may be delegated to a dental hygienist provided that the dentist first examined the patient and prescribed the procedure include:

1. performing periodontal screening;
2. performing periodontal probing;
3. performing subgingival exploration for or removal of hard or soft deposits;
4. performing sulcular irrigation;
5. applying resorbable sulcular antimicrobial or antibiotic agents;
6. using ultrasonic scalers for prophylaxis;
7. performing scaling and root planning;
8. applying oral cancer screening products in preparation for the dentist's examination and diagnosis of oral cancer;
9. using laser fluorescence detectors in preparation for the dentist's examination and diagnosis of cavities;
10. applying resin infiltration treatment for incipient smooth surface lesions, following the dentist's diagnosis that the lesion is non-penetrable; or
11. applying silver diamine fluoride.

History Note: Authority G.S. 90-41; 90-221; 90-223(b); 90-233; Eff. September 3, 1976; Readopted Eff. September 26, 1977; Amended Eff. April 1, 2017; August 1, 2016; April 1, 2015; August 1, 2008; August 1, 2000; May 1, 1989; October 1, 1985; March 1, 1985; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018; Amended Eff. April 1, 2018.

21 NCAC 16G .0102 Functions Which Shall Not Be Delegated

History Note: Authority G.S. 90-221(a); 90-223(b); Eff. September 3, 1976; Readopted Eff. September 26, 1977; Amended Eff. May 1, 1989; Repealed Eff. August 1, 2000.

21 NCAC 16G .0103 Procedures Prohibited

Those procedures that require the professional education and skill of a dentist and may not be delegated to a dental hygienist shall include:

1. performing comprehensive examination, diagnosis, and treatment planning;
2. performing surgical or cutting procedures on hard or soft tissues, including laser, air abrasion, or micro-abrasion procedures;
3. placing or removing therapeutic sulcular nonresorbable agents;
4. issuing prescription drugs, medications, or work authorizations;
5. performing the final placement or intraoral adjustment of a fixed or removable appliance;
6. performing intraoral occlusal adjustments that affect function, fit, or occlusion of any temporary or permanent restoration or appliance;
7. performing direct pulp capping or pulpotomy;
8. placing sutures;
9. performing final placement or cementation of orthodontic bands or brackets;
10. performing the placement or cementation of final restorations;
(11) administering any anesthetic by any route except administering topically-applied agents intended to anesthetize only cutaneous tissue;
(12) using a high-speed handpiece intraorally;
(13) performing cementation of endodontic posts;
(14) condensing Amalgam;
(15) using a transcutaneous electrical nerve stimulation (TENS) unit;
(16) applying formocresol;
(17) placing stainless steel crown on permanent or primary teeth;
(18) performing pulp vitality testing;
(19) performing curettage;
(20) placing periodontal or surgical dressing;
(21) performing oral brush biopsy;
(22) taking bite registration or Elastometrics;
(23) placing eugenol wick in dry socket;
(24) fabricating or delivering sleep apnea appliance; and
(25) removing, replacing, or torqueing either impression or prosthetic implant abutments.

History Note: Authority G.S. 90-221(a); 90-223(b);
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. August 1, 2016; August 1, 2008; August 1, 2000; May 1, 1989; March 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. April 1, 2018.

21 NCAC 16G .0104 DEFINITION: DIRECT CONTROL AND SUPERVISION

History Note: Authority G.S. 90-223(b);
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;

21 NCAC 16G .0105 EMPLOYMENT OF DENTAL HYGIENIST

History Note: Authority G.S. 90-28; 90-48; 90-223(b);
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. January 1, 1983;

21 NCAC 16G .0106 DENTAL HYGIENE SCHOOL EXTENSION FACILITIES AND OFF CAMPUS CLASSES

(a) Dental hygiene schools may operate extension facilities and conduct off-campus hygiene classes in which dental hygiene services are provided to members of the public at Board approved sites, including non-profit health care facilities serving low income populations, state and county institutions with resident populations, hospitals, state or county health department and area health education centers.
(b) Dental hygiene schools which operate extension facilities or conduct hygiene classes off-campus must notify the Dental Board of the location and nature of each facility or off campus course location, the names of the students assigned thereto, and the names and qualifications of all instructors functioning therein.
(c) No student enrolled in an off-campus dental hygiene class or extension facility may receive fees, compensation or remuneration of any kind for providing dental hygiene services in accordance with G.S. 90-29(c)(4) or G.S. 90-233(c)(2).

History Note: Authority G.S. 90-29(c)(4); 90-233(c)(2);
Eff. November 1, 2009;
21 NCAC 16G .0107  DENTAL HYGIENE LICENSURE BY ENDORSEMENT BASED ON MILITARY SERVICE

(a) An applicant for a dental hygiene license by endorsement based on his or her status as a member of the U.S. military shall submit to the Board:

1. a completed, signed and notarized application form provided by the Board;
2. an application fee in the amount of two hundred sixty-five dollars ($265.00);
3. written evidence demonstrating that the applicant has been awarded a military occupational specialty in dental hygiene and that the applicant:
   (A) completed a military program of training substantially equivalent to or greater than the requirements for licensure as a dental hygienist in North Carolina;
   (B) completed testing or equivalent training and experience substantially equivalent to or greater than that required for licensure as a dental hygienist in North Carolina, as set forth in G.S. 90-224; and
   (C) engaged in the active practice of dental hygiene as defined by G.S. 90-221 for at least 1,500 hours per year during at least two of the five years preceding the date of application; and
4. a statement disclosing and explaining the commission of any acts set out in G.S. 90-229, any disciplinary actions, investigations, malpractice claims, state or federal agency complaints, judgments, settlements, or criminal charges.

(b) All information required must be completed and received by the Board office as a complete package with the initial application and application fee. Incomplete application packages shall be returned to the applicant.

(c) All applicants shall submit to the Board a signed release form and completed Fingerprint Record Card. The form and card may be obtained from the Board office.

History Note:  Authority G.S. 90-223; 90-224(c); 90-229; 93B-15.1;
Eff. September 19, 2013;

21 NCAC 16G .0108  DENTAL HYGIENE LICENSURE BY ENDORSEMENT BASED ON STATUS AS MILITARY SPOUSE

(a) An applicant for a dental hygiene license by endorsement based on the applicant's status as a current spouse of an active member of the U.S. military shall submit to the Board:

1. a completed, signed and notarized application form provided by the Board;
2. a two hundred sixty-five dollar ($265.00) application fee;
3. written evidence demonstrating that the applicant is a military spouse and that such applicant:
   (A) holds a current dental hygiene license from another jurisdiction whose standards for licensure are substantially equivalent to or greater than those required for licensure as a dental hygienist in North Carolina; and
   (B) has engaged in the active practice of dental hygiene as defined by G.S. 90-221 for at least 1,500 hours per year during at least two of the five years preceding the date of application; and
4. a statement disclosing and explaining the commission of any act described in G.S. 90-229, any disciplinary actions, investigations, malpractice claims, state or federal agency complaints, judgments, settlements, or criminal charges.

(b) All information required must be completed and received by the Board office as a complete package with the initial application and application fee. Incomplete application packages shall be returned to the applicant.

(c) All applicants shall submit to the Board a signed release form and completed Fingerprint Record Card.

History Note:  Authority G.S. 90-223; 90-224(c); 90-229; 90-232; 93B-15.1;
Eff. September 19, 2013;
Office of the Professions

Education Law

Article 133, Dentistry and Dental Hygiene [and Certified Dental Assisting *]

Effective January 1, 2015

§ 6600. Introduction.

This article applies to the professions of dentistry and dental hygiene. The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

§ 6601. Definition of practice of dentistry.

The practice of the profession of dentistry is defined as diagnosing, treating, operating, or prescribing for any disease, pain, injury, deformity, or physical condition of the oral and maxillofacial area related to restoring and maintaining dental health. The practice of dentistry includes the prescribing and fabrication of dental prostheses and appliances. The practice of dentistry may include performing physical evaluations in conjunction with the provision of dental treatment.

§ 6602. Practice of dentistry and use of title "dentist".

Only a person licensed or otherwise authorized to practice under this article shall practice dentistry or use the title "dentist".

§ 6603. State board for dentistry.

A state board for dentistry shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than thirteen dentists licensed in this state for at least five years, not less than three dental hygienists licensed in this state for at least five years, and not less than one certified dental assistant licensed in this state for at least one year. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner and shall be a dentist licensed in this state.

§ 6604. Requirements for a license as a dentist.

To qualify for a license as a dentist, an applicant shall fulfill the following requirements:

1. Application: file an application with the department;
2. Education: have received an education, including a doctoral degree in dentistry, in accordance with the commissioner's regulations;
3. Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations, provided that such experience shall consist of satisfactory completion of a clinically-based postdoctoral general practice or specialty dental residency program, of at least one year's duration, in a hospital or dental facility accredited for teaching purposes by a national accrediting body approved by the department, provided, further that any such residency program shall include a formal outcome assessment evaluation of the resident's competence to practice dentistry acceptable to the department;
4. Examination: pass a written examination satisfactory to the board and in accordance with the commissioner's regulations;
5. Age: be at least twenty-one years of age;
6. Citizenship or immigration status: be a United States citizen or an alien lawfully admitted for permanent residence in the United States; provided, however, that the board of regents may grant a three year waiver for an alien to practice in an area which has been designated a federal dental health professions shortage area, except that the board of regents may grant an additional extension not to exceed six years to an alien to enable him or her to secure citizenship or permanent resident status, provided such status is being actively pursued;
7. Character: be of good moral character as determined by the department; and
8. Fees: pay a fee of two hundred twenty dollars to the department for admission to a department conducted examination and for an initial license, a fee of one hundred fifteen dollars for each reexamination, a fee of one hundred thirty-five dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of two hundred ten dollars for each triennial registration period.


1. 
   a. Each dentist, licensed pursuant to this article, required to register triennially with the department to practice in this state shall comply with the provisions of the mandatory continuing education requirements, except as set forth in paragraphs (b) and (c) of this subdivision. Dentists who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements and have been issued a registration or conditional registration certificate.
   b. Dentists shall be exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed. In accordance with the intent of this section, adjustments to the mandatory continuing education requirement may be granted by the department for reasons of health, certified by a physician, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.
   c. A licensed dentist not engaged in public practice as an individual practitioner, a partner of a partnership, a shareholder of a professional service corporation, or an employee of such practice units, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the public practice of dentistry during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory continuing education requirements as shall be prescribed by regulation of the commissioner.

2. During each triennial registration period an applicant for registration shall complete a minimum of sixty hours of acceptable formal continuing education, a maximum of eighteen hours of which may be self-instructional coursework as approved by the department. Beginning with the first registration renewal period for any dentist occurring on or after January first, two thousand two, and before the occurrence of the second registration renewal period following that date, a dentist shall have completed on a one-time basis, as part of the sixty hours of acceptable formal continuing education required by the section, no fewer than two hundred hours of coursework and training including the chemical and related effects and usage of tobacco and tobacco products and the recognition, diagnosis, and treatment of the oral health effects, including but not limited to cancers and other diseases, caused by tobacco and tobacco products, provided that any dentist who provides written proof satisfactory to the department that the dentist has completed, at any time subsequent to the effective date of this section, an approved mandatory continuing education course of not less than two hours in the same or substantially similar subject matter shall be deemed to have met this requirement, and further provided that dentists who are exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed shall also be exempt from this requirement for that period. Any dentist whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, nineteen hundred ninety-eight, and before July first, two thousand eight, shall complete continuing education hours on a prorated basis at the rate of one and one-quarter hours per month for the period beginning January first, nineteen hundred ninety-seven up to the first registration date thereafter. For any registration period beginning before July first, two thousand eight and ending on or after such date, each dentist shall complete continuing education hours on a pro rata basis at a rate of one and one-quarter hours per month for the period ending June thirty-first, two thousand eight and at a rate of one and two-thirds hours per month for the period beginning July first, two thousand eight up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided in subdivision three of this section. The individual licensee shall determine the selection of courses or programs of study pursuant to subdivision four of this section.
3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and take any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of completion of required continuing education and who practices dentistry without such registration, may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

4. As used in this section, "acceptable formal continuing education" shall mean formal programs of learning which contribute to professional practice and which meet the standards prescribed by regulations of the commissioner. To fulfill the mandatory continuing education requirement, programs must be taken from sponsors having at least one full-time employee and the facilities, equipment, and financial and physical resources to provide continuing education courses, approved by the department, pursuant to the regulations of the commissioner.

5. The mandatory continuing education fee shall be forty-five dollars, shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required by section six thousand six hundred four of this article.

6. On or after the effective date of this subdivision, and no later than the end of the first registration period commencing on or after such date during which he or she is required to comply with the continuing education requirements of this section, each dentist shall have completed on a one-time basis, as part of the mandatory hours of acceptable formal continuing education required by this section, no fewer than three hours in a course approved by the department in dental jurisprudence and ethics, which shall include the laws, rules, regulations and ethical principles relating to the practice of dentistry in New York state, provided that postgraduate dental students enrolled in New York state dental residency programs may satisfy the requirements of this subdivision by taking such an approved course during the period of their dental residency prior to their initial licensure.

§ 6604-b. Restricted dental faculty license. *

1. The department may issue a restricted dental faculty license to a full-time faculty member employed at an approved New York state school of dentistry. The holder of such restricted dental faculty license shall have the authority to practice dentistry, as defined in this article, but such practice of dentistry shall be limited to the school's facilities or the school's clinics, or facilities or clinics with relationships to the school confirmed by formal affiliation agreements. Nothing in this section shall be construed to authorize such holder of a restricted dental faculty license to engage in the private practice of dentistry at any other site.

2. To qualify for a restricted dental faculty license the applicant shall present satisfactory evidence of the following:
   a. The completion of a total of no less than six academic years of pre-professional and professional education, including:
      i. Courses in general chemistry, organic chemistry, biology or zoology and physics; and
      ii. Not less than four academic years of professional dental education satisfactory to the department culminating in a degree, diploma or certificate in dentistry recognized by the appropriate civil authorities of the jurisdiction in which the school is located as acceptable for entry into practice in the jurisdiction in which the school is located.
   b. Within the last five years, have two years of satisfactory practice as a dentist or have satisfactorily completed an advanced education program in general dentistry or in a dental specialty, provided such program is accredited by an organization accepted by the department as a reliable authority for the purpose of accrediting such programs (such as the commission on dental accreditation); and
   c. Possesses good moral character as determined by the department.

3. The dean of the dental school shall notify the department in writing upon the submission of an initial license application and yearly thereafter that the holder of the dental faculty license is employed full-time at the dental school. Full-time employment means the holder of such dental faculty license devotes at least four full working days per week in teaching or patient care, research or administrative duties at the dental school where employed. The dean of the dental school and the holder of such dental faculty license shall each notify the department in writing within thirty days of the termination of full-time employment.

4. In order to continue to practice dentistry, the holder of a restricted dental faculty license shall apply for and hold a current triennial registration which shall be subject to the same registration requirements as apply to holders of unrestricted dental licenses, except that such registration shall be issued only upon the submission of documentation satisfactory to the department of the holder's continued status as a full-time dental faculty member, provided that such registration shall immediately terminate and the
holder shall no longer be authorized to practice if the holder ceases to be a full-time dental faculty member at an approved New York state school of dentistry.

5. The holder of this restricted dental faculty license shall be subject to the professional misconduct provisions set forth in article one hundred thirty of this chapter and in the rules of the board of regents and the regulations of the commissioner.

6. The fee for each restricted dental faculty license shall be three hundred dollars, and the fee for initial registration and each subsequent re-registration shall be three hundred dollars.

7. In order to be eligible for a restricted dental faculty license an applicant must be a United States citizen or an alien lawfully admitted for permanent residence in the United States; provided, however, that the department may grant a three year waiver for an alien who otherwise meets all other requirements for a restricted dental faculty license except that the department may grant an additional extension not to exceed six years to an alien to enable him or her to secure citizenship or permanent resident status, provided such status is being actively pursued. No current faculty member shall be displaced by the holder of a restricted dental faculty license.

* NB Effective February 1, 2015
* NB Repealed February 1, 2021

§ 6605. Limited permits.

1. On recommendation of the board, the department may issue a limited permit to a graduate of a dental college who meets the educational qualifications for admission to the licensing examination in dentistry for employment in a hospital or dental facility approved by an appropriate agency, while under the direction or supervision of a licensed dentist. No such permit shall be issued or renewed unless such graduate has a bona fide offer of a position in such a hospital or dental facility.

2. On recommendation of the board, the department may issue a limited permit for instructing in dentistry to a dentist not licensed under this article to be employed by a registered school of dentistry or dental hygiene, or to instruct and supervise clinical dentistry or dental hygiene for students in such a registered school in the state, and in so doing to practice dentistry as defined in this article, but only on the premises of such registered school or such other premises as may be used for instruction in the program of education conducted by such institution. No person shall be permitted or authorized to instruct and supervise clinical dentistry for students unless such person is licensed in this state or holds the foregoing limited permit for instructing in dentistry.

3. The holder of a limited permit under this section may practice dentistry, as defined in this article, but only in the performance of duties required by the position for which the limited permit is issued. Nothing in this section shall be construed to authorize such unlicensed dentist to engage in the private practice of dentistry.

4. A limited permit under this section shall be valid for one year or until ten days after notification of denial of an application for license. A limited permit may be renewed for one year, except if the applicant is serving in a residency program in a hospital or school of dentistry in this state. A limited permit may be renewed annually for the duration of such residency program. The fee for each limited permit and for each renewal shall be one hundred five dollars.

5. Notwithstanding subdivision one of this section, dental school graduates who meet the license requirement for education pursuant to subdivision two of section sixty-six hundred four of this article shall be deemed to be exempt persons pursuant to section sixty-six hundred ten of this article and shall not be required to obtain a limited permit, provided that they are employed in an approved residency program for the purpose of fulfilling initial licensure requirements pursuant to section sixty-six hundred four of this article. Not later than sixty days after entry into an approved residency program, the dental resident shall register on a form acceptable to the commissioner and pay to the department a residency registration fee established by the department, which residency registration fee shall be reasonable and shall not exceed the limited permit fee specified in subdivision four of this section. All persons deemed exempt pursuant to this section shall be subject to all provisions of article one hundred thirty of this title, including but not limited to having disciplinary action taken against their residency registration status.

§ 6605-a. Dental anesthesia certificate.

1. A licensed dentist shall not employ conscious sedation, deep sedation or general anesthesia in the practice of dentistry, at any location other than a general hospital, without a dental anesthesia certificate issued by the department.

2. The commissioner shall promulgate regulations, establishing standards and procedures for the issuance of certificates. Such standards shall require completion of an educational program and/or course of training or experience sufficient to ensure that a dentist is specifically trained in the use and administration of conscious sedation, deep sedation or general anesthesia and in the possible effects of such use, and in the recognition of and response to possible emergency situations. Such regulations
may also establish standards and safeguards for the use of conscious sedation, deep sedation or
general anesthesia.

3. Nothing in this section shall limit a dentist’s use of local anesthesia, a dentist’s use of nitrous oxide, or
a dentist’s use of any other substance or agent for a purpose other than achieving deep sedation,
conscious sedation, or general anesthesia.

4. The fee for a dental anesthesia certificate shall be one hundred dollars and shall be paid on a triennial
basis upon renewal of such certificate. A certificate may be suspended or revoked in the same manner
as a license to practice dentistry.

§ 6605-b. Dental hygiene restricted local infiltration anesthesia/nitrous oxide analgesia
certificate.

1. A dental hygienist shall not administer or monitor nitrous oxide analgesia or local infiltration anesthesia
in the practice of dental hygiene without a dental hygiene restricted local infiltration anesthesia/nitrous
oxide analgesia certificate and except under the personal supervision of a dentist and in conjunction
with the performance of dental hygiene procedures authorized by law and in accordance with
regulations promulgated by the commissioner. Personal supervision, for purposes of this section, means
that the supervising dentist remains in the dental office where the local infiltration anesthesia or nitrous
oxide analgesia services are being performed, personally authorizes and prescribes the use of local
infiltration anesthesia or nitrous oxide analgesia for the patient and, before dismissal of the patient,
personally examines the condition of the patient after the use of local infiltration anesthesia or nitrous
oxide analgesia is completed. It is professional misconduct for a dentist to fail to provide the
supervision required by this section, and any dentist found guilty of such misconduct under the
procedures prescribed in section sixty-five hundred ten of this title shall be subject to the penalties
prescribed in section sixty-five hundred eleven of this title.

2. The commissioner shall promulgate regulations establishing standards and procedures for the issuance
of such certificate. Such standards shall require completion of an educational program and/or course of
training or experience sufficient to ensure that a dental hygienist is specifically trained in the
administration and monitoring of nitrous oxide analgesia and local infiltration anesthesia, the possible
effects of such use, and in the recognition of and response to possible emergency situations.

3. The fee for a dental hygiene restricted local infiltration anesthesia/nitrous oxide analgesia certificate
shall be twenty-five dollars and shall be paid on a triennial basis upon renewal of such certificate. A
certificate may be suspended or revoked in the same manner as a license to practice dental hygiene.

§ 6606. Definition of practice of dental hygiene.

1. The practice of the profession of dental hygiene is defined as the performance of dental services which
shall include removing calcareous deposits, accretions and stains from the exposed surfaces of the
teeth which begin at the epithelial attachment and applying topical agents indicated for a complete
dental prophylaxis, removing cement, placing or removing rubber dam, removing sutures, placing
matrix band, providing patient education, applying topical medication, placing and exposing diagnostic
dental x-ray films performing topical fluoride applications and topical anesthetic applications, polishing
teeth, taking medical history, charting caries, taking impressions for study casts, placing and removing
temporary restorations, administering and monitoring nitrous oxide analgesia and administering and
monitoring local infiltration anesthesia, subject to certification in accordance with section sixty-six
hundred five-b of this article, and any other function in the definition of the practice of dentistry as may
be delegated by a licensed dentist in accordance with regulations promulgated by the commissioner.
The practice of dental hygiene may be conducted in the office of any licensed dentist or in any
appropriately equipped school or public institution but must be done either under the supervision of a
licensed dentist or, in the case of a registered dental hygienist working for a hospital as defined in
article twenty-eight of the public health law, pursuant to a collaborative arrangement with a licensed
and registered dentist who has a formal relationship with the same hospital in accordance with
regulations promulgated by the department in consultation with the Department of Health. Such
collaborative arrangement shall not obviate or supersede any law or regulation which requires identified
services to be performed under the personal supervision of a dentist. When dental hygiene services are
provided pursuant to a collaborative agreement, such dental hygienist shall instruct individuals to visit a
licensed dentist for comprehensive examination or treatment.

2. The commissioner shall promulgate regulations defining the functions a dental hygienist may perform
that are consistent with the training and qualifications for a license as a dental hygienist.

§ 6607. Practice of dental hygiene and use of title “dental hygienist”.

Only a person licensed under section sixty-six hundred nine of this article or exempt shall practice dental
hygiene or use the title “dental hygienist”.

http://www.op.nysed.gov/prof/dent/article133.htm
§ 6608. Definition of practice of certified dental assisting.

The practice of certified dental assisting is defined as providing supportive services to a dentist in his/her performance of dental services authorized under this article. Such support shall include providing patient education, taking preliminary medical histories and vital signs to be reviewed by the dentist, placing and removing rubber dams, selecting and prefabricating provisional crowns, selecting and prefabricating orthodontic bands, removing orthodontic arch wires and ligature ties, placing and removing matrix bands, taking impressions for study casts or diagnostic casts, removing periodontal dressings, and such other dental supportive services authorized by the dentist consistent with regulations promulgated by the commissioner, provided that such functions are performed under the direct personal supervision of a licensed dentist in the course of the performance of dental services. Such services shall not include diagnosing and/or performing surgical procedures, irreversible procedures or procedures that would alter the hard or soft tissue of the oral and maxillofacial area or any other procedures determined by the department. The practice of certified dental assisting may be conducted in the office of any licensed dentist or in any appropriately equipped school or public institution but must be done under the direct personal supervision of a licensed dentist. Direct personal supervision, for purposes of this section, means supervision of dental procedures based on instructions given by a licensed dentist in the course of a procedure who remains in the dental office where the supportive services are being performed, personally diagnosing the condition to be treated, personally authorizes the procedures, and before dismissal of the patient, who remains the responsibility of the licensed dentist, evaluates the services performed by the dental assistant. Nothing herein authorizes a dental assistant to perform any of the services or functions defined as part of the practice of dental hygiene in accordance with the provisions of subdivision one of section sixty-six hundred sixty of this article, except those functions authorized pursuant to this section. All dental supportive services provided in this section may be performed by currently registered dental hygienists either under a dentist’s supervision, as defined in regulations of the commissioner, or, in the case of a registered dental hygienist working for a hospital as defined in article twenty-eight of the public health law, pursuant to a collaborative arrangement with a licensed dentist in accordance with subdivision one of section sixty-six hundred sixty of this article. Such collaborative arrangement shall not obviate or supersede any law or regulation which requires identified services to be performed under the personal supervision of a dentist.

§ 6608-a. Practice of certified dental assisting and use of title “certified dental assistant”.

Only a person certified under section sixty-six hundred eight-b of this article or exempt pursuant to section sixty-six hundred ten of this article shall practice certified dental assisting. Only a person certified pursuant to section sixty-six hundred eight-b of this article shall use the title “certified dental assistant”.

§ 6608-b. Requirements for certification as a certified dental assistant.

To qualify for certification as a certified dental assistant, an applicant shall fulfill the following requirements:

1. Application: file an application with the department;
2. Age: be at least seventeen years of age;
3. Fees: pay a fee of forty-five dollars to the department for initial certification and a fee of fifty dollars for each triennial registration period;
4. Education and experience: (A) have received a high school diploma, or its equivalent, and (B) have successfully completed, in accordance with the commissioner’s regulations, (i) an approved one-year course of study in dental assisting in a degree-granting institution or a board of cooperative educational services program which includes at least two hundred hours of clinical experience, or an equivalent approved course of study in dental assisting in a non-degree granting institution which shall not be a professional association or professional organization or (ii) an alternate course of study in dental assisting acceptable to the department which shall be provided by a degree-granting institution or a board of cooperative educational services program which includes at least one thousand hours of relevant work experience; and
5. Examination: pass an examination given by an organization which administers examinations for certifying dental assistants and which is acceptable to the department.

§ 6608-c. Exempt persons.

Nothing in this article shall be construed to affect or prevent a student from engaging in any procedure authorized under section sixty-six hundred eight of this article in clinical practice as part of a course of study approved by the department pursuant to subdivision four of section sixty-six hundred eight-b of this article.

§ 6608-d. Limited permits.

The department shall issue a limited permit to an applicant who meets all requirements for admission to the licensing examination. All practice under a limited permit shall be under the direct personal supervision of a
licensed dentist. Limited permits shall be for one year and may be renewed at the discretion of the department for one additional year. The fee for each limited permit and for each renewal shall be forty dollars.

§ 6609. Requirements for a license as a dental hygienist.

To qualify for a license as a dental hygienist, an applicant shall fulfill the following requirements:

1. Application: file as application with the department;
2. Education: have received an education, including high school graduation and completion of a program in dental hygiene, in accordance with the commissioner's regulations;
3. Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations;
4. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;
5. Age: be at least seventeen years of age;
6. Citizenship or immigration status: be a United States citizen or an alien lawfully admitted for permanent residence in the United States; provided, however, that the board of regents may grant a three year waiver for an alien to practice in an area which has been designated a federal dental health profession shortage area, except that the board of regents may grant an additional extension not to exceed six years to an alien to enable him or her to secure citizenship or permanent resident status, provided such status is being actively pursued;
7. Character: be of good moral character as determined by the department; and
8. Fees: pay a fee of one hundred fifteen dollars to the department for admission to a department conducted examination and for an initial license, a fee of fifty dollars for each reexamination, a fee of seventy dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of fifty dollars for each triennial registration period.


1. Each dental hygienist, licensed pursuant to this article and required to register triennially with the department to practice in this state shall comply with the provisions of the mandatory continuing education requirements, except as set forth in paragraphs (B) and (C) of this subdivision. Dental hygienists who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements and have been issued a registrant or conditional registration certificate.

B. Dental hygienists shall be exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed. In accordance with the intent of this section, adjustments to the mandatory continuing education requirement may be granted by the department for reasons of health, certified by a physician, for extended active duty with the Armed Forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

C. A licensed dental hygienist not engaged in the practice of dental hygiene shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of dental hygiene during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory continuing education requirements as shall be prescribed by regulation of the commissioner.

2. During each triennial registration period an applicant for registration shall complete a minimum of twenty-four hours of acceptable formal continuing education including currently mandated child abuse reporting instruction and infection control training as approved by the department. Of these twenty-four hours a maximum of ten hours may be self-instructional coursework as approved by the department. Any dental hygienist whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, nineteen hundred ninety-eight, shall complete continuing education hours on a prorated basis at the rate of one and one-quarter hours per month for the period beginning January first, nineteen hundred ninety-seven up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided in subdivision three of this section. The individual licensee shall determine the selection of courses or programs of study pursuant to subdivision four of this section.

3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and take any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The curation of such conditional registration shall be determined by the department. Any
licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of completion of required continuing education and who practices dental hygiene without such registration, may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

4. As used in this section, "acceptable formal continuing education" shall mean formal programs of learning which contribute to professional practice and which meet the standards prescribed by regulations of the commissioner. To fulfill the mandatory continuing education requirement, programs must be taken from sponsors approved by the department, pursuant to the regulations of the commissioner.

5. The mandatory continuing education fee of thirty dollars shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required by section sixty-six hundred nine of this article.

§ 6609-b. Limited Permit to Practice Dental Hygiene.

1. A limited permit to practice dental hygiene may be granted to an individual who, to the satisfaction of the department, meets all the requirements of this article, section six thousand six hundred nine of this article, but who has not yet passed the examination required by subdivision four of section six of this article.

2. A limited permit shall authorize the holder to practice dental hygiene as defined in section sixty-six hundred six of this article, but only under the personal supervision of a licensed dentist, as defined in regulations promulgated by the commissioner.

3. Limited permits shall be issued for a period of one year and may be renewed at the discretion of the department for one additional year.

4. The fee for a limited permit and for each renewal shall be fifty dollars.

§ 6610. Exempt persons.

Nothing in this article shall be construed to affect or prevent:

1. An unlicensed person from performing solely mechanical work upon inert matter in a dental office or on a dental laboratory prescription of a dentist holding a license or limited permit;

2. A student from engaging in clinical practice as part of a registered program operated by a school of dentistry under supervision of a dentist holding a license or limited permit for instructing in dentistry in a school of dentistry;

3. A student from engaging in any procedure authorized under section sixty-six hundred six of this article in clinical practice as part of a registered program in dental hygiene under supervision of a dentist holding a license or a limited permit for instructing in dentistry in a school of dental hygiene;

4. An employee of a federal agency from using the title of and practicing as a dentist or dental hygienist insofar as such activities are required by his salaried position;

5. A dentist or a dental hygienist licensed in some other state or country from making a teaching clinical demonstration before a regularly organized dental or medical society or group, or from meeting licensed dentists in this state for consultation, provided such activities are limited to such demonstration or consultation.

6. A dentist licensed in another state or country who is employed on a full-time basis by a registered dental school as a faculty member with the rank of assistant professor or higher from conducting research and clinical demonstrations as a part of such employment, under the supervision of a licensed dentist and on the premises of the school. No fee may be charged for the practice of dentistry authorized by this subdivision.

7. A dentist licensed in another state or country who is visiting an approved dental school or any other entity operating a residency program that has been accredited by a national accrediting body approved by the Board to receive dental instruction for a period not to exceed ninety days from engaging in clinical practice, provided such practice is limited to such instruction and is under the direct supervision of a licensed dentist.

8. Any student matriculated in an accredited dental school located outside New York state from engaging in appropriately supervised clinical practice as part of the school's dental program in a teaching hospital which has a teaching affiliation agreement with the student's dental school.

§ 6611. Special provisions.

1. Except upon the written dental laboratory prescription of a licensed dentist and except by the use of impressions or casts made by a licensed dentist, no dental laboratory shall furnish, supply, construct, reproduce, place, adjust, or repair any dental prosthesis, device, or appliance. A dental laboratory prescription shall be made out in duplicate. It shall contain such data as may be prescribed by the commissioner's regulations. One copy shall be retained by the practitioner of dentistry for a period of one year. The other copy shall be issued to the person, firm or corporation engaged in filling dental
laboratory prescriptions, who or which shall each retain and file in their respective offices or places of business their respective copies for a period of one year.

2. The department is empowered to inspect and to have access to all places, including the office or offices of a licensed dentist, where copies of dental laboratory prescriptions issued by him are retained as required by this section, and to all places where dental laboratory prescriptions are filled or to any workroom or workrooms in which prosthetic restorations, prosthetic dentures, bridges, orthodontic or other appliances or structures to be used as substitutes for natural teeth or tissue or for the correction of malocclusion or deformities are made, repaired or altered, with power to subpoena and examine records of dental laboratory prescriptions. A person who fails to grant access to such places or who fails to maintain prescriptions as required by this section shall be guilty of a class A misdemeanor.

3. The department may arrange for the conduct of clinical examinations in the clinic of any school of dentistry or dental hygiene within or outside the state for dental or dental hygiene candidates.

4. A not-for-profit dental or medical expense indemnity corporation or hospital service corporation organized under the insurance law or pursuant to special legislation may enter into contracts with dentists or partnerships of dentists to provide dental care on its behalf for persons insured under its contracts or policies.

5. Legally incorporated dental corporations existing and in operation prior to January first, nineteen hundred sixteen, may continue to operate through licensed dentists while conforming to the provisions of this title. Any such corporation which shall be dissolved or cease to exist or operate for any reason whatsoever shall not be permitted to resume operations. No such corporation shall change its name or sell its franchise or transfer its corporate rights directly or indirectly, by transfer of capital stock control or otherwise, to any person or another corporation without permission from the department, and any corporation so changing its name or so transferring its franchise or corporate rights without such permission shall be deemed to have forfeited its rights to exist and may be dissolved by an action brought by the attorney general.

6. Notwithstanding any inconsistent provision of any general, special or local law, any licensed dentist who voluntarily and without the expectation of monetary compensation renders first aid or emergency treatment at the scene of an accident or other emergency, outside of a hospital or any other place having proper ancillary necessary medical equipment, to a person who is unconscious, ill or injured shall not be liable for damages for injuries alleged to have been sustained by such person or for damages for the death of such person alleged to have occurred by reason of an act or omission in the rendering of such first aid or emergency treatment unless it is established that such injuries were or such death was caused by gross negligence on the part of such dentist. Nothing in this subdivision shall be deemed or construed to relieve a licensed dentist from liability for damages for injuries or death caused by an act or omission on the part of a dentist while rendering professional services in the normal and ordinary course of practice.

7. Any dentist or dental hygienist, who in the performance of dental services, x-rays the mouth or teeth of a patient shall during the performance of such x-rays shield the torso and thyroid area of such patient including but not limited to the gonads and other reproductive organs with a lead apron thyroid collar, or other similar protective garment or device. Notwithstanding the provisions of this subdivision, if in the dentist's professional judgment the use of a thyroid collar would be inappropriate under the circumstances, because of the nature of the patient, the type of x-ray being taken, or other factors, the dentist or dental hygienist need not shield the thyroid area.

8. An unlicensed person may provide supportive services to a dentist incidental to and concurrent with such dentist personally performing a service or procedure. Nothing in this subdivision shall be construed to allow an unlicensed person to provide any service which constitutes the practice of dentistry or dental hygiene as defined in this article.

9. There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any person, partnership, corporation, firm, society, or other entity on account of the communication of information in the possession of such person or entity, or on account of any recommendation or evaluation, regarding the qualifications, fitness, or professional conduct or practices of a dentist, to any governmental agency, dental or specialists society, or hospital as defined in article twenty-eight of the public health law. The foregoing shall not apply to information which is untrue and communicated with malicious intent.

10. Each dentist and registered dental hygienist working for a hospital as defined in article twenty-eight of the public health law who practices in collaboration with a licensed dentist shall become certified in cardiopulmonary resuscitation (CPR) from an approved provider and thereafter maintain current certification, which shall be included in the mandatory hours of continuing education acceptable for dentists to the extent provided in the commissioner's regulations. In the event the dentist or registered dental hygienist cannot physically perform CPR, the commissioner's regulations shall allow the dentist or registered dental hygienist to make arrangements for another individual in the office to administer CPR. All dental facilities shall have an automatic external defibrillator or other defibrillator at the facility.

§ 6612. Identification of removable full or partial prosthetic devices.
1. Except as provided herein, every dentist licensed in this state making or directing to be made a removable prosthetic denture, bridge, appliance or other structure to be used and worn as a substitute for natural teeth, shall offer to the patient for whom the prosthesis is intended the opportunity to have such prosthesis marked with the patient's name or initials. Such markings shall be accomplished at the time the prosthesis is made and the location and methods used to apply or implant them shall be determined by the dentist or the person acting on behalf of the dentist. Such marking shall be permanent, legible and cosmetically acceptable.

2. Notwithstanding the foregoing, if in the judgment of the dentist or the person making the prosthesis, such identification is not practicable or clinically safe, the identification marks may be omitted entirely.

3. The commissioner shall adopt rules and regulations and provide standards necessary to carry out the provisions of this section.

§ 6613. Nitrous oxide equipment.

Any machine used in a dental office for the administration of nitrous oxide to a patient shall be equipped with a scavenging system that appropriately minimizes leakage of nitrous oxide.

* Certified Dental Assisting was not added to the statute title, but is shown here to assist people in locating the appropriate text.
Regulations of the Commissioner

Part 61, Dentistry, Dental Hygiene, and Certified Dental Assisting

§61.1 Professional study of dentistry. | §61.2 Licensing examination. | §61.3 Limited permits in dentistry. | §61.4 License as a dentist by endorsement. | §61.5 Dental laboratory prescriptions. | §61.6 Professional study of dental hygiene. | §61.7 Licensing examination for dental hygiene. | §61.8 Practice of dental hygiene by endorsement. | §61.9 Practice of dental hygiene. | §61.10 Dental anesthesia certification. | §61.11 Professional study of certified dental assisting. | §61.12 Licensing examination for certified dental assisting. | §61.13 Practice of certified dental assisting. | §61.14 Limited permits in certified dental assisting. | §61.15 Continuing education for dentists. | §61.16 Continuing education for dental hygienists. | §61.17 Dental hygiene restricted local infiltration anesthesia/intropax needle anesthesia certificate. | §61.18 Frequency program requirement for dental licensure. | §61.19 Dental requirement for cardiopulmonary resuscitation certification.

§61.1 Professional study of dentistry.

a. To meet the professional education requirement, the applicant shall present evidence of the completion of not less than 60 semester hours of pre-professional education including courses in general chemistry, organic chemistry, biology or zoology and physics and a program of professional education consisting of either:

1. the completion of a program of dental education of not less than four academic years, or the equivalent thereof, registered by the department or accredited by an accrediting organization acceptable to the department; or
2. the completion of not less than four academic years of dental education satisfactory to the department, culminating in a degree, diploma or certificate in dentistry recognized by the appropriate civil authorities of the country in which the school is located as acceptable for entry into practice in the country in which the school is located.

b. Where a program of dental education is completed in an unregistered and unaccredited foreign dental school as provided in paragraph (a)(2) of this section, the applicant shall complete not less than two academic years of study satisfactory to the department in a registered or accredited dental school program including such subjects as may be necessary for certification by such registered or accredited school that the candidate has achieved the level of knowledge and clinical proficiency expected of a graduate of the school.

c. Courses failed in a school of dentistry, for which credit has been granted toward meeting the requirements of another school of dentistry may not be counted toward meeting the requirements of this Part.

d. A program of dental education shall be considered completed upon certification of completion by the school in which such program was taken and proof that the applicant has been awarded the appropriate dental degree, diploma or certificate.

§61.2 Licensing examination.

a. Individuals, who on or before December 31, 2006 have completed all the education requirements for licensure and by that date have submitted an application for licensure and the required application fee, shall meet the examination requirements of this subdivision. Individuals who do not meet these conditions shall meet the examination requirements of subdivision (b) of this section.

1. Content. The examination shall consist of three parts:
   i. Part I and II. Designed to sample knowledge from all areas related to dentistry.
   ii. Part III. An examination in clinical dentistry, the scope and content of which shall be determined by the State Board for Dentistry.

2. The department may accept grades acceptable to the State Board for Dentistry on an examination of the National Board Dental Examinations as meeting the requirements of Parts I and II of the licensing examination, and satisfactory performance on the clinical examination administered by the Northeast Regional Board of Dental Examiners or another acceptable clinical testing agency for Part III of the licensing examination.

3. To be admitted to Part III of the dental licensing examination a candidate who possesses acceptable credentials pursuant to section 61.1(a)(2) of this Part shall provide evidence satisfactory to the department of having passed Parts I and II of the dental licensing examination.
4. Special examination conditions.
   i. An applicant who has completed not less than two academic years in a program of dental education registered by the department, or accredited by an accrediting organization acceptable to the department may be admitted to Part I of the examination. Such applicant shall meet all requirements for admission to the licensing examination, except for the completion of professional education.
   ii. An applicant attending a program of dental education registered by the department, or accredited by an accrediting organization acceptable to the department, may be admitted to Parts II and III during the last year of study.

5. Candidates seeking admission to Part III of the dental licensing examination shall be required to show proof of professional liability insurance coverage prior to commencement of the examination.

6. Passing score. The passing score in each subject of each part shall be 75.0, as determined by the State Board for Dentistry.

7. A candidate who fails to pass any subject of Part III shall retain credit for subjects of that Part passed and shall be reexamined in all remaining subjects at each subsequent examination, except that a candidate who fails to pass all subjects during three administrations of Part III shall be required to be examined in the entire Part at a subsequent administration. Before admission to the third administration of Part III may be granted, such candidate shall present evidence satisfactory to the department of the completion of at least 40 clock hours of instruction acceptable to the State Board for Dentistry in each subject failed twice. Such instruction shall be completed in a dental school registered by the department or accredited by an accrediting organization acceptable to the department and shall be completed subsequent to the second failure.

8. It shall be the responsibility of each candidate to obtain patients for applicable subjects of Part III.

9. In accordance with section 6604(4) of the Education Law, individuals, who on or before December 31, 2006 have completed all the education requirements for licensure and by that date have submitted an application for licensure and the required application fee, may substitute successful completion of a residency program that meets the requirements of section 61.18 of this Title in lieu of successful completion of Part III, the examination in clinical dentistry.

b. Individuals who do not meet the conditions prescribed in the opening paragraph of subdivision (a) of this section shall meet the examination requirements of this subdivision.
   1. Content. The examination shall consist of two parts designed to sample the knowledge from all areas related to dentistry.
   2. The department may accept grades acceptable to the State Board for Dentistry on an examination of the National Board Dental Examinations as meeting the requirements of Parts I and II of the licensing examination.

3. Special examination conditions.
   i. An applicant who has completed not less than two academic years in a program of dental education registered by the department, or accredited by an accrediting organization acceptable to the department may be admitted to Part I of the examination. Such applicant shall meet all requirements for admission to the licensing examination, except for the completion of professional education.
   ii. An applicant attending a program of dental education registered by the department, or accredited by an accrediting organization acceptable to the department, may be admitted to Part II during the last year of study.

4. Passing score. The passing score in each subject of each part shall be 75.0, as determined by the State Board for Dentistry.

§61.3 Limited permits in dentistry.

a. Limited permits may be issued in accordance with Education Law, section 6605(1) and (2) to graduates from:
   1. registered programs or those accredited by an accrediting organization acceptable to the department; or
   2. dental education programs not registered by the department or accredited by an accrediting organization acceptable to the department but who have met all requirements of section 61.1(a) (2) and (b) of this Part.

b. A hospital or dental facility approved by an appropriate agency as used in subdivision (1) of section 6605 of the Education Law shall mean an institution accredited for teaching purposes by the Commission on Dental Accreditation of the American Dental Association.

c. Direction or supervision of a licensed dentist as used in section 6605(1) of the Education Law shall mean that a supervising dentist shall be present on the premises at all times when professional services
are being rendered by the holder of a limited permit and shall exercise that degree of supervision appropriate to the circumstances.

d. An application for a limited permit in dentistry shall be accompanied by an affidavit from the dentist who will supervise the professional services to be rendered under the limited permit, and the application and affidavit shall be in a form prescribed by the department.

§61.4 License as a centist by endorsement.

a. For endorsement of a dental license issued by another jurisdiction of the United States or a Canadian province the applicant shall submit satisfactory evidence of:
   1. having met all requirements of section 59.6 of this Subchapter; and
   2. lawful and reputable practice in dentistry of not less than eight months during the two years next preceding the filing of the application.

§61.5 Dental laboratory prescriptions.

A dental prescription for furnishing, constructing, reproducing or repairing prosthetic dentures or bridges to be used and worn as substitutes for natural teeth, or orthodontic or other appliance used for the correction of malocclusion or deformities of other structures, shall comply with the provision of subdivision (1) of section 6611 of the Education Law, and shall contain the following information:

1. the name of the laboratory to which the prescription is addressed;
2. the date on which it is written;
3. a clear description of the work to be done, with appropriate diagrams if necessary;
4. a clear specification of the character of materials to be used; and
5. the signature and license number of the dentist.

§61.6 Professional study of dental hygiene.

To meet the professional education requirement, the applicant shall present evidence of satisfactory completion of a program of education for dental hygienists registered by the department or accredited by an accrediting organization acceptable to the department.

§61.7 Licensing examination for dental hygienist.

a. Content. The examination shall consist of two parts:
   1. Part I. Designed to sample knowledge from all areas related to dental hygiene.
   2. Part II. An examination in dental hygiene practice, including both comprehensive and clinical components the scope and content of which shall be determined by the State Board for Dentistry.

b. The department may accept grades acceptable to the State Board for Dentistry on an examination of the National Board Dental Hygiene Examination as meeting the requirements of Part I of the licensing examination, and satisfactory performance on a clinical examination administered by a clinical testing agency acceptable to the department for Part II of the licensing examination.

c. Candidates seeking admission to Part II of the dental hygiene licensing examination shall be required to show proof of professional liability insurance coverage prior to the commencement of the examination.

d. Passing score. The passing score in each subject of each part of the examination shall be 75.0, as determined by the State Board for Dentistry.

e. A candidate who fails any component of Part II shall retain credit for components of that part passed, to the extent permitted by the testing agency.

f. Special examination conditions.

   1. An applicant who has completed not less than one academic year in a program of dental hygiene education registered by the department or accredited by an accrediting organization acceptable to the department may be admitted to Part I of the examination. Such applicant shall meet all requirements for admission to the licensing examination, except for the completion of professional education.
   2. An applicant attending a program of dental hygiene education registered by the department, or accredited by an accrediting organization acceptable to the department, may be admitted to Part II during the last year of study and prior to graduation.

§61.8 License as a dental hygienist by endorsement.

For endorsement of a license as a dental hygienist issued by another jurisdiction of the United States, the applicant shall submit satisfactory evidence of:

1. having met all requirements of section 59.6 of this Subchapter; and

http://www.op.nysed.gov/prof/dent/part61.htm
2. lawful and reputable practice as a dental hygienist of not less than eight months during the two years
next preceding the filing of the application.

§61.9 Practice of dental hygiene.

The practice of dental hygiene, in accordance with section 6606 of the Education Law, shall be performed
either under the supervision of a licensed dentist or pursuant to a collaborative arrangement as defined in
subdivision (f) of this section.

a. The degrees of supervision by the dentist as defined are follows:
1. General supervision shall mean that a supervising dentist is available for consultation, diagnosis
   and evaluation, has authorized the dental hygienist to perform the services, and exercises that
degree of supervision appropriate to the circumstances.
2. Personal supervision shall mean that the dentist in the dental office or facility, personally
diagnoses the condition to be treated, personally authorizes the procedure and, before dismissal
of the patient, personally examines the condition after treatment is completed.

b. The following services may be performed under the general supervision of a licensed dentist:
1. removing calcareous deposits, accretions and stains, including scaling and planing of exposed
   root surfaces indicated for a complete prophylaxis;
2. applying topical agents indicated for a complete dental prophylaxis;
3. removing excess cement from surfaces of the teeth;
4. providing patient education and counseling relating to the improvement of oral health;
5. taking and exposing dental radiographs;
6. performing topical anticariogenic agent applications, including but not limited to topical fluoride
   applications, and performing topical anesthetic applications;
7. polishing teeth, including existing restorations;
8. taking and assessing medical history including the measuring and recording of vital signs as an
   aid to diagnosis by the dentist and to assist the dental hygienist in providing dental hygiene
   services;
9. performing dental and/or periodontal assessments as an aid to diagnosis by the dentist and to
   assist the dental hygienist in providing dental hygiene services;
10. applying pt and fissure sealants;
11. applying desensitizing agents to the teeth;
12. placing and removing temporary restorations;
13. making assessments of the oral and maxillofacial area as an aid to diagnosis by the dentist;
14. taking impressions for study casts. Study casts shall mean only such casts as will be used for
   purposes of diagnosis and treatment planning by the dentist and for the purposes of patient
   education; and
15. providing dental health care case management and care coordination services, which shall
   include, but not be limited to:
   i. community outreach;
   ii. improving oral health outcomes;
   iii. improving access to dental care by assisting people in establishing an ongoing relationship
       with a dentist, in order to promote the comprehensive, continuous and coordinated
       delivery of all aspects of oral health care; and
   iv. assisting people to obtain dental health care.

c. The following services may be performed only under the personal supervision of a licensed dentist:
1. placing or removing rubber dam;
2. removing sutures;
3. placing or removing matrix bands;
4. applying a topical medication not related to a complete dental prophylaxis;
5. placing and removing periodontal dressings;
6. selecting and profiting provisional crowns;
7. selecting and profiting orthodontic bands;
8. removing orthodontic arch wires and ligature ties;
9. taking impressions for space maintainers, orthodontic appliances, and occlusal guards;
10. placing and removing temporary separating devices; and
11. placing orthodontic ligatures.

d. The dental supportive services that a licensed dentist authorizes a certified dental assistant to perform
under paragraph (18) of subdivision (b) of section 61.13 of this Part, designated in such paragraph as
other dental supportive services, may be performed by a licensed dental hygienist under the personal
supervision of a licensed dentist who has delegated such function to the licensed dental hygienist,
unless general supervision for such service is otherwise expressly prescribed in this section.

e. In accordance with section 29.1(b)(9) and (10) of this Title, a licensed dental hygienist performing
services under the supervision of a licensed dentist or pursuant to a collaborative arrangement as
defined in subdivision (f) of this section is not permitted to provide dental services or dental supportive

services that the licensed dental hygienist knows or has reason to know that he or she is not competent
to perform, and a licensed dentist is not permitted to delegate to a licensed dental hygienist dental
services or dental supportive services that the licensed dentist knows or has reason to know that the
licensed dental hygienist is not qualified by training, experience or by licensure to perform.
f. Collaborative arrangement.
   1. Definitions. As used in this subdivision:
      i. Collaborative arrangement shall mean an agreement between a registered dental
         hygienist working for a hospital and a licensed and registered dentist who has a formal
         relationship with the same hospital.
      ii. Hospital shall mean a hospital as defined by Public Health Law section 2801(1).
   2. Requirements. A registered dental hygienist providing services pursuant to a collaborative
      arrangement shall:
      i. only provide those services that may be provided under general supervision as specified
         in subdivision (b) of this section, provided that the physical presence of the collaborating
         dentist is not required for the provision of such services;
      ii. instruct individuals to visit a licensed dentist for comprehensive examination or
         treatment;
      iii. possess and maintain certification in cardiopulmonary resuscitation in accordance with the
         requirements for dentists set forth in section 61.19 of this Part and the following:
         a. At the time of his or her registration renewal, the dental hygienist shall attest to
            having met the cardiopulmonary resuscitation requirement or attest to meeting the
            requirements for exemption as defined in clause (b) of this subparagraph.
         b. A dental hygienist may be granted an exemption to the cardiopulmonary
            resuscitation requirement if he or she is physically incapable of complying with the
            requirements of this subparagraph. Documentation of such incapacity shall include
            a written statement by a licensed physician describing the dental hygienist's
            physical incapacity. The dental hygienist shall also submit an application to the
            department for exemption which verifies that another individual will maintain
            certification and be present at the location where the dental hygienist provides
            dental hygiene services, pursuant to a collaborative arrangement, while the dental
            hygienist is treating patients.
      c. Each dental hygienist shall maintain for review by the department records of
         compliance with the cardiopulmonary resuscitation certification requirement,
         including the dental hygienist's cardiopulmonary resuscitation certification card;
         and
      iv. provide collaborative services only pursuant to a written agreement that is maintained in
         the practice setting of the dental hygienist and collaborating dentist. Such written
         agreement shall include:
            a. provisions for:
               1. referral and consultation;
               2. coverage for emergency absences of either the dental hygienist or
                  collaborating dentist;
               3. resolution of disagreements between the dental hygienist and collaborating
                  dentist regarding matters of treatment, provided that, to the extent a
                  disagreement cannot be resolved, the collaborating dentist's treatment shall
                  prevail;
               4. the periodic review of patient records by the collaborating dentist; and
               5. such other provisions as may be determined by the dental hygienist and
                  collaborating dentist to be appropriate; and
            b. protocols, which may be updated periodically, identifying the services to be
               performed by the dental hygienist in collaboration with the dentist and reflecting
               accepted standards of dental hygiene. Protocols shall include provisions for:
               1. case management and care coordination, including treatment;
               2. appropriate recordkeeping by the dental hygienist; and
               3. such other provisions as may be determined by the dental hygienist and
                  collaborating dentist to be appropriate.
      3. Collaborative arrangements shall not supersede any law or regulation which requires identified
         services to be performed under the personal supervision of a dentist.

§61.10 Dental anesth esia certification.

a. Definitions. For purposes of this section, the following definitions shall apply:
   1. Acceptable accrediting body means an accrediting body which is accepted by the department as
      a reliable authority for the purpose of accrediting educational programs in anesthesia, applying
its criteria for granting accreditation in a fair, consistent, and nondiscriminatory manner, and
which accredits such programs on a national basis.

2. Conscious (moderate) sedation means a drug-induced depression of consciousness during which
patients respond purposefully to verbal commands, either alone or accompanied by light tactile
stimulation. Reflex withdrawal from a painful stimulus is not considered a purposeful response.
No interventions are required to maintain a patent airway, and spontaneous ventilation is
adequate. Cardiovascular function is usually maintained.

3. Deep sedation means a drug-induced depression of consciousness during which patients cannot be
easily aroused but respond purposefully following repeated or painful stimulation. The ability
to independently maintain ventilatory function may be impaired. Patients may require assistance
in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular
function is usually maintained.

4. General anesthesia means a drug-induced loss of consciousness during which patients are not
arousable, even by painful stimulation. The ability to independently maintain ventilatory function
is often impaired. Patients require assistance in maintaining a patent airway, and positive
pressure ventilation may be required because of depressed spontaneous ventilation or drug-
induced depression of neuromuscular function. Cardiovascular function may be impaired.

5. Enteral means a technique of administration in which the agent is absorbed through the
gastrointestinal tract or oral mucosa, including but not limited to oral, rectal, and sublingual
administration.

6. Parenteral means a technique of administration in which the drug bypasses the gastrointestinal
tract, including but not limited to intramuscular, intravenous, intranasal, submucosal, subcutaneous,
and intraocular administration.

7. Inhalation means a technique of administration in which a gaseous or volatile agent is introduced
into the pulmonary tree and whose primary effect is due to the absorption through the
pulmonary bed.

8. Continual or continually means repeated regularly and frequently in a steady succession.

9. Continuous or continuously means prolonged without any interruption in time.


11. Time-oriented anesthesia record means an organized document which shows at appropriate time
intervals, drugs and doses administered, and physiologic data obtained through patient
monitoring, during the course of conscious (moderate) sedation, deep sedation, or general
anesthesia, to include the preoperative, intraoperative and recovery stages of treatment.

12. American Society of Anesthesiologists (ASA) Patient Physical Status Classification:
   i. ASA I – A normal healthy patient;
   ii. ASA II – A patient with mild systemic disease;
   iii. ASA III – A patient with severe systemic disease;
   iv. ASA IV – A patient with severe systemic disease that is a constant threat to life;
   v. ASA V – A moribund patient who is not expected to survive without the operation;
   vi. ASA VI – A declared brain-dead patient whose organs are being removed for donor
     purposes;
   vii. E – Emergency operation of any variety (used to modify one of the above classifications,
     i.e., ASA III-E).

b. Certification requirements.

1. A licensed dentist shall not employ conscious (moderate) sedation, deep sedation, or general
anesthesia in the practice of dentistry, at any location other than a general hospital, unless such
dentist possesses a dental anesthesia certificate issued by the department pursuant to this
section, except that such certification shall not be required for use of anesthesia as prescribed in
section 6675-a(3) of the Education Law. For such certification the licensed dentist shall meet the
requirements of this section, including the educational and training requirements prescribed in
subdivision (c) of this section and the practice requirements prescribed in subdivision (d) of this
section. Such certificates shall be issued for a three-year term.

2. Effective January 1, 2018, certificates shall be issued in the usages:
   i. dental general anesthesia, which authorizes a licensed dentist to employ conscious
      (moderate) sedation (enteral or parenteral route with or without inhalation agents), deep
      sedation, and general anesthesia;
   ii. dental parenteral conscious (moderate) sedation for patients 13 years old and older,
      which authorizes a licensed dentist to employ conscious (moderate) sedation (enteral or
      parenteral route with or without inhalation agents) on all patients 13 years old and older;
   iii. dental parenteral conscious (moderate) sedation for patients 12 years old and younger,
      which authorizes a licensed dentist to employ conscious (moderate) sedation (enteral or
      parenteral route with or without inhalation agents) on all patients;
   iv. dental, enteral conscious (moderate) sedation for patients 13 years old and older, which
      authorizes a licensed dentist to employ conscious (moderate) sedation (enteral route only
      with or without inhalation agents) on all patients 13 years old and older; and
v. dental enteral conscious (moderate) sedation for patients 12 years old and younger, which authorizes a licensed dentist to employ conscious (moderate) sedation (enteral route only with or without inhalation agents) on all patients.

3. Certificates to administer dental general anesthesia; dental parenteral conscious sedation and dental enteral conscious sedation only which were issued prior to January 1, 2018 shall continue to be valid until the expiration of their term, at which time the licensed dentist shall be required to submit an application to the department for renewal of his or her certificate pursuant to the applicable requirements set forth in this section:
   i. For renewal of a certificate in dental general anesthesia, a licensed dentist shall satisfy the requirements contained in paragraph (c)(3) of this section.
   ii. For the first renewal period for a licensed dentist with an existing dental enteral or parenteral conscious sedation certificate issued prior to January 1, 2018 who seeks to administer dental enteral or dental parenteral conscious (moderate) sedation to patients 12 years old and younger, the licensee shall satisfy the requirements contained in paragraph (c)(3) of this section and submit to the department for review nine time-oriented anesthesia records of such patients who either were:
      a. treated by the licensed dentist utilizing conscious (moderate) sedation (enteral/parenteral) during his or her last triennial registration period; or
      b. patients where the licensed dentist was the supervising attending dentist or a faculty member supervising the student who was administering the conscious (moderate) sedation technique (enteral/parenteral) being administered during his or her last triennial registration period.
   iii. If a licensed dentist who seeks to administer dental enteral or dental parenteral conscious (moderate) sedation to patients 12 years old and younger does not meet the aforementioned requirements, the department may issue him or her the corresponding certificate for patients 13 years old and older, if the licensed dentist meets the renewal requirements for said certificate as set forth in paragraph (c)(3) of this section.

4. Upon the request of the department, the licensed dentist shall submit to the department copies of time-oriented anesthesia records that satisfy the recordkeeping requirements contained in paragraph (d)(8) of this section, with or without the patient charts, to verify that the licensed dentist is in compliance with the above-referenced recordkeeping requirements and ensure that the licensed dentist is practicing within the scope of the dental anesthesia certificate held by him or her.

5. Upon renewal of a dental anesthesia certification, the department may request copies of patient charts or time-oriented anesthesia records.

c. Educational and training requirements.
   1. Initial certification.
      i. Certificate in dental general anesthesia. A licensed dentist shall meet the educational and training requirements in this subparagraph for the initial certificate in dental general anesthesia. The licensed dentist shall successfully complete:
         a. a course in advanced cardiac life support (ACLS), or its equivalent as determined by the department, and have current documentation of course completion attesting to this fact; and
         b. if the licensed dentist is administering general anesthesia to patients 12 years old and younger, a course in pediatric advanced life support (PALS), or its equivalent as determined by the department, and have current documentation of course completion attesting to this fact; and
      ii. either:
         1. for post-doctoral education completed prior to January 1, 2002, at least one year of such education in anesthesia acceptable to the department, which shall include but not be limited to, coursework in anesthesia, anxiety and pain control, establishing and maintaining emergency airway, and use and interpretation of appropriate monitoring; or at least two years of such education in an approved specialty program or residency, which includes acceptable training and experience, including but not limited to, instruction in general anesthesia and parenteral sedation; provided that the candidate has applied to the department for the initial certificate to employ conscious (moderate) sedation (enteral or parenteral route with or without inhalation agents), deep sedation, and general anesthesia prior to January 1, 2004; or
         2. at least two years of post-doctoral education acceptable to the department and accredited by an acceptable accrediting body, which shall include but not be limited to coursework in anesthesia and anxiety and pain control; and one year devoted exclusively to clinical training in general anesthesia and related subjects such as establishing and maintaining an emergency

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airway and use and interpretation of appropriate monitoring prior to January 1, 2019; or

3. at least three years of post-doctoral education acceptable to the department and accredited by an acceptable accrediting body, which shall include but not be limited to coursework in anesthesia and anxiety and pain control; and one year devoted exclusively to clinical training in general anesthesia and related subjects such as establishing and maintaining an emergency airway and use and interpretation of appropriate monitoring as of January 1, 2019; or

4. a graduate level program in oral and maxillofacial surgery acceptable to the department and accredited by an acceptable accrediting body, which shall include but not be limited to instruction in general anesthesia, parenteral sedation, and anxiety and pain control.

ii. Certificate in dental parenteral conscious (moderate) sedation for patients 13 years old or older. A licensed dentist shall meet the educational and training requirements of this subparagraph for the initial certificate in dental parenteral conscious (moderate) sedation for patients 13 years old and older. The licensed dentist shall successfully complete:

   a. a course in advanced cardiac life support (ACLS), or its equivalent as determined by the department, and have current documentation of course completion attesting to this fact; and

   b. pre-doctoral or post-doctoral education acceptable to the department and accredited by an acceptable accrediting body, which shall include a formal course consisting of at least 50 clock hours of coursework that is provided through didactic instruction and/or an anesthesia rotation, which has been previously approved by the department. Simulation experiences may be part of the required coursework, which shall include but not be limited to, coursework in patient evaluation and monitoring, management of emergencies, rescue of patients from deep sedation, management of the pediatric and adult airways, pediatric and adult cardiac and pulmonary anatomy and physiology, pediatric and adult pharmacology, and the control of pain and anxiety; and in addition to the 60 clock hours of coursework, a clinical experience demonstrating the successful use of dental parenteral conscious (moderate) sedation on no fewer than 20 live dental patients via the intravenous route who shall be 13 years old or older in a 1 doctor/student to 1 patient ratio. The student/licensed dentist enrolled in the course shall have his or her name listed on the anesthesia record and shall be the individual administering the medications and documenting said administration, as well as the physiologic findings required on the anesthesia record. The patients shall be monitored, at a minimum, pursuant to the practice requirements as set forth in subdivision (d) of this section. If the clinical portion of the course is given outside a teaching institution, a formal memorandum of understanding (MOU) between the teaching institution and the clinical teaching center (facility) shall be in place attesting that the clinical facility is held to the same practice standards as the teaching institution.

iii. Certificate in dental parenteral conscious (moderate) sedation for patients 12 years old and younger. A licensed dentist shall meet the educational and training requirements of this subparagraph for the initial certificate in dental parenteral conscious (moderate) sedation for patients 12 years old and younger. The licensed dentist shall successfully complete:

   a. a course in advanced cardiac life support (ACLS), or its equivalent as determined by the department, and have current documentation of course completion attesting to this fact;

   b. a course in pediatric advanced life support (PALS), or its equivalent as determined by the department, and have current documentation of course completion attesting to this fact; and

   c. pre-doctoral or post-doctoral education accredited by an acceptable accrediting body, which shall include a formal course consisting of at least 60 clock hours of coursework that is provided through didactic instruction and/or an anesthesia rotation, which has been previously approved by the department. Simulation experiences can be part of the coursework which shall include but not be limited to, coursework in patient evaluation and monitoring, management of emergencies, rescue of patients from deep sedation, management of the pediatric and adult airways, pediatric and adult cardiac and pulmonary anatomy and physiology, pediatric and adult pharmacology, and the control of pain and anxiety; and in addition to the 60 clock hours of coursework, a clinical experience, acceptable to and previously approved by the department, demonstrating the successful use of
dental parenteral conscious (moderate) sedation by the intravenous route on no fewer than 15 live dental patients who shall be 12 years old or younger and five live dental patients who shall be 13 years old or older in a 1 doctor/student to 1 patient ratio. The student/licensed dentist enrolled in the course shall have his or her name listed on the anesthesia record and shall be the individual administering the medications and documenting said administration, as well as the physiologic findings required on the anesthesia record. The patients shall be monitored, at a minimum, pursuant to the practice requirements as set forth in subdivision (d) of this section. If the clinical portion of the course is given outside a teaching institution, a formal memorandum of understanding (MOU) between the teaching institution and the clinical teaching center (facility) shall be in place attesting that the clinical facility is held to the same practice standards as the teaching institution.

iv. Certificate in dental enteral conscious (moderate) sedation for patients 13 years old and older. A licensed dentist shall meet the educational and training requirements of this subparagraph for the initial certificate in dental enteral conscious (moderate) sedation for patients 13 years old and older. The licensed dentist shall successfully complete:

a. a course in advanced cardiac life support (ACLS), or its equivalent as determined by the department, and have current documentation of course completion attesting to this fact; and

b. pre-doctoral education or post-doctoral education accredited by an acceptable accrediting body, and which shall include a formal course consisting of at least 60 clock hours of coursework that is provided through didactic instruction and/or an anesthesia rotation, which has been previously approved by the department.

Simulation experiences may be part of the required coursework which shall include but not be limited to, coursework in patient evaluation and monitoring, management of emergencies including IV access, rescue of patients from deep sedation, management of the pediatric and adult airways, pediatric and adult cardiac and pulmonary anatomy and physiology, pediatric and adult pharmacology, and the control of pain and anxiety; and in addition to the 60 clock hours of coursework, a clinical experience, acceptable to and previously approved by the department, demonstrating the successful use of dental enteral conscious (moderate) sedation on no fewer than 10 live clinical dental patients who shall be 13 years old or older and who are physically present in the same location as the students. The students may be in groups no larger then five. The patients shall be monitored, at a minimum, pursuant to the practice requirements as set forth in subdivision (d) of this section. If the clinical portion of the course is given outside a teaching institution, a formal memorandum of understanding (MOU) between the teaching institution and the clinical teaching center (facility) shall be in place attesting that the clinical facility is held to the same practice standards as the teaching institution.

v. Certificate in dental enteral conscious (moderate) sedation for patients 12 years old and younger. A licensed dentist shall meet the educational and training requirements in this subparagraph for the initial certificate in dental enteral conscious (moderate) sedation for patients 12 years old and younger. The licensed dentist shall successfully complete:

a. a course in advanced cardiac life support (ACLS), or its equivalent as determined by the department, and have current documentation of course completion attesting to this fact;

b. a course in pediatric advanced life support (PALS), or its equivalent as determined by the department and have current documentation of course completion attesting to the fact; and

c. pre-doctoral or post-doctoral education acceptable to the department and accredited by an acceptable accrediting body, which shall include a formal course consisting of at least 60 clock hours of coursework that is provided through didactic instruction and/or an anesthesia rotation, which has been previously approved by the department. Simulation experiences can be part of the coursework which shall include but not be limited to coursework in patient evaluation and monitoring, management of emergencies, including IV access, rescue of patients from deep sedation, management of the pediatric and adult airways, pediatric and adult cardiac and pulmonary anatomy and physiology, pediatric and adult pharmacology, and the control of pain and anxiety; and in addition to the 60 clock hours of coursework, a clinical experience demonstrating the successful use of dental enteral conscious (moderate) sedation on no fewer than 15 live clinical dental patients 12 years old or younger and 5 live clinical dental patients 13 years old or older in a 2:1 doctor/student to patient ratio. For the purpose of this section, a 2:1
doctor/student to patient ratio means the doctor/student providing dental care to
the patient and a second doctor/student monitoring and documenting the sedation
care can receive credit for the procedure as it relates to the minimum number of
sedations required for certification. Both of these doctors/students shall be with
the patient during the entire time of treatment and cannot be involved with any
other activities or responsibilities. Only the two doctors/students involved in direct
patient care/monitoring can receive credit for treating the patient undergoing the
procedure and sedation. The student/licensed dentist enrolled in the course shall
have his or her name listed on the anesthesia record and shall be the individual
administering the medications and documenting said administration, as well as the
physiologic findings required on the anesthesia record. The patients shall be
monitored, at a minimum, pursuant to the practice requirements set forth in
subdivision (d) of this section. If the clinical portion of the course is given outside a
teaching institution, a formal memorandum of understanding (MOU) between the
teaching institution and the clinical teaching center (facility) shall be in place
attesting that the clinical facility is held to the same practice standards as the
teaching institution.

2. Certification through endorsement. For endorsement of a dental anesthesia certificate from
another jurisdiction of the United States or Canada, the applicant shall submit to the department
a certificate of good standing from said jurisdiction and currently be registered to practice
dentistry in the State of New York, and shall submit satisfactory evidence of having met the
following requirements for the requested certificate:
   i. General anesthesia: Certificate of completion of a Commission on Dental Accreditation
      (CDAA) accredited oral and maxillofacial surgery program or a CODA accredited dental
      anesthesia program.
   ii. Dental parental conscious (moderate) sedation for patients 13 years old and older:
      a. if the applicant has ever had any patients with irreversible morbidity or mortality
due to the sedation provided by him or her, the applicant must provide an
      explanation of the incident(s) to the department for review, in a form prescribed
      by the department. Depending on the circumstances, the department may require
      remediation before a dental parenteral conscious (moderate) sedation for patients
      13 years old and older certificate will be issued;
      b. provide 20 anesthesia records of patients that the applicant has administered
         parenteral conscious (moderate) sedation (by the intravenous route) in the
         licensed jurisdiction, within the three years immediately preceding the applicant's
         submission of his or her application to the department for review with no patients
         having had irreversible morbidity or mortality due to the sedation provided by the
         applicant. These records shall include monitoring that is required by clause (d)(4)
         (ii)(b) of this section for the administration of parenteral conscious (moderate)
sedation; and
      c. provide current documentation of completion of a course in advanced cardiac life
         support (ACLS) from a department approved course sponsor, or its equivalent as
determined by the department.
   iii. Dental parental conscious (moderate) sedation for patients 12 years old and younger:
      a. if the applicant has ever had any patients with irreversible morbidity or mortality
         due to the sedation provided by him or her, the applicant must provide an
         explanation of the incident(s) to the department for review, in a form prescribed
         by the department. Depending on the circumstances, the department may require
         remediation before a dental parenteral conscious (moderate) sedation for patients
         12 years old and younger certificate will be issued;
      b. have a certificate to provide parenteral conscious (moderate) sedation for, at least,
         the three years immediately preceding the applicant's submission of his or her
         application to the department for review;
      c. provide 15 anesthesia records of patients 12 years old and younger and five
         anesthesia records of patients 13 years old and older, that the applicant has
         administered parenteral conscious (moderate) sedation (via the intravenous route)
in the licensed jurisdiction, within the three years immediately preceding the
         applicant's submission of his or her application to the department for review with
         no patients having had irreversible morbidity or mortality due to the sedation
         provided by the applicant. These records shall include monitoring that is required
         by clause (d)(4)(ii)(b) of this section for the administration of parenteral conscious
         (moderate) sedation;
      d. provide current documentation of completion of a course in advanced cardiac life
         support (ACLS) from a department approved course sponsor, or its equivalent as
determined by the department; and
e. provide current documentation of completion of a course in pediatric advanced life
   support (PALS) from a department approved sponsor, or its equivalent as
determined by the department.

iv. Dental enteral conscious (moderate) sedation for patients 13 years old and older:
   a. if the applicant has ever had any patients with irreversible morbidity or mortality
due to the sedation provided by him or her, the applicant must provide an
   explanation of the incident(s) to the department for review, in a form prescribed
by the department. Depending on the circumstances, the department may require
remediation before a dental enteral conscious (moderate) sedation for patients 13
years old and older certificate will be issued;
   b. provide 20 anesthesia records of patients that the applicant has administered
   enteral conscious (moderate) sedation in the licensed jurisdiction, within the three
years immediately preceding the applicant's submission of his or her application to
the department for review, in a form prescribed by the department. These records
shall include monitoring that is required by clause (d)(4)(ii)(b) of this section for
the administration of enteral conscious (moderate) sedation; and
   c. provide current documentation of completion of a course in advanced cardiac life
support (ACLS) from a department approved course sponsor, or its equivalent as
determined by the department.

v. Dental enteral conscious (moderate) sedation for patients 12 years old and younger:
   a. if the applicant has ever had any patients with irreversible morbidity or mortality
due to the sedation provided by him or her, the applicant must provide an
   explanation of the incident(s) to the department for review, in a form prescribed
by the department. Depending on the circumstances, the department may require
remediation before a dental enteral conscious (moderate) sedation certificate for
patients 12 years old and younger will be issued;
   b. have a certificate to provide enteral conscious (moderate) sedation for at least the
three years immediately preceding the applicant's submission of his or her
application to the department for review;
   c. provide 15 anesthesia records of patients 12 years old and younger and 5
anesthesia records of patients 13 years old and older, that the applicant has
administered enteral conscious (moderate) sedation in the licensed jurisdiction,
within the three years immediately preceding the applicant's submission of his or
her application to the department for review. These records shall include
monitoring that is required by clause (d)(4)(ii)(b) of this section for the
administration of enteral conscious (moderate) sedation;
   d. provide current documentation of completion of a course in advanced cardiac life
support (ACLS) from a department approved sponsor, or its equivalent as
determined by the department; and
   e. provide current documentation of completion of a course in pediatric advanced life
support (PALS) from a department approved sponsor, or its equivalent as
determined by the department.

3. Renewal of certification. A licensed dentist shall meet the educational and training requirements
of this paragraph for the renewal of certification.

   i. For the renewal of certificates in dental general anesthesia, a licensed dentist shall
successfully complete:
      a. a course in advanced cardiac life support (ACLS), or its equivalent as determined
by the department, and have current documentation attesting to this fact;
      b. a course in pediatric advanced life support (PALS), or its equivalent as determined
by the department and have current documentation of course completion attesting
   to the fact if the dentist with the general anesthesia certificate is providing
   conscious (moderate) sedation, deep sedation or general anesthesia to patients 12
years old or younger; and
      c. an additional 12 clock hours of education (exclusive of the ACLS and PALS
requirements contained in clauses [a] and [b], respectively, of this subparagraph)
in anesthesia/sedation techniques approved by an acceptable accrediting body and
the department, including but not limited to, coursework in medications and
recognition and management of complications and emergencies including rescue
from deeper levels of sedation as may occur in both the pediatric and adult patient
populations.

   ii. For the renewal of certificates in dental, parenteral conscious (moderate) sedation for
patients 12 years old and younger, and dental enteral conscious (moderate) sedation for
patients 12 years old and younger, the licensed dentist shall successfully complete:
      a. a course in advanced cardiac life support (ACLS), or its equivalent as determined
by the department, and have current documentation attesting to this fact; and
b. a course in pediatric advanced life support (PALS), or its equivalent as determined by the department and have current documentation of course completion attesting to this fact; and

c. an additional 12 clock hours of education (exclusive of the ACLS and PALS requirements contained in clauses [a] and [b], respectively, of this subparagraph) in anesthesia/sedation techniques, approved by an acceptable accrediting body and the department, including but not limited to, coursework in medications and recognition and management of complications and emergencies including rescue from deeper levels of sedation as may occur in both the pediatric and adult patient populations.

iii. For the renewal of certificates in dental parenteral and enteral conscious (moderate) sedation for patients 13 years old and older the licensed dentist shall successfully complete:

a. a course in advanced cardiac life support (ACLS), or its equivalent as determined by the department, and have current documentation attesting to this fact; and

b. an additional 12 clock hours of education (exclusive of the ACLS requirement contained in clause [a] of this subparagraph) in anesthesia/sedation techniques, approved by an acceptable accrediting body and acceptable to and previously approved by the department, including but not limited to, coursework in medications and recognition and management of complications and emergencies, including rescue from deeper levels of sedation as may occur in both the pediatric and adult patient populations.

iv. The coursework required to be completed for the renewal of certification may be creditable toward meeting the dentist's continuing education requirement, provided that it meets all requirements of section 61.15 of this Part.

d. Practice requirements. All licensed dentists who administer conscious (moderate) sedation or deep sedation or general anesthesia shall meet the practice requirements of this subdivision.

1. A licensed dentist who employs conscious (moderate) sedation using an enteral or parenteral route with or without inhalation agents or deep sedation or general anesthesia shall have current documentation of course completion in advanced cardiac life support (ACLS), or its equivalent as determined by the department. A licensed dentist who employs conscious (moderate) sedation using an enteral or parenteral route with or without inhalation agents or deep sedation or general anesthesia to patients 12 years old or younger shall have current documentation in pediatric advanced life support (PALS), or its equivalent as determined by the department.

2. A licensed dentist shall not administer conscious (moderate) sedation (ental or parenteral route with or without inhalation agents) or deep sedation or general anesthesia to more than one patient at a time except when supervising no more than two dental students or residents at one time in a teaching institution. A licensed dentist, a licensed physician, a registered professional nurse, or a licensed practical nurse shall personally monitor recovery from conscious (moderate) sedation or deep sedation or general anesthesia.

3. A licensed dentist who uses conscious (moderate) sedation (ental or parenteral route with or without inhalation agents) or deep sedation or general anesthesia for a patient shall be responsible for all aspects of the procedure including pre-operative preparation and evaluation, life support: procedures, monitoring, recovery, discharge, and recordkeeping.

4. At a minimum, the following practice requirements shall be followed:

i. Deep sedation or general anesthesia:

a. Pre-operative preparation:

1. a written and oral medical history shall be obtained;

2. consultation with the patient's physician, as appropriate, for patients ASA III (a patient with severe systemic disease, according to the American Society of Anesthesiologists [ASA] patient physical status classification system) or greater;

3. preoperative instructions shall be given to the patient, parent, escort, guardian or caregiver;

4. preoperative dietary restrictions shall be considered based on the anesthetic/sedative technique planned;

5. the patient, parent, guardian or caregiver shall be advised regarding the procedure associated with the delivery of any sedative or anesthetic agents and informed consent for the proposed anesthesia/sedation shall be obtained;

6. a focused physical evaluation shall be performed as deemed appropriate;

7. baseline vital signs shall be obtained unless the patient's behavior prohibits such determination and in any such case, this fact shall be noted in the time-oriented anesthesia record;
8. determination of adequate oxygen supply and equipment necessary to deliver oxygen under positive pressure shall be completed; and
9. an intravenous line, which is secured throughout the procedure, shall be established. If, due to lack of patient cooperation, the intravenous line cannot be maintained throughout the procedure, the inability to maintain such shall be documented in the anesthesia record.

t. Monitoring:
1. Oxygenation:
   i. color of mucosa, skin or blood shall be continually evaluated; and
   ii. oxygen saturation shall be evaluated continuously by pulse oximetry.
2. Ventilation:
   i. intubated patient: end-tidal CO2 shall be continuously monitored and evaluated;
   ii. non-intubated patient: breath sounds via auscultation and/or end-tidal CO2 shall be continuously monitored and evaluated;
   iii. respiration rate shall be continually monitored and evaluated; and
   iv. when agents implicated in precipitating malignant hyperthermia are utilized, end-tidal CO2 shall be continuously monitored and evaluated.
3. Circulation:
   i. the dentist shall continuously evaluate heart rate and rhythm via ECG throughout the procedure, as well as pulse rate via pulse oximetry; and
   ii. the dentist shall continually evaluate blood pressure.
4. Temperature:
   i. a device capable of measuring body temperature shall be readily available during the administration of deep sedation or general anesthesia; and
   ii. when agents implicated in precipitating malignant hyperthermia are utilized, continuous monitoring of body temperature shall be performed.

ii. Conscious (moderate) sedation:

e. Pre-operative preparation:
   1. a written and oral medical history shall be obtained;
   2. consultation with the patient's physician, as appropriate, for patients ASA III (a patient with severe systemic disease, according to the American Society of Anesthesiologists [ASA] patient physical status classification system) or greater;
   3. preoperative instructions shall be given to the patient, parent, escort, guardian or caregiver;
   4. preoperative dietary restrictions shall be considered based on the anesthetic/sedative technique planned;
   5. the patient, parent, guardian or care giver shall be advised regarding the procedure associated with the delivery of any sedative or anesthetic agents and informed consent for the proposed anesthesia/sedation shall be obtained;
   6. a focused physical evaluation shall be performed as deemed appropriate;
   7. baseline vital signs shall be obtained unless the patient's behavior prohibits such determination and in any such case, this fact shall be noted in the time-oriented anesthesia record;
   8. determination of adequate oxygen supply and equipment necessary to deliver oxygen under positive pressure shall be completed; and
   9. an intravenous line, which is secured throughout the procedure, shall be established when parenteral sedation is being administered by way of an intravenous route if, due to lack of patient cooperation, the intravenous line cannot be maintained throughout the procedure, the inability to maintain such shall be documented on the anesthesia record.

t. Monitoring:
1. Consciousness:
   i. Level of consciousness (e.g., responsiveness to verbal command) shall be continually assessed.
2. Oxygenation:
   i. color of mucosa, skin or blood shall be continually evaluated; and
   ii. oxygen saturation shall be evaluated continuously by pulse oximetry.
3. Ventilation:
i. the dentist shall observe chest excursions continually; and
ii. the dentist shall monitor ventilation by auscultation of breath sounds, monitoring end-tidal CO2 or by verbal communication with the patient.

4. Circulation:
   i. the dentist shall continually evaluate blood pressure and heart rate (unless the patient is unable to tolerate the monitoring and this is noted in the time-oriented anesthesia record);
   ii. during the administration of dental conscious (moderate) enteral sedation, continuous evaluation of ECG shall be done when there is a finding of cardiovascular disease that warrants such monitoring; and
   iii. during the administration of dental conscious (moderate) parenteral sedation, the dentist shall continuously evaluate heart rate and rhythm via ECG throughout the procedure, as well as pulse rate via pulse oximetry.

5. The recovery and discharge of the patient is the responsibility of any of the following: the licensed dentist providing the anesthesia/sedation management for that patient, another licensed dentist with a anesthesia/sedation certificate permitting him or her to provide the same level of anesthesia/sedation administered to the patient treated or a licensed physician with the appropriate anesthesia training. Prior to discharge, the patient shall meet the following discharge criteria, which shall be documented in the patient's chart:
   i. alert and responsive;
   ii. patient can maintain and support his or her airway without intervention;
   iii. vital signs, including oxygenation on room air, are within acceptable limits;
   iv. patient is ambulatory with assistance;
   v. responsible adult escort is present to escort the patient from the office;
   vi. written and verbal instructions are given to patient and responsible adult escort. These instructions shall include a way for the patient/guardian to communicate with the anesthesia provider or provider of dental care in case of an emergency or adverse reaction; and
   vii. prior to discharge, evaluation of the patient's pain and post-operative nausea and vomiting (PONV) shall be done. The results of these assessments and management shall be documented in the patient's chart.

6. Every facility at which conscious (moderate) sedation (ental or parenteral route with or without inhalation agents) or deep sedation or general anesthesia is employed in the practice of dentistry shall be equipped and staffed in a manner appropriate for the administration and monitoring of anesthetic drugs or agents and for the treatment of emergencies which may arise. Each facility shall be constructed to permit ready access by emergency equipment. A protocol for handling emergencies, including transport to an emergency facility, shall be posted in each treatment and recovery area. All dental facilities shall have an automatic external defibrillator (AED) or other defibrillator at the facility.

7. Personnel requirements:
   i. During the administration of deep sedation or general anesthesia, a minimum of three individuals shall be present in the operatory. Such individuals shall include a licensed dentist or licensed physician qualified to administer the deep sedation or general anesthesia, who shall be in charge of the administration of the anesthesia care; and two additional individuals, who have current documentation that they have successfully completed a course in basic life support (BLS), or its equivalent as determined by the department.
   ii. During the administration of conscious (moderate) sedation using the enteral or parenteral route with or without inhalation agents, a minimum of two individuals shall be present in the operatory. Such individuals shall include a licensed dentist or licensed physician qualified to administer the conscious (moderate) sedation, who shall be in charge of the administration of the anesthesia care; and one
additional individual, who has current documentation that he or she
has successfully completed a course in basic life support (BLS) or its
equivalent as determined by the department.

B. Recordkeeping. Licensed dentists who hold certification pursuant to this
section shall maintain the records prescribed in this paragraph, which shall
be available for review by the department, upon request.

i. The licensed dentist shall maintain records on the administration of
conscious (moderate) sedation (enteral or parenteral route with or
without inhalation agents), deep sedation, or general anesthesia, in
accordance with the requirements of section 29.2(a)(3) of this Title,
which shall include but not be limited to:

a. a medical history of the patient and appropriate informed
   consent for administration of conscious (moderate) sedation
   (enteral or parenteral route with or without inhalation agents),
   deep sedation, or general anesthesia, prior to the performance
   of any procedure;

b. written or documented verbal consultations with licensed
   physicians that are obtained prior to, during, or 24 hours
   following the administration of conscious (moderate) sedation,
   deep sedation or general anesthesia;

c. time-oriented anesthesia records, based on the level of
   anesthesia administered, that indicate:
   1. date of treatment;
   2. demographic information:
      i. patient's name;
      ii. age, height, and weight;
      iii. nothing by mouth (NPO) status;
      iv. medical conditions;
      v. allergies;
      vi. medications;
      vii. diagnosis; and
      viii. treatment proposed/performed.

3. pre-treatment evaluation/examination:
   i. results of a focused examination and airway
      evaluation; and
   ii. ASA (American Society of Anesthesiologists
       [ASA] patient physical status classification
       system) status.

4. clinical care:
   i. all enteral, parenteral and inhalation agents
      administered;
   ii. dosage of these drugs according to the time
      administered preoperatively, intraoperatively
      and during the in-office recovery phase;
   iii. type and placement of intravenous access;
   iv. type and total amount of intravenous fluids
      administered;
   v. type of advanced airway management used;
   vi. all types of monitoring used;
   vii. the physiologic findings of pre-operative (base-
       line findings), intra-operative, and pre-discharge
       monitoring including but not limited to:
       A. blood pressure;
       B. heart rate;
       C. respiratory rate;
       D. end tidal CO2 (ETCO2);
       E. temperature and ECG rhythm if
          monitored;
       F. oxygen saturation, except that records of
          oxygen saturation and blood pressure
          shall not be required when conscious
          (moderate) sedation using an enteral
          route, with or without inhalation agents,
          is employed and the patient's conduct
          prohibits the monitoring of oxygen.
saturation and blood pressure, in which case the record shall document this fact; and

G. If a physiologic parameter cannot be monitored, the reason should be reflected on the anesthesia record;

viii. the time of placement and removal of a throat pack or throat drape when used;

ix. persons present in the treatment room who are providing care or assisting during the procedure;

x. name of the individual holding an anesthesia certificate responsible for recovery and discharge; and

xi. any irreversible morbidity that occurs during the treatment and in-office recovery period.

ii. The licensed dentist shall maintain current documentation of successful course completion in pediatric advanced life support (PALS) or advanced cardiac life support (ACLS), or their equivalent, as required for the anesthesia certificate holder, and current documentation of course completion in basic life support (BLS), or its equivalent, required to be held by individuals present in the operatory during the administration of anesthesia pursuant to the requirements of paragraph (7) of this subdivision, for six years from the date of completion of the coursework. In addition, a licensed dentist who completes 12 clock hours of education in anesthesia/sedation techniques for the renewal of a certification to administer conscious (moderate) enteral sedation, conscious (moderate) parenteral sedation, deep sedation or general anesthesia shall be required to maintain records documenting completion of such course work for six years from the completion of the coursework. The records shall include the number of clock hours completed, the sponsor's name and any identifying number, and the date and location of the program. If any of the coursework is being used by the licensed dentist to meet his or her continuing education requirement, as prescribed in section 61.15 of this Part, such records shall be maintained in accordance with the requirements of section 61.15(f) of this Part.

9. The dentist administering conscious (moderate) sedation, deep sedation or general anesthesia is responsible for anesthetic/sedative management, adequacy of the facility and staff, diagnosis and treatment of emergencies related to the administration of conscious (moderate) sedation, deep sedation or general anesthesia and provision of the equipment, drugs and protocols for patient rescue.

10. Mortality or irreversible morbidity occurring during or within 48 hours following, or otherwise related to, the administration of conscious (moderate) sedation or deep sedation or general anesthesia administered pursuant to this section shall be reported, in writing, by the certificate holder to the department within 30 days of the occurrence. This report shall include, but not be limited to the following: the name and license number of the dentist with the anesthesia certificate, as well as that of the operating dentist, if he or she was not providing the anesthesia; the names and titles of office staff present on the date of the incident; name and date of birth of the patient; if the patient is a minor, the name of the parent or guardian must also be included; date of the incident; type of anesthesia administered; and the facts and circumstances surrounding the incident.

§61.11 Professional study of certified dental assisting.

a. As used in this section, acceptable accrediting agency shall mean an organization accepted by the department as a reliable authority for the purpose of accreditation at the postsecondary level, applying its criteria for granting accreditation in a fair, consistent and nondiscriminatory manner, such as an agency recognized for these purposes by the United States Department of Education.

b. To meet the professional education requirement for licensure as a certified dental assistant in this State, the applicant shall present satisfactory evidence of:

1. graduation from high school, or its equivalent; and
2. completion of a program in certified dental assisting that is either registered by the department pursuant to Part 52 of this Title, or accredited by an acceptable accrediting agency, or determined by the department to be the equivalent of such a registered or accredited program.

§61.12 Licensing examination for certified dental assistant.

a. Each candidate for licensure as a certified dental assistant shall pass an examination that the department has determined measures the applicant’s knowledge of curricular areas attained in a program prescribed in section 52.26 of this Title and other matters of law, ethics, or practice deemed appropriate by the department.

b. Passing standard. The passing standard for each examination shall be determined by the State Board for Dentistry.

§61.13 Practice of certified dental assisting.

a. The practice of certified dental assisting shall be that practice defined in section 6608 of the Education Law. In accordance with section 6608 of the Education Law, the practice of certified dental assisting must be supportive services to a licensed dentist in the dentist’s performance of dental services and must be performed under the direct personal supervision of a licensed dentist. For purposes of this section, under the direct personal supervision of a licensed dentist shall mean supervision of dental procedures based on instructions given by a licensed dentist in the course of a procedure who remains in the dental office where the supportive services are being performed, personally diagnoses the condition to be treated, personally authorizes the procedures, and before dismissal of the patient, who remains the responsibility of the licensed dentist, evaluates the services performed by the dental assistant. Such practice shall include the dental supportive service prescribed in subdivision (b) of this section and shall exclude the dental supportive services prescribed in subdivision (c) of this section.

b. The practice of certified dental assisting shall include the following supportive services to a licensed dentist while under the direct personal supervision of the licensed dentist:
   1. providing patient education;
   2. taking preliminary medical histories and vital signs to be reviewed by the dentist;
   3. placing and removing rubber dams;
   4. selecting and prefiling provisional crowns;
   5. selecting and prefiling orthodontic bands;
   6. removing orthodontic arch wires and ligature ties;
   7. placing and removing matrix bands;
   8. taking impressions for study casts or diagnostic casts;
   9. removing periodontal dressings;
   10. removal of sutures placed by a licensed dentist;
   11. taking impressions for space maintainers, orthodontic appliances, and occlusal guards;
   12. removing temporary cement;
   13. applying topical antimicrobial agents to the teeth;
   14. applying desensitizing agents to the teeth;
   15. placing and removing temporary separating devices;
   16. placing orthodontic ligatures;
   17. taking x-rays in accordance with the requirements of section 3515(4)(c) of the Public Health Law; and
   18. other dental supportive services authorized by the licensed dentist while the certified dental assistant is under the direct personal supervision of the licensed dentist, provided that such other dental supportive services are not excluded in subdivision (c) of this section.

c. Excluded dental supportive services. The practice of certified dental assisting shall not include the following dental supportive services:
   1. diagnosing;
   2. performing surgical procedures;
   3. performing irreversible procedures;
   4. performing procedures that would alter the hard or soft tissue of the oral and maxillofacial area;
   5. dental supportive services prescribed in section 61.9 of this Part which are services that a dental hygienist may perform, unless such services are expressly permitted as dental supportive services in paragraphs (1) through (17) of subdivision (b) of this section; and
   6. such dental supportive services that a certified dental assistant would not reasonably be qualified to perform based upon meeting the requirements for certification as a certified dental assistant in section 6608-b of the Education Law, and/or obtaining additional legally authorized experience in the practice of certified dental assisting.

d. In accordance with section 29.1(b)(9) and (10) of this Title, a certified dental assistant is not permitted to provide dental supportive services that the certified dental assistant knows or has reason to know that he or she is not competent to perform, and a licensed dentist is not permitted to delegate to a
§61.14 Limited permits in certified dental assisting.

a. As used in this section, direct personal supervision shall mean supervision by a licensed dentist of dental procedures based on instructions given by a licensed dentist in the course of a procedure who remains in the dental office where the supportive services are being performed, personally diagnoses the condition to be treated, personally authorizes the procedures, and before dismissal of the patient, evaluates the services performed by the limited permittee.

b. In accordance with section 6608-d of the Education Law, permits limited as to eligibility, practice, and duration shall be issued by the department to eligible applicants as follows:

1. A person who meets all requirements for admission to the licensure examination for certified dental assisting shall be eligible for a limited permit as a certified dental assistant.
2. A certified dental assistant permittee shall be authorized to practice only under the direct personal supervision of a licensed dentist.
3. An application for a limited permit in certified dental assisting shall be submitted on a form provided by the department and shall be accompanied by the statutory fee.
4. Limited permits in certified dental assisting shall expire one year from the date granted, except that such permits may be renewed for one additional one-year period.

§61.15 Continuing education for dentists.

a. As used in this section, acceptable accrediting agency shall mean an organization accepted by the department as a reliable authority for the purpose of accreditation at the postsecondary level, applying its criteria for granting accreditation in a fair, consistent and nondiscriminatory manner, such as an agency recognized for this purpose by the United States Department of Education.

b. Applicability of requirement.

1. Each licensed dentist, required under Article 130 of the Education Law to register with the department to practice in New York State, shall comply with the mandatory continuing education requirements as prescribed in subdivision (c) of this section, except those licensees exempt from the requirement or who obtain an adjustment to the requirement pursuant to paragraph (2) of this subdivision.

2. Exemptions and adjustments to the requirement.

i. Exemptions. The following licensees shall be exempt from the continuing education requirements, as prescribed in subdivision (c) of this section:

a. Licensees for the triennial registration period during which they are first licensed to practice dentistry in New York State, exclusive of those first licensed to practice dentistry in New York State pursuant to an endorsement of a license of another jurisdiction; and

b. Licensees who are not engaged in the practice of dentistry, as evidenced by not being registered to practice in New York State, except as otherwise provided in paragraph (c)(2) of this section to meet the education requirements for the resumption of practice after a lapse in practice for a licensee who has not lawfully practiced continuously in another jurisdiction throughout such lapse period.

ii. Adjustments to the requirement. An adjustment to the continuing education requirement, as prescribed in subdivision (c) of this section, shall be made by the department, provided that the licensee documents good cause that prevents compliance, which shall include, but not be limited to, any of the following reasons: poor health certified by a physician; or a specific physical or mental disability certified by an appropriate health care professional; or extended active duty with the armed forces of the United States; or extreme hardship which in the judgment of the department makes it impossible for the licensee to comply with the continuing education requirements in a timely manner.

c. Mandatory continuing education requirement.

1. Basic requirements

i. During each triennial registration period, meaning a registration period of three years' duration, which ends prior to July 1, 2008, an applicant for registration shall complete at least 45 hours of formal continuing education acceptable to the department, as defined in paragraph (4) of this subdivision, provided that no more than 15 hours of such continuing education shall consist of self-study courses.

ii. Any licensed dentist whose registration period begins prior to July 1, 2008 and continues after July 1, 2008, shall complete continuing education hours on a prorated basis at the rate of one and one-quarter hours of acceptable formal continuing education per month for each month from the beginning of that registration period through June 30, 2008 and at the rate of one and two-thirds hours of acceptable formal continuing education per
month for each month of that registration period from July 1, 2008 through the end of that registration period.

iii. During each triennial registration period, meaning a registration period of three years' duration, beginning on or after July 1, 2008, an applicant for registration shall complete at least 60 hours of formal continuing education acceptable to the department, as defined in paragraph (4) of this subdivision, provided that no more than 18 hours of such continuing education shall consist of self-study courses.

iv. Beginning with the first registration period for a licensed dentist that occurs on or after January 1, 2002 in which completion of acceptable formal continuing education is required, and before the occurrence of the succeeding registration renewal period following that date, a licensed dentist shall be required to have completed on a onetime basis, as part of the formal continuing education required in this paragraph, no fewer than two hours of formal continuing education acceptable to the department, as defined in paragraph (4) of this subdivision, regarding the chemical and related effects and usage of tobacco and tobacco products and the recognition, diagnosis, and treatment of the oral health effects, including but not limited to cancers and other diseases, caused by tobacco and tobacco products. A licensee returning to the practice of dentistry after a lapse in practice, as prescribed in paragraph (2) of this subdivision, shall be subject to the requirements of this subparagraph and shall complete such formal continuing education in the registration period prescribed in this subparagraph. A licensed dentist shall be deemed to have met the requirements of this subparagraph if the licensee provides to the department satisfactory documentation that the licensee has completed on or after January 1, 1997 and prior to the registration period prescribed in this subparagraph in which such formal continuing education is required to be completed, formal continuing education acceptable to the department, as defined in paragraph (4) of this subdivision, of net less than two hours in the same or substantially similar subject matter as that prescribed in this subparagraph.

v. During the first registration period for a licensed dentist beginning on or after January 1, 2008 in which completion of acceptable formal continuing education is required, a licensed dentist shall be required to have completed on a one-time basis, as part of the mandatory hours of acceptable continuing education required in this paragraph, no fewer than three hours in a course approved by the department in dental jurisprudence and ethics, which shall include the laws, rules, regulations and ethical principles relating to the practice of dentistry in New York State.

a. As used in this section, jurisprudence shall mean the application of the principles of law and justice as they relate to the practice of dentistry. A dental mandatory continuing education course in jurisprudence shall be based upon the laws of New York State.

b. As used in this section, ethics shall mean the principles of conduct relating to dental practice. A dental mandatory continuing education course in ethics shall be based upon ethical principles, such as those of the New York State Dental Association as established pursuant to section 3 of Chapter 987 of the Laws of 1971, or of another dental association approved by the department, or the substantial equivalent thereof, as determined by the department.

c. Standards for approval of coursework or training. Coursework or training shall include, but need not be limited to, the core elements specified in a syllabus prepared and provided by either a non-profit dental education entity, which has been incorporated or chartered by the New York State Board of Regents for the purpose of providing dental education, or by the New York State Dental Association, which syllabus has been approved by the department. Such non-profit entity shall have knowledge and expertise in New York State Dental Association ethics or the substantial equivalent, as determined by the department.

2. Requirement for lapse in practice. A licensee returning to the practice of dentistry after a lapse in practice, as evidenced by not being registered to practice in New York State shall submit an application for renewal of registration on a form prescribed by the commissioner and evidence of acceptable continuing education as defined in paragraph (4) of this subdivision and in accordance with subparagraphs (i) or (ii) of this paragraph as applicable.

i. Such licensee who has been lawfully practicing in another jurisdiction and submits such application, shall submit satisfactory evidence of three years of acceptable continuing education completed within the three years immediately preceding the submission of such application. Such continuing education shall be completed at a rate of one and one-quarter hours for each month of such three year period prior to July 1, 2008 and one and two-thirds hours for each month on or after July 1, 2008; or

ii. Such licensee who has not been practicing in another jurisdiction and submits such application, shall submit satisfactory evidence of three years of acceptable continuing education completed within the three years immediately preceding the submission of such application.

http://www.op.nysed.gov/prof/dent/part61.htm
education completed within the 12 months immediately preceding the submission of such application. Such continuing education shall be completed at a rate of one and one-quarter hours for each month of such three year period prior to July 1, 2008 and one and two-thirds hours for each month on or after July 1, 2008.

3. Proration. If a registration period is less than three years in duration, a licensed dentist shall complete acceptable formal continuing education at the rate of one and one-quarter hours of continuing education per month for any part of such registration period ending on or before June 30, 2008 and at the rate of one and two-thirds hours of continuing education per month for any part of such registration period from July 1, 2008 through the end of such registration period.

4. To be acceptable to the department, formal continuing education shall be formal courses of learning which contribute to professional practice in dentistry:
   i. in any one or more of the following curricular areas: basic and clinical dental sciences; or behavioral science; or pharmacology of new and developing drugs; or drug interactions; or public health issues; or infection control; or sterile procedures; or legal and regulatory issues; or patient counseling; or other topics which contribute to the professional practice in dentistry as such practice is defined in section 6601 of the Education Law; or other matters of health care, law, and ethics which contribute to the health and welfare of the public; and
   ii. obtained from a sponsor approved by the department pursuant to subdivision (h) of this section, provided that for courses taken on or after January 1, 2000, a sponsor that is deemed approved pursuant to paragraph (2) of subdivision (h) of this section shall have at least one full-time employee of any kind, meaning an employee who works at least 30 hours per week, which fact shall be verified by the licensee prior to taking the course and attested to in his or her records as prescribed in subdivision (f) of this section.

d. Renewal of registration. At each reregistration, licensed dentists shall certify to the department that they have either complied with the continuing education requirements, as prescribed in subdivision (c) of this section; or are subject to an exemption or adjustment to such continuing education requirements, as prescribed in subdivision (b) of this section.

e. Conditional registration.
   1. The department shall issue a conditional registration to a licensee who attests to or admits to noncompliance with the continuing education requirements of this section, provided that such licensee meets the following requirements:
      i. the licensee agrees to remedy such deficiency within the conditional registration period;
      ii. the licensee agrees to complete the continuing education requirement for any months of the conditional registration period prior to July 1, 2008 at the rate of one and one-quarter hours of acceptable formal continuing education per month and at the rate of one and two-thirds hours per month for the period beginning July 1, 2008 through the end of such conditional registration period; and
      iii. the licensee agrees to complete additional continuing education during such conditional registration period, which the department may require to ensure the licensee’s proper delivery of dental care consistent with the licensee’s practice of dentistry.
   2. The duration of such conditional registration shall not exceed one year and shall not be renewed or extended.

f. Licensee records. Each licensee subject to this section shall maintain, or ensure access by the department to, a record of completed continuing education, which includes: the title of the program; the number of hours completed; the sponsor’s name and any identifying number; attendance verification; the date and location of the program; and a statement attesting to the fact that for courses taken on or after January 1, 2000 from a sponsor that is deemed approved pursuant to paragraph (2) of subdivision (h) of this section, the licensee, prior to taking the course, has verified that the sponsor has at least one full-time employee of any kind, meaning an employee who works at least 30 hours per week, and indicating the reasonable basis for this determination. Such records shall be retained for at least six years from the date of completion of the program and shall be available for review by the department in the administration of the requirements of this section.

g. Measurement of continuing education study. Continuing education credit shall be granted only for formal programs of learning that meet the requirements set forth in subdivision (c) of this section. A minimum of 50 minutes of study shall equal one hour of continuing education credit. For credit-bearing university or college courses, each semester hour of credit shall equal 15 hours of continuing education credit, and each quarter hour of credit shall equal 10 hours of continuing education credit.

h. Sponsor approval.
   1. To be approved by the department, sponsors of continuing education to licensed dentists shall meet the requirements of either paragraph (2) or (3) of this subdivision.
   2. The department shall deem approved as a sponsor of continuing education to licensed dentists:
      a. a sponsor of continuing education that is approved by the American Dental Association Continuing Education Recognition Program, or the Dental Society of the State of New York, or an equivalent organization determined by the State Board for Dentistry to have
equivalent standards for approving sponsors of continuing education for professionals regulated by Title VIII of the Education Law, including a standard that is equivalent to the standard prescribed in clause (f) of subparagraph (ii) of paragraph (3) of this subdivision, provided that such sponsor shall also meet the requirements of clause (g) of subparagraph (ii) of paragraph (3) of this subdivision as verified by the licensee in accordance with the requirements of subparagraph (ii) of paragraph (4) of subdivision (c) of this section; or

ii. a postsecondary institution for courses in programs that are registered pursuant to the standards in Part 52 of this Title or in equivalent programs that are accredited by an acceptable accrediting agency, which registration standards include a standard that is equivalent to the standard prescribed in clause (f) of subparagraph (ii) of paragraph (3) of this subdivision, provided that such sponsor shall also meet the requirements of clause (g) of subparagraph (ii) of paragraph (3) of this subdivision as verified by the licensee in accordance with the requirements of subparagraph (ii) of paragraph (4) of subdivision (c) of this section.

3. Department review of sponsors.

i. The department shall conduct a review of sponsors that apply for approval to offer continuing education to licensed dentists and that are not deemed approved pursuant to the requirements of paragraph (2) of this subdivision.

ii. Organizations desiring to offer continuing education based upon a department review under this paragraph shall submit, with the fee as set forth in subdivision (1) of this section, an application for advance approval as a sponsor at least 90 days prior to the date for the commencement of such continuing education that documents that the organization:

a. will offer courses of study in any one or more of the following curricular areas: basic and clinical dental sciences; or behavioral science; or pharmacology of new and developing drugs; or drug interactions; or public health issues; or infection control; or sterile procedures; or legal and regulatory issues; or patient counseling; or other topics which contribute to the professional practice of dentistry as such practice is defined in section 6601 of the Education Law; or other matters of health care, law, and ethics which contribute to the health and welfare of the public;

b. is an organized educational entity, including but not limited to, a college of dentistry accredited by an acceptable accrediting agency; or a national, State, or local dental association; or a hospital or health maintenance organization;

c. provides course instructors who are qualified to teach the courses which will be offered, including but not limited to, faculty of a college of dentistry accredited by an acceptable accrediting agency; or instructors who are authorities in the health sciences specially qualified, in the opinion of the State Board for Dentistry, to conduct such courses;

d. has a method of assessing the learning of participants, and describes such method;

e. will maintain records for at least six years from the date of completion of coursework, which shall include, but shall not be limited to, the name and curriculum vitae of the faculty, a record of attendance of licensed dentists in such coursework, an outline of the course of instruction, date and location of the coursework, and the number of hours for completion of the coursework. In the event an approved sponsor discontinues operation, the governing body of such sponsor shall notify the department and shall transfer all records as directed by the department;

f. for an organization initially approved or reapproved by the department as a sponsor on or after September 3, 1999, has the facilities, equipment and financial and physical resources to provide continuing education courses, meaning resources shall be appropriate to accomplish the educational method being used and the stated educational objectives, equipment shall be adequate and in such condition that instruction can proceed effectively, and financial and physical resources shall be sufficient to fund and support the services necessary to manage the continuing education programs; and

c. for an organization initially approved or reapproved by the department as a sponsor on or after September 3, 1999, has at least one full-time employee of any kind, meaning an employee who works at least 30 hours per week.

iii. Sponsors that are approved by the department pursuant to the requirements of this paragraph shall be approved for a three-year term.

iv. The department may conduct site visits of or request information from a sponsor approved pursuant to the requirements of this paragraph to ensure compliance with such
requirements, and a sponsor shall cooperate with the department in permitting such site visits and in providing such information.

v. A determination by the department that a sponsor approved pursuant to the requirements of this paragraph is not meeting the standards set forth in this paragraph shall result in the denial or termination of the approved status of the sponsor.

i. Fees.

1. At the beginning of each registration period, a mandatory continuing education fee of §45 shall be collected from licensees engaged in the practice of dentistry in New York State, except for those exempt from the requirement pursuant to subparagraph (b)(2)(i) of this section. This fee shall be in addition to the registration fee required by section 6604 of the Education Law.

2. Licensees applying for a conditional registration, pursuant to the requirements of subdivision (e) of this section, shall pay a fee that is the same as and in addition to, the fee for the triennial registration required by section 6604 of the Education Law. In addition, such licensees shall pay the $45 mandatory continuing education fee.

3. Organizations desiring to offer continuing education to licensed dentists based upon a department review, pursuant to paragraph (h)(3) of this section, shall submit an application fee of $900 with its application for the issuance of a permit from the department to become an approved sponsor of a formal continuing education program. Application for a three-year renewal of the permit shall be accompanied by a fee of $500.

§61.16 Continuing education for dental hygienists.

a. As used in this section, acceptable accrediting agency shall mean an organization accepted by the department as a reliable authority for the purpose of accreditation at the post-secondary level, applying its criteria for granting accreditation in a fair, consistent and nondiscriminatory manner, such as an agency recognized for this purpose by the United States Department of Education.

b. Applicability of requirement.

1. Each licensed dental hygienist required under Article 130 of the Education Law to register with the department to practice in New York State, shall comply with the mandatory continuing education requirements as prescribed in sub-division (c) of this section, except those licensees exempt from the requirement or who obtain an adjustment to the requirement pursuant to paragraph (2) of this sub-division.

2. Exemptions and adjustments to the requirement.

i. Exemptions. The following licensees shall be exempt from the continuing education requirements, as prescribed in sub-division (c) of this section:

a. Licensees for the triennial registration period during which they are first licensed to practice dental hygiene in New York State, exclusive of those first licensed to practice dental hygiene in New York State pursuant to an endorsement of a license of another jurisdiction;

b. Licensees whose first registration date following January 1, 1997 occurs prior to January 1, 1998, for periods prior to such registration date; and

c. Licensees who are not engaged in the practice of dental hygiene, as evidenced by not being registered to practice in New York State, except as otherwise provided in paragraph (c)(2) of this section to meet the education requirements for the resumption of practice after a lapse in practice for a licensee who has not lawfully practiced continuously in another jurisdiction throughout such lapse period.

ii. Adjustments to the requirement. An adjustment to the continuing education requirement, as prescribed in sub-division (c) of this section, shall be made by the department, provided that the licensee documents good cause that prevents compliance, which shall include but not be limited to, any of the following reasons: poor health certified by a physician; or a specific physical or mental disability certified by an appropriate health care professional; or extended active duty with the armed forces of the United States; or extreme hardship which in the judgement of the department makes it impossible for the licensee to comply with the continuing education requirements in a timely manner.

c. Mandatory continuing education requirement.

1. During each triennial registration period, meaning a registration period of three years' duration, an applicant for registration shall complete at least 24 hours of formal continuing education acceptable to the department, as defined in paragraph (4) of this sub-division, provided that no more than 10 hours of such continuing education shall consist of self-instructional coursework.

Any licensed dental hygienist whose first registration date following January 1, 1997 occurs less than three years from that date, but on or after January 1, 1996, shall complete continuing education hours on a prorated basis at the rate of one and one-quarter hours of acceptable formal continuing education per month up to a maximum of 24 hours for the period beginning January 1, 1997 up to the first registration date thereafter. Such continuing education shall be completed during the period beginning January 1, 1997 and ending before the first day of the...
new registration period or at the option of the licensee during any time in the previous registration period.

2. Requirement for lapse in practice.

i. A licensee returning to the practice of dental hygiene after a lapse in practice, as evidenced by not being registered to practice in New York State, whose first registration date after such lapse in practice and following January 1, 1997 occurs less than three years from January 1, 1997, but on or after January 1, 1998, shall be required to complete:

a. one and one-quarter hours of acceptable formal continuing education for each month beginning with January 1, 1997 until the beginning of the new registration period, up to a maximum of 24 hours, which shall be completed for a licensee who has not lawfully practiced dental hygiene continuously in another jurisdiction throughout such lapse period, in the 12-month period before the beginning of the new registration period; and for a licensee who has lawfully practiced dental hygiene continuously in another jurisdiction throughout such lapse period, in the new registration period or at the option of the licensee in the period beginning 36 months before the commencement of the new registration period and ending at the conclusion of the new registration period; and

b. for a licensee who has not lawfully practiced dental hygiene continuously in another jurisdiction throughout such lapse period, at least eight hours of acceptable formal continuing education in each successive 12-month period of the new registration period; and for a licensee who has lawfully practiced dental hygiene continuously in another jurisdiction throughout such lapse period, acceptable formal continuing education at the rate of two-thirds of an hour per month during the new registration period.

ii. Except as prescribed in sub-paragraph (i) of this paragraph for registrations therein specified, the licensee who returns to the practice of dental hygiene after a lapse in practice in which the licensee was not registered to practice in New York State and did not lawfully practice dental hygiene continuously in another jurisdiction throughout the lapse period, shall be required to complete:

a. the continuing education requirement applicable to the period of time the licensee was registered in the licensee’s last registration period;

b. at least two-thirds of an hour of acceptable formal continuing education for each month of lapsed registration up to a maximum of 24 hours, which shall be completed in the 12 months before the beginning of the new registration period; and

c. at least eight hours of acceptable formal continuing education in each succeeding 12-month period, after such registration is reissued, until the next registration date.

iii. Except as prescribed in sub-paragraph (i) of this paragraph for registrations therein specified, the licensee who returns to the practice of dental hygiene after a lapse in practice in which the licensee was not registered to practice in New York State but did lawfully practice dental hygiene continuously in another jurisdiction throughout the lapse period, shall be required to complete:

a. the continuing education requirement applicable to the period of time the licensee was registered in the licensee’s last registration period;

b. at least two-thirds of an hour of acceptable formal continuing education for each month of lapsed registration up to a maximum of 24 hours, which shall be completed in the new registration period, or at the option of the licensee in the period beginning 36 months before the commencement of the new registration period and ending at the conclusion of the new registration period; and

c. completion of the regular continuing education requirement at the rate of two-thirds of an hour of acceptable formal continuing education per month during the new registration period.

3. Proration. Except as otherwise provided in this section, if a registration period is less than three years in duration, a licensed dental hygienist shall complete acceptable formal continuing education at the rate of two-thirds of an hour of continuing education per month for such registration period.

4. To be acceptable to the department, formal continuing education shall be formal courses of learning which contribute to professional practice in dental hygiene:

i. in any one or more of the following curricular areas: basic and clinical dental sciences; or behavioral science; or pharmacology of new and developing drugs; or drug interactions; or public health issues; or child abuse reporting instruction; or infection control; or sterile procedures; or legal and regulatory issues; or patient counseling; or other topics which contribute to the professional practice in dental hygiene as such practice is defined in
section 6606 of the Education Law; or other matters of health care, law, and ethics which contribute to the health and welfare of the public; and

ii. obtained from a sponsor approved by the department pursuant to sub-division (h) of this section.

d. Renewal of registration. At each re registration, licensed dental hygienists shall certify to the department that they have either complied with the continuing education requirements, as prescribed in sub-division (c) of this section; or are subject to an exemption or adjustment to such continuing education requirements, as prescribed in sub-division (b) of this section.

e. Conditional registration.

1. The department shall issue a conditional registration to a licensee who attests to or admits to noncompliance with the continuing education requirements of this section, provided that such licensee meets the following requirements:

i. the licensee agrees to remedy such deficiency within the conditional registration period;

ii. the licensee agrees to complete the regular continuing education requirement at the rate of two-thirds of an hour per month during such conditional registration period; and

iii. the licensee agrees to complete additional continuing education during such conditional registration period, which the department may require to ensure the licensee's proper delivery of dental hygiene care consistent with the licensee's practice of dental hygiene.

2. The duration of such conditional registration shall not exceed one year and shall not be renewed or extended.

f. Licensee records. Each licensee subject to this section shall maintain, or ensure access by the department to, a record of completed continuing education, which includes: the title of the program, the number of hours completed, the sponsor's name and any identifying number, attendance verification, and the date and location of the program. Such records shall be retained for at least six years from the date of completion of the program and shall be available for review by the department in the administration of the requirements of this section.

g. Measurement of continuing education study. Continuing education credit shall be granted only for formal programs of learning that meet the requirements set forth in sub-division (c) of this section. A minimum of 50 minutes of study shall equal one hour of continuing education credit. For credit-bearing university or college courses, each semester-hour of credit shall equal 15 hours of continuing education credit, and each quarter-hour of credit shall equal 10 hours of continuing education credit.

h. Sponsor approval.

1. To be approved by the department, sponsors of continuing education to licensed dental hygienists shall meet the requirements of this sub-division.

2. The department shall deem approved as a sponsor of continuing education to licensed dental hygienists:

i. a sponsor of continuing education that is approved by the American Academy of Dental Hygiene, Inc., or the American Dental Association Continuing Education Recognition Program, or the Dental Society of the State of New York, or an equivalent organization determined by the State Board for Dentistry to have equivalent standards for approving sponsors of continuing education for professionals regulated by Title VIII of the Education Law; or

ii. a post-secondary institution for courses in programs that are registered pursuant to Part 52 of this Title or in equivalent programs that are accredited by an acceptable accrediting agency.

3. Department review of sponsors.

i. The department shall conduct a review of sponsors that apply for approval to offer continuing education to licensed dental hygienists and that are not deemed approved pursuant to the requirements of this sub-division.

ii. Organizations desiring to offer continuing education based upon a department review under this paragraph shall submit, with the fee as set forth in sub-division (i) of this section, an application for advance approval as a sponsor at least 90 days prior to the date for the commencement of such continuing education that documents that the organization:

a. will offer courses of study in any one or more of the following curricular areas: basic and clinical dental sciences; or behavioral science; or pharmacology of new and developing drugs; or drug interactions; or public health issues; or child abuse reporting instruction; or infection control; or sterile procedures; or legal and regulatory issues; or patient counseling; or other topics which contribute to the professional practice of dental hygiene as such practice is defined in section 6606 of the Education Law; or other matters of health care, law, and ethics which contribute to the health and welfare of the public;

b. is an organized educational entity, including but not limited to, a college accredited by an acceptable agency offering dental hygiene or dentistry professional
programs; or a national, State, or local dental association; or a hospital or health
maintenance organization;
c. provides course instructors who are qualified to teach the courses which will be
offered, including but not limited to, faculty of a college accredited by an
acceptable accrediting agency which offers dental hygiene or dentistry professional
programs; or instructors who are authorities in the health sciences specially
qualified, in the opinion of the State Board for Dentistry, to conduct such courses;
d. has a method of assessing the learning of participants, and describes such
method; and
e. will maintain records for at least six years from the date of completion of
coursework, which shall include, but shall not be limited to, the name and
curriculum vitae of the faculty, a record of attendance of licensed dental hygienists
in such coursework, an outline of the course of instruction, date and location of the
coursework, and the number of hours for completion of the coursework. In the
event an approved sponsor discontinues operation, the governing body of such
sponsor shall notify the department and shall transfer all records as directed by the
department.

iii. Sponsors that are approved by the department pursuant to the requirements of this
paragraph shall be approved for a three-year term.

iv. The department may conduct site visits of or request information from a sponsor
approved pursuant to the requirements of this paragraph to ensure compliance with such
requirements, and a sponsor shall cooperate with the department in permitting such site
visits and in providing such information.

v. A determination by the department that a sponsor approved pursuant to the requirements
of this paragraph is not meeting the standards set forth in this paragraph shall result in
the denial or termination of the approved status of the sponsor.

i. Fees.

1. At the beginning of each registration period, a mandatory continuing education fee of §30 shall
be collected from licensees engaged in the practice of dental hygiene in New York State, except
for those exempt from the requirement pursuant to sub-paragraph (b)(2)(i) of this section. This
fee shall be in addition to the registration fee required by section 6609 of the Education Law.
2. Licensees applying for a conditional registration, pursuant to the requirements of sub-division (e)
of this section, shall pay a fee that is the same as and in addition to, the fee for the triennial
registration required by section 6609 of the Education Law. In addition, such licensees shall pay
the §30 mandatory continuing education fee.
3. Organizations desiring to offer continuing education to licensed dental hygienists based upon a
department: review, pursuant to paragraph (h)(3) of this section, shall submit an application fee
of $900 with its application for the issuance of a permit from the department to become an
approved sponsor of a formal continuing education program. Application for a three-year
renewal of the permit shall be accompanied by a fee of $900.

§61.17 Dental hygiene restricted local infiltration anesthesia/nitrous oxide analgesia
certificate.

a. Definitions. As used in this section:

1. Acceptable accrediting body means an accrediting body which is accepted by the department as
a reliable authority for the purpose of accrediting educational programs leading to licensure in
dentistry and/or dental hygiene, applying its criteria for granting accreditation in a fair,
consistent, and nondiscriminatory manner, and which accredits such programs on a national
basis.
2. Under personal supervision of a licensed dentist means that the supervising licensed dentist
remains in the dental office or other location where the local infiltration anesthesia or nitrous
oxide analgesia services are being performed by the dental hygienist, personally authorizes and
prescribes the use of local infiltration anesthesia or nitrous oxide analgesia for the patient and,
before dismissal of the patient, personally examines the condition of the patient after the use of
local infiltration anesthesia or nitrous oxide analgesia that is administered by the dental
hygienist is completed.

b. General provisions.

1. A licensed dental hygienist shall not administer or monitor nitrous oxide analgesia or local
infiltration anesthesia in the practice of dental hygiene without being issued a dental hygiene
restricted local infiltration anesthesia/nitrous oxide analgesia certificate in accordance with the
requirements of this section, except that such administration or monitoring of nitrous oxide
analgesia or local infiltration anesthesia by a licensed dental hygienist who is certified under this
section must be under the personal supervision of a licensed dentist, as defined in subdivision
(a) of this section, and in conjunction with the performance of dental hygiene procedures authorized by section 6606 of the Education Law.

2. The applicant for certification or the renewal of certification must be a licensed dental hygienist or be concurrently licensed as a dental hygienist at the time of initial certification; and shall meet the additional requirements of this section.

3. The certificate issued pursuant to this section shall be issued for a three-year term and shall be renewable.

c. Requirements for initial certification.

1. Application requirement. The applicant shall apply for initial certification on forms prescribed by the department and pay the fee prescribed in section 6605-b of the Education Law.

2. Education and training requirement. For initial certification, the applicant shall complete a program registered pursuant to subdivision (b) of section 52.9 of this Title and offered by an institution which has programs that are registered by the department pursuant to Part 52 of this Title as leading to licensure in dentistry and/or dental hygiene; or equivalent educational preparation offered by an institution that has programs leading to licensure in dentistry and/or dental hygiene that are accredited by an acceptable accrediting body.

d. Requirements for renewal of certification.

1. Each certificate holder shall renew certification with the department triennially on a schedule determined by the department.

2. The certificate holder shall renew certification on forms prescribed by the department and pay the fee prescribed in section 6605-b of the Education Law.

§61.18. Residency program requirement for dental licensure.

a. Definitions. As used in this section:

1. Acceptable national accrediting body means until December 31, 2006 the Commission on Dental Accreditation of the American Dental Association, and thereafter it means an organization accepted by the department as a reliable authority for the purpose of accreditation of dental residency programs, applying its criteria for granting accreditation in a fair, consistent, and nondiscriminatory manner, such as the Commission on Dental Accreditation of the American Dental Association, its successors, or an equivalent organization as determined by the department.

2. Clinical means relating to or involving the direct examination and treatment of patients.

3. Competent to practice dentistry means the level of knowledge and skills necessary to perform safely and independently the practice of dentistry consistent with the definition of the practice of dentistry in section 6601 of the Education Law.

b. Residency program. To be acceptable to the department for purposes of licensure under section 6604 of the Education Law, a residency program shall meet the requirements of this section.

1. The residency program shall be a postdoctoral clinical dental residency program in either general dentistry, or a specialty of dentistry as defined in paragraph (2) of this subdivision, of at least one year’s duration in a hospital or dental facility accredited for teaching purposes by an acceptable national accrediting body, which is completed successfully by the applicant prior to the submission to the department of the application for licensure.

2. The accredited residency program in a specialty of dentistry shall be in the specialty of endodontics, oral and maxillofacial surgery, orthodontics and dentofacial orthopedics, pediatric dentistry, periodontics, prosthodontics, oral and maxillofacial pathology, oral and maxillofacial radiology, or another specialty of dentistry, as determined by the department, for which at least 70 percent of the CODA accredited residency program consists of clinical training in one or more of the following areas: general dentistry, endodontics, oral and maxillofacial surgery, orthodontics and dentofacial orthopedics, pediatric dentistry, periodontics, prosthodontics, oral and maxillofacial pathology, and oral and maxillofacial radiology.

3. The accredited residency program shall include a formal written outcome assessment which is acceptable to the department.

i. For an accredited residency program in general dentistry, the formal written outcome assessment used by the residency program shall be acceptable to the department if it includes:

   a. an acceptable notarized written statement by the residency program director attesting that the applicant has completed successfully the accredited residency program and is in the director's judgement competent to practice dentistry; and

   b. acceptable notarized written statement(s) by the residency program director who supervised the dental procedures performed by the applicant, and/or the attending dentist(s) who supervised the dental procedures performed by the applicant if different from the residency program director, attesting that the applicant completed independently, and to generally accepted professional standards for dentistry, two full crowns, two endodontically treated teeth, four restorations (two
anterior, two posterior) and one periodontal case during the accredited residency program.

ii. For an accredited residency program in a specialty of dentistry, as defined on paragraph (2) of this subdivision, the formal written outcome assessment used by the residency program shall be acceptable to the department if it includes an acceptable notarized written statement by the residency program director attesting that the applicant has successfully completed the accredited residency program in a specialty of dentistry, as defined in paragraph (2) of this subdivision, and is in the director’s judgement competent to practice dentistry.

c. A residency program that has not met the requirements of this section shall not be acceptable to the department for purposes of licensure under this section. A formal written outcome assessment shall not be acceptable to the department for purposes of licensure under this section if it does not meet the requirements of paragraph (3) of subdivision (b) of this section.

§61.19 Dental requirement for cardiopulmonary resuscitation certification.

a. Beginning January 1, 2009, each dentist licensed and registered to practice in New York State shall become certified in cardiopulmonary resuscitation by a provider approved by the department and thereafter shall maintain current certification, except as provided for in subdivision (e) of the section. Coursework leading to obtaining and maintaining such certification shall be included in the mandatory hours of continuing education to the extent provided in subdivision (e) of this section.

b. Cardiopulmonary resuscitation certification providers approved by the department shall include the American Heart Association, the American Red Cross, the National Safety Council and the American Safety and Health Institute. The Department may also approve other providers determined by the Department to offer substantially similar content to courses offered to professionals by such organizations and to have a similar renewal period. Online courses are not acceptable; all courses taken to meet this requirement shall be taken in person. Such coursework shall include, but need not be limited to, content in the following:

1. scene survey;
2. patient assessment;
3. one and two rescuer cardiopulmonary resuscitation;
4. mouth-to-mouth resuscitation;
5. mouth-to-mask resuscitation;
6. conscious choking;
7. unconscious choking;
8. bag-valve-mask resuscitation;
9. recovery position;
10. automated external defibrillator use;
11. infection control matters;
12. recognizing a heart attack; and
13. cardiopulmonary resuscitation and automated external defibrillator scenarios.

c. For each triennial registration period, a licensee may count up to a maximum of twelve hours of coursework in cardiopulmonary resuscitation, including coursework in advanced cardiac life support and/or pediatric advanced life support.

d. At the time of his or her registration renewal, each dentist shall attest to having met the cardiopulmonary resuscitation requirement or attest to meeting the requirements for exemption as defined in subdivision (e) of this section.

e. A licensee may be granted an exemption to the cardiopulmonary resuscitation requirement if he or she is physically incapable of complying with the requirements of subdivision (a) of this section. Documentation of such incapacity shall include a written statement by a licensed physician describing the licensee’s physical incapacity. The licensee shall also submit an application to the department for exemption which verifies that another individual will maintain certification and be present in the dental office while the dentist is treating patients.

f. In accordance with subdivision (f) of section 61.15 of this Part, each licensee shall maintain for review by the department records of compliance with this section, including the licensee’s cardiopulmonary resuscitation certification card.
STATE OF OREGON
BOARD OF DENTISTRY

DENTAL PRACTICE ACT
2017 LEGISLATIVE SESSION

ORS CHAPTER 679
DENTISTS

ORS CHAPTER 680.010 TO 680.210 AND 680.990
DENTAL HYGIENISTS

OTHER RELATED STATUTES
2017 LEGISLATIVE SESSION

OREGON ADMINISTRATIVE RULES
CHAPTER 818
ALL CHANGES MADE THROUGH JANUARY 1, 2019
Dental Practice Act, Administrative Rules
and Related Statutes

The first Act regulating the practice of dentistry was adopted by the Oregon Legislature on February 23, 1887. The Oregon Dental Practice Act is comprised of Oregon Revised Statutes, Chapters 679 (green pages), 680.010 to 680.210 and 680.990 (yellow pages). These statutes, enacted by the Oregon Legislature authorize the Board to regulate the practice of dentistry and dental hygiene. Administrative Rules of the Board are found in OAR 818-001-0000 through 818-042-0130 (white pages). Also included in this publication are other statutes that relate to regulating a health profession or other statutes that licensees of the Board should be aware of (blue pages). Because the statutes and rules are subject to revision, they are published in a format suitable for insertion in a three-ring binder.

This publication reflects the statutes and rules in effect as of the dates published on the cover. It is every licensee’s responsibility to be aware of the current laws and rules of their profession. Copies of the Dental Practice Act, Administrative Rules and related statutes are available from the Board at no cost, or may be accessed through the Board’s Web site.

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The Mission of the Oregon Board of Dentistry is to promote high quality oral health care in the State of Oregon by equitably regulating dental professionals.

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Dentists

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GENERAL PROVISIONS

679.010 Definitions. As used in this chapter and ORS 680.010 to 680.205, unless the context requires otherwise:

(1) “Dental assistant” means a person who, under the supervision of a dentist, renders assistance to a dentist, dental hygienist, dental technician or another dental assistant or who, under the supervision of a dental hygienist, renders assistance to a dental hygienist providing dental hygiene.

(2) “Dental hygiene” is that portion of dentistry that includes, but is not limited to:

(a) The rendering of educational, preventive and therapeutic dental services and diagnosis and treatment planning for such services;

(b) Prediagnostic risk assessment, scaling, root planing, curettage, the application of sealants and fluoride and any related intraoral or extraoral procedure required in the performance of such services; and

(c) Prescribing, dispensing and administering prescription drugs for the services described in paragraphs (a) and (b) of this subsection.

(3) “Dental hygienist” means a person who, under the supervision of a dentist, practices dental hygiene.

(4) “Dental technician” means a person who, at the authorization of a dentist, makes, provides, repairs or alters oral prosthetic appliances and other artificial materials and devices that are returned to a dentist and inserted into the human oral cavity or that come in contact with its adjacent structures and tissues.

(5) “Dentist” means a person who may perform any intraoral or extraoral procedure required in the practice of dentistry.

(6) “Dentist of record” means a dentist who, at the authorization of a dentist, makes, provides, repairs or alters oral prosthetic appliances and other artificial materials and devices that are returned to a dentist and inserted into the human oral cavity or that come in contact with its adjacent structures and tissues.

(7)(a) “Dentistry” means the healing art concerned with:

(A) The examination, diagnosis, treatment planning, treatment, care and prevention of conditions within the human oral cavity and maxillofacial region, and of conditions of adjacent or related tissues and structures; and

(B) The prescribing, dispensing and administering of prescription drugs for purposes related to the activities described in subparagraph (A) of this paragraph.

(b) “Dentistry” includes, but is not limited to, the cutting, altering, repairing, replacing, or repositioning of hard or soft tissues and other acts or procedures as determined by the Oregon Board of Dentistry and included in the curricula of:

(A) Dental schools accredited by the Commission on Dental Accreditation of the American Dental Association;

(B) Post-graduate training programs; or

(C) Continuing education courses.

(8) “Direct supervision” means supervision requiring that a dentist diagnose the condition to be treated, that a dentist authorize the procedure to be performed, and that a dentist remain in the dental treatment room while the procedures are performed.

(9) “Expanded practice dental hygienist” means a dental hygienist who performs dental hygiene services in accordance with ORS 680.205 as authorized by an expanded practice dental hygienist permit issued by the board under ORS 680.200.

(10) “General supervision” means supervision requiring that a dentist authorize the procedures by standing orders, practice agreements or collaboration agreements, but not requiring that a dentist be present when the authorized procedures are performed. The authorized procedures may also be performed at a place other than the usual place of practice of the dentist.

(11) “Indirect supervision” means supervision requiring that a dentist authorize the procedures and that a dentist be on the premises while the procedures are performed. [Amended by 1983 c.169 §1; 1997 c.251 §4; 1999 c.188 §1; 2003 c.83 §1; 2005 c.52 §2; 2007 c.379 §1; 2011 c.716 §3; 2013 c.310 §1; 2015 c.15 §1; 2015 c.349 §1]

679.020 Practice of dentistry or operating dental office without license prohibited; exceptions. (1) A person may not practice dentistry without a license.

(2) Only a person licensed as a dentist by the Oregon Board of Dentistry may own, operate, conduct or maintain a dental practice, office or clinic in this state.

(3) The restrictions of subsection (2) of this section, as they relate to owning and operating a dental office or clinic, do not apply to a dental office or clinic owned or operated by any of the following:

(a) A labor organization as defined in ORS 243.650 and 663.005 (6), or to any non-profit organization formed by or on behalf of such labor organization for the purpose of providing dental services. Such labor organization must have had an active existence for at least three years, have a constitution and bylaws, and be maintained in good faith for purposes other than providing dental services.
(b) The School of Dentistry of the Oregon Health and Science University.

c) Public universities listed in ORS 352.002.

d) Local governments.

e) Institutions or programs accredited by the Commission on Dental Accreditation of the American Dental Association to provide education and training.

(f) Nonprofit corporations organized under Oregon law to provide dental services to rural areas and medically underserved populations of migrant, rural community or homeless individuals under 42 U.S.C. 254b or 254c or health centers qualified under 42 U.S.C. 1396d(l)(2)(B) operating in compliance with other applicable state and federal law.

g) Nonprofit charitable corporations as described in section 501(c)(3) of the Internal Revenue Code and determined by the Oregon Board of Dentistry as providing dental services by volunteer licensed dentists to populations with limited access to dental care at no charge or a substantially reduced charge.

(h) Nonprofit charitable corporations as described in section 501(c)(3) of the Internal Revenue Code and determined by the Oregon Board of Dentistry as having an existing program that provides medical and dental care to medically underserved children with special needs at an existing single fixed location or multiple mobile locations.

4) For the purpose of owning or operating a dental office or clinic, an entity described in subsection (3) of this section must:

(a) Except as provided in ORS 679.022, name an actively licensed dentist as its dental director, who shall be subject to the provisions of ORS 679.140 in the capacity as dental director. The dental director, or an actively licensed dentist designated by the director, shall have responsibility for the clinical practice of dentistry, which includes, but is not limited to:

(A) Diagnosis of conditions within the human oral cavity and its adjacent tissues and structures.

(B) Prescribing drugs that are administered to patients in the practice of dentistry.

(C) The treatment plan of any dental patient.

(D) Overall quality of patient care that is rendered or performed in the practice of dentistry.

(E) Supervision of dental hygienists, dental assistants or other personnel involved in direct patient care and the authorization for procedures performed by them in accordance with the standards of supervision established by statute or by the rules of the board.

(F) Other specific services within the scope of clinical dental practice.

(G) Retention of patient dental records as required by statute or by rule of the board.

(H) Ensuring that each patient receiving services from the dental office or clinic has a dentist of record.

(b) Maintain current records of the names of licensed dentists who supervise the clinical activities of dental hygienists, dental assistants or other personnel involved in direct patient care utilized by the entity. The records must be available to the board upon written request.

5) Subsections (1) and (2) of this section do not apply to an expanded practice dental hygienist who renders services authorized by a permit issued by the board pursuant to ORS 680.200.

6) Nothing in this chapter precludes a person or entity not licensed by the board from:

(a) Ownership or leasehold of any tangible or intangible assets used in a dental office or clinic. These assets include real property, furnishings, equipment and inventory but do not include dental records of patients related to clinical care.

(b) Employing or contracting for the services of personnel other than licensed dentists.

(c) Management of the business aspects of a dental office or clinic that do not include the clinical practice of dentistry.

7) If all of the ownership interests of a dentist or dentists in a dental office or clinic are held by an administrator, executor, personal representative, guardian, conservator or receiver of the estate of a former shareholder, member or partner, the administrator, executor, personal representative, guardian, conservator or receiver may retain the ownership interest for a period of 12 months following the creation of the ownership interest. The board shall extend the ownership period for an additional 12 months upon 30 days’ notice and may grant additional extensions upon reasonable request.

Amended by 1977 c.192 §1; 1985 c.323 §3; 1995 c.286 §§29, 1997 c.251 §6; 2003 c.322 §1; 2009 c.223 §1; 2011 c.637 §284; 2011 c.716 §4; 2013 c.310 §2; 2015 c.391 §1

679.022 Exemption from naming licensed dentist as director for accredited institutions and programs. (1) ORS 679.020 (4)(a) does not apply to institutions or programs accredited by the Commission on Dental Accreditation of the American Dental
Association to provide education and training.

(2) Institutions or programs described in subsection (1) of this section must:

(a) Maintain a list of the dentists of record that provide dental care in a dental clinic or office owned or operated by the institution or program; and

(b) Provide the list maintained under this subsection to the Oregon Board of Dentistry when requested by the board. [2013 c.310 §3]

**679.025 License required to practice dentistry; exemptions.** (1) A person may not practice dentistry or purport to be a dentist without a valid license to practice dentistry issued by the Oregon Board of Dentistry.

(2) Subsection (1) of this section does not apply to:

(a) Dentists licensed in another state or country making a clinical presentation sponsored by a bona fide dental society or association or an accredited dental educational institution approved by the board.

(b) Bona fide full-time students of dentistry who, during the period of their enrollment and as a part of the course of study in an Oregon accredited dental education program, engage in clinical studies on the premises of such institution or in a clinical setting located off the premises of the institution if the facility, the instructional staff and the course of study to be pursued at the off-premises location meet minimum requirements prescribed by the rules of the board and the clinical study is performed under the indirect supervision of a member of the faculty.

(c) Bona fide full-time students of dentistry who, during the period of their enrollment and as a part of the course of study in a dental education program located outside of Oregon that is accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency, engage in community-based or clinical studies as an elective or required rotation in a clinical setting located in Oregon if the community-based or clinical studies meet minimum requirements prescribed by the rules of the board and are performed under the indirect supervision of a member of the faculty of the Oregon Health and Science University School of Dentistry.

(d) Candidates who are preparing for a licensure examination to practice dentistry and whose application has been accepted by the board or its agent, if the clinical preparation is conducted in a clinic located on premises approved for that purpose by the board and if the procedures are limited to examination only. This exception shall exist for a period not to exceed two weeks immediately prior to a regularly scheduled licensure examination.

(e) Dentists practicing in the discharge of official duties as employees of the United States Government and any of its agencies.

(f) Instructors of dentistry, whether full- or part-time, while exclusively engaged in teaching activities and while employed in accredited dental educational institutions.

(g) Dentists employed by public health agencies who are not engaged in the direct delivery of clinical dental services to patients.

(h) Persons licensed to practice medicine in the State of Oregon in the regular discharge of their duties.

(i) Persons qualified to perform services relating to general anesthesia or sedation under the direct supervision of a licensed dentist.

(j) Dentists licensed in another state or country and in good standing, while practicing dentistry without compensation for no more than five consecutive days in any 12-month period, provided the dentist submits an application to the board at least 10 days before practicing dentistry under this paragraph and the application is approved by the board.

(k) Persons practicing dentistry upon themselves as the patient.

(L) Dental hygienists, dental assistants or dental technicians performing services under the supervision of a licensed dentist in accordance with the rules adopted by the board.

(m) A person licensed as a denturist under ORS 680.500 to 680.565 engaged in the practice of denture technology.

(n) An expanded practice dental hygienist who renders services authorized by a permit issued by the board pursuant to ORS 680.200. [1953 c.574 §2; 1955 c.560 §1; 1957 c.552 §4; 1963 c.284 §1; 1971 c.48 §1; 1973 c.390 §1; 1975 c.693 §19; 1977 c.1 §16; 1983 c.169 §2; 1993 c.142 §1; 1997 c.251 §5; 2005 c.504 §1; 2011 c.716 §5; 2012 c.80 §1; 2013 c.114 §1; 2017 c.342 §1]

**679.027 Enjoining violations.** The Attorney General, or the prosecuting attorney of any county, or the Oregon Board of Dentistry, in its own name, may maintain an action for an injunction against any person violating any provision of ORS 679.020, 679.025, 679.170 or 679.176. Any person who has been so enjoined may be punished for contempt by the court issuing the injunction. An injunction may be issued without proof of actual damage sustained by any person. An injunction shall not relieve a person from criminal prosecution for violation of any
provision of ORS 679.020, 679.025, 679.170 or 679.176 or from any other civil, criminal or disciplinary remedy. [1957 c.552 §2; 1963 c.284 §2; 1979 c.284 §192; 1983 c.169 §3]

679.030 [Amended by 1953 c.574 §5; repealed by 1977 c.192 §13]

679.040 [Amended by 1963 c.284 §3; repealed by 2003 c.83 §12]

679.050 Nonresident dentists giving or receiving instruction; hospital permits. (1) If a reputable and duly licensed practitioner in dentistry of another state or country is asked to appear and demonstrate, receive or give instruction in the practice of dentistry before any qualified dental college or dental organization or dental study group recognized by the Oregon Board of Dentistry, the secretary of the board shall issue on written request of an authorized officer of such college or dental organization or dental study group, without fee, a permit for such purpose. A permit shall be issued upon such terms as the board shall prescribe.

(2) If a reputable and duly licensed practitioner in dentistry of another state has been granted staff privileges, either limited, by any duly licensed hospital in this state, the secretary of the board shall issue on written request and verification of an authorized officer of such hospital, a permit for such nonresident practitioner to practice dentistry in said hospital. [Amended by 1963 c.284 §4; 1965 c.122 §3; 1967 c.282 §1; 1973 c.390 §2; 2013 c.114 §2]

679.060 Application for license; fees; grounds for refusal of license. (1) Any person desiring to practice dentistry in this state shall file an application with the Oregon Board of Dentistry.

(2) At the time of making the application, the applicant shall:

(a) Pay to the board the required application and examination fee.

(b) Furnish the board with evidence satisfactory to the board of details of any convictions recorded in any police records. Such details are subject to the findings required by ORS 670.280.

(c) Present to the board a diploma or evidence satisfactory to the board of having graduated from an accredited dental education program approved by the board.

(3) If an applicant has been in practice in another state or states the applicant shall furnish an affidavit from the secretary of the board of dental examiners or similar body of such state or states that the applicant has been engaged in the legal practice of dentistry in such state or states for a period of time prescribed by the rules of the Oregon Board of Dentistry.

(4) The board may refuse to issue a license to or renew a license of an applicant who has been convicted of a violation of the law if the board makes the findings required by ORS 670.280. A certified copy of the record of conviction is conclusive evidence of conviction.

(5) The board may refuse to issue a license to or renew a license of an applicant who has been disciplined by a state licensing or regulatory agency of this or another state regarding any health care profession when, in the judgment of the board, the act or conduct resulting in the disciplinary action bears a demonstrable relationship to the ability of the licensee or applicant to practice dentistry in accordance with the provisions of this chapter. A certified copy of the record of the disciplinary action is conclusive evidence of the disciplinary action.

(6) The board may refuse to issue a license to or renew a license of an applicant who has falsified a license application, or any person for any cause described under ORS 679.140 or 679.170.

(7) Fees paid are not refundable. [Amended by 1963 c.284 §5; 1973 c.390 §3; 1973 c.827 §68; 1973 c.829 §62a; 1977 c.444 §1; 1981 c.232 §1; 1983 c.169 §6; 1985 c.232 §4; 1995 c.199 §1; 2003 c.83 §2]

679.065 Qualifications of applicants; rules. (1) An applicant for a dental license shall be entitled to take the examination to practice dentistry in Oregon if the applicant:

(a) Is 18 years of age or older; and

(b) Is a graduate of a dental school accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency, if any, which must have been approved by the Oregon Board of Dentistry.

(2) Foreign trained graduates of dental programs may apply for the dental licensure examination, providing the applicant meets the board’s requirements, by rule, as will reasonably assure that an applicant’s training and education are sufficient for licensure. [1983 c.169 §5]

679.070 Examination; certain other examination results in lieu of examination. (1) The Oregon Board of Dentistry may administer written, laboratory or clinical examinations to test professional knowledge and skills.

(2) The examination shall be elementary and practical in character but sufficiently thorough to test the fitness of the applicant to practice dentistry. It shall include, written in the English language, questions on any subjects pertaining to dental science. The written examination may be supplemented by
oral examination. Demonstrations of the applicant's skill in operative and prosthetic dentistry also may be required.

(3) The board may accept the results of national standardized examinations in satisfaction of the written examination as authorized by this section, and shall accept the results of regional testing agencies or of clinical board examinations administered by other states in satisfaction of the laboratory or clinical examination authorized under this section, provided:

(a) The test or examination was taken within five years of the date of application; and

(b) The applicant received a passing score on the test or examination as established by the board by rule.

(4) The board shall accept the results of regional testing agencies or of clinical board examinations administered by other states in satisfaction of the examinations authorized under this section for applicants who have engaged in the active practice of dentistry in other states, in Oregon or in the Armed Forces of the United States, the United States Public Health Service or the United States Department of Veterans Affairs for at least 3,500 hours in the five years immediately preceding application and who meet all other requirements for licensure. [Amended by 1965 c.122 §4; 1983 c.169 §7; 1999 c.469 §1; 2001 c.193 §1; 2003 c.83 §3; 2005 c.229 §1]

679.080 Expiration of applicants; rules. The Oregon Board of Dentistry may adopt rules requiring additional education and examination of applicants who have failed the licensing examination three times. [Amended by 1973 c.829 §63; 1977 c.444 §2; 1983 c.169 §8; 2003 c.83 §4]

679.090 Issuance of license. The Oregon Board of Dentistry shall, upon the applicant's satisfactory completion of the educational requirements and written, laboratory and clinical examinations authorized under this chapter and upon receipt of the requisite fees, issue or renew the appropriate dental license. [Amended by 1963 c.284 §6; 1971 c.34 §1; 1983 c.169 §9]

679.100 [Repealed by 1963 c.284 §17]

679.105 [1997 c.662 §1; repealed by 2003 c.83 §12]

679.110 [Repealed by 1983 c.169 §34]

679.115 Licensing of dental instructor; requirements. (1) Notwithstanding any other provision of this chapter, the Oregon Board of Dentistry shall issue a dental instructor's license to practice dentistry to any person who furnishes the board with evidence satisfactory to the board that the applicant meets the requirements of subsection (2) of this section.

(2) An applicant for a dental instructor's license must be a full-time instructor of dentistry engaged in dental activities, including but not limited to participation in a faculty practice plan, within the scope of the applicant's employment at Oregon Health and Science University and either:

(a) Be a graduate of an accredited dental school; or

(b) If the applicant is not a graduate of an accredited dental school, have a certificate or degree showing successful completion of an advanced dental education program of at least two years' duration from an accredited dental school and:

(A) Be licensed to practice dentistry in another state or a Canadian province;

(B) Have held an instructor's or faculty license to practice dentistry in another state or a Canadian province immediately prior to becoming an instructor of dentistry at Oregon Health and Science University;

(C) Have successfully passed any clinical examination recognized by the board for initial licensure; or

(D) Be certified by the appropriate national certifying examination body in a dental specialty recognized by the American Dental Association.

(3) The board may refuse to issue or renew a dental instructor's license to an applicant or licensee:

(a) Who has been convicted of an offense or disciplined by a dental licensing body in a manner that bears, in the judgment of the board, a demonstrable relationship to the ability of the applicant or licensee to practice dentistry in accordance with the provisions of this chapter;

(b) Who has falsified an application for licensure; or

(c) For cause as described under ORS 679.140 or 679.170.

(4) A person issued a dental instructor's license is restricted to the practice of dentistry for or on behalf of Oregon Health and Science University.

(5) A license issued to an applicant qualifying for a dental instructor's license who is a specialist by virtue of successful completion of an advanced dental education program is restricted to the specialty in which the dentist was trained.

(6) As used in this section, “accredited” means accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency, if any. [1999 c.578 §8; 2001 c.188 §1; 2013 c.413 §1; 2015 c.394 §1]
679.120 License fees; waiver of fee; rules; renewal of license. (1) The Oregon Board of Dentistry may impose application fees for the following:

(a) Examinations, which may differ for general dentistry, foreign school graduate and specialty examinations.

(b) Biennial dentist license, active.

(c) Biennial dentist license, inactive.

(d) Permits and certificates.

(e) Delinquency.

(2) Subject to prior approval of the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fees and charges, the fees and charges established under this section and ORS 680.075 shall not exceed the costs of administering the regulatory program of the board, as authorized by the Legislative Assembly within the board budget, as the budget may be modified by the Emergency Board.

(3)(a) The board may waive the payment of the license fee in the case of any licensee who furnishes satisfactory evidence that the licensee has discontinued the actual practice of dentistry because of retirement.

(b) Application to reinstate a license retired under paragraph (a) of this subsection or to convert an inactive status license to an active status license shall be made in accordance with the rules of the board and with the submission of the license fee prescribed for such license; provided, however, that if more than one year has expired since the license was retired or inactivated, satisfactory evidence of operative competence must be submitted to the board.

(4) Every dentist shall advise the board within 30 days of any change of address.

(5) Each dentist must renew the dentist’s license every two years through submitting a renewal application and paying the license fee.

(6) Dentists licensed in even-numbered years must renew by March 31 of each even-numbered year. Dentists licensed in odd-numbered years must renew by March 31 of each odd-numbered year.

(7) A reasonable charge may be made in the event that the license fee or renewal application is more than 10 days delinquent.

(8) Fees paid are not refundable. [Amended by 1963 c.284 §7; 1967 c.19 §2; 1971 c.34 §2; 1973 c.390 §4; 1977 c.192 §3; 1977 c.444 §3a; 1981 c.232 §2; 1985 c.323 §5; 1989 c.338 §7; 1991 c.703 §25]

679.130 [Amended by 1973 c.390 §5; 1983 c.169 §10; 1991 c.67 §182; repealed by 1999 c.578 §6]

679.140 Discipline of licensee; grounds; procedure; sanctions. (1) The Oregon Board of Dentistry may discipline as provided in this section any person licensed to practice dentistry in this state for any of the following causes:

(a) Conviction of any violation of the law for which the court could impose a punishment if the board makes the finding required by ORS 670.280. The record of conviction or a certified copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is entered, is conclusive evidence of the conviction.

(b) Renting or lending a license or diploma of the dentist to be used as the license or diploma of another person.

(c) Unprofessional conduct.

(d) Any violation of this chapter or ORS 680.010 to 680.205, of rules adopted pursuant to this chapter or ORS 680.010 to 680.205 or of an order issued by the board.

(e) Engaging in or permitting the performance of unacceptable patient care by the dentist or by any person working under the supervision of the dentist due to a deliberate or negligent act or failure to act by the dentist, regardless of whether actual injury to the patient is established.

(f) Incapacity to practice safely.

(2) “Unprofessional conduct” as used in this chapter includes but is not limited to the following:

(a) Obtaining any fee by fraud or misrepresentation.

(b) Willfully betraying confidences involved in the patient-dentist relationship.

(c) Employing, aiding, abetting or permitting any unlicensed personnel to practice dentistry or dental hygiene.

(d) Making use of any advertising statements of a character tending to deceive or mislead the public or that are untruthful.

(e) Impairment as defined in ORS 676.303.

(f) Obtaining or attempting to obtain a controlled substance in any manner prescribed by the rules of the board.

(g) Prescribing or dispensing drugs outside the scope of the practice of dentistry or in a manner that impairs the health and safety of an individual.

(h) Disciplinary action by a state licensing or regulatory agency of this or another state regarding a license to practice dentistry, dental hygiene or any other health care profession when, in the judgment of the board, the act or conduct resulting in the disciplinary action bears a demonstrable relationship to the ability of the licensee or applicant to practice dentistry or dental hy-
giene in accordance with the provisions of this chapter. A certified copy of the record of the disciplinary action is conclusive evidence of the disciplinary action.

(3) The proceedings under this section may be taken by the board from the matters within its knowledge or may be taken upon the information of another, but if the informant is a member of the board, the other members of the board shall constitute the board for the purpose of finding judgment of the accused.

(4) In determining what constitutes unacceptable patient care, the board may take into account all relevant factors and practices, including but not limited to the practices generally and currently followed and accepted by persons licensed to practice dentistry in this state, the current teachings at accredited dental schools, relevant technical reports published in recognized dental journals and the desirability of reasonable experimentation in the furtherance of the dental arts.

(5) In disciplining a person as authorized by subsection (1) of this section, the board may use any or all of the following methods:

(a) Suspend judgment.

(b) Place a licensee on probation.

(c) Suspend a license to practice dentistry in this state.

(d) Revoke a license to practice dentistry in this state.

(e) Place limitations on a license to practice dentistry in this state.

(f) Refuse to renew a license to practice dentistry in this state.

(g) Accept the resignation of a licensee to practice dentistry in this state.

(h) Assess a civil penalty.

(i) Reprimand a licensee.

(j) Impose any other disciplinary action the board in its discretion finds proper, including assessment of the costs of the disciplinary proceedings as a civil penalty.

(6) If the board places any person upon probation as set forth in subsection (5)(b) of this section, the board may determine and may at any time modify the conditions of the probation and may include among them any reasonable condition for the purpose of protection of the public and for the purpose of the rehabilitation of the probationer or both. Upon expiration of the term of probation, further proceedings shall be abated by the board if the person holding the license furnishes the board with evidence that the person is competent to practice dentistry and has complied with the terms of probation. If the evidence fails to establish competence to the satisfaction of the board or if the evidence shows failure to comply with the terms of the probation, the board may revoke or suspend the license.

(7) If a license to practice dentistry in this state is suspended, the person holding the license may not practice during the term of suspension. Upon the expiration of the term of suspension, the license shall be reinstated by the board if the board finds, based upon evidence furnished by the person, that the person is competent to practice dentistry and has not practiced dentistry in this state during the term of suspension. If the evidence fails to establish to the satisfaction of the board that the person is competent or if any evidence shows the person has practiced dentistry in this state during the term of suspension, the board may revoke the license after notice and hearing.

(8) Upon receipt of a complaint under this chapter or ORS 680.010 to 680.205, the board shall conduct an investigation as described under ORS 676.165.

(9) Information that the board obtains as part of an investigation into licensee or applicant conduct or as part of a contested case proceeding, consent order or stipulated agreement involving licensee or applicant conduct is confidential as provided under ORS 676.175. Notwithstanding ORS 676.165 to 676.180, the board may disclose confidential information regarding a licensee or an applicant to persons who may evaluate or treat the licensee or applicant for drug abuse, alcohol abuse or any other health related conditions.

(10) The board may impose against any person who violates the provisions of this chapter or ORS 680.010 to 680.205 or rules of the board a civil penalty of up to $5,000 for each violation. Any civil penalty imposed under this section shall be imposed in the manner provided in ORS 183.745.

(11) Notwithstanding the expiration, suspension, revocation or surrender of the license, or the resignation or retirement of the licensee, the board may:

(a) Proceed with any investigation of, or any action or disciplinary proceedings against, the dentist or dental hygienist; or

(b) Revise or render void an order suspending or revoking the license.

(12)(a) The board may continue with any proceeding or investigation for a period not to exceed four years from the date of the expiration, suspension, revocation or surrender of the license, or the resignation or retirement of the licensee; or

(b) If the board receives a complaint or initiates an investigation within that four-year period, the board’s jurisdiction contin-
ues until the matter is concluded by a final order of the board following any appeal.

(13) Withdrawing the application for license does not close any investigation, action or proceeding against an applicant. [Amended by 1955 c.560 §2; 1963 c.311 §1; 1983 c.284 §8; 1985 c.122 §8; 1971 c.157 §1; 1973 c.554 §1; 1977 c.192 §3a; 1977 c.745 §51; 1979 c.142 §1; 1979 c.744 §53a; 1981 c.185 §2; 1983 c.169 §11; 1985 c.323 §6; 1991 c.734 §73; 1995 c.199 §2; 1997 c.791 §55; 1999 c.253 §1; 1999 c.578 §1; 2003 c.83 §5; 2009 c.756 §39]

679.150 [Amended by 1961 c.311 §2; 1963 c.284 §9; 1965 c.122 §6; 1967 c.282 §2; 1983 c.169 §12; repealed by 1999 c.578 §8]

679.160 Appeal from board decision. (1) Any licensee who has been disciplined by the Oregon Board of Dentistry may obtain judicial review of the decision in the manner prescribed by ORS chapter 183.

(2) Notwithstanding ORS 676.210, enforcement of the board's disciplinary order pending appeal shall be determined pursuant to ORS 183.482 (3). [Amended by 1961 c.311 §3; 1967 c.282 §3; 1973 c.390 §6; 1977 c.192 §4; 1979 c.744 §54; 1983 c.169 §13; 1995 c.199 §3; 2003 c.83 §6]

679.165 Automatic suspension of license in case of mental disorder. The entry of a judgment by any court establishing the mental disorder of any person holding a license under this chapter operates as a suspension of such license. Such person may resume practice only upon a finding by the Oregon Board of Dentistry that the licensee has been declared restored to mental competence by an order of a court of competent jurisdiction. [1957 c.552 §3; 1999 c.59 §202; 2003 c.576 §42]

679.170 Prohibited practices. No person shall:

(1) Sell or barter, or offer to sell or barter, any diploma or document conferring or purporting to confer any dental degree, or any certificate or transcript made or purporting to be made, pursuant to the laws regulating the license and registration of dentists.

(2) Purchase or procure by barter, any such diploma, certificate or transcript, with intent that it be used as evidence of the holder's qualification to practice dentistry, or in fraud of the laws regulating such practice.

(3) With fraudulent intent, alter in a material regard any such diploma, certificate or transcript.

(4) Use or attempt to use any such diploma, certificate or transcript, which has been purchased, fraudulently issued, counterfeited or materially altered, either as a license or color of license to practice dentistry, or in order to procure registration as a dentist.

(5) Willfully make a false written or recorded oral statement to the Oregon Board of Dentistry in a material regard.

(6) Within 10 days after demand made by the board, fail to respond to the board's written request for information or fail to furnish to the board the name and address of all persons practicing or assisting in the practice of dentistry in the office of such person at any time within 60 days prior to the notice, together with a sworn statement showing under and by what license or authority such person and employee are and have been practicing dentistry.

(7) Employ or use the services of any unlicensed person, to practice dentistry or dental hygiene, except as permitted by ORS 679.025, 679.176 and 680.010 to 680.205. [Amended by 1963 c.284 §10; 1977 c.192 §3; 1981 c.185 §3; 1983 c.169 §14; 1995 c.199 §4; 1999 c.578 §2]

679.176 Written work orders required for certain services. (1) No dentist may use the services of any person, not licensed to practice dentistry in this state, to construct, alter, repair, rel ine, reproduce or duplicate any prosthetic denture, bridge, appliance or any other structure to be worn in the human mouth, unless the dentist first furnishes to such person a written work order, in substantially the following form:

__________________________________________

(Date) __________, 2.____

TO: (Name of dental technician or laboratory with address)

RE: (Name or number of patient)

(Description of the work to be done, including diagrams if necessary, together with specifications of the type of materials to be used.)

(Name of ordering dentist)

(Address) ______

(Current license number) ______

(2) A duplicate copy of each such work order issued by the dentist shall be retained by each dentist for not less than two years. The Oregon Board of Dentistry or its agents shall be permitted to inspect, upon demand, the duplicate copies of all such work orders retained by each dentist.

(3) No work order shall permit or require the taking of impressions of any part of the human oral cavity by any person not a dentist licensed by the board. [1963 c.284 §15]

679.180 Enforcement; jurisdiction. (1) The district attorney of each county shall attend to the prosecution of all criminal complaints made under this chapter and may represent the Oregon Board of Dentistry in
any proceeding brought pursuant to ORS 679.027 upon a complaint, information or indictment filed against any person under this chapter, or upon request of the board. However, nothing in this chapter shall be construed to prevent the prosecution of any person for violation of this chapter upon the information of the district attorney directly or, subject to the requirements of ORS 676.175, to prevent assistance being rendered to the district attorney by an employee of the board.

(2) Nothing contained in this chapter shall be construed to require the district attorney to prosecute any person who is licensed by the board and who is subject to disciplinary action directly by the board under any provision of this chapter or ORS 680.010 to 680.205.

OREGON BOARD OF DENTISTRY

679.230 Oregon Board of Dentistry; appointment; qualifications; confirmation; compensation and expenses.

(1) The Oregon Board of Dentistry consists of 10 members appointed by the Governor and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the board:

(a) Six must be Oregon active licensed dentists, of which at least one must be a dentist practicing in a dental specialty recognized by the American Dental Association;

(b) Two must be Oregon active licensed dental hygienists; and

(c) Two must be members of the public who are not:

(1) Otherwise eligible for appointment to the board; or

(2) A spouse, domestic partner, child, parent or sibling of a dentist or dental hygienist.

(2)(a) Board members required to be Oregon active licensed dentists or dental hygienists may be selected by the Governor from a list of three to five nominees for each vacancy, submitted by:

(A) The Oregon Dental Association, if the vacancy is in a dentist position;

(B) The Oregon Dental Hygienists’ Association, if the vacancy is in a dental hygienist position; or

(C) Any of the professional organizations representing a dental specialty, if the vacancy is in a dental specialty position.

(b) In selecting the members of the board, the Governor shall strive to balance the representation on the board according to:

(A) Geographic areas of this state; and

(B) Ethnic group.

(3)(a) The term of office of each member is four years, but a member serves at the pleasure of the Governor. The terms must be staggered so that no more than three terms end each year. Terms of office begin on the first Monday of April after the time of appointment. A member is eligible for reappointment. If there is a vacancy in the membership of the board for any reason, the Governor shall make an appointment to become immediately effective for the unexpired term.

(b) A board member shall be removed immediately from the board if, during the member’s term, the member:

(A) Is not a resident of this state;

(B) Has been absent from three consecutive board meetings, unless at least one absence is excused;

(C) Is not a licensed dentist or a retired dentist whose license was in good standing at the time of retirement, if the board member was appointed to serve on the board as a dentist or a dental specialist; or

(D) Is not a licensed dental hygienist or a retired dental hygienist whose license was in good standing at the time of retirement, if the board member was appointed to serve on the board as a dental hygienist.

(4) Members of the board are entitled to compensation and expenses as provided in ORS 292.495. The board may provide by rule for compensation to board members for the performance of official duties at a rate that is greater than the rate provided in ORS 292.495.

679.240 [Repealed by 1983 c.169 §34]

679.250 Powers and duties of board; rules. The powers and duties of the Oregon Board of Dentistry are as follows:

(1) To, during the month of April of each year, organize and elect from its membership a president who shall hold office for one year, or until the election and qualification of a successor.

(2) To authorize all necessary disbursements to carry out the provisions of this chapter, including but not limited to, payment for necessary supplies, office equipment, books and expenses for the conduct of examinations, payment for legal and investigative services rendered to the board, and such other expenditures as are provided for in this chapter.

(3) To employ such inspectors, examiners, special agents, investigators, clerical assistants, assistants and accountants as are nec-
necessary for the investigation and prosecution of alleged violations and the enforcement of this chapter and for such other purposes as the board may require. Nothing in this chapter shall be construed to prevent assistance being rendered by an employee of the board in any hearing called by it. However, all obligations for salaries and expenses incurred under this chapter shall be paid from the fees accruing to the board under this chapter and not otherwise.

(4) (a) To conduct examinations of applicants for license to practice dentistry and dental hygiene at least twice in each year.

(b) In conducting examinations for licensure, the board may enter into a compact with other states for conducting regional examinations with other board of dental examiners concerned, or by a testing service recognized by such boards.

(5) To meet for the transaction of other business at the call of the president. A majority of board members shall constitute a quorum. A majority vote of those present shall be a decision of the entire board. The board’s proceedings shall be open to public inspection in all matters affecting public interest.

(6) To keep an accurate record of all proceedings of the board and of all its meetings, of all receipts and disbursements, of all prosecutions for violation of this chapter, of all examinations for license to practice dentistry, with the names and qualifications for examination of any person examined, together with the addresses of those licensed and the results of such examinations, a record of the names of all persons licensed to practice dentistry in Oregon together with the addresses of all such persons having paid the license fee prescribed in ORS 679.120 and the names of all persons whose license to practice has been revoked or suspended.

(7) To make and enforce rules necessary for the procedure of the board, for the conduct of examinations, for regulating the practice of dentistry, and for regulating the services of dental hygienists and dental auxiliary personnel not inconsistent with the provisions of this chapter. As part of such rules, the board may require the procurement of a permit or other certificate. Any permit issued may be subject to periodic renewal. In adopting rules, the board shall take into account all relevant factors germane to an orderly and fair administration of this chapter and of ORS 680.010 to 680.205, the practices and materials generally and currently used and accepted by persons licensed to practice dentistry in this state, dental techniques commonly in use, relevant technical reports published in recognized dental journals, the curriculum at accredited dental schools, the desirability of reasonable experimentation in the furtherance of the dental arts, and the desirability of providing the highest standard of dental care to the public consistent with the lowest economic cost.

(8) Upon its own motion or upon any complaint, to initiate and conduct investigations of and hearings on all matters relating to the practice of dentistry, the discipline of licensees, or pertaining to the enforcement of any provision of this chapter. In the conduct of investigations or upon the hearing of any matter of which the board may have jurisdiction, the board may take evidence, administer oaths, take the depositions of witnesses, including the person charged, in the manner provided by law in civil cases, and compel their appearance before it in person the same as in civil cases, by subpoena issued over the signature of an employee of the board and in the name of the people of the State of Oregon, requiring answers to interrogatories, and compel the production of books, papers, accounts, documents and testimony pertaining to the matter under investigation or to the hearing. In all investigations and hearings, the board and any person affected thereby may have the benefit of counsel, and all hearings shall be held in compliance with ORS chapter 183. Notwithstanding ORS 676.165, 676.175 and 679.320, if a licensee who is the subject of an investigation or complaint is to appear before members of the board investigating the complaint, the board shall provide the licensee with a current summary of the complaint or the matter being investigated not less than five days prior to the date that the licensee is to appear. At the time the summary of the complaint or the matter being investigated is provided, the board shall provide to the licensee a current summary of documents or alleged facts that the board has acquired as a result of the investigation. The name of the complainant or other information that reasonably may be used to identify the complainant may be withheld from the licensee.

(9) To require evidence as determined by rule of continuing education or to require satisfactory evidence of operative competency before reissuing or renewing licenses for the practice of dentistry or dental hygiene.

(10) To adopt and enforce rules regulating administration of general anesthesia and conscious sedation by a dentist or under the supervision of a dentist in the office of the dentist. As part of such rules, the board may require the procurement of a permit which must be periodically renewed.

(11) To order an applicant or licensee to submit to a physical examination, mental examination or a competency examination...
when the board has evidence indicating the incapacity of the applicant or licensee to practice safely. [Amended by 1953 c.8 §2; 1957 c.552 §§; 1963 c.284 §18; 1965 c.122 §7; 1973 c.390 §7; 1973 c.529 §64; 1977 c.192 §7; 1983 c.169 §17; 1985 c.323 §7; 1989 c.338 §10; 1999 c.578 §8; 1999 c.751 §6; 2009 c.756 §41]

679.253 Authority of board to require fingerprints. For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the Oregon Board of Dentistry may require the fingerprints of a person who:

(1) Is employed or applying for employment by the board in a position in which the person has or will have access to information that is made confidential under state or federal laws, rules or regulations;

(2) Provides services or seeks to provide services to the board as a contractor, vendor or volunteer in a position in which the person has or will have access to information that is made confidential under state or federal laws, rules or regulations;

(3) Is applying for a license or permit that is issued by the board;

(4) Is applying for renewal of a license or permit that is issued by the board; or

(5) Is under investigation by the board. [2005 c.730 §54]

Note: 679.253 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 679 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

679.255 Board to adopt standards for sedation during dental procedures; rules. The Oregon Medical Board and the Oregon State Board of Nursing, in consultation with the Oregon Board of Dentistry, shall adopt rules establishing standards governing their respective licenses for general anesthesia and conscious sedation administered in conjunction with the professional services of a dentist or dental hygienist. [1985 c.323 §13]

679.260 Oregon Board of Dentistry Account; disbursement of receipts. (1) The Oregon Board of Dentistry Account is established in the State Treasury separate and distinct from the General Fund.

(2) All moneys received by the Oregon Board of Dentistry under this chapter shall be paid to the State Treasury and credited to the Oregon Board of Dentistry Account. Any interest or other income derived from moneys paid into the account shall be credited monthly to the account.

(3) Moneys in the Oregon Board of Dentistry Account are appropriated continuously and shall be used only for the administration and enforcement of ORS 676.850 and 680.010 to 680.205 and this chapter.

(4) Ten percent of the annual license fee to be paid by each licensee of the Oregon Board of Dentistry shall be used by the board to ensure the continued professional competence of licensees. Such activities shall include the development of performance standards and professional peer review. [Amended by 1957 c.552 §5; 1967 c.19 §3; 1967 c.282 §5; 1969 c.314 §103; 1973 c.427 §21; 1977 c.192 §§8; 1977 c.747 §2; 2003 c.83 §§; 2011 c.597 §279; 2013 c.240 §10]

679.270 [Repealed by 1973 c.629 §71]

679.280 Dental committees or consultants for improving standards of practice; liability; confidentiality of proceedings. (1) The Oregon Board of Dentistry may appoint a consultant or a committee or committees, each consisting of one or more licensed dentists in this state, to study and report to the board the condition of and dental treatment rendered to any person or persons by any licensed dentist or dentists in this state or by any person purporting to practice dentistry in this state. Any person, hospital, sanatorium, professional grievance committee, nursing or rest home or other organization may, subject to the laws governing privileged or confidential communications, provide information, interviews, reports, statements, memoranda or other data relating to the condition and treatment of any person to the consultant or committee or to the board, to be used in the course of any study for the purpose of improving the standards of dental practice or to enable the board to assess the desirability of disciplinary action relating thereto; and no liability of any kind or character for damages or other relief shall arise or be enforced against the person or organization by reason of having provided the information or material, or arise or be enforced against any consultant or member of a duly appointed committee by reason of having released or published the findings and conclusions of the consultants or committees to advance dental science and dental education, or by reason of having released or published generally a summary of those studies. When used by the board to assess the desirability of disciplinary action, the testimony given to and the proceedings, reports, statements, opinions, findings and conclusions of the consultants and committees and the board shall be confidential as provided under ORS 676.175, but this shall not preclude the use of the subpoena power with respect to the actual records of dentists, patients, hospitals, sanitaria, nursing or rest homes.

(2) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any consultant or member of a duly appointed committee for any act or proceeding undertaken or performed within the scope of the functions of that consultant or committee, if the consult-
679.290 Failure to comply with subpoena issued by board. (1) If a person fails to comply with any subpoena issued under ORS 679.250 (8), a judge of the circuit court of any county, on application of the executive director of the Oregon Board of Dentistry, shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the circuit court.

(2) In any proceeding under subsection (1) of this section and where the subpoena is addressed to a licensee of the board it shall not be a defense that:

(a) No witness or mileage fee was paid; or

(b) The material that is subject to the subpoena is protected under a patient and dentist privilege. [1983 c.169 §31; 2009 c.756 §42]

679.300 Privileged data; admissibility of data as evidence in judicial proceedings. (1) All data shall be privileged and shall not be admissible in evidence in any judicial proceeding, but this section shall not affect the admissibility in evidence of a party’s records dealing with a party’s care and treatment.

(2) A person serving on or communicating information to a committee described in subsection (4) of this section shall not be examined as to any communication to that committee or the findings thereof.

(3) A person serving on or communicating to a committee described in subsection (4) of this section shall not be subject to an action for civil damages for affirmative actions taken or statements made in good faith.

(4) As used in subsection (1) of this section, “data” means written reports, notes or records of peer review committees or other committees and similar committees of professional societies in connection with training, supervision or discipline of dentists. The term also includes written reports, notes or records of utilization review and professional standards review organization. [1983 c.169 §33]

Note: 679.300 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 679 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

679.310 Duty to report violations; exceptions; liability. (1)(a) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, any dentist or dental hygienist, or any person licensed by the Oregon Board of Dentistry, shall report to the board any suspected violation of this chapter or ORS 680.010 to 680.205 or any rule adopted by the board.

(b) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, the Oregon Dental Association or any other organization representing dentists or dental hygienists shall report to the board any suspected violation of this chapter or ORS 680.010 to 680.205 or any rule adopted by the board.

(c) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, the Oregon Dental Association or any other organization representing dentists or dental hygienists shall report to the board any suspected violation of this chapter or ORS 680.010 to 680.205 or any rule adopted by the board.

(d) Any person may report to the board any suspected violation of this chapter or ORS 680.010 to 680.205 or any rule adopted by the board, association or other organization representing dentists or dental hygienists.

(2) This section is not intended to require any person working on or with the Oregon Dental Association’s Dentist Well Being Committee or Peer Review Committee or the Quality Assurance or Peer Review Committee of the Oregon Dental Hygienists’ Association to report to the board any confidential information received within the scope of duties with that committee.

(3) No person who has made a complaint as to the conduct of a licensee of the board or who has given information or testimony relative to a proposed or pending proceeding for misconduct against the licensee of the board, shall be answerable for any such act in any proceeding except for perjury. [1985 c.323 §11; 1999 c.578 §4; 2009 c.536 §7]

679.320 Confidentiality of information provided to board; limitation of liability. (1) Any information provided to the Oregon Board of Dentistry as the basis of a complaint or in the investigation thereof shall not be subject to public disclosure during the period of investigation.

(2) Any person who reports or provides information to the board and who does so in good faith shall not be subject to an action for civil damages as a result thereof. [1985 c.323 §12]
679.323 Removal of individual disciplinary information; rules. (1) Upon the request of an individual who has been disciplined by the Oregon Board of Dentistry, the board shall remove from its website and other publicly accessible print and electronic publications under the board’s control all information related to disciplining the individual under ORS 679.140 and any findings and conclusions made by the board during the disciplinary proceeding, if:
(a) The request is made 10 years or more after the date on which any disciplinary sanction ended;
(b) The individual was not disciplined for financially or physically harming a patient;
(c) The individual informed the board of the matter for which the individual was disciplined before the board received information about the matter or otherwise had knowledge of the matter;
(d) The individual making the request, if the individual is or was a licensee, has not been subjected to other disciplinary action by the board following the imposition of the disciplinary sanction; and
(e) The individual fully complied with all disciplinary sanctions imposed by the board.
(2) The board shall adopt by rule a process for making a request under this section.
[2016 c.41 §2]
Note: Section 3, chapter 41, Oregon Laws 2016, provides:
Sec. 3. As soon as practicable after the effective date of this 2016 Act [March 14, 2016], the Oregon Board of Dentistry shall:
(1) Provide notice to each individual licensed by the board under ORS 679 of the process for making a request described in section 2 of this 2016 Act [679.323]; and
(2) Provide public notice of the process for making a request under section 2 of this 2016 Act. [2016 c.41 §3]

MISCELLANEOUS

679.500 Administration of local anesthesia for certain purposes; rules. (1) A dentist licensed to practice dentistry in this state may administer local anesthesia to a person for the purposes of receiving permanent lip color from a person licensed to perform tattooing under ORS 690.350 to 690.410 or having permanent hair removal in the lip area from a person licensed to perform electrolysis under ORS 690.350 to 690.410.

(2) Prior to administering local anesthesia for the purposes authorized under subsection (1) of this section, the dentist must:
(a) Receive a written order from a person licensed to perform tattooing or electrolysis under ORS 690.350 to 690.410;
(b) Obtain a current health history from and perform an oral examination of the person who will receive the anesthesia; and
(c) Establish and maintain a patient record in accordance with rules adopted by the Oregon Board of Dentistry.

(3) The Oregon Board of Dentistry shall adopt rules authorizing a dentist licensed to practice dentistry in Oregon to administer local anesthesia for the purposes of tattooing human lips or having permanent hair removal in the lip area by a person licensed to perform tattooing or electrolysis under ORS 690.350 to 690.410. [1999 c.578 §10; 2003 c.187 §1; 2011 c.346 §32]

679.510 Liability insurance for retired dentist; requirements; rules. (1) For the purposes of this section, “retired dentist” means a person who is retired from active practice except for the practice of dentistry without remuneration as a volunteer.

(2) Subject to availability of funding, the Oregon Department of Administrative Services shall establish a program to purchase and maintain liability insurance for retired dentists. Insurance provided under the program shall be acquired through contracts with liability insurers that are authorized to offer liability malpractice insurance in this state. Insurance shall be provided under the program only if:
(a) Dental services by the retired dentist will be provided through nonprofit corporations offering community services;
(b) Dental services provided by the retired dentist will be offered to low-income patients based on ability to pay; and
(c) The retired dentist will receive no compensation for the dental services provided, except for reimbursement for laboratory fees, testing services and other out-of-pocket expenses.

(3) This section does not impose any liability on the state, or on the officers, employees and agents of the state, for any civil or criminal action against a retired dentist insured under the program established under subsections (1) to (5) of this section.

(4) The department shall monitor the claims experience of retired dentists insured through the program established under subsections (1) to (5) of this section. The department may impose any risk management requirements that the department deems appropriate as a condition of providing liability insurance under the program.
(5) The department shall provide insurance under subsection (2) of this section only to the extent that funds are appropriated to the department for the purposes of funding the program established under subsections (1) to (5) of this section.

(6) The Oregon Department of Administrative Services may by rule establish any conditions considered necessary by the department before providing liability insurance for a retired dentist under the program established by subsections (1) to (5) of this section. [1999 c.1016 §§1,2; 2001 c.104 §261]

Note: 679.510 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 679 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

679.520 Treatment of dental waste materials containing mercury. (1) A dentist who places in or removes from the human oral cavity dental materials containing mercury shall:

(a) Implement and maintain best management practices of dental wastes as developed by the Oregon Dental Association to prevent amalgam waste and mercury from entering the air, sewage systems, waterways and garbage;

(b) Have an amalgam separator installed on a wastewater drain in a dental facility where the dentist practices if dental materials containing amalgam pass through the wastewater drain. The amalgam separator must be verified by the manufacturer to remove at least 95 percent of the amalgam that passes through the drain on which it is installed;

(c) Maintain an amalgam separator installed as required by this subsection in accordance with the manufacturer’s recommendations; and

(d) Place all dental waste materials containing mercury in a vapor-proof container that is clearly labeled as containing mercury and dispose of the materials in accordance with best management practices of dental wastes recommended by the Oregon Dental Association. Disposal may not be by incineration that would result in the release of mercury into the air.

(2) Each dental office shall keep proof of installation of an amalgam separator and maintain an amalgam separator maintenance log that the office shall make available for inspection by the Oregon Board of Dentistry. The board may inspect maintenance logs from a period of up to three years prior to the date of inspection. [2007 c.517 §3]

679.525 Amalgam separators required in certain dental facilities. Each dental facility constructed on or after January 1, 2008, shall have amalgam separators that meet the requirements of ORS 679.520 (1)(b). [2007 c.517 §3]

Note: 679.525 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 679 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

679.530 Information about oral prosthetic devices. Dental technicians shall, upon request by a dentist or patient, provide the dentist or patient with information about the location where oral prosthetic devices that are inserted into the human oral cavity or that come in contact with its adjacent structures and tissues were manufactured. [2009 c.147 §2]

679.535 Requirement to test heat sterilization device; rules. (1) A person licensed by the Oregon Board of Dentistry who uses an autoclave or other heat sterilization device in the person’s practice shall test the autoclave or other heat sterilization device at least once per week to ensure that the device is functioning properly.

(2) The Oregon Board of Dentistry shall adopt rules to implement this section. [2014 c.16 §2; 2017 c.362 §1]

679.540 Oral disease prevention services; reimbursement; rules. (1) As used in this section:

(a) “Dental provider” means a licensed dentist, dental hygienist or other dental practitioner or a dental care team or clinic that provides the following core services:

(A) Comprehensive dental care;

(B) Basic preventive dental services;

(C) Referral to dental specialists; and

(D) Family centered dental care.

(b) “Health worker” means “traditional health worker” as defined by the Oregon Health Authority by rule.

(2) The Oregon Health Authority, in consultation with coordinated care organizations and dental care organizations in this state, shall adopt rules and procedures for the training and certification of health workers to provide oral disease prevention services and for the reimbursement of oral disease prevention services provided by certified health workers.

(3) The rules adopted under subsection (2) of this section must prescribe the training required for certification, including instruction on:

(a) The performance of dental risk assessments; and
(b) The provision of oral disease prevention services.

(4) The authority shall adopt rules requiring that a certified health worker:
(a) Refer patients to dental providers; and
(b) Recommend to patients, or to the parent or legal guardian of a patient, that the patient visit a dental provider at least once annually. [2015 c.542 §1]

Note: 679.540 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 679 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

679.543 Use of telehealth by dental care provider. (1) As used in this section, “telehealth” means a variety of methods, through the use of electronic and telecommunications technologies, for the distance delivery of health care services, including dental care services, and clinical information designed to improve a patient’s health status and to enhance delivery of the health care services and clinical information.

(2) A dental care provider authorized by the Oregon Board of Dentistry to practice dental care services may use telehealth if:
(a) In the professional judgment of the dental care provider, the use of telehealth is an appropriate manner in which to provide a dental care service; and
(b) The dental care provider is providing a dental care service that is within the scope of practice of the dental care provider.

(3) The use of telehealth as described in subsection (2) of this section is not an expansion of the scope of practice of a dental care provider.

(4) The board shall treat a dental care service that is delivered by a dental care provider through telehealth as described in subsection (2) of this section the same as the board treats the dental care service when delivered in person. The board shall apply identical quality and practice standards to a particular dental care service regardless of the method of delivery of the dental care service. [2017 c.348 §1]

Note: 679.543 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 679 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

679.990 [Repealed by 1957 c.552 §6 (679.991 enacted in lieu of 679.990)]

PENALTIES

679.991 Penalties. (1) Violation of any provision of ORS 679.020 or 679.025 (1) is a Class C felony.

(2) Violation of ORS 679.170 or 679.176 is a Class B misdemeanor.

(3) In the event of a second or subsequent conviction under subsection (1) of this section, the court must impose a minimum sentence of 10 days of imprisonment.

(4) In any prosecution for violation of subsection (1) or (2) of this section, it is sufficient to sustain a conviction to show a single act of conduct in violation of any of the provisions of this chapter and it is not necessary to show a general course of such conduct. [1957 c.552 §7 (enacted in lieu of 679.990); 1963 c.284 §16; 1971 c.743 §407; 1973 c.390 §8; 1977 c.192 §10; 1985 c.323 §15; 2011 c.388 §1; 2011 c.597 §280]
### Chapter 680
#### 2017 EDITION

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**DENTAL PILOT PROJECTS**

(Temporary provisions relating to dental pilot projects are compiled as notes following ORS 680.210)

**PENALTIES**

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DENTAL HYGIENISTS (Generally)

680.010 Definitions for ORS 680.010 to 680.205. As used in ORS 680.010 to 680.205, unless the context requires otherwise, words shall have the meanings assigned by ORS 679.010. [Amended by 1963 c.266 §1; 1983 c.169 §18]

680.020 Practice of dental hygiene without license prohibited; applicability of dental hygiene license requirement. (1) It is unlawful for any person not otherwise authorized by law to practice dental hygiene or purport to be a dental hygienist without a valid license to practice dental hygiene issued by the Oregon Board of Dentistry.

(2) Subsection (1) of this section does not apply to:

(a) Dental hygienists licensed in another state making a clinical presentation sponsored by a bona fide dental or dental hygiene society or association or an accredited dental or dental hygiene education program approved by the board.

(b) Bona fide students of dental hygiene who engage in clinical studies during the period of their enrollment and as a part of the course of study in an Oregon dental hygiene education program. The program must be accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency, and approved by the board. The clinical study may be conducted on the premises of the program or in a clinical setting located off the premises. The facility, the instructional staff and the course of study at the off-premises location must meet minimum requirements prescribed by the rules of the board, and the clinical study at the off-premises location must be performed under the indirect supervision of a member of the faculty.

(c) Bona fide students of dental hygiene who engage in community-based or clinical studies as an elective or required rotation in a clinical setting located in Oregon during the period of their enrollment and as a part of the course of study in a dental hygiene education program located outside of Oregon. The program must be accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency. The community-based or clinical studies must:

(A) Meet minimum requirements prescribed by the rules of the board; and

(B) Be performed under the indirect supervision of a member of the faculty of the Oregon Health and Science University School of Dentistry or another Oregon institution with an accredited dental hygiene education program approved by the board.

(d) Students of dental hygiene or graduates of dental hygiene programs who engage in clinical studies as part of a course of study or continuing education course offered by an institution with a dental or dental hygiene program. The program must be accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency.

(e) Candidates who are preparing for licensure examination to practice dental hygiene and whose application has been accepted by the board or its agent, if the clinical preparation is conducted in a clinic located on premises approved for that purpose by the board and if the procedures are limited to examination only.

(f) Dental hygienists practicing in the discharge of official duties as employees of the United States Government and any of its agencies.

(g) Instructors of dental hygiene, whether full- or part-time, while exclusively engaged in teaching activities and while employed in accredited dental hygiene educational programs.

(h) Dental hygienists employed by public health agencies who are not engaged in direct delivery of clinical dental hygiene services to patients.

(i) Counselors and health assistants who have been trained in the application of fluoride varnishes to the teeth of children and who apply fluoride varnishes only to the teeth of children enrolled in or receiving services from the Women, Infants and Children Program, the Oregon prekindergarten program or a federal Head Start grant program.

(j) Persons acting in accordance with rules adopted by the State Board of Education under ORS 336.213 to provide dental screenings to students.

(k) Dental hygienists licensed in another state and in good standing, while practicing dental hygiene without compensation for no more than five consecutive days in any 12-month period, provided the dental hygienist submits an application to the Oregon Board of Dentistry at least 10 days before practicing dental hygiene under this paragraph and the application is approved by the board. [Amended by 1963 c.266 §2; 1983 c.169 §19; 2003 c.310 §2; 2005 c.504 §2; 2007 c.379 §5; 2009 c.582 §1; 2012 c.80 §2; 2015 c.558 §5; 2017 c.342 §2]

680.025 [1971 c.48 §3; 1975 c.323 §1; repealed by 1983 c.169 §34]

680.026 Application of fluoride varnishes to teeth of children by certain counselors and health assistants. Counselors and health assistants who have been trained in the application of fluoride...
varnishes to the teeth of children may apply fluoride varnishes to the teeth of children enrolled in or receiving services or benefits from the Women, Infants and Children Program, the Oregon prekindergarten program or a federal Head Start grant program. [2007 c.379 §6]

Note: 680.026 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 680 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

680.030 [Amended by 1963 c.266 §3; repealed by 1983 c.169 §34]

(Licensing)

680.040 Qualifications of applicants for dental hygiene licensure examination. (1) An applicant for a dental hygiene license shall be entitled to take the examination to practice dental hygiene in Oregon if the applicant:

(a) Is 18 years of age or older; and

(b) Is a graduate of a dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency, if any, which must have been approved by the Oregon Board of Dentistry.

(2) Foreign trained graduates of dental hygiene programs may apply for the dental hygiene licensure examination, providing the applicant meets the board’s requirements, by rule, as will reasonably assure that an applicant’s training and education are sufficient for licensure. [Amended by 1963 c.266 §4; 1973 c.122 §1; 1975 c.323 §2; 1979 c.526 §1; 1983 c.169 §20]

680.050 Application for examination; fees; grounds for refusal to issue or renew license. (1) Any person desiring to practice dental hygiene in this state shall file an application with the Oregon Board of Dentistry.

(2) At the time of making application, the applicant shall:

(a) Pay to the board the required application and examination fee.

(b) Furnish the board with evidence satisfactory to the board of details of any convictions recorded in any police records. Such details are subject to the findings required by ORS 670.280.

(c) Present to the board a diploma or evidence satisfactory to the board of having graduated from an accredited dental hygiene program approved by the board.

(3) If an applicant has been in practice in another state or states the applicant shall furnish an affidavit from the board of dental examiners or similar body of such state or states that the applicant has been engaged in the legal practice of dental hygiene in such state or states for a period of time prescribed by the rules of the Oregon Board of Dentistry.

(4) The board may refuse to issue a license to or renew a license of an applicant who has been convicted of a violation of law if the board makes the findings required by ORS 670.280. A certified copy of the record of conviction is conclusive evidence of conviction.

(5) The board may refuse to issue a license to or renew a license of an applicant who has been disciplined by a state licensing or regulatory agency of this or another state regarding any health care profession when, in the judgment of the board, the acts or conduct resulting in the disciplinary action bears a demonstrable relationship to the ability of the licensee or applicant to practice dental hygiene in accordance with the provisions of ORS 680.010 to 680.205. A certified copy of the record of the disciplinary action is conclusive evidence of the disciplinary action.

(6) The board may refuse to issue a license to or renew a license of an applicant who has falsified a license application, or any person for any cause described under ORS 679.140 or 679.170.

(7) Fees paid are not refundable. [Amended by 1963 c.266 §§; 1967 c.90 §1; 1973 c.122 §2; 1983 c.169 §21; 1985 c.323 §16; 1995 c.189 §5; 2003 c.83 §3]
(b) The applicant received a passing score on the test or examination as established by the board by rule.

(4) The board shall accept the results of regional testing agencies or of clinical board examinations administered by other states in satisfaction of the examinations authorized under this section for applicants who have engaged in the active practice of dental hygiene in Oregon, other states, the Armed Forces of the United States, the United States Public Health Service or the United States Department of Veterans Affairs for a period of at least 3,500 hours in the five years immediately preceding application and who meet all other requirements for licensure. [Amended by 1963 c.266 §6; 1983 c.169 §22; 2001 c.193 §2; 2003 c.83 §10; 2005 c.229 §2; 2009 c.583 §2]

**680.070 Additional requirements for certain applicants; rules.** The Oregon Board of Dentistry may adopt rules requiring additional education and examination of applicants who have failed the licensing examination three times. [Amended by 1963 c.266 §7; 1967 c.90 §2; 1971 c.54 §3; 1977 c.444 §4; 1979 c.526 §2; 1981 c.232 §3; 1983 c.169 §23; 2003 c.83 §11]

**680.072 Issuing license.** The Oregon Board of Dentistry shall, upon the applicant’s satisfactory completion of the educational requirements and written, laboratory and clinical examinations authorized under ORS 680.060 and upon receipt of the requisite fees, issue or renew the appropriate dental hygiene license. [1983 c.169 §26]

**680.075 License fees; waiver; reinstatement of inactive status license; notice of change of address.** (1) The Oregon Board of Dentistry may impose application fees for the following:

(a) Examinations;

(b) Biennial dental hygiene license, active;

(c) Biennial dental hygiene license, inactive;

(d) Permits and certificates; and

(e) Delinquency.

(2) Subject to prior approval of the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fees and charges, the fees and charges established under this section and ORS chapter 679 shall not exceed the costs of administering the regulatory program of the board as authorized by the Legislative Assembly within the board budget, as the budget may be modified by the Emergency Board.

(3)(a) The board may waive the payment of the license fee in the case of any licensee who furnishes satisfactory evidence that the licensee has discontinued the actual practice of dental hygiene because of retirement.

(b) Application to reinstate a license retired under paragraph (a) of this subsection or to convert an inactive status license to an active status license shall be made in accordance with the rules of the board and with the submission of the license fee prescribed for such license; provided, however, that if more than one year has expired since the license was retired or inactivated, satisfactory evidence of clinical competence must be submitted to the board.

(4) Every dental hygienist shall advise the board within 30 days of any change of address.

(5) Each dental hygienist must renew the hygienist’s license every two years through submitting a renewal application and paying the license fee.

(6) Dental hygienists licensed in even-numbered years must renew by September 30 of each even-numbered year. Dental hygienists licensed in odd-numbered years must renew by September 30 of each odd-numbered year.

(7) A reasonable charge may be made in the event that the license fee or renewal application is more than 10 days delinquent.

(8) Fees paid are not refundable. [1983 c.169 §25; 1985 c.323 §17; 1989 c.338 §9; 1991 c.703 §26]

**680.080 Licensure of dental hygiene instructor; rules.** (1) Notwithstanding any other provision of ORS 680.010 to 680.205, the Oregon Board of Dentistry shall issue a dental hygiene instructor’s license to any person who:

(a) Is or will be a full-time instructor of dental hygiene engaged in the practice of dental hygiene, including but not limited to participation in a faculty practice plan within the scope of the applicant’s employment at Oregon Health and Science University;

(b) Is a graduate of a dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency, if any; and

(c) Is licensed to practice dental hygiene in another state or a Canadian province.

(2) The board shall by rule establish standards, procedures and fees for the issuance, suspension, revocation and renewal of a dental hygiene instructor’s license.

(3) The board may refuse to issue or renew a dental hygiene instructor’s license to an applicant or licensee:
(a) Who has been convicted of an offense or disciplined by a dental licensing body in a manner that bears, in the judgment of the board, a demonstrable relationship to the ability of the applicant or licensee to practice dental hygiene in accordance with the provisions of ORS 680.010 to 680.205;

(b) Who has falsified an application for licensure; or

(c) For cause as described under ORS 679.140 or 679.170.

(4) A person issued a dental hygiene instructor’s license is restricted to the practice of dental hygiene for or on behalf of Oregon Health and Science University.

(5) An applicant who receives a dental hygiene instructor’s license is subject to the professional ethics, standards and discipline of ORS 680.010 to 680.205. [2001 c.193 §4; 2013 c.413 §2]

Note: ORS 680.082 was added to and made a part of ORS 680.010 to 680.205 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

680.090 [Repealed by 1983 c.169 §34]

680.100 Discipline of dental hygienist; grounds; method; procedure. (1) The Oregon Board of Dentistry may discipline any dental hygienist for any of the causes for which a dentist may be disciplined under ORS 679.140 and may impose any or all of the methods of discipline, modify such methods and reinstate dental hygiene licenses as provided in ORS 679.140 for dentists.

(2) The provisions of ORS 679.160 and 679.250 apply to proceedings by the board for the revocation or suspension of or refusal to renew a license issued pursuant to ORS 680.010 to 680.205. [Amended by 1963 c.266 §10; 1973 c.122 §4; 1979 c.526 §4; 1985 c.323 §9; 1991 c.476 §1; 2007 c.379 §4; 2011 c.716 §6] 680.100 [Amended by 1973 c.122 §5; 1975 c.323 §5; 1979 c.526 §5; repealed by 1991 c.476 §2]

(Miscellaneous)

680.165 Monitoring performance; information available to monitor; confidentiality; liability. (1) The Oregon Board of Dentistry may appoint a consultant or a committee or committees, each consisting of one or more licensed dental hygienists in this state, to study and report to the board the condition of and dental hygiene treatment rendered to any person or persons by any licensed dental hygienist in this state, or by any person purporting to practice dental hygiene in this state. Any person, hospital, sanitarium, professional grievance committee, nursing or rest home or other organization may, subject to the laws governing privileged or confidential communications, provide information, interviews, reports, statements, memora nda or other data relating to the condition and treatment of any person, to any such consultant, committee or the board, to be used in the course of any study for the purpose of improving the standards of dental hygiene practice, or to enable the board to assess the desirability of disciplinary action relating thereto. No liability of any kind or character for damages or other relief shall arise or be enforced against any such person or organization by reason of having provided such information or material, or arise or be enforced against any consultant or member of such committee by reason of having released or published the findings and conclusions of such consultants or committees to advance dental hygiene science and dental hygiene education, or by reason of having released or published generally a summary of such studies. Testimony given to and the proceedings, reports, statements, opinions, findings and conclusions of such consultants and committees and the board shall be confidential but this shall not
800.205 Services rendered under permit. (1) An expanded practice dental hygienist may render all services within the scope of practice of dental hygiene, as defined in ORS 679.010, without the supervision of a dentist and as authorized by the expanded practice dental hygienist permit to:

(a) Patients or residents of the following facilities or programs who, due to age, infirmity or disability, are unable to receive regular dental hygiene treatment:

(A) Nursing homes as defined in ORS 678.710;

(B) Adult foster homes as defined in ORS 443.705;

(C) Residential care facilities as defined in ORS 443.400;

(D) Adult congregate living facilities as defined in ORS 441.525;

preclude the use of the subpoena power with respect to the actual records of dentists, dental hygienists, patients, hospitals, sanitaria, nursing or rest homes.

(2) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any consultant or member of a duly appointed committee for any act or proceeding undertaken or performed within the scope of the functions of any such consultant or committee, if such consultant or committee member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which the member acts, and acts in a reasonable belief that the action taken is warranted by the facts known after such reasonable effort to obtain the facts. [1985 c.323 §19]

680.170 [Repealed by 2001 c.11 §1]

680.172 Oral health screening by dental hygienists and dental assistants. Oral health screenings may be performed by dental hygienists and dental assistants under written training and screening protocols adopted by the Oregon Board of Dentistry. Screening results must be provided to individuals screened or to the parents or guardians of minors needing a dental referral for diagnosis. Screening results are not a diagnosis for purposes of ORS chapter 679 or ORS 680.010 to 680.205. [2003 c.310 §5]

(Expanded Practice Dental Hygienists)

680.200 Issuing expanded practice permit; requirements. (1) Upon application accompanied by the fee established by the Oregon Board of Dentistry, the board shall grant a permit to practice as an expanded practice dental hygienist to an applicant who:

(a) Holds a valid, unrestricted Oregon dental hygiene license;

(b) Presents proof of current professional liability insurance coverage;

(c) Presents documentation satisfactory to the board of successful completion of an emergency life support course for health professionals, including cardiopulmonary resuscitation, from an agency or educational institution approved by the board; and

(d) Presents documentation satisfactory to the board that the applicant has:

(A)(i) Completed 2,500 hours of supervised dental hygiene practice; and

(ii) After licensure as a dental hygienist, completed 40 hours of courses, chosen by the applicant, in clinical dental hygiene or public health sponsored by continuing education providers approved by the board; or

(B) Completed a course of study approved by the board that includes at least 500 hours of dental hygiene practice, completed before or after graduation from a dental hygiene program, on patients described in ORS 680.205 while under the indirect supervision of a member of the faculty of a dental program or dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency.

(2) A permit issued pursuant to subsection (1) of this section expires two years following the date of issuance unless renewed on or before that date by:

(a) Payment of the renewal fee as set by the board;

(b) Submission to the board of satisfactory evidence of completion of at least 36 hours of continuing education;

(c) Presentation to the board of proof of professional liability insurance coverage; and

(d) Completion of a survey developed by the board that measures the success of the expanded practice dental hygienist program against baseline data.

(3) The board may refuse to issue or renew an expanded practice dental hygienist permit or may suspend or revoke the permit of an expanded practice dental hygiene who has been convicted of an offense or been disciplined by a dental licensing body in a manner that bears, in the judgment of the board, a demonstrable relationship to the ability of the applicant to practice expanded practice dental hygiene in accordance with the provisions of this chapter or ORS chapter 679, or who has falsified an application for permit, or any person for any cause described under ORS 679.140 or 679.170. [1997 c.251 §2; 2003 c.310 §3; 2007 c.379 §2; 2009 c.582 §3; 2011 c.716 §7; 2017 c.342 §3]

680.205 Services rendered under permit. (1) An expanded practice dental hygienist may render all services within the scope of practice of dental hygiene, as defined in ORS 679.010, without the supervision of a dentist and as authorized by the expanded practice dental hygienist permit to:

(a) Patients or residents of the following facilities or programs who, due to age, infirmity or disability, are unable to receive regular dental hygiene treatment:

(A) Nursing homes as defined in ORS 678.710;

(B) Adult foster homes as defined in ORS 443.705;

(C) Residential care facilities as defined in ORS 443.400;

(D) Adult congregate living facilities as defined in ORS 441.525;
(E) Mental health residential programs administered by the Oregon Health Authority;
(F) Facilities for persons with mental illness, as those terms are defined in ORS 426.005;
(G) Facilities for persons with developmental disabilities, as those terms are defined in ORS 427.005;
(H) Local correctional facilities and juvenile detention facilities as those terms are defined in ORS 169.005, regional correctional facilities as defined in ORS 169.620, youth correction facilities as defined in ORS 420.005, youth care centers as defined in ORS 420.855, and Department of Corrections institutions as defined in ORS 421.005; or
(I) Public and nonprofit community health clinics.
(b) Adults who are homebound.
(c) Students or enrollees of nursery schools and day care programs and their siblings under 18 years of age, Job Corps and similar employment training facilities, primary and secondary schools, including private schools and public charter schools, and persons entitled to benefits under the Women, Infants and Children Program.
(d) Patients in hospitals, medical clinics, medical offices or offices operated or staffed by naturopathic physicians, nurse practitioners, physician assistants or midwives.
(e) Patients whose income is less than the federal poverty level.
(f) Other populations that the Oregon Board of Dentistry determines are underserved or lack access to dental hygiene services.
(2) Unless different criteria for referral of a patient or resident to a dentist are included in an agreement described in subsection (3) of this section, at least once each calendar year, an expanded practice dental hygienist shall refer each patient or resident to a dentist who is available to treat the patient or resident.
(3) An expanded practice dental hygienist may render the services described in paragraphs (a) to (d) of this subsection to the patients described in subsection (1) of this section if the expanded practice dental hygienist has entered into an agreement in a format approved by the board with a dentist licensed under ORS chapter 679. The agreement must set forth the agreed-upon scope of the dental hygienist’s practice with regard to:
(a) Administering local anesthesia;
(b) Administering temporary restorations without excavation;
(c) Prescribing prophylactic antibiotics and nonsteroidal anti-inflammatory drugs specified in the agreement; and
(d) Referral parameters.
(4) This section does not authorize an expanded practice dental hygienist to administer nitrous oxide except under the indirect supervision of a dentist licensed under ORS chapter 679.
(5) An expanded practice dental hygienist may assess the need for and appropriateness of sealants, apply sealants and write prescriptions for all applications of fluoride in which fluoride is applied or supplied to patients.
(6) An expanded practice dental hygienist must also procure all other permits or certificates required by the board under ORS 679.250. [1997 c.251 §3; 2001 c.592 §1; 2005 c.52 §1; 2007 c.70 §906; 2007 c.379 §3; 2009 c.582 §4; 2009 c.595 §1062; 2011 c.658 §41; 2011 c.716 §8; 2013 c.360 §63; 2015 c.349 §2; 2017 c.356 §87]

680.210 Compilation of data on expanded practice dental hygienists; reports by health insurers; report to legislature; rules. (1) The Oregon Board of Dentistry shall compile data, including baseline data, in every odd-numbered year on the use of expanded practice dental hygienists, as defined in ORS 679.010, in this state.
(2)(a) The Department of Consumer and Business Services shall adopt rules requiring health insurers to report to the department on the reimbursement of services provided by expanded practice dental hygienists.
(b) The department shall provide the information collected under paragraph (a) of this subsection to the board.
(3) The board shall report to an interim legislative committee related to dental health on the reimbursement of services provided by expanded practice dental hygienists on or before October 1 of each even-numbered year. [2011 c.716 §12]
Note: 680.210 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 680 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

DENTAL PILOT PROJECTS
Note: Sections 1 and 17, chapter 716, Oregon Laws 2011, provide:
Sec. 1. (1) The Oregon Health Authority may approve pilot projects to encourage the development of innovative practices in oral health care delivery systems with a focus on providing care to populations that evidence-based studies have shown have the highest disease rates and the least access to dental care. The authority may approve a pilot project that is designed to:
(a) Operate for three to five years or a sufficient amount of time to evaluate the validity of the pilot project;
(b) Evaluate quality of care, access, cost, workforce and efficacy; and
(c) Achieve at least one of the following:
(A) Teach new skills to existing categories of dental personnel;
(B) Develop new categories of dental personnel;
(C) Accelerate the training of existing categories of dental personnel; or
(D) Teach new oral health care roles to previously untrained persons.
(2) The authority shall adopt rules:
(a) Establishing an application process for pilot projects;
(b) Establishing minimum standards, guidelines and instructions for pilot projects; and
(c) Requiring an approved pilot project to report to the authority on the progress and outcomes of the pilot project, including:
(A) The process used to evaluate the progress and outcomes of the pilot project;
(B) The baseline data and information to be collected;
(C) The nature of program data that will be collected and the methods for collecting and analyzing the data;
(D) The provisions for protecting the safety of patients seen or treated in the project; and
(E) A statement of previous experience in providing related health care services.
(3) The authority shall seek the advice of appropriate professional societies and licensing boards before adopting rules under subsection (2) of this section.
(4)(a) Notwithstanding ORS 679.020 and 680.020, a person may practice dentistry or dental hygiene without a license as part of a pilot project approved under this section under the general supervision of a dentist licensed under ORS chapter 679 and in accordance with rules adopted by the authority.
(b) A person practicing dentistry or dental hygiene without a license under this section is subject to the same standard of care and is entitled to the same immunities as a person performing the services with a license.
(5) The authority may accept gifts, grants or contributions from any public or private source for the purpose of carrying out this section. Funds received under this subsection shall be deposited in the Dental Pilot Projects Fund established under section 17 of this 2011 Act. [2011 c.716 §1]

Sec. 17. The Dental Pilot Projects Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Dental Pilot Projects Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Oregon Health Authority for the purposes of carrying out the provisions of section 1, chapter 716, Oregon Laws 2011. [2011 c.716 §17; 2013 c.113 §2]

Note: Section 2, chapter 842, Oregon Laws 2015, provides:

Sec. 2. A provider of dental services in a dental pilot project approved by the Oregon Health Authority pursuant to section 1, chapter 716, Oregon Laws 2011, is eligible to be reimbursed for covered services provided to a recipient of medical assistance. [2015 c.842 §2]

Note: Section 2, chapter 716, Oregon Laws 2011, provides:

Sec. 2. (1) Section 1, chapter 716, Oregon Laws 2011, is repealed on January 2, 2025.
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(2017 Edition)
LIMITATIONS OF ACTIONS AND SUITS

GENERAL PROVISIONS

12.110 Actions for certain injuries to person not arising on contract; action for overtime or premium pay; action for professional malpractice; effect of fraud or deceit; action for injuries to person arising from nuclear incident. (1) An action for assault, battery, false imprisonment, or for any injury to the person or rights of another, not arising on contract, and not especially enumerated in this chapter, shall be commenced within two years; provided, that in an action at law based upon fraud or deceit, the limitation shall be deemed to commence only from the discovery of the fraud or deceit.

(2) An action upon a statute for a forfeiture or penalty to the state or county shall be commenced within two years.

(3) An action for overtime or premium pay or for penalties or liquidated damages for failure to pay overtime or premium pay shall be commenced within two years.

(4) An action to recover damages for injuries to the person arising from any medical, surgical or dental treatment, omission or operation shall be commenced within two years from the date when the injury is first discovered or in the exercise of reasonable care should have been discovered. However, notwithstanding the provisions of ORS 12.160, every such action shall be commenced within five years from the date of the treatment, omission or operation upon which the action is based or, if there has been no action commenced within five years because of fraud, deceit or misleading representation, then within two years from the date such fraud, deceit or misleading representation is discovered or in the exercise of reasonable care should have been discovered.

(5) An action, arising from a nuclear incident, as defined in 42 U.S.C. 2014(q), that involves the release of radioactive material, excluding releases from acts of war, that causes bodily injury, sickness or death, shall be commenced:

(a) Within two years from the time an injured person discovers or reasonably could have discovered the injury and the causal connection between the injury and the nuclear incident; or

(b) Within two years from any substantial change in the degree of injury to the person arising out of a nuclear incident. [Amended by 1957 c.374 §1; 1967 c.406 §1; 1969 c.642 §1; 1971 c.473 §1; 1975 c.796 §10a; 1981 c.149 §1; 1987 c.705 §4]

12.115 Action for negligent injury to person or property. (1) In no event shall any action for negligent injury to person or property of another be commenced more than 10 years from the date of the act or omission complained of.

(2) Nothing in this section shall be construed to extend any period of limitation otherwise established by law, including but not limited to the limitations established by ORS 12.110. [1967 c.406 §2]
SUSPENSION OF OCCUPATIONAL AND DRIVER LICENSES

25.750 Suspension of licenses, certificates, permits and registrations; when authorized; rules.
(1) All licenses, certificates, permits or registrations that a person is required by state law to possess in order to engage in an occupation or profession or to use a particular occupational or professional title, all annual licenses issued to individuals by the Oregon Liquor Control Commission, all driver licenses or permits issued by the Department of Transportation and recreational hunting and fishing licenses, as defined by rule of the Department of Justice, are subject to suspension by the respective issuing entities upon certification to the issuing entity by the administrator that a child support case record is being maintained by the Department of Justice, that the case is being enforced by the administrator under the provisions of ORS 25.080 and that one or both of the following conditions apply:
   (a) That the party holding the license, certificate, permit or registration is in arrears under any child support judgment or order, in an amount equal to the greater of three months of support or $2,500, and:
      (A) Has not entered into an agreement with the administrator with respect to the child support obligation; or
      (B) Is not in compliance with an agreement entered into with the administrator; or
   (b) That the party holding the license, certificate, permit or registration has failed, after receiving appropriate notice, to comply with a subpoena or other procedural order relating to a parentage or child support proceeding and:
      (A) Has not entered into an agreement with the administrator with respect to compliance; or
      (B) Is not in compliance with such an agreement.
   (2) The Department of Justice by rule shall specify the conditions and terms of agreements, compliance with which precludes the suspension of the license, certificate, permit or registration. [1993 c.365 §4; 1995 c.620 §2; 1995 c.750 §8; 1997 c.704 §38; 1999 c.80 §12]

25.752 Memberships in professional organizations that are required by state law. As used in ORS 25.750 to 25.783, “licenses, certificates, permits or registrations” includes, but is not limited to, memberships in professional organizations that are required by state law in order to engage in a profession. [1995 c.620 §12]

25.753 [1993 c.365 §3; repealed by 1995 c.620 §13]

25.756 Identifying persons holding licenses, certificates, permits and registrations. The Department of Justice shall enter into agreements regarding the identification of persons who are subject to the provisions of ORS 25.750 to 25.783 and who hold licenses, certificates, permits or registrations with:
   (1) The Oregon Liquor Control Commission;
   (2) All entities that issue licenses, certificates, permits or registrations that a person is required by state law to possess to engage in an occupation, profession or recreational hunting or fishing or to use a particular occupational or professional title; and
   (3) The Department of Transportation. [1993 c.365 §4; 1995 c.620 §2; 1995 c.750 §8; 1997 c.704 §38; 1999 c.80 §12]

25.759 Notice to persons subject to suspension; contents. Upon identification of a person subject to suspension under ORS 25.750 to 25.783, the administrator may issue a notice, sent by regular mail to both the address of record as shown in the records of the issuing entity and the address of record as shown on the administrator’s child support file. Such notice shall contain the following information:
   (1) That certain licenses, certificates, permits and registrations, which shall be specified in the notice, are subject to suspension as provided for by ORS 25.750 to 25.783.
   (2) The name, final four digits of the Social Security number, if available, year of birth, if known, and child support case number or numbers of the person subject to the action.
   (3) The amount of arrears and the amount of the monthly child support obligation, if any, or, if suspension is based on ORS 25.750 (1)(b), a description of the subpoena or other procedural order with which the person subject to the action has failed to comply.

Note: Section 2, chapter 209, Oregon Laws 2009, provides:
Sec. 2. The amendments to ORS 25.750 by section 1 of this 2009 Act apply to all child support judgments and orders, whether entered before, on or after the effective date of this 2009 Act [January 1, 2010]. [2009 c.209 §2]
SUPPORT ENFORCEMENT

(4) The procedures available for contesting the suspension of a license, certificate, permit or registration.

(5) That the only bases for contesting the suspension are:
   (a) That the arrears are not greater than three months of support or $2,500;
   (b) That there is a mistake in the identity of the obligor;
   (c) That the person subject to the suspension has complied with the subpoena or other procedural order identified in subsection (3) of this section; or
   (d) That the person subject to the suspension is in compliance with a previous agreement as provided for by ORS 25.750 to 25.783.

(6) That the obligor may enter into an agreement, prescribed by rule by the Department of Justice, compliance with which shall preclude the suspension under ORS 25.750 to 25.783.

(7) That the obligor has 30 days from the date of the notice to contact the administrator in order to:
   (a) Contest the action in writing on a form prescribed by the administrator;
   (b) Comply with the subpoena or procedural order identified in subsection (3) of this section; or
   (c) Enter into an agreement authorized by ORS 25.750 and 25.762. The notice shall state that any agreement must be in writing and must be entered into within 30 days of making contact with the administrator.

(8) That failure to contact the administrator within 30 days of the date of the notice shall result in notification to the issuing entity to suspend the license, certificate, permit or registration. [1993 c.365 §6; 1995 c.620 §4; 1999 c.80 §14; 2001 c.323 §3; 2003 c.73 §45]

25.765 Procedure if obligor contacts administrator within time limits; hearing. (1) If the obligor makes the contact within 30 days of the date of the notice as provided for in ORS 25.759, the administrator shall provide the obligor with the opportunity to contest the suspension on the bases set forth in ORS 25.759 (5). The administrator shall determine whether suspension should occur. If the administrator determines that suspension should occur, the administrator shall make a written determination of such finding.

(2) The obligor may object to the determination described in subsection (1) of this section within 30 days after the date of the determination. Any hearing on the objection shall be conducted by an administrative law judge assigned from the Office of Administrative Hearings. Any suspension is stayed pending the decision of the administrative law judge. Any order of the administrative law judge that supports a suspension shall result in the notification to the issuing entity by the administrator to suspend the license, certificate, permit or registration forthwith.

(3) After receipt of notice to suspend from the administrator, no further administrative review or contested case proceeding within or by the issuing entity is required. [1993 c.365 §7; 1995 c.620 §5; 1999 c.80 §15; 1999 c.849 §§43,44; 2001 c.323 §§4,5; 2003 c.75 §26; 2005 c.560 §7]

25.768 Judicial review of order. The order of the administrative law judge is final and is subject to judicial review as provided in ORS 183.482. Any suspension under ORS 25.750 to 25.783 is not stayed pending judicial review. [1993 c.365 §8; 2003 c.75 §76]

25.771 Obligor holding more than one license, certificate, permit or registration. In the event that an obligor holds more than one license, certificate, permit or registration described in ORS 25.750, any determination regarding suspension of one license, certificate, permit or registration is sufficient to suspend any other license, certificate, permit or registration described in ORS 25.750. [1993 c.365 §9; 1995 c.620 §6]
25.774 Reinstatement. When, at any time after suspension under ORS 25.750 to 25.783, the conditions resulting in the suspension no longer exist, the administrator shall so notify the issuing entity and shall confirm that the license, certificate, permit or registration may be reinstated contingent upon the requirements of the issuing entity. Until the issuing entity receives notice under this section, the issuing entity may not reinstate, reissue, renew or otherwise make the license, certificate, permit or registration available to the holder of the suspended license, certificate, permit or registration. [1993 c.365 §10; 1995 c.620 §7; 1999 c.80 §16; 2001 c.323 §6]

25.777 Reimbursing issuing entities for costs incurred. The Department of Justice shall enter into agreements to reimburse issuing entities for their costs of compliance with ORS 25.750 to 25.783 to the extent that those costs are eligible for Federal Financial Participation under Title IV-D of the Social Security Act. [1993 c.365 §11; 1995 c.620 §8; 2001 c.323 §7]

25.780 Other licenses, certificates, permits and registrations subject to suspension. In addition to any other grounds for suspension provided by law:

(1) The Oregon Liquor Control Commission and any entity that issues licenses, certificates, permits or registrations that a person is required by state law to possess to engage in an occupation, profession or recreational hunting or fishing or to use a particular occupational or professional title shall suspend without further hearing the licenses, certificates, permits or registrations of a person upon certification by the administrator that the person is subject to an order suspending the license, certificate, permit or registration. The certification must include the information specified in ORS 25.750 (1).

(2) The Department of Transportation shall suspend without further hearing the driver license or driver permit of a person upon certification by the administrator that the person is subject to an order suspending the license or permit. The certification must include the information specified in ORS 25.750 (1). [1993 c.365 §13; 1995 c.620 §9; 1995 c.750 §5; 1999 c.80 §17; 2001 c.323 §8]

25.783 Confidentiality of information. Any entity described in ORS 25.756 that receives an inquiry as to the status of a person who has had a license, certificate, permit or registration suspended under ORS 25.750 to 25.783 shall respond only that the license, certificate, permit or registration was suspended pursuant to ORS 25.750 to 25.783. The entity shall not release or make other use of information that it receives pursuant to ORS 25.750 to 25.783. [1993 c.365 §14; 1995 c.620 §10]

25.785 Issuing entities to require Social Security number. (1) Any state agency, board or commission that is authorized to issue an occupational, professional, recreational or driver license, certificate, permit or registration subject to suspension under ORS 25.750 to 25.783 shall require that an individual’s Social Security number be recorded on an application for, or form for renewal of, a license, certificate, permit or registration and to the maximum extent feasible shall include the Social Security number in automated databases containing information about the individual.

(2) A state agency, board or commission described in subsection (1) of this section may accept a written statement from an individual who has not been issued a Social Security number by the United States Social Security Administration to fulfill the requirement in subsection (1) of this section.

(3) An individual may not submit to a state agency, board or commission a written statement described in subsection (2) of this section knowing the statement to be false. [1997 c.746 §117; 1999 c.80 §93; 2003 c.610 §1; 2005 c.22 §17]

Note: 25.785 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 25 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.
30.278 Reporting notice of claim of professional negligence to licensing board. (1) When notice is received under ORS 30.275 of a claim of professional negligence against a physician, optometrist, dentist, dental hygienist or naturopath who is acting within the scope of employment by a public body or within the scope of duties as defined by ORS 30.267, the person receiving the notice shall report to the appropriate licensing board, in the same manner as required by ORS 742.400, the information required by ORS 742.400 to be reported by insurers or self-insured associations.

(2) This section does not apply to a notice of adverse health care incident received under section 2, chapter 5, Oregon Laws 2013. [1987 c.774 §64; 2013 c.5 §11]
MISCELLANEOUS ACTIONS

30.792 Liability of health care provider or health clinic for volunteer services to charitable corporations. (1) As used in this section:

(a)(A) “Charitable organization” means a charitable organization, as defined in ORS 128.620, that:

(i) Spends at least 65 percent of its revenues on charitable programs; and

(ii) Has a financially secure source of recovery for individuals who suffer harm as a result of actions taken by a volunteer on behalf of the organization.

(B) “Charitable organization” does not include hospitals, intermediate care facilities or long term care facilities, as those terms are defined in ORS 442.015.

(b) “Health care provider” means an individual licensed in this state as a practitioner of one or more healing arts as described in ORS 31.740.

(c) “Health clinic” means a public health clinic or a health clinic operated by a charitable organization that provides primarily primary physical health, dental or mental health services to low-income patients without charge or using a sliding fee scale based on the income of the patient.

(2) Except as provided in subsection (3) of this section, a person may not maintain an action for damages against:

(a) A health care provider who voluntarily provides assistance, services or advice through a charitable organization if:

(A) The assistance, services or advice that caused the damages are within the scope of the license of the health care provider; and

(B) The health care provider was acting within the course and scope of the provider’s volunteer duties when the damages occurred; or

(b) A health clinic for the assistance, services or advice provided by a health care provider described in paragraph (a) of this subsection.

(3) The immunity provided in this section does not apply to:

(a) Any person who receives compensation other than reimbursement for expenses incurred by the person providing the assistance, services or advice described in subsection (2) of this section.

(b) A person operating a motor vehicle, vessel, aircraft or other vehicle for which the person or owner of the vehicle, vessel, aircraft or other vehicle is required to possess an operator’s license or to maintain insurance.

(c) The liability of any person for damages resulting from the person’s gross negligence or from the person’s reckless, wanton or intentional misconduct.

(d) Any activity for which a person is otherwise strictly liable without regard to fault. [1995 c.616 §2; 2005 c.362 §2; 2012 c.41 §1]

30.800 Liability for emergency medical assistance. (1) As used in this section and ORS 30.805, “emergency medical assistance” means:

(a) Medical or dental care not provided in a place where emergency medical or dental care is regularly available, including but not limited to a hospital, industrial first-aid station or the office of a physician, naturopathic physician, physician assistant or dentist, given voluntarily and without the expectation of compensation to an injured person who is in need of immediate medical or dental care and under emergency circumstances that suggest that the giving of assistance is the only alternative to death or serious physical aftereffects; or

(b) Medical care provided voluntarily in good faith and without expectation of compensation by a physician licensed under ORS chapter 677, a physician assistant licensed under ORS 677.505 to 677.525, a nurse practitioner licensed under ORS 677.375 to 677.390 or a naturopathic physician licensed under ORS chapter 685 and in the person’s professional capacity as a provider of health care for an athletic team at a public or private school or college athletic event or as a volunteer provider of health care at other athletic events.

(2) No person may maintain an action for damages for injury, death or loss that results from acts or omissions of a person while rendering emergency medical assistance unless it is alleged and proved by the complaining party that the person was grossly negligent in rendering the emergency medical assistance.

(3) The giving of emergency medical assistance by a person does not, of itself, establish a professional relationship between the person giving the assistance and the person receiving the assistance insofar as the relationship carries with it any duty to provide or arrange for further medical care for the injured person after the giving of emergency medical assistance. [1967 c.266 §§1,2; 1973 c.635 §1; 1979 c.576 §1; 1979 c.731 §1; 1983 c.771 §1; 1983 c.779 §1; 1985 c.428 §1; 1989 c.782 §35; 1997 c.242 §1; 1997 c.751 §11; 2013 c.688 §8; 2014 c.45 §3; 2017 c.356 §2]
31.740 When award of punitive damages against health practitioner prohibited. Punitive damages may not be awarded against a health practitioner if:

1. The health practitioner is licensed, registered or certified as:
   a. A psychologist under ORS 675.030 to 675.070, 675.085 and 675.090;
   b. An occupational therapist under ORS 675.230 to 675.300;
   c. A regulated social worker under ORS 675.510 to 675.600;
   d. A physician under ORS 677.100 to 677.228;
   e. An emergency medical services provider under ORS chapter 682;
   f. A podiatric physician and surgeon under ORS 677.820 to 677.840;
   g. A nurse under ORS 678.040 to 678.101;
   h. A nurse practitioner under ORS 678.375 to 678.390;
   i. A dentist under ORS 679.060 to 679.180;
   j. A dental hygienist under ORS 680.040 to 680.100;
   k. A denturist under ORS 680.515 to 680.535;
   l. An audiologist or speech-language pathologist under ORS 681.250 to 681.350;
   m. An optometrist under ORS 683.040 to 683.155 and 683.170 to 683.220;
   n. A chiropractor under ORS 684.040 to 684.105;
   o. A naturopath under ORS 685.060 to 685.110, 685.125 and 685.135;
   p. A massage therapist under ORS 687.011 to 687.250;
   q. A physical therapist under ORS 688.040 to 688.145;
   r. A medical imaging licensee under ORS 688.445 to 688.525;
   s. A pharmacist under ORS 689.151 and 689.225 to 689.285;
   t. A physician assistant as provided by ORS 677.505 to 677.525; or
   u. A professional counselor or marriage and family therapist under ORS 675.715 to 675.835; and

2. The health practitioner was engaged in conduct regulated by the license, registration or certificate issued by the appropriate governing body and was acting within the scope of practice for which the license, registration or certificate was issued and without malice. [Formerly 18.550; 2005 c.366 §4; 2009 c.442 §27; 2009 c.833 §26; 2011 c.396 §1; 2011 c.703 §20]

Note: Section 2, chapter 396, Oregon Laws 2011, provides:

Sec. 2. The amendments to ORS 31.740 by section 1 of this 2011 Act apply only to causes of action that arise on or after the effective date of this 2011 Act [January 1, 2012]. [2011 c.396 §2]
PRIVILEGES


(1) As used in this section, unless the context requires otherwise:
   (a) “Confidential communication” means a communication not intended to be disclosed to third persons except:
      (A) Persons present to further the interest of the patient in the consultation, examination or interview;
      (B) Persons reasonably necessary for the transmission of the communication; or
      (C) Persons who are participating in the diagnosis and treatment under the direction of the physician, including members of the patient’s family.
   (b) “Patient” means a person who consults or is examined or interviewed by a physician.
   (c)(A) “Physician” means a person authorized and licensed or certified to practice medicine, podiatry or dentistry in any state or nation, or reasonably believed by the patient so to be, while engaged in the diagnosis or treatment of a physical condition.
      (B) “Physician” includes licensed or certified naturopathic and chiropractic physicians and dentists.

(2) A patient has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications in a civil action, suit or proceeding, made for the purposes of diagnosis or treatment of the patient’s physical condition, among the patient, the patient’s physician or persons who are participating in the diagnosis or treatment under the direction of the physician, including members of the patient’s family.

(3) The privilege created by this section may be claimed by:
   (a) The patient;
   (b) A guardian or conservator of the patient;
   (c) The personal representative of a deceased patient; or
   (d) The person who was the physician, but only on behalf of the patient. Such person’s authority so to do is presumed in the absence of evidence to the contrary.

(4) The following is a nonexclusive list of limits on the privilege granted by this section:
   (a) If the judge orders an examination of the physical condition of the patient, communications made in the course thereof are not privileged under this section with respect to the particular purpose for which the examination is ordered unless the judge orders otherwise.
   (b) Except as provided in ORCP 44, there is no privilege under this section for communications made in the course of a physical examination performed under ORCP 44.

(c) There is no privilege under this section with regard to any confidential communication or record of such confidential communication that would otherwise be privileged under this section when the use of the communication or record is specifically allowed under ORS 426.070, 426.074, 426.075, 426.095, 426.120 or 426.307. This paragraph only applies to the use of the communication or record to the extent and for the purposes set forth in the described statute sections. [1981 c.892 §33a; 1987 c.903 §2; 2005 c.353 §1; 2013 c.129 §3]
107.154 Authority of parent when other parent granted sole custody of child. Unless otherwise ordered by the court, an order of sole custody to one parent shall not deprive the other parent of the following authority:

(1) To inspect and receive school records and to consult with school staff concerning the child’s welfare and education, to the same extent as the custodial parent may inspect and receive such records and consult with such staff;

(2) To inspect and receive governmental agency and law enforcement records concerning the child to the same extent as the custodial parent may inspect and receive such records;

(3) To consult with any person who may provide care or treatment for the child and to inspect and receive the child’s medical, dental and psychological records, to the same extent as the custodial parent may consult with such person and inspect and receive such records;

(4) To authorize emergency medical, dental, psychological, psychiatric or other health care for the child if the custodial parent is, for practical purposes, unavailable; or

(5) To apply to be the child’s conservator, guardian ad litem or both. [1987 c.795 §3]
RIGHTS OF MINORS

109.640 Right to medical or dental treatment without parental consent; provision of birth control information and services to any person. (1) A physician, physician assistant licensed under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390 or naturopathic physician licensed under ORS chapter 685 may provide birth control information and services to any person without regard to the age of the person.

(2) A minor 15 years of age or older may give consent, without the consent of a parent or guardian of the minor, to:
   (a) Hospital care, medical or surgical diagnosis or treatment by a physician licensed by the Oregon Medical Board or a naturopathic physician licensed under ORS chapter 685, and dental or surgical diagnosis or treatment by a dentist licensed by the Oregon Board of Dentistry, except as provided by ORS 109.660.
   (b) Diagnosis or treatment by a physician assistant who is licensed under ORS 677.505 to 677.525 and who is acting pursuant to a practice agreement as defined in ORS 677.495.
   (c) Diagnosis and treatment by a nurse practitioner who is licensed by the Oregon State Board of Nursing under ORS 678.375 and who is acting within the scope of practice for a nurse practitioner.
   (d) Except when the minor is obtaining contact lenses for the first time, diagnosis and treatment by an optometrist who is licensed by the Oregon Board of Optometry under ORS 683.010 to 683.340 and who is acting within the scope of practice for an optometrist. [1971 c.381 §1; 2005 c.471 §7; 2010 c.91 §1; 2014 c.45 §11; 2017 c.356 §4]

109.650 Disclosure without minor’s consent and without liability. A hospital or a physician, physician assistant, nurse practitioner, naturopathic physician, dentist or optometrist described in ORS 109.640 may advise a parent or legal guardian of a minor of the care, diagnosis or treatment of the minor or the need for any treatment of the minor, without the consent of the minor, and is not liable for advising the parent or legal guardian without the consent of the minor. [1971 c.381 §2; 2005 c.471 §8; 2010 c.91 §2; 2014 c.45 §12; 2017 c.356 §5]

109.660 Construction. The provisions of ORS 109.640, 109.650 and this section do not amend or supersede the provisions of ORS 109.610 or 435.435. [1971 c.381 §3; 1973 c.827 §16]
IDENTIFICATION OF DEAD AND MISSING PERSONS

146.181 Missing persons; police report; supplementary report. (1) When a person is reported as missing to any city, county or state police agency, the agency, within 12 hours thereafter, shall enter into state and federal records maintained for that purpose, a report of the missing person in a format and according to procedures established by the authorities responsible respectively for the state and federal records.

(2) The law enforcement agency to which the report is made:
   (a) May request from the person making the report information or material likely to be useful in identifying the missing person or the human remains of the missing person, including, but not limited to:
      (A) The name of the missing person and any alternative names the person uses;
      (B) The date of birth of the missing person;
      (C) A physical description of the missing person, including the height, weight, gender, race, eye color, current hair color and natural hair color of the missing person, any identifying marks on the missing person, any prosthetics used by, or surgical implants in, the missing person and any physical anomalies of the missing person;
      (D) The blood type of the missing person;
      (E) The driver license number of the missing person;
      (F) The Social Security number of the missing person;
      (G) A recent photograph of the missing person;
      (H) A description of the clothing the missing person is believed to have been wearing at the time the person disappeared;
      (I) A description of items that the missing person is believed to have had with the person at the time the person disappeared;
      (J) Telephone numbers and electronic mail addresses of the missing person;
      (K) The name and address of any school the missing person attends;
      (L) The name and address of any employer of the missing person;
      (M) The name and address of the physician, physician assistant, naturopathic physician, nurse practitioner or dentist who provides health care services to the missing person;
      (N) A description of any vehicle that the missing person might have been driving or riding in when the person disappeared;
      (O) The reasons why the person making the missing person report believes the person is missing;
      (P) Any circumstances that indicate that the missing person may be at risk of injury or death;
      (Q) Any circumstances that may indicate that the disappearance is not voluntary;
      (R) Information about a known or possible abductor or a person who was last seen with the missing person; and
      (S) The date of the last contact with the missing person.
   (b) May request in writing from any dentist, denturist, physician, physician assistant, naturopathic physician, nurse practitioner, optometrist or other medical practitioner possessing it such medical, dental or other physically descriptive information as is likely to be useful in identifying the missing person or the human remains of the missing person.

(3) The law enforcement agency, upon obtaining information pursuant to subsection (2) of this section, shall make a supplementary entry of that information into the state and federal records described in subsection (1) of this section. The supplementary report shall be in a format and according to procedures established by the authorities responsible respectively for the state and federal records. [Formerly 146.525; 2014 c.45 §25; 2017 c.356 §16]

146.184 Medical practitioners to provide information about missing persons. (1) A dentist, denturist, physician, naturopathic physician, optometrist or other medical practitioner, upon receipt of a written request from a law enforcement agency for identifying information pursuant to ORS 146.181, shall provide to the agency any information known to the practitioner upon the request forms provided by the agency.

(2) Information obtained under this section is restricted to use for the identification of missing persons or the identification of unidentified human remains and may not be made available to the public.

(3) Compliance with a written request for information under this section by a dentist, denturist, physician, naturopathic physician, optometrist or other medical practitioner does not constitute a breach of confidentiality. [Formerly 146.535; 2017 c.356 §17]
183.430 Hearing on refusal to renew license; exceptions. (1) In the case of any license which must be periodically renewed, where the licensee has made timely application for renewal in accordance with the rules of the agency, such license shall not be deemed to expire, despite any stated expiration date thereon, until the agency concerned has issued a formal order of grant or denial of such renewal. In case an agency proposes to refuse to renew such license, upon demand of the licensee, the agency must grant hearing as provided by this chapter before issuance of order of refusal to renew. This subsection does not apply to any emergency or temporary permit or license.

(2) In any case where the agency finds a serious danger to the public health or safety and sets forth specific reasons for such findings, the agency may suspend or refuse to renew a license without hearing, but if the licensee demands a hearing within 90 days after the date of notice to the licensee of such suspension or refusal to renew, then a hearing must be granted to the licensee as soon as practicable after such demand, and the agency shall issue an order pursuant to such hearing as required by this chapter confirming, altering or revoking its earlier order. Such a hearing need not be held where the order of suspension or refusal to renew is accompanied by or is pursuant to, a citation for violation which is subject to judicial determination in any court of this state, and the order by its terms will terminate in case of final judgment in favor of the licensee. [1957 c.717 §8 (3), (4); 1965 c.212 §1; 1971 c.734 §11]

183.435 Period allowed to request hearing for license refusal on grounds other than test or inspection results. When an agency refuses to issue a license required to pursue any commercial activity, trade, occupation or profession if the refusal is based on grounds other than the results of a test or inspection that agency shall grant the person requesting the license 60 days from notification of the refusal to request a hearing. [Formerly 670.285]
PROTECTED HEALTH INFORMATION

192.553 Policy for protected health information. (1) It is the policy of the State of Oregon that an individual has:
   (a) The right to have protected health information of the individual safeguarded from unlawful use or disclosure; and
   (b) The right to access and review protected health information of the individual.
   (2) In addition to the rights and obligations expressed in ORS 192.553 to 192.581, the federal Health Insurance Portability and Accountability Act privacy regulations, 45 C.F.R. parts 160 and 164, establish additional rights and obligations regarding the use and disclosure of protected health information and the rights of individuals regarding the protected health information of the individual. [Formerly 192.518]

Note: 192.553 to 192.581 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 192 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

192.555 [1977 c.517 §§2,8(1); 1985 c.565 §24; 1987 c.373 §25; 1987 c.438 §4; 1993 c.131 §3; 1993 c.274 §1; 1993 c.695 §1; 1997 c.142 §1; 1999 c.80 §68; 1999 c.506 §5; 2009 c.541 §8; renumbered 192.586 in 2011]

192.556 Definitions for ORS 192.553 to 192.581. As used in ORS 192.553 to 192.581:
   (1) “Authorization” means a document written in plain language that contains at least the following:
      (a) A description of the information to be used or disclosed that identifies the information in a specific and meaningful way;
      (b) The name or other specific identification of the person or persons authorized to make the requested use or disclosure;
      (c) The name or other specific identification of the person or persons to whom the covered entity may make the requested use or disclosure;
      (d) A description of each purpose of the requested use or disclosure, including but not limited to a statement that the use or disclosure is at the request of the individual;
      (e) An expiration date or an expiration event that relates to the individual or the purpose of the use or disclosure;
      (f) The signature of the individual or personal representative of the individual and the date;
      (g) A description of the authority of the personal representative, if applicable; and
      (h) Statements adequate to place the individual on notice of the following:
         (A) The individual’s right to revoke the authorization in writing;
         (B) The exceptions to the right to revoke the authorization;
         (C) The ability or inability to condition treatment, payment, enrollment or eligibility for benefits on whether the individual signs the authorization; and
         (D) The potential for information disclosed pursuant to the authorization to be subject to redisclosure by the recipient and no longer protected.
   (2) “Covered entity” means:
      (a) A state health plan;
      (b) A health insurer;
      (c) A health care provider that transmits any health information in electronic form to carry out financial or administrative activities in connection with a transaction covered by ORS 192.553 to 192.581; or
      (d) A health care clearinghouse.
   (3) “Health care” means care, services or supplies related to the health of an individual.
   (4) “Health care operations” includes but is not limited to:
      (a) Quality assessment, accreditation, auditing and improvement activities;
      (b) Case management and care coordination;
      (c) Reviewing the competence, qualifications or performance of health care providers or health insurers;
      (d) Underwriting activities;
      (e) Arranging for legal services;
      (f) Business planning;
      (g) Customer services;
      (h) Resolving internal grievances;
      (i) Creating de-identified information; and
      (j) Fundraising.
   (5) “Health care provider” includes but is not limited to:
      (a) A psychologist, occupational therapist, regulated social worker, professional counselor or marriage and family therapist licensed or otherwise authorized to practice under ORS chapter 675 or an employee of the psychologist, occupational therapist, regulated social worker, professional counselor or marriage and family therapist;
      (b) A physician, podiatric physician and surgeon, physician assistant or acupuncturist licensed under ORS chapter 677 or an employee of the physician, podiatric physician and surgeon, physician assistant or
acupuncturist;
(c) A nurse or nursing home administrator licensed under ORS chapter 678 or an employee of the nurse or nursing home administrator;
(d) A dentist licensed under ORS chapter 679 or an employee of the dentist;
(e) A dental hygienist or dentist licensed under ORS chapter 680 or an employee of the dental hygienist or dentist;
(f) A speech-language pathologist or audiologist licensed under ORS chapter 681 or an employee of the speech-language pathologist or audiologist;
(g) An emergency medical services provider licensed under ORS chapter 682;
(h) An optometrist licensed under ORS chapter 683 or an employee of the optometrist;
(i) A chiropractic physician licensed under ORS chapter 684 or an employee of the chiropractic physician;
(j) A naturopathic physician licensed under ORS chapter 685 or an employee of the naturopathic physician;
(k) A massage therapist licensed under ORS 687.011 to 687.250 or an employee of the massage therapist;
(L) A direct entry midwife licensed under ORS 687.405 to 687.495 or an employee of the direct entry midwife;
(m) A physical therapist licensed under ORS 688.010 to 688.201 or an employee of the physical therapist;
(n) A medical imaging licensee under ORS 688.405 to 688.605 or an employee of the medical imaging licensee;
(o) A respiratory care practitioner licensed under ORS 688.815 or an employee of the respiratory care practitioner;
(p) A polysomnographic technologist licensed under ORS 688.819 or an employee of the polysomnographic technologist;
(q) A pharmacist licensed under ORS chapter 689 or an employee of the pharmacist;
(r) A dietitian licensed under ORS 691.405 to 691.485 or an employee of the dietitian;
(s) A funeral service practitioner licensed under ORS chapter 692 or an employee of the funeral service practitioner;
(t) A health care facility as defined in ORS 442.015;
(u) A home health agency as defined in ORS 443.005;
(v) A hospice program as defined in ORS 443.850;
(w) A clinical laboratory as defined in ORS 438.010;
(x) A pharmacy as defined in ORS 689.005;
(y) A diabetes self-management program as defined in ORS 743A.184; and
(z) Any other person or entity that furnishes, bills for or is paid for health care in the normal course of business.

(6) “Health information” means any oral or written information in any form or medium that:
(a) Is created or received by a covered entity, a public health authority, an employer, a life insurer, a school, a university or a health care provider that is not a covered entity; and
(b) Relates to:
(A) The past, present or future physical or mental health or condition of an individual;
(B) The provision of health care to an individual; or
(C) The past, present or future payment for the provision of health care to an individual.

(7) “Health insurer” means:
(a) An insurer as defined in ORS 731.106 who offers:
(A) A health benefit plan as defined in ORS 743.730;
(B) A short term health insurance policy, the duration of which does not exceed six months including renewals;
(C) A student health insurance policy;
(D) A Medicare supplemental policy; or
(E) A dental only policy.
(b) The Oregon Medical Insurance Pool operated by the Oregon Medical Insurance Pool Board under ORS 735.600 to 735.650.

(8) “Individually identifiable health information” means any oral or written health information in any form or medium that is:
(a) Created or received by a covered entity, an employer or a health care provider that is not a covered entity; and
(b) Identifiable to an individual, including demographic information that identifies the individual, or for which there is a reasonable basis to believe the information can be used to identify an individual, and that relates to:
(A) The past, present or future physical or mental health or condition of an individual;
(B) The provision of health care to an individual; or
(C) The past, present or future payment for the provision of health care to an individual.

(9) “Payment” includes but is not limited to:
(a) Efforts to obtain premiums or reimbursement;
(b) Determining eligibility or coverage;
RECORDS REPORTS AND MEETINGS

(c) Billing activities;
(d) Claims management;
(e) Reviewing health care to determine medical necessity;
(f) Utilization review; and
(g) Disclosures to consumer reporting agencies.

(10) “Personal representative” includes but is not limited to:
(a) A person appointed as a guardian under ORS 125.305, 419B.370, 419C.481 or 419C.555 with authority to make medical and health care decisions;
(b) A person appointed as a health care representative under ORS 127.505 to 127.660 or a representative under ORS 127.700 to 127.737 to make health care decisions or mental health treatment decisions;
(c) A person appointed as a personal representative under ORS chapter 113; and
(d) A person described in ORS 192.573.

(11)(a) “Protected health information” means individually identifiable health information that is maintained or transmitted in any form of electronic or other medium by a covered entity.
(b) “Protected health information” does not mean individually identifiable health information in:
(A) Education records covered by the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g);
(B) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); or
(C) Employment records held by a covered entity in its role as employer.

(12) “State health plan” means:
(a) Medical assistance as defined in ORS 414.025;
(b) The Health Care for All Oregon Children program;
(c) The Family Health Insurance Assistance Program established in ORS 414.841 to 414.864; or
(d) Any medical assistance or premium assistance program operated by the Oregon Health Authority.

(13) “Treatment” includes but is not limited to:
(a) The provision, coordination or management of health care; and
(b) Consultations and referrals between health care providers. [Formerly 192.519]

Note: See note under 192.553.

192.557 [1987 c.438 §2; 1999 c.80 §69; 2003 c.73 §59; renumbered 192.588 in 2011]
mail to the requester within seven business days after the date of the request;

(2) Postage costs to mail copies of protected health information or an explanation or summary of protected health information, if requested by an individual or a personal representative of the individual; and

(3) Actual costs of preparing an explanation or summary of protected health information, if requested by an individual or a personal representative of the individual. [Formerly 192.521]

Note: See note under 192.553.

192.565 [1977 c.517 §4; 1999 c.80 §30; renumbered 192.596 in 2011]

192.566 Authorization form. A health care provider may use an authorization that contains the following provisions in accordance with ORS 192.558:

____________________________________________
__________________________________
AUTHORIZATION TO USE AND DISCLOSE PROTECTED HEALTH INFORMATION

I authorize: _______________(Name of person/entity disclosing information) to use and disclose a copy of the specific health information described below regarding: _______________(Name of individual) consisting of:
(Describe information to be used/disclosed)

____________________________________________
__________________________________
____________________________________________
__________________________________
____________________________________________

to: _______________(Name and address of recipient or recipients) for the purpose of: (Describe each purpose of disclosure or indicate that the disclosure is at the request of the individual)

____________________________________________
__________________________________
____________________________________________
__________________________________
____________________________________________

If the information to be disclosed contains any of the types of records or information listed below, additional laws relating to the use and disclosure of the information may apply. I understand and agree that this information will be disclosed if I place my initials in the applicable space next to the type of information.

_____ HIV/AIDS information
_____ Mental health information
_____ Genetic testing information
_____ Drug/alcohol diagnosis, treatment, or referral information

I understand that the information used or disclosed pursuant to this authorization may be subject to redisclosure and no longer be protected under federal law. However, I also understand that federal or state law may restrict redisclosure of HIV/AIDS information, mental health information, genetic testing information and drug/alcohol diagnosis, treatment or referral information.

PROVIDER INFORMATION

You do not need to sign this authorization. Refusal to sign the authorization will not adversely affect your ability to receive health care services or reimbursement for services. The only circumstance when refusal to sign means you will not receive health care services is if the health care services are solely for the purpose of providing health information to someone else and the authorization is necessary to make that disclosure.

You may revoke this authorization in writing at any time. If you revoke your authorization, the information described above may no longer be used or disclosed for the purposes described in this written authorization. The only exception is when a covered entity has taken action in reliance on the authorization or the authorization was obtained as a condition of obtaining insurance coverage.

To revoke this authorization, please send a written statement to _______________ (contact person) at _______________ (address of person/entity disclosing information) and state that you are revoking this authorization.

SIGNATURE

I have read this authorization and I understand it. Unless revoked, this authorization expires ________ (insert either applicable date or event).

By: ______________________
(individual or personal representative)
Date: ____________

Description of personal representative’s authority:
____________________________________________
____________________________________________ [Formerly 192.522]

Note: See note under 192.553.

192.568 Confidentiality; use and disclosure. A health care provider or a state health plan does not breach a confidential relationship with an individual if the health care provider or state health plan uses or discloses protected health information in accordance with ORS 192.558. [Formerly 192.523]

Note: See note under 192.553.

192.571 No right of action. Nothing in ORS 192.556 or 192.558 may be construed to create a new private right of action against a health care provider or a state health plan. [Formerly 192.524]

Note: See note under 192.553.
DEPARTMENT OF REVENUE

(License Lists)

305.380 Definitions for ORS 305.385. As used in ORS 305.385:

(1) “Agency” means any department, board, commission, division or authority of the State of Oregon, or any political subdivision of this state which imposes a local tax administered by the Department of Revenue under ORS 305.620.

(2) “License” means any written authority required by law or ordinance as a prerequisite to the conduct of a business, trade or profession.

(3) “Provider” means any person who contracts to supply goods, services or real estate space to an agency.

(4) “Tax” means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and local taxes administered by the Department of Revenue under ORS 305.620. [1987 c.843 §6; 1997 c.99 §35; 1997 chs 118, 314, 316, 317, 318, 321 and 323 and local chapter 320.005 to 320.150 and 403.200 to 403.250 and ORS 403.200 to 403.250 and ORS 118.525, 314.835 or 314.840 or any similar provision of law, notify the department and the person in writing.

305.385 Agencies to supply licensee and contractor lists; contents; effect of department determination on taxpayer status of licensee or contractor; rules. (1) Upon request of the Department of Revenue, an agency issuing or renewing a license to conduct a business, trade or profession shall annually, on or before March 1, supply the department with a list of specified licenses issued or renewed by the agency during the preceding calendar year.

(2) Upon request of the department, an agency shall annually, on or before March 1, supply the department with a list of specified persons contracting with the agency to provide goods, services or real estate space to the agency during the preceding calendar year.

(3) The lists required by subsections (1) and (2) of this section shall contain the name, address, Social Security or federal employer identification number of each licensee or provider or such other information as the department may by rule require.

(4)(a) If the department determines that any licensee or provider has neglected or refused to file any return or to pay any tax and that such person has not filed in good faith a petition before the department contesting the tax, and the department has been unable to obtain payment of the tax through other methods of collection, the Director of the Department of Revenue may, notwithstanding ORS 118.525, 314.835 or 314.840 or any similar provision of law, notify the agency and the person in writing.

(b) Upon receipt of such notice, the agency shall refuse to reissue, renew or extend any license, contract or agreement until the agency receives a certificate issued by the department that the person is in good standing with respect to any returns due and taxes payable to the department as of the date of the certificate.

(c) Upon the written request of the director and after a hearing and notice to the licensee as required under any applicable provision of law, the agency shall suspend the person’s license if the agency finds that the returns and taxes have not been filed or paid and that the licensee has not filed in good faith a petition before the department contesting the tax and the department has been unable to obtain payment of the tax through other methods of collection. For the purpose of the agency’s findings, the written representation to that effect by the department to the agency shall constitute prima facie evidence of the person’s failure to file returns or pay the tax. The department shall have the right to intervene in any license suspension proceeding.

(d) Any license suspended under this subsection shall not be reissued or renewed until the agency receives a certificate issued by the department that the licensee is in good standing with respect to any returns due and taxes payable to the department as of the date of the certificate.

(5) The department may enter into an installment payment agreement with a licensee or provider with respect to any unpaid tax, penalty and interest. The agreement shall provide for interest on the outstanding amount at the rate prescribed by ORS 305.220. The department may issue a provisional certificate of good standing pursuant to subsection (4)(b) and (d) of this section which shall remain in effect so long as the licensee or provider fully complies with the terms of the installment agreement. Failure by the licensee or provider to fully comply with the terms of the installment agreement shall render the agreement and the provisional certificate of good standing null and void, unless the department determines that the failure was due to reasonable cause. If the department determines that the failure was not due to reasonable cause, the total amount of the tax, penalty and interest shall be immediately due and payable, and the department shall notify any affected agency that the licensee or provider is not in good standing. The agency shall then take appropriate action under subsection (4)(b) and (d) of this section.

(6) No contract or other agreement for the purpose of providing goods, services or real estate space to any agency shall be entered into, renewed or extended with
any person, unless the person certifies in writing, under penalty of perjury, that the person is, to the best of the person’s knowledge, not in violation of any tax laws described in ORS 305.380 (4).

(7) The certification under subsection (6) of this section shall be required for each contract and renewal or extension of a contract or may be provided on an annual basis. A certification shall not be required for a contract if the consideration for the goods, services or real estate space provided under the contract is no more than $1,000.

(8)(a) The requirements of the certification under subsection (6) of this section shall be subject to the rules adopted by the department in accordance with this section.

(b) The department may by rule exempt certain contracts from the requirements of subsection (6) of this section. [1987 c.843 §7; 1989 c.656 §1; 1997 c.99 §36]

(Temporary provisions relating to pilot project requiring tax compliance as condition of occupational and professional licensing)

Note: Sections 2 to 4, chapter 576, Oregon Laws 2009, provide:

Sec. 2. (1) The Department of Revenue may, in conjunction with state agencies, boards or commissions that issue occupational licenses or licenses for the privilege of engaging in an occupation or profession within this state, develop and implement a pilot project that requires, as a condition of issuance or renewal of a license, licensees to demonstrate compliance with the following, as applicable:

(a) The personal income tax laws of this state, including the withholding laws in ORS 316.162 to 316.221.

(b) The corporate excise or income tax laws of this state.

(c) The provisions of ORS 323.005 to 323.482 or 323.500 to 323.645.

(2) Any state agency, board or commission that participates in the pilot project authorized under subsection (1) of this section may suspend, revoke or refuse to issue or renew a license if the department determines that the licensee has failed to demonstrate or maintain tax compliance as provided in this section.

(3) Notwithstanding ORS 314.835 and 314.840, the department may disclose to a state agency, board or commission that requires tax compliance as a condition of issuance or renewal of a license under subsection (1) of this section whether an individual or corporation is in compliance.

(4) In determining compliance for purposes of this section, the department may consider whether the individual or corporation:

(a) Has not filed required returns or reports with respect to taxes imposed by ORS chapter 316 or 317, whichever is applicable, for any of the three tax years immediately preceding a year for which a tax return or report was required to be filed;

(b) Has not filed required reports with respect to taxes imposed under ORS 323.005 to 323.482 or 323.500 to 323.645 for any of the three calendar years immediately preceding a year in which a report was required to be filed;

(c) After all appeal rights, if any, have expired, has failed to:

(A) Pay any tax within 30 days after the date of the assessment and is still delinquent on any payments due;

(B) Enter into an approved payment plan within 60 days after the date of the assessment of the tax; or

(C) Follow the terms of an approved payment plan and is still delinquent on any payments due; or

(d) Has been convicted of a criminal offense related to the personal income tax laws of this state, the corporate excise and income tax laws of this state or the provisions of ORS 323.005 to 323.482 or 323.500 to 323.645, whichever are applicable.

(5) The department may enter into agreements with any state agency, board or commission that participates in the pilot project under subsection (1) of this section in order to assist in the administration of the tax compliance requirement.

(6) Participation in the pilot project authorized under subsection (1) of this section is limited to three state agencies, boards or commissions. [2009 c.576 §2]

Sec. 3. The Department of Revenue shall report to the Seventy-sixth Legislative Assembly no later than January 31, 2011, on the operation and effectiveness of the pilot project authorized in section 2 of this 2009 Act. [2009 c.576 §3]

Sec. 4. Section 2 of this 2009 Act is repealed on January 2, 2016. [2009 c.576 §4]
PROGRAMS

353.480 Pediatric dental residency program.
Subject to the availability of funding, the Oregon Health and Science University shall establish the pediatric dental residency program only to the extent that funds are appropriated to the Oregon Department of Administrative Services for the Oregon Health and Science University public corporation to establish the program under section 1, chapter 1083, Oregon Laws 1999. [1999 c.1083 §2]

Note: 353.480 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 353 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.
408.450 Duty to pay fees during military duty.
No person in the military or naval service of the United States, or any auxiliary corps thereof, while exercising any privilege in this state by virtue of having paid an annual license or privilege fee to any state board or commission for the right to practice a profession or engage in a trade, shall lose such privilege because of failure to pay any such fee for any subsequent year during the period the person is in such service, unless dishonorably discharged therefrom. Upon being discharged from such service under honorable conditions and upon written application within 60 days of such discharge, every such person shall be restored to former status with respect to any such privilege without the necessity of paying the then current license fee.
PAIN MANAGEMENT COMMISSION

Note: 413.570 to 413.599 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 413 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

413.572 Additional duties of commission. (1) The Pain Management Commission shall:
    (a) Develop a pain management education program curriculum and update it biennially.
    (b) Provide health professional regulatory boards and other health boards, committees or task forces with the curriculum.
    (c) Work with health professional regulatory boards and other health boards, committees or task forces to develop approved pain management education programs as required.
    (d) Review the pain management curricula of educational institutions in this state that provide post-secondary education or training for persons required by ORS 413.590 to complete a pain management education program. The commission shall make recommendations about legislation needed to ensure that adequate information about pain management is included in the curricula reviewed and shall report its findings to the Legislative Assembly in the manner required by ORS 192.245 by January 1 of each odd-numbered year.
    (2) As used in this section, “educational institution” has the meaning given that term in ORS 348.105. [Formerly 409.510]

Note: See note under 413.570.

413.590 Pain management education required of certain licensed health care professionals; duties of Oregon Medical Board; rules. (1) A physician assistant licensed under ORS chapter 677, a nurse licensed under ORS chapter 678, a psychologist licensed under ORS 675.010 to 675.150, a chiropractic physician licensed under ORS chapter 684, a naturopath licensed under ORS chapter 685, an acupuncturist licensed under ORS 677.759, a pharmacist licensed under ORS chapter 689, a dentist licensed under ORS chapter 679, an occupational therapist licensed under ORS 675.210 to 675.340 and a physical therapist licensed under ORS 688.010 to 688.201 must complete one pain management education program described under ORS 413.572.
    (2) The Oregon Medical Board, in consultation with the Pain Management Commission, shall identify by rule physicians licensed under ORS chapter 677 who, on an ongoing basis, treat patients in chronic or terminal pain and who must complete one pain management education program established under ORS 413.572. The board may identify by rule circumstances under which the requirement under this section may be waived. [Formerly 409.560]

Note: See note under 413.570.

413.592 Completion of pain management education program. A person required to complete one pain management education program established under ORS 413.572 shall complete the program:
    (1) Within 24 months of January 2, 2006;
    (2) Within 24 months of the first renewal of the person’s license after January 2, 2006; or
    (3) For a physician assistant for whom an application under ORS 677.510 has been approved before January 2, 2006, within 24 months after January 2, 2006. [Formerly 409.565]

Note: See note under 413.570.

413.599 Rules. In accordance with applicable provisions of ORS chapter 183, the Pain Management Commission may adopt rules necessary to implement ORS 413.570 to 413.599. [Formerly 409.570]

Note: See note under 413.570.
418.307 Medical or dental treatment of children without consent; conditions; immunity of treating personnel. (1) A physician licensed by the Oregon Medical Board, a naturopathic physician licensed under ORS chapter 685, a dentist licensed by the Oregon Board of Dentistry or a hospital licensed by the Department of Human Services is authorized to treat a child who is ward of the court or is a dependent or delinquent child in accord with the best medical judgment of the physician, naturopathic physician, dentist or responsible official of the hospital and without consent if:

(a) Because of the general state of the child’s health or any particular condition, the physician, naturopathic physician, dentist or responsible official of the hospital determines that in the medical judgment of the physician, naturopathic physician, dentist or responsible official prompt action is reasonably necessary to avoid unnecessary suffering or discomfort or to effect a more expedient or effective cure; and

(b) It is impossible or highly impractical to obtain consent for treating the child from the child-caring agency, the child’s parent or the child’s legal guardian.

(2) No charge of assault or battery shall be made against a physician, naturopathic physician, dentist or hospital official or employee who provides medical treatment pursuant to subsection (1) of this section.

(3) A minor child described in subsection (1) of this section who is 15 years of age or older may consent to medical treatment pursuant to ORS 109.640. [1975 c.580 §2; 2017 c.356 §38]
REPORTING OF CHILD ABUSE

419B.005 Definitions. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

(1)(a) “Abuse” means:
(A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child which has been caused by other than accidental means, including any injury which appears to be at variance with the explanation given of the injury.
(B) Any mental injury to a child, which shall include only observable and substantial impairment of the child’s mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child.
(C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual penetration and incest, as those acts are described in ORS chapter 163.
(D) Sexual abuse, as described in ORS chapter 163.
(E) Sexual exploitation, including but not limited to:
   (i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage in the performing for people to observe or the photographing, filming, tape recording or other exhibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not including any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or which is designed to serve educational or other legitimate purposes; and
   (ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution as described in ORS 167.007 or a commercial sex act as defined in ORS 163.266, to purchase sex with a minor as described in ORS 163.413 or to engage in commercial sexual solicitation as described in ORS 167.008.
(F) Negligent treatment or maltreatment of a child, including but not limited to the failure to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or welfare of the child.
(G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm to the child’s health or welfare.
(H) Buying or selling a person under 18 years of age as described in ORS 163.537.

(I) Permitting a person under 18 years of age to enter or remain in or upon premises where methamphetamines are being manufactured.

(J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, or to the unlawful manufacturing of a cannabinoid extract, as defined in ORS 475B.015, that subjects a child to a substantial risk of harm to the child’s health or safety.

(b) “Abuse” does not include reasonable discipline unless the discipline results in one of the conditions described in paragraph (a) of this subsection.
(2) “Child” means an unmarried person who:
(a) Is under 18 years of age; or
(b) Is under 21 years of age and residing in or receiving care or services at a child-caring agency as that term is defined in ORS 418.205.
(3) “Higher education institution” means:
(a) A community college as defined in ORS 341.005;
(b) A public university listed in ORS 352.002;
(c) The Oregon Health and Science University; and
(d) A private institution of higher education located in Oregon.
(4) “Law enforcement agency” means:
(a) A city or municipal police department.
(b) A county sheriff’s office.
(c) The Oregon State Police.
(d) A police department established by a university under ORS 352.121 or 353.125.
(e) A county juvenile department.
(5) “Public or private official” means:
(a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician, including any intern or resident.
(b) Dentist.
(c) School employee, including an employee of a higher education institution.
(d) Licensed practical nurse, registered nurse, nurse practitioner, nurse’s aide, home health aide or employee of an in-home health service.
(e) Employee of the Department of Human Services, Oregon Health Authority, Early Learning Division, Youth Development Division, Office of Child Care, the Oregon Youth Authority, a local health department, a community mental health program, a community developmental disabilities program, a county juvenile department, a child-caring agency as that term is defined in ORS 418.205 or an alcohol and drug treatment program.
(f) Peace officer.
(g) Psychologist.
(h) Member of the clergy.
(i) Regulated social worker.
(j) Optometrist.
(k) Chiropractor.
(l) Certified provider of foster care, or an employee thereof.
(m) Attorney.
(n) Licensed professional counselor.
(o) Licensed marriage and family therapist.
p) Firefighter or emergency medical services provider.
(q) A court appointed special advocate, as defined in ORS 419A.004.
(r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.
(s) Member of the Legislative Assembly.
(t) Physical, speech or occupational therapist.
(u) Audiologist.
(v) Speech-language pathologist.
w) Employee of the Teacher Standards and Practices Commission directly involved in investigations or discipline by the commission.
(x) Pharmacist.
y) An operator of a preschool recorded program under ORS 329A.255.
(z) An operator of a school-age recorded program under ORS 329A.257.
(aa) Employee of a private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056.
(bb) Employee of a public or private organization providing child-related services or activities:
(A) Including but not limited to youth groups or centers, scout groups or camps, summer or day camps, survival camps or groups, centers or camps that are operated under the guidance, supervision or auspices of religious, public or private educational systems or community service organizations; and
(B) Excluding community-based, nonprofit organizations whose primary purpose is to provide confidential, direct services to victims of domestic violence, sexual assault, stalking or human trafficking.
(cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete, if compensated and if the athlete is a child.
(dd) Personal support worker, as defined by rule adopted by the Home Care Commission.
(ee) Home care worker, as defined in ORS 410.600.

419B.007 Policy. The Legislative Assembly finds that for the purpose of facilitating the use of protective social services to prevent further abuse, safeguard and enhance the welfare of abused children, and preserve family life when consistent with the protection of the child by stabilizing the family and improving parental capacity, it is necessary and in the public interest to require mandatory reports and investigations of abuse of children and to encourage voluntary reports. [1993 c.546 §13]

419B.010 Duty of officials to report child abuse; exceptions; penalty. (1) Any public or private official having reasonable cause to believe that any child with whom the official comes in contact has suffered abuse or that any person with whom the official comes in contact has abused a child shall immediately report or cause a report to be made in the manner required in ORS 419B.015. Nothing contained in ORS 40.225 to 40.295 or 419B.234 (6) affects the duty to report imposed by this section, except that a psychiatrist, psychologist, member of the clergy, attorney or guardian ad litem appointed under ORS 419B.231 is not required to report such information communicated by a person if the communication is privileged under ORS 40.225 to 40.295 or 419B.234 (6). An attorney is not required to make a report under this section by reason of information communicated to the attorney in the course of representing a client if disclosure of the information would be detrimental to the client.

(2) Notwithstanding subsection (1) of this section, a report need not be made under this section if the public or private official acquires information relating to abuse by reason of a report made under this section, or by reason of a proceeding arising out of a report made under this section, and the public or private official reasonably believes that the information is already known by a law enforcement agency or the Department of Human Services.

(3) The duty to report under this section is personal to the public or private official alone, regardless of whether the official is employed by, a volunteer of or a representative or agent for any type of entity or

§4; 2009 c.199 §1; 2009 c.442 §36; 2009 c.518 §1; 2009 c.570 §6; 2009 c.595 §364; 2009 c.633 §10; 2009 c.708 §3; 2010 c.60 §§4,5; 2011 c.151 §12; 2011 c.506 §38; 2011 c.703 §34; 2012 c.37 §60; 2012 c.92 §1; 2013 c.129 §26; 2013 c.180 §40; 2013 c.623 §17; 2013 c.624 §82; 2013 c.720 §11; 2015 c.98 §7; 2015 c.179 §1; 2015 c.736 §65; 2016 c.106 §39; 2017 c.21 §55]
organization that employs persons or uses persons as volunteers who are public or private officials in its operations.

(4) The duty to report under this section exists regardless of whether the entity or organization that employs the public or private official or uses the official as a volunteer has its own procedures or policies for reporting abuse internally within the entity or organization.

(5) A person who violates subsection (1) of this section commits a Class A violation. Prosecution under this subsection shall be commenced at any time within 18 months after commission of the offense. [1993 c.546 §14; 1999 c.1051 §180; 2001 c.104 §149; 2001 c.904 §15; 2005 c.450 §7; 2012 c.92 §11]

419B.015 Report form and content; notice. (1)(a) A person making a report of child abuse, whether the report is made voluntarily or is required by ORS 419B.010, shall make an oral report by telephone or otherwise to the local office of the Department of Human Services, to the designee of the department or to a law enforcement agency within the county where the person making the report is located at the time of the contact. The report shall contain, if known, the names and addresses of the child and the parents of the child or other persons responsible for care of the child, the child’s age, the nature and extent of the abuse, including any evidence of previous abuse, the explanation given for the abuse and any other information that the person making the report believes might be helpful in establishing the cause of the abuse and the identity of the perpetrator.

(b) When a report of child abuse is received by the department, the department shall notify a law enforcement agency within the county where the report was made. When a report of child abuse is received by a designee of the department, the designee shall notify, according to the contract, either the department or a law enforcement agency within the county where the report was made. When a report of child abuse is received by a law enforcement agency, the agency shall notify the local office of the department within the county where the report was made.

(c) When a report of child abuse is received by the department or by a law enforcement agency, the department or law enforcement agency, or both, may collect information concerning the military status of the parent or guardian of the child who is the subject of the report and may share the information with the appropriate military authorities. Disclosure of information under this paragraph is subject to ORS 419B.035 (7).

(2) When a report of child abuse is received under subsection (1)(a) of this section, the entity receiving the report shall make the notification required by subsection (1)(b) of this section according to rules adopted by the department under ORS 419B.017.

(3)(a) When a report alleging that a child or ward in substitute care may have been subjected to abuse is received by the department, the department shall notify the attorney for the child or ward, the child’s or ward’s court appointed special advocate, the parents of the child or ward and any attorney representing a parent of the child or ward that a report has been received.

(b) The name and address of and other identifying information about the person who made the report may not be disclosed under this subsection. Any person or entity to whom notification is made under this subsection may not release any information not authorized by this subsection.

(c) The department shall make the notification required by this subsection within three business days of receiving the report of abuse.

(d) Notwithstanding the obligation imposed by this subsection, the department is not required under this subsection to notify the parent or parent’s attorney that a report of abuse has been received if the notification may interfere with an investigation or assessment or jeopardize the child’s or ward’s safety. [1993 c.546 §15; 1993 c.734 §1a; 2005 c.250 §1; 2007 c.237 §1; 2017 c.210 §1]
PROCEDURE WHERE WORKERS EXPOSED TO INFECTIOUS DISEASE

433.407 Definitions for ORS 433.407 to 433.423.

As used in ORS 433.407 to 433.423 unless the context requires otherwise:

(1) “Authority” means the Oregon Health Authority.

(2) “Health care facility” means a facility as defined in ORS 442.015 and a mental health facility, alcohol treatment facility or drug treatment facility licensed or operated under ORS chapter 426 or 430.

(3) “Worker” means a person who is licensed or certified to provide health care under ORS chapter 677, 678, 679, 680, 684 or 685 or ORS 682.216, an employee of a health care facility, of a licensed health care provider or of a clinical laboratory as defined in ORS 438.010, a firefighter, a law enforcement officer as defined in ORS 414.805, a corrections officer or a parole and probation officer. [1989 c.949 §2; 1993 c.196 §8; 2005 c.264 §24; 2009 c.595 §671; 2011 c.720 §195]

Note: 433.407 to 433.423 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 433 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

433.410 [Amended by 1973 c.779 §5; repealed by 1981 c.198 §2]

433.411 Legislative finding. The Legislative Assembly finds that by reason of and in the course of their employment, health care workers and emergency response employees, are subject to exposure to infectious diseases, that this exposure is not fully preventable due to the nature of their duties and that health care workers should be informed of exposure to infectious diseases as soon as is practicable to initiate appropriate medical care and to prevent exposing other persons to infectious diseases. [1989 c.949 §1]

Note: See note under 433.407.

433.415 [Amended by 1973 c.779 §6; 1979 c.590 §1; 1979 c.828 §6; repealed by 1981 c.198 §2]

433.416 When employer to provide preventive immunization. (1) An employer of a health care worker at risk of contracting an infectious disease in the course of employment shall provide to the worker preventive immunization for infectious disease if such preventive immunization is available and is medically appropriate.

(2) Such preventive immunization shall be provided by the employer at no cost to the worker.

(3) A worker shall not be required as a condition of work to be immunized under this section, unless such immunization is otherwise required by federal or state law, rule or regulation. [1989 c.949 §3]

Note: See note under 433.407.

433.419 Notice to employer and worker of exposure. When a local health department or the Oregon Health Authority learns of a case or suspected case of an infectious disease which may have exposed a worker to risk of infection, the local health department or the authority shall make every reasonable effort to notify the worker and employer of the exposure as soon as medically appropriate given the urgency of the disease or suspected disease. Notification shall include recommendations to the worker and employer that are medically appropriate. [1989 c.949 §4; 2009 c.595 §672]

Note: See note under 433.407.

433.420 [Amended by 1973 c.779 §7; 1979 c.828 §7; repealed by 1981 c.198 §2]

433.423 Content of rules. (1) The Oregon Health Authority shall adopt rules implementing ORS 433.407 to 433.423. Such rules shall include, but need not be limited to:

(a) The development of curriculum dealing with the exposure of workers to infectious diseases;

(b) Development and conduct of training programs for local health department personnel to prepare them to train workers about the subject of infectious diseases;

(c) Information on the manner in which infectious diseases are transmitted; and

(d) Guidelines that can assist workers and their employers in distinguishing between conditions in which such workers are or are not at risk with respect to infectious diseases.

(2) The rules adopted by the authority shall require that implementation of ORS 433.407 to 433.423 be accomplished in such a manner as to protect the confidentiality of persons with infectious diseases and workers exposed to such persons. [1989 c.949 §5; 2009 c.595 §673]

Note: See note under 433.407.
441.098 Health practitioner referral of patient to treatment or diagnostic testing facility; definitions for ORS 441.098, 441.099 and 441.991; rules. (1) As used in this section and ORS 441.099 and 441.991:
   (a) “Facility” means a hospital, outpatient clinic owned by a hospital, ambulatory surgical center, freestanding birthing center or facility that receives Medicare reimbursement as an independent diagnostic testing facility.
   (b) “Financial interest” means a five percent or greater direct or indirect ownership interest.
   (c)(A) “Health practitioner” means a physician, naturopathic physician licensed under ORS chapter 685, dentist, direct entry midwife, licensed registered nurse who is certified by the Oregon State Board of Nursing as a nurse midwife nurse practitioner, certified nurse practitioner, licensed physician assistant or medical imaging licensee under ORS 688.405 to 688.605.
   (B) “Health practitioner” does not include a provider in a health maintenance organization as defined in ORS 750.005.
   (d) “Physician” has the meaning given that term in ORS 677.010.
   (2) A health practitioner’s decision to refer a patient to a facility for a diagnostic test or health care treatment or service shall be based on the patient’s clinical needs and personal health choices.
   (3) If a health practitioner refers a patient for a diagnostic test or health care treatment or service at a facility in which the health practitioner or an immediate family member of the health practitioner has a financial interest, the health practitioner or the practitioner’s designee shall inform the patient orally and in writing of that interest at the time of the referral.
   (4)(a) If a health practitioner refers a patient to a facility for a diagnostic test or health care treatment or service, the health practitioner or the practitioner’s designee shall inform the patient, in the form and manner prescribed by the Oregon Health Authority by rule, that:
      (A) The patient may receive the test, treatment or service at a different facility of the patient’s choice; and
      (B) If the patient chooses a different facility, the patient should contact the patient’s insurer regarding the extent of coverage or the limitations on coverage for the test, treatment or service at the facility chosen by the patient.
   (b) Rules concerning the form and manner for informing a patient as required by this subsection shall:
      (A) Be designed to ensure that the information is conveyed in a timely and meaningful manner;
      (B) Be administratively simple; and
      (C) Accommodate a provider’s adoption and use of electronic health record systems.
   (5) A health practitioner may not deny, limit or withdraw a referral to a facility solely for the reason that the patient chooses to obtain the test, treatment or service from a different facility.
   (6) The authority may not impose additional restrictions or limitations on any referral described in this section that are in addition to the requirements specified in subsections (3) and (4) of this section.
   (7) In obtaining informed consent for a diagnostic test or health care treatment or service that will take place at a facility, a health practitioner shall disclose the manner in which care will be provided in the event that complications occur that require health services beyond what the facility has the capability to provide.
   (8) Subsections (3) to (5) of this section do not apply to a referral for a diagnostic test or health care treatment or service:
      (a) For a patient who is receiving inpatient hospital services or services in an emergency department if the referral is for a diagnostic test or health care treatment or service to be performed while the patient is in the hospital or emergency department;
      (b) Made to a particular facility after the initial referral of the patient to that facility; or
      (c) Made by the facility or provider to whom a patient was referred. [2009 c.792 §3; 2013 c.129 §30; 2013 c.552 §1; 2017 c.356 §69]
EDUCATIONAL REQUIREMENTS

670.010 Waiver of educational requirement for admission to examination for license or certificate to practice profession, trade or calling. Any state board or commission that examines applicants for license or certification to practice a profession or engage in a trade or calling may, in its discretion, waive the educational requirement for admission to such examination, provided that the applicant furnishes evidence satisfactory to such state board or commission that the applicant is currently enrolled in a school, college or university approved by such state board or commission and will satisfy the educational requirement for admission to such examination on satisfactory completion of courses for which the applicant is currently enrolled and that this educational requirement will be met not later than four calendar months from the first day of the month following the month in which the examination is given. [1953 c.103 §1; 1975 c.429 §5; 1977 c.47 §1]

670.020 Filing evidence of complete educational requirement after taking examination. (1) Evidence of completion of the educational requirement waived as provided in ORS 670.010 shall be filed with such state board or commission not later than four calendar months from the first day of the month following the month in which the examination is taken. State boards and commissions shall withhold official certification of the successful completion of the examination until such evidence is furnished. The affidavit of the registrar or administrative head of the school, college or university shall be deemed satisfactory evidence.

(2) If any candidate admitted to an examination as provided in ORS 670.010 shall fail or neglect within said period to complete the educational requirement for such examination, then the completion of the examination by such candidate shall be null and void, and of no effect. The state board or commission which examined the candidate, however, shall retain any examination fee paid by the candidate. [1953 c.103 §2; 1975 c.429 §6; 1981 c.89 §19]

670.210 [1967 c.344 §1; 1971 c.648 §31; repealed by 1981 c.76 §1]

670.220 [1967 c.344 §§2,3; 1971 c.648 §32; repealed by 1981 c.76 §1]

670.230 [1967 c.344 §4; repealed by 1981 c.76 §1]

670.240 [1967 c.344 §5; repealed by 1981 c.76 §1]

LICENSING ADMINISTRATION
(Generally)

670.275 Policy statement. In enacting chapter 753, Oregon Laws 1971, it is the intention of the Legislative Assembly to provide for the more effective coordination of the administrative functions of boards charged with responsibility for protecting the public through the licensing and regulating of certain professions practiced in this state. Further, it is the intention of the Legislative Assembly to retain responsibility for decisions on qualifications, standards of practice, licensing, discipline and other discretionary functions relating to professional activities in the professional licensing boards, members of which are qualified by education, training and experience to make the necessary judgments. [Formerly 184.575]

Note: Legislative Counsel has substituted “chapter 753, Oregon Laws 1971,” for the words “this Act” in section 1, chapter 753, Oregon Laws 1971, compiled as 670.275 [Formerly 184.575]. Specific ORS references have not been substituted pursuant to 173.160. These sections may be determined by referring to the 1971 Comparative Section Table located in Volume 20 of ORS.

670.280 Denial, suspension or revocation of license based on criminal conviction; denial of license or imposition of discipline for conduct substantially related to fitness and ability of applicant or licensee. (1) As used in this section:

(a) “License” includes a registration, certification or permit.

(b) “Licensee” includes a registrant or a holder of a certification or permit.

(2) Except as provided in ORS 342.143 (3) or 342.175 (3), a licensing board, commission or agency may not deny, suspend or revoke an occupational or professional license solely for the reason that the applicant or licensee has been convicted of a crime, but it may consider the relationship of the facts which support the conviction and all intervening circumstances to the specific occupational or professional standards in determining the fitness of the person to receive or hold the license.

(3) Except as provided in ORS 342.143 (3) and 342.175 (3), a licensing board, commission or agency may deny an occupational or professional license or impose discipline on a licensee based on conduct that is
not undertaken directly in the course of the licensed activity, but that is substantially related to the fitness and ability of the applicant or licensee to engage in the activity for which the license is required. In determining whether the conduct is substantially related to the fitness and ability of the applicant or licensee to engage in the activity for which the license is required, the licensing board, commission or agency shall consider the relationship of the facts with respect to the conduct and all intervening circumstances to the specific occupational or professional standards. [1973 c.359 §1; 1991 c.662 §6a; 2003 c.749 §13; 2009 c.386 §5]

670.283 Power of state agency to suspend license includes power to reinstate. If a state agency, board or commission has the power to issue any license, certification or registration necessary to practice any profession or engage in any trade or calling, any statute granting the state agency, board or commission the power to suspend the license, certification or registration includes the power to reinstate:

(1) At a time certain; or

(2) When the person subject to suspension fulfills conditions for reinstatement set by the agency, board or commission. [1979 c.201 §1]

670.285 [1975 c.759 §10; renumbered 183.435]

670.290 Prohibited uses of juvenile records in employment, licensing or admission. It shall be unlawful for any state agency or licensing board, including the Oregon State Bar, to:

(1) Require that an applicant for employment, licensing or admission answer any questions regarding the existence or contents of a juvenile record that has been expunged pursuant to ORS 419A.260 and 419A.262;

(2) Bar or discharge from employment or refuse to hire or employ such individual because of the existence or contents of a juvenile record that has been expunged pursuant to ORS 419A.260 and 419A.262; or

(3) Deny, revoke or suspend a license because of the existence or contents of a juvenile record that has been expunged pursuant to ORS 419A.260 and 419A.262. [1977 c.801 §2; 1983 c.820 §16; 1993 c.33 §360]
USE OF TITLES IMPORTING HEALTH CARE PROFESSION

676.110 Use of title “doctor.” (1) An individual practicing a health care profession may not use the title “doctor” in connection with the profession, unless the individual:

(a) Has earned a doctoral degree in the individual’s field of practice; and

(b)(A) Is licensed by a health professional regulatory board to practice the particular health care profession in which the individual’s doctoral degree was earned; or

(B) Is working under a board-approved residency contract and is practicing under the license of a supervisor who is licensed by a health professional regulatory board to practice the particular health care profession in which the individual’s doctoral degree was earned.

(2) If an individual uses the title “doctor” in connection with a health care profession at any time, the individual must designate the health care profession in which the individual’s doctoral degree was earned on all written or printed matter, advertising, billboards, signs or professional notices used in connection with the health care profession, regardless of whether the individual’s name or the title “doctor” appears on the written or printed matter, advertising, billboard, sign or professional notice. The designation must be in letters or print at least one-fourth the size of the largest letters used on the written or printed matter, advertising, billboard, sign or professional notice, and in material, color, type or illumination to give display and legibility of at least one-fourth that of the largest letters used on the written or printed matter, advertising, billboard, sign or professional notice.

(3) Subsection (1) of this section does not prohibit:

(a) A chiropractic physician licensed under ORS chapter 684 from using the title “chiropractic physician”;

(b) A naturopathic physician licensed under ORS chapter 685 from using the title “naturopathic physician”;

(c) A person licensed to practice optometry under ORS chapter 683 from using the title “doctor of optometry” or “optometric physician”; or

(d) A physician licensed under ORS 677.805 to 677.840 from using the title “podiatric physician.” [Amended by 1967 c.470 §66; 1983 c.169 §29; 1983 c.486 §1a; 1983 c.769 §1; 1991 c.314 §4; 1995 c.765 §1; 2007 c.418 §1; 2009 c.142 §1; 2011 c.108 §1; 2013 c.129 §35; 2017 c.101 §16]

676.120 Use of deceased licensee’s name. Notwithstanding ORS 676.110 or 676.115, upon the death of any person duly licensed by a health professional regulatory board, the executors of the estate or the heirs, assigns, associates or partners may retain the use of the decedent’s name, where it appears other than as a part of an assumed name, for no more than one year after the death of such person or until the estate is settled, whichever is sooner. [Amended by 1953 c.137 §2; 1983 c.769 §2; 1991 c.314 §5; 2009 c.142 §2; 2015 c.345 §3; 2017 c.101 §18]

676.130 Enforcement of ORS 676.110, 676.115 and 676.120. Each health professional regulatory board shall notify the appropriate district attorney of any violation of ORS 676.110, 676.115 and 676.120 that may be brought to the attention of the board. The district attorney of the county in which a violation of ORS 676.110, 676.115 or 676.120 takes place shall prosecute the violation upon being informed of the violation by a person or by one of the boards. [Amended by 1983 c.769 §3; 2009 c.142 §3; 2015 c.345 §4; 2017 c.101 §19]
676.150 Duty to report prohibited or unprofessional conduct, arrests and convictions; investigation; confidentiality; immunity from liability. (1) As used in this section:

(a) “Board” means the:
   (A) State Board of Examiners for Speech-Language Pathology and Audiology;
   (B) State Board of Chiropractic Examiners;
   (C) State Board of Licensed Social Workers;
   (D) Oregon Board of Licensed Professional Counselors and Therapists;
   (E) Oregon Board of Dentistry;
   (F) Board of Licensed Dietitians;
   (G) State Board of Massage Therapists;
   (H) Oregon Board of Naturopathic Medicine;
   (I) Oregon State Board of Nursing;
   (J) Nursing Home Administrators Board;
   (K) Oregon Board of Optometry;
   (L) State Board of Pharmacy;
   (M) Oregon Medical Board;
   (N) Occupational Therapy Licensing Board;
   (O) Physical Therapist Licensing Board;
   (P) Oregon Board of Psychology;
   (Q) Board of Medical Imaging;
   (R) State Board of Direct Entry Midwifery;
   (S) State Board of Denture Technology;
   (T) Respiratory Therapist and Polysomnographic Technologist Licensing Board;
   (U) Oregon Health Authority, to the extent that the authority licenses emergency medical services providers;
   (V) Oregon State Veterinary Medical Examining Board; or
   (W) State Mortuary and Cemetery Board.

(b) “Licensee” means a health professional licensed or certified by or registered with a board.

(c) “Prohibited conduct” means conduct by a licensee that:
   (A) Constitutes a criminal act against a patient or client; or
   (B) Constitutes a criminal act that creates a risk of harm to a patient or client.

(d) “Unprofessional conduct” means conduct unbecoming a licensee or detrimental to the best interests of the public, including conduct contrary to recognized standards of ethics of the licensee’s profession or conduct that endangers the health, safety or welfare of a patient or client.

(2) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a licensee who has reasonable cause to believe that another licensee has engaged in prohibited or unprofessional conduct shall report the conduct to the board responsible for the licensee who is believed to have engaged in the conduct. The reporting licensee shall report the conduct without undue delay, but in no event later than 10 working days after the reporting licensee learns of the conduct.

(3) A licensee who is convicted of a misdemeanor or felony or who is arrested for a felony crime shall report the conviction or arrest to the licensee’s board within 10 days after the conviction or arrest.

(4) The board responsible for a licensee who is reported to have engaged in prohibited or unprofessional conduct shall investigate in accordance with the board’s rules. If the board has reasonable cause to believe that the licensee has engaged in prohibited conduct, the board shall present the facts to an appropriate law enforcement agency without undue delay, but in no event later than 10 working days after the board finds reasonable cause to believe that the licensee engaged in prohibited conduct.

(5) A licensee who fails to report prohibited or unprofessional conduct as required by subsection (2) of this section or the licensee’s conviction or arrest as required by subsection (3) of this section is subject to discipline by the board responsible for the licensee.

(6) A licensee who fails to report prohibited conduct as required by subsection (2) of this section commits a Class A violation.

(7) Notwithstanding any other provision of law, a report under subsection (2) or (3) of this section is confidential under ORS 676.175. A board may disclose a report as provided in ORS 676.177.

(8) Except as part of an application for a license or for renewal of a license and except as provided in subsection (3) of this section, a board may not require a licensee to report the licensee’s criminal conduct.

(9) The obligations imposed by this section are in addition to and not in lieu of other obligations to report unprofessional conduct as provided by statute.

(10) A licensee who reports to a board in good faith as required by subsection (2) of this section is immune from civil liability for making the report.

(11) A board and the members, employees and contractors of the board are immune from civil liability for actions taken in good faith as a result of a report received under subsection (2) or (3) of this section.

[2009 c.536 §1; 2011 c.630 §21; 2011 c.703 §44; 2011 c.715 §19; 2011 c.720 §213; 2017 c.6 §22]
PROCESSING OF COMPLAINTS AGAINST HEALTH PROFESSIONALS

**676.160 Definitions for ORS 676.165 to 676.180.** As used in ORS 676.165 to 676.180, “health professional regulatory board” means the:

1. State Board of Examiners for Speech-Language Pathology and Audiology;
2. State Board of Chiropractic Examiners;
3. State Board of Licensed Social Workers;
4. Oregon Board of Licensed Professional Counselors and Therapists;
5. Oregon Board of Dentistry;
6. State Board of Massage Therapists;
7. State Mortuary and Cemetery Board;
8. Oregon Board of Naturopathic Medicine;
9. Oregon State Board of Nursing;
10. Oregon Board of Optometry;
11. State Board of Pharmacy;
12. Oregon Medical Board;
13. Occupational Therapy Licensing Board;
14. Physical Therapist Licensing Board;
15. Oregon Board of Psychology;
16. Board of Medical Imaging;
17. Oregon State Veterinary Medical Examining Board; and
18. Oregon Health Authority, to the extent that the authority licenses emergency medical services providers. [1997 c.791 §1; 1999 c.537 §4; 2001 c.274 §4; 2009 c.756 §5; 2013 c.568 §18; 2017 c.101 §9]

**676.165 Complaint investigation.** (1) When a health professional regulatory board receives a complaint by any person against a licensee, applicant or other person alleged to be practicing in violation of law, the board shall assign one or more persons to act as investigator of the complaint.

(2) The investigator shall collect evidence and interview witnesses and shall make a report to the board. The investigator shall have all investigatory powers possessed by the board.

(3) The report to the board shall describe the evidence gathered, the results of witness interviews and any other information considered in preparing the report of the investigator. The investigator shall consider, and include in the report, any disciplinary history with the board of the licensee, applicant or other person alleged to be practicing in violation of law.

(4) The investigator shall make the report to the board not later than 120 days after the board receives the complaint. However, the board may extend the time for making the report by up to 30 days for just cause. The board may grant more than one extension of time.

(5) Investigatory information obtained by an investigator and the report issued by the investigator shall be exempt from public disclosure.

(6) When a health professional regulatory board reviews the investigatory information and report, the public members of the board must be actively involved. [1997 c.791 §5; 2009 c.791 §4]

**676.170 Immunity of information providers.** A person who reports or supplies information in good faith to a health professional regulatory board or to a committee reporting to a health professional regulatory board shall be immune from an action for civil damages as a result thereof. [1997 c.791 §4]

**676.175 Complaints and investigations confidential; exceptions; fees.** (1) A health professional regulatory board shall keep confidential and not disclose to the public any information obtained by the board as part of an investigation of a licensee or applicant, including complaints concerning licensee or applicant conduct and information permitting the identification of complainants, licensees or applicants. However, the board may disclose information obtained in the course of an investigation of a licensee or applicant to the extent necessary to conduct a full and proper investigation.

(2) Notwithstanding subsection (1) of this section, if a health professional regulatory board votes not to issue a notice of intent to impose a disciplinary sanction:

(a) The board shall disclose information obtained as part of an investigation of an applicant or licensee if the person requesting the information demonstrates by clear and convincing evidence that the public interest in disclosure outweighs other interests in nondisclosure, including but not limited to the public interest in nondisclosure.

(b) The board may disclose to a complainant a written summary of information obtained as part of an investigation of an applicant or licensee resulting from the complaint to the extent the board determines necessary to explain the reasons for the board’s decision. An applicant or licensee may review and obtain a copy of any written summary of information disclosed to a complainant by the board after the board has deleted any information that could reasonably be used to identify the complainant.
(3) If a health professional regulatory board votes to issue a notice of intent to impose a disciplinary sanction, upon written request by the licensee or applicant, the board shall disclose to the licensee or applicant all information obtained by the board in the investigation of the allegations in the notice except:

(a) Information that is privileged or confidential under a law other than this section.

(b) Information that would permit the identification of any person who provided information that led to the filing of the notice and who will not provide testimony at a hearing arising out of the investigation.

(c) Information that would permit the identification of any person as a person who made a complaint to the board about a licensee or applicant.

(d) Reports of expert witnesses.

(4) Information disclosed to a licensee or applicant under subsection (3) of this section may be further disclosed by the licensee or applicant only to the extent necessary to prepare for a hearing on the notice of intent to impose a disciplinary sanction.

(5)(a) A health professional regulatory board shall disclose:

(A) A notice of intent to impose a disciplinary sanction against a licensee or applicant that has been issued by vote of the board;

(B) A final order that results from the board’s notice of intent to impose a disciplinary sanction;

(C) An emergency suspension order;

(D) A consent order or stipulated agreement that involves licensee or applicant conduct; and

(E) Information to further an investigation into board conduct under ORS 192.685.

(b) A health professional regulatory board may make the information required to be disclosed under paragraph (a)(A) to (D) of this subsection available in electronic form, accessible by use of a personal computer or similar technology that provides direct electronic access to the information.

(6) If a notice of intent to impose a disciplinary sanction has been issued by vote of a health professional regulatory board, a final order that results from the board’s notice of intent to impose a disciplinary sanction, an emergency suspension order or a consent order or stipulated agreement that involves licensee or applicant conduct shall summarize the factual basis for the board’s disposition of the matter.

(7) A health professional regulatory board record or order, or any part thereof, obtained as part of or resulting from an investigation, contested case proceeding, consent order or stipulated agreement, is not admissible as evidence and may not preclude an issue or claim in any civil proceeding except in a proceeding between the board and the licensee or applicant as otherwise allowed by law.

(8)(a) Notwithstanding subsection (1) of this section, it is not disclosure to the public for a board to permit other public officials and members of the press to attend executive sessions where information obtained as part of an investigation is discussed. Public officials and members of the press attending such executive sessions shall not disclose information obtained as part of an investigation to any other member of the public.

(b) For purposes of this subsection, “public official” means a member or member-elect, or any member of the staff or an employee, of a public entity as defined by ORS 676.177.

(9) A health professional regulatory board may establish fees reasonably calculated to reimburse the actual cost of disclosing information to licensees or applicants as required by subsection (3) of this section. [1997 c.791 §2; 1999 c.751 §3; 2005 c.801 §1]

676.177 Disclosure of confidential information to another public entity; criteria. (1) Notwithstanding any other provision of ORS 676.165 to 676.180, a health professional regulatory board, upon a determination by the board that it possesses otherwise confidential information that reasonably relates to the regulatory or enforcement function of another public entity, may disclose that information to the other public entity.

(2) Any public entity that receives information pursuant to subsection (1) of this section shall agree to take all reasonable steps to maintain the confidentiality of the information, except that the public entity may use or disclose the information to the extent necessary to carry out the regulatory or enforcement functions of the public entity.

(3) For purposes of this section, “public entity” means:

(a) A board or agency of this state, or a board or agency of another state with regulatory or enforcement functions similar to the functions of a health professional regulatory board of this state;

(b) A district attorney;

(c) The Department of Justice;

(d) A state or local public body of this state that licenses, franchises or provides emergency medical services; or

(e) A law enforcement agency of this state, another state or the federal government. [1999 c.751 §2]
676.180 Notice prior to disclosure. If a health professional regulatory board intends to disclose a record pursuant to ORS 676.175 (2), the board shall provide the licensee or applicant seven days’ prior written notice by first class mail. The notice shall describe the record that the board intends to disclose in sufficient detail to permit the licensee or applicant to know the contents of the record. In any subsequent action for injunctive or declaratory relief, the burden shall be on the person seeking disclosure to demonstrate by clear and convincing evidence that the public interest in disclosure outweighs other interests in nondisclosure, including but not limited to the public interest in nondisclosure. [1997 c.791 §3]
OCCUPATIONS AND PROFESSIONS

IMPAIRED HEALTH PROFESSIONAL PROGRAM

676.185 Definitions for ORS 676.185 to 676.200.
As used in ORS 676.185 to 676.200:
(1) “Direct supervisor” means the individual who is responsible for:
(a) Supervising a licensee enrolled in the impaired health professional program;
(b) Monitoring the licensee’s compliance with the requirements of the program; and
(c) Periodically reporting to the program on the licensee’s compliance with the requirements of the program.
(2) “Health profession licensing board” means:
(a) A health professional regulatory board as defined in ORS 676.160; or
(b) The Health Licensing Office for a board, council or program listed in ORS 676.565.
(3) “Impaired professional” means a licensee who is unable to practice with professional skill and safety by reason of habitual or excessive use or abuse of drugs, alcohol or other substances that impair ability or by reason of a mental health disorder.
(4) “Licensee” means a health professional licensed or certified by or registered with a health profession licensing board.
(5) “Substantial noncompliance” includes the following:
(a) Criminal behavior;
(b) Conduct that causes injury, death or harm to the public, or a patient, including sexual impropriety with a patient;
(c) Impairment in a health care setting in the course of employment;
(d) A positive toxicology test result as determined by federal regulations pertaining to drug testing;
(e) Violation of a restriction on a licensee’s practice imposed by the impaired health professional program established under ORS 676.190 or the licensee’s health profession licensing board;
(f) Civil commitment for mental illness;
(g) Failure to participate in the program after entering into a diversion agreement under ORS 676.190; or
(h) Failure to enroll in the program after being referred to the program. [2009 c.697 §1; 2013 c.314 §6; 2013 c.367 §1; 2013 c.568 §19; 2017 c.155 §12a; 2017 c.499 §8]

676.190 Establishment of program; reports of noncompliance; diversion agreements; audit; rules.
(1) The health profession licensing boards may establish or contract to establish an impaired health professional program.
(2) A program established or contracted for under this section must:
(a) Enroll licensees of participating health profession licensing boards who have been diagnosed with alcohol or substance abuse or a mental health disorder;
(b) Require that a licensee sign a written consent prior to enrollment in the program allowing disclosure and exchange of information between the program, the licensee’s board, the licensee’s employer, evaluators and treatment entities in compliance with ORS 179.505 and 42 C.F.R. part 2;
(c) Enter into diversion agreements with enrolled licensees;
(d) If the enrolled licensee has a direct supervisor, assess the ability of the direct supervisor to supervise the licensee, including an assessment of any documentation of the direct supervisor’s completion of specialized training;
(e) Report substantial noncompliance with a diversion agreement to a noncompliant licensee’s board within one business day after the program learns of the substantial noncompliance; and
(f) At least weekly, submit to licensees’ boards:
(A) A list of licensees who were referred to the program by a health profession licensing board and who are enrolled in the program; and
(B) A list of licensees who were referred to the program by a health profession licensing board and who successfully complete the program.
(3) The lists submitted under subsection (2)(f) of this section are exempt from disclosure as a public record under ORS 192.311 to 192.478.
(4) When the program reports substantial noncompliance under subsection (2)(e) of this section to a licensee’s board, the report must include:
(a) A description of the substantial noncompliance;
(b) A copy of a report from the independent third party who diagnosed the licensee under ORS 676.200 (2)(a) or subsection (7)(a) of this section stating the licensee’s diagnosis;
(c) A copy of the licensee’s diversion agreement; and
(d) The licensee’s employment status.
(5) The program may not diagnose or treat licensees enrolled in the program.
(6) The diversion agreement required by subsection (2) of this section must:
   (a) Require the licensee to consent to disclosure and exchange of information between the program, the licensee’s board, the licensee’s employer, evaluators and treatment programs or providers, in compliance with ORS 179.505 and 42 C.F.R. part 2;
   (b) Require that the licensee comply continuously with the agreement for at least two years to successfully complete the program;
   (c) Require that the licensee abstain from mind-altering or intoxicating substances or potentially addictive drugs, unless the drug is:
      (A) Prescribed for a documented medical condition by a person authorized by law to prescribe the drug to the licensee; and
      (B) Approved by the program if the licensee’s board has granted the program that authority;
   (d) Require the licensee to report use of mind-altering or intoxicating substances or potentially addictive drugs within 24 hours;
   (e) Require the licensee to agree to participate in a recommended treatment plan;
   (f) Contain limits on the licensee’s practice of the licensee’s health profession;
   (g) Require the licensee to submit to random drug or alcohol testing in accordance with federal regulations, unless the licensee is diagnosed with solely a mental health disorder and the licensee’s board does not otherwise require the licensee to submit to random drug or alcohol testing;
   (h) Require the licensee to report to the program regarding the licensee’s compliance with the agreement;
   (i) Require the licensee to report any arrest for or conviction of a misdemeanor or felony crime to the program within three business days after the licensee is arrested or convicted;
   (j) Require the licensee to report applications for licensure in other states, changes in employment and changes in practice setting; and
   (k) Provide that the licensee is responsible for the cost of evaluations, toxicology testing and treatment.

(7)(a) A health profession licensing board may establish by rule an option to permit licensees of the health profession licensing board to self-refer to the program.
   (b) The program shall require a licensee who self-refers to the program to attest that the licensee is not, to the best of the licensee’s knowledge, under investigation by the licensee’s board. The program shall enroll the licensee on the date on which the licensee attests that the licensee, to the best of the licensee’s knowledge, is not under investigation by the licensee’s board.
   (c) When a licensee self-refers to the program, the program shall:
      (A) Require that an independent third party approved by the licensee’s board to evaluate alcohol or substance abuse or mental health disorders evaluate the licensee for alcohol or substance abuse or mental health disorders; and
      (B) Investigate to determine whether the licensee’s practice while impaired has presented or presents a danger to the public.
   (d) When a licensee self-refers to the program, the program may not report the licensee’s enrollment in or successful completion of the program to the licensee’s board.
   (8) The health profession licensing boards shall arrange for an independent third party to conduct an audit every four years of an impaired health professional program for the licensees of those health profession licensing boards to ensure compliance with program guidelines. The health profession licensing boards shall report the results of the audit to the Legislative Assembly in the manner provided by ORS 192.245 and to the Governor. The report may not contain individually identifiable information about licensees.

(9) The health profession licensing boards, in consultation with one another, may adopt rules to carry out this section. [2009 c.697 §1b; 2009 c.828 §73; 2012 c.2 §1; 2013 c.367 §2; 2016 c.5 §1]
(2) If a board participates in the impaired health professional program, the board shall establish by rule a procedure for referring licensees to the program. The procedure must provide that, before the board refers a licensee to the program, the board shall ensure that:

(a) An independent third party approved by the board to evaluate alcohol or substance abuse or mental health disorders has diagnosed the licensee with alcohol or substance abuse or a mental health disorder and provided the diagnosis and treatment options to the licensee and the board;

(b) The board has investigated to determine whether the licensee’s professional practice while impaired has presented or presents a danger to the public; and

(c) The licensee has agreed to report any arrest for or conviction of a misdemeanor or felony crime to the board within three business days after the licensee is arrested or convicted.

(3) A board that participates in the impaired health professional program shall review reports received from the program. If the board finds that a licensee is substantially noncompliant with a diversion agreement entered into under ORS 676.190, the board may suspend, restrict, modify or revoke the licensee’s license or end the licensee’s participation in the impaired health professional program.

(4) A board may not discipline a licensee solely because the licensee:

(a) Self-refers to or participates in the impaired health professional program;

(b) Has been diagnosed with alcohol or substance abuse or a mental health disorder; or

(c) Used controlled substances or cannabis before entry into the impaired health professional program, if the licensee did not practice while impaired. [2009 c.697 §1a; 2012 c.2 §2; 2013 c.367 §3; 2017 c.21 §66]

(b) “License” means a license, registration, certification or other authorization to engage in a profession.

(2) A health professional regulatory board continues to have jurisdiction for licensing, regulatory and disciplinary purposes related to acts and omissions that occur while a person is licensed or required to be licensed, regardless of any changes in the licensing status of the person.

(3) A person who obtains, but is not required to obtain, a license to engage in a profession regulated by a health professional regulatory board, and whose license expires, lapses or is voluntarily surrendered while the person is under investigation by the board, or whose license is suspended or revoked, may not engage in that profession unless the person again obtains a license from the relevant health professional regulatory board to engage in the profession.

(4) Nothing in this section limits the jurisdictional, investigatory or other authority otherwise provided by law to a health professional regulatory board. [2009 c.756 §2; 2013 c.568 §20]
such injunction. [1953 c.592 §2; 1979 c.284 §191; 1983
c.769 §5]

676.230 Injunction as cumulative remedy. The
remedy herein provided is cumulative and shall be
without prejudice to any other civil or criminal remedy.
[1953 c.592 §3]
676.303 Purposes of health professional regulatory boards; authority of boards to require fingerprints. (1) As used in this section:
   (a) “Health professional regulatory board” means the agencies listed in ORS 676.160 and the Health Licensing Office created in ORS 676.560.
   (b) “Impairment” means an inability to practice with reasonable competence and safety due to the habitual or excessive use of drugs or alcohol, other chemical dependency or a mental health condition.
   (c) “License” means a license, registration, certification or other authorization to engage in a profession.
   (d) “Licensee” means a person licensed, registered, certified or otherwise authorized by a health professional regulatory board to engage in a profession.

   (2) All health professional regulatory boards shall operate with the primary purposes of promoting the quality of health services provided, protecting the public health, safety and welfare by ensuring that licensees practice with professional skill and safety and addressing impairment among licensees.

   (3) For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, a health professional regulatory board may require the fingerprints of a licensee seeking renewal of a license, an applicant for a license, a board employee or volunteer or an applicant for employment with the board. [2009 c.756 §1; 2013 c.568 §21]
676.306 Executive directors; reports; rules. (1) As used in this section, “health professional regulatory board” means a health professional regulatory board described in ORS 676.160 other than the Oregon Health Authority with regard to the licensure of emergency medical services providers.

(2) Subject to applicable provisions of the State Personnel Relations Law and the approval of the Governor, notwithstanding ORS 182.468, each health professional regulatory board shall appoint an executive director and prescribe the duties and fix the compensation of the executive director. The executive director shall serve at the pleasure of the Governor under the direct supervision of the appointing board. The board may request that the Governor remove the executive director.

(3) In addition to any other duties imposed by law or otherwise required of state agencies, the executive director shall keep all records of the board and discharge all duties prescribed by the board.

(4) The executive director shall prepare periodic reports regarding the licensing, monitoring and investigative activities of the board. The executive director shall submit the reports to the board and the Governor. The Oregon Department of Administrative Services, in consultation with the board, shall adopt rules specifying requirements for the report content and processes for preparing and submitting the reports. The rules may be consistent with performance management measures and processes initiated by the department. The rules shall require each board to undergo a peer review of board activities by a team of executive directors of other health professional regulatory boards and at least one public member. The department may assess the board for the cost of the peer review. [2009 c.756 §4; 2011 c.703 §46; 2011 c.720 §214]
MISCELLANEOUS

676.340 Limitations on liability of health practitioners providing health care services without compensation; requirements; exceptions; attorney fees; applicability. (1) Notwithstanding any other provision of law, a health practitioner described in subsection (7) of this section who has registered under ORS 676.345 and who provides health care services without compensation is not liable for any injury, death or other loss arising out of the provision of those services, unless the injury, death or other loss results from the gross negligence of the health practitioner.

(2) A health practitioner may claim the limitation on liability provided by this section only if the patient receiving health care services, or a person who has authority under law to make health care decisions for the patient, signs a statement that notifies the patient that the health care services are provided without compensation and that the health practitioner may be held liable for death, injury or other loss only to the extent provided by this section. The statement required under this subsection must be signed before the health care services are provided.

(3) A health practitioner may claim the limitation on liability provided by this section only if the health practitioner obtains the patient’s informed consent for the health care services before providing the services, or receives the informed consent of a person who has authority under law to make health care decisions for the patient.

(4) A health practitioner provides health care services without compensation for the purposes of subsection (1) of this section even though the practitioner requires payment of laboratory fees, testing services and other out-of-pocket expenses.

(5) A health practitioner provides health care services without compensation for the purposes of subsection (1) of this section even though the practitioner provides services at a health clinic that receives compensation from the patient, as long as the health practitioner does not personally receive compensation for the services.

(6) In any civil action in which a health practitioner prevails based on the limitation on liability provided by this section, the court shall award all reasonable attorney fees incurred by the health practitioner in defending the action.

(7) This section applies only to:

(a) A physician licensed under ORS 677.100 to 677.228;
(b) A nurse licensed under ORS 678.040 to 678.101;
(c) A nurse practitioner licensed under ORS 678.375 to 678.390;
(d) A clinical nurse specialist certified under ORS 678.370 and 678.372;
(e) A physician assistant licensed under ORS 677.505 to 677.525;
(f) A dental hygienist licensed under ORS 680.010 to 680.205;
(g) A dentist licensed under ORS 679.060 to 679.180;
(h) A pharmacist licensed under ORS chapter 689;
(i) An optometrist licensed under ORS chapter 683; and
(j) A naturopathic physician licensed under ORS chapter 685. [1999 c.771 §1; 1999 c.771 §3; 2005 c.462 §2; 2012 c.41 §3; 2017 c.356 §84]

676.345 Registration program for health care professionals claiming liability limitation; program requirements. (1) A health practitioner described in ORS 676.340 (7) may claim the liability limitation provided by ORS 676.340 only if the health practitioner has registered with a health professional regulatory board in the manner provided by this section. Registration under this section must be made:

(a) By a physician or physician assistant, with the Oregon Medical Board;
(b) By a nurse, nurse practitioner or clinical nurse specialist, with the Oregon State Board of Nursing;
(c) By a dentist or dental hygienist, with the Oregon Board of Dentistry;
(d) By a pharmacist, with the State Board of Pharmacy;
(e) By an optometrist, with the Oregon Board of Optometry; and
(f) By a naturopathic physician, with the Oregon Board of Naturopathic Medicine.

(2) The health professional regulatory boards listed in subsection (1) of this section shall establish a registration program for the health practitioners who provide health care services without compensation and who wish to be subject to the liability limitation provided by ORS 676.340. All health practitioners registering under the program must provide the health professional regulatory board with:

(a) A statement that the health practitioner will provide health care services to patients without compensation, except for reimbursement for laboratory fees, testing services and other out-of-pocket expenses;
(b) A statement that the health practitioner will provide the notice required by ORS 676.340 (2) in the manner provided by ORS 676.340 (2) before providing the services; and

(c) A statement that the health practitioner will only provide health care services without compensation that are within the scope of the health practitioner’s license.

(3) Registration under this section must be made annually. The health professional regulatory boards listed in subsection (1) of this section shall charge no fee for registration under this section. [1999 c.771 §2; 1999 c.771 §4; 2005 c.462 §3; 2012 c.41 §4; 2017 c.356 §85]
MISCELLANEOUS

676.400 Racial and ethnic composition of regulated health professions; findings; duties of health professional regulatory boards. (1) It is the intention of the Legislative Assembly to achieve the goal of universal access to adequate levels of high quality health care at an affordable cost for all Oregonians, regardless of ethnic or cultural background.

(2) The Legislative Assembly finds that:
   (a) Access to health care is of value when it leads to treatment that substantially improves health outcomes;
   (b) Health care is most effective when it accounts for the contribution of culture to health status and health outcomes;
   (c) Ethnic and racial minorities experience more than their statistically fair share of undesirable health outcomes;
   (d) The lack of licensed health care professionals from ethnic and racial minorities or who are bilingual contributes to the inadequacy of health outcomes in communities of color in this state; and
   (e) The development of a partnership between health professional regulatory boards and communities of color to increase the representation of people of color and bilingual people in health care professions has significant potential to improve the health outcomes of people of color and bilingual citizens of this state.

(3) Health professional regulatory boards shall establish programs to increase the representation of people of color and bilingual people on the boards and in the professions that they regulate. Such programs must include activities to promote the education, recruitment and professional practice of members of these targeted populations in Oregon.

(4) Each health professional regulatory board shall maintain records of the racial and ethnic makeup of applicants and professionals regulated by the board. Such information shall be requested from applicants and the professionals regulated who shall be informed in writing that the provision of such information is voluntary and not required.

(5) Each health professional regulatory board shall report biennially to the Legislative Assembly in the manner required by ORS 192.245. The report shall contain:
   (a) Data detailing the efforts of the board to comply with the requirements of subsection (3) of this section; and
   (b) Data collected under subsection (4) of this section documenting the ethnic and racial makeup of the applicants and of the professionals regulated by the board.

(6) For purposes of this section, “health professional regulatory board” means a health professional regulatory board, as defined in ORS 676.160, the Nursing Home Administrators Board, the Board of Licensed Dietitians and the Behavior Analysis Regulatory Board. [2001 c.973 §1; 2017 c.101 §21]
MISCELLANEOUS

676.405 Release of personal information. (1) As used in this section, “health professional regulatory board” means the agencies listed in ORS 676.160 and the Health Licensing Office created in ORS 676.560.

(2) Notwithstanding ORS 192.311 to 192.478, a health professional regulatory board may, at its discretion, release or withhold the personal electronic mail address, home address and personal telephone number for a person licensed, registered or certified by the board. If the personal electronic mail address, home address or personal telephone number is requested for a public health or state health planning purpose, the board shall release the information. [2009 c.756 §3; 2013 c.568 §22]

676.410 Information required for renewal of certain licenses; confidentiality; data collection; fees; rules. (1) As used in this section, “health care workforce regulatory board” means the:

(a) State Board of Examiners for Speech-Language Pathology and Audiology;
(b) State Board of Chiropractic Examiners;
(c) State Board of Licensed Social Workers;
(d) Oregon Board of Licensed Professional Counselors and Therapists;
(e) Oregon Board of Dentistry;
(f) Board of Licensed Dietitians;
(g) State Board of Massage Therapists;
(h) Oregon Board of Naturopathic Medicine;
(i) Oregon State Board of Nursing;
(j) Respiratory Therapist and Polysomnographic Technologist Licensing Board;
(k) Oregon Board of Optometry;
(L) State Board of Pharmacy;
(m) Oregon Medical Board;
(n) Occupational Therapy Licensing Board;
(o) Physical Therapist Licensing Board;
(p) Oregon Board of Psychology; and
(q) Board of Medical Imaging.

(2) An individual applying to renew a license with a health care workforce regulatory board must provide the information prescribed by the Oregon Health Authority pursuant to subsection (3) of this section to the health care workforce regulatory board. Except as provided in subsection (4) of this section, a health care workforce regulatory board may not approve an application to renew a license until the applicant provides the information.

(3) The authority shall collaborate with each health care workforce regulatory board to adopt rules establishing:

(a) The information that must be provided to a health care workforce regulatory board under subsection (2) of this section, which may include:

(A) Demographics, including race and ethnicity.
(B) Education and training information.
(C) License information.
(D) Employment information.
(E) Primary and secondary practice information.
(F) Anticipated changes in the practice.
(G) Languages spoken.

(b) The manner and form of providing information under subsection (2) of this section.

(4)(a) Subject to paragraph (b) of this subsection, a health care workforce regulatory board shall report health care workforce information collected under subsection (2) of this section to the authority.

(b) Except as provided in paragraph (c) of this subsection, personally identifiable information collected under subsection (2) of this section is confidential and a health care workforce regulatory board and the authority may not release such information.

(c) A health care workforce regulatory board may release personally identifiable information collected under subsection (2) of this section to a law enforcement agency for investigative purposes or to the authority for state health planning purposes.

(5) A health care workforce regulatory board may adopt rules to perform the board’s duties under this section.

(6) In addition to renewal fees that may be imposed by a health care workforce regulatory board, the authority shall establish fees to be paid by individuals applying to renew a license with a health care workforce regulatory board. The amount of fees established under this subsection must be reasonably calculated to reimburse the actual cost of obtaining or reporting information as required by subsection (2) of this section.

(7) Using information collected under subsection (2) of this section, the authority shall create and maintain a health care workforce database that will provide data, including data related to the diversity of this state’s health care workforce, upon request to state agencies and to the Legislative Assembly. The authority may contract with a private or public entity to establish and maintain the database and to perform data analysis. [2009 c.595 §1175; 2011 c.630 §23; 2013 c.14 §9; 2015 c.318 §40; 2015 c.380 §1; 2017 c.6 §24]
Note: Section 3, chapter 380, Oregon Laws 2015, provides:

Sec. 3. (1) For individuals applying to renew a license to practice a regulated profession with the Oregon Board of Dentistry, Board of Licensed Dietitians, Oregon State Board of Nursing, State Board of Pharmacy, Oregon Medical Board, Occupational Therapy Licensing Board and Physical Therapist Licensing Board, the amendments to ORS 676.410 by section 1, chapter 380, Oregon Laws 2015, apply to applications to renew a license to practice a regulated profession that are submitted on or after January 1, 2016.

(2) For individuals applying to renew a license to practice a regulated profession with the State Board of Examiners for Speech-Language Pathology and Audiology, State Board of Chiropractic Examiners, State Board of Licensed Social Workers, Oregon Board of Licensed Professional Counselors and Therapists, State Board of Massage Therapists, Oregon Board of Naturopathic Medicine, Respiratory Therapist and Polysomnographic Technologist Licensing Board, Oregon Board of Optometry, Oregon Board of Psychology and Board of Medical Imaging, the amendments to ORS 676.410 by section 1, chapter 380, Oregon Laws 2015, apply to applications to renew a license to practice a regulated profession that are submitted on or after the date on which rules are adopted for health care workers regulated by a health care workforce regulatory board pursuant to ORS 676.410 (3). [2015 c.380 §3; 2017 c.6 §25]
676.440 Duty of health professional regulatory boards to encourage multidisciplinary pain management services. (1) Health professional regulatory boards shall encourage the development of state-of-the-art multidisciplinary pain management services and the availability of these services to the public.

(2) As used in subsection (1) of this section, “health professional regulatory boards” means the:
(a) Oregon Medical Board;
(b) Oregon Board of Naturopathic Medicine;
(c) Oregon Board of Dentistry;
(d) Oregon State Board of Nursing;
(e) Physical Therapist Licensing Board;
(f) State Board of Chiropractic Examiners;
(g) State Board of Pharmacy; and
(h) Oregon Board of Psychology. [2003 c.325 §1; 2009 c.43 §10; 2017 c.6 §26]
676.990 **Criminal penalties.** Violation of any of the provisions of ORS 676.110 to 676.130 is a Class C misdemeanor. [Amended by 2011 c.597 §278]
DENTAL PILOT PROJECTS

Note: Sections 1, 2 and 15 to 17, chapter 716, Oregon Laws 2011, provide:

Sec. 1. (1) The Oregon Health Authority may approve pilot projects to encourage the development of innovative practices in oral health care delivery systems with a focus on providing care to populations that evidence-based studies have shown have the highest disease rates and the least access to dental care. The authority may approve a pilot project that is designed to:

(a) Operate for three to five years or a sufficient amount of time to evaluate the validity of the pilot project;
(b) Evaluate quality of care, access, cost, workforce and efficacy; and
(c) Achieve at least one of the following:
(A) Teach new skills to existing categories of dental personnel;
(B) Develop new categories of dental personnel;
(C) Accelerate the training of existing categories of dental personnel; or
(D) Teach new oral health care roles to previously untrained persons.

(2) The authority shall adopt rules:
(a) Establishing an application process for pilot projects;
(b) Establishing minimum standards, guidelines and instructions for pilot projects; and
(c) Requiring an approved pilot project to report to the authority on the progress and outcomes of the pilot project, including:
(A) The process used to evaluate the progress and outcomes of the pilot project;
(B) The baseline data and information to be collected;
(C) The nature of program data that will be collected and the methods for collecting and analyzing the data;
(D) The provisions for protecting the safety of patients seen or treated in the project; and
(E) A statement of previous experience in providing related health care services.

(3) The authority shall seek the advice of appropriate professional societies and licensing boards before adopting rules under subsection (2) of this section.

(4)(a) Notwithstanding ORS 679.020 and 680.020, a person may practice dentistry or dental hygiene without a license as part of a pilot project approved under this section under the general supervision of a dentist licensed under ORS chapter 679 and in accordance with rules adopted by the authority.
(b) A person practicing dentistry or dental hygiene without a license under this section is subject to the same standard of care and is entitled to the same immunities as a person performing the services with a license.

(5) The authority may accept gifts, grants or contributions from any public or private source for the purpose of carrying out this section. Funds received under this subsection shall be deposited in the Dental Pilot Projects Fund established under section 17 of this 2011 Act. [2011 c.716 §1]

Sec. 2. Section 1 of this 2011 Act is repealed on January 2, 2018. [2011 c.716 §2]

Sec. 15. (1) The Oregon Health Authority may approve pilot projects for training and certifying community dental health coordinators to educate the community on dental health.

(2) The authority shall consult with appropriate professional organizations, educational institutions and the Oregon Board of Dentistry before approving pilot projects under this section.

(3) An approved project must require community dental health coordinators to complete 18 months of training, including an internship.

(4) The authority shall adopt rules:
(a) Establishing an application process for pilot projects;
(b) Establishing minimum standards, guidelines and instructions for pilot projects; and
(c) Requiring an approved pilot project to report to the authority on the progress and outcomes of the pilot project, including:
(A) The process used to evaluate the progress and outcomes of the pilot project;
(B) The baseline data and information to be collected;
(C) The nature of program data that will be collected and the methods for collecting and analyzing the data;
(D) The provisions for protecting the safety of patients seen or treated in the project; and
(E) A statement of previous experience in providing related health care services.

(5) The authority may accept gifts, grants or contributions from any public or private source for the purpose of carrying out this section. Funds received under this subsection shall be deposited in the Dental Pilot Projects Fund established under section 17 of this 2011 Act. [2011 c.716 §15]

Sec. 16. Section 15 of this 2011 Act is repealed on
Sec. 17. The Dental Pilot Projects Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Dental Pilot Projects Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Oregon Health Authority for the purposes of carrying out the provisions of sections 1 and 15 of this 2011 Act. [2011 c.716 §17]
DENTAL HYGIENISTS; DENTURISTS

DENTURISTS

(Generally)

680.500 Definitions for ORS 680.500 to 680.565. As used in ORS 680.500 to 680.565:

(1) “Denture” means any removable full or partial upper or lower prosthetic dental appliance to be worn in the human mouth to replace any missing natural teeth.

(2) “Denturist” means a person licensed under ORS 680.500 to 680.565 to engage in the practice of denture technology and who is authorized within the person’s scope of practice to provide to the public full or partial upper or lower dentures or other removable nonorthodontic dental appliances intended to be worn in the human mouth.

(3) “Practice of denture technology” means:
   (a) Constructing, repairing, relining, reproducing, duplicating, supplying, fitting or altering a denture or other removable nonorthodontic dental appliance intended to be worn in the human mouth in respect of which a service is performed under paragraph (b) of this subsection; and
   (b) The following services when performed for a purpose listed in paragraph (a) of this subsection:
      (A) The taking of impressions;
      (B) The taking of bite registrations;
      (C) Try-ins of dentures or other removable nonorthodontic dental appliances intended to be worn in the human mouth; and
      (D) Insertions of dentures or other removable nonorthodontic dental appliances intended to be worn in the human mouth. [1979 c.1 §1; 1991 c.921 §1; 1993 c.142 §2; 1999 c.885 §26; 2003 c.1 §1; 2005 c.648 §23; 2011 c.53 §1; 2011 c.53 §3]

680.505 Practice of denture technology prohibited without license; use of title “denturist.” Unless a person holds an active license issued under ORS 680.500 to 680.565, a person may not:

(1) Engage, or offer to engage, in the practice of denture technology; or
(2) Use in connection with the name of the person the word “denturist” or any other words, letters or abbreviations or insignia tending to indicate that such person is engaged in the practice of denture technology. [1979 c.1 §2; 1993 c.142 §3; 2013 c.314 §22]

680.510 Application of ORS 680.500 to 680.565. The prohibitions of ORS 680.500 to 680.565 do not apply to:

(1) Any activity described in ORS 680.500 (3)(a) by a person acting under the supervision of a denturist.
(2) The practice of dentistry or medicine by persons authorized to do so by this state, or any other practices allowed under ORS chapters 677 and 679.
(3) A student of denture technology in pursuit of clinical studies under an approved school program, or a person having met the formal educational requirements, who is operating, for no more than two years, under the direct supervision of a denturist or a licensed dentist in pursuit of practical clinical experience as required for licensure by ORS 680.515. [1979 c.1 §3; 1981 c.313 §1; 1989 c.694 §1; 1993 c.142 §4; 2005 c.648 §24; 2007 c.419 §1; 2011 c.53 §3]

(Licenses)

680.515 Application for license; qualifications of applicants; waiver of examination requirement; temporary license; rules. (1) Subject to the provisions of ORS 676.612, the Health Licensing Office shall issue a license to practice denture technology to an applicant who, in addition to submitting an application and paying the applicable fees established under ORS 676.576:

(a) Provides to the office official transcripts verifying completion of an associate degree program in denture technology, or the equivalent in formal, post-secondary education, approved by the office in consultation with the Higher Education Coordinating Commission and the Department of Education.

(b) Provides to the office documentation of 1,000 hours of supervised clinical practice in denture technology, or the equivalent in formal, post-secondary education, approved by the office in consultation with the Higher Education Coordinating Commission and the Department of Education.

(c) Provides to the office documentation of 1,000 hours of supervised clinical practice in denture technology, completed while enrolled in or after having completed a course of study offered in a post-secondary educational institution, or through equivalent supervised experience, as determined by the office in consultation with the commission and the department.

(d) Passes a written and a practical examination prescribed, recognized or approved by the State Board of Denture Technology. An applicant who fails the practical examination must complete additional hours of clinical and laboratory training in an approved work experience program, as determined by the board, to qualify for reexamination.

(e) Meets other requirements established by the office by rule.

(2) The educational program required by subsection (1)(a) of this section must include pertinent courses in anatomy, including histology, microbiology, physiology, pharmacology, pathology emphasizing periodontology, dental materials, medical emergencies,
geriatrics, professional ethics, clinical denture technology and denture laboratory technology.

(3) Notwithstanding subsection (1)(a) of this section, the board may accept educational training obtained in any other state or country if, upon review of satisfactory evidence, the office determines that the educational program in the other state or country meets the educational standards prescribed under this section.

(4) An applicant meets the requirements of subsection (1)(a) or (b) of this section if the applicant provides the office with documentation of military training or experience that the office determines is substantially equivalent to the training or experience required by subsection (1)(a) or (b) of this section.

(5) Notwithstanding subsection (1)(c) of this section, the office may adopt rules providing for waiver of the practical examination requirement.

(6) The office may adopt rules allowing for issuance of a temporary license to practice denture technology.

680.520 Examination of applicants. (1) Examinations of applicants for licensure under ORS 680.500 to 680.565 shall be held at least once a year at such times and places as the State Board of Denture Technology may determine. Timely and appropriate notice shall be given to each applicant.

(2) The examination shall be sufficiently thorough to determine the qualifications, fitness and ability of the applicant to practice denture technology. The examination may be in the form of written, oral or practical demonstration of skills, or a combination of any such types. The examination shall cover at least subjects listed in ORS 680.515 (2) and any additional subjects required by the Health Licensing Office by rule that are based on changes in industry technology, health care delivery systems, client safety or scientific infection control techniques. [1979 c.1 §4; 1981 c.313 §2; 1989 c.694 §2; 1991 c.921 §2; 1993 c.142 §5; 1997 c.652 §39; 2003 c.547 §13; 2005 c.415 §3; 2005 c.648 §25; 2007 c.419 §2; 2011 c.637 §285; 2012 c.43 §9; 2013 c.314 §23; 2013 c.568 §44; 2013 c.747 §173]

680.525 [1979 c.1 §6; 1981 c.313 §8; 1991 c.921 §4; 1993 c.142 §7; 1999 c.885 §27; 2003 c.547 §14; 2005 c.648 §26; 2009 c.701 §18; repealed by 2013 c.314 §65]

680.527 Licensure without examination; fees. The Health Licensing Office may issue a license to practice denture technology, without examination, to any person who:

(1) Submits an application and pays the applicable fees established under ORS 676.576;

(2) Has satisfied the educational requirements established by ORS 680.515;

(3) Is a denturist licensed under the laws of any other state, the District of Columbia, Canada or a territory of the United States, and the standards for licensing of denturists in the licensing jurisdiction are determined by the office to be substantially equivalent to those of ORS 680.500 to 680.565;

(4) Has passed a written and practical examination that the office determines to be substantially equivalent to the examination required for licensure in this state; and

(5) Has engaged in the full-time active practice of denture technology as a licensed denturist in another jurisdiction for a minimum of two years immediately preceding the date of application for licensure under this section. [2005 c.415 §2; 2005 c.648 §25b; 2007 c.419 §3; 2013 c.314 §24; 2013 c.568 §47]

680.530 [1979 c.1 §7; 1989 c.694 §3; 1991 c.921 §5; 1993 c.142 §8; 2001 c.274 §1; 2003 c.547 §15; 2005 c.648 §27; 2009 c.701 §19; repealed by 2013 c.314 §65]

680.535 Grounds for imposing discipline. In the manner prescribed in ORS chapter 183 for contested cases, the Health Licensing Office may impose a form of discipline listed in ORS 676.612 against any person practicing denture technology for any of the grounds listed in ORS 676.612 and for any violation of the provisions of ORS 680.500 to 680.565, or the rules adopted thereunder. [1979 c.1 §8; 1991 c.921 §6; 1993 c.142 §9; 2003 c.547 §16; 2013 c.568 §28; 2013 c.568 §49]

680.545 Statement of dentist or physician before treatment by denturist. Denturists licensed prior to January 1, 2004, who have not received an oral pathology endorsement from the State Board of Denture Technology may not treat any person without having first received a statement, dated within 30 days of the
date of treatment and signed by a dentist, physician, naturopathic physician, physician assistant licensed under ORS 677.505 to 677.525 or nurse practitioner licensed under ORS 678.375 to 678.390, that the person’s oral cavity is substantially free from disease and mechanically sufficient to receive a denture. [1979 c.1 §13; 1981 c.313 §5; 1989 c.694 §4; 1991 c.921 §8; 1993 c.142 §10a; 1997 c.652 §40; 2003 c.547 §17; 2005 c.471 §10; 2014 c.45 §73; 2017 c.356 §88]

680.547 Business or professional association of denturist and dentist. A dentist, as defined in ORS 679.010, and a denturist may cooperate and maintain any business or professional association that is mutually agreeable with each being responsible for their respective area of expertise. [2003 c.1 §3]

680.550 Board to establish policies and criteria for assessment. The State Board of Denture Technology shall establish policies and criteria for the assessment of the quality of the practice of denture technology based on practice standards subject to the approval of the Health Licensing Office. [1979 c.1 §19; 1991 c.921 §9; 1993 c.142 §11; 2005 c.648 §29; 2013 c.568 §50]

680.555 [1979 c.1 §9; 1989 c.694 §5; repealed by 1991 c.921 §22]

(State Board)

680.556 State Board of Denture Technology; membership; compensation and expenses. (1) There is established, within the Health Licensing Office, the State Board of Denture Technology. The board consists of seven members appointed by the Governor and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the board:
   (a) Four must be active licensed denturists;
   (b) One must be an Oregon licensed dentist in active practice; and
   (c) Two must be members of the public who do not possess the professional qualifications of other members and who are not a spouse, domestic partner, child, parent or sibling of an active licensed denturist or dentist.

   (2)(a) Board members required to be denturists may be selected by the Governor from a list of three to five nominees for each vacancy, submitted by a professional organization representing denturists.

   (b) In selecting the members of the board, the Governor shall strive to balance the representation on the board according to:
      (A) Geographic areas of this state; and
      (B) Ethnic group.

   (3)(a) The term of office of each member is three years, but a member serves at the pleasure of the Governor. The terms must be staggered so that no more than three terms end each year. Vacancies shall be filled by the Governor by appointment for the unexpired term. A member shall hold the member’s office until the appointment and qualification of a successor. A member is eligible for reappointment.

   (b) A board member shall be removed immediately from the board if, during the member’s term, the member:
      (A) Is not a resident of this state;
      (B) Has been absent from three consecutive board meetings, unless at least one absence is excused;
      (C) Is not a licensed denturist or a retired denturist who was a licensed denturist in good standing at the time of retirement, if the board member was appointed to serve on the board as a denturist; or
      (D) Is not a licensed dentist or a retired dentist whose license to practice dentistry was in good standing at the time of retirement, if the board member was appointed to serve on the board as a dentist.

   (4) Members are entitled to compensation and expenses as provided in ORS 292.495. The office may provide by rule for compensation to board members for the performance of official duties at a rate that is greater than the rate provided in ORS 292.495. [1991 c.921 §11; 1993 c.142 §12; 1999 c.885 §28; 2003 c.125 §1; 2005 c.415 §5; 2005 c.648 §30a; 2009 c.535 §15; 2009 c.701 §20a; 2013 c.568 §51]

680.560 Board meetings. The State Board of Denture Technology shall hold a meeting at least once each year and shall annually elect a chairperson from its members. [1979 c.1 §10; 1981 c.313 §6; 1991 c.921 §13; 1993 c.142 §13; 1999 c.885 §29; 2003 c.547 §18]

680.565 Authority of Oregon Health Licensing Agency and director; rules; issuance of license. (1) The Health Licensing Office has such authority as is reasonably necessary to administer ORS 680.500 to 680.565 and 680.990 (2), including the authority to adopt rules pursuant to ORS chapter 183.

   (2) The Director of the Health Licensing Office shall keep a record of all proceedings of the State Board of Denture Technology including a register of all persons licensed to practice denture technology.
(3) When the office is satisfied that the applicant for licensure under ORS 680.500 to 680.565 has complied with all the requirements, it shall issue to such applicant an appropriate license under ORS 680.500 to 680.565. [1979 c.1 §11; 1981 c.313 §7; 1991 c.921 §14; 1993 c.142 §14; 1999 c.885 §30; 2005 c.648 §31; 2013 c.568 §52]

680.567 [1993 c.142 §17; repealed by 2003 c.547 §118]

680.570 [1979 c.1 §12; 1999 c.885 §31; 2005 c.648 §32; repealed by 2009 c.701 §67]

PENALTIES

680.572 [1991 c.921 §18; repealed by 2003 c.547 §118]

680.990 Criminal penalties. (1) Violation of any of the provisions of ORS 680.010 to 680.205 is a Class C misdemeanor.

(2) Violation of any provision of ORS 680.505 and 743A.028 is a Class B misdemeanor. [Amended by 1977 c.192 §11; subsection (2) enacted as 1979 c.1 §17; 1983 c.169 §32; 2003 c.547 §19]
742.400 Duty to report claim of professional negligence to licensing board; contents of report; public disclosure and posting of reports. (1) As used in this section:
(a) “Claim” means a written demand for payment from or on behalf of a covered practitioner for an injury alleged to have been caused by professional negligence that is made in a complaint filed with a court of appropriate jurisdiction.
(b) “Covered practitioner” means a chiropractic physician, physician or physician assistant licensed under ORS chapter 677, nurse practitioner, optometrist, dentist, dental hygienist or naturopath.
(c) “Disposition of a claim” means:
(A) A judgment or award against the covered practitioner by a court, a jury or an arbitrator;
(B) A withdrawal or dismissal of the claim; or
(C) A settlement of the claim.
(d) “Reporter” means:
(A) A primary insurer;
(B) A public body required to defend, save harmless and indemnify an officer, employee or agent of the public body under ORS 30.260 to 30.300;
(C) An entity that self-insures or indemnifies for claims alleging professional negligence on the part of a covered practitioner; or
(D) A health maintenance organization as defined in ORS 750.005.
(2) Within 30 days after receiving notice of a claim, a reporter shall report the claim to the appropriate board, as follows:
(a) The Oregon Medical Board if the covered practitioner is a physician or physician assistant licensed under ORS chapter 677;
(b) The Oregon State Board of Nursing if the covered practitioner is a nurse practitioner;
(c) The Oregon Board of Optometry if the covered practitioner is an optometrist;
(d) The Oregon Board of Dentistry if the covered practitioner is a dentist or dental hygienist;
(e) The Oregon Board of Naturopathic Medicine if the covered practitioner is a naturopath; or
(f) The State Board of Chiropractic Examiners if the covered practitioner is a chiropractic physician.
(3) The report required under subsection (2) of this section shall include:
(a) The name of the covered practitioner;
(b) The name of the person that filed the claim;
(c) The date on which the claim was filed; and
(d) The reason or reasons for the claim, except that the report may not disclose any data that is privileged under ORS 41.675.
(4) Within 30 days after the date of an action taken in disposition of a claim, a reporter shall notify the appropriate board identified in subsection (2) of this section of the disposition.
(5)(a) A board that receives a report of a claim under this section shall publicly post the report on the board’s website if the claim results in a judicial finding or admission of liability or a money judgment, award or settlement that involves a payment to the claimant. The board may not publicly post information about claims that did not result in a judicial finding or admission of liability or a money judgment, award or settlement that involves a payment to the claimant but shall make the information available to the public upon request.
(b) If a board discloses information about a claim that is the subject of a report received under this section, the board shall indicate in the disclosure whether the claim resulted in a judicial finding or an admission of liability or a money judgment, an award or a settlement that involves a payment to the claimant. A board may not publicly disclose or publish any allegations or factual assertions included in the claim unless the complaint resulted in a judicial finding or an admission of liability or a money judgment, an award or a settlement that involves a payment to the claimant.
(c) For purposes of this subsection, “judicial finding” means a finding of liability by a court, a jury or an arbitrator.
(6) A board that receives a report under this section shall provide copies of the report to each health care facility licensed under ORS 441.015 to 441.087, 441.525 to 441.595, 441.815, 441.820, 441.990, 442.342, 442.344 and 442.400 to 442.463 that employs or grants staff privileges to the covered practitioner.
(7) A person that reports in good faith concerning any matter required to be reported under this section is immune from civil liability by reason of making the report. [Formerly 743.780 and then 743.770; 1991 c.401 §7; 1997 c.131 §3; 2007 c.803 §1; 2009 c.43 §36; 2009 c.131 §1; 2009 c.581 §1; 2013 c.129 §38]
## OREGON ADMINISTRATIVE RULES
### BOARD OF DENTISTRY

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Rev. 1/1/2019
DIVISION 1

PROCEDURES

818-001-0000

Notice of Proposed Rule Making

Prior to the adoption, amendment, or repeal of any permanent rule, the Oregon Board of Dentistry shall give notice of the proposed adoption, amendment, or repeal:

1. By publishing a notice in the Secretary of State’s Bulletin referred to in ORS 183.370 at least 21 days prior to the effective date.

2. By mailing a copy of the notice to persons on the mailing list established pursuant to ORS 183.335 (8) at least 28 days before the effective date of the adoption, amendment, or repeal.

3. By mailing a copy of the notice to the following persons and publications:
   a. Oregon Dental Hygienists’ Association;
   b. Oregon Dental Assistants Association;
   c. Oregon Association of Dental Laboratories;
   d. Oregon Dental Association;
   e. The Oregonian;
   f. Oregon Health & Science University, School of Dentistry;
   g. The United Press International;
   h. The Associated Press;
   i. The Capitol Building Press Room.

Stat. Auth.: ORS 183, 192, 670 & 679
Stats. Implemented: ORS 183.370 & 183.335(7)
Hist.: DE 24, f. & ef. 12-2-75; DE 2-1978, f. & ef. 5-4-78; DE 3-1982, f. & ef. 5-26-82; DE 11-1984, f. & ef. 5-17-84; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; DE 1-1997, f. & cert. ef. 1-2-97; OBD 2-2009, f. 10-21-09, cert. ef. 11-1-09

818-001-0002

Definitions

As used in OAR Chapter 818:

1. "Board" means the Oregon Board of Dentistry, the members of the Board, its employees, its agents, and its consultants.

2. "Dental Practice Act" means ORS Chapter 679 and ORS 680.010 to 680.205 and the rules adopted pursuant thereto.

3. "Dentist" means a person licensed pursuant to ORS Chapter 679 to practice dentistry.

4. "Direct Supervision" means supervision requiring that a dentist diagnose the condition to be treated, that a dentist authorize the procedure to be performed, and that a dentist remain in the dental treatment room while the procedures are performed.

5. "General Supervision" means supervision requiring that a dentist authorize the procedures, but not requiring that a dentist be present when the authorized procedures are performed. The authorized procedures may also be performed at a place other than the usual place of practice of the dentist.

6. "Hygienist" means a person licensed pursuant to ORS 680.010 to 680.205 to practice dental hygiene.

7. "Indirect Supervision" means supervision requiring that a dentist authorize the procedures and that a dentist be on the premises while the procedures are performed.

8. "Informed Consent" means the consent obtained following a thorough and easily understood explanation to the patient, or patient’s guardian, of the proposed procedures, any available alternative procedures and any risks associated with the procedures. Following the explanation, the licensee shall ask the patient, or the patient’s guardian, if there are any questions. The licensee shall provide thorough and easily understood answers to all questions asked.

9. "Licensee" means a dentist or hygienist.

   a. "Volunteer Licensee" is a dentist or dental hygienist licensed according to rule to provide dental health care without receiving or expecting to receive compensation.

10. "Limited Access Patient" means a patient who is unable to receive regular dental hygiene treatment in a dental office.

11. "Specialty." The specialty definitions are added to more clearly define the scope of the practice as it pertains to the specialty areas of dentistry.

   a. "Dental Public Health" is the science and art of preventing and controlling dental diseases and promoting dental health through organized community efforts. It is that form of dental practice which serves the community as a patient rather than the individual. It is concerned with the dental health education of the public, with applied dental research, and with the administration of group dental care programs as well as the prevention and control of dental diseases on a community basis.

   b. "Endodontics" is the branch of dentistry which is concerned with the morphology, physiology and pathology of the human dental pulp and peripheral tissues. Its study and practice encompass the basic and clinical sciences including biology of the normal pulp, the etiology, diagnosis,
prevention and treatment of diseases and injuries of the pulp and associated periradicular conditions.

(c) "Oral and Maxillofacial Pathology" is the specialty of dentistry and discipline of pathology that deals with the nature, identification, and management of diseases affecting the oral and maxillofacial regions. It is a science that investigates the causes, processes, and effects of these diseases. The practice of oral pathology includes research and diagnosis of diseases using clinical, radiographic, microscopic, biochemical, or other examinations.

(d) “Oral and Maxillofacial Radiology” is the specialty of dentistry and discipline of radiology concerned with the production and interpretation of images and data produced by all modalities of radiant energy that are used for the diagnosis and management of diseases, disorders and conditions of the oral and maxillofacial region.

(e) "Oral and Maxillofacial Surgery" is the specialty of dentistry which includes the diagnosis, surgical and adjunctive treatment of diseases, injuries and defects involving both the functional and esthetic aspects of the hard and soft tissues of the oral and maxillofacial region.

(f) "Orthodontics and Dentofacial Orthopedics" is the area of dentistry concerned with the supervision, guidance and correction of the growing or mature dentofacial structures, including those conditions that require movement of teeth or correction of malrelationships and malformations of their related structures and the adjustment of relationships between and among teeth and facial bones by the application of forces and/or the stimulation and redirection of functional forces within the craniofacial complex. Major responsibilities of orthodontic practice include the diagnosis, prevention, interception and treatment of all forms of malocclusion of the teeth and associated alterations in their surrounding structures; the design, application and control of functional and corrective appliances; and the guidance of the dentition and its supporting structures to attain and maintain optimum occlusal relations in physiologic and esthetic harmony among facial and cranial structures.

(g) "Pediatric Dentistry" is an age-defined specialty that provides both primary and comprehensive preventive and therapeutic oral health care for infants and children through adolescence, including those with special health care needs.

(h) "Periodontics" is the specialty of dentistry which encompasses the prevention, diagnosis and treatment of diseases of the supporting and surrounding tissues of the teeth or their substitutes and the maintenance of the health, function and esthetics of these structures and tissues.

(i) "Prosthodontics" is the branch of dentistry pertaining to the restoration and maintenance of oral functions, comfort, appearance and health of the patient by the restoration of natural teeth and/or the replacement of missing teeth and contiguous oral and maxillofacial tissues with artificial substitutes.

(12) “Full-time” as used in ORS 679.025 and 680.020 is defined by the Board as any student who is enrolled in an institution accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency in a course of study for dentistry or dental hygiene.

(13) For purposes of ORS 679.020(4)(h) the term “dentist of record” means a dentist that either authorized treatment for, supervised treatment of or provided treatment for the patient in clinical settings of the institution described in ORS 679.020(3).

(14) “Dental Study Group” as used in ORS 679.050, OAR 818-021-0060 and OAR 818-021-0070 is defined as a group of licensees who come together for clinical and non-clinical educational study for the purpose of maintaining or increasing their competence. This is not meant to be a replacement for residency requirements.

(15) “Physical Harm” as used in OAR 818-001-0083(2) is defined as any physical injury that caused, partial or total physical disability, incapacity or disfigurement. In no event shall physical harm include mental pain, anguish, or suffering, or fear of injury.

(16) “Teledentistry” is defined as the use of information technology and telecommunications to facilitate the providing of dental primary care, consultation, education, and public awareness in the same manner as telehealth and teledmedicine.
818-001-0005
Model Rules of Procedure

Pursuant to the provisions of ORS 183.341, the Oregon Board of Dentistry adopts the Attorney General’s Model Rules of Procedure under the Administrative Procedures Act current edition; these rules of procedure shall be controlling except as otherwise required by statute or rule.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or the Board of Dentistry.]

Stat. Auth.: ORS 183, 192, 670 & 679
Stats. Implemented: ORS 183.341(1)

818-001-0011
Time for Requesting a Contested Case Hearing

A request for a contested case hearing must be in writing and must be received by the Board within twenty-one days from the date the contested case notice was served.

Stats. Implemented: ORS 679.250 & 183.341 OR Laws 1999, Ch. 849
Hist.: OBD 9-2001, f. & cert. ef. 1-8-01

818-001-0025
Confidentiality and Inadmissibility of Mediation Communications

(1) The words and phrases used in this rule have the same meaning as given to them in ORS 36.110 and 36.234.

(2) Nothing in this rule affects any confidentiality created by other law. Nothing in this rule relieves a public body from complying with the Public Meetings Law, ORS 192.610 to 192.690. Whether or not they are confidential under this or other rules of the agency, mediation communications are exempt from disclosure under the Public Records Law to the extent provided in ORS 192.410 to 192.505.

(3) This rule applies only to mediations in which the agency is a party or is mediating a dispute as to which the agency has regulatory authority. This rule does not apply when the agency is acting as the "mediator" in a matter in which the agency also is a party as defined in ORS 36.234.

(4) To the extent mediation communications would otherwise be compromised negotiations under ORS 40.190 (OEC Rule 408), those mediation communications are not admissible as provided in ORS 40.190 (OEC Rule 408), notwithstanding any provisions to the contrary in section (9) of this rule.

(5) Mediations Excluded. Sections (6)-(10) of this rule do not apply to:

(a) Mediation of workplace interpersonal disputes involving the interpersonal relationships between this agency's employees, officials or employees and officials, unless a formal grievance under a labor contract, a tort claim notice or a lawsuit has been filed; or

(b) Mediation in which the person acting as the mediator will also act as the hearings officer in a contested case involving some or all of the same matters;

(c) Mediation in which the only parties are public bodies;

(d) Mediation involving two or more public bodies and a private party if the laws, rule or policies governing mediation confidentiality for at least one of the public bodies provide that mediation communications in the mediation are not confidential; or

(e) Mediation involving 15 or more parties if the agency has designated that another mediation confidentiality rule adopted by the agency may apply to that mediation.

(6) Disclosures by Mediator. A mediator may not disclose or be compelled to disclose mediation communications in a mediation and, if disclosed, such communications may not be introduced into evidence in any subsequent administrative, judicial or arbitration proceeding unless:

(a) All the parties to the mediation and the mediator agree in writing to the disclosure; or

(b) The mediation communication may be disclosed or introduced into evidence in a subsequent proceeding as provided in subsections (c)-(d), (j)-(l) or (o)-(p) of section (9) of this rule.

(7) Confidentiality and Inadmissibility of Mediation Communications. Except as provided in sections (8)-(9) of this rule, mediation communications are confidential and may not be disclosed to any other person, are not admissible in any subsequent administrative, judicial or arbitration proceeding and may not be disclosed during testimony in, or during any discovery conducted as part of a subsequent proceeding, or introduced as evidence by the parties or the
mediator in any subsequent proceeding.

(8) Written Agreement. Section (7) of this rule does not apply to a mediation unless the parties to the mediation agree in writing, as provided in this section, that the mediation communications in the mediation will be confidential and/or nondiscoverable and inadmissible. If the mediator is the employee of and acting on behalf of a state agency, the mediator or an authorized agency representative must also sign the agreement. The parties’ agreement to participate in a confidential mediation must be in substantially the following form. This form may be used separately or incorporated into an "agreement to mediate." [Form not included. See ED. NOTE.]

(9) Exceptions to confidentiality and inadmissibility:

(a) Any statements, memoranda, work products, documents and other materials, otherwise subject to discovery that were not prepared specifically for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding;

(b) Any mediation communications that are public records, as defined in ORS 192.410(4), and were not specifically prepared for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential or privileged under state or federal law;

(c) A mediation communication is not confidential and may be disclosed by any person receiving the communication to the extent that person reasonably believes that disclosing the communication is necessary to prevent the commission of a crime that is likely to result in death or bodily injury to any person. A mediation communication is not confidential and may be disclosed in a subsequent proceeding to the extent its disclosure may further the investigation or prosecution of a felony crime involving physical violence to a person;

(d) Any mediation communication related to the conduct of a licensed professional that is made to or in the presence of a person who, as a condition of his or her professional license, is obligated to report such communication by law or court rule is not confidential and may be disclosed to the extent necessary to make such a report;

(e) The parties to the mediation may agree in writing that all or part of the mediation communications are not confidential or that all or part of the mediation communications may be disclosed and may be introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential, privileged or otherwise prohibited from disclosure under state or federal law;

(f) A party to the mediation may disclose confidential mediation communications to a person if the party's communication with that person is privileged under ORS Chapter 40 or other provision of law. A party to the mediation may disclose confidential mediation communications to a person for the purpose of obtaining advice concerning the subject matter of the mediation, if all the parties agree;

(g) An employee of the agency may disclose confidential mediation communications to another agency employee so long as the disclosure is necessary to conduct authorized activities of the agency. An employee receiving a confidential mediation communication under this subsection is bound by the same confidentiality requirements as apply to the parties to the mediation;

(h) A written mediation communication may be disclosed or introduced as evidence in a subsequent proceeding at the discretion of the party who prepared the communication so long as the communication is not otherwise confidential under state or federal law and does not contain confidential information from the mediator or another party who does not agree to the disclosure;

(i) In any proceeding to enforce, modify or set aside a mediation agreement, a party to the mediation may disclose mediation communications and such communications may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of mediation communications or agreements to persons other than the parties to the agreement;

(j) In an action for damages or other relief between a party to the mediation and a mediator or mediation program, mediation communications are not confidential and may be disclosed and may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of the mediation communications or agreements;

(k) When a mediation is conducted as part of the negotiation of a collective bargaining agreement, the following mediation communications are not confidential and such communications may be introduced into evidence in a subsequent administrative, judicial or arbitration proceeding:
(A) A request for mediation; or
(B) A communication from the Employment Relations Board Conciliation Service establishing the time and place of mediation; or
(C) A final offer submitted by the parties to the mediator pursuant to ORS 243.712; or
(D) A strike notice submitted to the Employment Relations Board.

(l) To the extent a mediation communication contains information the substance of which is required to be disclosed by Oregon statute, other than ORS 192.410 to 192.505, that portion of the communication may be disclosed as required by statute;

(m) Written mediation communications prepared by or for the agency or its attorney are not confidential and may be disclosed and may be introduced as evidence in any subsequent administrative, judicial or arbitration proceeding to the extent the communication does not contain confidential information from the mediator or another party, except for those written mediation communications that are:
   (A) Attorney-client privileged communications so long as they have been disclosed to no one other than the mediator in the course of the mediation or to persons as to whom disclosure of the communication would not waive the privilege; or
   (B) Attorney work product prepared in anticipation of litigation or for trial; or
   (C) Prepared exclusively for the mediator or in a caucus session and not given to another party in the mediation other than a state agency; or
   (D) Prepared in response to the written request of the mediator for specific documents or information and given to another party in the mediation; or
   (E) Settlement concepts or proposals, shared with the mediator or other parties.

(n) A mediation communication made to the agency may be disclosed and may be admitted into evidence to the extent the Board determines that disclosure of the communication is necessary to prevent or mitigate a serious danger to the public's health or safety, and the communication is not otherwise confidential or privileged under state or federal law;

(o) The terms of any mediation agreement are not confidential and may be introduced as evidence in a subsequent proceeding, except to the extent the terms of the agreement are exempt from disclosure under ORS 192.410 to 192.505, a court has ordered the terms to be confidential under ORS 30.402 or state or federal law requires the terms to be confidential;

(p) The mediator may report the disposition of a mediation to the agency at the conclusion of the mediation so long as the report does not disclose specific confidential mediation communications. The agency or the mediator may use or disclose confidential mediation communications for research, training or educational purposes, subject to the provisions of ORS 36.232(4).

(10) When a mediation is subject to section (7) of this rule, the agency will provide to all parties to the mediation and the mediator a copy of this rule or a citation to the rule and an explanation of where a copy of the rule may be obtained. Violation of this provision does not waive confidentiality or inadmissibility.

[ED. NOTE: The form referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]
The Board follows the Department of Administrative Service’s statewide policy (107-001-030) for fees in regards to public records request; in addition, the Board establishes the following fees:

(a) $0.10 per name and address for computer-generated lists on paper or labels; $0.20 per name and address for computer-generated lists on paper or labels sorted by specific zip code;
(b) Data files on diskette or CD:
   (A) All Licensed Dentists — $50;
   (B) All Licensed Dental Hygienists — $50;
   (C) All Licensees — $100.
(c) Written verification of licensure — $2.50 per name; and
(d) Certificate of Standing — $20.

Stat. Auth.: ORS 183, 192, 670 & 679
Stats. Implemented: ORS 192.420, 192.430 & 192.440

OAR 818-001-0083
Relief from Public Disclosure

Upon the receipt of a written request of an individual who has been disciplined by the Oregon Board of Dentistry, the Board shall remove from its website, and other publicly accessible print and electronic publications under the Board’s control, all information related to disciplining the individual under ORS 679.140 and any findings and conclusions made by the Board during the disciplinary proceeding, if:

(1) The request is made 10 years or more after the date on which any disciplinary sanction ended;
(2) The individual was not disciplined for financially or physically harming a patient as determined by the Board;
(3) The individual informed the Board of the matter for which the individual was disciplined before the Board received information about the matter or otherwise had knowledge of the matter;
(4) The individual making the request, if the individual is or was a licensee, has not been subjected to other disciplinary action by the Board following the imposition of the disciplinary sanction; and
(5) The individual fully complied with all disciplinary sanctions imposed by the Board.

Stats. Implemented:

818-001-0087
Fees

(1) The Board adopts the following fees:
(a) Biennial License Fees:
   (A) Dental -- $390;
   (B) Dental -- retired -- $0;
   (C) Dental Faculty -- $335;
   (D) Volunteer Dentist -- $0;
   (E) Dental Hygiene -- $230;
   (F) Dental Hygiene -- retired -- $0;
   (G) Volunteer Dental Hygienist -- $0.
(b) Biennial Permits, Endorsements or Certificates:
   (A) Nitrous Oxide Permit -- $40;
   (B) Minimal Sedation Permit -- $75;
   (C) Moderate Sedation Permit -- $75;
   (D) Deep Sedation Permit -- $75;
   (E) General Anesthesia Permit -- $140;
   (F) Radiology -- $75;
   (G) Expanded Function Dental Assistant -- $50;
   (H) Expanded Function Orthodontic Assistant -- $50;
   (I) Instructor Permits -- $40;
   (J) Dental Hygiene Restorative Functions Endorsement -- $50;
   (K) Restorative Functions Dental Assistant -- $50;
   (L) Anesthesia Dental Assistant -- $50;
   (M) Dental Hygiene, Expanded Practice Permit -- $75;
   (N) Non-Resident Dental Background Check -- $100.
(c) Applications for Licensure:
   (A) Dental -- General and Specialty -- $345;
   (B) Dental Faculty -- $305;
   (C) Dental Hygiene -- $180;
   (D) Licensure Without Further Examination -- $790.
   (d) Examinations:
      (A) Jurisprudence -- $0;
      (e) Duplicate Wall Certificates -- $50.
(2) Fees must be paid at the time of application and are not refundable.
(3) The Board shall not refund moneys under $5.01 received in excess of amounts due or to which the Board has no legal interest unless the person who made the payment or the person's legal...
representative requests a refund in writing within one year of payment to the Board.

Stat. Auth.: ORS 679 & 680
Hist.: DE 6-1985(Temp), f. & ef. 9-20-85; DE 3-1986, f. & ef. 3-31-86; DE 1-1987, f. & ef. 10-7-87; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, corrected by DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; Renumbered from 818-001-0085; DE 2-1989(Temp), f. & cert. ef. 11-30-89; DE 1-1990, f. 3-19-90, cert. ef. 4-2-90; DE 1-1991(Temp), f. 8-5-91, cert. ef. 8-15-91; DE 2-1991, f. & cert. ef. 12-31-91; DE 1-1992(Temp), f. & cert. ef. 6-24-92; DE 2-1993, f. & cert. ef. 7-13-93; OBD 1-1998, f. & cert. ef. 6-8-98; OBD 3-1999, f. 6-25-99, cert. ef. 7-1-99; Administrative correction, 8-2-99; OBD 5-2000, f. 6-22-00, cert. ef. 7-1-00; OBD 8-2001, f. & cert. ef. 1-8-01; OBD 2-2005, f. 1-31-05, cert. ef. 2-1-05; OBD 2-2007, f. 4-26-07, cert. ef. 5-1-07; OBD 3-2007, f. & cert. ef. 11-30-07; OBD 1-2009 (Temp), f. 6-11-09, cert. ef. 7-1-09 thru 11-1-09; OBD 2-2009, f. 10-21-09, cert. ef. 11-1-09; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 3-2011(Temp), filed 6-30-11, cert. ef. 7-1-11 thru 12-27-11; OBD 4-2001, f. & cert. ef. 11-15-11; OBD 1-2012, f. & cert. ef. 1-27-12; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13; OBD 6-2014, f. 7-2-14, cert. ef. 8-1-14; OBD 6-2015, f. 7-9-15, cert. ef. 10-01-15; OBD 2-2016, f. 11-2-16, cert. ef. 3-1-17

818-001-0090

Board Member Compensation

(1) Board members of the Oregon Board of Dentistry, who are authorized by law to receive compensation for time spent in performance of their official duties, shall receive compensation based on the amount fixed for the standard per diem allowance for the Continental United States which has been authorized by the United States Internal Revenue Service for each day or portion of each day during which the Board member is actually engaged in the performance of official duties. This compensation amount shall be in addition to the reimbursement of travel expenses per Oregon Statewide Travel Policy OAM 40.10.00PO.

(2) No Board member shall be required to accept compensation or reimbursement of travel expenses while performing their official duties as a Board member.

Stat. Auth.: ORS 679.230
Stats. Implemented: HB 2058, Oregon Law Chapter 535 (2009 Laws)
Hist.: OBD 2-2009, f. 10-21-09, cert. ef. 11-1-09

7- Div. 1
818-005-0035
Contesting a Fitness Determination

(1) This rule sets forth a contested case hearing process by which a subject individual may appeal a fitness determination made under OAR 818-005-0050 that he or she is fit or not fit to be a Board employee, volunteer, contractor, or vendor.

(2) The Attorney General’s Model Rules of Procedure, OAR 137-003-0001 through 137-003-0092, apply unless the Board refers the matter to the Office of Administrative Hearings to assign an Administrative Law Judge. If the Board refers the matter to the Office of Administrative Hearings, 137-003-0501 through 137-003-0700 shall apply.

(3) Process.

(a) To request a contested case hearing, the employee applicant/employee or the employee applicant/employee individual's legal representative must submit a written request to the Executive Director of the Board. To be timely, the request must be received by the Executive Director of the Board within 21 business days of the postmark of the fitness determination notification letter.

(b) A contested case hearing shall be conducted by an Administrative Law Judge appointed by the Office of Administrative Hearings once a timely request has been received by the Board as outlined in section (3)(a).

(4) The Administrative Law Judge will establish the time and place of the hearing. Notice of the hearing shall be served on the Board or designee and participants at least ten working days in advance of the hearing date.

(5) No Public Attendance. Contested case hearings on fitness determinations are closed to non-participants.

(6) A fitness determination made under OAR 818-005-0050 becomes final when:

(a) A timely request for hearing is not filed; or

(b) A party withdraws a hearing request, notifies the Board or the Administrative Law Judge that the party will not appear, or fails to appear for the hearing.

(7) The Administrative Law Judge will issue a proposed order following a hearing. Exceptions, if any, must be received by the Board within 10 working days after the service of the proposed order.

(8) An employee applicant/employee currently employed by the Board who is denied as unfit pursuant to a final fitness determination may appeal the fitness determination either under the contested case process made available by this rule or through a process available under applicable personnel rules, policies and collective bargaining agreements. An employee applicant’s/employee’s decision to appeal a fitness determination through applicable personnel rules, policies, and collective bargaining agreements is an election of remedies as to the rights of the individual with respect to the fitness determination and is a waiver of the contested case process made available by this rule.

(9) The only remedy that may be awarded is a determination that the employee applicant/employee is fit or not fit. Under no circumstances shall the Board be required to place an employee applicant/employee in any position, nor shall the Board be required to accept services or enter into a contractual agreement with an employee applicant/employee.

(10) An employee applicant/employee may not use the appeals process established by this rule to challenge the accuracy or completeness of information provided by the Oregon State Police, the Federal Bureau of Investigation, or agencies reporting information to the Oregon State Police or the Federal Bureau of Investigation. To challenge the accuracy or completeness of information identified in this section an employee applicant/employee may use any process made available by the agency that provided the information.

(11) Appealing a fitness determination, challenging criminal offender information with the agency that provided the information, or requesting a new criminal records check and re-
evaluation of the original fitness determination will not delay or postpone the Board’s hiring process or employment decisions.

(12) Alternative Process. An employee currently employed by the Board may choose to appeal a fitness determination either under the process made available by this rule or through a process made available by applicable personnel rules, policies and collective bargaining provision. A subject individual’s decision to appeal a fitness determination through applicable personnel rules, policies and collective bargaining provisions is an election of remedies as to the rights of the individual with respect to the fitness determination and is a waiver of the contested case process made available by this rule.

(13) The only remedy that may be awarded is a determination that the employee is fit or not fit. Under no circumstances shall the Board be required to place an employee in any position, or shall the Board be required to accept services or enter into a contractual agreement with an employee.

Stats. Implemented: ORS 676.303 & 181.534
Hist.: OBD 4-2011, f & cert. ef. 11-15-11;
OBD 2-2016, f. 11-2-16, cert. ef. 3-1-17

818-005-0040
Agency Representation

(1) Subject to the approval of the Attorney General, an officer or employee of the Board, designated by the Executive Director, is authorized to appear on behalf of the Board in contested case hearings conducted pursuant to these rules.

(2) Board officers, employees, or other authorized personnel may not present legal argument as defined under OAR 137-003-0008 on behalf of the Board in contested case hearings conducted pursuant to these rules.

(3) When the Board determines it is necessary to consult with the Attorney General’s office, the Administrative Law Judge will provide a reasonable period of time for a Board’s representative to consult with the Attorney General's office and to obtain either written or oral legal argument or advice, if necessary.

Stats. Implemented: ORS 676.303 & 181.534

818-005-0050
Criminal Records Check for Employees, Volunteers and Applicants

(1) The Board may require a criminal records check and fitness determination for Board employees, volunteers or applicants for employment with the Board.

(2) Criminal records checks and fitness determinations are conducted pursuant to ORS 181A.170 to 181A.215 and OAR 125-007-0200 to 125-007-0310.

(a) To complete the criminal records check and fitness determination, the Board may require additional information from the employee, volunteer or applicant, such as, but not limited to, proof of identity or additional criminal, judicial or other background information.

(b) If the employee, volunteer or applicant has potentially disqualifying criminal offender information, the Board will consider factors listed in ORS 181A.195 before making a fitness determination.

(c) An approved fitness determination does not guarantee employment.

(d) An incomplete fitness determination does not entitle the employee, volunteer or applicant the right to appeal under OAR 125-007-0300.

(3) Pursuant to ORS 181A.195, ORS 676.175, and OAR 125-007-0310, information obtained in the criminal records check is confidential and will not be disseminated by the Board except to persons with a demonstrated and legitimate need to know the information.

(4) The Board may charge a fee to the employee, volunteer or applicant for the criminal records check. The fee will not exceed the fee charged the Board by the OSP and the FBI to obtain such information.

Stat. Auth.: ORS 181A.195, 676.303
Stats. Implemented: ORS 181A.170, 181A.195, 181A215, 676.175, 676.303, 679.250
Hist.: OBD 2-2016, f.11-2-16, cert. ef. 3-1-17
DIVISION 12

STANDARDS OF PRACTICE

818-012-0005
Scope of Practice
(1) No dentist may perform any of the procedures listed below:
(a) Rhinoplasty;
(b) Blepharoplasty;
(c) Rhynidectomy;
(d) Submental liposuction;
(e) Laser resurfacing;
(f) Browlift, either open or endoscopic technique;
(g) Platysmal muscle plication;
(h) Otoplasty;
(i) Dermabrasion;
(j) Hair transplantation, not as an isolated procedure for male pattern baldness; and
(k) Harvesting bone extra orally for dental procedures, including oral and maxillofacial procedures.
(2) Unless the dentist:
(a) Has successfully completed a residency in Oral and Maxillofacial Surgery accredited by the American Dental Association, Commission on Dental Accreditation (CODA), or
(b) Holds privileges either:
   (A) Issued by a credentialing committee of a hospital accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) to perform these procedures in a hospital setting; or
   (B) Issued by a credentialing committee for an ambulatory surgical center licensed by the State of Oregon and accredited by either the JCAHO or the Accreditation Association for Ambulatory Health Care (AAAHC).
(3) A dentist may utilize Botulinum Toxin Type A and dermal fillers to treat a condition that is within the scope of the practice of dentistry after completing a minimum of 20 hours in a hands on clinical course(s), which includes both Botulinum Toxin Type A and dermal fillers, and the provider is approved by the Academy of General Dentistry Program Approval for Continuing Education (AGD PACE) or by the American Dental Association Continuing Education Recognition Program (ADA CERP).

818-012-0010
Unacceptable Patient Care
The Board finds, using the criteria set forth in ORS 679. 140(4), that a licensee engages in or permits the performance of unacceptable patient care if the licensee does or permits any person to:
(1) Provide treatment which exposes a patient to risk of harm when equivalent or better treatment with less risk to the patient is available.
(2) Fails to seek consultation whenever the welfare of a patient would be safeguarded or advanced by having recourse to those who have special skills, knowledge and experience; provided, however, that it is not a violation of this section to omit to seek consultation if other competent licensees in the same locality and in similar circumstances would not have sought such consultation.
(3) Fail to provide or arrange for emergency treatment for a patient currently receiving treatment.
(4) Fail to exercise supervision required by the Dental Practice Act over any person or permit any person to perform duties for which the person is not licensed or certified.
(5) Render services which the licensee is not licensed to provide.
(6) Fail to comply with ORS 453.605 to 453.755 or rules adopted pursuant thereto relating to the use of x-ray machines.
(7) Fail to maintain patient records in accordance with OAR 818-012-0070.
(8) Fail to provide goods or services in a reasonable period of time which are due to a patient pursuant to a contract with the patient or a third party.
(9) Attempt to perform procedures which the licensee is not capable of performing due to physical or mental disability.
(10) Perform any procedure for which the patient or patient’s guardian has not previously given informed consent provided, however, that in an emergency situation, if the patient is a minor whose guardian is unavailable or the patient is unable to respond, a licensee may render treatment in a reasonable manner according to community standards.
(11) Use the behavior management technique of Hand Over Mouth (HOM) without first obtaining informed consent for the use of the technique.
(12) Use the behavior management technique of Hand Over Mouth Airway Restriction (HOMAR) on any patient.
(13) Fail to determine and document a dental justification prior to ordering a Cone Beam CT series with field greater than 10x10 cm for patients under...
20 years of age where pathology, anatomical variation or potential treatment complications would not be otherwise visible with a Full Mouth Series, Panoramic or Cephalometric radiographs.

(14) Fail to advise a patient of any recognized treatment complications.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.140(1)(e), 679.140(4) & 680.100
Hist.: DE 6, f. 8-9-63, ef. 9-11-63; DE 14, f. 1-20-72, ef. 2-10-72; DE 5-1980, f. & ef. 12-26-80; DE 2-1982, f. & ef. 3-19-82; DE 5-1982, f. & ef. 5-26-82; DE 9-1984, f. & ef. 5-17-84; Renumbered from 818-010-0080; DE 3-1986, f. & ef. 3-31-86; DE 2-1997, f. & ef. 8-27-97; OBD 7-2001, f. & cert. ef. 1-8-01; OBD 2-2016, f. 11-2-16, cert. ef. 3/1/17

818-012-0015
Licensee to Notify Board of Certain Events
Licensees shall report to the Board incidents of mortality that occur in the course of the licensee’s practice.

(1) The licensee performing the dental procedure must submit a written detailed report to the Board within five working days of the incident along with the patient's complete original dental records. The detailed report(s) must include:
(a) Name, age and address of patient;
(b) Name of the licensee and other persons present during the incident;
(c) Address where the incident took place;
(d) Type of anesthesia and dosages of drugs administered to the patient; and
(e) A narrative description of the incident including approximate times and evolution of symptoms.

(2) Reports filed with the Board under this rule are confidential and are only subject to public disclosure pursuant to ORS 192.502(2).

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.250(7)
Hist.: OBD 10-2001, f. & cert. ef. 1-8-01

818-012-0020
Additional Methods of Discipline for Unacceptable Patient Care
In addition to other discipline, the Board may order a licensee who engaged in or permitted unacceptable patient care to:

(1) Make restitution to the patient in an amount to cover actual costs in correcting the unacceptable care.
(2) Refund fees paid by the patient with interest.
(3) Complete a Board-approved course of remedial education.
(4) Discontinue practicing in specific areas of dentistry or hygiene.
(5) Practice under the supervision of another licensee.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.140(5)(h) & 680.100
Hist.: DE 3-1986, f. & ef. 3-31-86; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; Renumbered from 818-001-0045

818-012-0030
Unprofessional Conduct
The Board finds that in addition to the conduct set forth in ORS 679.140(2), unprofessional conduct includes, but is not limited to, the following in which a licensee does or knowingly permits any person to:

(1) Attempt to obtain a fee by fraud, or misrepresentation.
(2) Obtain a fee by fraud, or misrepresentation.
(a) A licensee obtains a fee by fraud if the licensee knowingly makes, or permits any person to make, a material, false statement intending that a recipient, who is unaware of the truth, rely upon the statement.
(b) A licensee obtains a fee by misrepresentation if the licensee obtains a fee through making or permitting any person to make a material, false statement.
(c) Giving cash discounts and not disclosing them to third party payers is not fraud or misrepresentation.
(3) Offer rebates, split fees, or commissions for services rendered to a patient to any person other than a partner, employee, or employer.
(4) Accept rebates, split fees, or commissions for services rendered to a patient from any person other than a partner, employee, or employer.
(5) Initiate, or engage in, with a patient, any behavior with sexual connotations. The behavior can include but is not limited to, inappropriate physical touching; kissing of a sexual nature; gestures or expressions, any of which are sexualized or sexually demeaning to a patient; inappropriate procedures, including, but not limited to, disrobing and draping practices that reflect a lack of respect for the patient's privacy; or initiating inappropriate communication, verbal or written, including, but not limited to, references to a patient's body or clothing that are sexualized or sexually demeaning to a patient; and inappropriate comments or queries about the professional's or patient's sexual orientation, sexual
(6) Engage in an unlawful trade practice as defined in ORS 646.605 to 646.608.

(7) Fail to present a treatment plan with estimated costs to a patient upon request of the patient or to a patient's guardian upon request of the patient's guardian.

(8) Misrepresent any facts to a patient concerning treatment or fees.

(9)(a) Fail to provide a patient or patient's guardian within 14 days of written request:
(A) Legible copies of records; and
(B) Duplicates of study models, radiographs of the same quality as the originals, and photographs if they have been paid for.

(b) The licensee may require the patient or guardian to pay in advance a fee reasonably calculated to cover the costs of making the copies or duplicates. The licensee may charge a fee not to exceed $30 for copying 10 or fewer pages of written material and no more than $0.50 per page for pages 11 through 50 and no more than $0.25 for each additional page (including records copied from microfilm), plus any postage costs to mail copies requested and actual costs of preparing an explanation or summary of information, if requested. The actual cost of duplicating radiographs may also be charged to the patient. Patient records or summaries may not be withheld from the patient because of any prior unpaid bills, except as provided in (9)(a)(B) of this rule.

(10) Fail to identify to a patient, patient's guardian, or the Board the name of an employee, employer, contractor, or agent who renders services.

(11) Use prescription forms pre-printed with any Drug Enforcement Administration number, name of controlled substances, or facsimile of a signature.

(12) Use a rubber stamp or like device to reproduce a signature on a prescription form or sign a blank prescription form.


(14) Violate any Federal or State law regarding controlled substances.

(15) Becomes addicted to, or dependent upon, or abuses alcohol, illegal or controlled drugs, or mind altering substances, or practice with an untreated substance use disorder diagnosis that renders the licensee unable to safely conduct the practice of dentistry or dental hygiene.

(16) Practice dentistry or dental hygiene in a dental office or clinic not owned by an Oregon licensed dentist(s), except for an entity described under ORS 679.020(3) and dental hygienists practicing pursuant to ORS 680.205(1)(2).

(17) Make an agreement with a patient or person, or any person or entity representing patients or persons, or provide any form of consideration that would prohibit, restrict, discourage or otherwise limit a person's ability to file a complaint with the Oregon Board of Dentistry; to truthfully and fully answer any questions posed by an agent or representative of the Board; or to participate as a witness in a Board proceeding.

(18) Fail to maintain at a minimum a current BLS for Healthcare Providers certificate or its equivalent. (Effective January 2015).

(19) Conduct unbecoming a licensee or detrimental to the best interests of the public, including conduct contrary to the recognized standards of ethics of the licensee’s profession or conduct that endangers the health, safety or welfare of a patient or the public.

(20) Knowingly deceiving or attempting to deceive the Board, an employee of the Board, or an agent of the Board in any application or renewal, or in reference to any matter under investigation by the Board. This includes but is not limited to the omission, alteration or destruction of any record in order to obstruct or delay an investigation by the Board, or to omit, alter or falsify any information in patient or business records.

(21) Knowingly practicing with a physical or mental impairment that renders the Licensee unable to safely conduct the practice of dentistry or dental hygiene.

(22) Take any action which could reasonably be interpreted to constitute harassment or retaliation towards a person whom the licensee believes to be a complainant or witness.

[Publications: Publications referenced are available from the agency.]
818-012-0032
Diagnostic Records
  1) Licensees shall provide duplicates of physical diagnostic records that have been paid for to patient or patient's guardian within 14 calendar days of receipt of written request.
     (A) Physical records include silver emulsion radiographs, physical study models, paper charting and chart notes.
     (B) Licensees may require the patient or patient's guardian to pay in advance the fee reasonably calculated to cover costs of making the copies or duplicates.
        (1) Licensee may charge a fee not to exceed $30 for copying 10 or fewer pages of written material and no more than $0.50 per page for 11-50 and no more than $0.25 for each additional page, including cost of microfilm plus any postage costs to mail copies requested and actual costs of preparing an explanation or summary of information, if requested. The actual costs of duplicating radiographs may also be charged to the patient.
        (2) Licensees shall provide duplicates of digital patient records within 14 calendar days of receipt of written request by the patient or patient's guardian.
           (A) Digital records include any patient diagnostic image, study model, test result or chart record in digital form.
           (B) Licensees may require the patient or patient’s guardian to pay for the typical retail cost of the digital storage device, such as a CD, thumb drive, or DVD as well as associated postage.
           (C) Licensees shall not charge any patient or patient’s guardian to transmit requested digital records over email if total records do not exceed 25 Mb.
           (D) A clinical day is defined as a day during which the dental clinic treated scheduled patients.
           (E) Licensees may charge up to $5 for duplication of digital records up to 25Mb and up to $30 for more than 25Mb.
           (F) Any transmission of patient records shall be in compliance with the Health Insurance Portability and Accountability Act (HIPAA Act) and the Health Information Technology for Economic and Clinical Health Act (HITECH Act).
           (G) Duplicated digital records shall be of the same quality as the original digital file.
           (3) If a records summary is requested by patient or patient’s guardian, the actual cost of creating this summary and its transmittal may be billed to the patient or patient’s guardian.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679
Hist.: OBD 2-2016, f. 11-2-16, cert. ef. 3-1-17

818-012-0040
Infection Control Guidelines
  In determining what constitutes unacceptable patient care with respect to infection control, the Board may consider current infection control guidelines such as those of the Centers for Disease Control and Prevention and the American Dental Association.
  (1) Additionally, licensees must comply with the following requirements:
      (a) Disposable gloves shall be worn whenever placing fingers into the mouth of a patient or when handling blood or saliva contaminated instruments or equipment. Appropriate hand hygiene shall be performed prior to gloving.
      (b) Masks and protective eyewear or chin-length shields shall be worn by licensees and other dental care workers when spattering of blood or other body fluids is likely.
      (c) Between each patient use, instruments or other equipment that come in contact with body fluids shall be sterilized.
      (d) Environmental surfaces that are contaminated by blood or saliva shall be disinfected with a chemical germicide which is mycobactericidal at use.
      (e) Impervious backed paper, aluminum foil, or plastic wrap may be used to cover surfaces that may be contaminated by blood or saliva and are difficult or impossible to disinfect. The cover shall be replaced between patients.
      (f) All contaminated wastes and sharps shall be disposed of according to any governmental requirements.
  (2) Licensees must comply with the requirement that heat sterilizing devices shall be tested for proper function by means of a biological monitoring system that indicates micro-organisms kill each calendar week in which scheduled patients are treated. Testing results shall be retained by the licensee for the current calendar year and the two preceding calendar years.

Stats. Implemented: ORS 679.140, 679.140(4) & 680.100
Failure to Cooperate with Board

(1) No licensee shall:
   (a) Fail to report to the Board violations of the Dental Practice Act.
   (b) Use threats or harassment to delay or obstruct any person in providing evidence in any investigation, contested case, or other legal action instituted by the Board.
   (c) Discharge an employee based primarily on the employee's attempt to comply with or aid in the compliance with the Dental Practice Act.
   (d) Use threats or harassment to obstruct or delay the Board in carrying out its functions under the Dental Practice Act.
   (e) Deceive or attempt to deceive the Board with respect to any matter under investigation including altering or destroying any records.
   (f) Make an untrue statement on any document, letter, or application submitted to the Board.
   (g) Fail to temporarily surrender custody of original patient records to the Board when the Board makes a written request for the records. For purposes of this rule, the term records includes, but is not limited to, the jacket, treatment charts, models, radiographs, photographs, health histories, billing documents, correspondence and memoranda.
   (h) Fail to cooperate with the Board during the course of an investigative.

(2) No applicant shall:
   (a) Deceive or attempt to deceive the Board with respect to any matter under investigation including altering or destroying any records.
   (b) Make an untrue statement on any document, letter, or application submitted to the Board.
   (c) Fail to cooperate with the Board during the course of an investigative.

Stat. Auth.: ORS 679 & 680
Hist.: DE 9-1984, f. & ef. 5-17-84; DE 1-1988, f. & ef. 12-28-88, cert. ef. 2-1-89; DE 1-1989, f. & ef. 1-27-89, cert. ef. 2-1-89; Renumbered from 818-011-0050; DE 2-1997, f. & cert. ef. 2-20-97; OBD 1-2008, f. & ef. 11-10-08, cert. ef. 12-1-08; OBD 2-2016, f. & cert. ef. 3-1-17

Patient Records

(1) Each licensee shall have prepared and maintained an accurate record for each person receiving dental services, regardless of whether any fee is charged. The record shall contain the name of the licensee rendering the service and include:
   (a) Name and address and, if a minor, name of guardian;
   (b) Date description of examination and diagnosis;
   (c) An entry that informed consent has been obtained and the date the informed consent was obtained. Documentation may be in the form of an acronym such as "PARQ" (Procedure, Alternatives, Risks and Questions) or "SOAP" (Subjective Objective Assessment Plan) or their equivalent.
   (d) Date and description of treatment or services rendered;
   (e) Date, description and documentation of informing the patient of any recognized treatment complications;
   (f) Date and description of all radiographs, study models, and periodontal charting;
   (g) Health history; and
   (h) Date, name of, quantity of, and strength of all drugs dispensed, administered, or prescribed.

(2) Each licensee shall have prepared and maintained an accurate record of all charges and payments for services including source of payments.

(3) Each licensee shall maintain patient records and radiographs for at least seven years from the date of last entry unless:
   (a) The patient requests the records, radiographs, and models be transferred to another licensee who shall maintain the records and radiographs;
   (b) The licensee gives the records, radiographs, or models to the patient; or
   (c) The licensee transfers the licensee’s practice to another licensee who shall maintain the records and radiographs.

(4) When changing practice locations, closing a practice location or retiring, each licensee must retain patient records for the required amount of time or transfer the custody of patient records to another licensee licensed and practicing dentistry in Oregon. Transfer of patient records pursuant to this section of this rule must be reported to the Board in writing within 14 days of transfer, but not later than the effective date of the change in practice location, closure of the practice location or retirement. Failure to transfer the custody of patient records as required in this rule is unprofessional conduct.

(5) Upon the death or permanent disability of a licensee, the administrator, executor, personal representative, guardian, conservator or receiver of the former licensee must notify the Board in writing of the
management arrangement for the custody and transfer of patient records. This individual must ensure the security of and access to patient records by the patient or other authorized party, and must report arrangements for permanent custody of patient records to the Board in writing within 90 days of the death of the licensee.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.140(1)(e) & 679.140(4)
Hist.: DE 9-1984, f. & ef. 5-17-84; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, DE 1-1989, f. 1-27-90, cert. ef. 2-1-90; Renumbered from 818-011-0060; DE 1-1990, f. 3-19-90, cert. ef. 4-2-90; OBD 7-2001, f. & cert. ef. 1-8-01; OBD 2-2016, f. 11-2-16, cert. ef. 3-1-17

818-012-0075
Administration of Local Anesthesia – Lip Color Procedures

A dentist licensed in Oregon may administer local anesthesia to a person who proposes to receive permanent lip color and/or permanent hair removal in the lip area from a permanent color technician/tattoo artist or an electrologist licensed under ORS 690.350 to 690.430. Prior to the administration of local anesthesia for this purpose, the licensed dentist shall:

(1) Receive a written order from a licensed permanent color technician/tattoo artist or a licensed electrologist, which shall be maintained in the patient record;
(2) Obtain a current health history;
(3) Perform an oral examination; and
(4) Create and maintain a patient record as required by OAR 818-012-0070.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.500
Hist.: OBD 6-2000, f. 6-22-00, cert. ef. 7-1-00; OBD 1-2004, f. 5-27-04, cert. ef. 6-1-04

818-012-0080
Prescription Practices

(1) In conjunction with dental treatment, a dentist may prescribe, dispense, or administer medications relevant to the care being provided.
(2) It is improper to prescribe or dispense drugs outside the scope of the practice of dentistry or in a manner that impairs the health and safety of an individual including:
(a) Prescribing or dispensing drugs in such amounts as to constitute a departure from the prevailing standards of acceptable dental practice; and
(b) Prescribing or dispensing controlled substances for persons who are not patients of record in the dentist's practice unless the dentist is acting on behalf of the dentist of record.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.140(2)(h) & 680.100

818-012-0090
Obtaining Controlled Substances

(1) No licensee shall obtain or attempt to obtain any controlled substance by any misrepresentation or subterfuge.
(2) No licensee shall prescribe any controlled substance for the licensee's personal consumption.
(3) No licensee shall purchase any controlled substance for the licensee's personal consumption other than by prescription from a licensed practitioner in conjunction with treatment to the licensee.

Stat. Auth.: ORS Ch. 679 & 680
Stats. Implemented: ORS 679.140(2)(g) & 680.100

818-012-0100
Controlled Substances Record Keeping Requirements

(1) Each dentist shall have a current and constant inventory of all controlled substances.
(2) Each time a dentist dispenses any drug listed on Schedule II of the Drug Abuse Prevention and Control Act, 21 U.S.C., Sec 812, the dentist shall record the following information on a readily retrievable record of dispensing maintained separate from patient records:
(a) Name of each patient;
(b) Name, strength, and quantity of the drug dispensed; and
(c) Date the drug was dispensed.
(3) Each dentist shall:
(a) Maintain a record of any controlled substance lost, destroyed, or stolen which shall include the name and quantity of the controlled substance and the date of such loss, destruction or theft; and
(b) Report the loss, destruction, or theft to the United States Drug Enforcement Administration regional office.

[Publications: Publications referenced are available from the agency.]
818-012-0110
Extension of Authority to Operate a Dental Practice

(1) Upon the death or disability of a shareholder dentist, the administrator, executor, personal representative, guardian, conservator or receiver of the former dentist shareholder shall notify the Board in writing of the management arrangement for the dental practice.

(2) At least 30 days prior to the expiration of an initial 12-month period following the creation of an ownership interest described in ORS 679.020(7), the administrator, executor, personal representative, guardian, conservator or receiver of the former dentist shareholder shall submit to the Board a written request for extension of authority to continue maintaining and operating a dental practice. One 12-month extension (for a total of 24 months) shall be automatically granted.

(3) Any request for extension beyond 24 months shall be submitted in writing to the Board at least 60 days prior to the expiration of the 24-month period. The Board on a case-by-case basis shall review such requests.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.020
Hist.: OBD 1-2004, f. 5-27-04, cert. ef. 6-1-04
DIVISION 13

HEALTH PROFESSIONALS’ SERVICES PROGRAM

818-013-0001

Definitions

For the purpose of this section, the following definitions apply:

(1) “Confidential” means that, to the highest degree possible, the identities of the licensees investigated for alleged addiction to, dependence upon, or abuse of alcohol, drugs, and mind altering substances, or mental health disorders, and who have a diagnosed substance abuse disorder or mental health disorder, will be kept confidential by the Board and not be a matter of public record.

(2) “Diagnosis” means the principal mental health or substance use diagnosis listed in the DSM. The diagnosis is determined through the evaluation and any examinations, tests, or consultations suggested by the evaluation, and is the medically appropriate reason for services.

(3) “Direct Observe” means that a collection taker is in the restroom with donor and observes the providing of the sample throughout the entire process.

(4) “Diversion Coordinator” means the individual(s) authorized by the Board and the Executive Director to know the identities of the licensees who are candidates for or who are enrolled in HPSP.

(5) “Division” means the Oregon Health Authority, Addictions and Mental Health Division.

(6) “DSM” means the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association.

(7) “Evaluation” means the process a Board approved, independent evaluator uses to diagnose the licensee’s symptoms and to recommend treatment options for the licensee.

(8) “Health Professionals’ Services Program” (HPSP) means the consolidated, statewide health professionals program for licensees diagnosed with a substance use disorder, a mental health disorder, or both types of disorders, as established by ORS 676.190.

(9) “Independent evaluator” means a Board approved individual or entity qualified to evaluate, diagnose, and recommend treatment regimens for substance abuse disorders, mental health disorders, or co-occurring disorders.

(10) “Mental health disorder” means a clinically significant behavioral or psychological syndrome or pattern that occurs in an individual and that is associated with present distress or disability or with a significantly increased risk of suffering death, pain, disability, or an important loss of freedom that is identified in the DSM. “Mental health disorder” includes gambling disorders.

(11) “Monitoring agreement” means an individualized agreement between a licensee and the HPSP vendor that meets the requirements for a diversion agreement set by ORS 676.190.

(12) “Monitoring Entity” means an independent third-party that monitors licensees’ program enrollment statuses and monitoring agreement compliance.

(13) “Non-disciplinary” means the Board will not take disciplinary action or enter disciplinary orders against a licensee who agrees to enter into the HPSP and remains compliant with that program.

(14) “Non-identifying” means a system where the licensee is referred to by number rather than name and the licensee’s identity remains confidential to the Board.

(15) “Program” means the process whereby allegations of addiction to, dependence upon, or abuse of alcohol, drugs, or mind altering substances or mental health disorders are investigated, evaluated, and reported to the Board for action.

(16) “Substance Use Disorders” means disorders related to the taking of a drug of abuse including alcohol, to the side effects of a medication, and to a toxin exposure. The disorders include substance use disorders such as substance dependence and substance abuse, and substance-induced disorders, including substance intoxication, withdrawal, delirium, and dementia, as well as substance induced psychotic disorder, mood disorder, etc., as defined in DSM criteria.

(17) “Substantial non-compliance” means that a licensee is in violation of the terms of his or her monitoring agreement in a way that gives rise to concerns about the licensee’s ability or willingness to participate in the program. Substantial non-compliance and non-compliance
include, but are not limited to, the factors listed in ORS 676.190(1)(f). Conduct that occurred before a licensee entered into a monitoring agreement does not violate the terms of that monitoring agreement.

(18) “Successful completion” means the licensee has complied with the licensee’s monitoring agreement to the satisfaction of the Board.

(19) “Toxicology testing” means urine testing or alternative chemical monitoring including, but not limited to blood, saliva, or breath as conducted by a laboratory certified, accredited or licensed and approved for toxicology testing.

(20) “Treatment” means the planned, specific, individualized health and behavioral-health procedures, activities, services and supports that a treatment provider uses to remediate symptoms of a substance use disorder, mental health disorder or both types of disorders.

(21) “Vendor” means the entity that has contracted with the Division to conduct the program.

(22) “Voluntary” means that the Board cannot compel a licensee to enter the HPSP.

Stat. Auth.: ORS 676, 679 & 680
Stats. Implemented: ORS 676.185, 676.190, 676.195, 676.200676.140(e)
Hist.: OBD 2-2010(Temp), f. & cert. ef. 8-6-10 thru 2-1-11; OBD 1-2011, f. 1-11-11, cert. ef. 2-1-11; OBD 3-2013, f. 10-24-13, cert. ef. 1-1-14

818-013-0005 Participation in Health Professionals’ Services Program

(1) Effective July 1, 2010, the Board participates in the Health Professionals’ Services Program (HPSP).

(a) The Board establishes procedures to process cases of licensees preparatory to transfer to HPSP.

(b) The procedures will be confidential, non-disciplinary, and voluntary.

(c) The Executive Director will have overall management responsibilities for the procedures. The Executive Director will designate Board staff to serve as Diversion Coordinator(s) who will manage and conduct investigations and report to the Board.

(d) The Diversion Coordinator(s) will investigate information related to addiction to, dependence upon, or abuse of alcohol, drugs, or mind altering substances or mental health disorders, by licensees and provide licensees with resources for evaluations, if appropriate.

(2) Only licensees of the Board who meet the referral criteria may be referred by the Board to the HPSP.

(a) The Board may refer a licensee to the HPSP in lieu of public discipline.

(b) In the event a licensee declines to submit to an evaluation or declines referral to HPSP, the Diversion Coordinator(s) will present the matter to the Board for decision and the Board’s action may jeopardize the confidential nature of licensee’s status as a candidate for, or enrollment in, HPSP.

Stats. Auth.: ORS 676, 679 & 680
Stats. Implemented: ORS 676.185, 676.190, 676.195, 676.200 & 676.140(e)
Hist.: OBD 2-2010(Temp), f. & cert. ef. 8-6-10 thru 2-1-11; OBD 1-2011, f. 1-11-11, cert. ef. 2-1-11; OBD 3-2013, f. 10-24-13, cert. ef. 1-1-14

818-013-0010 Procedures for Board Referrals

(1) When the Board receives information involving a licensee who may have a substance related disorder, mental disorder, or both types of disorders, the Board staff will investigate and complete a non-identifying confidential report to be presented at a Board meeting.

(2) The Board will consider all relevant factors before determining whether to refer a licensee to the HPSP, including but not limited to licensee’s disciplinary history; the severity and duration of the licensee’s impairment; the extent to which licensee’s practice can be limited or managed to eliminate danger to the public; and the likelihood that licensee’s impairment can be managed with treatment.

(3) If a licensee meets referral criteria and the Board approves entry into the HPSP, the Board will provide a written referral to HPSP.
**818-013-0015**

**Referral of Licensees to the HPSP**

(1) A Board referral to HPSP will include, at a minimum:

(a) Copies of documents from a Board approved independent evaluator which provide a diagnosis of a substance related disorder or a mental health disorder or both disorders, and provide treatment options;

(b) A written statement from the Board as to whether the licensee’s impairment presents, or presented, a danger to the public;

(c) A written statement from the licensee agreeing to enter the HPSP in lieu of discipline and agreeing to abide by all of the terms and conditions established by the vendor;

(d) A written statement that the licensee has agreed to report any arrest for or conviction of a misdemeanor or felony crime to the Board within three (3) business days after the licensee is arrested or convicted; and

(e) A letter of instruction to the vendor detailing the additional agreement provisions required by the Board.

(2) For referral to HPSP, the licensee shall:

(a) Sign an Agreement to Enter the Health Professionals’ Services Program.

(b) Provide written authorization allowing for the release of documents by the Board to the HPSP vendor, and permit the verbal exchange of information between the Board and the HPSP vendor.

(c) Within one (1) business day of the effective date of the Agreement to Enter the Health Professionals’ Services Program, licensee will make contact with the HPSP vendor to initiate procedures to enter HPSP.

**818-013-0020**

**Additional Required Provisions**

(1) Prior to referral to HPSP, the licensee shall agree, by written statement, to waive any privilege with respect to any physical, psychiatric, psychological, or substance use treatment, in favor of the Board; and to execute waivers or releases with any and all health care providers to permit exchange of information between the health care providers and the Board.

(2) Monitoring agreement will be for a minimum of five (5) years, or as determined by the Board.

(3) Urinalysis testing shall be directly observed.

(4) Licensee shall assure that at all times the Board has the most current information regarding licensee’s address and telephone numbers for both residences and employments.

(5) Licensee will be responsible for all costs for treatment including, but not limited to, evaluations, residential treatment, after care regimens, group therapy programs, counseling, and toxicology testing. Failure to meet those financial obligations may constitute substantial non-compliance.

(6) As warranted, the Board shall add any additional agreement provisions and will convey those to the vendor by letter of instruction.

Stat. Auth.: ORS 676, 679 & 680
Stats. Implemented: ORS 676.185, 676.190, 676.195, 676.200 & 676.140(e)
Hist.: OBD 2-2010(Temp), f. & cert. ef. 8-6-10 thru 2-1-11; OBD 1-2011, f. 1-11-11, cert. ef. 2-1-11

**818-013-0025**

**Approval of Independent Evaluators**

(1) To be approved by the Board as an independent evaluator, an evaluator must be:

(a) Licensed as required by the jurisdiction in which the evaluator works; and

(b) Able to provide a comprehensive assessment of and written report describing a licensee’s diagnosis, degree of impairment, and treatment options.

(2) The Board will not accept an independent evaluator in a particular case if, in the Board’s judgment, the evaluator’s judgment is likely to be influenced by a personal or professional relationship with a licensee.

(3) The Board will maintain a list of approved independent evaluators on the Board’s Web site at www.oregon.gov/Dentistry.

Stat. Auth.: ORS 676, 679 & 680
Stats. Implemented: ORS 676.185, 676.190, 676.195, 676.200 & 676.140(e)
Hist.: OBD 2-2010(Temp), f. & cert. ef. 8-6-10 thru 2-1-11; OBD 1-2011, f. 1-11-11, cert. ef. 2-1-11
818-013-0030
Approval of Treatment Providers

(1) To be approved by the Board as a treatment provider, a provider must be:
   (a) Licensed as required by the jurisdiction in which the provider works; and
   (b) Able to provide appropriate treatment considering licensee’s diagnosis, degree of impairment, and treatment options proposed by the independent evaluator.

(2) The Board will not accept a provider as a treatment provider in a particular case if, in the Board’s judgment, the treatment provider’s judgment is likely to be influenced by a personal or professional relationship with a licensee.

(3) The Board will maintain a list of approved treatment providers on the Board’s Web site at www.oregon.gov/Dentistry.

Stat. Auth.: ORS 676, 679 & 680
Stats. Implemented: ORS 676.185, 676.190, 676.195, 676.200 & 676.140(e)
Hist.: OBD 2-2010(Temp), f. & cert. ef. 8-6-10 thru 2-1-11; OBD 1-2011, f. 1-11-11, cert. ef. 2-1-11

818-013-0035
Non-Compliance Action

The Board, upon being notified of a licensee’s substantial non-compliance, will investigate and determine the appropriate sanction which may include, but is not limited to, a limitation of licensee’s practice and any other sanction, up to and including termination from HPSP and formal discipline. In the event the HPSP vendor or the monitoring entity reports a matter of non-compliance to the Diversion Coordinator(s), the matter, following an investigation, will be brought to the Board for decision and the Board’s action may jeopardize the confidential nature of licensee’s enrollment in HPSP.

Stat. Auth.: ORS 676, 679 & 680
Stats. Implemented: ORS 676.185, 676.190, 676.195, 676.200 & 676.140(e)
Hist.: OBD 2-2010(Temp), f. & cert. ef. 8-6-10 thru 2-1-11; OBD 1-2011, f. 1-11-11, cert. ef. 2-1-11
DIVISION 15

ADVERTISING

818-015-0005
General Provisions

(1) "To advertise" means to publicly communicate information about a licensee's professional services or qualifications for the purpose of soliciting business.

(2) Advertising shall not be false, deceptive, misleading or not readily subject to verification and shall not make claims of professional superiority which cannot be substantiated by the licensee, who shall have the burden of proof.

(3) A licensee who authorizes another to disseminate information about the licensee's professional services to the public is responsible for the content of that information unless the licensee can prove by clear and convincing evidence that the content of the advertisement is contrary to the licensee's specific directions.

Stat. Auth.: OR 679
Stats. Implemented: ORS 679.140(2)(e)
Hist.: DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; DE 1-1990, f. 3-19-90, cert. ef. 4-2-90; DE 3-1997, f. & cert. ef. 8-27-97; OBD 5-2001, f. & cert. ef. 1-8-01; OBD 1-2006, f. 3-17-06, cert. ef. 4-1-06; OBD 1-2008, f. 11-10-08, cert. ef. 12-1-08; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 4-2011, f. & cert. ef. 11-15-11

818-015-0007
Specialty Advertising

(1) A dentist may only advertise as a specialist in an area of dentistry which is recognized by the Board and in which the dentist is licensed or certified by the Board.

(2) The Board recognizes the following specialties:

(a) Endodontics;
(b) Oral and Maxillofacial Surgery;
(c) Oral and Maxillofacial Radiology;
(d) Oral and Maxillofacial Pathology;
(e) Orthodontics and Dentofacial Orthopedics;
(f) Pediatric Dentistry;
(g) Periodontics;
(h) Prosthodontics; and
(i) Dental Public Health.

(3) A dentist whose license is not limited to the practice of a specialty under OAR 818-021-0017 may advertise that the dentist performs or limits practice to specialty services even if the dentist is not a specialist in the advertised area of practice so long as the dentist clearly discloses that the dentist is a general dentist or a specialist in a different specialty. For example, the following disclosures would be in compliance with this rule for dentists except those licensed pursuant to 818-021-0017: "Jane Doe, DDS, General Dentist, practice limited to pediatric dentistry." "John Doe, DMD, Endodontist, practice includes prosthodontics."
DIVISION 21
EXAMINATION AND LICENSING

818-021-0010
Application for License to Practice Dentistry

(1) An applicant to practice general dentistry, in addition to the requirements set forth in ORS 679.060 and 679.065, shall submit to the Board satisfactory evidence of:

(a) Having graduated from a school of dentistry accredited by the Commission on Dental Accreditation of the American Dental Association; or

(b) Having graduated from a dental school located outside the United States or Canada, completion of a predoctoral dental education program of not less than two years at a dental school accredited by the Commission on Dental Accreditation of the American Dental Association, and proficiency in the English language; and

(c) Certification of having passed the dental examination administered by the Joint Commission on National Dental Examinations or Canadian National Dental Examining Board Examination.

(2) An applicant who has not met the educational requirements for licensure may apply for examination if the Dean of an accredited school certifies the applicant will graduate.

(3) An applicant must pass a Board examination consisting of a clinical portion administered by the Board, or any clinical Board examination administered by any state or regional testing agency and a jurisprudence portion administered by the Board. Clinical examination results will be recognized by the Board for five years.

(4) An applicant who passes the clinical portion but not the jurisprudence portion of the examination may retake the jurisprudence examination without limit on the number of times. The applicant must pass the jurisprudence portion within five years of passing the clinical portion or must retake the clinical examination.

(5) A person who fails any Board approved clinical examination three times must successfully complete the remedial training recommended by the testing agency. Such remedial training must be conducted by a dental school accredited by the Commission on Dental Accreditation of the American Dental Association.

818-021-0011
Application for License to Practice Dentistry Without Further Examination

(1) The Oregon Board of Dentistry may grant a license without further examination to a dentist who holds a license to practice dentistry in another state or states if the dentist meets the requirements set forth in ORS 679.060 and 679.065 and submits to the Board satisfactory evidence of:

(a) Having graduated from a school of dentistry accredited by the Commission on Dental Accreditation of the American Dental Association; or

(b) Having graduated from a dental school located outside the United States or Canada, completion of a predoctoral dental education program of not less than two years at a dental school accredited by the Commission on Dental Accreditation of the American Dental Association or completion of a postdoctoral General Dentistry Residency program of not less than two years at a dental school accredited by the Commission on Dental Accreditation of the American Dental Association, and proficiency in the English language; and

(c) Having passed the dental clinical examination conducted by a regional testing agency or by a state dental licensing authority; and

(d) Holding an active license to practice dentistry, without restrictions, in any state; including documentation from the state dental board(s) or equivalent authority, that the applicant was issued a license to practice dentistry, without restrictions, and whether or not the licensee is, or has been, the subject of any final or pending disciplinary action; and

(e) Having conducted licensed clinical practice in Oregon, other states or in the Armed Forces of the United States, the United States Public Health Service or the United States Department of Veterans Affairs for a minimum of 3,500 hours in the five years immediately preceding application. Licensed clinical practice could include hours devoted to teaching by dentists employed by a dental education program in a CODA accredited dental school, with verification from the dean or appropriate administration of the institution documenting the length and terms of employment, the applicant's duties and responsibilities, the actual hours involved in teaching clinical dentistry, and any adverse actions or
restrictions; and
(f) Having completed 40 hours of continuing education in accordance with the Board’s continuing education requirements contained in these rules within the two years immediately preceding application.

(2) Applicants must pass the Board’s Jurisprudence Examination.

(3) A dental license granted under this rule will be the same as the license held in another state; i.e., if the dentist holds a general dentistry license, the Oregon Board will issue a general (unlimited) dentistry license. If the dentist holds a license limited to the practice of a specialty, the Oregon Board will issue a license limited to the practice of that specialty. If the dentist holds more than one license, the Oregon Board will issue a dental license which is least restrictive.

Stat. Auth.: ORS 679
Hist.: OBD 4-1999, f. 6-25-99, cert. ef. 7-1-99; OBD 4-2001, f. & cert. ef. 1-8-01; OBD 1-2002 (Temp), f. & cert. ef. 1-9-01 thru 7-7-01; OBD 14-2001 (Temp), f. 8-2-01, cert. ef. 8-15-01 thru 2-10-02; OBD 15-2001, f. 12-7-01, cert. ef. 1-1-02; OBD 1-2002 (Temp), f. & cert. ef. 7-17-02 thru 1-12-03; Administrative correction 4-16-03; OBD 1-2003, f. & cert. ef. 4-18-03; OBD 1-2004, f. 5-27-04, cert. ef. 6-1-04; OBD 3-2004, f. 11-23-04 cert. ef. 12-1-04; OBD 1-2006, f. 3-17-06, cert. ef. 4-1-06; OBD 2-2016, f. 11-2-16, cert. ef. 3-1-17; OBD 1-2017, f. 2-13-17, cert. ef. 3-1-17

818-021-0015
Certification as a Specialist

The Board may certify a dentist as a specialist if the dentist:
(1) Holds a current Oregon dental license;
(2) Is a diplomate or a fellow in a specialty board accredited or recognized by the American Dental Association; or
(3) Has completed a post-graduate program approved by the Commission on Dental Accreditation of the American Dental Association; or
(4) Was qualified to advertise as a specialist under former OAR 818-010-0061.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.140(2)(d)
Hist.: DE 3-1997, f. & cert. ef. 8-27-97; OBD 5-1999, f. 6-25-99, cert. ef. 7-1-99

818-021-0017
Application to Practice as a Specialist

(1) A dentist who wishes to practice as a specialist in Oregon, who does not have a current Oregon license, in addition to meeting the requirements set forth in ORS 679.060 and 679.065, shall submit to the Board satisfactory evidence of:
(a) Having graduated from a school of dentistry accredited by the Commission on Dental Accreditation of the American Dental Association and active licensure as a general dentist in another state. Licensure as a general dentist must have been obtained as a result of the passage of any clinical Board examination administered by any state or regional testing agency;
(b) Certification of having passed the dental examination administered by the Joint Commission on National Dental Examinations or Canadian National Dental Examining Board Examination; and
(c) Proof of satisfactory completion of a post-graduate specialty program accredited by the Commission on Dental Accreditation of the American Dental Association.

(2) A dentist who graduated from a dental school located outside the United States or Canada who wishes to practice as a specialist in Oregon, who does not have a current Oregon license, in addition to meeting the requirements set forth in ORS 679.060 and 679.065, shall submit to the Board satisfactory evidence of:
(a) Completion of a post-graduate specialty program of not less than two years at a dental school accredited by the Commission on Dental Accreditation of the American Dental Association,
proficiency in the English language, and evidence of active licensure as a general dentist in another state obtained as a result of the passage of any clinical Board examination administered by any state or regional testing agency; or
(b) Completion of a post-graduate specialty program of not less than two years at a dental school accredited by the Commission on Dental Accreditation of the American Dental Association, proficiency in the English language and certification of having successfully passed the clinical examination administered by any state or regional testing agency within the five years immediately preceding application; and
(c) Certification of having passed the dental examination administered by the Joint Commission on National Dental Examinations or Canadian National Dental Examining Board Examination; and
(3) An applicant who meets the above requirements shall be issued a specialty license upon:
(a) Passing a specialty examination approved by the Board.
(b) Passing the Board’s jurisprudence examination.
(4) Any applicant who does not pass the first examination for a specialty license may apply for a second and third regularly scheduled specialty examination. The applicable fee and application for the reexamination shall be submitted to the Board at least 45 days before the scheduled examination. If the applicant fails to pass the third examination for the practice of a recognized specialty, the applicant will not be permitted to retake the particular specialty examination until he/she has attended and successfully passed a remedial program prescribed by a dental school accredited by the Commission on Dental Accreditation of the American Dental Association and approved by the Board.
(5) Licenses issued under this rule shall be limited to the practice of the specialty only.

818-021-0020
Application for License to Practice Dental Hygiene
(1) An applicant to practice dental hygiene, in addition to the requirements set forth in ORS 680.040 and 680.050, shall submit to the Board satisfactory evidence of:
(a) Having graduated from a dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association; or
(b) Having graduated from a dental hygiene program located outside the United States or Canada, completion of not less than one year in a program accredited by the Commission on Dental Accreditation of the American Dental Association, and proficiency in the English language, and
(c) Certification of having passed the dental hygiene examination administered by the Joint Commission on National Dental Examinations or the Canadian National Dental Hygiene Certificate Examination.
(2) An applicant who has not met the educational requirements for licensure may apply if the Director of an accredited program certifies the applicant will graduate.
(3) An applicant must pass a Board examination consisting of a clinical portion administered by the Board, or any clinical Board examination administered by any state or regional testing agency and a jurisprudence portion administered by the Board. Clinical examination results will be recognized by the Board for five years.
(4) An applicant who passes the clinical portion but not the jurisprudence portion of the examination may retake the jurisprudence examination without limit on the number of times. The applicant must pass the jurisprudence portion within five years of passing the clinical portion or must retake the clinical examination.
(5) A person who fails any Board approved clinical examination three times must successfully complete the remedial training recommended by the testing agency. Such remedial training must be conducted by a dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association.

Stat. Auth.: ORS 679
Application for License to Practice Dental Hygiene
Without Further Examination

(1) The Oregon Board of Dentistry may grant a license without further examination to a dental hygienist who holds a license to practice dental hygiene in another state or states if the dental hygienist meets the requirements set forth in ORS 680.040 and 680.050 and submits to the Board satisfactory evidence of:

(a) Having graduated from a dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association; or

(b) Having graduated from a dental hygiene program located outside the United States or Canada, completion of not less than one year in a program accredited by the Commission on Dental Accreditation of the American Dental Association, and proficiency in the English language; and

(c) Evidence of having passed the clinical dental hygiene examination conducted by a regional testing agency or by a state dental or dental hygiene licensing authority; and

(d) Holding an active license to practice dental hygiene, without restrictions, in any state; including documentation from the state dental board(s) or equivalent authority, that the applicant was issued a license to practice dental hygiene, without restrictions, and whether or not the licensee is, or has been, the subject of any final or pending disciplinary action; and

(e) Having conducted licensed clinical practice in Oregon, in other states or in the Armed Forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs for a minimum of 3,500 hours in the five years immediately preceding application. Licensed clinical practice could include hours devoted to teaching by dental hygienists employed by a CODA accredited dental hygiene program with verification from the dean or appropriate administration of the institution documenting the length and terms of employment, the applicant's duties and responsibilities, the actual hours involved in teaching clinical dental hygiene, and any adverse actions or restrictions; and

(f) Having completed 24 hours of continuing education in accordance with the Board's continuing education requirements contained in these rules within the two years immediately preceding application.

(2) Applicants must pass the Board's Jurisprudence Examination.

State and Nationwide Criminal Background Checks, Fitness Determinations

(1) The Board requires fingerprints of all applicants for a dental or dental hygiene license to determine the fitness of an applicant. The purpose of this rule is to provide for the reasonable screening of dental and dental hygiene applicants and licensees in order to determine if they have a history of criminal behavior such that they are not fit to be granted or hold a license that is issued by the Board.

(2) These rules are to be applied when evaluating the criminal history of all licensees and applicants for a dental or dental hygiene license and for conducting fitness determinations consistent with the outcomes provided in OAR 125-007-0260.

(3) Criminal records checks and fitness determinations are conducted according to ORS 181A.170 to 181A.215, ORS 670.280 and OAR 125-007-0200 to 127-007-0310.

(a) The Board will request the Oregon Department of State Police to conduct a state and nationwide criminal records check. Any original fingerprint cards will subsequently destroyed.

(b) All background checks must include available state and national data, unless obtaining one or the other is an acceptable alternative.

(c) The applicant or licensee must disclose all arrests, charges, and convictions regardless of the outcome or date of occurrence. Disclosure includes but is not limited to military, dismissed or set aside criminal records.

(4) If the applicant or licensee has potentially disqualifying criminal offender information, the Board will consider the following factors in making a fitness determination:

(a) The nature of the crime;

(b) The facts that support the conviction or pending indictment or that indicates the making of the false statement;
(c) The relevancy, if any, of the crime or the false statement to the specific requirements of the subject individual's present or proposed position, services, employment, license, or permit; and

(d) Intervening circumstances relevant to the responsibilities and circumstances of the position, services, employment, license, or permit. Intervening circumstances include but are not limited to:

(A) The passage of time since the commission of the crime;

(B) The age of the subject individual at the time of the crime;

(C) The likelihood of a repetition of offenses or of the commission of another crime;

(D) The subsequent commission of another relevant crime;

(E) Whether the conviction was set aside and the legal effect of setting aside the conviction;

(F) A recommendation of an employer.

(e) Any false statements or omissions made by the applicant or licensee; and

(f) Any other pertinent information obtained as part of an investigation.

(5) The Board will make a fitness determination consistent with the outcomes provided in OAR 125-007-0260.

(a) A fitness determination approval does not guarantee the granting or renewal of a license.

(b) An incomplete fitness determination results if the applicant or licensee refuses to consent to the criminal history check, refuses to be fingerprinted or respond to written correspondence, or discontinues the criminal records process for any reason. Incomplete fitness determinations may not be appealed.

(6) The Board may require fingerprints of any licensed Oregon dentist or dental hygienist, who is the subject of a complaint or investigation for the purpose of requesting a state or nationwide criminal records check.

(7) All background checks shall be requested to include available state and national data, unless otherwise required. In order to conduct the Oregon and National Criminal History Check and determine fitness, the Board may require fingerprints of the applicant or licensee.

(8) Additional information required in order to complete the background check and determine fitness may be obtained from the following sources:

(a) License, employment, or other background information.

(b) Criminal offender information.

(9) Criminal offender information is confidential. Dissemination of information received may be proof of identity, residency, or background checks. All background checks shall be requested to include available state and national data, unless otherwise required. In order to conduct the Oregon and National Criminal History Check and determine fitness, the Board may require fingerprints of the applicant or licensee.

(c) Criminal offender information received may be disseminated only to people with a demonstrated and legitimate need to know the information. The information is part of the investigation of an applicant or licensee and as such is confidential pursuant to ORS 676.175(1).

(10) The Board will permit the individual for whom a fingerprint-based criminal records check was conducted to inspect the individual's own state and national criminal offender records and, if requested by the individual, provide the individual with a copy of the individual's own state and national criminal offender records.

(11) The Board shall determine whether an individual is fit to be granted a license or permit, based on fitness determinations, on any false statements made by the individual regarding criminal history, or any refusal to submit or consent to a criminal records check, including fingerprint identification, and any other pertinent information obtained as part of an investigation. If an individual is determined to be unfit, then the individual may not be granted a license or permit. The Board may make fitness determinations conditional upon applicant's acceptance of probation, conditions, or limitations, or other restrictions upon license.

(12) An applicant or licensee may appeal a final fitness determination pursuant to OAR 125-007-0300. Challenges to the accuracy of completeness of criminal history information must be made in accordance with OAR 125-007-0507.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 181, 183, 670.280, 679.060
Hist.: OBD 1-2006, f. 3-17-06, cert. ef. 4-1-06; OBD 4-2011, f & cert. ef. 11-15-11: OBD 2-2016, f. 11-2-16, cert. ef. 3-1-17
818-021-0030
Dismissed from Examination

(1) The Board may dismiss any applicant from an examination whose conduct interferes with the examination, causes a failure to follow directions or procedures, endangers the life or health of a patient, or consumes alcohol or controlled substances during the examination.

(2) Prohibited conduct includes but is not limited to:

(a) Giving or receiving aid, either directly or indirectly, during the examination process;

(b) Failing to follow directions relative to the conduct of the examination, including termination of the examination;

(c) Endangering the life or health of a patient;

(d) Exhibiting behavior which impedes the normal progress of the examination or challenges the accuracy of completeness of criminal history information;

(e) Consuming alcohol or controlled substances

(3) The Board will dismiss any applicant who violates any of the provisions of this section.
Examination Review Procedures

(1) An applicant may review the applicant's scores on each section of the examination.

(2) Examination material including test questions, scoring keys, and examiner's personal notes shall not be disclosed to any person.

(3) Any applicant who fails the examination may request the Chief Examiner to review the examination. The request must be in writing and must be postmarked within 45 days of the postmark on the notification of the examination results. The request must state the reason or reasons why the applicant feels the results of the examination should be changed.

(4) If the Chief Examiner finds an error in the examination results, the Chief Examiner may recommend to the Board that it modify the results.

Community Health Experience for Dental and Dental Hygiene Students

Dental hygiene students or full-time students of dentistry may participate in clinical studies off the premises of the school the student is attending if the clinical studies are part of the approved curriculum.

Continuing Education — Dentists

(1) Each dentist must complete 40 hours of continuing education every two years. Continuing education (C.E.) must be directly related to clinical patient care or the practice of dental public health.

(2) Dentists must maintain records of successful completion of continuing education for at least four licensure years consistent with the licensee’s licensure cycle. (A licensure year for dentists is April 1 through March 31.) The licensee, upon request by the Board, shall provide proof of successful completion of continuing education courses.

(3) Continuing education includes:

(a) Attendance at lectures, dental study groups, college post-graduate courses, or scientific sessions at conventions.

(b) Research, graduate study, teaching or preparation and presentation of scientific sessions. No more than 12 hours may be in teaching or scientific sessions. (Scientific sessions are defined as scientific presentations, table clinics, poster sessions and lectures.)

(c) Correspondence courses, videotapes, distance learning courses or similar self-study course, provided that the course includes an examination and the dentist passes the examination.

(d) Continuing education credit can be given for volunteer pro bono dental services provided in the state of Oregon; community oral health instruction at a public health facility located in the state of Oregon; authorship of a publication, book, chapter of a book, article or paper published in a professional journal; participation on a state dental board, peer review, or quality of care review procedures; successful completion of the National Board Dental Examinations taken after initial licensure; a recognized specialty examination taken after initial licensure; or test development for clinical dental, dental hygiene or specialty examinations. No more than 6 hours of credit may be in these areas.

(4) At least three hours of continuing education must be related to medical emergencies in a dental office. No more than four hours of Practice Management and Patient Relations may be counted toward the C.E. requirement in any renewal period.

(5) All dentists licensed by the Oregon Board of Dentistry will complete a one-hour pain management course specific to Oregon provided by the Pain Management Commission of the Oregon Health Authority. All applicants or licensees shall complete this requirement by January 1, 2010 or within 24 months of the first renewal of the dentist’s license.

(6) At least 2 hours of continuing education must be related to infection control. (Effective January 1, 2015)
Continuing Education — Dental Hygienists

(1) Each dental hygienist must complete 24 hours of continuing education every two years. An Expanded Practice Permit Dental Hygienist shall complete a total of 36 hours of continuing education every two years. Continuing education (C.E.) must be directly related to clinical patient care or the practice of dental public health.

(2) Dental hygienists must maintain records of successful completion of continuing education for at least four licensure years consistent with the licensee's licensure cycle. (A licensure year for dental hygienists is October 1 through September 30.) The licensee, upon request by the Board, shall provide proof of successful completion of continuing education courses.

(3) Continuing education includes:
(a) Attendance at lectures, dental study groups, college post-graduate courses, or scientific sessions at conventions.
(b) Research, graduate study, teaching or preparation and presentation of scientific sessions. No more than six hours may be in teaching or scientific sessions. (Scientific sessions are defined as scientific presentations, table clinics, poster sessions and lectures.)
(c) Correspondence courses, videotapes, distance learning courses or similar self-study course, provided that the course includes an examination and the dental hygienist passes the examination.
(d) Continuing education credit can be given for volunteer pro bono dental hygiene services provided in the state of Oregon; community oral health instruction at a public health facility located in the state of Oregon; authorship of a publication, book, chapter of a book, article or paper published in a professional journal; participation on a state dental board, peer review, or quality of care review procedures; successful completion of the National Board Dental Hygiene Examination, taken after initial licensure; or test development for clinical dental hygiene examinations. No more than 6 hours of credit may be in these areas.
(4) At least three hours of continuing education must be related to medical emergencies in a dental office. No more than two hours of Practice Management and Patient Relations may be counted toward the C.E. requirement in any renewal period.
(5) Dental hygienists who hold a Nitrous Oxide Permit must meet the requirements contained in OAR 818-026-0040(10) for renewal of the Nitrous Oxide Permit.

6) At least 2 hours of continuing education must be related to infection control. (Effective January 1, 2015)
(d) Licensee’s business telephone number or if the licensee has no business telephone number, licensee’s home telephone number;
(e) Licensee’s employer or person with whom the licensee is on contract;
(f) Licensee’s assumed business name;
(g) Licensee’s type of practice or employment;
(h) A statement that the licensee has met the educational requirements for renewal set forth in OAR 818-021-0060 or 818-021-0070;
(i) Identity of all jurisdictions in which the licensee has practiced during the two past years; and
(j) A statement that the licensee has not been disciplined by the licensing board of any other jurisdiction or convicted of a crime.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.090, 679.120, 680.072 & 680.075
Hist.: DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; DE 2-1989(Temp), f. & cert. ef. 11-30-89; DE 1-1990, f. 3-19-90, cert. ef. 4-2-90; OBD 7-2000, f. 6-22-00, cert. ef. 7-1-00

818-021-0085
Renewal or Reinstatement of Expired License
Any person whose license to practice as a dentist or dental hygienist has expired, may apply for reinstatement under the following circumstances:
(1) If the license has been expired 30 days or less, the applicant shall:
   (a) Pay a penalty fee of $50;
   (b) Pay the biennial renewal fee; and
   (c) Submit a completed renewal application and certification of having completed the Board's continuing education requirements.
(2) If the license has been expired more than 30 days but less than 60 days, the applicant shall:
   (a) Pay a penalty fee of $100;
   (b) Pay the biennial renewal fee; and
   (c) Submit a completed renewal application and certification of having completed the continuing education requirements.
(3) If the license has been expired more than 60 days, but less than one year, the applicant shall:
   (a) Pay a penalty fee of $150;
   (b) Pay a fee equal to the renewal fees that would have been due during the period the license was expired;
   (c) Pay a reinstatement fee of $500; and
   (d) Submit a completed application for reinstatement provided by the Board, including certification of having completed continuing education credits as required by the Board during the period the license was expired. The Board may request evidence of satisfactory completion of continuing education courses.
(4) If the license has been expired for more than one year but less than four years, the applicant shall:
   (a) Pay a penalty fee of $250;
   (b) Pay a fee of equal to the renewal fees that would have been due during the period the license was expired;
   (c) Pay a reinstatement fee of $500;
   (d) Pass the Board's Jurisprudence Examination;
   (e) Pass any other qualifying examination as may be determined necessary by the Board after assessing the applicant's professional background and credentials;
   (f) Submit evidence of good standing from all states in which the applicant is currently licensed; and
   (g) Submit a completed application for reinstatement provided by the Board including certification of having completed continuing education credits as required by the Board during the period the license was expired. The Board may request evidence of satisfactory completion of continuing education courses.
(5) If a dentist or dental hygienist fails to renew or reinstate his or her license within four years from expiration, the dentist or dental hygienist must apply for licensure under the current statute and rules of the Board.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.090, 679.120, 680.072 & 680.075
Hist.: OBD 7-2000, f. 6-22-00, cert. ef. 7-1-00; OBD 2-2012, f. 6-14-12, cert. ef. 7-1-12

818-021-0088
Volunteer License
(1) An Oregon licensed dentist or dental hygienist who will be practicing for a supervised volunteer dental clinic, as defined in ORS 679.020(3)(f) and (g), may be granted a volunteer license provided licensee completes the following:
   (a) Licensee must register with the Board as a health care professional and provide a statement as required by ORS 676.345.
   (b) Licensee will be responsible to meet all the requirements set forth in ORS 676.345.
   (c) Licensee must provide the health care service without compensation.
   (d) Licensee shall not practice dentistry or dental hygiene for remuneration in any capacity under the volunteer license.
Licensee must comply with all continuing education requirements for active licensed dentist or dental hygienist.

Licensee must agree to volunteer for a minimum of 40 hours per calendar year.

Licensee may surrender the volunteer license designation at anytime and request a return to an active license. The Board will grant an active license as long as all active license requirements have been met.

Stat. Auth.: ORS 679 & 680
Hist.: OBD 2-2005, f. 1-31-05, cert. ef. 2-1-05; OBD 2-2018, f. 10/04/18, ef. 1/1/19

818-021-0090
Retirement of License

(1) A dentist or dental hygienist who no longer practices in any jurisdiction may retire her or his license by submitting a request to retire such license on a form provided by the Board.

(2) A license that has been retired may be reinstated if the applicant:

(a) Pays a reinstatement fee of $500;

(b) Passes the Board's Jurisprudence Examination;

(c) Passes any other qualifying examination as may be determined necessary by the Board after assessing the applicant's professional background and credentials;

(d) Submits evidence of good standing from all states in which the applicant is currently licensed; and

(e) Submits a completed application for reinstatement provided by the Board including certification of having completed continuing education credits as required by the Board during the period the license was expired. The Board may request evidence of satisfactory completion of continuing education courses.

(3) If the dentist or dental hygienist fails to reinstate her or his license within four years from retiring the license, the dentist or dental hygienist must apply for licensure under the current statute and rules of the Board.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.090, 679.120, 680.072 & 680.075
Hist.: OBD 7-2000, f. 6-22-00, cert. ef. 7-1-00

818-021-0100
Competency Examination

(1) The Board may require any licensee to pass the Board examination or require any licensee to participate in a practice review as set forth in section (2) of this rule.

(2) One or more consultants will review the licensee's treatment of patients selected at random and report observations to the Board.

(3) If the results of the examination or practice review provide evidence that the licensee lacks competency, the Board may refuse to renew the licensee's license or take disciplinary action against the licensee.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.250(9)
Hist.: DE 3-1979, f. & ef. 8-16-79; DE 11-1984, f. & ef. 5-17-84; Renumbered from 818-010-0095; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; Renumbered from 818-010-0050 and 818-010-0060; DE 1-1990, f. 3-19-90, cert. ef. 4-2-90

818-021-0110
Reinstatement Following Revocation

(1) Any person whose license has been revoked for a reason other than failure to pay the annual fee may petition the Board for reinstatement after five years from the date of revocation.

(2) The Board shall hold a hearing on the petition and, if the petitioner demonstrates that reinstatement of the license will not be detrimental to the health or welfare of the public, the Board may allow the petitioner to retake the Board examination.

(3) If the license was revoked for unacceptable patient care, the petitioner shall provide the Board with satisfactory evidence that the petitioner has completed a course of study sufficient to remedy the petitioner's deficiencies in the practice of dentistry or dental hygiene.

(4) If the petitioner passes the Board examination, the Board may reinstate the license, place the
petitioner on probation for not less than two years, and impose appropriate conditions of probation.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.140
Renumbered from 818-010-0070

818-021-0115
Display of Licenses
Every licensee of the Board shall have conspicuously displayed their current license in every office where that licensee practices in plain sight of the licensee's patients.

Stat. Auth.: ORS 679 & 680
Hist.: DE 1-1993, f. & cert. ef. 1-29-93

818-021-0120
Application Valid for 180 Days
(1) If all information and documentation necessary for the Board to act on an application is not provided to the Board by the applicant within 180 days from the date the application is received by the Board, the Board shall reject the application as incomplete.
(2) An applicant whose application has been rejected as incomplete must file a new application and must pay a new application fee.
(3) An applicant who fails the examination or who does not take the examination during the 180-day period following the date the Board receives the application, must file a new application and must pay a new application fee.

Stat. Auth.: ORS 679 & 680
Hist.: OBD 4-2001, f. & cert. ef. 1-8-01

818-021-0125
Reapplication Following Denial of Licensure
A person whose application for licensure has been denied on grounds other than failure of the licensure examination may not reapply for five years from the date of the Board's Final Order denying licensure.

Stat. Auth.: ORS 679 & 680
Hist.: OBD 4-2001, f. & cert. ef. 1-8-01
DIVISION 26

ANESTHESIA

818-026-0000

Purpose
(1) These rules apply to the administration of substances that produce general anesthesia, deep sedation, moderate sedation, minimal sedation or nitrous oxide sedation in patients being treated by licensees. These regulations are not intended to prohibit training programs for licensees or to prevent persons from taking necessary action in case of an emergency.

(2) Nothing in this Division relieves a licensee from the standards imposed by ORS 679.140(1)(e) and 679.140(4).

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.250(7) & 679.250(10)
Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 6-1999, f. 6-25-99, cert. ef. 7-1-99; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13

818-026-0010

Definitions
As used in these rules:
(1) "Anesthesia Monitor" means a person trained in monitoring patients under sedation and capable of assisting with procedures, problems and emergency incidents that may occur as a result of the sedation or secondary to an unexpected medical complication.

(2) "Anxiolysis" means the diminution or elimination of anxiety.

(3) "General Anesthesia" means a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

(4) "Deep Sedation" means a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.

(5) "Moderate Sedation" means a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained.

(6) “Minimal Sedation” means minimally depressed level of consciousness, produced by non-intravenous pharmacological methods, that retains the patient’s ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command. When the intent is minimal sedation for adults, the appropriate initial dosing of a single non-intravenous pharmacological method is no more than the maximum recommended dose (MRD) of a drug that can be prescribed for unmonitored home use. Nitrous oxide/oxygen may be used in combination with a single non-intravenous pharmacological method in minimal sedation.

(7) “Nitrous Oxide Sedation” means an induced, controlled state of minimal sedation, produced solely by the inhalation of a combination of nitrous oxide and oxygen in which the patient retains the ability to independently and continuously maintain an airway and to respond purposefully to physical stimulation and to verbal command.

(8) “Maximum recommended dose” (MRD) means maximum Food and Drug Administration (FDA) recommended dose of a drug, as printed in FDA approved labeling for unmonitored use.

(9) “Incremental Dosing” means during minimal sedation, administration of multiple doses of a drug until a desired effect is reached, but not to exceed the maximum recommended dose (MRD).

(10) “Supplemental Dosing” means during minimal sedation, supplemental dosing is a single additional dose of the initial drug that is necessary for prolonged procedures. The supplemental dose should not exceed one-half of the initial dose and should not be administered until the dentist has determined the clinical half-life of the initial dosing has passed. The total aggregate dose must not exceed 1.5x the MRD on the day of treatment.

(11) “Enteral Route” means administration of medication via the gastrointestinal tract. Administration by mouth, sublingual (dissolving under the tongue), intranasal and rectal administration are included.

(12) “Parenteral Route” means administration of medication via a route other than enteral. Administration by intravenous, intramuscular, and subcutaneous routes are included.

(13) American Society of Anesthesiologists (ASA) Patient Physical Status Classification System.
(a) ASA I “A normal healthy patient”.
(b) ASA II “A patient with mild systemic disease”.
(c) ASA III “A patient with severe systemic disease”.

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(d) ASA IV “A patient with severe systemic disease that is a constant threat to life”.

(e) ASA V “A moribund patient who is not expected to survive without the operation”.

(f) ASA VI “A declared brain-dead patient whose organs are being removed for donor purposes”.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.250(7) & 679.250(10)
Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 6-1999, f. 6-25-99, cert. ef. 7-1-99; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 2-2018, f. 10/4/18, cert. ef. 1/1/19

818-026-0020
Presumption of Degree of Central Nervous System Depression

(1) In any hearing where a question exists as to the degree of central nervous system depression a licensee has induced (i.e., general anesthesia, deep sedation, moderate sedation, minimal sedation or nitrous oxide sedation), the Board may base its findings on, among other things, the types, dosages and routes of administration of drugs administered to the patient and what result can reasonably be expected from those drugs in those dosages and routes administered in a patient of that physical and psychological status.

(2) The following drugs are conclusively presumed to produce general anesthesia and may only be used by a licensee holding a General Anesthesia Permit:

(a) Ultra short acting barbiturates including, but not limited to, sodium methohexital, thiopental, thiamyal; 
(b) Alkylphenols — propofol (Diprivan) including precursors or derivatives;
(c) Neuroleptic agents;
(d) Dissociative agents — ketamine;
(e) Etomidate; and
(f) Volatile inhalational agents.

(3) No permit holder shall have more than one person under any form of sedation or general anesthesia at the same time exclusive of recovery.

(4) A licensee that does not hold a Moderate, Deep Sedation or General Anesthesia Permit may not administer, for purpose of anxiolysis or sedation, Benzodiazepines or narcotics in children under 6 years of age.

(5) A licensee must ensure a written emergency response protocol is in place for all patients undergoing nitrous oxide, minimal sedation, moderate sedation, deep sedation or general anesthesia.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.250(7) & 679.250(10)
Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 6-1999, f. 6-25-99, cert. ef. 7-1-99; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13; OBD 4-2015, f. 9-8-15, cert. ef. 1-1-16; OBD 2-2018, f. 10/4/18, cert. ef. 1/1/19

818-026-0030
Requirement for Anesthesia Permit, Standards and Qualifications of an Anesthesia Monitor

(1) A permit holder who administers sedation shall assure that drugs, drug dosages, and/or techniques used to produce sedation shall carry a margin of safety wide enough to prevent unintended deeper levels of sedation.

(2) No licensee shall induce central nervous system sedation or general anesthesia without first having obtained a permit under these rules for the level of anesthesia being induced.

(3) A licensee may be granted a permit to administer sedation or general anesthesia with documentation of training/education and/or competency in the permit category for which the licensee is applying by any one the following:

(a) Initial training/education in the permit category for which the applicant is applying shall be completed no more than two years immediately prior to application for sedation or general anesthesia permit; or

(b) If greater than two years but less than five years since completion of initial training/education, an applicant must document completion of all continuing education that would have been required for that anesthesia/permit category during that five year period following initial training; or

(c) If greater than two years but less than five years since completion of initial training/education, immediately prior to application for sedation or general anesthesia permit, current competency or experience must be documented by completion of a comprehensive review course approved by the Board in the permit category to which the applicant is applying and must consist of at least one-half (50%) of the hours required by rule for Nitrous Oxide, Minimal Sedation, Moderate Sedation and General Anesthesia Permits. Deep Sedation and General Anesthesia Permits will require at least 120 hours of general anesthesia training.

(d) An applicant for sedation or general anesthesia permit whose completion of initial training/education is greater than five years immediately prior to application, may be granted a sedation or general anesthesia permit by submitting documentation of the requested permit level from another state or jurisdiction where the applicant is also licensed to practice dentistry or dental hygiene, and provides documentation of the completion of at least 25 cases in the requested level of sedation or general anesthesia in the 12 months immediately preceding application; or

(e) Demonstration of current competency to the satisfaction of the Board that the applicant possesses adequate sedation or general anesthesia skill to safely
deliver sedation or general anesthesia services to the public.

(4) Persons serving as anesthesia monitors in a dental office shall maintain current certification in Health Care Provider Basic Life Support (BLS)/Cardio Pulmonary Resuscitation (CPR) training, or its equivalent, shall be trained in monitoring patient vital signs, and be competent in the use of monitoring and emergency equipment appropriate for the level of sedation utilized. (The term "competent" as used in these rules means displaying special skill or knowledge derived from training and experience.)

(5) A licensee holding a nitrous or minimal sedation permit, shall at all times maintain a current BLS for Health Care Providers certificate or its equivalent.

(6) A licensee holding an anesthesia permit for moderate sedation, deep sedation or general anesthesia at all times maintains a current BLS for Health Care Providers certificate or its equivalent, and a current Advanced Cardiac Life Support (ACLS) Certificate or Pediatric Advanced Life Support (PALS) Certificate, whichever is appropriate for the patient being sedated. If a licensee permit holder sedates only patients under the age of 12, only PALS is required. If a licensee permit holder sedates only patients age 12 and older, only ACLS is required. If a licensee permit holder sedates patients younger than 12 years of age as well as older than 12 years of age, both ACLS and PALS are required. For licensees with a moderate sedation permit only, successful completion of the American Dental Association’s course “Recognition and Management of Complications during Minimal and Moderate Sedation” at least every two years may be substituted for ACLS, but not for PALS.

(7) Advanced Cardiac Life Support (ACLS) and or Pediatric Advanced Life Support (PALS) do not serve as a substitute for Health Care Provider Basic Life Support (BLS).

(8) When a dentist utilizes a single oral agent to achieve anxiolysis only, no anesthesia permit is required.

(9) The applicant for an anesthesia permit must pay the appropriate permit fee, submit a completed Board-approved application and consent to an office evaluation.

(10) Permits shall be issued to coincide with the applicant's licensing period.

818-026-0035
Classes of Anesthesia Permit

The Board shall issue the following classes of permits:

(1) A Nitrous Oxide Permit authorizes a dental hygienist or a dentist to induce nitrous oxide sedation.

(2) A Minimal Sedation Permit authorizes a dentist to induce minimal sedation and nitrous oxide sedation.

(3) A Moderate Sedation Permit authorizes a dentist to induce moderate sedation, minimal sedation and nitrous oxide sedation.

(4) A Deep Sedation Permit authorizes a dentist to induce deep sedation, moderate sedation, minimal sedation, and nitrous oxide sedation. The Board shall issue a Deep Sedation Permit to a licensee who holds a Class 3 Permit on or before July 1, 2010.

(5) A General Anesthesia Permit authorizes a dentist to induce general anesthesia, deep sedation, moderate sedation, minimal sedation and nitrous oxide sedation.

818-026-0040
Qualifications, Standards Applicable, and Continuing Education Requirements for Anesthesia Permits: Nitrous Oxide Permit
Nitrous Oxide Sedation.

(1) The Board shall issue a Nitrous Oxide Permit to an applicant who:

(a) Is either a licensed dentist or licensed hygienist in the State of Oregon;
(b) Maintains a current BLS for Healthcare Providers certificate or its equivalent; and
(c) Has completed a training course of at least 14 hours of instruction in the use of nitrous oxide from a dental school or dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association, or as a postgraduate.

(2) The following facilities, equipment and drugs shall be on site and available for immediate use during the procedure and during recovery:

(a) An operating room large enough to adequately accommodate the patient on an operating table or in an operating chair and to allow delivery of appropriate care in an emergency situation;

(b) An operating table or chair which permits the patient to be positioned so that the patient's airway can be maintained, quickly alter the patient's position in an emergency, and provide a firm platform for the administration of basic life support;
(c) A lighting system which permits evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit completion of any operation underway in the event of a general power failure;

(d) Suction equipment which permits aspiration of the oral and pharyngeal cavities and a backup suction device which will function in the event of a general power failure;

(e) An oxygen delivery system with adequate full face masks and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate backup system;

(f) A nitrous oxide delivery system with a fail-safe mechanism that will insure appropriate continuous oxygen delivery and a scavenger system; and

(g) Sphygmomanometer and stethoscope and/or automatic blood pressure cuff.

(3) Before inducing nitrous oxide sedation, a permit holder shall:

(a) Evaluate the patient;

(b) Give instruction to the patient or, when appropriate due to age or psychological status of the patient, the patient's guardian;

(c) Certify that the patient is an appropriate candidate for nitrous oxide sedation; and

(d) Obtain informed consent from the patient or patient's guardian for the anesthesia. The obtaining of the informed consent shall be documented in the patient's record.

(4) If a patient chronically takes a medication which can have sedative side effects, including, but not limited to, a narcotic or benzodiazepine, the practitioner shall determine if the additive sedative effect of nitrous oxide would put the patient into a level of sedation deeper than nitrous oxide. If the practitioner determines it is possible that providing nitrous oxide to such a patient would result in minimal sedation, a minimal sedation permit would be required.

(5) A patient under nitrous oxide sedation shall be visually monitored by the permit holder or by an anesthesia monitor at all times. The patient shall be monitored as to response to verbal stimulation, oral mucosal color and preoperative and postoperative vital signs.

(6) The permit holder or anesthesia monitor shall record the patient's condition. The record must include documentation of all medications administered with dosages, time intervals and route of administration.

(7) The person administering the nitrous oxide sedation may leave the immediate area after initiating the administration of nitrous oxide sedation only if a qualified anesthesia monitor is continuously observing the patient.

(8) The permit holder shall assess the patient's responsiveness using preoperative values as normal guidelines and discharge the patient only when the following criteria are met:

(a) The patient is alert and oriented to person, place and time as appropriate to age and preoperative psychological status;

(b) The patient can talk and respond coherently to verbal questioning;

(c) The patient can sit up unaided or without assistance;

(d) The patient can ambulate with minimal assistance; and

(e) The patient does not have nausea, vomiting or dizziness.

(9) The permit holder shall make a discharge entry in the patient's record indicating the patient's condition upon discharge.

(10) Permit renewal. In order to renew a Nitrous Oxide Permit, the permit holder must provide proof of a current BLS for Healthcare Providers certificate or its equivalent. In addition, Nitrous Oxide Permit holders must also complete four (4) hours of continuing education in one or more of the following areas every two years: sedation, nitrous oxide, physical evaluation, medical emergencies, monitoring and the use of monitoring equipment, or pharmacology of drugs and agents used in sedation. Training taken to maintain current BLS for Healthcare Providers certificate or its equivalent, may not be counted toward this requirement. Continuing education hours may be counted toward fulfilling the continuing education requirement set forth in OAR 818-021-0060 and 818-021-0070.

818-026-0050
Minimal Sedation Permit
Minimal sedation and nitrous oxide sedation.

(1) The Board shall issue a Minimal Sedation Permit to an applicant who:

(a) Is a licensed dentist in Oregon;

(b) Maintains a current BLS for Healthcare Providers certificate or its equivalent; and

(c) Completion of a comprehensive training program consisting of at least 16 hours of training and satisfies the requirements of the current ADA Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students at the time training was commenced or postgraduate instruction was completed, or the equivalent of that required in graduate training.
permit holder who induces minimal sedation shall:

(a) An operating room large enough to adequately accommodate the patient on an operating table or in an operating chair and to allow an operating team of at least two individuals to freely move about the patient;

(b) An operating table or chair which permits the patient to be positioned so the operating team can maintain the patient’s airway, quickly alter the patient’s position in an emergency, and provide a firm platform for the administration of basic life support;

(c) A lighting system which permits evaluation of the patient’s skin and mucosal color and a backup lighting system of sufficient intensity to permit completion of any operation underway in the event of a general power failure;

(d) Suction equipment which permits aspiration of the oral and pharyngeal cavities and a backup suction device which will function in the event of a general power failure;

(e) An oxygen delivery system with adequate full facemask and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate backup system;

(f) A nitrous oxide delivery system with a fail-safe mechanism that will insure appropriate continuous oxygen delivery and a scavenger system;

(g) Sphygmomanometer, stethoscope, pulse oximeter, and/or automatic blood pressure cuff; and

(h) Emergency drugs including, but not limited to: pharmacologic antagonists appropriate to the drugs used, vasopressors, corticosteroids, bronchodilators, antihistamines, antihypertensives and anticonvulsants.

(3) Before inducing minimal sedation, a dentist permit holder who induces minimal sedation shall:

(a) Evaluate the patient and document, using the American Society of Anesthesiologists (ASA) Patient Physical Status Classifications, that the patient is an appropriate candidate for minimal sedation;

(b) Give written preoperative and postoperative instructions to the patient or, when appropriate due to age or psychological status of the patient, the patient’s guardian;

(c) Certify that the patient is an appropriate candidate for minimal sedation; and

(d) Obtain written informed consent from the patient or patient’s guardian for the anesthesia. The obtaining of the informed consent shall be documented in the patient’s record.

(4) No permit holder shall have more than one person under minimal sedation at the same time.

(5) While the patient is being treated under minimal sedation, an anesthesia monitor shall be present in the room in addition to the treatment provider. The anesthesia monitor may be the dental assistant. After training, a dental assistant, when directed by a dentist permit holder, may administer oral sedative agents or anxiolysis agents calculated and dispensed by a dentist permit holder under the direct supervision of a dentist permit holder.

(6) A patient under minimal sedation shall be visually monitored at all times, including recovery phase. The dentist permit holder or anesthesia monitor shall monitor and record the patient’s condition.

(7) The patient shall be monitored as follows:

(a) Color of mucosa, skin or blood must be evaluated continually. Patients must have continuous monitoring using pulse oximetry. The patient’s response to verbal stimuli, blood pressure, heart rate, and respiration shall be monitored and documented if they can reasonably be obtained.

(b) A discharge entry shall be made by the dentist permit holder in the patient’s record indicating the patient’s condition upon discharge and the name of the responsible party to whom the patient was discharged.

(8) The dentist permit holder shall assess the patient’s responsiveness using preoperative values as normal guidelines and discharge the patient only when the following criteria are met:

(a) Vital signs including blood pressure, pulse rate and respiratory rate are stable;

(b) The patient is alert and oriented to person, place and time as appropriate to age and preoperative psychological status;

(c) The patient can talk and respond coherently to verbal questioning;

(d) The patient can sit up unaided;

(e) The patient can ambulate with minimal assistance; and

(f) The patient does not have uncontrollable nausea or vomiting and has minimal dizziness.

(g) A dentist permit holder shall not release a patient who has undergone minimal sedation except to the care of a responsible third party.

(9) Permit renewal. In order to renew a Minimal Sedation Permit, the permit holder must provide documentation of a current BLS for Healthcare Providers certificate or its equivalent. In addition, Minimal Sedation Permit holders must also complete four (4) hours of continuing education in one or more of the following areas every two years: sedation, physical evaluation, medical emergencies, monitoring and the use of monitoring equipment, or pharmacology of drugs.
and agents used in sedation. Training taken to maintain current BLS for Healthcare Providers certificate, or its equivalent, may not be counted toward this requirement. Continuing education hours may be counted toward fulfilling the continuing education requirement set forth in OAR 818-021-0060.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.250(7) & 679.250(10)
Hist.: OBD 6-1999, f. 6-25-99, cert. ef. 7-1-99; Administrative correction 8-12-99; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 2-2005, f. 1-31-05, cert. ef. 2-1-05; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 1-2014, f. 7-2-14, cert. ef. 8-1-14; OBD 4-2015, f. 9-8-15, cert. ef. 1-1-16; OBD 2-2016, f. 11-2-16, cert. ef. 3-1-17; OBD 2-2018, f. 10/4/18, cert. ef. 1/1/19

818-026-0055
Dental Hygiene and Dental Assistant Procedures Performed Under Nitrous Oxide or Minimal Sedation

(1) Under indirect supervision, dental hygiene procedures may be performed for a patient who is under nitrous oxide or minimal sedation under the following conditions:
   (a) A licensee holding a Nitrous Oxide, Minimal, Moderate, Deep Sedation or General Anesthesia Permit administers the sedative agents;
   (b) The permit holder, or an anesthesia monitor, monitors the patient; or
   (c) if a dental hygienist with a nitrous oxide permit administers nitrous oxide sedation to a patient and then performs authorized procedures on the patient, an anesthesia monitor is not required to be present during the time the patient is sedated unless the permit holder leaves the patient.
   (d) The permit holder performs the appropriate pre- and post-operative evaluation and discharges the patient in accordance with 818-026-0050(7) and (8).

(2) Under direct supervision, a dental assistant may perform those procedures for which the dental assistant holds the appropriate certification for a patient who is under nitrous oxide or minimal sedation under the following conditions:
   (a) A licensee holding the Nitrous Oxide, Minimal, Moderate, Deep Sedation or General Anesthesia Permit administers the sedative agents;
   (b) The permit holder, or an anesthesia monitor, monitors the patient; and
   (c) The permit holder performs the appropriate pre- and post-operative evaluation and discharges the patient in accordance with 818-026-0050(7) and (8).

818-026-0060
Moderate Sedation Permit

Moderate sedation, minimal sedation, and nitrous oxide sedation.

(1) The Board shall issue or renew a Moderate Sedation Permit to an applicant who:
   (a) Is a licensed dentist in Oregon;
   (b) In addition to a current BLS for Healthcare Providers certificate or its equivalent, either maintains a current Advanced Cardiac Life Support (ACLS) certificate and/or a Pediatric Advanced Life Support (PALS) certificate, whichever is appropriate for the patient being sedated; and
   (c) Satisfies one of the following criteria:
      (A) Completion of a comprehensive training program in enteral and/or parenteral sedation that satisfies the requirements described in Part V of the current ADA Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students at the time training was commenced.
      (i) Enteral Moderate Sedation requires a minimum of 24 hours of instruction plus management of at least 10 dental patient experiences by the enteral and/or enteral-nitrous oxide/oxygen route.
      (ii) Parenteral Moderate Sedation requires a minimum of 60 hours of instruction plus management of at least 20 dental patients by the intravenous route.
      (B) Completion of an ADA accredited postdoctoral training program (e.g., general practice residency) which affords comprehensive and appropriate training necessary to administer and manage parenteral sedation, commensurate with these Guidelines.
      (C) In lieu of these requirements, the Board may accept equivalent training or experience in moderate sedation anesthesia.

(2) The following facilities, equipment and drugs shall be on site and available for immediate use during the procedures and during recovery:
   (a) An operating room large enough to adequately accommodate the patient on an operating table or in an operating chair and to allow an operating team of at least two individuals to freely move about the patient;
   (b) An operating table or chair which permits the patient to be positioned so the operating team can maintain the patient's airway, quickly alter the patient's position in an emergency, and provide a firm platform for the administration of basic life support;
   (c) A lighting system which permits evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit completion of any operation underway in the event of a general power failure;

7-1-10; OBD 2-2012, f. 6-14-12, cert. ef. 7-1-12; OBD 1-2014, f. 7-2-14, cert. ef. 8-1-14
(d) Suction equipment which permits aspiration of the oral and pharyngeal cavities and a backup suction device which will function in the event of a general power failure;

(e) An oxygen delivery system with adequate full face mask and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate backup system;

(f) A nitrous oxide delivery system with a fail-safe mechanism that will insure appropriate continuous oxygen delivery and a scavenger system;

(g) A recovery area that has available oxygen, adequate lighting, suction and electrical outlets. The recovery area can be the operating room;

(h) Sphygmomanometer, precordial/prerachael stethoscope, capnograph, pulse oximeter, oral and nasopharyngeal airways, laryngeal mask airways, intravenous fluid administration equipment, automated external defibrillator (AED); and

(i) Emergency drugs including, but not limited to: pharmacologic antagonists appropriate to the drugs used, vasoressors, corticosteroids, bronchodilators, antihistamines, antihypertensives and anticonvulsants.

(3) No permit holder shall have more than one person under moderate sedation, minimal sedation, or nitrous oxide sedation at the same time.

(4) During the administration of moderate sedation, and at all times while the patient is under moderate sedation, an anesthesia monitor, and one other person holding a current BLS for Healthcare Providers certificate or its equivalent, shall be present in the operatory, in addition to the dentist permit holder performing the dental procedures.

(5) Before inducing moderate sedation, a dentist permit holder who induces moderate sedation shall:

(a) Evaluate the patient and document, using the American Society of Anesthesiologists (ASA) Patient Physical Status Classifications, that the patient is an appropriate candidate for moderate sedation;

(b) Give written preoperative and postoperative instructions to the patient or, when appropriate due to age or psychological status;

(c) Obtain written informed consent from the patient or patient's guardian; and

(d) The patient can ambulate with minimal assistance; and

(e) The patient does not have uncontrollable nausea or vomiting and has minimal dizziness.

(10) A discharge entry shall be made by the dentist permit holder in the patient's record indicating the patient's condition upon discharge and the name of the responsible party to whom the patient was discharged.

(11) After adequate training, an assistant, when directed by a dentist permit holder, may dispense oral medications that have been prepared by the dentist permit holder for oral administration to a patient under direct supervision. Pursuant to OAR 818-042-0115 a Certified Anesthesia Dental Assistant, when directed by a dentist permit holder, may introduce additional anesthetic agents into an infusion line under the direct supervision of a dentist permit holder.

(12) Permit renewal. In order to renew a Moderate Sedation Permit, the permit holder must provide documentation of a current BLS for Healthcare Providers certificate or its equivalent; a current Advanced Cardiac Life Support (ACLS) certificate and/or a current Pediatric Advanced Life Support electrocardiograph (ECG) monitoring. The patient's blood pressure, heart rate, and respiration shall be recorded at regular intervals but at least every 15 minutes, and these recordings shall be documented in the patient record. The record must also include documentation of preoperative and postoperative vital signs, all medications administered with dosages, time intervals and route of administration. If this information cannot be obtained, the reasons shall be documented in the patient's record. A patient under moderate sedation shall be continuously monitored and shall not be left alone while under sedation;

(b) During the recovery phase, the patient must be monitored by an individual trained to monitor patients recovering from moderate sedation.

(8) A dentist permit holder shall not release a patient who has undergone moderate sedation except to the care of a responsible third party.

(a) When a reversal agent is administered, the dentist permit holder shall document justification for its use and how the recovery plan was altered.

(9) The dentist permit holder shall assess the patient's responsiveness using preoperative values as normal guidelines and discharge the patient only when the following criteria are met:

(a) Vital signs including blood pressure, pulse rate and respiratory rate are stable;

(b) The patient is alert and oriented to person, place and time as appropriate to age and preoperative psychological status;

(c) The patient can talk and respond coherently to verbal questioning;

(d) The patient can sit up unaided;

(e) The patient can ambulate with minimal assistance; and
(PALS) certificate; Successful completion of a board approved course on minimal/moderate sedation at least every two years may be substituted for ACLS, but not for PALS; and must complete 14 hours of continuing education in one or more of the following areas every two years: sedation, physical evaluation, medical emergencies, monitoring and the use of monitoring equipment, or pharmacology of drugs and agents used in sedation. Training taken to maintain current ACLS or PALS certification or successful completion of the American Dental Association’s course “Recognition and Management of Complications during Minimal and Moderate Sedation” may be counted toward this requirement. Continuing education hours may be counted toward fulfilling the continuing education requirement set forth in OAR 818-021-0060.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.250(7) & 679.250(10)
Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 1-1999, f. 2-26-99, cert. ef. 3-1-99; OBD 6-1999, f. 6-25-99, cert. ef. 7-1-99; Administrative correction 8-12-99; OBD 2-2000(Temp), f. 5-22-00, cert. ef. 5-22-00 thru 11-18-00; OBD 2-2001, f. & cert. ef. 1-8-01; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 2-2005, f. 1-31-05, cert. ef. 2-1-05; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 2-2011(Temp), f. 5-9-11, cert. ef. 6-1-11 thru 1-27-11; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13; OBD 3-2013, f. 10-24-13, cert. ef. 1-1-14; OBD 1-2014, f. 7-2-14, cert. ef. 8-1-14; OBD 4-2015, f. 9-8-15, cert. ef. 1-1-16; OBD 2-2016, f. 11-2-16, cert. ef. 3-1-17; OBD 2-2018, f. 10/4/18, cert. ef. 1/1/19

818-026-0065

Deep Sedation Permit

Deep sedation, moderate sedation, minimal sedation, and nitrous oxide sedation.

(1) The Board shall issue a Deep Sedation Permit to a licensee who holds a Class 3 Permit on or before July 1, 2010 who:

(a) Is a licensed dentist in Oregon; and

(b) In addition to a current BLS for Healthcare Providers certificate or its equivalent, maintains a current Advanced Cardiac Life Support (ACLS) certificate and/or a Pediatric Advanced Life Support (PALS) certificate, whichever is appropriate for the patient being sedated.

(2) The following facilities, equipment and drugs shall be on site and available for immediate use during the procedures and during recovery:

(a) An operating room large enough to adequately accommodate the patient on an operating table or in an operating chair and to allow an operating team of at least two individuals to freely move about the patient;

(b) An operating table or chair which permits the patient to be positioned so the operating team can maintain the patient's airway, quickly alter the patient's position in an emergency, and provide a firm platform for the administration of basic life support;

(c) A lighting system which permits evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit completion of any operation underway in the event of a general power failure;

(d) Suction equipment which permits aspiration of the oral and pharyngeal cavities and a backup suction device which will function in the event of a general power failure;

(e) An oxygen delivery system with adequate full face mask and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate backup system;

(f) A nitrous oxide delivery system with a fail-safe mechanism that will insure appropriate continuous oxygen delivery and a scavenger system;

(g) A recovery area that has available oxygen, adequate lighting, suction and electrical outlets. The recovery area can be the operating room;

(h) Sphygmomanometer, precordial/pretracheal stethoscope, capnograph, pulse oximeter, electrocardiograph monitor (ECG), automated external defibrillator (AED), oral and nasopharyngeal airways, laryngeal mask airways, intravenous fluid administration equipment; and

(i) Emergency drugs including, but not limited to: pharmacologic antagonists appropriate to the drugs used, vasopressors, corticosteroids, bronchodilators, antihistamines, antihypertensives and anticonvulsants.

(3) No permit holder shall have more than one person under deep sedation, moderate sedation, minimal sedation, or nitrous oxide sedation at the same time.

(4) During the administration of deep sedation, and at all times while the patient is under deep sedation, an anesthesia monitor, and one other person holding a current BLS for Healthcare Providers certificate or its equivalent, shall be present in the operatory, in addition to the dentist permit holder performing the dental procedures.

(5) Before inducing deep sedation, a dentist permit holder who induces deep sedation shall:

(a) Evaluate the patient and document, using the American Society of Anesthesiologists (ASA) Patient Physical Status Classifications, that the patient is an appropriate candidate for deep sedation;

(b) Give written preoperative and postoperative instructions to the patient or, when appropriate due to age or psychological status of the patient, the patient's guardian; and

(c) Obtain written informed consent from the patient or patient's guardian for the anesthesia. The obtaining of the informed consent shall be documented in the patient’s record.
(6) A patient under deep sedation shall be visually monitored at all times, including the recovery phase. The dentist permit holder or anesthesia monitor shall monitor and record the patient's condition.

(7) The patient shall be monitored as follows:

(a) Patients must have continuous monitoring using pulse oximetry, electrocardiograph monitors (ECG) and End-tidal CO2 monitors. The patient's heart rhythm shall be continuously monitored and the patient’s blood pressure, heart rate, and respiration shall be recorded at regular intervals but at least every 5 minutes, and these recordings shall be documented in the patient record. The record must also include documentation of preoperative and postoperative vital signs, all medications administered with dosages, time intervals and route of administration. If this information cannot be obtained, the reasons shall be documented in the patient’s record. A patient under deep sedation shall be continuously monitored;

(b) Once sedated, a patient shall remain in the operatory for the duration of treatment until criteria for transportation to recovery have been met.

(c) During the recovery phase, the patient must be monitored by an individual trained to monitor patients recovering from deep sedation.

(8) A dentist permit holder shall not release a patient who has undergone deep sedation except to the care of a responsible third party. When a reversal agent is administered, the dentist permit holder shall document justification for its use and how the recovery plan was altered.

(9) The dentist permit holder shall assess the patient's responsiveness using preoperative values as normal guidelines and discharge the patient only when the following criteria are met:

(a) Vital signs including blood pressure, pulse rate and respiratory rate are stable;

(b) The patient is alert and oriented to person, place and time as appropriate to age and preoperative psychological status;

(c) The patient can talk and respond coherently to verbal questioning;

(d) The patient can sit up unaided;

(e) The patient can ambulate with minimal assistance; and

(f) The patient does not have uncontrollable nausea or vomiting and has minimal dizziness.

(10) A discharge entry shall be made by the dentist permit holder in the patient's record indicating the patient's condition upon discharge and the name of the responsible party to whom the patient was discharged.

(11) Pursuant to OAR 818-042-0115 a Certified Anesthesia Dental Assistant, when directed by a dentist permit holder, may administer oral sedative agents calculated by a dentist permit holder or introduce additional anesthetic agents into an infusion line under the direct visual supervision of a dentist.

(12) Permit renewal. In order to renew a Deep Sedation Permit, the permit holder must provide documentation of a current BLS for Healthcare Providers certificate or its equivalent; a current Advanced Cardiac Life Support (ACLS) certificate and/or a current Pediatric Advanced Life Support (PALS) certificate; and must complete 14 hours of continuing education in one or more of the following areas every two years: sedation, physical evaluation, medical emergencies, monitoring and the use of monitoring equipment, or pharmacology of drugs and agents used in sedation. Training taken to maintain current ACLS and/or PALS certificates may be counted toward this requirement. Continuing education hours may be counted toward fulfilling the continuing education requirement set forth in OAR 818-021-0060.

818-026-0070 General Anesthesia Permit

General anesthesia, deep sedation, moderate sedation, minimal sedation and nitrous oxide sedation.

(1) The Board shall issue a General Anesthesia Permit to an applicant who:

(a) Is a licensed dentist in Oregon;

(b) In addition to a current BLS for Healthcare Providers certificate or its equivalent, maintains a current Advanced Cardiac Life Support (ACLS) certificate and/or a Pediatric Advanced Life Support (PALS) certificate, whichever is appropriate for the patient being sedated, and

(c) Satisfies one of the following criteria:

(A) Completion of an advanced training program in anesthesia and related subjects beyond the undergraduate dental curriculum that satisfies the requirements described in the current ADA Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students consisting of a minimum of 2 years of a postgraduate anesthesia residency at the time training was commenced.

(B) Completion of any ADA accredited postdoctoral training program, including but not limited to Oral and Maxillofacial Surgery, which affords comprehensive and appropriate training necessary to administer and manage general anesthesia, commensurate with these Guidelines.
(C) In lieu of these requirements, the Board may accept equivalent training or experience in general anesthesia.

(2) The following facilities, equipment and drugs shall be on site and available for immediate use during the procedure and during recovery:

(a) An operating room large enough to adequately accommodate the patient on an operating table or in an operating chair and to allow an operating team of at least three individuals to freely move about the patient;

(b) An operating table or chair which permits the patient to be positioned so the operating team can maintain the patient's airway, quickly alter the patient's position in an emergency, and provide a firm platform for the administration of basic life support;

(c) A lighting system which permits evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit completion of any operation underway in the event of a general power failure;

(d) Suction equipment which permits aspiration of the oral and pharyngeal cavities and a backup suction device which will function in the event of a general power failure;

(e) An oxygen delivery system with adequate full face mask and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate backup system;

(f) A nitrous oxide delivery system with a fail-safe mechanism that will insure appropriate continuous oxygen delivery and a scavenger system;

(g) A recovery area that has available oxygen, adequate lighting, suction and electrical outlets. The recovery area can be the operating room;

(h) Sphygmomanometer, precordial/pretracheal stethoscope, capnograph, pulse oximeter, electrocardiograph monitor (ECG), automated external defibrillator (AED), oral and nasopharyngeal airways, laryngeal mask airways, intravenous fluid administration equipment; and

(i) Emergency drugs including, but not limited to: pharmacologic antagonists appropriate to the drugs used, vasopressors, corticosteroids, bronchodilators, intravenous medications for treatment of cardiac arrest, narcotic antagonist, antihistaminic, antiarrhythmics, anti hypertensives and anticonvulsants.

(3) No permit holder shall have more than one person under general anesthesia, deep sedation, moderate sedation, minimal sedation or nitrous oxide sedation at the same time.

(4) During the administration of deep sedation or general anesthesia, and at all times while the patient is under deep sedation or general anesthesia, an anesthesia monitor, and one other person holding a current BLS for Healthcare Providers certificate or its equivalent, shall be present in the operatory in addition to the dentist permit holder performing the dental procedures.

(5) Before inducing deep sedation or general anesthesia the dentist permit holder who induces deep sedation or general anesthesia shall:

(a) Evaluate the patient and document, using the American Society of Anesthesiologists (ASA) Patient Physical Status Classifications, that the patient is an appropriate candidate for general anesthesia or deep sedation;

(b) Give written preoperative and postoperative instructions to the patient or, when appropriate due to age or psychological status of the patient, the patient's guardian; and

(c) Obtain written informed consent from the patient or patient's guardian for the anesthesia. The obtaining of the informed consent shall be documented in the patient’s record.

(6) A patient under deep sedation or general anesthesia shall be visually monitored at all times, including recovery phase. A dentist permit holder who induces deep sedation or general anesthesia or anesthesia monitor trained in monitoring patients under deep sedation or general anesthesia shall monitor and record the patient's condition on a contemporaneous record.

(7) The patient shall be monitored as follows:

(a) Patients must have continuous monitoring of their heart rate, heart rhythm, oxygen saturation levels and respiration using pulse oximetry, electrocardiograph monitors (ECG) and End-tidal CO2 monitors. The patient's blood pressure, heart rate and oxygen saturation shall be assessed every five minutes, and shall be contemporaneously documented in the patient record. The record must also include documentation of preoperative and postoperative vital signs, all medications administered with dosages, time intervals and route of administration. The person administering the anesthesia and the person monitoring the patient may not leave the patient while the patient is under deep sedation or general anesthesia;

(b) Once sedated, a patient shall remain in the operatory for the duration of treatment until criteria for transportation to recovery have been met.

(c) During the recovery phase, the patient must be monitored, including the use of pulse oximetry, by an individual trained to monitor patients recovering from general anesthesia.

(8) A dentist permit holder shall not release a patient who has undergone deep sedation or general anesthesia except to the care of a responsible third party. When a reversal agent is administered, the dentist permit holder shall document justification for its use and how the recovery plan was altered.

(9) The dentist permit holder shall assess the patient's responsiveness using preoperative values as
normal guidelines and discharge the patient only when the following criteria are met:

(a) Vital signs including blood pressure, pulse rate and respiratory rate are stable;
(b) The patient is alert and oriented to person, place and time as appropriate to age and preoperative psychological status;
(c) The patient can talk and respond coherently to verbal questioning;
(d) The patient can sit up unaided;
(e) The patient can ambulate with minimal assistance; and
(f) The patient does not have nausea or vomiting and has minimal dizziness.

(10) A discharge entry shall be made in the patient's record by the dentist permit holder indicating the patient's condition upon discharge and the name of the responsible party to whom the patient was discharged.

(11) Pursuant to OAR 818-042-0115 a Certified Anesthesia Dental Assistant, when directed by a dentist permit holder, may introduce additional anesthetic agents to an infusion line under the direct visual supervision of a dentist permit holder.

(12) Permit renewal. In order to renew a General Anesthesia Permit, the permit holder must provide documentation of a current BLS for Healthcare Providers certificate or its equivalent; a current Advanced Cardiac Life Support (ACLS) certificate and/or a current Pediatric Advanced Life Support (PALS) certificate; and must complete 14 hours of continuing education in one or more of the following areas every two years: sedation, physical evaluation, medical emergencies, monitoring and the use of monitoring equipment, or pharmacology of drugs and agents used in sedation. Training taken to maintain current ACLS and/or PALS certificates may be counted toward this requirement. Continuing education hours may be counted toward fulfilling the continuing education requirement set forth in OAR 818-021-0060.

818-026-0080
Standards Applicable When a Dentist Performs Dental Procedures and a Qualified Provider Induces Anesthesia

(1) A dentist who does not hold an anesthesia permit may perform dental procedures on a patient who receives anesthesia induced by a physician anesthesiologist licensed by the Oregon Board of Medical Examiners, another Oregon licensed dentist holding an appropriate anesthesia permit, or a Certified Registered Nurse Anesthetist (CRNA) licensed by the Oregon Board of Nursing.

(2) A dentist who does not hold a Nitrous Oxide Permit for nitrous oxide sedation may perform dental procedures on a patient who receives nitrous oxide induced by an Oregon licensed dental hygienist holding a Nitrous Oxide Permit.

(3) A dentist who performs dental procedures on a patient who receives anesthesia induced by a physician anesthesiologist, another dentist holding an anesthesia permit, a CRNA, or a dental hygienist who induces nitrous oxide sedation, shall maintain a current BLS for Healthcare Providers certificate, or its equivalent, and have the same personnel, facilities, equipment and drugs available during the procedure and during recovery as required of a dentist who has a permit for the level of anesthesia being provided.

(4) A dentist, a dental hygienist or an Expanded Function Dental Assistant (EFDA) who performs procedures on a patient who is receiving anesthesia induced by a physician anesthesiologist, another dentist holding an anesthesia permit or a CRNA shall not schedule or treat patients for non emergent care during the period of time of the sedation procedure.

(5) Once anesthetized, a patient shall remain in the operatory for the duration of treatment until criteria for transportation to recovery have been met.

(6) The qualified anesthesia provider who induces moderate sedation, deep sedation or general anesthesia shall monitor the patient's condition until the patient is discharged and record the patient's condition at discharge in the patient's dental record as required by the rules applicable to the level of anesthesia being induced. The anesthesia record shall be maintained in the patient's dental record and is the responsibility of the dentist who is performing the dental procedures.

(7) A dentist who intends to use the services of a qualified anesthesia provider as described in section 1 above, shall notify the Board in writing of his/her intent. Such notification need only be submitted once every licensing period.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.250(7) & 679.250(10)
Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 6-1999, f. 6-25-99, cert. ef. 7-1-99; Administrative correction 8-12-99; OBD 2-2000(Temp), f. 5-22-00, cert. ef. 5-22-00 thru 11-18-00; Administrative correction 6-21-01; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 2-2011(Temp), f. 5-9-11, cert. ef. 6-1-11 thru 1-27-11; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13; OBD 1-2014, f. 7-2-14, cert. ef. 8-1-14; OBD 4-2015, f. 9-8-15, cert. ef. 1-1-16; OBD 2-2016, f. 11-2-16, cert. ef. 3-1-17; OBD 2-2018, f. 10-4-18, cert. ef. 1-1-19
Office Evaluations

(1) By obtaining an anesthesia permit or by using the services of a physician anesthesiologist, CRNA, an Oregon licensed dental hygienist permit holder or another dentist permit holder to administer anesthesia, a licensee consents to in-office evaluations by the Oregon Board of Dentistry, to assess competence in central nervous system anesthesia and to determine compliance with rules of the Board.

(2) The in-office evaluation may include, but is not limited to:
   (a) Observation of one or more cases of anesthesia to determine the appropriateness of technique and adequacy of patient evaluation and care;
   (b) Inspection of facilities, equipment, drugs and records; and
   (c) Confirmation that personnel are adequately trained, hold a current BLS for Healthcare Providers certificate, or its equivalent, and are competent to respond to reasonable emergencies that may occur during the administration of anesthesia or during the recovery period.

(3) The evaluation shall be performed by a team appointed by the Board and shall include:
   (a) A permit holder who has the same type of license as the licensee to be evaluated and who holds a current anesthesia permit in the same class or in a higher class than that held by the licensee being evaluated.
   (b) A member of the Board's Anesthesia Committee; and
   (c) Any licensed dentist, deemed appropriate by the Board President, may serve as team leader and shall be responsible for organizing and conducting the evaluation and reporting to the Board.

(4) The Board shall give written notice of its intent to conduct an office evaluation to the licensee to be evaluated. Licensee shall cooperate with the evaluation team leader in scheduling the evaluation which shall be held no sooner than 30 days after the date of the notice or later than 90 days after the date of the notice.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.250(7) & (10)
Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 4-2015, f. 9-8-15, cert. ef. 1-1-16; OBD 2-2016, f. 11-2-16, cert. ef. 3-1-17

Anesthesia Committee

(1) The Board hereby creates a committee to be known as the Anesthesia Committee. The chairperson shall be a dentist who is a member of the Board. All other members shall hold a Moderate, Deep Sedation or General Anesthesia Sedation Permit. At least one member, other than the chairperson, shall be a practicing specialist who holds a General Anesthesia Permit. Members serve at the pleasure of the Board and shall be appointed by the President of the Board. The Board President shall insure that the committee includes representatives of dental specialty groups including general dentists.

(2) The Anesthesia Committee shall, upon request of the Board, advise the Board on policies and procedures related to the regulation of general anesthesia, deep sedation, moderate sedation, minimal sedation and nitrous oxide sedation.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.280
Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 6-1999, f. 6-25-99, cert. ef. 7-1-99; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10

818-026-0120

Reporting of Death, Serious Complications or Injury

If a death, any serious complication or any injury occurs which may have resulted from the administration of any central nervous system anesthesia or sedation, the licensee performing the dental procedure must submit a written detailed report to the Board within five days of the incident along with the patient's original complete dental records. If the anesthetic agent was administered by a person other than the person performing the dental procedure, that person must also submit a detailed written report. The detailed report(s) must include:
   (1) Name, age and address of patient;
   (2) Name of the licensee and other persons present during the incident;
   (3) Address where the incident took place;
   (4) Type of anesthesia and dosages of drugs administered to the patient;
   (5) A narrative description of the incident including approximate times and evolution of symptoms; and
   (6) The anesthesia record and the signed informed consent form for the anesthesia when required.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.250(7) & 679.250(10)
Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 6-1999, f. 6-25-99, cert. ef. 7-1-99; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10
DIVISION 35

DENTAL HYGIENE

818-035-0010 Definitions

All terms used in this Division shall have the meanings assigned under ORS 679.010 except that:

(1) "Limited Access Patient" means a patient who is unable to receive regular dental hygiene treatment in a dental office.

(2) "Long-Term Care Facility" shall have the same definition as that established under ORS 442.015(14)(b).

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.010 & 680.010
Hist.: DE 5-1984, f. & ef. 5-17-84; DE 2-1992, f. & cert. ef. 6-24-92; OBD 3-1998, f. & cert. ef. 7-13-98; OBD 2-2009, f. 10-21-09, cert. ef. 11-1-09

818-035-0020 Authorization to Practice

(1) A dental hygienist may practice dental hygiene in the places specified by ORS 680.150 under general supervision upon authorization of a supervising dentist.

(2) A dentist who authorizes a dental hygienist to practice dental hygiene on a limited access patient must review the hygienist's findings.

(3) A supervising dentist, without first examining a new patient, may authorize a dental hygienist:

(a) To take a health history from a patient;
(b) To take dental radiographs;
(c) To perform periodontal probings and record findings;
(d) To gather data regarding the patient; and
(e) To diagnose, treatment plan and provide dental hygiene services.

(4) When hygiene services are provided pursuant to subsection (3), the supervising dentist need not be on the premises when the services are provided.

(5) When hygiene services are provided pursuant to subsection (3), the patient must be scheduled to be examined by the supervising dentist within fifteen business days following the day the hygiene services are provided.

(6) If a new patient has not been examined by the supervising dentist subsequent to receiving dental hygiene services pursuant to subsection (3), no further dental hygiene services may be provided until an examination is done by the supervising dentist.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.010 & 680.150
Hist.: DE 7, f. 2-3-66; DE 8, f. 3-20-67, ef. 3-21-67; DE 11, f. 3-31-71, ef. 4-25-71; DE 17, f. 1-20-72, ef. 2-1-72; DE 21, f. 1-9-74, ef. 2-11-74; DE 5-1978, f. & ef. 6-14-78; DE 4-1980, f. & ef. 9-8-80; DE 5-1984, f. & ef. 5-17-84; Renumbered from 818-010-0110; DE 3-1986, f. & ef. 3-31-86; DE 2-1992, f. & cert. ef. 6-24-92; OBD 3-2000, f. & cert. ef. 1-8-01; OBD 1-2008, f. 11-10-08, cert. ef. 12-1-08; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13

818-035-0025 Prohibitions

A dental hygienist may not:

(1) Diagnose and treatment plan other than for dental hygiene services;

(2) Cut hard or soft tissue with the exception of root planing;

(3) Extract any tooth;

(4) Fit or adjust any correctional or prosthetic appliance except as provided by OAR 818-035-0030(1)(h);

(5) Prescribe, administer or dispense any drugs except as provided by OAR 818-035-0030, OAR 818-035-0040, OAR 818-026-0060(11) and OAR 818-026-0070(11);

(6) Place, condense, carve or cement permanent restorations except as provided in OAR 818-035-0072, or operatively prepare teeth;

(7) Irrigate or medicate canals; try in cones, or ream, file or fill canals;

(8) Use the behavior management techniques of Hand Over Mouth (HOM) or Hand Over Mouth Airway Restriction (HOMAR) on any patient.

(9) Place or remove healing caps or healing abutments, except under direct supervision.

(10) Place implant impression copings, except under direct supervision.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.020(1)
Hist.: DE 2-1992, f. & cert. ef. 6-24-92; DE 2-1997, f. & cert. ef. 2-20-97; OBD 7-1999, 6-25-99, cert. ef. 7-1-99; OBD 2-2000(Temp), f. 5-22-00, cert. ef. 5-22-00 thru 11-18-00; OBD 2-2001, f. & cert. ef. 1-8-01; OBD 15-2001, f. 12-7-01, cert. ef. 1-1-02; OBD 2-2005, f. 1-31-05, cert. ef. 2-1-05; OBD 2-2007, f. 4-26-07, cert. ef. 5-1-07; OBD 1-2008, f. 11-10-08, cert. ef. 12-1-08; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 6-2014, f. 7-2-2014, cert. ef. 8-1-2014; OBD 6-2015, f. 7-9-15, cert. ef. 10-01-15

818-035-0030 Additional Functions of Dental Hygienists

(1) In addition to functions set forth in ORS 679.010, a dental hygienist may perform the following functions under the general supervision of a licensed dentist:

(a) Make preliminary intra-oral and extra-oral examinations and record findings;

(b) Place periodontal dressings;

(c) Remove periodontal dressings or direct a
dental assistant to remove periodontal dressings;

(d) Perform all functions delegable to dental assistants and expanded function dental assistants providing that the dental hygienist is appropriately trained;

(e) Administer and dispense antimicrobial solutions or other antimicrobial agents in the performance of dental hygiene functions.

(f) Prescribe, administer and dispense fluoride, fluoride varnish, antimicrobial solutions for mouth rinsing or other non-systemic antimicrobial agents.

(g) Use high-speed handpieces to polish restorations and to remove cement and adhesive material.

(h) Apply temporary soft relines to complete dentures for the purpose of tissue conditioning.

(i) Perform all aspects of teeth whitening procedures.

(2) A dental hygienist may perform the following functions at the locations and for the persons described in ORS 680.205(1) and (2) without the supervision of a dentist:

(a) Determine the need for and appropriateness of sealants or fluoride; and

(b) Apply sealants or fluoride.

818-035-0040
Expanded Functions of Dental Hygienists

(1) Upon completion of a course of instruction in a program accredited by the Commission on Dental Accreditation of the American Dental Association or other course of instruction approved by the Board, a dental hygienist who completes a Board approved application shall be issued an endorsement to administer local anesthetic agents and local anesthetic reversal agents under the general supervision of a licensed dentist. Local anesthetic reversal agents shall not be used on children less than 6 years of age or weighing less than 33 pounds.

(2) Upon completion of a course of instruction in a program accredited by the Commission on Dental Accreditation of the American Dental Association or other course of instruction approved by the Board, a dental hygienist may administer nitrous oxide under the indirect supervision of a licensed dentist in accordance with the Board’s rules regarding anesthesia.

(3) Upon completion of a course of instruction approved by the Oregon Health Authority, Public Health Division, a dental hygienist may purchase Epinephrine and administer Epinephrine in an emergency.

818-035-0065
Expanded Practice Dental Hygiene Permit

The Board shall issue an Expanded Practice Permit to a Dental Hygienist who holds an unrestricted Oregon license, and completes an application approved by the Board, pays the permit fee, and

(1) Certifies on the application that the dental hygienist has completed at least 2,500 hours of supervised dental hygiene clinical practice, or clinical teaching hours, and also completes 40 hours of courses chosen by the applicant in clinical dental hygiene or public health sponsored by continuing education providers approved by the Board; or

(2) Certifies on the application that the dental hygienist has completed a course of study, before or after graduation from a dental hygiene program, that includes at least 500 hours of dental hygiene practice on patients described in ORS 680.205; and

(3) Provides the Board with a copy of the applicant's current professional liability policy or declaration page which will include, the policy number and expiration date of the policy.

(4) Notwithstanding OAR 818-035-0025(1), prior to performing any dental hygiene services an Expanded Practice Dental Hygienist shall examine the patient, gather data, interpret the data to determine the patient's dental hygiene treatment needs and formulate a patient care plan.

(5) An Expanded Practice Dental Hygienist may render the services described in paragraphs 6(a) to (d) of this rule to the patients described in ORS 680.205(1) if the Expanded Practice Dental Hygienist has entered into a written collaborative agreement in a format approved by the Board with a
dentist licensed under ORS Chapter 679.

(6) The collaborative agreement must set forth the agreed upon scope of the dental hygienist’s practice with regard to:

(a) Administering local anesthesia;
(b) Administering temporary restorations without excavation;
(c) Prescribing prophylactic antibiotics and nonsteroidal anti-inflammatory drugs; and
(d) Referral parameters.

(7) The collaborative agreement must comply with ORS 679.010 to 680.990.

(8) From the date this rule is effective, the Board has the authority to grant a Limited Access Permit through December 31, 2011, pursuant to ORS 680.200.

Stat. Auth.: ORS 680
Stats. Implemented: ORS 680.200
Hist.: OBD 1-1998, f. & cert. 6-8-98; OBD 3-2001, f. & cert. ef. 1-8-01; OBD 3-2007, f. & cert. ef. 11-30-07; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 2-2012, f. 6-14-12, cert. ef. 7-1-12; f. OBD 6-2015, 7-9-15, cert. ef. 10-01-15

818-035-0066
Additional Populations for Expanded Practice Dental Hygiene Permit Holders

A dental hygienist with an Expanded Practice Permit may practice without supervision at locations and on persons as described in ORS 680.205 (1)(a) through (e) and on the following additional populations: Low-income persons, as defined by earning up to 200% of the Federal Poverty Level or on specific population groups designated by the Dental Health Professional Shortage Areas (DHPSA) that lack access to care and that are underserved.

Stats. Implemented: ORS 679.010(3) & 679.250(7)
Hist.: OBD 2-2012, f. 6-14-12, cert. ef. 7-1-12; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13; OBD 2-2018, f. 10/04/18, ef. 1/1/19

818-035-0072
Restorative Functions of Dental Hygienists

(1) The Board shall issue a Restorative Functions Endorsement (RFE) to a dental hygienist who holds an unrestricted Oregon license, and has successfully completed:

(a) A Board approved curriculum from a program accredited by the Commission on Dental Accreditation of the American Dental Association or other course of instruction approved by the Board, and successfully passed the Western Regional Examining Board’s Restorative Examination or other equivalent examinations approved by the Board within the last five years; or

(b) If successful passage of the Western Regional Examining Board’s Restorative Examination or other equivalent examinations approved by the Board occurred over five years from the date of application, the applicant must submit verification from another state or jurisdiction where the applicant is legally authorized to perform restorative functions and certification from the supervising dentist of successful completion of at least 25 restorative procedures within the immediate five years from the date of application.

(2) A dental hygienist may perform the placement and finishing of direct restorations, except gold foil, under the indirect supervision of a licensed dentist, after the supervising dentist has prepared the tooth (teeth) for restoration(s):

(a) These functions can only be performed after the patient has given informed consent for the procedure and informed consent for the placement of the restoration(s) by a Restorative Functions Endorsement dental hygienist;

(b) Before the patient is released, the final restoration(s) shall be checked by a dentist and documented in the chart.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.010(3) & 679.250(7)
Hist.: OBD 2-2007, f. 4-26-07, cert. ef. 5-1-07; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13; OBD 2-2018, f. 10/04/18, ef. 1/1/19

818-035-0100
Record Keeping

(1) An Expanded Practice Dental Hygienist shall refer a patient annually to a dentist who is available to treat the patient, and note in the patient's official chart held by the facility that the patient has been referred.

(2) When a licensed dentist has authorized an Expanded Practice Dental Hygienist to administer local anesthesia, place temporary restorations without excavation or prescribe prophylactic antibiotics and nonsteroidal anti-inflammatory drugs, the Expanded Practice Dental Hygienist shall document in the patient's official chart the name of the collaborating dentist and date the collaborative agreement was entered into.
DIVISION 42
DENTAL ASSISTING

818-042-0010
Definitions

(1) “Dental Assistant” means a person who, under the supervision of a dentist, renders assistance to a dentist, dental hygienist, dental technician or another dental assistant or renders assistance under the supervision of a dental hygienist providing dental hygiene services.

(2) “Expanded Function Dental Assistant” means a dental assistant certified by the Board to perform expanded function duties.

(3) “Expanded Function Orthodontic Assistant” means a dental assistant certified by the Board to perform expanded orthodontic function duties.

(4) “Direct Supervision” means supervision requiring that a dentist diagnose the condition to be treated, that a dentist authorize the procedure to be performed, and that a dentist remain in the dental treatment room while the procedures are performed.

(5) “Indirect Supervision” means supervision requiring that a dentist authorize the procedures and that a dentist be on the premises while the procedures are performed.

(6) “General Supervision” means supervision requiring that a dentist authorize the procedures, but not requiring that a dentist be present when the authorized procedures are performed. The authorized procedures may also be performed at a place other than the usual place of practice of the dentist.

818-042-0020
Dentist and Dental Hygienist Responsibility

(1) A dentist is responsible for assuring that a dental assistant has been properly trained, has demonstrated proficiency, and is supervised in all the duties the assistant performs in the dental office. Unless otherwise specified, dental assistants shall work under indirect supervision in the dental office.

(2) A dental hygienist who works under general supervision may supervise dental assistants in the dental office if the dental assistants are rendering assistance to the dental hygienist in providing dental hygiene services and the dentist is not in the office to provide indirect supervision. A dental hygienist with an Expanded Practice Permit may hire and supervise dental assistants who will render assistance to the dental hygienist in providing dental hygiene services.

(3) The supervising dentist or dental hygienist is responsible for assuring that all required licenses, permits or certificates are current and posted in a conspicuous place.

(4) Dental assistants who are in compliance with written training and screening protocols adopted by the Board may perform oral health screenings under general supervision.

818-042-0030
Infection Control

The supervising dentist shall be responsible for assuring that dental assistants are trained in infection control, bloodborne pathogens and universal precautions, exposure control, personal protective equipment, infectious waste disposal, Hepatitis B and C and post exposure follow-up.

818-042-0040
Prohibited Acts

No licensee may authorize any dental assistant to perform the following acts:

(1) Diagnose or plan treatment.

(2) Cut hard or soft tissue.

(3) Any Expanded Function duty (818-042-0070 and 818-042-0090) or Expanded Orthodontic Function duty (818-042-0100) without holding the appropriate certification.

(4) Correct or attempt to correct the malposition or malocclusion of teeth except as provided in 818-042-0070, 818-042-0090 and 818-042-0115.

(5) Adjust or attempt to adjust any orthodontic wire, fixed or removable appliance or other structure while it is in the patient’s mouth.

(6) Administer any drug except fluoride, topical anesthetic, desensitizing agents, over the counter medications per package instructions or drugs administered pursuant to OAR 818-026-0030(6), OAR 818-026-0050(5)(a) OAR 818-026-0060(11), 818-026-0065(11), 818-026-0070(11) and as provided in 818-042-0070, 818-042-0090 and 818-042-0115.

(7) Prescribe any drug.

(8) Place periodontal packs.

(9) Start nitrous oxide.
(10) Remove stains or deposits except as provided in OAR 818-042-0070.

(11) Use ultrasonic equipment intra-orally except as provided in OAR 818-042-0100.

(12) Use a high-speed handpiece or any device that is operated by a high-speed handpiece intra-orally except as provided in OAR 818-042-0095, and only for the purpose of adjusting occlusion, contouring, and polishing restorations on the tooth or teeth that are being restored.

(13) Use lasers, except laser-curing lights.

(14) Use air abrasion or air polishing.

(15) Remove teeth or parts of tooth structure.

(16) Cement or bond any fixed prosthetic or orthodontic appliance including bands, brackets, retainers, tooth moving devices, or orthopedic appliances except as provided in 818-042-0100.

(17) Condense and carve permanent restorative material except as provided in OAR 818-042-0095.

(18) Place any type of retraction material except as provided in OAR 818-042-0090.

(19) Take jaw registrations or oral impressions for supplying artificial teeth as substitutes for natural teeth, except diagnostic or opposing models or for the fabrication of temporary or provisional restorations or appliances.

(20) Apply denture relines except as provided in OAR 818-042-0090(2).

(21) Expose radiographs without holding a current Certificate of Radiologic Proficiency issued by the Board (818-042-0050 and 818-042-0060) except while taking a course of instruction approved by the Oregon Board of Dentistry, and who has passed the written Dental Radiation Health and Safety Examination administered by the Dental Assisting National Board, or comparable exam administered by any other testing entity authorized by the Board, or other comparable requirements approved by the Oregon Board of Dentistry to place films, adjust equipment preparatory to exposing films, and expose the films under the indirect supervision of a dentist, dental hygienist, or dental assistant who holds an Oregon Radiologic Proficiency Certificate. The dental assistant must submit within six months of an Oregon licensed dentist or Oregon licensed dental hygienist authorizing the assistant to expose radiographs, certification from the Oregon licensed dentist or dental hygienist that the assistant is proficient to take radiographs.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.025(2)(j) & 679.250(7)
Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 2-2003, f. 7-14-03 cert. ef. 7-18-03; OBD 4-2004, f. 11-23-04 cert. ef. 12-1-04; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 6-2014, f. 7-2-2014, cert. ef. 8-1-2014; OBD 6-2015, f. 7-9-15, cert. ef. 10-01-15; OBD 2-2016, f. 11-2-16, cert. ef. 3-1-17; OBD 2-2018, f. 10/04/18, ef. 1/1/19

818-042-0050
Taking of X-Rays — Exposing of Radiographs

(1) A dentist may authorize the following persons to place films, adjust equipment preparatory to exposing films, and expose the films under general supervision:

(a) A dental assistant certified by the Board in radiologic proficiency; or

(b) A radiologic technologist licensed by the Oregon Board of Medical Imaging and certified by the Oregon Board of Dentistry (OBD) who has completed ten (10) clock hours in a Board approved dental radiology course.

(2) A dentist or dental hygienist may authorize a dental assistant who has completed a course of instruction approved by the Oregon Board of Dentistry, and who has passed the written Dental Radiation Health and Safety Examination administered by the Dental Assisting National Board, or comparable exam administered by any other testing entity authorized by the Board, or other comparable requirements approved by the Oregon Board of Dentistry to place films, adjust equipment preparatory to exposing films, and expose the films under the indirect supervision of a dentist, dental hygienist, or dental assistant who holds an Oregon Radiologic Proficiency Certificate. The dental assistant must submit within six months of an Oregon licensed dentist or Oregon licensed dental hygienist authorizing the assistant to expose radiographs, certification from the Oregon licensed dentist or dental hygienist that the assistant is proficient to take radiographs.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.025(2)(j) & 679.250(7)
Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 2-2003, f. 7-14-03 cert. ef. 7-18-03; OBD 4-2004, f. 11-23-04 cert. ef. 12-1-04; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 6-2014, f. 7-2-2014, cert. ef. 8-1-2014; OBD 6-2015, f. 7-9-15, cert. ef. 10-01-15; OBD 2-2016, f. 11-2-16, cert. ef. 3-1-17; OBD 2-2018, f. 10/04/18, ef. 1/1/19

818-042-0060
Certification — Radiologic Proficiency

(1) The Board may certify a dental assistant in radiologic proficiency by credential in accordance with OAR 818-042-0120, or if the assistant:

(2) Submits an application on a form approved by the Board, pays the application fee and:

(a) Completes a course of instruction approved by the Oregon Board of Dentistry, in accordance with
OAR 333-106-0055 or submits evidence the Oregon Health Authority, Center for Health Protection, Radiation Protection Services recognizes that the equivalent training has been successfully completed;

(b) Passes the written Dental Radiation Health and Safety Examination administered by the Dental Assisting National Board, Inc. (DANB), or comparable exam administered by any other testing entity authorized by the Board, or other comparable requirements approved by the Oregon Board of Dentistry; and

(c) Certification by an Oregon licensed dentist or Oregon licensed dental hygienist that the assistant is proficient to take radiographs.

Stat. Auth.: ORS 679 & 680
Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 1-2004, f. 5-27-04, cert. ef. 6-1-04; OBD 3-2005, f. 10-26-05, cert. ef. 11-1-05; OBD 2-2009, f. 10-21-09, cert. ef. 11-1-09; OBD 6-2015, f. 7-9-15, cert. ef. 10-01-15; OBD 2-2016, f. 11-2-16, cert. ef. 3-1-17

818-042-0070
Expanded Function Dental Assistants (EFDA)

The following duties are considered Expanded Function Duties and may be performed only after the dental assistant complies with the requirements of 818-042-0080:

1. Polish the coronal surfaces of teeth with a brush or rubber cup as part of oral prophylaxis to remove stains providing the patient is checked by a dentist or dental hygienist after the procedure is performed, prior to discharge;

2. Remove temporary crowns for final cementation and clean teeth for final cementation;

3. Preliminarily fit crowns to check contacts or to adjust occlusion outside the mouth;

4. Place temporary restorative material (i.e., zinc oxide eugenol based material) in teeth providing that the patient is checked by a dentist before and after the procedure is performed;

5. Place and remove matrix retainers for alloy and composite restorations;

6. Polish amalgam or composite surfaces with a slow speed hand piece;

7. Remove excess supragingival cement from crowns, bridges, bands or brackets with hand instruments providing that the patient is checked by a dentist after the procedure is performed;

8. Fabricate temporary crowns, and temporarily cement the temporary crown. The cemented crown must be examined and approved by the dentist prior to the patient being released;

9. Under general supervision, when the dentist is not available and the patient is in discomfort, an EFDA may recement a temporary crown or recement a permanent crown with temporary cement for a patient of record providing that the patient is rescheduled for follow-up care by a licensed dentist as soon as is reasonably appropriate; and

10. Perform all aspects of teeth whitening procedures.

Stat. Auth.: ORS 679 & 680
Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 1-2004, f. 5-27-04, cert. ef. 6-1-04; OBD 3-2005, f. 10-26-05, cert. ef. 11-1-05; OBD 2-2009, f. 10-21-09, cert. ef. 11-1-09; OBD 6-2015, f. 7-9-15, cert. ef. 10-01-15; OBD 2-2016, f. 11-2-16, cert. ef. 3-1-17

818-042-0080
Certification — Expanded Function Dental Assistant (EFDA)

The Board may certify a dental assistant as an expanded function assistant:

1. By credential in accordance with OAR 818-042-0120, or

2. If the assistant submits a completed application, pays the fee and provides evidence of;

   a. Certification of Radiologic Proficiency (OAR 818-042-0060); and satisfactory completion of a course of instruction in a program accredited by the Commission on Dental Accreditation of the American Dental Association; or

   b. Certification of Radiologic Proficiency (OAR 818-042-0060); and passage of the Basic or CDA examination, and the Expanded Function Dental Assistant examination, or equivalent successor examinations, administered by the Dental Assisting National Board, Inc. (DANB), or any other testing entity authorized by the Board; and certification by a licensed dentist that the applicant has successfully polished 12 amalgam or composite surfaces, removed supra-gingival excess cement from six (6) crowns or bridges with hand instruments; placed temporary restorative material (i.e., zinc oxide eugenol based material) in six (6) teeth; preliminarily fitted six (6) crowns to check contacts or to adjust occlusion outside the mouth; removed six (6) temporary crowns for final cementation and cleaned teeth for final cementation; fabricated six (6) temporary crowns and temporarily cemented the crowns; polished the coronal surfaces of teeth with a brush or rubber cup as part of oral prophylaxis in six (6) patients; placed two matrix bands in each quadrant on teeth prepared for Class II restorations; and complete six (6) teeth whitening or
bleach procedures.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.250(7)
Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 10-1999 (Temp), f. 12-2-99, cert. ef. 1-1-00 thru 6-28-00; OBD 8-2000, f. 6-22-00, cert. ef. 6-29-00; OBD 1-2004, f. 5-27-04, cert. ef. 6-1-04; OBD 2-2009, f. 10-21-09, cert. ef. 11-1-09

818-042-0090
Additional Functions of EFDAs

Upon successful completion of a course of instruction in a program accredited by the Commission on Dental Accreditation of the American Dental Association, or other course of instruction approved by the Board, a certified Expanded Function Dental Assistant may perform the following functions under the indirect supervision of a dentist or dental hygienist providing that the procedure is checked by the dentist or dental hygienist prior to the patient being dismissed:

1. Apply pit and fissure sealants provided the patient is examined before the sealants are placed. The sealants must be placed within 45 days of the procedure being authorized by a dentist or dental hygienist.

2. Apply temporary soft relines to complete dentures for the purpose of tissue conditioning.

3. Place retraction material subgingivally.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.025(2)(j) & 679.250(7)
Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 15-2001, f. 12-7-01, cert. ef. 1-1-02; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13; OBD 6-2014, f. 7-2-2014, cert. ef. 8-1-2014; OBD 6-2015, f. 7-9-15, cert. ef. 10-01-15; OBD 2-2018, f. 10/04/18, ef. 1/1/19

818-042-0095
Restorative Functions of Dental Assistants

1. The Board shall issue a Restorative Functions Certificate (RFC) to a dental assistant who holds an Oregon EFDA Certificate, and has successfully completed:
   (a) A Board approved curriculum from a program accredited by the Commission on Dental Accreditation of the American Dental Association or other course of instruction approved by the Board, and successfully passed the Western Regional Examining Board’s Restorative Examination or other equivalent examinations approved by the Board within the last five years, or
   (b) If successful passage of the Western Regional Examining Board’s Restorative Examination or other equivalent examinations approved by the Board occurred over five years from the date of application, the applicant must submit verification from another state or jurisdiction where the applicant is legally authorized to perform restorative functions and certification from the supervising dentist of successful completion of at least 25 restorative procedures within the immediate five years from the date of application.

2. A dental assistant may perform the placement and finishing of direct restorations, except gold foil, under the indirect supervision of a licensed dentist, after the supervising dentist has prepared the tooth (teeth) for restoration(s):
   (a) These functions can only be performed after the patient has given informed consent for the procedure and informed consent for the placement of the restoration by a Restorative Functions dental assistant.
   (b) Before the patient is released, the final restoration(s) shall be checked by a dentist and documented in the chart.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.010 & 679.250(7)
Hist.: OBD 3-2007, f. & cert. ef. 11-30-07; OBD 1-2008, f. 11-10-08, cert. ef. 12-1-08; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13; OBD 2-2018, f. 10/04/18, ef. 1/1/19

818-042-0100
Expanded Functions – Orthodontic Assistant (EFODA)

1. An EFODA may perform the following duties while under the indirect supervision of a licensed dentist:
   (a) Remove orthodontic bands and brackets and attachments with removal of the bonding material and cement. An ultrasonic scaler, hand scaler or slow speed handpiece may be used. Use of a high speed handpiece is prohibited;
   (b) Select or try for the fit of orthodontic bands;
   (c) Recement loose orthodontic bands;
   (d) Place and remove orthodontic separators;
   (e) Prepare teeth for bonding or placement of orthodontic appliances and select, pre-position and cure orthodontic brackets, attachments and/or retainers after their position has been approved by the supervising licensed dentist;
   (f) Fit and adjust headgear;
   (g) Remove fixed orthodontic appliances;
   (h) Remove and replace orthodontic wires. Place and ligate archwires. Place elastic ligatures or chains as directed;
   (i) Cut arch wires; and
   (j) Take impressions for study models or temporary oral devices such as, but not limited to, space maintainers, orthodontic retainers and occlusal guards.
(2) An EFODA may perform the following duties while under the general supervision of a licensed dentist:

(a) An expanded function orthodontic assistant may remove any portion of an orthodontic appliance causing a patient discomfort and in the process may replace ligatures and/or separators if the dentist is not available, providing that the patient is rescheduled for follow-up care by a licensed dentist as soon as is reasonably appropriate.

(b) An EFODA may recement orthodontic bands if the dentist is not available and the patient is in discomfort, providing that the patient is rescheduled for follow-up care by a licensed dentist as soon as is reasonably appropriate.

818-042-0110 Certification — Expanded Function Orthodontic Assistant

The Board may certify a dental assistant as an expanded function orthodontic assistant:

(1) By credential in accordance with OAR 818-042-0120, or

(2) Completion of an application, payment of fee and satisfactory evidence of:

(a) Completion of a course of instruction in a program in dental assisting accredited by the American Dental Association Commission on Dental Accreditation; or

(b) Passage of the Basic, CDA or COA examination, and Expanded Function Orthodontic Assistant examination, or equivalent successor examinations, administered by the Dental Assisting National Board, Inc. (DANB), or any other testing entity authorized by the Board; and certification by a licensed dentist that the applicant has successfully placed and ligated orthodontic wires on ten (10) patients and removed bands/brackets and remaining adhesive using an ultrasonic, hand scaler or a slow speed hand piece from teeth on four (4) patients.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.025(2)(j) & 679.250(7)
Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 2-2012, f. 6-14-12, cert. ef. 7-1-12

818-042-01112 Expanded Function Preventive Dental Assistants (EFPDA)

The following duties are considered Expanded Function Preventive Duties and may be performed only after the dental assistant complies with the requirements of 818-042-0113:

(1) Polish the coronal surfaces of teeth with a brush or rubber cup as part of oral prophylaxis to remove stains providing the patient is checked by a dentist or dental hygienist after the procedure is performed, prior to discharge.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679
Hist.: OBD 2-2016, f. 11-2-16, cert. ef. 3-1-17

818-042-0112 Certification — Expanded Function Preventive Dental Assistants (EFPDA)

The Board may certify a dental assistant as an expanded function preventive dental assistant:

(1) By credential in accordance with OAR 818-042-0120, or

(2) If the assistant submits a completed application, pays the fee and provides evidence of:

(a) Certification of Radiologic Proficiency (OAR 818-042-0060); and satisfactory completion of a course of instruction in a program accredited by the Commission on Dental Accreditation of the American Dental Association; or

(b) Certification of Radiologic Proficiency (OAR 818-042-0060); and passage of the Oregon Basic or Certified Preventive Functions Dental Assistant (CPFDA) examination, and the Expanded Function Dental Assistant examination, or equivalent successor examinations, administered by the Dental Assisting National Board, Inc. (DANB), or any other testing entity authorized by the Board; and certification by an Oregon licensed dentist that the applicant has successfully polished the coronal surfaces of teeth with a brush or rubber cup as part of oral prophylaxis to remove stains on six patients.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679
Hist.: OBD 2-2016, f. 11-2-16, cert. ef. 3-1-17

818-042-0113 Additional Functions of EFPDAs

(1) Upon successful completion of a course of instruction in a program accredited by the Commission on Dental Accreditation of the American Dental Association, or other course of instruction approved by the Board, a certified Expanded Function
Preventive Dental Assistant may perform the following functions under the indirect supervision of a dentist or dental hygienist providing that the procedure is checked by the dentist or dental hygienist prior to the patient being dismissed:

(2) Apply pit and fissure sealants provided the patient is examined before the sealants are placed. The sealants must be placed within 45 days of the procedure being authorized by a dentist or dental hygienist.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.250(7)
Hist.: OBD 2-2018, f. 10/04/18, ef. 1/1/19

818-042-0115
Expanded Functions – Certified Anesthesia Dental Assistant

(1) A dentist holding the appropriate anesthesia permit may verbally authorize a Certified Anesthesia Dental Assistant, who possesses a Certified Anesthesia Dental Assistant certificate from the Oregon Board of Dentistry to:

(a) Administer medications into an existing intravenous (IV) line of a patient under sedation or anesthesia under direct visual supervision.

(b) Administer emergency medications to a patient in order to assist the licensee in an emergent situation under direct visual supervision.

(2) A dentist holding the appropriate anesthesia permit may verbally authorize a Certified Anesthesia Dental Assistant to dispense to a patient, oral medications that have been prepared by the dentist and given to the anesthesia dental assistant by the supervising dentist for oral administration to a patient under Indirect Supervision.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.250(7)
Hist.: OBD 1-2001, f. & cert. ef. 1-8-01; OBD 2-2006, f. 3-17-06, cert. ef. 4-1-06

818-042-0117
Initiation of IV Line

Upon successful completion of a course in intravenous access or phlebotomy approved by the Board, a Certified Anesthesia Dental Assistant may initiate an intravenous (IV) infusion line for a patient being prepared for IV medications, sedation, or general anesthesia under the Indirect Supervision of a dentist holding the appropriate anesthesia permit.

Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.020(1), 679.025(1) & 679.250(7)
Hist.: OBD 1-2001, f. & cert. ef. 1-8-01; OBD 1-2006, f. 3-17-06, cert. ef. 4-1-06

818-042-0120
Certification by Credential

(1) Dental Assistants who wish to be certified by the Board in Radiologic Proficiency or as Expanded Function Dental Assistants, Expanded Function Orthodontic Dental Assistants, or as Expanded Function Preventive Dental Assistants shall:

(a) Be certified by another state in the functions for which application is made. The training and certification requirements of the state in which the dental assistant is certified must be substantially similar to Oregon’s requirements; or

(b) Have worked for at least 1,000 hours in the past two years in a dental office where such employment involved to a significant extent the functions for which certification is sought; and

(c) Shall be evaluated by a licensed dentist, using a Board approved checklist, to assure that the assistant is competent in the expanded functions.

(2) Applicants applying for certification by credential in Radiologic Proficiency must obtain
certification from the Oregon Health Authority, Center for Health Protection, Radiation Protection Services, of having successfully completed training equivalent to that required by OAR 333-106-0055 or approved by the Oregon Board of Dentistry.

Stat. Auth.: ORS 679
Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 2-2003, f. 7-14-03 cert ef. 7-18-03; OBD 4-2004, f. 11-23-04 cert. ef. 12-1-04; OBD 3-2005, f. 10-26-05, cert. ef. 11-1-05; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 6-2014, f. 7-2-14, cert. ef. 8-1-2014; OBD 2-2016, f. 11-2-17, cert. ef. 3-1-17

818-042-0130
Application for Certification by Credential

An applicant for certification by credential shall submit to the Board:

(1) An application form approved by the Board, with the appropriate fee;

(2) Proof of certification by another state and any other recognized certifications (such as CDA or COA certification) and a description of the examination and training required by the state in which the assistant is certified submitted from the state directly to the Board; or

(3) Certification that the assistant has been employed for at least 1,000 hours in the past two years as a dental assistant performing the functions for which certification is being sought.

(4) If applying for certification by credential as an EFDA, EFODA or EFPDA certification by a licensed dentist that the applicant is competent to perform the functions for which certification is sought; and

(5) If applying for certification by credential in Radiologic Proficiency, certification from the Oregon Health Authority, Center for Health Protection, Radiation Protection Services, or the Oregon Board of Dentistry, that the applicant has met that agency’s training requirements for x-ray machine operators, or other comparable requirements approved by the Oregon Board of Dentistry.

Stat. Auth.: ORS 679
Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 2-2003, f. 7-14-03 cert ef. 7-18-03; OBD 4-2004, f. 11-23-04 cert. ef. 12-1-04; OBD 3-2005, f. 10-26-05, cert. ef. 11-1-05; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 6-2014, f. 7-2-14, cert. ef. 8-1-2014; OBD 2-2016, f. 11-2-16, cert. ef. 3-1-17
## List of Delegation of Duties by Dentists

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<td>Oral inspection, with no diagnosis</td>
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<td>Take and record blood pressure and vital signs</td>
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<td>Place, expose, and process radiographs (Take intra-oral and extra-oral radiographs)</td>
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<td>Take intra-oral and extra-oral photographs</td>
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<td>Perform coronal polish - A licensed dentist shall determine the teeth are free of calculus or other extraneous material prior to dismissing the patient.</td>
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<td>Give fluoride treatments</td>
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<td>Give patient education in oral hygiene (Give patient oral health instructions)</td>
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<td>Give preoperative and postoperative instructions</td>
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<td>Deliver an oral sedative drug to patient</td>
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<td>Assist in the administration of inhalation minimal sedation (nitrous oxide) analgesia, including starting and stopping the flow as directed by the supervising dentist</td>
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<td>Place topical anesthetics</td>
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<td>Place and remove the rubber dam</td>
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<td>Apply tooth separators as for placement for Class III gold foil</td>
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<td>Apply sealants</td>
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<td>Place a matrix and wedge for a direct restorative material after the dentist has prepared the cavity</td>
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<td>Place cavity liners and bases</td>
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<td>Perform acid etch and apply bonding agents</td>
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<td>Polish restorations but may not intra-orally adjust or finish permanent restorations</td>
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<td>Sterilize equipment and disinfect operatories</td>
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<td>Place retraction cord</td>
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<td>Hold in place and remove impression materials after the dentist has placed them</td>
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<td>Take impressions, bite registrations, or digital scans of the teeth and jaws for:</td>
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<td>Diagnostic and opposing models</td>
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<td>Fixed and removable orthodontic appliances, occlusal guards, bleaching trays, and fluoride trays</td>
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<td>Temporary indirect restorations such as temporary crowns</td>
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<td>Take digital scans of prepared teeth for fabrication of permanent indirect restorations</td>
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<td>Take facebow transfer for mounting study casts</td>
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<td>Fabricate and deliver bleaching and fluoride trays</td>
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<td>Fabricate, cement, and remove temporary crowns or temporary bridges</td>
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<td>Remove the excess cement after the dentists has placed a permanent or temporary inlay, crown, bridge or appliance, or around orthodontic bands</td>
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<td>Place a temporary filling (as zinc oxide=eugenol (ZOE)) after diagnosis and examination by the dentist</td>
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<td>Pack and medicate extraction areas</td>
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<td>Place periodontal packs</td>
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<td>Remove periodontal packs or sutures</td>
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<td>Select denture shade and mold</td>
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<td>Place and remove orthodontic separators</td>
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<td>Select and fit orthodontic bands, try in fixed or removable orthodontic appliances prior to the dentist cementing or choking the appliance</td>
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<td>Prepare teeth for the bonding of orthodontic appliances</td>
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<td>Bond attachments for clear removable orthodontic aligners</td>
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<td>Remove and replace archwires and orthodontic wires</td>
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<td>Fit and adjust headgear</td>
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</table>
### List of Delegation of Duties by Dentists

<table>
<thead>
<tr>
<th>Dental Assistant</th>
<th>General</th>
<th>Dental Hygienist</th>
<th>General</th>
<th>EFDA</th>
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<th>General</th>
<th>EFDA</th>
<th>Dental Assistant</th>
<th>General</th>
<th>Dental Anesthesia Assistant</th>
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<th>Dental Anesthesia Assistant</th>
<th>General</th>
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<tbody>
<tr>
<td>Remove fixed orthodontic appliances, orthodontic cement, and orthodontic bonded resin material</td>
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<tr>
<td>Take preliminary and final impressions and bite registrations, to include computer assisted design and computer assisted manufacture applications</td>
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<tr>
<td>Head and neck examination</td>
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<td>Oral inspection and measuring of periodontal pockets, with no diagnosis</td>
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<td>Apply topical preventive or prophylactic agents</td>
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<tr>
<td>Polish and smooth restorations</td>
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<tr>
<td>Oral prophylaxis and removal of deposits and stains from the surface of the teeth</td>
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<tr>
<td>Perform sub-gingival and supra-gingival scaling</td>
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<td>Perform root planing</td>
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<tr>
<td>Apply topical anesthetic agents</td>
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<td>Deliver oral antibiotic prophylaxis as prescribed by a dentist</td>
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<tr>
<td>Perform soft-tissue curettage</td>
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<td>Administer local anesthetic agents and adjunctive procedures; adjunctive procedures include local anesthetic reversal agents and buffered anesthetic (patient conditions must be met)</td>
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<tr>
<td>Place restorations into cavity prepared by the dentist, and theretofore could carve, contour and adjust contacts and occlusions of the restoration (Place, carve, finish, and polish direct restorations)</td>
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<td>Administer nitrous oxide analgesia</td>
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<td>Place antimicrobials</td>
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<td>Initiate and discontinue an intravenous line for a patient being prepared to receive intravenous medications, sedation, or general anesthesia</td>
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<td>Adjust the rate of intravenous fluids infusion only to maintain or keep the line patent or open</td>
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**List of Delegation of Duties by Dentists**

<table>
<thead>
<tr>
<th>Duties</th>
<th>Dental Assistant General Supervision</th>
<th>Dental Assistant Close Supervision</th>
<th>EFDA General Supervision</th>
<th>EFDA Close Supervision</th>
<th>Oral Assistant General Supervision</th>
<th>Oral Assistant Close Supervision</th>
<th>Oral Assistant Direct Visual Supervision</th>
<th>Oral Assistant Close Visual Supervision</th>
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</thead>
<tbody>
<tr>
<td>Draw up and prepare medications</td>
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<tr>
<td>Follow instructions to deliver medications into an intravenous line upon verbal command</td>
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<tr>
<td>Adjust the rate of intravenous fluids infusion beyond a keep open rate</td>
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<tr>
<td>Adjust an electronic device to provide medications, such as an infusion pump</td>
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<tr>
<td>Administer emergency medications to a patient in order to assist the oral and maxillofacial surgeon or dental anesthesiologist in an emergency</td>
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**Notes:**
A credential is not necessary for nonclinical tasks, including taking health histories and chart notes

*Close and General Supervision are defined in WAC 246-817-510*
*Direct Visual Supervision is defined in WAC 246-817-710*
RCW 18.260.010

Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Close supervision" means that a supervising dentist whose patient is being treated has personally diagnosed the condition to be treated and has personally authorized the procedures to be performed. The supervising dentist is continuously on-site and physically present in the treatment facility while the procedures are performed by the assistive personnel and capable of responding immediately in the event of an emergency. The term does not require a supervising dentist to be physically present in the operatory.

(2) "Commission" means the Washington state dental quality assurance commission created in chapter 18.32 RCW.

(3) "Dental assistant" means a person who is registered by the commission to provide supportive services to a licensed dentist to the extent provided in this chapter and under the close supervision of a dentist.

(4) "Dentist" means an individual who holds a license to practice dentistry under chapter 18.32 RCW.

(5) "Department" means the department of health.

(6) "Expanded function dental auxiliary" means a person who is licensed by the commission to provide supportive services to a licensed dentist to the extent provided in this chapter and under the specified level of supervision of a dentist.

(7) "General supervision" means that a supervising dentist has examined and diagnosed the patient and provided subsequent instructions to be performed by the assistive personnel, but does not require that the dentist be physically present in the treatment facility.

(8) "Secretary" means the secretary of health.

(9) "Supervising dentist" means a dentist licensed under chapter 18.32 RCW that is responsible for providing the appropriate level of supervision for dental assistants and expanded function dental auxiliaries.

[ 2007 c 269 § 1. ]
Advances in technology, communication and data management have resulted in new approaches to delivery of oral health care services, including those in which dentist and patient are not in the same physical location, but interact using enabling technology. These new approaches, referred to as teledentistry, are useful tools that, if employed appropriately, can provide important benefits to patients, including increased access to oral health care, access to oral health care professionals that are not available in the patient’s home community, rapid availability of patient records, and a potential reduction in the cost of oral health care delivery. Realizing that these new practice forms will require oversight and regulation, the Dental Quality Assurance Commission (Commission) developed this guideline to describe how teledentistry is to be defined, supervised, regulated and disciplined by the Commission consistent with existing statutes governing the practice of dentistry within the state of Washington. The Commission recognizes that technology changes occur rapidly, so this guideline provides general principles that are technologically neutral rather than focusing on the use of any specific current technologies.

Definitions

“Dentist-Patient Relationship” is the relationship between a dentist and a receiver of oral health care services (patient) based on mutual understanding of their shared responsibility for the patient’s oral health care. The relationship is clearly established when the dentist agrees to undertake diagnosis and/or treatment of the patient and the patient agrees that the dentist will diagnose and/or treat, whether or not there has been or is an in-person encounter between the parties. The parameters of the dentist-patient
relationship for teledentistry should mirror those that would be expected for similar in-person dental encounters.

“Enabling Technology” means the use of electronic technology or media, including interactive audio or video, for the purpose of diagnosing or treating a patient or consulting with other health care providers regarding a patient’s diagnosis or treatment.

“Health care provider” means a licensed dentist, dental hygienist, expanded function dental auxiliary, allopathic physician and surgeon, osteopathic physician and surgeon, advanced registered nurse practitioner, registered nurse, or licensed practical nurse authorized to perform tasks within their specific scope of practice.

“In-person” means interaction(s) between the dentist and the patient that occur in the same physical space, and does not include interactions that occur through the use of enabling technology.

“Practice of dentistry” has the same meaning as RCW 18.32.020. Teledentistry is included within the practice of dentistry and is not a separate discipline.

“Teledentistry” is the practice of dentistry using enabling technology between a dentist in one location and a patient in another location with or without an intervening practitioner. It is a tool in dentistry practice, not a separate form of dentistry.

Guidelines for Appropriate use of Teledentistry

A. Licensure: A dentist using teledentistry to practice dentistry on patients in Washington must be licensed to practice dentistry in Washington.
   1. This includes dentists who treat or prescribe to Washington patients through online service sites.
   2. A dentist may delegate allowable tasks to Washington licensed dental hygienists, and licensed expanded function dental auxiliaries through teledentistry. Delegation of tasks through teledentistry must be under the general supervision provided in WAC 246-817-525 and 550. Teledentistry does not meet the definition of close supervision as the dentist is not physically present.

B. Standard of Care: Dentists using teledentistry will be held to the same standard of care as practitioners engaging in more traditional in-person care delivery, including the requirement to meet all technical, clinical, confidentiality and ethical standards required by law. Failure to conform to the standard of care, whether rendered in person or via teledentistry, may subject the practitioner to potential discipline by the Commission. Some elements of the standard of care as applied to teledentistry include:
   1. Dentist-Patient Relationship: When practicing teledentistry, a dentist must establish a practitioner-patient relationship with the patient. The absence of in-person contact does not eliminate this requirement. Patient completion of a questionnaire does not, by itself, establish a practitioner-patient relationship, and therefore treatment, including prescriptions, based solely on a questionnaire does not constitute an acceptable standard of care.
      a. The dentist must provide proof of identity, jurisdiction, and licensure status to the patient.
b. The dentist must make appropriate effort to confirm the patient’s identity. If patient is a minor, the dentist must make appropriate effort to confirm the parent or legal guardian is present when required.

c. The dentist must confirm and document the patient is physically located in a jurisdiction in which the dentist is licensed.

2. Informed Consent: As with oral health care involving in-person contact, a dentist should obtain and document appropriate informed consent for teledentistry encounters. Because of the unique characteristics of teledentistry, it is best practice for the informed consent to include:
   a. The manner in which the dentist and patient will use particular enabling technologies, the boundaries that will be established and observed, and procedures for responding to electronic communications from patients;
   b. Issues and potential risks surrounding confidentiality and security of patient information when particular enabling technologies are used (e.g., potential for decreased expectation of confidentiality if certain technologies are used);
   c. Limitations on the availability and/or appropriateness of specific teledentistry services that may be hindered as a result of the services being offered through teledentistry.

3. Patient Evaluation: An appropriate history and evaluation of the patient must precede the rendering of any care, including provision of prescriptions. Not all patient situations will be appropriate for teledentistry. Evaluating the adequacy and significance of any examination remains the responsibility of the teledentistry dentist. Since, by definition, teledentistry does not involve in-person contact between dentist and patient, if circumstances require in-person contact, a credentialed health care provider may provide in person observations.
   a. The credentialed health care provider is authorized to perform tasks within their specific scope of practice.
   b. The credentialed health care provider is acceptable to the teledentistry dentist and the patient.
   c. If a credentialed health care provider is unable to perform a specific task, the teledentistry dentist should advise the patient to be seen by a dentist in-person.

4. Allowable Treatment Parameters: The teledentistry dentist may provide any treatment deemed appropriate for the patient, including prescriptions, if the evaluation performed is adequate to justify the action taken. The dentist is responsible for knowing the limitations of the care he or she can provide, no matter how the care is delivered. Just as in a traditional setting, teledentistry dentists should recognize situations that are beyond their expertise, their ability, or the limits of available technology to adequately evaluate or manage in the existing circumstances, and refer such patients for appropriate care.

5. Patient Records: Dentists providing teledentistry services must document the encounter appropriately and completely so that the record clearly, concisely and accurately reflects what occurred during the encounter. Such records should be permanent and easily available to or on behalf of the patient and other practitioners in accordance with patient consent, direction and applicable standards. Dentists should maintain security and confidentiality of the patient record in compliance with applicable laws and regulations related to the maintenance and transmission of such records. Dentists must comply with dental patient record requirements in WAC 246-817-304, 305, and 310.

6. Prescriptions: Prescribing medications, whether in person or via teledentistry, is at the professional discretion of the dentist. The dentist, in accordance with current standards of practice, must evaluate the indications, appropriateness, and safety considerations for each
teledentistry prescription. Teledentistry prescriptions entail the same professional accountability as prescriptions incident to an in-person contact. Where appropriate clinical procedures and considerations are applied and documented, dentists may exercise their judgment and prescribe medications as part of teledentistry. Especially careful consideration should apply before prescribing controlled substances, and compliance with all laws and regulations pertaining to such prescriptions is expected. Measures to assure informed, accurate and error-free prescribing practices (e.g. integration with e-Prescription services) are encouraged.