Notice of Agency Rule-making Proposal

AGENCY: Maine Board of Dental Practice (Affiliated with the Department of Professional and Financial Regulation)

CHAPTER NUMBER AND TITLE:

Chapter 1 “Definitions” repealed and replaced with new chapter “Definitions.”

Chapter 2 “Rules Relating to Dental Hygienists” repealed and replaced with new chapter “Qualifications for Dental Hygienist Licensure and Dental Hygienist Practice Authorities.”

Chapter 3 “Rules Relating to Dental Assistants” repealed and replaced with new chapter “Qualifications for Expanded Function Dental Assistant Licensure.”

Chapter 4 “Rules Relating to the Practice of Denturism” repealed and replaced with new chapter “Qualifications for Dental Radiography Licensure.”

Chapter 5 “Requirements for Licensure as a Denturist” repealed and replaced with new chapter “Qualifications for Denturist Licensure.”

Chapter 6 “Rules for Radiation Barriers” repealed and replaced with new chapter “Qualifications for Dentist Licensure.”

Chapter 8 “Advertising” repealed and replaced with new chapter “Qualifications for Initial and Renewal Registrations.”

Chapter 9 “Complaints/Investigations/Unprofessional Conduct” repealed and replaced with new chapter “Unprofessional Conduct.”

Chapter 10 “Licensure Requirements for Dental Radiographers” repealed and replaced with new chapter “Sexual Misconduct.”

Chapter 11 “Requirements for Licensure as Dental Hygienists” repealed and replaced with new chapter “Qualifications for Licensure by Endorsement; Requirements for Renewal, Late Renewal, and Reinstatement of Licensure and Authorities.”

Chapter 12 “Requirements for Dental Licensure” repealed and replaced with new chapter “Practice Requirements.”

Chapter 15 “Mortality or Significant Health Incidents in a Dental Office” repealed.

Chapter 16 “Rules for Independent Practice Dental Hygienists to Process Dental Radiographers” repealed.

TYPE OF RULE (check one):  ☑ Routine Technical  ☐ Major Substantive

PROPOSED RULE NUMBER (leave blank; to be assigned by Secretary of State):
BRIEF SUMMARY:

This rulemaking effort is a repeal and replace of several, existing rules governing the practice of dental professionals regulated under the Maine Dental Practice Act. In 2016, the Maine Dental Practice Act was repealed and replaced resulting in the streamlining of licensure categories, licensure qualifications, dental hygiene practice authorities, and the identification of scopes of practice for each regulated dental professional. In 2018 and 2019, the Maine Dental Practice Act was further amended to clarify licensure categories, scopes of practice and the qualifications to practice dental therapy.

This rulemaking effort repeals outdated rules and replaces the rules to align with the new statutory provisions to clarify the qualifications for licensure and registration, identify the requirements to renew and reinstate a license and practice authority, and identifies practice requirements of dental professionals to ensure public protection in areas such as infection control, radiation protection, safety and sanitary requirements, emergency protocols, dental adverse occurrence reporting, inventory control for controlled substances, patient records and recordkeeping requirements, informed consent provisions, practice and sale notification requirements, use of certain materials, lasers and digital equipment, after hours patient care and placement of temporary restorations without and without the use of dental radiographs.

Below is a summary of the proposed changes:

Chapter 1 - Definitions

Deleted terms not used in rules:
- ADHA
- CDE
- Certificate of Oral Condition
- CME
- Dental Auxiliaries
- Dental Assistant
- Edentulous Arch
- NERB
- Overdenture
- Reversible Intraoral Procedures
- Teledentistry

Deleted terms already defined in the Maine Dental Practice Act:
- Board
- Dental Hygienist
- Dental Radiographer
- Dental Radiography
- Dentist
- Denturist
- Direct Supervision
- Expanded Function Dental Assistant
- General Supervision
- Independent Practice Dental Hygienist
- Local Anesthesia
- Nitrous Oxide Analgesia
- Practice of Denturism
- Public Health Supervision
Chapter 1 – Definitions (cont.)

Revised the following definitions:
- Advertising
- BCLS
- Patient of Record

Chapter 2 – Rules Relating to Dental Hygienists

Deleted scope of practice sections as the sections exist in the Maine Dental Practice Act.
Revised and moved the following provisions into a new proposed chapter:
- Qualifications of administering nitrous oxide analgesia and local anesthesia
- Practice requirements for the supervising dentists and dental hygienist with the practice authority
- Eligibility requirements and practice requirements for public health dental hygiene authority

Chapter 3 – Rules Relating to Dental Assistants

Deleted scope of practice sections as the sections exist in the Maine Dental Practice Act.
Revised and moved the qualifications for expanded function dental assistant licensure.
Revised and moved the requirements for licensure by endorsement and the requirements to renew and reinstate a license into a new proposed chapter.

Chapter 4 – Rules Relating to the Practice of Denturism

Deleted practice requirements that were repealed in the Maine Dental Practice Act.
Revised and moved the practice requirements into a new proposed chapter.

Chapter 5 – Requirements for Licensure as a Denturist

Deleted denturist externship permit as the licensure category was repealed in the Maine Dental Practice Act.
Revised and moved the qualifications for denturist licensure.
Revised and moved the qualifications for licensure by endorsement and the requirements to renew and reinstate a license into a new proposed chapter.

Chapter 6 – Rules for Radiation Barriers

Revised and moved the practice requirement into a new proposed chapter.
Revised and moved the failure to follow the practice requirement into a new proposed chapter.

Chapter 8 – Advertising

Repealed the chapter.

Chapter 9 – Complaints/Investigations/Unprofessional Conduct

Deleted the complaint process from rule.
Deleted the limitation of a dentist’s scope of practice in rule.
Revised sections of unprofessional conduct and moved then into a new proposed chapter governing practice requirements.
Revised sections of unprofessional conduct to align with the Maine Dental Practice Act.
Revised the sexual misconduct section and moved the section into a new proposed chapter.
Chapter 10 – Licensure Requirements for Dental Radiographers

Revised and moved the qualifications for licensure into a new proposed chapter.
Revised and moved the requirements for licensure by endorsement and the requirements to renew and reinstate a license into a new proposed chapter.

Chapter 11 – Requirements for Licensure as Dental Hygienists

Revised and moved qualifications for licensure and practice authorities into a new proposed chapter.
Revised and moved the requirements for licensure by endorsement and the requirements to renew and reinstate a license and a practice authority into a new proposed chapter.
Revised and moved the practice requirements into a new proposed chapter.

Chapter 12 – Requirements for Dental Licensure

Revised and moved qualifications for licensure into a new proposed chapter.
Revised and moved the requirements for licensure by endorsement and the requirements to renew and reinstate a license into a new proposed chapter.

Chapter 15 – Mortality or Significant Health Incidents in a Dental Office

Repealed the chapter, revised the practice requirement and moved the section into a new proposed chapter.

Chapter 16 – IPDH/Dental Radiographs

Repealed the chapter and moved the practice requirement section into a new proposed chapter.

DATE, TIME AND LOCATION OF PUBLIC HEARING (if any): November 8, 2019 at 2:00 p.m.; Maine Board of Dental Practice, Conference Room, 161 Capitol Street, Augusta, ME

COMMENT DEADLINE: November 22, 2019 at 5:00 p.m.

CONTACT PERSON FOR THIS FILING (include name, mailing address, telephone, fax, TTY, e-mail): Penny Vaillancourt, 143 State House Station, Augusta, ME 04333; 207-287-3333

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT (if different):

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES (if any):


SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (if different):

AGENCY WEBSITE: www.maine.gov/dental

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: penny.vaillancourt@maine.gov
* Check one of the following two boxes.

X  The summary provided above is for publication in both the newspaper and website notices.

☐ The summary provided above is for the newspaper notice only. Title 5 §8053, sub-§5 & sub-§7, ¶D. A more detailed summary is attached for inclusion in the rule-making notice posted on the Secretary of State’s website. Title 5 §8053, sub-§3, ¶D & sub-§6.

Please approve bottom portion of this form and assign appropriate AdvantageME number.

APPROVED FOR PAYMENT

(available signature)

DATE: 10.8.2019

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Rule-Making Fact Sheet
(5 M.R.S. §8057-A)

AGENCY: Maine Board of Dental Practice (Affiliated with the Department of Professional and Financial Regulation)

NAME, ADDRESS, PHONE NUMBER, E-MAIL OF AGENCY CONTACT PERSON: Penny Vaillancourt, 143 State House Station, Augusta, ME 04333; 207-287-3333

CHAPTER NUMBER AND RULE TITLE:

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TYPE OF RULE (check one): ☒ Routine Technical ☐ Major Substantive

DATE, TIME AND PLACE OF PUBLIC HEARING: November 8, 2019 at 2:00 p.m.; Maine Board of Dental Practice, Conference Room, 161 Capitol Street, Augusta, ME

COMMENT DEADLINE: November 22, 2019 at 5:00 p.m.

PRINCIPAL REASON(S) OR PURPOSE FOR PROPOSING THIS RULE: [see §8057-A(1)(A)&(C)]: This proposed rule is a complete repeal and replace of several, existing rules governing the practice of dental professionals regulated under the Maine Dental Practice Act. The purpose for proposing the rule is as follows:

- Fully implements the provisions of the Maine Dental Practice Act which was repealed and replaced in 2016, and further amended in 2018 and 2019, in the following ways:
  - Removes scope of practice provisions from rules
  - Eliminates definitions identified in statute
  - Repeals provisions were repealed in statute
  - Clarifies the requirements for licensure, practice authorities, registrations, renewal and reinstatement requirements
  - Identifies pathways for licensure by endorsement
  - Identifies the process for dental hygiene to qualify, apply and obtain practice authorities in the following practice areas: administration of nitrous oxide analgesia, administration of local anesthesia, independent practice dental hygiene, public health hygiene and dental therapy.
- Revises existing rules to reflect practice standards applicable to all licensees such as infection control, radiation protection, safety and sanitary requirements, emergency protocols, dental adverse occurrence reporting, inventory control for controlled substances, patient records and recordkeeping requirements, informed consent provisions, practice and sale notification requirements, use of certain materials, lasers and digital equipment, after hours patient care and placement of temporary restorations without and with the use of dental radiographs.
- Adopts national principles of ethics and codes of professional conduct specific to the dentists, dental hygienists and denturists.
- Eliminates regulations such as the advertising of personnel, limiting services of public health dental hygiene and prohibiting a denturist from inserting an immediate denture within 48 hours of extraction.

IS MATERIAL INCORPORATED BY REFERENCE IN THE RULE? YES ☑ NO ❌ [§8056(1)(B)]:

- Center for Disease Control “Guidelines for Infection Control in Dental Health-Care settings” 2003.
- State and federal regulations regarding access and protection of patient records; Health Insurance Portability and Accountability Act (“HIPAA”); 45 C.F.R. §§ 164.500-164.534 and 22 M.R.S. § 1711-C.
- Safety precaution in the use of nitrous oxide analgesia; See the Department of Health and Human Services, National Institute for Occupational Safety and Health (“NIOSH”); “Controlling Exposures to Nitrous Oxide During Anesthetic Administration” - Publication 94-100; “NIOSH Warns: Nitrous Oxide Continues to Threaten Health Care Workers” – Publication 94-118, “Control of Nitrous Oxide in Dental Operatories” – Publication 96-107.
• American Dental Association Principles of Ethics and Code of Professional Conduct as amended, February 2018
• American Dental Hygienists' Association Code of Ethics, June 13, 2016

ANALYSIS AND EXPECTED OPERATION OF THE RULE: [see §8057-A(1)(B)&(D)]: N/A

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (including up to 3 primary sources relied upon) [see §§8057-A(1)(E) & 8063-B]

1. Title 32, Chapter 143 “Dental Professions.”
2. Current Board Rules.
3. Public Law 2018, c. 388 “An Act to Align the Laws Governing Dental Therapy with Standards Established by the American Dental Association Commission on Dental Accreditation.”
5. Rules Committee meetings (February through July 2018).
6. Agency License Management System (“ALMS”) database for records to determine number of licenses issued per biennium, renewals granted per biennium, renewals anticipated in future biennia.
7. Consideration of other state licensure boards governing dentistry and use of sedation and general anesthesia as collected by the American Association of Dental Boards. See link below: http://dentalboards.org
9. Infection Control Guidelines: see CDC’s publication Recommendations from the Guidelines for Infection Control in Dental Health-Care Settings – 2003.”
13. Controlling Nitrous Oxide Exposures: 94-100, 94-118, and 96-107 publications by the National Institute for Occupational Safety and Health (NIOSH).
14. Massachusetts Board of Registration in Dentistry – rules regarding practice requirements: see: 234 CMR 5.00 Requirements for the Practice of Dentistry, Dental Hygiene, and Dental Assisting, October 10, 2014.
15. Illinois Board of Dentistry – rules regarding reporting of adverse occurrences: see 68 IAC 1220.405.
17. Service animals: see Title 5, Chapter 337 Human Rights Act.
22. Professional judgment of the Board of Dental Practice and its Rules Committee.

ESTIMATED FISCAL IMPACT OF THE RULE: [see §8057-A(1)(C)]: N/A
OR EXISTING RULES WITH FISCAL IMPACT OF $1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS: [see §8057-A(2)(A)]

INDIVIDUALS, MAJOR INTEREST GROUPS AND TYPES OF BUSINESSES AFFECTED AND HOW THEY WILL BE AFFECTED: [see §8057-A(2)(B)]

BENEFITS OF THE RULE: [see §8057-A(2)(C)]

Note: If necessary, additional pages may be used.
02  DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

313  BOARD OF DENTAL PRACTICE

Chapter 1:  DEFINITIONS

Summary: As used in the Board rules, unless the context otherwise indicates, the following words have the following meanings:

[NOTE: Additional definitions are found in Title 32, Chapter 143 “Dental Professions”]

I.  DEFINITIONS

A.  ACLS: “ACLS” means advanced cardiac life support.

B.  ADA: “ADA” means the American Dental Association or its successor.

C.  Advertising: “Advertising” means any verbal, written, or electronic medium designed to call public attention to or to attract patronage to an individual licensed under the Maine Dental Practice Act.

D.  BLS: “BLS” means basic cardiac life support.

E.  Certified Dental Assistant (CDA): “Certified Dental Assistant” means a dental assistant who has successfully passed a certification examination administered by the Dental Assisting National Board.

F.  CDC: “CDC” means the Center for Disease Control and Prevention or its successor.

G.  CODA: “CODA” means the ADA Commission on Dental Accreditation.

H.  CPR: “CPR” means cardiopulmonary resuscitation.

I.  Deep Sedation: “Deep Sedation” means an induced state of depressed consciousness, accompanied by a partial loss of protective reflexes, including the inability to maintain independently and continuously an airway and/or to respond purposefully to physical stimulation or verbal command, produced by a pharmacologic or nonpharmacologic method or combination thereof.


K.  General Anesthesia: “General Anesthesia” means an induced state of unconsciousness, accompanied by a partial or complete loss of protective reflexes, including inability to maintain independently an airway and respond purposefully to physical stimulation or verbal
command, produced by a pharmacologic or a nonpharmacologic method, or combination thereof.

L. **Moderate Sedation**: “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.

M. **OSHA**: “OSHA” means the Occupational Safety and Health Administration of the United States Department of Labor.

N. **Patient**: “Patient” means an individual who has established a professional relationship with a dental professional licensed under the Maine Dental Practice Act who is responsible for the delivery of the individual’s dental care.

O. **PALS**: “PALS” means pediatric advanced life support.

STATUTORY AUTHORITY: 32 M.R.S. §§ 18324, 18379.
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

BOARD OF DENTAL PRACTICE

Chapter 2: QUALIFICATIONS FOR DENTAL HYGIENIST LICENSURE AND DENTAL HYGIENIST PRACTICE AUTHORITIES

SUMMARY: This chapter sets forth the qualifications for initial licensure as a dental hygienist and qualifications for dental hygiene practice authorities.

I. GENERAL QUALIFICATIONS; APPLICATION; FEES

A. An applicant seeking licensure or authority to practice under this chapter must submit an application with the appropriate fee, and any other materials required by the Board.

B. An applicant has 90 days after being notified of any additional 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.

C. Verification of current certification in CPR. For purposes of meeting the CPR certification requirements under this chapter, online trainings are not accepted, unless the applicant can verify hands-on participation with the instructor as a component of the training.

D. Verification of passing the jurisprudence examination administered by the Board with a grade of 90 percent. Applicants who do not pass the jurisprudence examination in three attempts may be preliminarily denied licensure.

II. SPECIFIC QUALIFICATIONS FOR DENTAL HYGIENIST INITIAL LICENSURE

A. Verification of an associate’s degree or higher from a dental hygiene program accredited by CODA or its successor organization, or of having completed at least 1/2 of the prescribed course of study in an accredited dental college as a dental student;

B. Verification of passing the National Board Dental Hygiene Examination or the successor to that examination; and

C. Verification of passing all sections of a Board-approved regional or state dental board dental hygiene examination.
III. SPECIFIC QUALIFICATIONS FOR INDEPENDENT PRACTICE DENTAL HYGIENIST AUTHORITY

A. Verification of an active dental hygienist license in good standing under the Maine Dental Practice Act; and

B. Verification of 2,000 hours of clinical practice experience as a licensed dental hygienist.

IV. SPECIFIC QUALIFICATIONS FOR PUBLIC HEALTH DENTAL HYGIENIST AUTHORITY

A. Verification of an active dental hygienist license in good standing under the Maine Dental Practice Act;

B. Submission of a written practice agreement between the applicant and a supervising dentist that outlines the roles and responsibilities of the collaboration, which must include:

(1) Supervising dentist’s responsibilities, including:

   a. Providing an appropriate level of contact, communication, collaboration, and consultation with the dental hygienist;

   b. Having specific standing orders or policy guidelines for procedures that are to be carried out for each location or program, although the dentist need not be present when the procedures are being performed;

(2) Dental hygienist’s responsibilities, including:

   a. Documenting revisions to a written practice agreement in a new practice agreement and filing it with the Board within 10 days of the change. Similarly, documenting termination of a practice agreement and submitting it to the Board within 10 days of the change;

   b. Maintaining an appropriate level of contact and communication with the Maine licensed dentist providing Public Health Supervision;

   c. Identifying the public health dental hygiene settings under which services are to be provided;

   d. Informing each patient who may require further dental services of that need; and

   e. Providing to the patient, parent or guardian a written plan for referral or an agreement for follow-up, recording all conditions that should be called to the attention of a dentist.
V. SPECIFIC QUALIFICATIONS FOR DENTAL THERAPIST AUTHORITY

A. Verification of an active dental hygienist license in good standing under the Maine Dental Practice Act;

B. Verification of a master’s degree in dental therapy from a program that is either CODA accredited or meets the curriculum requirements adopted by board rule;

C. Verification of 2,000 hours of supervised clinical practice while licensed as a provisional dental therapist and under the supervision of a dentist;

For purposes of meeting the clinical requirements of this subparagraph, an applicant's hours of supervised clinical experience may be 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;

D. Verification of current ACLS certification;

E. Submission of a written practice agreement in settings limited to those enumerated in 32 M.R.S. § 18377(3) between the applicant and a supervising dentist that outlines the roles and responsibilities of the collaboration, and which must include:

1) 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;

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 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 therapist;

5) A plan for managing medical emergencies in each practice setting in which the dental 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 therapist.

F. Revisions to a written practice agreement must be documented in a new practice agreement and filed with the Board within 10 days of the change. Similarly, termination of a practice agreement must be documented and submitted to the Board within 10 days of the change; and

G. Verification of passing all sections of a clinical examination approved by the Board

VI. SPECIFIC QUALIFICATIONS FOR PROVISIONAL DENTAL THERAPIST AUTHORITY

A. Verification of an active dental hygienist license in good standing under the Maine Dental Practice Act;

B. Verification of a master's degree in dental therapy from a program that is either CODA accredited or meets the curriculum requirements adopted by board rule;

C. Verification of current ACLS certification;

D. Submission of a current, written practice agreement in settings limited to those enumerated in 32 M.R.S. § 18377(3) between the applicant and a supervising dentist that outlines the roles and responsibilities of the collaboration, and which must include:

(1) 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;

(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 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 therapist;

(5) A plan for managing medical emergencies in each practice setting in which the dental 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 therapist.

E. Revisions to a written practice agreement must be documented in a new practice agreement and filed with the Board within 10 days of the change. Similarly, termination of a practice agreement must be documented and submitted to the Board within 10 days of the change; and

F. Verification of passing all sections of a clinical examination approved by the Board.

VII. SPECIFIC QUALIFICATIONS FOR THE ADMINISTRATION OF LOCAL ANESTHESIA AUTHORITY

A. Verification of an active dental hygienist license in good standing under the Maine Dental Practice Act;

B. Verification of successfully completing a local anesthesia course approved by the Board or sponsored by an institutional program accredited by CODA. The coursework must include didactic and clinical experience in the administration of block and infiltration anesthesia; and

C. Verification of passing an examination in the administration of local anesthesia as part of the local anesthesia course approved by the Board or sponsored by the CODA-accredited institution.

VIII. SPECIFIC QUALIFICATIONS FOR THE ADMINISTRATION OF NITROUS OXIDE ANALGESIA AUTHORITY

A. Verification of an active dental hygienist license in good standing under the Maine Dental Practice Act;

B. Verification of successfully completing a nitrous oxide analgesia course approved by the Board or sponsored by an institutional program accredited by CODA. The coursework must include didactic and clinical experience; and
C. Verification of passing an examination in the administration of nitrous oxide analgesia as part of the nitrous oxide analgesia course approved by the Board or sponsored by the CODA-accredited institution.

XI. SPECIFIC QUALIFICATIONS FOR FACULTY LICENSURE

A. Verification of an active dental hygiene license in good standing issued under the laws of another state or a Canadian province;

B. Credentials, satisfactory to the Board, including:

   (1) 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 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 CODA or a successor organization approved by the Board; and

   (2) Previous employment experience relevant to the subject to be taught (including dates of employment).

X. SPECIFIC QUALIFICATIONS FOR TEMPORARY LICENSURE PURSUANT TO 10 M.R.S. § 8003(5)(G)

A. Verification of an active dental hygiene license in good standing issued under the laws of another state and payment of applicable fees.

B. The Board may waive the CPR and jurisprudence examination requirements set forth in Chapter 2(I)(C) and (D) for good cause.

Summary: This chapter sets forth the qualifications for initial licensure as an expanded function dental assistant.

I. GENERAL QUALIFICATIONS; APPLICATION; FEES

A. An applicant seeking licensure to practice under this chapter must submit an application with the appropriate fee, and any other materials required by the Board.

B. An applicant has 90 days after being notified of any additional 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.

C. Verification of passing the jurisprudence examination administered by the Board with a grade of 90 percent. Applicants who do not pass the jurisprudence examination in three attempts may be preliminarily denied licensure.

D. Verification of current certification in CPR. For purposes of meeting the CPR certification requirements, online trainings are not accepted, unless the applicant can verify hands-on participation with the instructor as a component of the training.

II. SPECIFIC QUALIFICATIONS FOR EXPANDED FUNCTION DENTAL ASSISTANT LICENSURE

A. Verification of a high school diploma or its equivalent as determined by the Board;

B. Verification of one of the following:

(1) A current certificate as a certified dental assistant from a Board-approved 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; and

C. Verification of successfully completed training in a school or program in expanded function dental assisting approved by the Board.

STATUTORY AUTHORITY: 32 M.R.S. §§ 18324, 18341, 18344.
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

BOARD OF DENTAL PRACTICE

Chapter 4: QUALIFICATIONS FOR DENTAL RADIOGRAPHY LICENSURE

Summary: This chapter sets forth the qualifications for initial licensure as a dental radiographer.

I. GENERAL QUALIFICATIONS; APPLICATION; FEES

A. An applicant seeking licensure to practice under this chapter must submit an application with the appropriate fee, and any other materials required by the Board.

B. An applicant has 90 days after being notified of any additional 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.

C. Verification of passing the jurisprudence examination administered by the Board with a grade of 90 percent. Applicants who do not pass the jurisprudence examination in three attempts may be preliminarily denied licensure.

D. Verification of current certification in CPR. For purposes of meeting the CPR certification requirements, online trainings are not accepted, unless the licensee can verify hands-on participation with the instructor as a component of the training.

II. SPECIFIC QUALIFICATIONS FOR DENTAL RADIOGRAPHY LICENSURE

A. Verification of a high school diploma or its equivalent as determined by the Board;

B. Verification of successfully completing one of the following:

(1) a course in dental radiologic technique and safety with an exit examination approved by the Board, or

(2) an examination in dental radiologic technique and safety approved by the Board.

STATUTORY AUTHORITY: 32 M.R.S. §§ 18324, 18341, 18343.
Chapter 5: QUALIFICATIONS FOR DENTURIST LICENSURE

Summary: This chapter sets forth the requirements for initial licensure as a denturist.

I. GENERAL QUALIFICATIONS; APPLICATION; FEES

A. An applicant seeking licensure to practice under this chapter must submit an application with the appropriate fee, and any other materials required by the Board.

B. 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.

C. Verification of passing the jurisprudence examination administered by the Board with a grade of 90 percent. Applicants who do not pass the jurisprudence examination in three attempts may be preliminarily denied licensure.

D. Verification of current certification in CPR. For purposes of meeting the CPR certification requirements under this chapter, online trainings are not accepted, unless the applicant can verify hands-on participation with the instructor as a component of the training.

II. SPECIFIC QUALIFICATIONS FOR DENTURIST LICENSURE

A. Verification of a high school diploma or its equivalent as determined by the Board;

B. Verification of a diploma from a Board-approved denturism postsecondary institution that meets or exceeds the International Federation of Denturists baseline competencies; and

C. Verification of passing all sections of a Board-approved examination administered by a third-party. Applicants who do not pass the Board-approved examination in three attempts within a year from the date of application may be preliminarily denied licensure.

III. SPECIFIC QUALIFICATIONS FOR FACULTY LICENSURE

A. Verification of an active denturist license in good standing issued under the laws of another state or a Canadian province;
B. Credentials, satisfactory to the Board, including:

(1) 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 denturism in this State as part of a Board-approved clinical and didactic program for professional education for denturism students; and

(2) Previous employment experience relevant to the subject to be taught (including dates).

IV. SPECIFIC QUALIFICATIONS FOR TEMPORARY LICENSURE PURSUANT TO 10 M.R.S. § 8003(5)(G)

A. Verification of an active denturism license in good standing issued under the laws of another state and payment of applicable fees.

B. The Board may waive the CPR and jurisprudence examination requirements set forth in Chapter 5(I)(C) and (D) above for good cause.

I. GENERAL QUALIFICATIONS; APPLICATION; FEES

A. An applicant seeking licensure to practice under this chapter must submit an application with the appropriate fee, and any other materials required by the Board.

B. An applicant has 90 days after being notified of any additional 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.

C. Verification of passing the jurisprudence examination administered by the Board with a grade of 90 percent. Applicants who do not pass the jurisprudence examination in three attempts may be preliminarily denied licensure.

D. Verification of current certification in CPR. For purposes of meeting the CPR certification requirements under this chapter, online trainings are not accepted, unless the licensee can verify hands-on participation with the instructor as a component of the training.

II. SPECIFIC QUALIFICATIONS FOR DENTIST LICENSURE

A. Verification of a doctoral degree in dentistry, such as a D.M.D. or D.D.S., from a dental school whose program is accredited by CODA;

B. Verification of passing all parts of the National Dental Board Examination or the successor to that examination; and

C. Verification of passing all sections of a regional or state dental board examination approved by the Board.

III. SPECIFIC QUALIFICATIONS FOR FACULTY LICENSURE

A. Verification of an active dental license in good standing issued under the laws of another state or a Canadian province;

B. Credentials, satisfactory to the Board, including:
(1) 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 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 CODA or a successor organization approved by the Board; and

(2) Previous employment experience relevant to the subject to be taught (including dates of employment).

IV. SPECIFIC QUALIFICATIONS FOR LIMITED DENTIST LICENSURE

A. Verification of a doctoral degree in dentistry, such as a D.M.D. or D.D.S., from a dental school whose program is accredited by CODA;

B. Verification of an active, inactive, or expired dentist license in good standing issued under the laws of this State, or of an active dental license in good standing issued under the laws of another state or a Canadian province; and

C. Verification that the applicant will be practicing dentistry in a nonprofit dental clinic without compensation for work performed at the clinic.

V. SPECIFIC QUALIFICATIONS FOR RESIDENT DENTIST LICENSURE

A. Verification of a doctoral degree in dentistry, such as a D.M.D. or D.D.S., from a dental school whose program is accredited by CODA;

B. Verification of passing all parts of the National Dental Board Examination or the successor to that examination;

C. Verification of passing all sections of a regional or state dental board examination approved by the Board;

D. Verification from a Board-approved post-graduate dental residency program that includes the following:

(1) Affirms that the applicant has an academic affiliation and is enrolled in a dental residency program;

(2) Affirms that the applicant has completed satisfactory training and is ready to perform dental services in limited settings under the supervision of a sponsoring dentist; and

E. Verification of supervision submitted by the sponsoring dentist that describes the following:
(1) Identifies the location(s), and the start and end dates of the clinical setting;

(2) Identifies that the level of supervision and control over 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.

IX. SPECIFIC QUALIFICATIONS FOR TEMPORARY LICENSURE PURSUANT TO 10 M.R.S. § 8003(5)(G)

   A. Verification of an active dentist license in good standing issued under the laws of another state and payment of applicable fees.

   B. The Board may waive the CPR and jurisprudence examination requirements set forth in Chapter 6(I)(C) and (D) for good cause.

Chapter 8: QUALIFICATIONS FOR INITIAL AND RENEWAL REGISTRATIONS

Summary: This chapter sets forth the requirements for initial and renewal registrations in the following categories: moderate levels of sedation, deep sedation or general anesthesia, local anesthesia, nitrous oxide analgesia, and dentist trainee for the purpose of completing supervised, clinical experience.

I. GENERAL QUALIFICATIONS; APPLICATION; FEES

A. An applicant seeking to register under this chapter must submit an application with the appropriate fee, and any other materials required by the Board.

B. An applicant has 90 days after being notified of any additional 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.

II. SPECIFIC QUALIFICATIONS FOR SEDATION REGISTRATION

A dentist who holds a permit to administer sedation pursuant to Chapter 14 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. An applicant must provide:

A. Verification of supervision submitted by the registering dentist that includes the following:

(1) Identification of the location(s), and the start and end dates of the supervised clinical experience(s);

(2) Confirmation that the level(s) of sedation to be performed by the applicant are commensurate with the applicant’s education, training, and competency;

(3) Identification of the anticipated sedation procedures to be performed under direct supervision;

(4) An attestation that the levels of sedation to be performed will not exceed the sedation permit held by the registering dentist;

B. Verification of supervision to be submitted by any additional supervising dentist(s) that identifies:
(1) The location(s), and the start and end dates of the sedation training;

(2) The anticipated dental procedures to be performed and the level of supervision to be provided in coordination with the registering supervisor; and

C. Curriculum vitae of the registering dentist.

III. SPECIFIC QUALIFICATIONS FOR LOCAL ANESTHESIA OR 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. An applicant must provide:

A. Verification of supervision submitted by the registering dentist that includes the following:

(1) Identification of the location(s), and the start and end dates of the supervisee clinical experience(s);

(2) Identification as to whether local anesthesia and/or nitrous oxide analgesia is to be performed by the applicant, and confirms that the procedures are commensurate with the applicant’s education, training, and competency;

(3) The anticipated procedures to be performed under direct supervision;

B. Verification of supervision to be submitted by any additional supervising dentist(s) that includes the following:

(1) Identification of the location(s), and the start and end dates of the sedation training;

(2) Identification of the anticipated procedures to be performed and the level of supervision to be provided in coordination with the registering supervisor; and

C. Curriculum vitae of registering dentist.

IV. SPECIFIC QUALIFICATIONS FOR 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 provide:
A. Verification from a Board-approved denturist school that affirms that individual has successfully completed a denturism program approved by the Board;

B. Verification of supervision submitted by the registering supervisor that includes the following:

(1) Identification of the location(s), and the start and end dates of the trainee experience(s);

(2) Identification of the anticipated denturist procedures to be performed and the level of supervision to be provided by the supervisor registering the individual;

C. Verification of supervision submitted by any additional supervisor(s) in coordination with the registering supervisor that includes the following:

(1) Identification of the location(s), and the start and end dates of the trainee experience(s);

(2) Identification of the anticipated denturist procedures to be performed and the level of supervision to be provided in coordination with the registering supervisor; and

D. Curriculum vitae of registering denturist or registering dentist.

V. SPECIFIC QUALIFICATIONS TO RENEW A REGISTRATION

A. An applicant seeking to renew a registration eligible under this Chapter must submit an application with the appropriate fee, and any other materials required by the Board.

STATUTORY AUTHORITY: 32 M.R.S. §§ 18324, 18341, 18348.
Summary: This chapter sets forth unprofessional conduct that is subject to disciplinary action pursuant to 32 M.R.S. § 18325(1)(E).

I. UNPROFESSIONAL CONDUCT: Unprofessional conduct under 32 M.R.S. § 18325(1)(E) includes, but is not limited to, the following:

A. Engaging in any activity which assists, encourages or induces any person to violate this Chapter or the rules of the Board.

B. Engaging in sexual misconduct, as set forth in Board Rule Chapter 10.

C. Obtaining any fee by fraud or misrepresentation.

D. Dividing fees or agreeing to split fees received for dental services with any person for referring a patient or for assisting in the care of a patient, without the knowledge of the patient or the patient's representative.

E. Prescribing any narcotic medication(s) by the licensee for himself/herself or to a family member or domestic partner with the exception of ongoing dental treatment by the licensee.

F. Possessing, using, prescribing for use, or distributing controlled substances or prescription drugs in any way other than for dental therapeutic purposes. Controlled substances and prescription drugs in the possession of a licensee that are prescribed for the licensee by a medical practitioner legally licensed to so prescribe and which are being used for therapeutic purposes by the licensee are exempted from this rule.

G. Inappropriately prescribing or administering of drugs or treatment, the excessive use of drugs for diagnostic procedures, or the excessive use of diagnostic or treatment procedures.

II. Advertising either professional superiority or the performance of professional services in a superior manner.

I. Using threats or harassment against any patient or former patient, employee or former employee, or licensee for providing evidence in any possible or actual disciplinary action or other legal action.

J. Altering a patient's record with the intent to deceive.
K. Failure of a licensee to adhere to the practice standards set forth in Board Rules, Chapter 12.

L. Failure of a licensee to adhere to the ethical and professional conduct standards set forth in Board Rules, Chapter 12.

M. Failure of a licensee to ensure that the appropriate licensure, authority, registration, and/or permit required under the Maine Dental Practice Act is obtained by an individual that is either supervised or employed by the licensee.

N. Keeping or allowing any living animal, including domesticated pets or emotional support animals, in a practice setting, with the sole exception of fish aquariums. This section does not prevent the presence of a service animal as defined in the Maine Human Rights Act, 5 M.R.S. §§ 4551 – 4634 and the Americans with Disabilities Act 42 U.S.C. §§ 12101-12213 from being on the premises.

O. Abandonment of a patient by a licensee before the completion of a phase of treatment.

P. Delegation by a dentist of any dental activity not specified in 32 M.R.S. § 18371(3).

Q. Failure to respond to the Board regarding any matter for which a time frame is prescribed by statute or rule and/or failure to provide the Board with the records of treatment when requested by the Board.

R. Violating a standard of care that has been established in the practice for which the individual is licensed under the Maine Dental Practice Act.

S. Engaging in disruptive behavior that interferes with or is likely to interfere with the delivery of care.

STATUTORY AUTHORITY: 32 M.R.S. §§ 18324, 18325(1).
Chapter 10: SEXUAL MISCONDUCT

Summary: This chapter sets forth unprofessional conduct that is subject to disciplinary action pursuant to 32 M.R.S. § 18325(1)(E) by defining sexual misconduct, setting the range of sanctions applicable to violations of this rule, and identifying the factors the Board should consider in imposing sanctions.

I. SEXUAL MISCONDUCT DEFINED

A. Sexual misconduct is defined as an unwanted or offensive act of a sexual nature, which is neither diagnostic nor therapeutic, committed with respect to either a patient or a colleague. It may include but is not limited to:

   (1) Deliberate or repeated comments or gestures of a sexual nature;

   (2) Physical contact of a sexual nature, such as intentional touching of a body part for any purpose other than appropriate examination or treatment or when a patient has refused or withdrawn consent; or

   (3) Offering to provide practice-related services, such as providing drugs, in exchange for sexual favors.

B. Sexual misconduct may be established by a single act or by a series of acts. Sexual misconduct may also be established where such acts create a hostile environment of which the dental professional either is, or should be, aware.

C. Sexual misconduct is unprofessional conduct within the meaning of 32 M.R.S. § 18325 and Board Rule Chapter 9.

II. DISCIPLINE; RELEVANT FACTORS. Upon a finding of sexual misconduct, the Board shall consider the following factors in imposing discipline:

A. Patient harm;

B. Severity of impropriety;

C. Culpability of the dental professional;

D. Age of patient or colleague;

E. Physical/mental capacity of patient or colleague;
F. Number of times behavior occurred; and

G. Nature and length of any existing, non-professional relationship.

The above list is not intended to be exclusive.

STATUTORY AUTHORITY: 32 M.R.S. §§ 18324, 18325(1).
I. GENERAL QUALIFICATIONS; REQUIREMENTS

A. An applicant seeking licensure by endorsement, or an applicant seeking to renew, renew late, or reinstate a license or an authority must submit an application with the appropriate fee, and any other materials required by the Board.

B. An applicant has 90 days after being notified of any 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.

II. SPECIFIC QUALIFICATIONS FOR LICENSURE BY 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 other requirements for licensure have been met.

A. Substantially Equivalent License. The Board will review materials submitted by the applicant as outlined below to determine if the applicant has actively practiced with a substantially equivalent license at the level of licensure applied for under the laws and rules of the Board. An applicant seeking licensure by endorsement pursuant to this provision must provide:

(1) Verification of all licenses in good standing under which the applicant actively practiced during the 3 consecutive years immediately preceding application to the Board;

(2) Documentation of the laws and rules of all jurisdictions in which the applicant actively practiced during the 3 consecutive years immediately preceding application to the Board;
(3) A summary in the nature of a resume or curriculum vitae describing the applicant's practice during the 3 consecutive years immediately preceding application for licensure to the Board. The summary must contain references with sufficient contact information to enable verification by email address, mail, and telephone; and

(4) Verification of current certification in CPR. For purposes of meeting the CPR requirement, online trainings are not accepted unless the applicant can verify hands-on participation with the instructor as a component of the training.

B. Substantially Similar Qualifications. The Board will review materials submitted by the applicant as outlined below to determine if the applicant’s qualifications are substantially similar to the requirements for initial licensure for the level of licensure applied for under the laws and rules of the Board. An applicant seeking licensure by endorsement pursuant to this provision must provide:

(1) Verification of all licenses in good standing under which the applicant is actively licensed;

(2) All application materials for qualifications required for initial licensure as a dentist, dental hygienist, dental hygienist authorities pursuant to 32 M.R.S. § 18345(2), a denturist, a dental radiographer, or an expanded function dental assistant, as applicable; and

(3) Verification of current certification in CPR. For purposes of meeting the CPR requirement, online trainings are not accepted unless the applicant can verify hands-on participation with the instructor as a component of the training.

III. SPECIFIC REQUIREMENTS FOR RENEWAL AND REINSTATEMENT OF LICENSURE

A. Renewal Requirements – Prior to the Date of Expiration

(1) An applicant must apply for renewal on or before the date of expiration; and

(2) An applicant must complete the continuing education requirements pursuant to Chapter 13 as a condition to renew.

B. Late Renewal – Within 90 Days after Expiration

(1) An applicant who applies for renewal after expiration of the license, but within 90 days of expiration, must pay the required fees. The licensee will remain subject to disciplinary action for all other violations; and

(2) An applicant must complete the continuing education requirements pursuant to Chapter 13 as a condition to renew. Continuing education hours earned after the date of license expiration will not be applied to the late renewal application.
C. Reinstatement Requirements – Between 91 Days and Two Years of Expiration

(1) An applicant who applies for reinstatement after expiration of the license, but between 91 days and two years of expiration must pay the required fees and meet all qualifications for initial licensure. The Board may, giving due consideration to the protection of the public, waive the examination requirements.

An applicant whose license has been expired more than two years must submit an application for initial licensure, pay the required fee and meet all of the qualifications as outlined in Board statute and rule.

IV. SPECIFIC REQUIREMENTS FOR THE RENEWAL AND REINSTATEMENT OF DENTAL HYGIENE AUTHORITIES

A. The following are requirements to renew and reinstate a dental hygiene practice authority in the practice areas of local anesthesia, nitrous oxide analgesia and independent practice dental hygiene:

(1) A dental hygienist who at the time of renewal has a practice authority identified in Section IV(A) must meet the dental hygiene renewal requirements of this Chapter.

(2) A dental hygienist who at the time of a late renewal has a practice authority identified in Section IV(A) must meet the dental hygiene late renewal requirements of this Chapter.

(3) A dental hygienist who at the time of license expiration held a practice authority identified in Section IV(A) must meet the dental hygiene reinstatement requirements, file an initial authority application, pay the required fees, and meet all the requirements for the practice authority. The Board may, giving due consideration to the protection of the public, waive the examination requirements.

(4) A dental hygienist who at the time of license expiration held a practice authority identified in Section IV(A) and whose license expired more than two years from the date of expiration must submit an application for dental hygiene licensure and any practice authority, pay the required fees, and meet all requirements for licensure and the practice authority.

B. The following are requirements to renew and reinstate a dental hygiene authority in the practice areas of public health dental hygiene, dental therapy, provisional dental therapy:

(1) A dental hygienist who at the time of renewal has a practice authority identified in Section IV(B) must meet the dental hygiene renewal requirements of this Chapter, and submit a current, valid practice agreement(s) with a supervising dentist(s) pursuant to Board Rule, Chapter 2.
(2) A dental hygienist who at the time of a late renewal has a practice authority identified in Section IV(B) must meet the dental hygiene late renewal requirements of this Chapter, and submit a current, valid practice agreement(s) with a supervising dentist(s) pursuant to Board Rule, Chapter 2.

(3) A dental hygienist who at the time of license expiration held a practice authority identified in Section IV(B) must meet the dental hygiene reinstatement requirements, file an initial authority application, pay the required fees and meet all the requirements for the practice authority. The Board may, giving due consideration to the protection of the public, waive the examination requirements.

(4) A dental hygienist who at the time of license expiration held a practice authority identified in Section IV(A) and whose license expired more than two years from the date of expiration must submit an application for dental hygiene licensure and any practice authority, pay the required fees, and meet all requirements for licensure and the practice authority.

STATUTORY AUTHORITY: 32 M.R.S. §§ 18324, 18341, 18347, 18349, 18350.
I. GENERAL PRACTICE REQUIREMENTS

The following practice responsibilities apply to individuals licensed as indicated below:

A. INFECTION CONTROL

(1) All licensees shall utilize the CDC Guidelines for Infection Control in Dental Health-Care Settings, 2003.

(2) A licensee who is providing general supervision or direct supervision must ensure the supervised individual’s training and/or certification is completed to comply with the CDC Guidelines noted in Section I (A)(1).

B. RADIATION PROTECTION; DENTAL RADIOGRAPHS; PATIENT SELECTION

(1) A licensee who is providing dental services utilizing radiological equipment is required to operate and maintain such equipment in compliance with Maine’s Radiation Control Program, as provided for in the Radiation Protection Act, 22 M.R.S. §§ 671-690.

(2) A licensee who is authorized to practice dental radiography or use ionizing radiation for diagnostic purposes is required to place on or over a patient’s body radiation barriers, such as protective aprons and thyroid shields, prior to exposing that patient to ionizing radiation.

(3) A licensee shall utilize the ADA/FDA publication “Dental Radiographic Examinations: Recommendations for Patient Selection and Limiting Radiation Exposure” (as revised in 2012) when selecting patients for dental radiographic examinations and utilizing ionizing radiation.

C. LOCAL, STATE, AND FEDERAL HEALTH AND SAFETY REGULATIONS

(1) All licensees shall comply with the following:
(a) Premises shall be kept clean, orderly and free of accumulated rubbish and similar substances;

(b) Premises shall be kept free of all insects and vermin by utilizing proper control and eradication methods;

(c) Piped water supply shall conform with local, state and federal regulations. Use of other water sources shall comply with the CDC Guidelines for Infection Control in Dental Health-Care Settings, 2003;

(d) All structures shall be in compliance with local and state building codes;

(e) Sanitary conditions shall be maintained at all times for patients and employees, including immediately available toilet facilities. See 29 C.F.R. § 1910.141(e); and


D. EMERGENCY PROTOCOL

(1) All licensees shall comply with the following:

(a) Adopt and follow a written protocol for managing medical or dental emergencies;

(b) Maintain a current emergency drug kit appropriate to scope of practice;

(c) Maintain communication equipment that ensures rapid access to emergency responders and others as necessary;

(d) Provide training, if responsible for hiring and/or supervising staff, to ensure that staff are trained upon employment/supervision, and at least annually thereafter, to implement the emergency protocols; and

(e) Maintain accessibility to an automated external defibrillator device.

E. DENTAL ADVERSE OCCURRENCE REPORT

(1) All licensees shall report the following adverse conditions to the Board:

(a) Death of a patient within 48 hours after the administration of a dental practice procedure. Such reporting shall be made within 72 hours of the death.
(b) Activation of an emergency response of a patient or emergent transport of a patient to another facility. Such reporting shall be made within 72 hours of obtaining knowledge of the emergency.

(2) Information to be included in the adverse report:

(a) Date and time of occurrence;

(b) Name of patient;

(c) Dental practice procedure involved, if any;

(d) Type and dosage of nitrous oxide analgesia, local anesthesia, sedation, and/or general anesthesia used in the procedure; and

(e) Description of the occurrence.

(3) In the event the licensee does not have knowledge or cannot reasonably be expected to have knowledge, but subsequently obtains actual knowledge of an adverse occurrence, then such licensee shall report to the Board the earlier of 72 hours after obtaining knowledge of a patient death, or 30 days after obtaining knowledge of the permanent organic brain dysfunction or hospitalization of a patient related to a dental procedure.

F. CONTROLLED SUBSTANCES; INVENTORY CONTROL


(2) Dentists authorized to prescribe, administer and dispense controlled substances shall adopt protocols to maintain inventories and records of controlled substances in accordance with state and federal laws and regulations. Protocols shall be reviewed at least annually and updated as needed. Licensees who hold permits issued by the United States Department of Justice, Drug Enforcement Administration shall adhere to the practitioner requirements as outlined in the “Practitioner’s Manual – An Informational Outline of the Controlled Substances Act” (2006 Edition), published by the Drug Enforcement Administration, Office of Diversion Control.

G. PATIENT RECORDS: Commensurate with a licensee’s scope of practice, patient records shall include, but are not limited to, dental charts, photographs, patient histories, examination and test results, diagnoses, treatment plans, progress notes, anesthesia charts, prescriptions, radiographs, patient consents, and billing records.

(1) Confidentiality of Patient Records. All patient records shall be maintained in a manner that ensures confidentiality and access for patients and authorized
practitioners who may wish to obtain a copy of patient records as required by the state and federal requirements. See 22 M.R.S. § 1711-C; 45 C.F.R. §§ 164.500-164.534 (privacy rule of the Health Insurance Portability and Accountability Act, or “HIPAA”).

(2) Record Retention Requirement. A dentist, denturist, dental hygienist who is practicing with an independent practice dental hygiene authority, public health dental hygiene authority, or dental therapy authority (including a provisional authority) shall maintain a patient's original dental record and original radiographs for a minimum of seven (7) years from the date of the last patient treatment.

Licensees who do not have legal authority or ownership over patient records in the delivery of their services shall, at a minimum, maintain access to such records to comply with this subsection.

(3) Availability of Dental Records.

(a) The licensee shall provide upon written request by a patient or another specifically authorized person, a copy of the patient’s dental record. A copy of the patient record, including radiographs, shall be provided within a reasonable amount of time not to exceed 21 days from the receipt of the request. The licensee may charge a reasonable fee for the expense of providing a patient’s record, not to exceed the cost of either labor and/or materials incurred in the copying of the patient record and radiographs. The licensee shall not require payment for services rendered as a condition of providing a copy of the patient record.

(b) Electronic patient records shall be unalterable and producible in paper form upon request.

H. CONTENT OF PATIENT RECORDS: All licensees shall comply as set forth below:

(1) The patient record shall be a complete record of all patient contact, including, but not limited to, a general description of the patient’s medical and dental history and status at the time of examination, diagnoses, patient education, treatment plan, referral for specialty treatment, medications administered and prescribed, pre- and post-treatment instructions, and information conveyed to the patient.

(2) Patient records shall be legible and clear in meaning to a subsequent examining or treating dentist, the patient, dental auxiliaries or other authorized persons.

(3) At a minimum, a patient's record shall include:

(a) Patient Information.
i. Name, address and date of birth of the patient;
ii. If the patient is not of the age of majority, the name of the parent or legal representative; and
iii. Patient's telephone numbers(s) and electronic mail addresses, except if the patient declines to provide this information.

(b) **Medical and Dental History Form.** The patient's medical history and dental history shall include, but not be limited to:

i. A review of past and present illnesses, diseases and disabilities;
ii. Systemic disease(s);
iii. Current prescription and non-prescription medications as well as any known drug allergies;
iv. Documentation of consultation with the patient's medical physician(s) as appropriate;
v. Date of the patient's last dental visit and frequency of dental visits; and
vi. At each patient visit, the licensee shall inquire and document in the patient record any changes in the patient's medical history, including but not limited to, changes in medications.

(c) **Record of Examination.** Each patient record shall include documentation of the results of a comprehensive examination of the following areas:

i. Head and neck;
ii. Radiographic images as necessary and appropriate to facilitate a comprehensive diagnosis of the patient. Radiographs shall be clearly identified with the patient name, and date the radiographic exposure was taken;
iii. Intra-oral and extra-oral soft tissue examination, including charting of existing restorations and current status of patient's hard and soft tissue;
iv. Comprehensive periodontal screening;
v. Oral cancer screening;
vi. Examination of the teeth;
vii. Duration of edentulousness, and any previous or existing removable prosthesis;
viii. Results of any other examination performed as necessary and appropriate to facilitate comprehensive diagnoses of the patient's dental status;
ix. Findings which are within or outside of normal limits; and
x. Baseline blood pressure at initial consultation visit, and as clinically necessary thereafter.

(d) **Diagnoses.** The patient record shall include written diagnoses of the patient's current dental status based on the evaluation of the patient's
medical and dental history, examination, and radiographic findings.

(e) **Treatment Plan.** The patient record shall include a written treatment plan describing in detail the proposed treatment. The proposed treatment plan, including alternatives to treatment, and information regarding estimated fees must be reviewed with the patient prior to the commencement of treatment. The treatment plan shall also include referrals to other providers as necessary. If there is no treatment plan this must be explained and documented in the patient record.

(f) **Informed Consent.** There are two categories of informed consent: implied consent and express consent.

   i. **Implied Consent.** Implied consent is a presumed type of permission based on the patient’s conduct and it applies primarily to non-invasive procedures such as consultations, examinations, and diagnoses.

   ii. **Express Consent.** Express consent is a more formal type of permission founded on words, either oral or written, and it applies to more invasive procedures. Written informed consent is an express consent which includes the signature of (at least) both the licensee and the patient (or the patient’s legal guardian).

(g) **Progress Notes.** The patient record shall include written documentation of the treatment provided by the dentist and/or dental auxiliary, including but not limited to:

   i. Administration of medicines and medicaments including the type, amount, and route of administration;

   ii. A statement of services provided including patient reaction, if any, during the treatment visit, procedures performed, and diagnoses;

   iii. A description of the pre- and post-treatment instructions including, if applicable, plans for subsequent treatment;

   iv. Documentation of any referral for specialty treatment, including the name of the specialist the patient is referred to; and

   v. A dated written or electronic signature by the dentist or dental auxiliary who treated the patient.

(h) **Patient Financial Payment/Record.** The patient's financial record shall include, but not be limited to, the name of the patient's dental insurer, documentation of fees for treatment and payment schedule, and claims submitted to third parties.

I. **PATIENT DISMISSAL:** Dentists, denturists, dental hygienists who are practicing with an independent practice dental hygiene authority, a public health hygiene
authority, or a dental therapist authority (including provisional) shall comply as set forth below:

(1) A written notice of dismissal shall be sent to the patient and/or patient’s guardian by certified return/receipt mail. The dismissal is effective as of the date of the letter. However, the licensee must offer the patient a 30-day emergency care period from the date of the dismissal notice. The date identifying the end of the 30-day emergency care period must also be clearly indicated in the dismissal notice; and

(2) The licensee shall offer and supply copies of the dismissed patient’s dental records upon request by the dismissed patient and/or patient’s guardian, regardless of the patient meeting his/her financial obligation. Offering to supply the patient’s records should be clearly noted, as well, within the termination letter. Supplying records may not be contingent on receipt of payment.

J. PRACTICE SALE AND CLOSURE NOTIFICATIONS; WAIVER

(1) Licensees who either sell or close a practice shall provide to the Board in writing within 10 days from the date of sale or closure the following documentation:

(a) Practice sale. If the practice sale includes the transfer of patient records, then contact information including the name, address, phone number of the new owner and/or individual responsible for the patient records shall be submitted to the Board.

(b) Practice closure. If the practice closure includes the transfer of patient records, then contact information including the name, address, phone number of the individual responsible for the patient records shall be submitted to the Board.

(c) Practice closure. Submit documentation of the communication tools used such as newspaper ads, social media accounts, email notifications, or letters notifying patients at least 30 days in advance of the closure. The notification shall list specific times for patients to obtain copies of their records.

(d) Board waiver. The Board retains the authority to waive the requirements where immediate sale and/or closure is a result of sudden illness, incapacity, death, or other cause as determined by the Board.

II. SPECIFIC PRACTICE REQUIREMENTS – ADMINISTRATION OF NITROUS OXIDE ANALGESIA

A. DENTAL HYGIENIST RESPONSIBILITIES

(1) Limitations. A dental hygienist who is not authorized to administer nitrous oxide analgesia from the Board may, during nitrous oxide analgesia administration by the dentist, observe the gauges and advise the dentist of any changes in gauge
indices or readings but shall not in any way or under any circumstances adjust, manipulate, or control the nitrous oxide apparatus or equipment.

(2) Authorization. A dental hygienist issued a permit or authority to administer nitrous oxide analgesia may administer nitrous oxide analgesia utilizing induction via titration and not to exceed 50% concentration under the direct supervision of a dentist.

B. DENTIST RESPONSIBILITIES

(1) A dentist who is providing the direct supervision of the administration of nitrous oxide analgesia must:

(a) Decide which patient will receive nitrous oxide analgesia and document this decision by note or prescription in the patient dental record;

(b) Note in the patient dental record the condition of the patient’s recovery prior to the patient’s discharge; and

(c) Utilize engineering controls and maintenance procedures to ensure safety of inhalation equipment.

(2) A dentist who is supervising the delivery of nitrous oxide analgesia or providing the delivery of nitrous oxide analgesia to a patient is responsible to ensure that any nitrous oxide delivery system within the dental practice adheres to the hazard controls recommendations of nitrous oxide during anesthetic administration as established by the following publications of the U.S. Department of Health and Human Services (“DHHS”), CDC, National Institute for Occupational Safety and Health (NIOSH):

(a) DHHS (NIOSH) Publication No. 94-100, “Controlling Exposures to Nitrous Oxide During Anesthetic Administration”;

(b) DHHS (NIOSH) Publication No. 94-118, “NIOSH Warns: Nitrous Oxide Continues to Threaten Health Care Workers”; and

(c) DHHS (NIOSH) Publication No. 96-107, “Control of Nitrous Oxide in Dental Operatories.”

Copies of the foregoing publications may be obtained on line at www.cdc.gov/niosh/pubs.html, by calling 1-800-356-4674, or by writing to the physical address at:

NIOSH
4676 Columbia Parkway, Mail Slot C-13
Cincinnati, OH 45226
III. SPECIFIC REQUIREMENTS FOR THE USE OF CERTAIN MATERIALS, LASER AND DIGITAL EQUIPMENT

A. Use and placement of temporary restorations. A licensee shall use temporary restorative material that is not harmful to the tooth, and preferably be fluoride releasing. A licensee shall use the protocols attached to this Chapter as Figure 1 and Figure 2 when placing a temporary restoration with or without the use of a dental radiograph.

B. Use of silver diamine fluoride. A licensee who applies silver diamine fluoride shall obtain written informed consent from the patient (or the patient's legal guardian). The informed consent will identify the risks, benefits, contraindicators and alternatives to the treatment of silver diamine fluoride.

C. Use of mercury or mercury amalgam. A licensee who uses mercury or mercury amalgam in any dental procedure shall obtain written informed consent from the patient (or the patient's legal guardian). The informed consent will identify the risks, benefits, contraindicators, and alternatives to the use of mercury or mercury amalgam in dental procedures.

D. Use of lasers and digital equipment devices. A licensee may delegate the use of lasers and digital equipment when both the supervising licensee and the individual subject to the supervision obtain proper training on the use of the device. The use of the device is subject to the limitations of the licensee's scope of practice, including the limitations of the licensee's ability to delegate the procedure.

IV. SPECIFIC PRACTICE REQUIREMENTS – INDEPENDENT PRACTICE DENTAL HYGIENE AUTHORITY

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.

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.

C. An independent practice dental hygienist exposing radiographs must have a written agreement with a licensed dentist that provides that the licensed dentist will be 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.

V. SPECIFIC PRACTICE REQUIREMENTS – REFERAL NETWORK
A. A licensee who provides patient care shall have in place a referral network to handle patient conditions outside of their scope of practice, training, or level of expertise.

B. Referrals shall be made in writing and clearly identify the condition(s) that prompted the referral. The licensee accepting the referral is obligated to use his or her level of training to complete the assessment, diagnosing, and treatment planning for referred patients.

C. Once referred treatment is completed, ethical standards require that the patient is returned to the referring licensee. Patients, however, retain the right to choose their dental provider as long as such provider is willing and able to accept them in their practice.

D. A denturist must immediately refer to a licensed dentist or physician any abnormality or disease process that requires medical or dental treatment observed during oral inspection. In such a case, the denturist shall take no further action to manufacture or place a denture if it may impact the successful outcome of the treatment until the patient has been examined by a dentist or physician. If the examination reveals the need for tissue modification or opposing natural tooth modification in order to assure proper fit of a full denture, the denturist shall refer the patient to a dentist and assure that the modification has been completed before taking an impression for the completion of the denture.

VI. SPECIFIC PRACTICE REQUIREMENTS – AFTER HOUR PATIENT CARE

A. A licensee shall make reasonable efforts to establish a network of providers to offer both emergency and non-emergency dental care to a patient after hours.

VII. SPECIFIC PRACTICE REQUIREMENTS – DEVIATION OF PRACTICE STANDARDS

A. A licensee may deviate from the standards outlined in this Chapter, if the deviation is shown to be reasonable, is based upon physiological conditions or requirements, or responds to specific requests of the individual patient. The reason(s) for any deviation from the standards must be documented in the patient’s records at the time the deviation is made.

X. PRINCIPLES OF ETHICS AND CODES OF PROFESSIONAL CONDUCT

A. Dentists shall comply with the American Dental Association Principles of Ethics and Code of Professional Conduct, as amended, February 2018.

B. Dental hygienists shall comply with the American Dental Hygienists’ Association Code of Ethics as published in its Bylaws and Code of Ethics, adopted June 13, 2016.
C. Denturists shall comply with the National Denturist Association’s Code of Conduct, Appendix A, as published in its By-Laws dated September 19, 2015.

STATUTORY AUTHORITY: 32 M.R.S. §§ 18324, 18325, 18371, 18372, 18373, 18374, 18374, 18375, 18376, 18377, 18378, 18393.
Placement of Temporary Restorations – Dental Radiograph Available

Figure 1.

Lesion/Fracture Present

Radiograph to Determine the Extent of Pathology or Degree of Root Resorption (Deciduous)

No Radiographic Exposure or Substantial Root Remaining (Deciduous)

Asymptomatic and Presenting Appropriately for Temporary Restoration

Restore and Follow Up Within -30- Days

Symptomatic

Reversible Pulpitis

Irreversible Pulpitis

Refer for Immediate Dental Appointment

Stimulus Needed to Provoke Pain

Pain Goes Away When Stimulus is Removed

Stimulus

No Interruption of Sleep Patterns

No Unprovoked Pain

Place Temporary Restoration and Follow Up Within 30 Days

Pain Not Relieved When Stimulus Removed

Unprovoked Pain

Pain Waking From Sleep

Presence of Fistula or Gingival Swelling

Facial Swelling

Positive Pain on Percussion

No Temporary Restoration - Refer for Treatment or Extraction
Placement of Temporary Restorations – Dental Radiograph Not Available

Figure 2.

Lesion/Fracture Present

No Radiographs Available

Determination of

No Pulpitis
Asymptomatic and Presenting Appropriately for Temporary Restoration
(Based Solely on Symptoms)

Reversible Pulpitis
(Based Solely on Symptoms)

Irreversible Pulpitis
(Based Solely on Symptoms)

Stimulus Needed to Provoke Pain

Pain Goes Away When Stimulus is Removed

No History of Toothache Lasting Longer Than Stimulus

No Interruption of Sleep Patterns

No Unprovoked Pain

Place Temporary Restoration and Refer for Restoration

Place Temporary Restoration and Refer for Restoration

Pain Not Relieved When Unprovoked Pain

Steady Pain Requiring Medication

Pain Waking From Sleep

Presence of Fistula or Gingival Swelling

Facial Swelling

Positive Pain on Percussion

Do Not Place Temporary Restoration - Refer for Treatment or Extraction