

COMMITTEE REPORT

TO: Patrick O'Donnell
Clerk of the Legislature

FROM: Senator Sara Howard
Chair, Health and Human Services Committee

DATE: 11.13.2020

RE: Health and Human Services Committee Report and Recommendations on Regulated Occupations within Committee Jurisdiction – Dentist, Dental Hygienist, Dental Assistant, and Dental Faculty

GENERAL INFORMATION

- I. Occupation Regulated
 - A) Dentist, Dental Hygienist, Dental Assistant, and Dental Faculty

- II. Name of Occupational Board Responsible for Enforcement
 - A) Per Nebraska Revised Statutes Section [38-161](#), the Board of Dentistry provides recommendations to the Department of Health and Human Services regarding the issuance or denial of credentials, and provides recommendations to the Department of Health and Human Services regarding rules and regulations to carry out the Uniform Credentialing Act.

- III. Public Purpose and Assumptions Underlying License Creation
 - A) A Dentist examines, diagnoses, treats, prescribes, and operates for diseases, pain, deformities, deficiencies, injuries, or physical condition of the teeth, jaws, or adjacent structures. They may also fit dental appliances and provide preventive care.

Dental Hygienists clean teeth and examine oral areas, head, and neck for signs of oral disease. They may also educate patients on oral hygiene, take and develop x-rays, or apply fluoride or sealants. A licensed Dental Hygienist may perform, under the supervision of a licensed Dentist: scaling of teeth, including subgingival regions and root planing with hand and ultrasonic instruments; polishing of all exposed tooth surfaces with motor driven and hand instruments, in the oral prophylaxis procedure; chemical curettage; all of the duties that any other dental auxiliary is authorized to perform.

Dental assistants working in a dental office may either continue working in an unlicensed status or pursue a license as a dental assistant professional. An unlicensed Dental Assistant, when employed by a licensed dentist, is authorized to assist the dentist in the performance of his/her clinical-related duties. The unlicensed dental assistant is restricted to performing only certain limited duties or functions. When a supervising licensed dentist is physically present on the premises, the unlicensed dental assistant may: monitor nitrous oxide, if the dental assistant has a current and valid Board-approved certification for cardiopulmonary resuscitation (CPR); place topical local anesthesia; and perform dental x-rays or coronal polishing, upon meeting certain education or experience requirements.

A Licensed Dental Assistant is allowed to perform all clinical duties as listed for an unlicensed Dental Assistant, and, upon completion of education and testing, may apply for additional permits. Licensed Dental Assistants can apply for the following expanded scope functions to be added to their Dental Assistant license after completing an educational course for each expanded scope function: dental impressions for fixed prosthodontics; dental impressions and minor adjustments for removable prostheses; cement prefabricated fixed prostheses on primary teeth; monitoring and administration of nitrous oxide.

Creation of the licenses were to protect the public health, safety, and welfare.

IV. Number of Regulated Professionals in Nebraska

- A) There are 3,255 Dental professionals in Nebraska, including 1,638 licensed Dentists; 1,500 licensed Dental Hygienists; 106 licensed Dental Assistants; and 11 Dental Faculty.

BOARD MEMBERSHIPS AND MEETINGS

I. Number of Members

- A) There are ten members of the Board of Dentistry.

II. Who Appoints Members of the Board / Is Legislative Approval Required?

- A) The Board of Health appoints the members of the Board of Dentistry. Legislative approval is not required.

III. Term Length

- A) The length of term for service on the Board of Dentistry is up to two consecutive five year terms, on a rotating basis.

IV. Qualifications for Membership of the Board

- A) The Board of Dentistry is made up of eight professional members and two public members, including six licensed Dentists, including one official or member of the instructional staff from each accredited school or college of dentistry in the state, and two licensed Dental Hygienists. The professional members shall have held and maintained an active credential and be and have been actively engaged in the practice of his or her profession for a period of five years just preceding his or her appointment and shall maintain such credential and practice while serving as a board member.

V. The Number of Meetings Required Per Year / Meetings Actually Held

- A) For fiscal year (FY) 2014-2015: Meetings Required – 1; Meetings Held – 6.
- B) For FY 2015-2016: Meetings Required – 1; Meetings Held – 4.
- C) For FY 2016-2017: Meetings Required – 1; Meetings Held – 4.
- D) For FY 2017-2018: Meetings Required – 1; Meetings Held – 5.
- E) For FY 2018-2019: Meetings Required – 1; Meetings Held – 6.

VI. Annual Budget Information for the Previous Five Years

- A) The Board of Dentistry is cash-funded from licensure fees. Funds for credentialed occupations may come from interest earned on the Professional and Occupational Credentialing Cash Fund, certification and verification of credentials, administrative fees, reinstatement fees, general funds and federal funds, fees for miscellaneous services, gifts, and grants.
- B) For FY 2014-2015: \$46,422
- C) For FY 2015-2016: \$43,398
- D) For FY 2016-2017: \$243,817
- E) For FY 2017-2018: \$253,145
- F) For FY 2018-2019: \$242,968

VII. Statement from Occupational Board on Effectiveness of Regulations

- A) The Chair of the Board of Dentistry stated, “I have served on the Board of Dentistry for approximately eight and half years. My initial exposure to the rules and regulations was primarily through explanations from the DHHS legal staff and the assigned assistant attorney, without any true working knowledge of these documents. Since 2015 when legislation was passed updating the use of sedation in the dental office and then again in

2017 when legislation expanding the functions of dental hygienists and dental assistants became statute, an opportunity for board members to become heavily involved in contributing to rewriting the dental rules and regulations for dentists, dental hygienists and dental assistants was made available. These documents are in the final stages of approval post two public hearings. The updated documents as currently written, serve as a good guide not only for dental providers to understand their duties and limitations of practice, but also for the board to make recommendations for discipline. There are no perfect rules and regulations. If too many details are included, then the board does not have much latitude in rendering judgment for individual circumstances resulting in judgment against a provider's license. On the other hand, if too little detail is provided, then the dental providers are left guessing about the scope of their practice. At this time I think the dental rules and regulations have struck a happy medium between the two extremes and will provide an adequate document to conduct Board of Dentistry business."

AUTHORIZATION

I. Statutory Authorization

A) Statutory authorization for the Dentist, Dental Hygienist, and Dental Assistant occupations may be found in the Nebraska Revised Statutes, sections [38-1101](#) to [38-1152](#), which may be cited as the Dentistry Practice Act. For text of the Nebraska statutes relating to the Dentist, Dental Hygienist, and Dental Assistant occupations, see Appendix A.

II. Other Authorization

A) Rules and regulations regarding the licensure of Dentists and Dental Hygienists may be found in the Nebraska Administrative Code [Title 172, Chapter 56](#). Rules and regulations regarding the performance of duties by licensed Dental Hygienists and other dental auxiliaries may be found in the Nebraska Administrative Code [Title 172, Chapter 53](#). Rules and regulations regarding dental office maintenance may be found in the Nebraska Administrative Code [Title 172, Chapter 55](#). Rules and regulations regarding the practice of Dental Hygienists approved to administer local anesthesia may be found in the Nebraska Administrative Code [Title 172, Chapter 57](#). Rules and regulations regarding Dental Faculty licenses may be found in the Nebraska Administrative Code [Title 172, Chapter 58](#).

CREDENTIALING

- I. Number of Licenses, Certifications, or Registrations Issued In Past Five Years
 - A) There were 3,255 Dental licenses issued in the last five years, including 1,638 Dentist licenses; 106 Dental Assistant licenses; 1,500 Dental Hygienist licenses; and 11 Dental Faculty licenses.

- II. Number of Licenses, Certifications, or Registrations Denied in Past Five Years
 - A) There were 18 licenses denied in the past five years, including 16 Dentist licenses and 2 Dental Hygienist licenses.
 - B) Grounds for denial include misrepresentation of material facts, failure to complete required examinations, failure to provide licensure fees, and immoral or dishonorable conduct, amongst other grounds.

- III. Number of Licenses, Certifications, or Registrations Revoked in Past Five Years
 - A) There were nine licenses revoked in the past five years, all of which were Dentist licenses.
 - B) Reasons for revocation included dishonorable conduct, felony convictions, unprofessional conduct, obtaining fee by fraud, failure to file reports, history of disciplinary action, and failure to comply with aftercare.

- IV. Number of Licenses, Certifications, or Registrations Penalized in Past Five Years
 - A) There were 66 licenses penalized in the past five years, including 42 Dentist licenses and 24 Dental Hygienist licenses.
 - B) Reasons for penalization included misdemeanor convictions, misrepresentation of material facts, mild to severe alcohol use disorder, findings against good character, probation violation, dishonorable conduct, substance use disorder, alcohol abuse disorder, felony convictions, pattern of negligence, failure to keep adequate records, and obtaining drugs unlawfully.

- V. Comparison of How Other States Regulate This Occupation
 - A) All 50 states require licensure for Dentists. All 50 states also require licensure for Dental Hygienists. Dental assistants vary from full licensure to unlicensed individuals, depending on the scope of practice he or she is able to perform. The Dental Assisting National Board maintains a website which outlines state requirements, which may be found [here](#).

VI. What Is The Potential Harm if This Occupation Is No Longer Licensed, Certified, or Regulated?

- A) If Dentists, Dental Hygienists, and Dental Assistants were no longer licensed, it would be detrimental to the public health, safety, and welfare. There would be no ability to measure the minimal competency of these dental health providers. Providers could provide a wide range of services for which they may or may not be qualified. Through licensure, a base level of dental care is guaranteed, as is a framework for discipline against a provider should discipline be required.

COMMITTEE RECOMMENDATION ON CONTINUATION, MODIFICATION, OR TERMINATION OF OCCUPATIONAL REGULATIONS

Regulated occupations under the purview of the Health and Human Services Committee are unique in that through the Nebraska Regulation of Health Professions Act (Neb. Rev. Stat. Sections 71-6201 to 71-6229), health professions which are not licensed or regulated, or health professions that wish to change their scope of practice, go through a three-stage credentialing process.

Credentialing review is a three-stage process conducted by the following review bodies in the following order:

- 1) The review of an ad hoc technical review committee appointed by the Director of the Division of Public Health;
- 2) The review of the State Board of Health;
- 3) The review of the Director of the Division of Public Health.

The three review bodies each create their own independent report on each proposal. All reports created by the review process are available to members of the Health and Human Services Committee to assist them during their review of any bills that might arise from credentialing review proposals. These reports include recommendations regarding the level of licensure of the health profession. These reports are advisory to the Legislature, and only the action of the Legislature may create changes in the regulatory status of a profession. These reports represent expert input into possible public health and safety aspects of credentialing review proposals, and the nine-month process is overseen by those with experience in the provision of health-related or medical services.

The licenses, certifications, and registrations overseen by the Board of Dentistry and the Department of Health and Human Services are intended to protect the health, safety, and welfare of Nebraskans. The current regulation of the Dentist, Dental Hygienist, Dental Assistant, and Dental Faculty occupations by licensure is appropriate and balanced and does not need modification at this time.

APPENDIX A

STATUTES PERTAINING TO THE DENTISTRY PRACTICE ACT

38-1101. Act, how cited.

Sections 38-1101 to 38-1152 shall be known and may be cited as the Dentistry Practice Act.

Source: Laws 2007, LB463, § 434; Laws 2015, LB80, § 1; Laws 2017, LB18, § 1.

38-1102. Definitions, where found.

For purposes of the Dentistry Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 38-1102.01 to 38-1113 apply.

Source: Laws 2007, LB463, § 435; Laws 2015, LB80, § 2; Laws 2017, LB18, § 2.

38-1102.01. Accredited dental assisting program, defined.

Accredited dental assisting program means a program that is accredited by the American Dental Association Commission on Dental Accreditation, which is an agency recognized by the United States Department of Education as an accrediting body, that is within a school or college approved by the board, and that requires a dental assisting curriculum of not less than one academic year.

Source: Laws 2017, LB18, § 3.

38-1103. Accredited dental hygiene program, defined.

Accredited dental hygiene program means a program that is accredited by the American Dental Association Commission on Dental Accreditation, which is an agency recognized by the United States Department of Education as an accrediting body, that is within a school or college approved by the board, and that requires a dental hygiene curriculum of not less than two academic years.

Source: Laws 2007, LB463, § 436.

38-1104. Accredited school or college of dentistry, defined.

Accredited school or college of dentistry means a school or college approved by the board and accredited by the American Dental Association Commission on Dental Accreditation, which is an agency recognized by the United States Department of Education as an accrediting body.

Source: Laws 2007, LB463, § 437.

38-1105. Analgesia, defined.

Analgesia means the diminution or elimination of pain in the conscious patient.

Source: Laws 2007, LB463, § 438.

38-1106. Board, defined.

Board means the Board of Dentistry.

Source: Laws 2007, LB463, § 439.

38-1106.01. Deep sedation, defined.

Deep sedation means a drug-induced depression of consciousness during which (1) a patient cannot be easily aroused but responds purposefully following repeated or painful stimulation, (2) the ability to independently maintain ventilatory function may be impaired, (3) a patient may require assistance in maintaining a patent airway and spontaneous ventilation may be inadequate, and (4) cardiovascular function is usually maintained.

Source: Laws 2015, LB80, § 3.

38-1107. Dental assistant, defined.

Dental assistant means a person who does not hold a license under the Dentistry Practice Act and who is employed for the purpose of assisting a licensed dentist in the performance of his or her clinical and clinical-related duties as described in section 38-1135.

Source: Laws 1986, LB 267, § 1; Laws 1999, LB 800, § 2; Laws 2001, LB 209, § 4; Laws 2002, LB 1062, § 14; R.S.1943, (2003), § 71-183.02; Laws 2007, LB463, § 440; Laws 2017, LB18, § 4.

38-1107.01. Expanded function dental assistant, defined.

Expanded function dental assistant means a licensed dental assistant who has met the requirements to practice as an expanded function dental assistant pursuant to section 38-1118.03.

Source: Laws 2017, LB18, § 6.

38-1107.02. Expanded function dental hygienist, defined.

Expanded function dental hygienist means a licensed dental hygienist who has met the requirements to practice as an expanded function dental hygienist pursuant to section 38-1118.01.

Source: Laws 2017, LB18, § 8.

38-1108. General anesthesia, defined.

General anesthesia means a drug-induced loss of consciousness during which (1) a patient is not arousable, even by painful stimulation, (2) the ability to independently maintain ventilatory function is often impaired, (3) a 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, and (4) cardiovascular function may be impaired.

Source: Laws 2007, LB463, § 441; Laws 2015, LB80, § 4.

38-1109. General supervision, defined.

General supervision means the directing of the authorized activities of a dental hygienist or dental assistant by a licensed dentist and shall not be construed to require the physical presence of the supervisor when directing such activities.

Source: Laws 2007, LB463, § 442.

38-1110. Indirect supervision, defined.

Indirect supervision means supervision when the licensed dentist authorizes the procedure to be performed by a dental hygienist or dental assistant and the licensed dentist is physically present on the premises when such procedure is being performed by the dental hygienist pursuant to section 38-1132 or the dental assistant.

Source: Laws 2007, LB463, § 443.

38-1111. Inhalation analgesia, defined.

Inhalation analgesia means the administration of nitrous oxide and oxygen to diminish or eliminate pain in a conscious patient.

Source: Laws 2007, LB463, § 444.

38-1111.01. Licensed dental assistant, defined.

Licensed dental assistant means a dental assistant who holds a license to practice as a dental assistant under the Dentistry Practice Act.

Source: Laws 2017, LB18, § 5.

38-1111.02. Licensed dental hygienist, defined.

Licensed dental hygienist means a person who holds a license to practice dental hygiene under the Dentistry Practice Act.

Source: Laws 2017, LB18, § 7.

38-1112. Minimal sedation, defined.

Minimal sedation means a drug-induced depression of consciousness during which (1) a patient retains the ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command, (2) cognitive function and coordination may be modestly impaired, and (3) ventilatory and cardiovascular functions are unaffected.

Source: Laws 2007, LB463, § 445; Laws 2015, LB80, § 5.

38-1113. Moderate sedation, defined.

Moderate sedation means a drug-induced depression of consciousness during which (1) a patient responds purposefully to verbal commands, either alone or accompanied by light tactile stimulation, (2) no intervention is required to maintain a patent airway and spontaneous ventilation is adequate, and (3) cardiovascular function is usually maintained.

Source: Laws 2007, LB463, § 446; Laws 2015, LB80, § 6.

38-1114. Board; membership.

The board shall have ten members. The members shall consist of two public members; six licensed dentists, including one official or member of the instructional staff from each accredited school or college of dentistry in this state; and two licensed dental hygienists.

Source: Laws 2007, LB463, § 447.

38-1115. Dentistry practice, defined.

Any person shall be deemed to be practicing dentistry who:

- (1) Performs, or attempts or professes to perform, any dental operation or oral surgery or dental service of any kind, gratuitously or for a salary, fee, money, or other remuneration paid, or to be paid directly or indirectly, to such 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;
- (2) Directly or indirectly, by any means or method, takes impression of the human tooth, teeth, jaws, or performs any phase of any operation incident to the replacement of a part of a tooth;
- (3) Supplies artificial substitutes for the natural teeth or furnishes, supplies, constructs, reproduces, or repairs any prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth, except on the written work authorization of a duly licensed and registered dentist;
- (4) Places such appliance or structure in the human mouth, adjusts or attempts or professes to adjust the same, or delivers the same to any person other than the dentist upon whose work authorization the work was performed;
- (5) 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;
- (6) Diagnoses, professes to diagnose, prescribes for, professes to prescribe for, treats, or professes to treat disease, pain, deformity, deficiency, injury, or physical condition of the human teeth or jaws, or adjacent structure;
- (7) Extracts or attempts to extract human teeth or corrects or attempts to correct malformations of teeth or of the jaws;
- (8) Repairs or fills cavities in the human teeth;
- (9) Diagnoses, makes, and adjusts appliances to artificial casts or malposed teeth for treatment of the malposed teeth in the human mouth, with or without instruction;
- (10) Uses a roentgen or X-ray machine for the purpose of taking dental X-rays or roentgenograms;
- (11) Gives or professes to give interpretations or readings of dental X-rays or roentgenograms;
- (12) Administers an anesthetic of any nature in connection with a dental operation;
- (13) Uses the words dentist, dental surgeon, or oral surgeon, the letters D.D.S. or D.M.D., or any other words, letters, title, or descriptive matter which in any way represents such person as being able to diagnose, treat, prescribe, or operate for any disease, pain, deformity, deficiency, injury, or physical condition of the teeth or jaws or adjacent structures; or
- (14) States, professes, or permits to be stated or professed 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.

Source: Laws 1927, c. 167, § 82, p. 475; C.S.1929, § 71-1201; R.S.1943, § 71-183; Laws 1951, c. 226, § 1, p. 821; Laws 1951, c. 227, § 1, p. 825; Laws 1971, LB 587, § 10; R.S.1943, (2003), § 71-183; Laws 2007, LB463, § 448.

Cross References

- **Alcoholic liquor**, possession and use in practice, see section 53-168.06.
- **Dental education loan program**, Rural Health Systems and Professional Incentive Act, see section 71-5650.

38-1116. Dentistry practice; exceptions.

The Dentistry Practice Act shall not require licensure as a dentist under the act for:

- (1) The practice of his or her profession by a physician or surgeon licensed as such under the laws of this state unless he or she practices dentistry as a specialty;
- (2) The giving by a qualified anesthetist or registered nurse of an anesthetic for a dental operation under the direct supervision of a licensed dentist or physician;
- (3) The practice of dentistry by graduate dentists or dental surgeons who serve in the armed forces of the United States or the United States Public Health Service or who are employed by the United States Department of Veterans Affairs or other federal agencies, if their practice is limited to that service or employment;
- (4) The practice of dentistry by a licensed dentist of other states or countries at meetings of the Nebraska Dental Association or components thereof, or other like dental organizations approved by the Board of Dentistry, while appearing as clinicians;
- (5) The filling of work authorizations of a licensed and registered dentist as provided in this subdivision by any person or persons, 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 if such person or persons, association, corporation, or other entity does not solicit or advertise, directly or indirectly by mail, card, newspaper, pamphlet, radio, or otherwise, 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;

(6) The use of roentgen or X-ray machines or other rays for making radiograms or similar records of dental or oral tissues under the supervision of a licensed dentist or physician if such service is not advertised by any name whatever as an aid or inducement to secure dental patronage, and no person shall advertise that he or she has, leases, owns, or operates a roentgen or X-ray machine for the purpose of making dental radiograms of the human teeth or tissues or the oral cavity or administering treatment thereto for any disease thereof;

(7) The performance by a licensed dental hygienist, under the supervision of a licensed dentist, of the oral prophylaxis procedure which shall include the scaling and polishing of teeth and such additional procedures as are prescribed in accordance with rules and regulations adopted by the department;

(8) The performance, under the supervision of a licensed dentist, by a dental assistant, a licensed dental assistant, or an expanded function dental assistant, of duties prescribed in accordance with rules and regulations adopted by the department;

(9) The performance by a licensed dental hygienist or an expanded function dental hygienist, by virtue of training and professional ability, under the supervision of a licensed dentist, of taking dental roentgenograms. Any other person is hereby authorized, under the supervision of a licensed dentist, to take dental roentgenograms but shall not be authorized to do so until he or she has satisfactorily completed a course in dental radiology recommended by the board and approved by the department;

(10) Students of dentistry who practice dentistry upon patients in clinics in the regular course of instruction at an accredited school or college of dentistry;

(11) Licensed physicians and surgeons who extract teeth or treat diseases of the oral cavity, gums, teeth, or maxillary bones as an incident to the general practice of their profession;

(12) Dental hygiene students who practice dental hygiene or expanded function dental hygiene upon patients in clinics in the regular course of instruction at an accredited dental hygiene program. Such dental hygiene students are also not engaged in the unauthorized practice of dental hygiene or expanded function dental hygiene; or

(13) Dental assisting students who practice dental assisting or expanded function dental assisting upon patients in clinics in the regular course of instruction at an accredited dental assisting program. Such dental assisting students are also not engaged in the unauthorized practice of dental assisting, expanded function dental assisting, dental hygiene, or expanded function dental hygiene.

Source: Laws 1951, c. 226, § 2, p. 823; Laws 1951, c. 227, § 2, p. 827; Laws 1971, LB 587, § 11; Laws 1984, LB 470, § 5; Laws 1991, LB 2, § 10; Laws 1996, LB 1044, § 407; Laws 1999, LB 800, § 1; Laws 1999, LB 828, § 68; Laws 2005, LB 89, § 1; R.S. Supp., 2006, § 71-183.01; Laws 2007, LB 463, § 449; Laws 2017, LB 18, § 9.

38-1117. Dentistry; license; requirements.

(1) Every applicant for a license to practice dentistry shall (a) present proof of graduation with a Doctor of Dental Surgery degree or a Doctor of Dental Medicine degree from an accredited school or college of dentistry, (b) pass an examination approved by the Board of Dentistry which shall consist of the National Board Dental Examinations, both Part I and Part II, as constructed and administered by the American Dental Association Joint Commission on National Dental Examinations, (c) demonstrate the applicant's skill in clinical dentistry by passing the practical examination administered by the Central Regional Dental Testing Service or any other regional or state practical examination that the Board of Dentistry determines to be comparable to such practical examination, (d) pass a jurisprudence examination approved by the board that is based on the Nebraska statutes, rules, and regulations governing the practice of dentistry and dental hygiene, and (e) demonstrate continuing clinical competency as a condition of licensure if required by the board.

(2) Upon completion of these requirements, the department, with the recommendation of the board, shall issue the applicant a license to practice dentistry.

Source: Laws 1927, c. 167, § 84, p. 476; Laws 1929, c. 160, § 1, p. 555; C.S. 1929, § 71-1203; R.S. 1943, § 71-185; Laws 1953, c. 238, § 4, p. 826; Laws 1957, c. 292, § 2, p. 1049; Laws 1984, LB 470, § 6; Laws 1985, LB 250, § 12; Laws 1988, LB 1100, § 30; Laws 1999, LB 828, § 69; Laws 2002, LB 1021, § 17; Laws 2003, LB 242, § 34; R.S. 1943, (2003), § 71-185; Laws 2007, LB 463, § 450.

Cross References

- **Credentialing**, general requirements and issuance procedures, see section 38-121 et seq.

38-1118. Dental hygienists; application for license; examination; qualifications; license.

(1) Every applicant for a license to practice dental hygiene shall (a) present proof of graduation from an accredited dental hygiene program, (b) pass an examination approved by the Board of Dentistry which shall consist of the National Board Dental Hygiene Examination as constructed and administered by the American Dental Association Joint Commission on National Dental Examinations, (c) demonstrate the applicant's skill in clinical dental hygiene by passing the practical examination administered by the Central Regional Dental Testing Service or any other regional or state practical examination that the Board of Dentistry determines to be comparable to such practical examination, (d) pass a jurisprudence examination approved by the board that is based on the Nebraska statutes,

rules, and regulations governing the practice of dentistry and dental hygiene, and (e) demonstrate continuing clinical competency as a condition of licensure if required by the board.

(2) Upon completion of these requirements, the department, with the recommendation of the board, shall issue the applicant a license to practice dental hygiene.

Source: Laws 1949, c. 200, § 1, p. 582; Laws 1953, c. 238, § 5, p. 827; Laws 1973, LB 589, § 1; Laws 1986, LB 926, § 42; Laws 1988, LB 1100, § 32; Laws 1999, LB 828, § 73; Laws 2001, LB 209, § 5; R.S.1943, (2003), § 71-193.04; Laws 2007, LB463, § 451.

Cross References

- **Credentialing**, general requirements and issuance procedures, see section 38-121 et seq.

38-1118.01. Expanded function dental hygiene; application for permit; qualifications.

(1) Every applicant for a permit to practice expanded function dental hygiene shall (a) present proof of current, valid licensure under the Dentistry Practice Act as a licensed dental hygienist at the time of application, (b) present proof of at least one thousand five hundred hours of experience as a licensed dental hygienist, (c) present proof of successful completion of courses and examinations in expanded function dental hygiene approved by the board, (d) pass a jurisprudence examination approved by the board that is based on the Nebraska statutes, rules, and regulations governing the practice of expanded function dental hygiene, and (e) complete continuing education as a condition of the permit if required by the board.

(2) Upon completion of these requirements, the department, with the recommendation of the board, shall issue the applicant the applicable permit to practice expanded function dental hygiene.

Source: Laws 2017, LB18, § 10.

38-1118.02. Licensed dental assistant; application for license; qualifications.

(1) Every applicant for a license to practice as a licensed dental assistant shall (a) have a high school diploma or its equivalent, (b) present proof of (i) graduation from an accredited dental assisting program or (ii) a minimum of one thousand five hundred hours of experience as a dental assistant during the five-year period prior to the application for a license, (c) pass the examination to become a certified dental assistant administered by the Dental Assisting National Board or an equivalent examination approved by the Board of Dentistry, (d) pass a jurisprudence examination approved by the board that is based on the Nebraska statutes, rules, and regulations governing the practice of dental assisting, and (e) complete continuing education as a condition of licensure if required by the board.

(2) Upon completion of these requirements, the department, with the recommendation of the board, shall issue the applicant a license to practice as a licensed dental assistant.

Source: Laws 2017, LB18, § 11.

38-1118.03. Expanded function dental assistant; application for permit; qualifications.

(1) Every applicant for a permit to practice as an expanded function dental assistant shall (a) present proof of current, valid licensure under the Dentistry Practice Act as a licensed dental assistant at the time of application, (b) present proof of at least one thousand five hundred hours of experience as a licensed dental assistant, (c) present proof of successful completion of courses and examinations in expanded function dental assisting approved by the board, (d) pass a jurisprudence examination approved by the board that is based on the Nebraska statutes, rules, and regulations governing the practice of expanded function dental assisting, and (e) complete continuing education as a condition of the permit if required by the board.

(2) Upon completion of these requirements, the department, with the recommendation of the board, shall issue the applicant the applicable permit to practice as an expanded function dental assistant.

Source: Laws 2017, LB18, § 12.

38-1119. Reexamination; requirements.

Any person who applies for a license to practice dentistry, dental hygiene, or dental assisting and who has failed on two occasions to pass any part of the practical examination shall be required to complete a course in clinical dentistry, dental hygiene, or dental assisting approved by the board before the department may consider the results of a third examination as a valid qualification for a license to practice dentistry, dental hygiene, or dental assisting in the State of Nebraska.

Source: Laws 2007, LB463, § 452; Laws 2017, LB18, § 13.

38-1120. Dentist; reciprocity; requirements.

Every applicant for a license to practice dentistry based on a license in another state or territory of the United States or the District of Columbia shall meet the standards set by the board pursuant to section 38-126 and shall have been actively engaged in the practice of dentistry for at least three years, one of which must be within the

three years immediately preceding the application, under a license in another state or territory of the United States or the District of Columbia. Practice in an accredited school or college of dentistry for the purpose of completing a postgraduate or residency program in dentistry also serves as active practice toward meeting this requirement.

Source: Laws 2007, LB463, § 453.

38-1121. Dental hygienist; licensed dental assistant; reciprocity; requirements; military license; temporary license.

(1) Every applicant for a license to practice dental hygiene based on a license in another state or territory of the United States or the District of Columbia shall meet the standards set by the board pursuant to section 38-126 and shall have been actively engaged in the practice of dental hygiene for at least three years, one of which must be within the three years immediately preceding the application, under a license in another state or territory of the United States or the District of Columbia. Practice in an accredited dental hygiene program for the purpose of completing a postgraduate or residency program in dental hygiene also serves as active practice toward meeting this requirement.

(2) An applicant who is a military spouse may apply for a temporary license as provided in section 38-129.01.

(3) Every applicant for a license to practice as a licensed dental assistant based on a license in another state or territory of the United States or the District of Columbia shall meet the standards set by the board pursuant to section 38-126 and shall have been actively engaged in practice as a licensed dental assistant for at least three years, one of which must be within the three years immediately preceding the application, under a license in another state or territory of the United States or the District of Columbia. Practice in an accredited dental assisting program for the purpose of completing a postgraduate or residency program in dental assisting also serves as active practice toward meeting this requirement.

Source: Laws 2007, LB463, § 454; Laws 2017, LB18, § 14; Laws 2017, LB88, § 47.

38-1122. Dental locum tenens; issuance; requirements; term.

When circumstances indicate a need for the issuance of a dental locum tenens in the State of Nebraska, the department, with the recommendation of the board, may issue a dental locum tenens to an individual who holds an active license to practice dentistry in another state if the requirements regarding education and examination for licensure in that state are equal to or exceed the requirements regarding education and examination for licensure in Nebraska. A dental locum tenens may be issued for a period not to exceed ninety days in any twelve-month period.

Source: Laws 2007, LB463, § 455.

38-1123. Dentist; temporary license; requirements; term; renewal.

(1) The department, with the recommendation of the board, shall issue a temporary license to any person who (a) has met the requirements for a license to practice dentistry as set forth in section 38-1117, (b) is enrolled in an accredited school or college of dentistry for the purpose of completing a postgraduate or residency program in dentistry, and (c) is licensed in another jurisdiction under conditions which the board finds equivalent to the requirements of the State of Nebraska for obtaining a license to practice dentistry.

(2) Any person who desires a temporary license shall make application to the department. Such application shall be accompanied by the required fee.

(3) The temporary license shall be issued for a period of one year and, upon application to the department, renewed annually without the licensee having to pay a renewal fee.

(4) The temporary licensee shall be entitled to practice dentistry, including prescribing legend drugs and controlled substances, only under the auspices of the postgraduate or residency program in which he or she is enrolled.

Source: Laws 1988, LB 1100, § 31; Laws 1999, LB 828, § 71; Laws 2003, LB 242, § 35; R.S.1943, (2003), § 71-185.02; Laws 2007, LB463, § 456.

38-1124. Faculty license; requirements; renewal; continuing competency.

(1) The department, with the recommendation of the board, shall issue a faculty license to any person who meets the requirements of subsection (3) or (4) of this section. A faculty licensee may practice dentistry only as a faculty member at an accredited school or college of dentistry in the State of Nebraska and may teach dentistry, conduct research, and participate in an institutionally administered faculty practice only at such accredited school or college of dentistry. A faculty licensee eligible for licensure under subsection (4) of this section shall limit his or her practice to the clinical discipline in which he or she has received postgraduate education at an accredited school or college of dentistry.

(2) Any person who desires a faculty license shall make a written application to the department. The application shall include information regarding the applicant's professional qualifications, experience, and licensure. The application shall be accompanied by a copy of the applicant's dental degree, any other degrees or certificates for postgraduate education of the applicant, the required fee, and certification from the dean of an accredited school or college of dentistry in the State of Nebraska at which the applicant has a contract to be employed as a full-time faculty member.

(3) An individual who graduated from an accredited school or college of dentistry shall be eligible for a faculty license if he or she:

(a) Has or had a license to practice dentistry within the past five years in some other state in the United States or a Canadian province;

(b) Has a contract to be employed as a full-time faculty member at an accredited school or college of dentistry in the State of Nebraska;

(c) Passes a jurisprudence examination administered by the board; and

(d) Agrees to demonstrate continuing clinical competency as a condition of licensure if required by the board.

(4) An individual who graduated from a nonaccredited school or college of dentistry shall be eligible for a faculty license if he or she:

(a) Has completed at least two years of postgraduate education at an accredited school or college of dentistry and received a certificate or degree from such school or college of dentistry;

(b) Has a contract to be employed as a full-time faculty member at an accredited school or college of dentistry in the State of Nebraska;

(c) Passes a jurisprudence examination administered by the board;

(d) Agrees to demonstrate continuing clinical competency as a condition of licensure if required by the board; and

(e) Has passed Part I and Part II of the National Board Dental Examinations or its equivalent as determined by the Board of Dentistry.

(5) A faculty license shall expire at the same time and be subject to the same renewal requirements as a regular dental license, except that such license shall remain valid and may only be renewed if:

(a) The faculty licensee remains employed as a full-time faculty member of an accredited school or college of dentistry in the State of Nebraska; and

(b) The faculty licensee demonstrates continuing clinical competency if required by the board.

Source: Laws 2002, LB 1062, § 16; Laws 2003, LB 242, § 36; Laws 2004, LB 1005, § 11; R.S.Supp.,2006, § 71-185.03; Laws 2007, LB463, § 457.

38-1125. Practitioner's facility; requirements; inspections; rules and regulations.

(1) For purposes of this section, practitioner's facility means a facility in which a licensed dentist practices his or her profession, other than a facility licensed pursuant to the Health Care Facility Licensure Act.

(2) The department shall adopt and promulgate rules and regulations which are approved by the State Board of Health for practitioners' facilities in order to insure that such facilities are safe and sanitary and use precautions necessary to prevent the creation and spread of infectious and contagious diseases. Based upon a formal complaint, the department or its employees may inspect any practitioner's facility in this state to insure compliance with such regulations.

(3) Within thirty days after an inspection of a practitioner's facility which the department or its employees find to be in violation of its rules and regulations, the department shall notify the Board of Dentistry of its findings in writing.

The Attorney General shall file a petition for disciplinary action pursuant to section 38-186 if the violation of the rules and regulations is not corrected within thirty days after the licensee has received notice of such violation.

The department shall send a written progress report of its inspection and actions taken to the board.

(4) It shall be considered unprofessional conduct for a licensee to practice in a facility that does not comply with the rules and regulations regarding sanitary practitioners' facilities.

Source: Laws 1984, LB 470, § 1; Laws 1996, LB 1044, § 408; Laws 1999, LB 828, § 70; Laws 2000, LB 819, § 85; R.S.1943, (2003), § 71-185.01; Laws 2007, LB463, § 458.

Cross References

- **Alcoholic liquor**, possession and use in practice, see section 53-168.06.
- **Health Care Facility Licensure Act**, see section 71-401.

38-1126. Fees.

The department shall establish and collect fees for credentialing under the Dentistry Practice Act as provided in sections 38-151 to 38-157.

Source: Laws 2007, LB463, § 459.

38-1127. Dentists; name of associate; duty to display.

Every person who owns, operates, or controls a dental office in which anyone other than himself or herself is practicing dentistry, shall display the name of such person or persons in a conspicuous place at the public entrance to such office.

Source: Laws 1927, c. 167, § 88, p. 478; C.S.1929, § 71-1207; R.S.1943, § 71-189; R.S.1943, (2003), § 71-189; Laws 2007, LB463, § 460.

38-1127.01. Expanded function dental assistant; expanded function dental hygienist; display of permit.

Every person who owns, operates, or controls a facility in which an expanded function dental assistant or an expanded function dental hygienist is practicing shall display the permit of such person issued by the board for expanded functions in a conspicuous place in such facility.

Source: Laws 2017, LB18, § 15.

38-1128. Dentist; unlicensed associate prohibited; coercion prohibited.

(1) No person owning, operating, or conducting any place where dental work of any kind is done or contracted for shall employ or permit any unlicensed dentist to practice dentistry in such place.

(2) No person shall coerce or attempt to coerce a licensed dentist to practice dentistry in any manner contrary to the standards of acceptable and prevailing practice of the dental profession. Any dentist subjected to such coercion or attempted coercion has a cause of action against the person and may recover his or her damages and reasonable attorney's fees.

(3) Violation of this section by a health care professional regulated pursuant to the Uniform Credentialing Act may be considered evidence of an act of unprofessional conduct.

Source: Laws 1927, c. 167, § 89, p. 478; C.S.1929, § 71-1208; R.S.1943, § 71-190; Laws 2004, LB 1005, § 12; R.S.Supp.,2006, § 71-190; Laws 2007, LB463, § 461.

38-1129. Dentist; use of own name required; exception.

No person shall operate any place in which dentistry is practiced under any other name than his or her own or display in connection with his or her practice or on any advertising matter any other than his or her own name. Two or more licensed dentists who are associated in the practice may use all of their names. A widow, widower, or heir of a deceased dentist may operate such office under the name of the deceased dentist for a period of not longer than one year from the date of death.

Source: Laws 1927, c. 167, § 90, p. 479; C.S.1929, § 71-1209; R.S.1943, § 71-191; Laws 1957, c. 292, § 3, p. 1050; R.S.1943, (2003), § 71-191; Laws 2007, LB463, § 462.

38-1130. Licensed dental hygienist; functions authorized; when; department; duties; Health and Human Services Committee; report.

(1) Except as otherwise provided in this section, a licensed dental hygienist shall perform the dental hygiene functions listed in section 38-1131 only when authorized to do so by a licensed dentist who shall be responsible for the total oral health care of the patient.

(2) The department may authorize a licensed dental hygienist to perform the following functions in the conduct of public health-related services in a public health setting or in a health care or related facility: Preliminary charting and screening examinations; oral health education, including workshops and inservice training sessions on dental health; and all of the duties that a dental assistant who is not licensed is authorized to perform.

(3)(a) The department may authorize a licensed dental hygienist to perform the following functions in the conduct of public health-related services to children in a public health setting or in a health care or related facility:

(i) Oral prophylaxis to healthy children who do not require antibiotic premedication;

(ii) Pulp vitality testing;

(iii) Preventive measures, including the application of fluorides, sealants, and other recognized topical agents for the prevention of oral disease;

(iv) Upon completion of education and testing approved by the board, interim therapeutic restoration technique; and

(v) Upon completion of education and testing approved by the board, writing prescriptions for mouth rinses and fluoride products that help decrease risk for tooth decay.

(b) Authorization shall be granted by the department under this subsection upon (i) filing an application with the department and (ii) providing evidence of current licensure and professional liability insurance coverage.

Authorization may be limited by the department as necessary to protect the public health and safety upon good cause shown and may be renewed in connection with renewal of the licensed dental hygienist's license.

(c) A licensed dental hygienist performing dental hygiene functions as authorized under this subsection shall (i) report authorized functions performed by him or her to the department on a form developed and provided by the

department and (ii) advise the patient or recipient of services or his or her authorized representative that such services are preventive in nature and do not constitute a comprehensive dental diagnosis and care.

(4)(a) The department may authorize a licensed dental hygienist who has completed three thousand hours of clinical experience to perform the following functions in the conduct of public health-related services to adults in a public health setting or in a health care or related facility:

(i) Oral prophylaxis;

(ii) Pulp vitality testing;

(iii) Preventive measures, including the application of fluorides, sealants, and other recognized topical agents for the prevention of oral disease;

(iv) Upon completion of education and testing approved by the board, interim therapeutic restoration technique;

(v) Upon completion of education and testing approved by the board, writing prescriptions for mouth rinses and fluoride products that help decrease risk for tooth decay; and

(vi) Upon completion of education and testing approved by the board, minor denture adjustments.

(b) Authorization shall be granted by the department under this subsection upon (i) filing an application with the department, (ii) providing evidence of current licensure and professional liability insurance coverage, and (iii) providing evidence of three thousand hours of clinical experience. Authorization may be limited by the department as necessary to protect the public health and safety upon good cause shown and may be renewed in connection with renewal of the licensed dental hygienist's license.

(c) A licensed dental hygienist performing dental hygiene functions as authorized under this subsection shall (i) report on a form developed and provided by the department authorized functions performed by him or her to the department and (ii) advise the patient or recipient of services or his or her authorized representative that such services are preventive in nature and do not constitute a comprehensive dental diagnosis and care.

(5) The department shall compile the data from the reports provided under subdivisions (3)(c)(i) and (4)(c)(i) of this section and provide an annual report to the Board of Dentistry and the State Board of Health.

(6) For purposes of this section:

(a) Health care or related facility means a hospital, a nursing facility, an assisted-living facility, a correctional facility, a tribal clinic, or a school-based preventive health program; and

(b) Public health setting means a federal, state, or local public health department or clinic, community health center, rural health clinic, or other similar program or agency that serves primarily public health care program recipients.

(7) Within five years after September 6, 2013, the Health and Human Services Committee of the Legislature shall evaluate the services provided by licensed dental hygienists pursuant to this section to ascertain the effectiveness of such services in the delivery of oral health care and shall provide a report on such evaluation to the Legislature. The report submitted to the Legislature shall be submitted electronically.

Source: Laws 1986, LB 572, § 2; Laws 1996, LB 1044, § 415; Laws 1999, LB 800, § 5; R.S.1943, (2003), § 71-193.15; Laws 2007, LB247, § 24; Laws 2007, LB296, § 328; Laws 2007, LB463, § 463; Laws 2013, LB484, § 1; Laws 2017, LB18, § 16.

38-1131. Licensed dental hygienist; procedures and functions authorized; enumerated.

When authorized by and under the general supervision of a licensed dentist, a licensed dental hygienist may perform the following intra and extra oral procedures and functions:

(1) Oral prophylaxis, periodontal scaling, and root planing which includes supragingival and subgingival debridement;

(2) Polish all exposed tooth surfaces, including restorations;

(3) Conduct and assess preliminary charting, probing, screening examinations, and indexing of dental and periodontal disease, with referral, when appropriate, for a dental diagnosis by a licensed dentist;

(4) Brush biopsies;

(5) Pulp vitality testing;

(6) Gingival curettage;

(7) Removal of sutures;

(8) Preventive measures, including the application of fluorides, sealants, and other recognized topical agents for the prevention of oral disease;

(9) Impressions for study casts;

(10) Application of topical and subgingival agents;

(11) Radiographic exposures;

(12) Oral health education, including conducting workshops and inservice training sessions on dental health;

(13) Application or administration of antimicrobial rinses, fluorides, and other anticariogenic agents;

(14) Upon completion of education and testing approved by the board, interim therapeutic restoration technique; and

(15) All of the duties that a dental assistant who is not licensed is authorized to perform.

Upon completion of education and testing approved by the board and when authorized by and under the general supervision of a licensed dentist, a licensed dental hygienist may write prescriptions for mouth rinses and fluoride products that help decrease the risk for tooth decay.

Source: Laws 1986, LB 572, § 3; Laws 1999, LB 800, § 7; R.S.1943, (2003), § 71-193.17; Laws 2007, LB247, § 25; Laws 2007, LB463, § 464; Laws 2017, LB18, § 17.

38-1132. Licensed dental hygienist; activities related to analgesia authorized; administer local anesthesia; when.

(1)(a) A licensed dental hygienist may monitor nitrous oxide analgesia under the indirect supervision of a licensed dentist.

(b) Upon completion of education and testing approved by the board, a licensed dental hygienist may administer and titrate nitrous oxide analgesia under the indirect supervision of a licensed dentist.

(2) A licensed dental hygienist may be approved by the department, with the recommendation of the board, to administer local anesthesia under the indirect supervision of a licensed dentist. The board may prescribe by rule and regulation: The necessary education and preparation, which shall include, but not be limited to, instruction in the areas of head and neck anatomy, osteology, physiology, pharmacology, medical emergencies, and clinical techniques; the necessary clinical experience; and the necessary examination for purposes of determining the competence of licensed dental hygienists to administer local anesthesia. The board may approve successful completion after July 1, 1994, of a course of instruction to determine competence to administer local anesthesia. The course of instruction must be at an accredited school or college of dentistry or an accredited dental hygiene program. The course of instruction must be taught by a faculty member or members of the school or college of dentistry or dental hygiene program presenting the course. The board may approve for purposes of this subsection a course of instruction if such course includes:

(a) At least twelve clock hours of classroom lecture, including instruction in (i) medical history evaluation procedures, (ii) anatomy of the head, neck, and oral cavity as it relates to administering local anesthetic agents, (iii) pharmacology of local anesthetic agents, vasoconstrictor, and preservatives, including physiologic actions, types of anesthetics, and maximum dose per weight, (iv) systemic conditions which influence selection and administration of anesthetic agents, (v) signs and symptoms of reactions to local anesthetic agents, including monitoring of vital signs, (vi) management of reactions to or complications associated with the administration of local anesthetic agents, (vii) selection and preparation of the armamentaria for administering various local anesthetic agents, and (viii) methods of administering local anesthetic agents;

(b) At least twelve clock hours of clinical instruction during which time at least three injections of each of the anterior, middle, and posterior superior alveolar, naso and greater palatine, inferior alveolar, lingual, mental, long buccal, and infiltration injections are administered; and

(c) Procedures, which shall include an examination, for purposes of determining whether the licensed dental hygienist has acquired the necessary knowledge and proficiency to administer local anesthetic agents.

Source: Laws 1986, LB 572, § 4; Laws 1995, LB 449, § 1; Laws 1996, LB 1044, § 416; Laws 1999, LB 800, § 8; Laws 1999, LB 828, § 75; Laws 2003, LB 242, § 37; R.S.1943, (2003), § 71-193.18; Laws 2007, LB296, § 329; Laws 2007, LB463, § 465; Laws 2017, LB18, § 18.

38-1133. Department; additional procedures; rules and regulations.

The department, with the recommendation of the board, may, by rule and regulation, prescribe functions, procedures, and services in addition to those in section 38-1131 which may be performed by a licensed dental hygienist under the supervision of a licensed dentist when such additional procedures are educational or related to the oral prophylaxis and intended to attain or maintain optimal oral health.

Source: Laws 1986, LB 572, § 6; Laws 1996, LB 1044, § 417; R.S.1943, (2003), § 71-193.19; Laws 2007, LB296, § 330; Laws 2007, LB463, § 466.

38-1134. Department; employment facilities; rules and regulations.

The department, with the recommendation of the board, may adopt and promulgate rules and regulations providing for employment or work-setting facilities required for the provision of dental services by a licensed dental hygienist.

Source: Laws 1986, LB 572, § 7; Laws 1996, LB 1044, § 418; Laws 1999, LB 828, § 76; R.S.1943, (2003), § 71-193.20; Laws 2007, LB463, § 467.

38-1135. Dental assistants, licensed dental assistants, and expanded function dental assistants; employment; duties performed; rules and regulations.

(1) Any licensed dentist, public institution, or school may employ dental assistants, licensed dental assistants, and expanded function dental assistants. Such dental assistants, under the supervision of a licensed dentist, may perform such duties as are prescribed in the Dentistry Practice Act in accordance with rules and regulations adopted and promulgated by the department, with the recommendation of the board.

(2) The department, with the recommendation of the board, shall adopt and promulgate rules and regulations pursuant to section 38-126 governing the performance of duties by dental assistants, licensed dental assistants, and expanded function dental assistants. The rules and regulations shall include the degree of supervision which must be provided by a licensed dentist and the education and proof of competency requirements that must be met for any procedures performed by a dental assistant, a licensed dental assistant, or an expanded function dental assistant.

(3) A dental assistant may perform duties delegated by a licensed dentist for the purpose of assisting the licensed dentist in the performance of the dentist's clinical and clinical-related duties as allowed in the rules and regulations adopted and promulgated under the Dentistry Practice Act.

(4) Under the indirect supervision of a licensed dentist, a dental assistant may (a) monitor nitrous oxide if the dental assistant has current and valid certification for cardiopulmonary resuscitation approved by the board and (b) place topical local anesthesia.

(5) Upon completion of education and testing approved by the board, a dental assistant may:

(a) Take X-rays under the general supervision of a licensed dentist; and

(b) Perform coronal polishing under the indirect supervision of a licensed dentist.

(6) A licensed dental assistant may perform all procedures authorized for a dental assistant. Upon completion of education and testing approved by the board and with a permit from the department for the respective competency, a licensed dental assistant may, under the indirect supervision of a licensed dentist, (a) take dental impressions for fixed prostheses, (b) take dental impressions and make minor adjustments for removable prostheses, (c) cement prefabricated fixed prostheses on primary teeth, and (d) monitor and administer nitrous oxide analgesia.

(7) Upon completion of education and testing approved by the board and with a permit from the department for the respective competency, an expanded function dental assistant may, under the indirect supervision of a licensed dentist, place (a) restorative level one simple restorations (one surface) and (b) restorative level two complex restorations (multiple surfaces).

(8) A dental assistant may be a graduate of an accredited dental assisting program or may be trained on the job.

(9) No person shall practice as a licensed dental assistant in this state unless he or she holds a license as a licensed dental assistant under the Dentistry Practice Act.

(10) No person shall practice as an expanded function dental assistant in this state unless he or she holds a permit as an expanded function dental assistant under the act.

(11) A licensed dentist shall only delegate duties to a dental assistant, a licensed dental assistant, or an expanded function dental assistant in accordance with rules and regulations adopted and promulgated pursuant to the Dentistry Practice Act. The licensed dentist supervising a dental assistant, a licensed dental assistant, or an expanded function dental assistant shall be responsible for patient care for each patient regardless of whether the patient care is rendered personally by the dentist or by a dental assistant, a licensed dental assistant, or an expanded function dental assistant.

Source: Laws 1971, LB 587, § 13; Laws 1986, LB 572, § 1; Laws 1996, LB 1044, § 413; Laws 1999, LB 800, § 3; R.S.1943, (2003), § 71-193.13; Laws 2007, LB296, § 327; Laws 2007, LB463, § 468; Laws 2017, LB18, § 20.

38-1136. Licensed dental hygienists and expanded function dental hygienists; employment authorized; performance of duties; rules and regulations; license or permit required.

(1) Any licensed dentist, public institution, or school may employ licensed dental hygienists and expanded function dental hygienists.

(2) The department, with the recommendation of the board, shall adopt and promulgate rules and regulations governing the performance of duties by licensed dental hygienists and expanded function dental hygienists. The rules and regulations shall include the degree of supervision which must be provided by a licensed dentist and the education and proof of competency requirements that must be met for any procedures performed by a licensed dental hygienist or an expanded function dental hygienist.

(3) No person shall practice dental hygiene in this state unless he or she holds a license as a licensed dental hygienist under the Dentistry Practice Act.

(4) No person shall practice expanded function dental hygiene in this state unless he or she holds a permit as an expanded function dental hygienist under the act.

(5) A licensed dentist shall only delegate duties to a licensed dental hygienist or an expanded function dental hygienist in accordance with rules and regulations adopted and promulgated pursuant to the Dentistry Practice Act. The licensed dentist supervising a licensed dental hygienist or an expanded function dental hygienist shall be responsible for patient care for each patient regardless of whether the patient care is rendered personally by the dentist or by a licensed dental hygienist or an expanded function dental hygienist.

Source: Laws 1971, LB 587, § 14; Laws 1996, LB 1044, § 414; Laws 1999, LB 800, § 4; Laws 1999, LB 828, § 74; R.S.1943, (2003), § 71-193.14; Laws 2007, LB463, § 469; Laws 2017, LB18, § 21.

38-1136.01. Licensed dental assistant; additional functions, procedures, and services.

The department, with the recommendation of the board, may, by rule and regulation, prescribe functions, procedures, and services in addition to those in section 38-1135 which may be performed by a licensed dental assistant under the supervision of a licensed dentist when intended to attain or maintain optimal oral health.

Source: Laws 2017, LB18, § 19.

38-1137. Administration of anesthesia or sedation; permit required; exception.

A dentist licensed in this state shall not administer general anesthesia, deep sedation, moderate sedation, or minimal sedation in the practice of dentistry unless he or she has been issued the appropriate permit pursuant to the Dentistry Practice Act. A dentist licensed in this state may administer inhalation analgesia in the practice of dentistry without a permit pursuant to the act.

Source: Laws 1986, LB 438, § 3; R.S.1943, (2003), § 71-193.23; Laws 2007, LB463, § 470; Laws 2015, LB80, § 7.

38-1138. Violations; effect.

A violation of provisions of the Dentistry Practice Act relating to the administration of general anesthesia, deep sedation, moderate sedation, minimal sedation, or inhalation analgesia may result in action against the dentist's permit, license, or both pursuant to section 38-196.

Source: Laws 1986, LB 438, § 5; Laws 1988, LB 1100, § 33; R.S.1943, (2003), § 71-193.25; Laws 2007, LB463, § 471; Laws 2015, LB80, § 8.

38-1139. Permit to administer general anesthesia or deep sedation; issuance; conditions; existing permit; how treated.

(1) The department, with the recommendation of the board, shall issue a permit to a Nebraska-licensed dentist to administer general anesthesia or deep sedation on an outpatient basis to dental patients if the dentist:

(a) Maintains a properly equipped facility for the administration of general anesthesia or deep sedation as determined by the board;

(b) Is currently certified in basic life-support skills for health care providers as determined by the board and either advanced cardiac life support or an appropriate emergency management course for anesthesia and dental sedation as determined by the board;

(c) Has successfully completed an onsite evaluation covering the areas of physical evaluation, monitoring, sedation, and emergency medicine; and

(d) Meets at least one of the following criteria:

(i) Has completed an advanced education program approved by the board that affords comprehensive and appropriate training necessary to administer and manage general anesthesia or deep sedation; or

(ii) Is a fellow of the American Dental Society of Anesthesiology.

(2) A dentist who has been issued a permit pursuant to this section may administer moderate or minimal sedation.

(3) A dentist who has been issued a permit to administer general anesthesia pursuant to this section prior to July 1, 2016, may administer deep, moderate, or minimal sedation.

Source: Laws 1986, LB 438, § 6; R.S.1943, (2003), § 71-193.26; Laws 2007, LB463, § 472; Laws 2015, LB80, § 9.

38-1140. Permit to administer moderate sedation; issuance; conditions; existing permit; how treated.

(1) The department, with the recommendation of the board, shall issue a permit to a Nebraska-licensed dentist to administer moderate sedation on an outpatient basis to dental patients if the dentist:

(a) Maintains a properly equipped facility for the administration of moderate sedation as determined by the board;

(b) Is currently certified in basic life-support skills for health care providers as determined by the board and either advanced cardiac life support or an appropriate emergency management course for anesthesia and dental sedation as determined by the board;

(c) Has successfully completed an onsite evaluation covering the areas of physical evaluation, monitoring, sedation, and emergency medicine; and

(d) Meets at least one of the following criteria:

(i) Has completed an advanced education program approved by the board that affords comprehensive and appropriate training necessary to administer and manage moderate sedation; or

(ii) Is a fellow of the American Dental Society of Anesthesiology.

(2) A dentist who has been issued a permit pursuant to this section may administer minimal sedation.

(3) A dentist who has been issued a permit to administer parenteral sedation pursuant to this section prior to July 1, 2016, may administer moderate or minimal sedation.

Source: Laws 1986, LB 438, § 7; R.S.1943, (2003), § 71-193.27; Laws 2007, LB463, § 473; Laws 2015, LB80, § 10.

38-1141. Permit to administer minimal sedation; issuance; conditions; termination of existing permit.

(1) The department, with the recommendation of the board, shall issue a permit to a Nebraska-licensed dentist to administer minimal sedation on an outpatient basis to dental patients if the dentist:

(a) Maintains a properly equipped facility for the administration of minimal sedation as determined by the board;

(b) Is currently certified in basic life-support skills for health care providers as determined by the board and, if providing minimal sedation for persons twelve years of age and under, is currently certified in pediatric advanced life support as determined by the board; and

(c) Meets at least one of the following criteria:

(i) Has completed an advanced education program approved by the board that affords comprehensive and appropriate training necessary to administer and manage minimal sedation; or

(ii) Has completed training to the level of competency in minimal sedation consistent with the standards set by the American Dental Association as determined by the board or a comprehensive training program in minimal sedation as approved by the board.

(2) An inhalation analgesia permit issued pursuant to this section prior to July 1, 2016, terminates on such date.

Source: Laws 1986, LB 438, § 9; R.S.1943, (2003), § 71-193.29; Laws 2007, LB463, § 474; Laws 2015, LB80, § 11.

38-1142. Presence of licensed dental hygienist or dental assistant required.

General anesthesia, deep sedation, moderate sedation, and minimal sedation shall not be administered by a dentist without the presence and assistance of a licensed dental hygienist or a dental assistant.

Source: Laws 1986, LB 438, § 8; Laws 1999, LB 800, § 9; R.S.1943, (2003), § 71-193.28; Laws 2007, LB463, § 475; Laws 2015, LB80, § 12.

38-1143. Assistant; certification required.

Any person who assists a dentist in the administration of general anesthesia, deep sedation, moderate sedation, or minimal sedation shall be currently certified in basic life-support skills or the equivalent thereof.

Source: Laws 1986, LB 438, § 13; R.S.1943, (2003), § 71-193.33; Laws 2007, LB463, § 476; Laws 2015, LB80, § 13.

38-1144. Administration of anesthesia, sedation, or analgesia; limitation.

Nothing in the Dentistry Practice Act shall be construed to allow a dentist to administer to himself or herself, or to any person other than in the course of the practice of dentistry, any drug or agent used for general anesthesia, deep sedation, moderate sedation, minimal sedation, or inhalation analgesia.

Source: Laws 1986, LB 438, § 10; R.S.1943, (2003), § 71-193.30; Laws 2007, LB463, § 477; Laws 2015, LB80, § 14.

38-1145. Permits; term; department; adopt rules and regulations.

(1) Permits issued for the administration of general anesthesia or deep sedation, moderate sedation, or minimal sedation pursuant to the Dentistry Practice Act shall be valid until March 1 of the next odd-numbered year after issuance. A permit issued for the administration of general anesthesia prior to July 1, 2016, shall remain valid subject to the Dentistry Practice Act until March 1 of the next odd-numbered year, and it may be renewed subject to the Dentistry Practice Act as a general anesthesia or deep sedation permit. A permit issued for the administration of parenteral sedation prior to July 1, 2016, shall remain valid subject to the Dentistry Practice Act until March 1 of the next odd-numbered year, and it may be renewed subject to the Dentistry Practice Act as a moderate sedation permit.

(2) The department, with the recommendation of the board, shall adopt and promulgate rules and regulations to define criteria for the reevaluation of credentials, facilities, equipment, dental hygienists, and dental assistants and procedures of a previously qualified dentist to renew his or her permit for each subsequent renewal.

Source: Laws 1986, LB 438, § 11; Laws 1988, LB 1100, § 34; Laws 1999, LB 800, § 10; Laws 2003, LB 242, § 38; R.S.1943, (2003), § 71-193.31; Laws 2007, LB463, § 478; Laws 2015, LB80, § 15.

38-1146. Inspection of practice location.

All practice locations of a dentist applying for a permit to administer general anesthesia or deep sedation, moderate sedation, or minimal sedation may be inspected at the discretion of the board. The board may contract to have such inspections performed. The board shall not delegate authority to review and to make recommendations on permit applications or to determine the persons or facilities to be inspected.

Source: Laws 1986, LB 438, § 12; R.S.1943, (2003), § 71-193.32; Laws 2007, LB463, § 479; Laws 2015, LB80, § 16.

38-1147. Incident report; contents; failure to submit; penalty.

(1) All licensed dentists practicing in this state shall submit a report to the board within thirty days of any incident which results in death or physical or mental injury requiring hospitalization of a patient which occurs in the outpatient facilities of such dentist during, or as a direct result of, general anesthesia, deep sedation, moderate sedation, minimal sedation, or inhalation analgesia.

(2) The incident report shall include, but not be limited to:

(a) A description of the dental procedure;

(b) A description of the preoperative physical condition of the patient;

(c) A list of the drugs and the dosage administered;

(d) A detailed description of the techniques used in administering the drugs;

(e) A description of the incident, including, but not limited to, a detailed description of the symptoms of any complications, the symptoms of onset, and the type of symptoms in the patient;

(f) A description of the treatment instituted;

(g) A description of the patient's response to the treatment; and

(h) A description of the patient's condition on termination of any procedures undertaken.

(3) Failure to submit an incident report as required by this section shall result in the loss of the permit.

Source: Laws 1986, LB 438, § 14; R.S.1943, (2003), § 71-193.34; Laws 2007, LB463, § 480; Laws 2015, LB80, § 17.

38-1148. Department; permits to administer anesthesia or sedation; administration of analgesia; adopt rules and regulations.

The department, with the recommendation of the board, may adopt and promulgate rules and regulations necessary to carry out the provisions of the Dentistry Practice Act relating to permits to administer general anesthesia or deep sedation, moderate sedation, or minimal sedation and relating to administration of inhalation analgesia.

Source: Laws 1986, LB 438, § 15; R.S.1943, (2003), § 71-193.35; Laws 2007, LB463, § 481; Laws 2015, LB80, § 18.

38-1149. Office of Oral Health and Dentistry; Dental Health Director; appointment.

There is hereby established the Office of Oral Health and Dentistry in the department. The head of such office shall be known as the Dental Health Director and shall be appointed by the department. The Dental Health Director shall give full time to his or her duties.

Source: Laws 1949, c. 201, § 1, p. 584; Laws 1953, c. 239, § 1, p. 828; Laws 1996, LB 1044, § 411; Laws 2006, LB 994, § 82; R.S.Supp.,2006, § 71-193.01; Laws 2007, LB296, § 326; Laws 2007, LB463, § 482.

38-1150. Dental Health Director; qualifications.

The Dental Health Director shall be a graduate of an accredited school or college of dentistry and shall be licensed by the State of Nebraska to practice dentistry in Nebraska or duly licensed to practice dentistry in some other state of the United States of America.

Source: Laws 1949, c. 201, § 2, p. 584; Laws 1953, c. 240, § 1, p. 829; Laws 2006, LB 994, § 83;

R.S.Supp.,2006, § 71-193.02; Laws 2007, LB463, § 483.

38-1151. Office of Oral Health and Dentistry; duties; rules and regulations.

The duties of the Office of Oral Health and Dentistry shall be the promotion and development of activities which will result in the practice and improvement of the dental health of the people of the state under rules and regulations adopted and promulgated by the department.

Source: Laws 1949, c. 201, § 3, p. 585; Laws 1996, LB 1044, § 412; Laws 2006, LB 994, § 84; R.S.Supp.,2006, § 71-193.03; Laws 2007, LB463, § 484.

38-1152. Expanded function dental hygienist; authorized activities.

An expanded function dental hygienist may perform all the procedures authorized for a licensed dental hygienist. Upon completion of education and testing approved by the board and with a permit from the department for the respective competency, an expanded function dental hygienist may, under the indirect supervision of a licensed dentist, place (1) restorative level one simple restorations (one surface) and (2) restorative level two complex restorations (multiple surfaces).

Source: Laws 2017, LB18, § 22.