

# **LOUISIANA STATE BOARD OF DENTISTRY**

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Laws of the State of Louisiana Governing the Practice of  
Dentistry as Authorized Under  
Chapter 9, Title 37, Louisiana Revised Statutes

AS AMENDED THROUGH REGULAR SESSION 2007

AND

LOUISIANA ADMINISTRATIVE CODE, TITLE 46, CHAPTER 33



## **DISCLAIMER**

This publication is intended to facilitate the understanding of the Louisiana Dental Practice Act. It is not to be considered an official statement of the law which is found at L.R.S. 37:751 et seq. and Title 46 Chapter 33 of the Louisiana Administrative Code.

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### §751. Definitions; licensure; presumption

- A. As used in this Chapter:
- (1) “Another state” means each of the several states, other than Louisiana, and includes the District of Columbia, and the Commonwealth of Puerto Rico and the Virgin Islands.
  - (2) “Board” means the Louisiana State Board of Dentistry.
  - (3) “Dental assistant” means a person who is employed by a licensed practicing dentist and performs the duties authorized by the Louisiana State Board of Dentistry only under his direct on-premises supervision, direction, and responsibility.
  - (4) “Dental hygienist” means a person licensed under the provision of this Chapter to perform those duties authorized by the Louisiana State Board of Dentistry as set forth in rules and regulations promulgated by the board in accordance with the Administrative Procedure Act.
  - (5) “Dentistry” means the evaluation, diagnosis, prevention, or treatment, including nonsurgical, surgical, or related procedures, of diseases, disorders, or conditions of the oral cavity, maxillofacial areas or the adjacent and associated structures and their impact on the human body provided by a dentist within the scope of his education, training, and experience, in accordance with the ethics of the profession and applicable law.
  - (6) “Expanded duty dental assistant” means a person who is employed by a licensed practicing dentist and has passed an expanded function for dental assistants course approved by the Louisiana State Board of Dentistry that shall not consist of less than thirty classroom hours, or who has graduated from a dental assisting program accredited by the Commission on Dental Accreditation of the American Dental Association provided the program teaches functions as provided for LAC 46:XXXIII.502 and 503. An expanded duty dental assistant may perform any functions authorized by the Louisiana State Board of Dentistry for an expanded duty dental assistant under the direct, on-premises supervision, direction, and responsibility of the dentist.
  - (7) “Licensure by credentials” means the issuing of a license using a performance record in place of examinations to evaluate theoretical knowledge and clinical skill when an applicant for licensure has been awarded a D.D.S. or D.M.D. degree from a dental school accredited by the Commission on Dental Accreditation of the American Dental Association and holds a dental license or has received a degree or certificate in a dental hygiene education program accredited by the Commission on Dental Accreditation of the American Dental Association and holds a dental hygiene license.
  - (8) “Reciprocity” means a formal reciprocal agreement between two state boards under which a dentist licensed in one state may apply for and receive a license in another state without examination and without fulfilling any other requirements except the usual state license fees.
  - (9) A “reputable dental school” means one that is recognized as such by the Louisiana State Board of Dentistry according to its rules and regulations.
  - (10) As used in this Chapter, “unlicensed person” means a person who is not licensed by the board who illegally practices dentistry or dental hygiene.

- B. Any health care provider possessing a degree in dentistry or a dental degree as specifically approved under R. S. 37:771 and a medical degree must be licensed and maintain licensure with the Louisiana State Board of Dentistry prior to and as long as said health care provider practices, engages in, performs, or offers to engage in or perform any of the practices, acts, or operations set forth in this Section or as defined as a specialty of dentistry.
- C. A person who represents himself as being able to perform any procedure contained within the definition of dentistry such as taking impressions of the human teeth or jaws or performing any phase of any operation incident to the replacement of a tooth or part of tooth or associated tissue by means of a filling, crown, denture, or other appliance or who furnishes, supplies, constructs, and produces, or repairs, or offers to furnish, supply, construct, reproduce or repair or process dentures, bridges or other substitutes for natural teeth to the user or prospective user is practicing dentistry.
- D. Where it is difficult to determine under this section whether the treatment and attention more properly belongs to the field of dentistry, the dentist shall call in a member of the medical profession to cooperate with him.
- E. The fact that any person engages in or performs, or offers to engage in or perform, any of the practices, acts, or operations, set forth in this Section, is prima facie evidence that such person is engaged in the practice of dentistry.

**§752. Exemptions from license**

The licensing provisions of this Chapter shall not apply to:

- (1) The rendering of dental relief in emergency cases by a physician or surgeon in the practice of his profession if he is licensed and registered as such under the laws of this state and if he does not reproduce or undertake to reproduce lost parts of the human teeth in the mouth or to restore or replace lost or missing teeth in the mouth.
- (2) The practice of dentistry by dentists in the armed services of the United States, the United States Public Health Service, or the United States Department of Veterans Affairs in the discharge of their official duties.
- (3) Dental schools or colleges approved by the Louisiana State Board of Dentistry; the practice of dentistry by students in dental schools or colleges approved by the board when acting under the direction and supervision of registered dentists, licensed and acting as instructors or professors; interns in any hospital or institution, but not residents.
- (4) The practice of dentistry by licensed dentists of other states or countries at meetings of the Louisiana Dental Association or its component part, alumni meetings of dental colleges, or any other like dental organizations, while appearing as clinicians and by visiting dentists while teaching in the Louisiana State University School of Dentistry System on a part-time basis.
- (5) The use of Roentgen or other rays for making roentgenograms, radiograms, or similar records of dental or oral tissues if this service is rendered only under the general direction and supervision of a physician or dentist, and if this service is not offered to the public by any name as an aid or inducement to secure dental patronage. No person shall announce to the public that it has, leases, owns, or operates a Roentgen or x-ray machine for the purpose of making dental roentgenograms of the human teeth or tissues of the oral cavity, or administering treatment for any disease thereof. The evaluation and interpretation of roentgenograms or radiographs for diagnosis or treatment of dental conditions shall not be performed except by a licensed dentist.

- (6) The making of artificial restorations, substitutes, appliances, or materials for the correction of diseases, loss, deformity, malposition, dislocation, fracture, injury of the jaws, teeth, lips, gums, cheeks, palate, or associated tissues or parts, upon written work orders or prescriptions furnished by a licensed and registered dentist on a form approved by the Louisiana State Board of Dentistry as hereinafter set forth, and the use in connection with said work order or prescription of casts, models or from impressions furnished by a licensed or registered dentist.
- (7) The making and repairing of prosthetic dentures, bridges, artificial restorations or other structures to be used or worn as substitutes for natural teeth, or appliances for the correction of disease, loss, deformity, malposition, dislocation, fracture of or injury to the jaws, teeth, lips, gums, cheeks, palate, or associated tissues or parts upon a written work order or prescription furnished by a licensed and registered dentist on a form approved by the Louisiana State Board of Dentistry as hereinafter set forth and constructed on, or by use of, casts or models made from impressions taken by a licensed and registered dentist if these prosthetic or orthodontic appliances, or the services rendered in the construction, repair, or alteration thereof are not offered for sale, or use, or delivery to the public or placed or adjusted in the oral cavity, except by licensed and registered dentists.
- (8) The practice of dentistry or dental hygiene by licensed dentists or dental hygienists of other states who have obtained a temporary license with the approval of the board, provided the dentists and dental hygienists apply for a full license by taking an examination at the time the next examination is given by the board or by applying for licensure by credentials. The application for examination or for a license by credentials shall be filed with the application for temporary license. If the holder of a temporary license is unsuccessful in passing the examination or is denied a license by credentials, the temporary license shall be permanently revoked and canceled.
- (9)
  - (a) Contracting by the spouse or the personal representative of the estate of a deceased dentist or the spouse or the personal representative of a disabled dentist with a licensed dentist to manage the dental practice at an establishment where dental operations, oral surgery, or dental services are provided for the purpose of selling or otherwise disposing of a deceased or a disabled licensee's dental practice for a period not to exceed twenty-four months.
  - (b) A spouse or personal representative may not:
    - (i) Govern the clinical sufficiency, suitability, reliability, or efficacy of a particular service, product, process, or activity as it relates to the care of dentistry.
    - (ii) Preclude or otherwise restrict a dentist's ability to exercise independent professional judgment over all qualitative and quantitative aspects of the delivery of dental care.
    - (iii) Allow any person other than a dentist to supervise and control the selection, compensation, terms, conditions, obligations, or privileges of employment or retention of clinical personnel in the dental practice.
    - (iv) Determine or limit a fee charged by the dentist or limit the methods of payment accepted by the dentist or the dentist's practice.
    - (v) Limit or define the scope of services offered by the dentist.
  - (c) When used in this Section, the following terms shall have the following meanings ascribed to them:
    - (i) "Clinical" means those activities described in R.S. 37:751(A)(5).

- (ii) "Disabled" has the same meaning as "disabled person" as provided in R.S. 9:3541.21 (3).
- (iii) "Personal representative" has the same meaning as provided in R.S. 9:2260.1 (11).
- (d) The twenty-four month period provided for in this Section begins when:
  - (i) The dentist is declared legally dead.
  - (ii) The spouse or personal representative of the disabled dentist files a verified copy of disability status signed by a physician attesting to the dentist's disability with the Louisiana State Board of Dentistry.
- (e) Notwithstanding any other provision of law to the contrary, nothing in this Section shall prohibit a dentist from contracting with any person or entity for management of a dental practice prior to the death or disability of such dentist subject to R.S. 37:776.

**§753. Louisiana State Board of Dentistry; appointment of members; term of office; vacancies; nominating meetings; quorum; domicile**

- A. There is created within the Department of Health and Hospitals the Louisiana State Board of Dentistry which shall carry out the purposes and enforce the provisions of this Chapter, subject to the provisions of R.S. 36:803.
- B. The board shall be composed of such qualified and licensed dentists as provided in Subsection C and one qualified and licensed dental hygienist.
- C. Each member of the board shall be appointed by the governor as follows:
  - (1) (a) One dentist shall be appointed from each board district, except that two dentists shall be appointed from District Five and designated as representatives "A" and "B". Should the terms of representatives "A" and "B" expire on the same date, the term of either board member who has served for the least amount of time shall be extended for two years. Each such appointment from an electoral district shall be made from a list of three names of nominees for the respective district submitted to the governor by the board. The district nominees shall be selected from the roster of licensed dentists in the districts at a nominating meeting convened in accordance with the provisions of Subsection F of this Section. The voting domicile of each nominee for appointment and not his office address shall determine his district for purposes of holding office in accordance with the provisions of this Paragraph. The nominating meeting shall be held at least ninety days prior to the vacancy occurring by reason of an expiring term or within thirty days after a vacancy occurring by reasons of death, resignation, or for any other reason.
  - (b) Louisiana shall be divided into nine board districts, as follows:
    - (i) District One shall be composed of the parishes of Acadia, Evangeline, Iberia, Lafayette, St. Landry, and St. Martin, that portion of St. Mary Parish west of the Calumet Cut Canal, and Vermilion Parish.
    - (ii) District Two shall be composed of the parishes of Assumption and Lafourche, that portion of St. Mary Parish east of the Calumet Cut Canal, and Terrebonne Parish.
    - (iii) District Three shall be composed of that portion of Allen Parish north of latitude 30 deg. 45 min., and the parishes of Avoyelles, Catahoula,

Concordia, and Grant, that portion of LaSalle Parish south of latitude 31 deg. 53 min., and the Parishes of Natchitoches, Rapides, Sabine, Vernon, and Winn.

- (iv) District Four shall be composed of the parishes of Caldwell, East Carroll, Franklin, and Jackson, that portion of LaSalle Parish north of latitude 31 deg. 53 min., and the parishes of Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, and West Carroll.
  - (v) District Five shall be composed of the parishes of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, and that portion of St. Tammany Parish east of Bayou Lacombe.
  - (vi) District Six shall be composed of that portion of St. Tammany Parish west of Bayou Lacombe, and the parish of Tangipahoa and Washington.
  - (vii) District Seven shall be composed of the parishes of Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, and Webster.
  - (viii) District Eight shall be composed of the parishes of Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, West Baton Rouge, and West Feliciana.
  - (ix) District Nine shall be composed of that portion of Allen Parish south of latitude 30 deg. 45 min., and the parishes of Beauregard, Calcasieu, Cameron, and Jefferson Davis.
- (c) District representatives shall be appointed for terms beginning on January first of the following years:
- (i) The representatives from Districts 1 and 6: 1993.
  - (ii) The representatives from Districts 3 and 4: 1994.
  - (iii) The representatives from District 8: 1995.
  - (iv) The representatives from Districts 2, 5 (A and B), and 7: 1996.
  - (v) The representatives from District 9: 1993.
- (2) Three dentists shall be appointed from the state at large.
- (a) One seat shall be designated as "At-Large Seat A" and shall be appointed from the state at large from a list of three licensed black dentists certified by the board secretary to the governor. The board secretary shall obtain a list of three nominees for the "At-Large Seat A" position by ballot sent by United States mail to all licensed black dentists in the state at their last known mailing address as indicated in the board files. Each licensed black dentist may nominate any three licensed black dentists by completing the ballot with the full name, residence, address, city, and home telephone number of the three nominees and mailing the ballot to the board offices. The submission of such information on the ballot shall serve as confirmation that the voter has discussed the nomination with the nominees and they have agreed to serve if nominated and appointed by the governor. The ballot shall be mailed by the board secretary at least ninety days prior to any vacancy occurring by reason of an expiring

term or within thirty days after a vacancy occurring by reason of death, resignation, or for any other reason. After the board secretary has tabulated all ballots received at the board offices, the names of the three nominees receiving the greatest number of votes shall be certified by the secretary and sent to the governor.

- (b) Two seats shall be designated as "At-Large Seats B and C" and shall be appointed from a roster of all licensed dentists in the state. A vacancy occurring in either "At-Large Seat B" or "At-Large Seat C" shall be filled by the governor without the necessity of a nomination or other requirement, except that the appointee shall be licensed and domiciled in the state.
- (3) The hygienist shall be appointed from the state at large, from a list of three nominees certified by the board secretary and sent to the governor. The board secretary shall obtain a list of three nominees for the at-large dental hygienist position by ballot sent by United States Mail to all licensed dental hygienists in the state at their last known mailing address as indicated in the board files. Each licensed dental hygienist may nominate any three licensed dental hygienists by completing the ballot with the full name, residence address, city and home telephone number of the three nominees, and mailing same to the board offices. The submission of such information on the ballot shall serve as confirmation that the voter has discussed the nomination with the nominees and they have agreed to serve if nominated and appointed by the governor. The ballot shall be mailed out by the board secretary at least ninety days prior to any vacancy occurring by reason of an expiring term or within thirty days after a vacancy occurring by reason of death, resignation, or for any other reason. After the board secretary has tabulated all ballots received at the board offices, the names of the three nominees receiving the largest number of votes shall be certified by the secretary and sent to the governor.
  - (4) In the event the governor declares a state of emergency, all nominating procedures may be delayed for a period of not longer than one hundred eighty days from the date the emergency was first declared by the governor.
- D. Each appointment by the governor shall be submitted to the Senate for confirmation.
  - E.
    - (1) Each person appointed to the board shall serve a term of five years. Any board member serving on August 15, 1993, shall thereafter be appointed for no more than two consecutive five-year terms. On or after August 15, 1993, no person shall be appointed to serve more than two consecutive five-year terms.
    - (2) The effective date of appointment or reappointment of a member shall coincide with the expiration date of the previous term.
    - (3) Each member shall serve until his successor has been appointed.
    - (4) A vacancy occurring on the board for any reason shall be filled in the same manner as the original appointment was made. However, members appointed to fill vacancies shall only serve for the unexpired term of their predecessors.
  - F.
    - (1) The board shall have the authority to regulate nominating meetings, including prescribing the place, date, and time of the meetings, the methods of nomination, and the manner of voting.
    - (2) The board secretary shall notify each licensee by United States Mail at his last known place of business or residence address as indicated in the board files, at least ten days prior to a nominating meeting.

- (3) The board secretary or employee designated by the president shall require that each licensee in attendance vote only for those persons duly nominated. Cumulative or proxy voting shall not be permitted. Each licensee must vote for three nominees in order for his ballot to be valid, and any ballot indicating votes for more or less than three nominees shall be null and void. The names of the three persons receiving the greatest number of votes shall be certified by the secretary and sent to the governor.
- (4) The voting domicile of each licensee and not his office address shall determine eligibility for voting under this Subsection.
- G. No full-time member of the faculty or teaching staff of any university or college having a dental or dental hygiene department in this state, shall be appointed to the board. No dentist or dental hygienist may own stock in or operate a dental supply business or commercial laboratory prior to being appointed to the board or while serving on the board. A part-time member of the faculty or teaching staff of any university or college having a dental or dental hygiene department in this state may be appointed to the board as long as the time spent providing instruction at the dental college is no more than eight hours per week.
- H. A majority of the members of the board shall constitute a quorum for all purposes including but not limited to the transaction of business, the holding of meetings, administration of examinations, granting of licenses and permits, and the rulemaking functions of the board.
- I. The domicile of the Louisiana State Board of Dentistry shall be the City of New Orleans.
- J. Each member of the board shall be actively engaged in the practice of dentistry or the practice of dental hygiene at the time of appointment.

**§754. Organization of the board; seal; records; meetings**

- A. The board at its annual meeting shall elect from its members a president and vice-president. The president shall preside at all meetings and serve as the board's executive officer between meetings, however, he shall not vote in board meetings except in case the members present are equally divided. The board shall also appoint a secretary-treasurer who may be but need not be a member of the board.
- B. The board shall have an official seal and shall keep proper minutes and records of all its proceedings, which shall be open at all reasonable times to public inspection. The board shall make a complete record of the names and addressees and licenses numbers of persons licensed as dentists and dental hygienists, and of all licenses revoked by it. A transcript of the minutes and record entries, certified by the secretary-treasurer under the seal of the board, shall be evidence of the facts therein stated. The secretary-treasurer shall be the legal custodian of all property, money, minutes, records, proceedings, and seal of the board.
- C. The board shall hold one regular meeting each year and special meetings as are necessary. The board shall determine the place within the state and time of all meetings.

**§755. Compensation of members**

Out of the funds of the board, each board member shall receive one hundred fifty dollars per day and actual reimbursement for reasonable traveling expenses for each day actually engaged in the performance of his official duties. In addition, the president shall be paid a salary in connection with performing the official duties of his office in an amount to be set by the board.

**§756. Receipts and disbursements of board**

- A. All fees received by the board under this Chapter shall be paid to the secretary-treasurer. Disbursements made by the board shall be signed by the president and the secretary-treasurer. In the absence of either the president or secretary-treasurer, the vice president or any employee empowered by the board by majority vote is authorized to sign all disbursements with the remaining authorized signatory.
- B. The board may expend the necessary funds for its offices, furniture, fixtures, supplies, equipment, printing, and all other expenses necessary to conduct the board's business.

**§757. Patient Records**

- A. Any dentist licensed to practice in this state shall keep a written record of any dental treatment for a patient, including each service performed, the amount charged for the service, and by whom the bill for the service was paid, whether by the patient or by the patient's representative or insurer.
- B. The dentist shall maintain and preserve the dental treatment records in conformity with R.S. 40:1299.96.

**§758. Affiliation with American Association Of Dental Examiners and other associations**

The board may affiliate with the American Association of Dental Examiners, associations of deans of dental schools, or other similar professional associations, as an active member, and pay regular annual dues to said associations and send delegates or representatives to the meetings of said associations. Delegates may receive the per diem provided in R.S. 37:755 for the time spent in attending such meetings and reimbursement for actual and necessary traveling expenses.

**§759. Report of board**

The board shall report its proceedings and the items of its receipts and disbursements for the previous fiscal year to the governor before September first in each year.

**§760. Powers and duties of the board**

- A. The board shall exercise, subject to the provisions of this Chapter, the following powers and duties:
  - (1) Conduct examinations to ascertain qualifications and fitness of applicants for licenses as dentists and dental hygienists. The board may employ dentists and dental hygienists licensed in any state or territory of the United States as defined in R.S. 37:751 (A)(1) to participate as examiners to assist the board in conducting clinical licensing examinations. Board members may also participate as examiners for other national or regional clinical testing agencies.
  - (2) Appoint or designate one or more examining committees of dentists, dental hygienists, or professionals possessing appropriate qualifications to conduct physical or mental examinations on a dentist or dental hygienist, to otherwise inquire into the dentist's or dental hygienist's fitness and ability to practice with reasonable skill and safety on patients, and to submit advisory reports and recommendations to the board, when the committee has reasonable cause to believe that such dentist's or dental hygienist's fitness and ability are affected by mental illness or deficiency or physical illness, including but not limited to deterioration through the aging process or excessive use or abuse of alcohol, drugs, or chemicals.

- (3) Prescribe rules and regulations for examination of candidates.
- (4)
  - (a) Conduct hearings on proceedings to revoke, limit, or suspend, and to revoke, limit, or suspend a license granted under this Chapter, as well as conduct hearings to sanction unlicensed persons illegally practicing dentistry or dental hygiene when evidence has been presented showing violation of any of the provisions of this Chapter.
  - (b) In addition to the power and duties granted in Subparagraph (a) of this Paragraph, the board may, in its discretion, impose a fine against any person licensed under this Chapter or any unlicensed person when evidence has been presented showing the person is in violation of any of the provisions of this Chapter.
- (5) Conduct proceedings relative to the refusal of reissuance of licenses, certificates, or authorities, when evidence has been presented showing violation of any of the provisions of this Chapter.
- (6) Issue licenses, certificates, or authorities in conformity with this Chapter to applicants who have been found qualified. The president may appoint a committee comprised of three or more members of the board which is authorized to issue provisional permits and licenses where authorized by this Chapter and rules of the board, provided that the licenses and certificates so issued must be approved by the full board at its next scheduled meeting.
- (7) Shall investigate complaints of illegal practice or a violation of this Chapter when evidence is presented to the board.
- (8) Adopt rules and regulations in accordance with law and after due promulgation providing for approval of colleges, universities, and training schools for dentists, dental hygienists, and auxiliary personnel; and regulate the practice of licensed dentists and dental hygienists, by prescribing those acts, services, procedures, and practices which may be performed and imposing such requirements and restrictions on the performance thereof as it shall consider proper and necessary to protect and promote the public health and welfare of the citizens of this state. The board may adopt such rules as are necessary to register and charge fees for the licensing activities and other services provided by the board.
- (9) The president, or in his discretion, any member of the board may execute, on a case-by-case basis, any affidavit, petition, or subpoena necessary to the issuance of any injunction or other legal process authorized under this Part, including but not limited to a petition in any court of competent jurisdiction for a money judgment for any and all fines and costs payable pursuant to a final administrative adjudication decision or ratified consent decree. This authorization is remedial and shall have retroactive effect.
- (10) The president, or in his absence or in his discretion, any member of the board, may administer oaths in the taking of testimony at any hearing before the board or a duly appointed committee of board members on any matters relative to the duties of the board or violation of this Chapter.
- (11) Employ legal counsel to carry out the provisions of this Chapter provided the fees of the counsel and the costs of all proceedings, except criminal prosecutions are paid by the board out of its own funds.
- (12) Pass upon the qualifications of applicants for restricted licenses, and any application for a restricted license shall be accompanied by a certification of employment or registration and active participation in a post-graduate program by the dean of such dental school or

the director of such hospital, state institution, or state agency seeking to register the applicant and obtain his active participation in a post-graduate program or to employ the applicant. The certifying authority and the holder of the restricted license shall both be responsible for notifying the board immediately upon the termination of employment or registration and active participation as a post-graduate student of said applicant. All holders of restricted licenses shall practice their profession only in connection with the terms of their employment or active participation as a post-graduate student with the school, hospital, state institution, or stage agency.

(13) Require and determine by rule, minimum requirements relative to continuing education for relicensure and recertification.

(14) (a) When the board has reasonable cause to believe that dental health care or controlled dangerous substance records relative to a matter under investigation by the board may be created, altered, or destroyed before production for board review, or when the dental health care provider may have engaged in fraudulent conduct or may have provided substandard care, where that substandard care results in death or hospitalization, or is the subject of three or more written patient complaints to the board, or otherwise has violated the Louisiana Dental Practice Act, R.S. 37:776, or R.S. 37:777, the board may apply ex parte by affidavit to the district court including within its district the parish where the licensee resides, practices dentistry or dental hygiene as reflected in the office address on record with the board, or where the licensee may be found, for an administrative warrant authorizing the seizure of dental health care records in whatever form they may be kept, such as on paper or computer discs. The court may issue the administrative warrant requiring immediate production of dental health care records only upon a finding that the board has demonstrated reasonable cause that the dental health care or controlled dangerous substance records described in the application for the administrative warrant do not exist or may be created, altered, or destroyed if production is not immediate, or that the dental health care provider may have engaged in fraudulent conduct regarding the patients whose records are at issue or who may have provided substandard care resulting in death or hospitalization, or is the subject of three or more written patient complaints to the board.

(b) The administrative warrant shall be personally served on the dental health care provider whose conduct is at issue.

(c) The board shall be allowed to copy actual treatment records when and where they are produced, allowing the dental health care provider to maintain the original treatment records. The board shall retain original radiographs produced by the dental health care provider but will provide the dental health care provider a copy of those radiographs at the time of production by creating a copy for the health care provider by using an appropriate copying device.

(15) Require and determine, by rule, requirements for expedited provisional licenses when a state of emergency has been declared by the governor or the United States government.

B. The board may request and obtain criminal history record information from the state and federal government on any person applying for any license, permit, certificate, or registration which the board is authorized by law to issue in accordance with R.S. 37:763.1.

**§ 761. Requirements of applicants for dental license**

A. The board shall require that every applicant for a dental license shall:

- (1) Be a citizen or a permanent resident of the United States unless otherwise prohibited by the North American Free Trade Agreement.
  - (2) Present satisfactory evidence of graduation from a dental college or university approved by the Louisiana State Board of Dentistry, according to its rules and regulations.
  - (3) Submit for the files of the board a recent picture duly identified and attested; and such other character reference report as shall be required by the board.
  - (4) Present satisfactory evidence of having taken an examination in the theory and practice of the science of the profession given by the Joint Commission on National Dental Examinations before being accepted for the regular examination given by the board, or pass an examination given by the board in the theory and practice of the science of dentistry in addition to the regular examination given by the Louisiana State Board of Dentistry. Upon receipt of information that the applicant has passed the examination in the theory and practice of the science of the profession given by the Joint Commission on National Dental Examinations, he may be awarded a dental license, but only when all other requirements for licensure have been met. If the applicant fails the examination given by the Joint Commission on National Dental Examinations, he must successfully retake the Louisiana clinical licensing examination after providing satisfactory evidence of subsequently passing the examination given by the Joint Commission on National Dental Examinations.
  - (5) Possesses a current certificate in the American Heart Association cardiopulmonary resuscitation health care provider course, the American Red Cross Professional Rescue Course, or their equivalent.
- B. In addition to these requirements, the board may decline to issue or renew a dentist's license for any of the causes listed in R.S. 37:776.
- C. An applicant who has successfully completed any national, regional, or independent third-party clinical dental licensing examination approved by the board that shall include procedures performed on human subjects as part of the assessment of restorative clinical competencies and who otherwise satisfies all requirements for a dental license, including satisfactory completion of an examination in jurisprudence and a background check, may be granted a license by examination by applying for licensure in Louisiana within one year following the successful completion of such clinical licensing examination.

**§761.1 Retired volunteer dental license, issuance, applicant's requirements; validity; denial; violations; status change; continuing dental education**

- A. The board may issue a retired volunteer dental license to an applicant to practice dentistry in a community health care clinic as defined in R.S. 9:2799.5(D)(1). Holders of a retired volunteer dental license shall submit with the application to the board a notarized statement that they shall not accept any form of remuneration directly or indirectly for providing dental services. Any application for licensure under this Section shall be in the form and manner designated by the board. The provisions of R.S. 9:2799.5 shall apply to all licenses issued under this Section.
- B. The applicant for licensure shall meet all of the following conditions:
- (1) The applicant shall maintain, for at least ten years prior to retirement, full licensure in good standing in Louisiana without disciplinary action that restricted the applicant's license or resulted in the applicant's license being placed on probation, suspended, restricted, revoked, surrendered, resigned, or otherwise allowed to lapse or expire in lieu of disciplinary action being taken.

- (2) The applicant shall have held an active status dental license in good standing in Louisiana within one year prior to the date of application for a retired volunteer dental license; however, the board may waive the one-year requirement in the event that the applicant demonstrates that he possesses the knowledge and skills requisite to the practice of dentistry by successfully completing such examinations required by the board.
  - (3) The applicant shall be of good moral character and affirm that the applicant has no felony convictions or other criminal convictions that would affect the applicant's ability to render competent care.
- C. For purposes of this Section, a person shall be considered retired from practice if the person's license has been surrendered or allowed to expire with the intention of ceasing to practice as a dentist for remuneration.
  - D. A retired volunteer license shall be valid for a period of one year and shall expire annually on June thirtieth.
  - E. All documentation and certification shall be submitted to the board for review. Any plan to reestablish competency shall be submitted to and pre-approved by the board. Demonstration of professional ability, skills, and knowledge may be accomplished by successfully completing a reentry program at an accredited dental institution, which will certify the licensee's proficiency meets or exceeds the competency level required of a graduating student in his senior year from the institution.
  - F. The board shall deny issuance of a retired volunteer dental license to a person who is not qualified under this Section to hold a retired volunteer dental license. The holder of the retired volunteer dental license shall practice a minimum, on average, eight hours per month. If the community health care clinic at which a retired volunteer dentist seeks to practice permanently ceases operation, the license issued under this Section shall be automatically revoked unless the licensee begins practicing in another community health care clinic for the required minimum number of hours per month within ninety days.
  - G. The holder of a license under this Section who practices dentistry other than as authorized in this Section shall be guilty of a felony with each day's violation constituting a separate offense. Upon proof of practice other than as authorized in this Section or of a violation of R.S. 37:776, the board may suspend or revoke the retired volunteer dental license after notice to the licensee. For violations of the dental practice act or rules adopted under the act that are applicable to practice under this Section, the board shall have the same authority to investigate and impose sanctions on retired volunteer license holders as it has for those holding an active license.
  - H. Any person licensed under this Section may apply to the board for a return to active licensure status by filing an application in the form and manner prescribed by the board and meeting all requirements of this Chapter. Licensees who desire to change a retired volunteer license to an active license and who have not practiced at least one year out of the five years immediately preceding application for an active license shall document and certify to the board how they have maintained their professional ability, skills, and knowledge and shall be subject, at the board's discretion, to the provisions of LAC 46:XXXIII.124.
  - I. The retired volunteer status of a licensee shall be plainly indicated on the face of any retired volunteer license issued under this Section.
  - J. Holders of a retired volunteer dental license shall comply with the continuing dental education requirements adopted by the board which shall include cardiopulmonary resuscitation (CPR) training.
  - K. The board may charge an administrative fee for issuing a retired volunteer dental license pursuant to this Section. However, a dentist who possesses an active Louisiana license and who desires to convert the active license to a retired volunteer dental license shall not pay an administrative fee for the conversion.

**§762. Licenses; data on**

All licenses issued by the board shall bear a serial number, the full name of the licensee, the date of issuance, and the seal of the board; and shall be signed by the president and members of the board.

**§763. Application for or acceptance of license or permit; waiver of personal privileges; conditions for surrender of license; certification or registration**

- A. Any person applying for or accepting a license or permit to practice dentistry or dental hygiene in this state shall, by applying for or accepting said license or permit, be deemed to have given his consent to submit to physical or mental examinations when so directed by the board, acting upon reasonable cause, and to waive all objections as to the admissibility or disclosure of findings, reports, or recommendations pertaining thereto on the grounds of privileged communications or other personal privileges provided for by law.
- B. Any person applying for, accepting, or holding a license or permit to practice dentistry or dental hygiene in this state shall be deemed, notwithstanding any privilege of confidentiality, to have given his authorization and consent to the disclosure to the board, by any dentist, physician, or other health care provider and by any health care institution, of any, and all dental or medical records and information pertaining to such person's diagnosis, evaluation, treatment and prognosis for any physical or mental condition, disease, illness, deficiency, or infirmity, when the board is acting upon a bona fide complaint and it has reasonable cause to believe that his fitness and ability to practice dentistry or dental hygiene with reasonable skill and safety may be impaired by mental illness or deficiency, or physical illness, including but not limited to deterioration through the aging process or the loss of motor skills, and/or excessive use or abuse of drugs, including alcohol. However, any records or information obtained by the board pursuant to this Section shall not constitute public records and shall be maintained in confidence by the board until and unless such records or information are admitted into the record of proceedings before the board pursuant to R.S. 37:780. Upon the request of the board, the licensee shall execute a written authorization to allow the board to acquire the health care records as described herein.
- C. Unless the board agrees to accept the surrender of a license, permit, certification, or registration of an individual the board regulates, the individual may not surrender the license, permit, certification, nor registration lapse by operation of law while the individual is under investigation or while charges are pending. The board may set conditions on its agreement to accept surrender of a license, permit, certification or registration as it sees fit in these circumstances.

**§763.1.Criminal history record information**

- A. As used in this Section:
  - (1) "Applicant" means an individual who has made application to the board for the issuance, renewal, or reinstatement of any license, permit, certificate, or registration which the board is authorized by law to issue.
  - (2) "Bureau" means the Louisiana Bureau of Criminal Identification and Information of the office of state police within the Department of Public Safety and Corrections.
  - (3) "Criminal history record information" means information collected by the bureau or the Federal Bureau of Investigation of the United States Department of Justice on an individual consisting of identifiable descriptions, notations of arrests, detentions, indictments, bills of information, or any formal criminal charges and any disposition arising

therefrom, including sentencing, criminal correctional supervision and release. "Criminal history record information" does not include information collected for intelligence or investigatory purposes nor does it include any identification information which does not indicate involvement of the individual in the criminal justice system.

- B. (1) Notwithstanding any other law to the contrary, the board may require an applicant to submit a full set of fingerprints to the board on a form and in such a manner as prescribed by the board so as to permit the board to request and obtain criminal history record information on the applicant.
- (2) In addition to all other applicable fees and costs, the board may charge and collect a fee from the applicant to cover the cost incurred by the board in requesting and obtaining the criminal history record information on the applicant.
- (3) The board shall promulgate rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of this Subsection.
- C. The board may request and obtain the criminal history record information on an applicant whose fingerprints the board has obtained pursuant to this Section from the bureau or from the Federal Bureau of Investigation of the United States Department of Justice.
- D. (1) The bureau shall conduct a search of its criminal history record information on the applicant and report the findings of its search to the board no later than sixty days from receipt of a request for such information made by the board and upon the board's submission of an applicant's fingerprints and such other identifying information as may be required by the bureau.
- (2) The bureau may charge the board a reasonable processing fee for conducting the search and reporting the findings on the search to the board.
- E. If the criminal history record information reported by the bureau to the board fails to provide grounds for disqualification of the applicant under the applicable law administered by the board, the board may forward the applicant's fingerprints and such other identifying information as may be required to the Federal Bureau of Investigation of the United States Department of Justice with a request for a search of criminal history record information on the applicant.
- F. (1) Criminal history record information shall be considered confidential information and the board, its members, officers, investigators, agents, and attorneys shall use the criminal history record information exclusively to evaluate the applicant's eligibility or disqualification.
- (2) Criminal history record information obtained in accordance with this Section shall not be released or otherwise disclosed by the board to any person or agency without the written consent of the applicant unless the release is ordered by a court of competent jurisdiction.

**§ 764. Dental hygienist; application for license**

- A. Every applicant to be licensed as a dental hygienist shall:
  - (1) Be not less than eighteen years of age.
  - (2) Be a citizen or a permanent resident of the United States unless otherwise prohibited by the North American Free Trade Agreement.

- (3) File with the board a written application upon the form prescribed by the board, verified by oaths, and accompanied by the required fee and a recent unmounted autographed photograph of the applicant.
  - (4) Present satisfactory evidence of graduation from a training school of dental hygienists approved by the Louisiana State Board of Dentistry, according to its rules and regulations.
  - (5) Present satisfactory evidence of having taken an examination in the theory and practice of the science of the profession given by the Joint Commission on National Dental Examinations before being accepted for the regular examination given by the board or passing an examination given by the board in the theory and practice of the science of dental hygiene in addition to the regular examination given by the Louisiana State Board of Dentistry. Upon receipt of information that the applicant has passed the examination in the theory and practice of the science of the profession given by the Joint Commission on National Dental Examinations, he may be awarded a dental hygiene license, but only when all other requirements for licensure have been met. If the applicant fails the examination given by the Joint Commission on National Dental Examinations, he must successfully retake the Louisiana clinical licensing examination after providing satisfactory evidence of subsequently passing the examination given by the Joint Commission on National Dental Examinations.
  - (6) Possesses a current certificate in the American Heart Association cardiopulmonary resuscitation health care provider course, the American Red Cross Professional Rescue Course, or their equivalent.
- B. In addition to these requirements, the board may decline to issue or renew a dental hygienist's license for any of the causes listed in R.S. 37:777.
- C. Any person who has graduated from a dental school accredited by the Commission on Dental Accreditation of the American Dental Association and who has successfully completed the examination given by the Joint Commission on National Dental Examinations for either the profession of dentistry or dental hygiene may apply for a dental hygiene license.
- D. An applicant who has successfully completed any national, regional, or independent third-party clinical dental hygiene licensing examination approved by the board that shall include procedures performed on human subjects as part of the assessment of clinical competencies and who otherwise satisfies all requirements for a dental hygiene license, including satisfactory completion of an examination in jurisprudence and a background check, may be granted a license by examination by applying for licensure in Louisiana within one year following the successful completion of such clinical licensing examination.

#### **§765. Examination of dental hygienist; issuance of license**

The applicant for a license as a dental hygienist shall appear before the board at its first examination after the filing of his application and passing an examination consisting of practical and clinical demonstrations and oral and written tests on subjects prescribed in the curricula of recognized dental hygiene schools. If the applicant passes the examinations he shall receive a license from the board, attested by its seal, and signed by its president and board members. The license shall be evidence of his right to practice as a dental hygienist in this state under the provisions and regulations provided for in this Chapter.

#### **§766. Dental hygienists, employment; operations limited**

Any licensed dentist licensed in Louisiana of good standing, public school, or federal or state institution where health care is provided may employ a licensed dental hygienist who may perform such duties as may be authorized by the board. A licensed dental hygienist may operate under a licensed Louisiana dentist's direct or general supervision as defined in LAC 46:XXXIII.108, within the limits prescribed by the board in LAC 46:XXXIII.701. The licensed dental hygienist shall be responsible for providing notification to the board of the name and location of his employer.

**§767. Duplicate certificates; issuance**

If the loss of a dental license or dental hygiene license is satisfactorily shown, a duplicate shall be issued by the board upon payment of the fee required in R.S. 37:795.

**§768. Licensure by credentials**

No person who meets all of the criteria established under the provisions of this Chapter and those rules and regulations promulgated by the board relative thereto shall be denied a license based on credentials. Licensure by credentials shall be utilized to evaluate a dentist's and dental hygienist's theoretical knowledge and clinical skill when an applicant for licensure by credentials holds a dental or dental hygiene license in another state. This Chapter shall not be construed to allow licensure by reciprocity, which is prohibited.

**§770. Renewals; requirements**

- A. (1) The secretary of the board shall collect the biennial renewal license fee for dentists and dental hygienists. The license renewal fee shall be set by the board and shall be due and payable no later than the expiration of the current renewal certificate at the board office. Failure to pay this renewal fee before the expiration of the current renewal certificate will provide a basis for the temporary suspension of a Louisiana dental or dental hygiene license. Payment of the license renewal fee made after the current renewal certificate has expired, but prior to a subsequent suspension or revocation of a license as provided in this Chapter shall be accompanied by a delinquency fee as well as any costs or expenses, including attorney's fees, which may be caused by the need for the institution of disciplinary proceedings.
- (2) The secretary of the board may collect a fee to certify or to recertify the confirmation of expanded duty dental assistants as set forth in rules promulgated by the board.
- (3) Any dentist or dental hygienist applying for a renewal of a license shall present satisfactory evidence with the license renewal application form that he is currently certified in Cardiopulmonary Resuscitation Course "C" Basic Life Support for Health Care Providers as defined by the American Heart Association, the Red Cross Professional Rescue Course, or an equivalent.
- B. The official roster of the board for issuing license renewals or any other official notice shall be the last known mailing address of the dentist, dental hygienist, or expanded duty dental assistant as indicated in the board files.
- C. Effective in renewal year 1998, the board may renew the license of a dentist or dental hygienist biennially.
- D. Each dentist and dental hygienist shall renew his license as required by the provisions of this Chapter. If a dentist or dental hygienist fails to renew his license by February 1st of the renewal year, the board shall send a notice advising him that his license shall be revoked for nonpayment

at the next available board meeting and shall give the dentist or dental hygienist an opportunity to appear at the board meeting and show cause why his license should not be revoked.

- E. Renewal fees for mobile or movable dental offices shall be renewed concurrently with the dentist's license renewal.

**§771. Right to use title**

A dental licensee of this state, graduated from a reputable dental school has the right to use the title "Doctor" or its abbreviation before his name or append to his name the letters: "B.D.S.", "M.D.S.", "L.D.S.", "D.D.S.", "D.M.D." or equivalent letters signifying the dental degree conferred upon him.

**§771.1 Dentist fees; discount to an uninsured individual; effect on a dentist's contracted reimbursement amount**

- A. Notwithstanding any state or federal provisions to the contrary, a contracted dentist licensed to practice dentistry by the Louisiana State Board of Dentistry may offer a discount for dental care services rendered to an uninsured individual. Any such discount granted by a contracted dentist to an uninsured individual shall not reduce the contracted reimbursement amount between a dentist and a health or dental insurance issuer for dental care services rendered to the issuer's enrollees, insureds, and subscribers.
- B. For the purposes of this Section:
  - (1) "Contracted dentist" means a dentist licensed to practice dentistry by the Louisiana State Board of Dentistry who has executed a direct, specific contract with a health insurance issuer.
  - (2) "Contracted reimbursement amount" means the quantity of remuneration a health or dental insurance issuer has agreed to pay a dentist for rendering dental care services in a direct, specific agreement between a dentist and a health or dental insurance issuer.
  - (3) "Enrollee," "insured," or "subscriber" means an individual who is enrolled or insured by a health or dental insurance issuer or who is subscribed to a dental services contractor for dental insurance coverage or prepaid dental services.
  - (4) "Health or dental insurance issuer" means any entity that offers health or dental insurance coverage through a policy, contract, dental benefit plan, or certificate of insurance subject to state law that regulates the business of insurance. For purposes of this Section, a "health or dental insurance issuer" shall include but not be limited to a dental service contractor as defined and certified pursuant to Part XXXIII of Chapter 1 of Title 22 of the Louisiana Revised Statutes of 1950.

**§772. Anesthetics and prescriptions; patient histories and examinations**

- A. (1) A licensed dentist may administer general and local anesthetics and prescribe drugs or medicine necessary or proper in the practice of his profession.
- (2) A licensed druggist of this state may fill prescriptions of a licensed dentist of this state for any drug necessary to the practice of dentistry.
- B. (1) A licensed dentist may perform a patient history and examination in a hospital, provided that he has completed a physical evaluation program or course curriculum in an accredited medical or dental school teaching institution, is qualified as a board eligible or board certified oral or maxillofacial surgeon, and his credentials have been approved by the hospital medical staff and he has been approved by the hospital board to perform such

procedures. All such patient histories and examinations shall be directly related or incident to any dentistry or oral or maxillofacial surgery procedures.

- (2) Patients with known medical problems on admission or arising during hospitalization shall have appropriate medical consultation.

**§773. State and municipal regulations**

All persons licensed to practice dentistry in this state shall observe and be subject to all state and municipal regulations relating to the control of contagious and infectious diseases and any and all matters pertaining to public health.

They shall make reports to proper health offices the same as those practicing other professions are required to so report and executing death certificates, when necessary in the practice of their profession. These reports and certificates, in the manner provided by law, shall be accepted by the office or department to whom they are made.

**§774. Practice under name of licensee; full disclosure required**

Except as provided under Chapter 11 of Title 12 of the Louisiana Revised Statutes of 1950, relating to professional corporations, no person shall:

- (1) Practice dentistry under the name of a corporation, company, association, limited liability company, or trade name without full and outward disclosure of his full name, which shall be the name used in his license or renewal certificate as issued by the board, or his commonly used name.
- (2) Conduct, maintain, operate, own, or provide a dental office in this state, either directly or indirectly, under the name of a corporation, company, association, limited liability company, or trade name without full and outward disclosure of his full name as it appears on the license or renewal certificate as issued by the board or his commonly used name.
- (3) Hold himself out to the public, directly or indirectly, as soliciting patronage or as being qualified to practice dentistry in this state under the name of a corporation, company, association, limited liability company, or trade name without full and outward disclosure of his full name as it appears on the license or renewal certificate as issued by the board or his commonly used name.
- (4) Operate, manage, or be employed in any room or office where dental service is rendered or conducted under the name of a corporation, company, association, limited liability company, or trade name without full and outward disclosure of his full name as it appears on the license or renewal certificate as issued by the board or his commonly used name.
- (5) Practice dentistry without displaying his full name or his commonly used name as it appears on the license or renewal certificate as issued by the board in front of each dental office location if the office is in a single-story and/or single-occupancy building, or without displaying his full name or his commonly used name as it appears on the license or renewal certificate as issued by the board on the outside of the entrance door of each dental office if the office is in a multi-occupancy and/or multi-story building.

**§775. Unprofessional conduct defined**

As used in this Chapter, “unprofessional conduct” means:

- (1) Advertisement of fees for or of free dental services without:

- (a) Fully disclosing all procedures to be included by the dentist in the advertised service, including but not limited to necessary diagnosis, radiographs, restorative treatment, laboratory fees, and post-operative care.
  - (b) Fully disclosing that procedures which are customarily included in the service are not included in the service offered for the advertised fee, if such is the case.
  - (c) Disclosing within the advertisement the name of the advertising dentist. If one member of an association/partnership advertises, the names of all partners and dentist employees must also appear therein. This is not to include the appearance of the names of those persons merely sharing space with the advertising dentist, but does include all dentists providing dental services to those responding to the advertisement.
- (2) Not including in advertisements the name which appears on the license or renewal certificate of the dentist or which is authorized under Chapter 11 of Title 12 of the Louisiana Revised Statutes of 1950, as amended, relative to professional dental corporations or the use in advertisements of any name other than that which appears on the license or renewal certificate of the dentist or which is authorized under Chapter 11 of Title 12 of the Louisiana Revised Statutes of 1950, as amended, relative to professional dental corporations.
  - (3) Any communication about the dentist or the dentist's services which is false, misleading, or deceptive; or the omission of material information from any statement or claim about the dentist or the dentist's services.
  - (4)
    - (a) Any communication for which the dentist does not have substantiation in hand at the time the claim is made.
    - (b) The failure to provide said substantiation or records of the content and dissemination of an advertisement to the board upon request.
    - (c) The failure to keep records of any communication or written statements and claims, including advertising copy, and substantiation for same for a period of two years from the date on which the particular statement or claim is made.
  - (5) Any communication which is likely to create an unjustified expectation about results the dentist can achieve, or which states or implies that the dentist can achieve results by means that violate this Chapter, the rules and regulations of the board, or other law.
  - (6) The practice of dentistry or the giving of a public demonstration of skill or methods of practicing dentistry in any place other than a clean, sanitary, and safe facility.
  - (7) Directly or indirectly offering, giving, receiving, or agreeing to receive any fee or other consideration to or from a third party for the referral of a patient in connection with the performance of a dental service.
  - (8) Advertising of denture prices which fails to include the following information:
    - (a) Whether or not the dentures are preformed or prefabricated.
    - (b) In the case of "immediate dentures", details of required adjustment and other necessary procedures, including charges to be made therefore.

- (c) Fees for each different grade of denture which the advertiser may offer to persons who respond to the advertisement.
  - (d) The number of appliances included.
  - (e) The fact that the advertised price does not include upper and lower dentures, if such is the case. This disclosure must be made in type twice as large as any other type in a print advertisement or repeated three times in an audio advertisement at a decibel level no lower than the loudest level in the advertisement.
- (9) Advertising of dental services in any medium which has not been approved by the licensed dentist and which does not contain the dentist's full name, address, and telephone number.
- (10) The use of the name of any deceased, disabled, or retired and licensed dentist or hygienist on any office door, directory, stationery, billhead, or any other means of communication any time after one year following the retirement from practice of said dentist or dental hygienist, or twenty-four months following the death or disability of said dentist.
- (11)(a) The employment or engaging of the services of any person, firm, or corporation to construct, repair, furnish, supply, or reproduce a prosthetic appliance or any denture, orthodontic appliance, bridge, or other substitute for natural teeth without the dentist furnishing a written work order on a form approved by the board which shall contain:
- (i) The name and address of the person, firm, or corporation to which the work order is directed.
  - (ii) The patient's name or identification number, and if number is used, the patient's name must be written upon duplicate copy retained by the dentist.
  - (iii) The date on which the work order was written.
  - (iv) A description of the work to be done, including diagrams if necessary.
  - (v) Specification of the type and quality of materials to be used.
  - (vi) The signature of the dentist and number of his license.
- (b) The failure of the dentist to retain the original copy of such work orders so furnished for a period of two calendar years in addition to the current year.
- (12) The use, in connection with the practice of dentistry, of any practice which is prohibited by law.

**§776. Causes for nonissuance, suspension, revocation, or imposition of restrictions of dental license**

- A. The board may refuse to issue or may suspend or revoke any license or permit or impose probationary or other limits or restrictions on any dental license or permit issued under this Chapter for any of the following reasons:
- (1) Affliction with a contagious or infectious disease.
  - (2) Conviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge.

- (3) Fraud, deceit, or perjury in obtaining any diploma, license, or permit issued under the provisions of this Chapter.
- (4) Providing false testimony before the board or in any judicial proceeding.
- (5) Habitual indulgence in the use of drugs, narcotics, or intoxicating liquors.
- (6) Prescribing, dispensing, or administering habit-forming or other legally controlled substances in other than a legal or legitimate manner.
- (7) Professional or dental incompetency.
- (8) Dental practice which fails to satisfy the prevailing acceptable standards of dental practice in this state.
- (9)
  - (a) Division of fees or other remuneration or consideration with any person not licensed to practice dentistry in Louisiana, or an agreement to divide and share fees received for dental services with any non-dentists in return for referral of patients to the licensed dentists, whether or not the patient or legal representative is aware of the arrangement. However, this Paragraph shall not forbid dentists licensed in Louisiana from practicing in a partnership or professional corporation and sharing professional fees or forbid a dentist licensed in Louisiana from employing another dentist licensed in Louisiana. In addition, no dentist licensed in Louisiana shall share professional fees with a dentist whose license is either suspended or revoked during said period of suspension or revocation.
  - (b) A dentist licensed in Louisiana shall not be forbidden to contract with the spouse or personal representative of the estate of a deceased dentist or the spouse or personal representative of a disabled dentist to manage the dental practice at an establishment where dental operations, oral surgery, or dental services are provided for the purpose of selling, liquidating, or otherwise disposing of the dental practice of a deceased or disabled licensee for a period not to exceed twenty-four months in accordance with the provisions of R.S. 37:752(9). Notwithstanding any other provision of law to the contrary, nothing in this Subparagraph shall prohibit a dentist from contracting with any person or entity for management of a dental practice prior to the death or disability of such dentist subject to Subparagraph (9)(a) of this Section.
- (10)
  - (a) Employing, procuring, inducing, aiding, or abetting a person not licensed or registered as a dentist to engage in the practice of dentistry or to possess an ownership interest of any kind in a dental practice, but the person practiced upon shall not be an accomplice, employer, procurer, inducer, aider, or abettor within the meaning of this provision.
  - (b) A dentist licensed in Louisiana may contract with the spouse or personal representative of the estate of a deceased dentist or the spouse or personal representative of a disabled dentist to manage the dental practice at an establishment where dental operations, oral surgery, or dental services are provided for the purpose of selling, liquidating, or otherwise disposing of the dental practice of a deceased or disabled licensee for a period not to exceed twenty-four months in accordance with the provisions of R.S. 37:752 (9). Notwithstanding any other provisions of law to the contrary, nothing in this Subparagraph shall prohibit a dentist from contracting with any person or entity for management of a dental practice prior to the death or disability of such dentist subject to Subparagraph (10)(a) of this Section.

- (11) Employing unlicensed persons to perform work which under this Chapter can be done only by persons licensed to practice dentistry or dental hygiene in this state.
- (12) Making any misrepresentations or false promises, directly or indirectly, to influence, persuade, or induce dental patronage.
- (13) Professional connection or association with, or lending his name to, another for the illegal practice of dentistry by another, or professional connection or association with any person holding himself out in any manner contrary to this Chapter.
- (14) Practicing under any name other than that which appears on the license or renewal certificate or which is authorized under Chapter 11 of Title 12 of the Louisiana Revised Statutes of 1950, relating to professional dental corporations.
- (15) Unprofessional conduct as defined in R. S. 37:775.
- (16) Any conduct intended to deceive or defraud the public.
- (17) Conduct which disqualifies the licensee to practice dentistry with safety to the public, including inability to practice dentistry with reasonable skill or safety to patients because of mental illness or deficiency or physical illness, including but not limited to deterioration through the aging process or loss of motor skills.
- (18) The refusal of a licensing authority of another state to issue or renew a license, permit, or certificate to practice dentistry in that state, or the revocation, suspension, or other restriction imposed upon a license, permit, or certificate issued by such licensing authority which prevents or restricts practice in that state.
- (19) Employing solicitors or subsidizing anyone, or paying or presenting any person money or anything of value for the purpose of securing patients, except as allowed by R.S. 37:775.
- (20) Refusing to submit to the examinations and inquiry of medical physicians appointed or designated by the board to inquire into the dentist's physical and mental fitness and ability to practice dentistry with reasonable skill and safety to patients, or following submission to evaluation, failing to comply with the orders or recommendations of said examining physicians.
- (21) Making or submitting false or deceptive claims to any patient, insurance company, or indemnity association, company, individual, or governmental authority for the purpose of obtaining monetary compensation for services rendered.
- (22) Immoral conduct in exercising the privileges provided for by license or permit issued under this Chapter.
- (23) Interdiction or commitment by due process of law.
- (24) Violation of any rule, regulation, or order of the board, consent decree agreed upon between the board and the licensee, or any provision of this Chapter.
- (25) The failure to pay timely a dentist license renewal fee as required by law.
- (26) Non-disclosure of waiving of co-payments to any third party payor.
- (27) Failing to cooperate with the board in investigating any matter before the board except for an openly expressed claim of a constitutional privilege; or knowingly failing to respond to

a lawful demand from the board for information from any professional licensing or disciplinary authority.

- (28) Failing to maintain certification in an approved course of cardiopulmonary resuscitation for the renewal of a dental license.
- (29) When license suspension or revocation is otherwise required by law.
- B. The board shall establish regulations and procedures to enforce the provisions of this Section.
- C. Any license or permit suspended, revoked, or otherwise restricted by the board may be reinstated by the board.
- D. The board shall promulgate rules and regulations providing for the expungement of first-time advertising offenses from a licensee's record after a period of three years from the date of the offense; provided however, the licensee has not had subsequent disciplinary actions of any kind taken against him by the board and the licensee has no disciplinary actions pending by the board.

**§777. Causes for non-issuance, suspension, revocation, or imposition of restrictions of dental hygienist license**

- A. The board may refuse to issue or may suspend or revoke any dental hygienist license or permit or impose probationary or other restriction on any license or permit issued under this Chapter for any of the following reasons:
  - (1) Affliction with a contagious or infectious disease.
  - (2) Conviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge.
  - (3) Fraud, deceit, or perjury in obtaining any diploma, license, or permit issued under the provisions of this Chapter.
  - (4) Providing false testimony before the board or in any judicial proceeding.
  - (5) Habitual indulgence in the use of drugs, narcotics, or intoxicating liquors.
  - (6) Making any misrepresentations or false promises, directly or indirectly, to influence, persuade, or induce dental patronage.
  - (7) Any conduct intended to deceive or defraud the public.
  - (8) The refusal of a licensing authority of another state to issue or renew a license, permit, or certificate of dental hygiene in that state, or the revocation, suspension, or other restriction imposed upon a license, permit, or certificate issued by such licensing authority which prevents or restricts practice in that state.
  - (9) Performance of any operation or procedure other than that permitted under the provisions of this Chapter.
  - (10) Professional or dental hygiene incompetency.
  - (11) Dental hygiene practice which fails to satisfy the prevailing acceptable standards in this state.

- (12) Employing, procuring, inducing, aiding, or abetting a person not licensed or registered as a dental hygienist or dentist to engage in the practice of dental hygiene or dentistry; but the person practiced upon shall not be an accomplice, employer, procurer, inducer, aider, or abettor within the meaning of this provision.
  - (13) Assisting or authorizing unlicensed persons to perform work which under this Chapter can only be done by persons licensed to practice dental hygiene.
  - (14) Conduct which being contrary to the provisions of this Chapter disqualifies the licensee to practice dental hygiene with safety to the public, including inability to practice dental hygiene with reasonable skill or safety to patients because of mental illness or deficiency, physical illness, including but not limited to deterioration through the aging process or loss of motor skills.
  - (15) Employing solicitors or subsidizing anyone, or paying or presenting any person money or anything of value for the purpose of securing patients, other than advertising permitted by law.
  - (16) Interdiction or commitment by due process of law.
  - (17) The use of advertising without disclosing the name and address of the licensed dentist under whom the dental hygienist operates as defined in R.S. 37:766.
  - (18) Violation of any rule or regulation of the board, or any provision of this Chapter.
  - (19) Refusing to submit to the examinations and inquiry of medical physicians appointed or designated by the board to inquire into the dental hygienist's physical and mental fitness and ability to practice dental hygiene with reasonable skill and safety to patients, or following submission to evaluation, failing to comply with the orders or recommendations of said examining physicians.
  - (20) The failure to pay timely a dental hygiene license renewal fee as required by law.
  - (21) Failing to cooperate with the board in investigating any matter before the board except for an openly expressed claim of a constitutional privilege; or knowingly failing to respond to a lawful demand from the board for information from any professional licensing or disciplinary authority.
  - (22) Failing to maintain certification in an approved course of cardiopulmonary resuscitation for the renewal of a dental hygienist license.
  - (23) When license suspension or revocation is otherwise required by law.
  - (24) Conduct which disqualifies the licensee to practice dental hygiene with safety to the public, including inability to practice dental hygiene with reasonable skill or safety to patients because of mental illness or deficiency or physical illness, including but not limited to deterioration through the aging process or loss of motor skills.
  - (25) Violation of any rule, regulation, order of the board, consent decree agreed upon between the board and the licensee, or any provision of this Chapter.
- B. The board shall establish regulations and procedures to enforce the provisions of this Section.
- C. Any license or permit suspended, revoked, or otherwise restricted by the board may be reinstated by the board.

**§778. Board to hear charges against dentists, dental hygienists, and any person practicing dentistry**

The board shall hear and determine all charges against any licensed dentist, licensed dental hygienist, or any person practicing dentistry as defined in R.S. 37:751 for violation of any of the provisions of this Chapter. It may in all cases suspend or revoke the license and reinstate any license if suspended or revoked.

**§779. Filing of administrative complaint or charge; appointment of committee to hear charge; quorum**

- A. Any administrative complaint or charge for a violation of this Chapter shall be made under oath either by the secretary-treasurer or any member of the board, noticed and docketed for hearing, and submitted to the president of the board, who shall appoint a committee of three or more members of the board to hear the administrative complaint or charge. The president and the member of the board making the charge or residing in the same board electoral district as the individual charged shall be ineligible to sit as a member of the committee. The president shall designate the time and place of the hearing.
- B. Where the charge is made by a citizen, he should state to the secretary-treasurer or any member of the board, the sources of his information and the grounds of his belief, and the secretary-treasurer, a member, an inspector, or any agent of the board shall substantiate the charge by determining that the citizen is informed and has reasonable cause to believe that the charge is true, after which an administrative complaint or charge may be issued, and noticed and docketed for hearing by the board, as set forth in Subsection A.
- C. At any hearing held pursuant thereto, a majority of the committee shall constitute a quorum and an affirmative vote by a majority of the committee members present shall be required for any disposition, action, or decision at the conclusion of the hearing.
- D. For purposes of this Chapter and Section, a hearing shall be the same as an adjudication defined under the Administrative Procedure Act.

**§780. Hearing; notice; penalty; interest**

- A. (1) In all cases where a charge is made against any unlicensed person, licensed dentist, or licensed dental hygienist practicing in this state, the president of the board, before any hearing of the charge, shall furnish the accused with a copy of such charges and a notice of the time and place of the hearing. The president shall also notify the accused to attend the hearing and inform him that he may appear with counsel, that he may produce witnesses and give competent evidence under oath, and that he has the right to cross-examine witnesses appearing against him and giving testimony under oath. Service of this notice shall be personal or by delivery to the place of business or residence of the accused, at least twenty days before the time fixed for the hearing or before the time and place to which adjourned.
- (2) When required by law to afford a licensee an opportunity to demonstrate his compliance with the provisions of this Chapter, the president, or any employee of the board designated by the president, shall provide notice to the licensee that the board intends to institute formal proceedings against the licensee, and to afford the licensee an opportunity to demonstrate his compliance with the Chapter. Said notice shall contain sufficient information to advise the licensee of the nature of the allegations against him. The notice will advise the licensee that he may appear with counsel. The notice shall inform the licensee of the time and place of the meeting, and may be served on the licensee in the

same manner as in Paragraph (1) of this Subsection or by certified mail. Upon receipt of said notice, the licensee shall have ten calendar days in which to request an opportunity to demonstrate his compliance with the provisions of this Chapter.

- B. (1) The committee hearing the charge may cause the testimony adduced to be reduced to writing or stenographic record. Should the committee after due hearing find that the charges filed against the licensee or the unlicensed person are sustained by clear and convincing evidence, it may revoke, suspend, restrict, fine, place on probation, reprimand, or admonish, or any or all of the above the licensed dentist or licensed dental hygienist. The committee may levy an administrative fine, but it shall assess all costs of the committee, including but not limited to attorney fees, investigative fees and expenses, witness fees and expenses, and stenographic costs as set forth in the following paragraph against the licensee or the unlicensed person.
- (2) Any fine imposed pursuant to this Section shall not be less than five hundred dollars nor more than five thousand dollars for each offense
- (3) After the hearing wherein a charge is proven by clear and convincing evidence, and even if there is no fine imposed, the unlicensed person, the licensed dentist, or licensed dental hygienist shall pay, not later than the thirtieth day after the decision is made by the committee, all costs of the committee proceedings, including but not limited to stenographer fees, attorney fees, investigative fees and expenses, witness fees and expenses, and the per diem and expenses of the committee members. If, for any reason, the money portion of the committee's decision is not paid by the unlicensed person, licensed dentist, or licensed dental hygienist for fines and costs imposed pursuant to this Section, the board may recover any and all reasonable attorney's fees in association with the collection of them.
- (4) The committee shall release to the public the result of any decision rendered by it after it has become final.
- C. Any suspension or revocation ordered by the committee or board shall take from the licensed dentist or licensed dental hygienist all rights and privileges acquired under the license issued to him.

**§781. Issuance of subpoenas; production of patient records; maintenance of confidentiality**

- A. The president or any member of the board may issue investigative subpoenas, subpoenas or subpoenas duces tecum requiring the attendance and testimony under oath of witnesses and the production of any evidence or documentation that relates to any matter properly under investigation or in question before the board or committee or attorney acting on behalf of the board conducting the hearing or investigation. Any subpoena authorized in this Subsection may be served in any manner authorized by the Administrative Procedure Act, the Code of Civil Procedure, including, but not limited to, by certified mail or by private process server. The board may obtain sworn testimony taken before a certified court reporter from any individual, licensed or not licensed by the board, who may possess any information concerning the matter under investigation.
- B. In case of refusal to obey a subpoena or subpoena duces tecum issued to any person or entity, the board, or the respondent named in a formal disciplinary proceeding who has requested the issuance of the subpoena as set forth in Chapter 9 of the board rules, may apply to any district court within the jurisdiction where the inquiry is carried on or within the jurisdiction where such person or entity is found, resides, or transacts business, to issue to such person or entity an order requiring him to appear before the board, its member, agent, or agency, to produce evidence if ordered or to give testimony concerning the matter under investigation or in question, and to pay

the reasonable attorney fees caused by the filing and prosecution of such application should the board prevail on it. Any failure to obey this order of the court may be punished by the court as a contempt.

- C. The board may require the attendance of witnesses who are summoned or to whomever a subpoena duces tecum is issued in all matters arising in the course of its duties, and at an investigation, the board shall take any oral or written proof, for or against any unlicensed person, or the person whose license is sought to be suspended or revoked, that will best present the facts.
- D. Notwithstanding any privilege or confidentiality recognized by law, no dentist or entity providing dental services with which such dentist is affiliated shall, acting under any such privilege, fail or refuse to respond to a lawfully issued subpoena of the board for any dental/medical information, testimony, records, data, reports or other documents, tangible items, or information relative to any patient treated by any such dentist under investigation. However, the identity of any patient identified in or by such records or information shall be maintained in confidence by the board and shall be deemed a privilege of confidentiality existing in favor of any such patient. For the purpose of maintaining such confidentiality of patient identity, the board shall cause any such dental/medical records or the transcript of any such testimony to be altered so as to prevent the disclosure of the identity of the patient to whom such records or testimony relates.
- E. Any person or entity charging the board a fee for the production of documents ordered to be produced by the board under a subpoena or subpoena duces tecum issued by the board shall conform to those charges set forth in R.S. 40:1299.96 to reflect reasonable or adequate compensation.

**§782. Authority to contract for and employ necessary personnel; purchase of immovable property**

The board is authorized to contract for and employ such professional, investigative, stenographic, and clerical personnel as are required to properly discharge the duties of the board as set forth in this Chapter, and to purchase immovable property to conduct the board's operations, provided that the fees and salaries of said personnel and the funds for the purchase of immovables shall be paid entirely from fees collected by the board under the provisions of R.S. 37:770 and 795.

**§783 Reinstatement or reissuance of license**

- A. The board may, if the action is warranted, reinstate the license of a dentist or dental hygienist if suspended, or reissue a new license if revoked. If a license is reinstated or reissued following previously applied sanctions relative to a violation of this Chapter, said reinstated or reissued license shall have affixed thereto, an attachment or addendum specifically setting forth any restrictions placed upon said reinstated or reissued license by the board.
- B. In case of reinstatement, the reinstated dentist or dental hygienist shall pay all costs or fines, or both, and a reinstatement fee as provided for in the board's fee schedule established pursuant to R. S. 37:795.
- C. In case of reissuance, the dentist or dental hygienist whose license has been revoked may be relicensed without an examination upon proper application and payment of all costs or fines, or both, and a relicensing fee as provided for in the board's fee schedule established pursuant to R. S. 37:795 and completion of required continuing education if suspension is over one year.
- D. The procedure for the submission of requests, and the approval or denial of requests for reinstatement or reissuance of a license shall be determined by board policy which shall afford applicants for reinstatement or reissuance an opportunity to present their requests.

**§784. Persons whose license suspended or revoked prohibited from practicing**

Any dentist or dental hygienist whose license is suspended or revoked in accordance with this Chapter shall be deemed an unlicensed person during the period of the suspension or revocation, and shall be subject to the penalties prescribed for unlicensed persons if he practices during the period of suspension or revocation. The board retains jurisdiction over all such unlicensed persons relative to violations of and enforcement of the provisions of this Chapter.

**§785. Criminal actions and injunctions simultaneous with administrative proceedings before board**

Administrative proceedings under this Chapter before the board are not exclusive remedies. Criminal action under the terms of this Chapter may be simultaneously instituted and maintained against the accused for any violation of this Chapter. The board may also separately or simultaneously bring and carry on an action by injunction to restrain a licensed or unlicensed individual from further violation of any of the provisions of this Chapter during the pendency of the criminal proceeding or proceedings before the board and against any unlawful practice thereafter.

**§786. Judicial Review of Adjudication**

- A. (1) Where the board, whether through a disciplinary committee or the entire board, renders a decision in an administrative adjudication, the party aggrieved by it may resort to the Civil District Court for the Parish of Orleans for judicial review. Any such appeals shall be filed in the court in the same manner as original suits are instituted therein. A preliminary procedural, or intermediate agency action or ruling is immediately reviewable if review of the final agency decision would not provide an adequate remedy and would inflict irreparable injury.
- (2) Petitions for judicial review of interlocutory administrative decisions shall be filed within fifteen days of the ruling at issue.
- (3) A petition for judicial review of a final decision of the disciplinary committee shall be filed within thirty days of the mailing of the final decision by the agency or if a rehearing is requested within thirty days of the mailing of the final decision by the agency or, if a rehearing is requested within thirty days after the mailing of the notice of the decision thereon. A copy of the petition for judicial review shall be served upon the agency and all parties of record.
- B. Neither the board nor any person acting on behalf the board shall be entitled to judicial review of any decision rendered by the board or any disciplinary committee thereof.
- C. All proceedings in the Civil District Court for the Parish of Orleans and Appellate Courts arising under this Section are civil in nature and shall be heard summarily by the court without a jury, shall take precedence over other civil cases, and shall be tried in chambers or in open court, in and out of term.
- D. (1) In any case appealed to the Civil District Court under the provisions of this Section, the party seeking judicial review shall furnish security in accordance with the following rules:
  - (a) For that portion of a decision issued under R. S. 37:780 pertaining to payment of a sum of money, the amount of security shall exceed by one-half the amount of the money portion of the decision.
  - (b) In all other respects, the security shall be fixed by the court at an amount sufficient to assure satisfaction of the decision rendered by the board.

- (2) Any security furnished under the provisions of this Section shall be in favor of the board and shall be furnished as security for the judicial review of the complaining party in Civil District Court and any judgment by the District Court against him shall be paid or satisfied from the proceeds of the sale of his property, or from the security posted under the provision of this Section. Mortgages on immovable property are adequate security, but only where the mortgage is applied to unencumbered immovables; mortgages in other than a first position are unacceptable as security under this section.
  - (3) The security required under the provisions of this Section shall be annexed, by the complaining party or appellant, to the petition for judicial review filed in the civil district court. If the complaining party seeking judicial review fails to annex satisfactory security to the petition for judicial review, within the time specified for the filing of said appeal, the trial court, on its own motion or upon motion by the board and after a hearing held within five days of service of the motion, shall:
    - (a) Enter a formal order of dismissal on the grounds of abandonment; or
    - (b) Grant a three-day period within which said security shall be filed in the record, in default of which the petition for judicial review is dismissed as abandoned.
  - (4) Service of the motion described in Subsection (C)(3) may be effected by the methods provided in Code of Civil Procedure Article 1313.
- E. Notwithstanding appellant's compliance with the requirements of this Section, the district court shall issue no stay for that portion of the board's decision which does not involve a sum of money unless the appellant satisfies the requirements of R. S. 37:786.1.
- F. The provisions of this Section shall apply to any unlicensed person who has been sanctioned by the board for any violation of R.S. 37:788.
- G. If before the date set for hearing application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the board, the court may order that the additional evidence be taken before the board upon conditions determined by the court. The board may modify its findings and decisions by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the review court.
- H. The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the agency, not shown in the record, proof thereon may be taken in the court. The court, upon request, shall hear oral argument and receive written briefs.
- I. The court may affirm the decision of the board or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the party seeking judicial review have been prejudiced because the administrative tribunal's findings, inferences, conclusions, or decisions are:
  - (1) In violation of constitutional or statutory provisions;
  - (2) In excess of the statutory authority of the agency;
  - (3) Made upon unlawful procedure;
  - (4) Affected by other error of law;

- (5) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or
- (6) Not supported and sustainable by clear and convincing evidence as determined by the reviewing court. In the application of this rule, the court shall make its own evaluation of the record reviewed in its entirety upon judicial review. In the application of the rule, where the agency has the opportunity to judge the credibility of witnesses by first-hand observation of demeanor on the witness stand that the reviewing court does not, due regard shall be given to the agency's determination of credibility issues.

**§786.1 Stay of board decision**

- A. Absent agreement of counsel for all parties, no stay of enforcement of a decision issued under R. S. 37:780 or for a violation of R.S. 37:788, during the pendency of an appeal under R. S. 37:786 shall be granted unless the Civil District Court for the Parish of Orleans finds that the applicant has established:
  - (1) That the issuance of the stay does not threaten harm to other interested parties, including persons for whom the applicant may render dental or dental hygiene services.
  - (2) That the issuance of the stay does not constitute a threat to the health and welfare of the citizens of the state.
- B. No stay shall be granted ex parte. The court shall schedule a hearing on the request for a stay order within ten days from filing. The decision shall be rendered within five days after the conclusion of the hearing.
- C. No judicial order staying or enjoining the effectiveness or enforcement of a final decision or order of the board in an adjudication proceeding, whether issued pursuant to R. S. 49:964(C) or otherwise, shall be effective, or be issued to be effective, longer than:
  - (1) One hundred twenty days from the date on which the board's decision or order was rendered; or
  - (2) The date on which the court enters judgment in a proceeding for judicial review of the board's decision or order pursuant to R. S. 49:964, whichever occurs first.

**§787. Duty of attorney general**

The Attorney General shall see that all violations of the provisions of this Chapter are vigorously and promptly prosecuted by the various district attorneys throughout the state.

**§788. Violations**

- A. No person shall practice dentistry or dental hygiene or attempt or offer to practice within the state without first having been authorized and issued a license by the board; nor shall any person practice dentistry or dental hygiene or attempt or offer to practice within the state during any period of suspension of his license by the board or after revocation by the board of any license theretofore issued to the offending person.
- B. (1) In addition to any other civil remedy or criminal penalty provided for in this Chapter, the board may issue a subpoena to any person or persons who the board has probable cause to believe has engaged in the practice of dentistry or dental hygiene without a currently valid license or permit.

- (2) Subpoenas issued by the board shall comply with the notice requirements of R.S. 49:955 and R. S. 37:781. These subpoenas shall be served upon the unlicensed individual personally or by any type of mailing requiring a return receipt and shall include a statement of the manner in which the unlicensed person shall be required to respond to the board.
  - (3) Whoever violates the provisions of this Section may also be prosecuted criminally by the District Attorney and, if convicted, shall be imprisoned with or without hard labor for not more than five years or fined not more than \$5,000, or both. Each unauthorized act shall constitute a separate offense.
  - (4) The fact that any unlicensed person engages in or performs or offers to engage in or perform any of the practices, acts, or operations set forth in R. S. 37:751 (A)(5) is prima facie evidence that such person is engaged in the illegal practice of dentistry or dental hygiene.
  - (5) No person practicing dentistry or dental hygiene without a currently valid license or temporary permit shall have the right to receive any compensation for services so rendered. In addition to any other penalties imposed under R. S. 37:789, any person who practices dentistry or dental hygiene without a license shall return any fees collected for practicing dentistry or dental hygiene and shall be liable for any damages resulting from negligence.
  - (6) All rights and privileges afforded by the Administrative Procedure Act are specifically reserved to any party aggrieved by any decision of the board.
- C. If the board has reasonable cause to believe that an expanded duty dental assistant has violated any of the provisions of this Chapter, the board may suspend, rescind, or revoke the confirmation of the certification of the expanded duty dental assistant after a hearing is conducted.

**§789. Penalties; cease and desist orders**

- A. The board may institute any action in a court of competent jurisdiction necessary to enforce compliance with any provision of this Chapter or with any regulation or subpoena, made pursuant to the provisions of this Chapter, including a writ of injunction enjoining any person practicing dentistry or dental hygiene until such person obtains a license under the provisions of this Chapter. Any injunction issued pursuant to this Chapter shall not be subject to being released upon bond.
- B. In addition to the administrative penalties provided for in this Chapter, the board, acting through its president, may issue an order to any person or entity engaged in the unlicensed practice of dentistry, directing such person or entity to cease and desist from the unlicensed practice of dentistry.
- C. If the person or entity to whom the board directs a cease and desist order does not cease and desist the prohibited activity, conduct, or practice within two days of receipt of such order by certified mail or hand delivery, the board, through its president, may seek on behalf of the board a writ of injunction in any court of competent jurisdiction and proper venue enjoining such person or entity from engaging in the unlicensed practice of dentistry. The injunction shall not be subject to being released upon bond.
- D. In the suit for an injunction, the board may demand of the defendant a penalty of not more than five thousand dollars, as well as reasonable attorney fees and court costs. This judgment for penalty, attorney fees, and costs may be rendered in the same judgment as the injunction.

**§790. Forgery; penalty**

No person shall file or attempt to file, as his own, the diploma or license of another, or a forged affidavit of identification or qualification.

Whoever violates this Section shall be fined not more than five thousand dollars, or imprisoned with or without hard labor for not more than ten years, or both.

**§791. Protected action and communication**

- A. There shall be no liability on the part of and no action for damages against:
- (1) Any member of the board, or its agents or employees, or any member of an examining committee of dentists appointed or designated by the board, for any action undertaken or performed by such person within the scope of the duties, powers, and functions of the board or such examining committee as provided for in this Chapter when such person is acting without malice and in the reasonable belief that the action taken by him is warranted; or
  - (2) Any person providing information to the board, its agents or employees, or to an examining committee of dentists appointed or designated by the board, whether a witness, participating in an impaired dentist or dental hygienist intervention (the act of interceding in behalf of an individual who is abusing, or is dependent on, one or more psychoactive drugs, with the aim of overcoming denial, interrupting drug-taking behavior, or inducing the individual to seek and initiate treatment), or otherwise. Such a person shall not be held liable in damages under any law of the State of Louisiana or any political subdivision thereof, by reason of having provided such information, unless such information is false and the person providing it knew that such information was false.
- B. In any suit brought against the board, its employees or agents, any member of an examining committee appointed or designated by the board, or any person or entity providing information to the board, when the board, its employees or agents, any member of an examining committee or any person or entity providing information to the board substantially prevails in such suit, the court shall, at the conclusion of the action, award to the board, its employees or agents, any member of an examining committee or any person or entity providing information to the board and assess against the claimant the cost of defending the suit attributable to such claim, including reasonable attorney fees, if the claim, or the claimant's conduct during the litigation of the claim, was either frivolous, unreasonable, without foundation, or in bad faith. For the purpose of this Subsection, the board, its employees or agents, any member of an examining committee appointed or designated by the board or any person or entity providing information to the board shall not be considered to have substantially prevailed when the claimant obtains an award for damages or permanent injunctive or declaratory relief.

**§792. Dental x-ray functions by dental assistants; qualifications**

- A. Any dental assistant employed by a licensed dentist on the effective date of this Section and for a period of at least one year prior to the effective date of this Section shall be deemed to be authorized to take dental x-rays.
- B. Any dental assistant who does not meet the employment criteria set forth in R.S. 37:792(A) shall attend and successfully complete a course in x-ray function and safety approved by the Louisiana State Board of Dentistry within six months after commencement of employment by a licensed dentist. Any such assistant shall be deemed to be authorized to take dental x-rays only upon compliance with this Subsection.

- C. (1) The dentist employer shall certify to the board that any dental assistant employed by him either:
  - (a) Meets the employment criteria set forth in R. S. 37:792(A), or that the assistant has attended and completed a course in dental x-ray function and safety, or
  - (b) That the assistant has not attended such course but has been employed less than six months.
- (2) Such certification shall be required upon renewal of any dental license by the dentist.
- D. A dental assistant shall perform all dental x-ray functions solely under the direct supervision of a licensed dentist and on the premises of the dental office.

Added by Acts 1980, No. 481, §1, eff. September 1, 1984.

**§792.1 Duties of a dental assistant and an expanded duty dental assistant**

- A. A dental assistant may perform only those duties in accordance with rules promulgated by the board, and then only under the direct on-premises supervision, direction, and responsibility of the dentist who employs him or her or a dentist who assumes responsibility for the treatment of that patient, and as ordered by the dentist.
- B. An expanded duty dental assistant shall perform only those duties which are in accordance with rules promulgated by the board, and then only under the direct, on-premises supervision, direction, and responsibility of the dentist who employs him or her or a dentist who assumes responsibility for the treatment of that patient, and as ordered by the dentist.
- C. A licensed dentist is prohibited from:
  - (1) Delegating an act to an individual who, by order of the board, is prohibited from performing the dental procedure.
  - (2) Delegating the performance of any of the following procedures to a person not licensed as a dentist or dental hygienist:
    - (a) Removal of calculus, deposits, or accretions from the natural and restored surfaces of exposed teeth and restoration in the human mouth.
    - (b) Root planing or smoothing of roughened root surfaces or exposed teeth.
    - (c) Any other procedure the delegation of which is prohibited by the rules of the board.
- D. The board shall promulgate rules and regulations in accordance with the provisions of this Section, regarding the dental procedures that may be appropriately delegated by the dentist, including a determination as to which delegated dental procedures require competency testing before a person may perform the procedure and establish training requirements.
- E. Any dental procedure that is delegated by a dentist to a dental assistant may also be delegated to a dental hygienist.

This Act shall become effective on August 1, 1993.

**§793. Nitrous oxide inhalation analgesia; enteral conscious sedation on pediatric patients; parenteral sedation; conscious sedation with parenteral drugs; deep sedation; general anesthesia; definitions; permits; credentials; reporting; fees; limitations; exceptions**

- A. (1) As used in this Section, the following terms have the meanings ascribed to them unless the context clearly indicates otherwise:
- (a) “Analgesia” is the diminution or elimination of pain in the conscious patient.
  - (b) “Board” is the Louisiana State Board of Dentistry.
  - (c) “Conscious patient” is a patient who has intact protective reflexes, including the ability to maintain an airway, and who is capable of rational response to question or command.
  - (d) “Anxiolysis” is the reduction or elimination of anxiety through the perioperative use of medication before or during a dental procedure that produces a minimally depressed level of consciousness and maintains the patient’s ability to maintain an airway independently and to respond appropriately to physical and verbal stimulation.
  - (e) “Conscious sedation” is a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command and that is produced by pharmacologic or non-pharmacologic method or a combination thereof. In accordance with this definition, the drugs and techniques used should carry a margin of safety wide enough to render unintended loss of consciousness unlikely. Furthermore, patients who are sleeping and whose only response is reflex withdrawal from painful stimuli would not be considered to be in a state of conscious sedation, but rather a state of deeper sedation.
  - (f) “Deep sedation” is a controlled state of depressed consciousness accompanied by partial loss of protective reflexes, including the inability to continually maintain an airway independently and/or to respond appropriately to physical stimulation or verbal command, and is produced by a pharmacologic or non-pharmacologic method or combination thereof.
  - (g) “General anesthesia” is a controlled state of unconsciousness accompanied by partial or complete loss of protective reflexes, including inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, and is produced by a pharmacologic or non-pharmacologic method or a combination thereof.
  - (h) “Local anesthesia” is the elimination of sensations, especially pain, in one part of the body by the topical application or regional injection of a drug.
- (2) The following terms describing routes of administration shall have the meanings ascribed to them unless the context clearly indicates otherwise:
- (a) “Enteral” is any technique of drug administration in which the drug is absorbed through the gastrointestinal (GI) tract or oral mucosa. Examples are oral, rectal, and sublingual.
  - (b) “Inhalation” is a technique of drug administration in which a gaseous or volatile agent is introduced into the pulmonary tree and whose primary effect is due to

absorption through the pulmonary bed. An example is nitrous oxide-oxygen inhalation sedation.

- (c) "Parenteral" is any technique of drug administration in which the drug bypasses the gastrointestinal (GI) tract. Examples are intermuscular (IM), intravenous (IV), intranasal (IN), submucosal(SM), subcutaneous (SC).
  - (d) "Combined conscious sedation" is any means of obtaining conscious sedation utilizing both inhalation analgesia and either an enteral or parenteral conscious sedation techniques.
- B.
- (1) When nitrous oxide inhalation analgesia, enteral conscious sedation, parenteral conscious sedation, deep sedation, or general anesthesia are used in a dental practice, board authorization shall be obtained in compliance with board rules and regulations to insure that these procedures are performed in a properly staffed, designed, and equipped facility capable of handling procedure, problems, and emergency incidents thereto for the level of anesthesia administered. Adequacy of the facility and competence of the anesthesia team shall be determined by the board through the use of qualified anesthesia consultants.
  - (2) A dentist who administers nitrous oxide inhalation analgesia, enteral conscious sedation, parenteral conscious sedation, deep sedation, or general anesthesia in a dental practice shall receive a personal permit from the board for the deepest level of anesthesia/analgesia to be administered and shall be in compliance with board rules and regulations.
  - (3) When nitrous oxide inhalation analgesia, enteral conscious sedation, parenteral conscious sedation, deep sedation, or general anesthesia is administered in any dental office or facility, each office shall receive an office permit from the board for the deepest level of anesthesia/analgesia to be administered and must be in compliance with board rules and regulations.
  - (4) It has been determined that the perioperative titration of enteral medications with the intent to achieve a level of conscious sedation poses a potential overdosing threat due to the unpredictability of enteral absorption and may result in an alteration of the state of consciousness of a patient beyond the intent of the practitioner. Such potentially adverse consequences may require immediate intervention and appropriate training and equipment. No dentist licensed in Louisiana shall use any enteral medications to induce conscious sedation unless such dentist has obtained a permit as required by the provisions of the Dental Practice Act, R.S. 37:751 through 795. The use of enteral sedatives or narcotic analgesic medications within the maximum recommended dose (m.r.d.) for the purpose of providing anxiolysis shall not be deemed titration of enteral medication and shall not be prohibited by the Dental Practice Act.
  - (5) Permits shall not be required for the induction of anxiolysis on a patient in a dental practice. This shall include the administration of an enteral sedative, narcotic analgesic medication, or both, administered in doses appropriate for the unsupervised treatment of anxiety. Except in extremely unusual circumstances, the cumulative dose shall not exceed the m.r.d. as per the manufacturer's recommendation. It is understood that even at appropriate doses, a patient may occasionally drift into a state that is deeper than anxiolysis. As long as the intent was anxiolysis and all of the above guidelines were observed, this shall not automatically constitute a violation. A permit shall not be required for the perioperative use of medication for the purpose of providing anxiolysis. For a patient under the age of thirteen, the administration of more than one agent of any type, including nitrous oxide, shall be considered conscious sedation, not anxiolysis, and shall require a conscious sedation permit.

- C. The applicant shall comply with the board's rules and shall furnish the board with qualifying documents that substantiate his credentials relative to the permit requested.
- D.
  - (1) Each licensed dentist or dental hygienist in the practice of dentistry or dental hygiene in this state shall submit a written report within a period of ten days to the board of any mortality or other incident which results in temporary or permanent physical or mental injury to a patient requiring hospitalization of the patient during or as a result of administration by the dentist or dental hygienist of local anesthesia, enteral sedation, nitrous oxide inhalation analgesia, parenteral conscious sedation, deep sedation, or general anesthesia.
  - (2) The report shall include detailed information pertaining to the following:
    - (a) Description of dental procedure.
    - (b) Description of pre-operative physical condition of patient.
    - (c) A description of all drugs and dosages administered.
    - (d) Detailed description of techniques utilized in administering the drugs given.
    - (e) Description of adverse occurrence which shall include:
      - (i) Description in detail of the symptoms of any complications including but not limited to onset and type of symptoms in patient.
      - (ii) Treatment instituted on the patient.
      - (iii) Response of the patient to the treatment.
    - (f) Description of the patient's condition on termination of any procedures undertaken.
  - (3) Failure to comply with the required reporting procedures stipulated herein may result in disciplinary action by the board. The information from a dentist or dental hygienist required under this Subsection may be a prerequisite for the issuance or renewal of his license or permit to practice dentistry or dental hygiene.
- E. An initial authorization permit fee shall be charged, and an annual renewal fee may be charged by the board for each dentist and dental hygienist and facility making an application under this Section as set forth in the board's rules. Such fees shall be due and payable to the board at the same time as license renewal as provided for in R.S. 37:770 and 795.
- F. The authority for the administration of nitrous oxide inhalation analgesia, enteral conscious sedation, parenteral conscious sedation, deep sedation, and general anesthesia as described in this Section shall be limited to qualified dentists licensed by the board for use on dental patients.
- G.
  - (1) The office permit is not required when the facility is part of a hospital or an outpatient surgical center which meets or exceeds the requirements set forth in Louisiana Administrative Code (Title 46-Professional and Occupational Standards-Part XXXIII Dental Health Professions:), Chapter 15. The reporting requirements of Subsection D of this Section shall apply to those practicing in a facility exempt from the office permit requirement.
  - (2) A personal permit is not required when the dentist uses the services of a trained medical doctor, doctor of osteopathy trained in conscious sedation with parenteral drugs, certified registered nurse anesthetist, a dentist who has successfully completed a program consistent

with Part II of the American Dental Association Guidelines on Teaching the Comprehensive Control of Pain and Anxiety in Dentistry, or a qualified oral and maxillofacial surgeon provided that the doctor or certified registered nurse anesthetist remains on the premises of the dental facility until any patient given parenteral drugs is sufficiently recovered. However, when the requirement for obtaining a personal permit is waived by the board under the provisions of this Chapter with regard to the utilization of a medical doctor or certified registered nurse anesthetist, the dentist may only utilize the services of a medical doctor or certified registered nurse anesthetist determined by the board to be in compliance with the board's requirements for the administration of anesthesia in said dental facility following the initial inspection in relation to the application and equipment of the provider of anesthesia.

- H. The board reserves the right to inspect the facilities and/or assess the personnel covered under this Section. This inspection/assessment shall be conducted by a qualified person or committee duly appointed by the board. Such inspection and/or assessment may occur when a permit is requested or have been issued in accordance with the board's rules.

**§794. Dispensing and administering controlled substances; records**

- A. Any dentist qualified to dispense or administer controlled substances shall properly label all such controlled substances in accordance with all applicable federal laws and regulations and shall maintain prescription files on any controlled substances he sells, administers, or dispenses.
- B. A record shall be kept daily showing all dispensations and administrations of all controlled substances and shall clearly identify the controlled substances dispensed or administered, the individual to whom each controlled substance was dispensed or administered, the date of the dispensation or administration, and the amount of the controlled substance dispensed or administered.
- C. All licensees who dispense or administer controlled substances in their dental practice shall keep an inventory at each practice location where controlled substances are dispensed or administered. There shall be an initial inventory in accordance with 21 CFR 1304.11 on the first date he takes control of controlled substances for distribution or administration at any location. In the event a person opens a practice with no controlled substances on hand, he shall record this fact as his initial inventory. A biennial inventory shall be taken within four days of the two-year anniversary of the initial inventory.
- D. The controlled substances log shall be readily retrievable immediately upon the request of the board, its agents, or employees.

**§795 Fees and costs**

- A. The board is authorized, by rule, in accordance with the Administrative Procedure Act, to establish fees and costs to be imposed for the purpose of implementing and enforcing the provisions of this Chapter. However, the board may, by a majority vote, reduce the amount of or waive the collection of any such fees. The fees established under the provisions of this Section shall be paid to the secretary-treasurer.
- B. Notwithstanding any other provision of this Chapter, the fees and costs established by the board shall be not less nor more than the range created by the following schedule:

(1)Miscellaneous fees and costs	Minimum	Maximum
(a) Photocopies of documents, per page	\$ .50	\$ 1.00

(b)	Certification of document as true copy	\$5.00	\$10.00
(c)	Certification of document as official record	\$5.00	\$10.00
(d)	Certification of good standing license	\$20.00	\$40.00
(e)	Official list of all licensed dentists	\$500.00	\$1,000.00
(f)	Official list of all licensed dental hygienists	\$500.00	\$1,000.00
(g)	Up to (1/2) of an official list of all licensed dentists or all licensed dental hygienists	\$250.00	\$500.00
(h)	Handling and mailing per page	\$1.00	\$2.00
(i)	Bound copy of Dental Practice Act	\$35.00	\$45.00
(j)	Unbound copy of Dental Practice Act	\$25.00	\$35.00
(k)	Criminal history background check	\$50.00	\$150.00
(l)	Retired volunteer dental license	\$50.00	\$200.00
(2)	Licenses, permits, and examinations for dentists		
(a) (i)	Examination and licensing of dental applicants	\$300.00	\$1200.00
(ii)	Make-up examination per portion	\$150.00	\$250.00
(iii)	Licensing of dental applicants who have successfully completed an examination by another jurisdiction which is accepted by the board	\$300.00	\$800.00
(iv)	Provisional license during emergency	\$100.00	\$300.00
(b)	Temporary dental license	\$100.00	\$200.00
(c)	Issuance of a restricted license (excluding advanced education students and dental residents)	\$200.00	\$400.00
(d)	Biennial renewal fee for dental license	\$100.00	\$600.00
(e)	Annual or biannual renewal fee for restricted dental license (excluding advanced education students and dental residents)	\$100.00	\$300.00
(f)	Replacement of dental license, certificate, or temporary permit	\$50.00	\$100.00
(g)	Delinquency fee in addition to renewal fee for any dental license	\$250.00	\$400.00
(h)	Reinstatement of a license which has been suspended, revoked, or which has lapsed by nonrenewal	\$500.00	\$800.00

(i)	Restricted dental license, advanced education students and dental residents:		
	(i) For period July 1-December 31	\$100.00	\$200.00
	(ii) For each full year (January 1-December 31) thereafter	\$200.00	\$400.00
	(iii) For period January 1-June 30	\$100.00	\$200.00
(j)	Dental application and licensure by credentials (nonrefundable)	\$1,500.00	\$3,000.00
(k)	Application and permitting for mobile or movable dental office	\$250.00	\$250.00
(l)	Biennial renewal of mobile or movable dental office permit	\$400.00	\$400.00
(m)	Application and permitting for general or parenteral anesthesia permit	\$50.00	\$500.00
(n)	Application and permitting for nitrous oxide permit	\$50.00	\$100.00
(o)	Renewal of nitrous oxide anesthesia permit	\$50.00	\$100.00
(p)	Renewal of general sedation and parenteral anesthesia permits.	\$100.00	\$300.00
(q)	Application and permitting for enteral conscious sedation	\$100.00	\$400.00
(r)	Renewal of enteral sedation permit	\$50.00	\$100.00
(s)	Application and permitting for pediatric conscious sedation permits	\$100.00	\$400.00
(t)	Renewal of pediatric conscious sedation permit	\$50.00	\$100.00
(3)	Licenses, permits, and examinations for dental hygienists		
(a) (i)	Examination and licensing of dental hygienist applicants	\$100.00	\$400.00
	(ii) Make-up examination per portion	\$50.00	\$100.00
	(iii) Licensing of dental hygiene applicants who have successfully completed an examination administered by another jurisdiction which is accepted by the board	\$100.00	\$500.00
	(iv) Provisional dental hygiene license during emergency	\$100.00	\$300.00

(b)	Temporary dental hygienist permit	\$100.00	\$200.00
(c)	Biennial renewal fee for dental hygienist license	\$30.00	\$200.00
(d)	Replacement or duplicate dental hygienist license, certificate, or temporary permit	\$50.00	\$100.00
(e)	Delinquency fee in addition to renewal fee for any dental hygienist license	\$100.00	\$200.00
(f)	Reinstatement of a dental hygienist license which has been suspended, revoked, or which has lapsed by non-renewal	\$250.00	\$500.00
(g)	Dental hygiene application and licensure by credentials (nonrefundable)	\$600.00	\$1,500.00
(h)	Examinations and permitting of dental hygiene applicants for administration of local anesthesia	\$50.00	\$50.00
(i)	Renewal fee for dental hygienists' administration of local anesthesia	\$50.00	\$50.00
(j)	Examinations and permitting of dental hygiene applicants for administration of nitrous oxide anesthesia	\$50.00	\$50.00
(k)	Renewal fee for dental hygienists' administration of nitrous oxide anesthesia	\$50.00	\$50.00
(l)	Criminal history background check	\$50.00	\$150.00

C. All Louisiana candidates for licensure who take national or regional clinical licensing examinations shall pay the examination fees directly to the examining agency administering such clinical examination.

## **Chapter 1. General Provisions**

### **§103. Evidence of Graduation**

A. All applicants for a dental or dental hygiene license shall furnish the board with satisfactory evidence of graduation from an accredited dental school, dental college, or educational program prior to the examination given by the board for such licensure. An accredited dental school, dental college, or educational program shall be one that has been certified as accredited by the Commission on Dental Accreditation of the American Dental Association, and shall be at a minimum two years in length.

B. The phrase "satisfactory evidence of graduation from an accredited dental school, dental college or educational program" shall mean receipt of satisfactory evidence from the dean of the applicant's school specifically stating that the applicant will indeed graduate within 90 days following the administration of the Louisiana State Board of Dentistry clinical licensing examination.

C. The president of the board shall withhold his signature on the license of the applicant pending receipt of satisfactory evidence of graduation before awarding the applicant's license to practice dentistry or dental hygiene in the state of Louisiana.

D. The requirement that an educational program accredited by the Commission on Dental Accreditation of the American Dental Association be at a minimum of two years in length means a continuing program which is at the same institution and is for a minimum of two years. The board does not accept the accumulation of programs which are less than two years in length to satisfy this requirement.

E. In regards to dentists trained in foreign countries, the board requires those dentists to practice in the field in which they obtained the two years of post-graduate training. In other words, if a foreign trained dentist completes an approved program in endodontics, he or she must limit their practice to endodontics. If that dentist studies in a general practice residency program, he or she must practice general dentistry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Dentistry, LR 10:88 (February 1984), amended by the Department of Health and Hospitals, Board of Dentistry, LR 24:1112 (June 1998), LR 26:488 (March 2000), LR 27:1890 (November 2001).

### **§104. Display of License**

A. All Louisiana licensees holding either a dental or dental hygiene license shall display their license in full and open view for all patients to observe along with all current renewal permits of said license.

B. All certificates or permits authorizing the administration of anesthesia, analgesia or sedation shall also be displayed in full and open view in close proximity to those licenses and renewal certificates required by this rule to be kept in open and full view for the public to observe.

C. When licensees provide dental services in more than one facility, a copy of those licenses and/or certificates shall suffice in place of the original and said copy shall be displayed in full and open view for all patients to see.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:740 (July 1992).

### **§105. Restricted Licensees**

A. All applicants for a restricted license must successfully complete the Louisiana State Board of Dentistry examination in jurisprudence within 60 days of receiving said license, except those licenses issued for less than one year.

B. All recipients of restricted licenses who are members of the faculty of the LSU system, and who are graduates of a dental school accredited by the Commission on Dental Accreditation of the American Dental Association, and who otherwise meet all requirements for a general license must receive same within two years from receipt of the original restricted license by successfully completing the LSBOD clinical licensure examination or by credentials, provided that where a holder of a restricted license has been so licensed without interruption since January 1, 1990, he may continue to hold a restricted license without the necessity of meeting the requirements for a general license.

C. All applicants for restricted licenses who graduated from a dental school not accredited by the Commission on Dental Accreditation of the American Dental Association and are part of the faculty of the LSU system, must submit with the restricted license application:

1. a letter from the dean of the dental school that he/she attended attesting to the applicant's successful completion of the course of study; and

2. a letter from the LSU system showing that the applicant is or is expected to be a member of its faculty, and verifying the competency of the applicant. The LSU system is responsible to notify the board as to any termination of employment of any faculty member or graduate student holding a restricted license.

D. Restricted licenses may be issued to residents and/or graduate students in the LSU system, but those licenses are only valid during the time the applicant is a resident and/or graduate student in the LSU system.

E. Oral surgery residents who attend medical school as a requirement of their residency training may keep their restricted license active during medical school, but may only work in the hospital sponsoring the residency or its affiliates.

F. Part-time faculty of the LSU system shall be exempt from the licensure requirements of §105.B and C. However, part-time faculty in the LSU system shall be required to successfully complete the examination in jurisprudence as required in §105.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 21:571 (June 1995), amended LR 22:23 (January 1996), LR 23:1529 (November 1997), LR 26:1612 (August 2000), repromulgated LR 27:1893 (November 2001).

#### **§106. Parental Consent**

A. No dentist is to replace a tooth or part of a tooth or associated tissue by means of a filling, cap, or crown on any person under the age of 18 years without the prior consent of the minor's parent or guardian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 22:24 (January 1996).

#### **§108. Levels and Definitions of Supervision**

A. Licensed dentists who employ dental assistants, expanded duty dental assistants, and dental hygienists shall be responsible for the supervision of those employees' authorized duties. Authorized duties of dental assistants, expanded duty dental assistants, and dental hygienists may also be under the supervision of a licensed dentist who assumes responsibility for the treatment of that patient.

1. Direct Supervision. A licensed dentist personally diagnoses the condition to be treated; personally authorizes the procedures; is in the dental office or treatment facility during the performance of the authorized procedures; and, before dismissal of the patient, evaluates the performance of the dental assistant, expanded duty dental assistant, or dental hygienist.

2. General Supervision. The licensed dentist has authorized the procedures, which are being carried out by the dental hygienist in accordance with the dentist's treatment plan; however, the dentist is not required to be present in the dental office or treatment facility during the performance of the supervised procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1112 (June 1998).

#### **§110. Licensees Suffering Impairment Due to Alcohol or Substance Abuse**

A. After considerable study and review of other state practices in regards to evaluation, diagnosis, prognosis, and treatment of licensees suffering impairment through chemical or drug abuse, the board shall hereby abide by the following procedures.

1. Where possible, a member of the Louisiana State Board of Dentistry may attend said intervention on either an official or unofficial basis according to his judgment in each particular case.

2. If the alleged impaired licensee fails to comply with the wishes and instructions of the intervention within seven days following said intervention, the board may order said alleged licensee into a properly equipped and board-approved facility for evaluation and, if necessary, treatment for the impairment, if same is proven positive. Should the evaluation prove that the licensee is not impaired, the cost of the evaluation shall be borne by the board. If the evaluation is positive for impairment, the cost for evaluation and all treatment thereof shall be borne by the licensee.

3. Should the alleged impaired licensee fail to comply with the order of the board relative to evaluation and treatment, formal proceedings may be brought against the alleged impaired licensee as soon as practicality dictates.

B. Any adverse action taken as a result thereof shall be reported to the National Practitioner Data Bank. However, if there is no action taken by the board in these matters, any required reporting to the National Practitioner Data Bank shall not be the responsibility of the Louisiana State Board of Dentistry.

C. If the impaired licensee has violated any other provisions of the Louisiana Dental Practice Act, said violation shall be prosecuted and any subsequent action taken thereof shall be reported to the National Practitioner Data Bank.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(2) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1112 (June 1998), amended LR28:1776 (August 2002).

**§112. Avoidance of Conflict of Interest by Board Members**

A. No board member, during his or her term of office, shall simultaneously serve or hold the following appointive or elective offices in any local or statewide voluntary dental or dental hygiene association, organization, or society: 1. President; 2. President-elect; 3. Vice-president; 4. Secretary; 5. Treasurer; 6. board of directors (elected or ex-officio); 7. peer review committee; 8. delegate or alternate delegate.

B. However, §112 shall not prohibit a board member from participating in any capacity relative to the administration of continuing education in any local or statewide voluntary dental association, organization, or society.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1113 (June 1998).

**§113. Public Comment at Board Meeting**

A. A public comment period shall be held at or near the beginning of each board meeting, or any other time deemed appropriate by the board president. Persons desiring to present public comment shall notify the board or its Executive Director prior to the beginning of the meeting. However, to assure that an opportunity is afforded to all persons who desire to make public comments, the board president shall inquire at the beginning of the meeting if there are additional persons who wish to comment. The board president shall allot the time available for the public comments in an equitable manner among those persons desiring to comment, limiting each person to a maximum of three minutes, with the total comment period not to exceed thirty minutes. Each person making public comments shall identify himself and the group, organization or company, if any, he represents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:5.D and R.S. 37:760 (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospital, Board of Dentistry, LR 28:1776 (August 2002).

**§114. Reinstatement of Licenses Revoked for Nonpayment**

A. Any licensee seeking the reinstatement of his or her license to practice dentistry or dental hygiene in the State of Louisiana shall request in writing the reinstatement of his or her license, and personally appear before the board for an interview to determine the merits of the request for reinstatement.

B. When a dentist or dental hygienist has allowed his/her Louisiana license to lapse for any reason whatsoever, but continued to practice dentistry or dental hygiene in another state, that person must seek relicensure by credentials and is prohibited from receiving relicensure by reinstating his/her Louisiana license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1113 (June 1998), amended LR 25:514 (March 1999).

**§116. Reconsideration of Adverse Sanctions**

A. Any person wishing to initiate an application for reconsideration of an adverse disciplinary decision of the board or consent decree must make the request in writing and it shall be received by the board at its office at least 30 days prior to the next scheduled meeting of the board.

B. The request for reconsideration should be accompanied by supporting documentation and other pertinent information demonstrating his/her professional and/or personal rehabilitation since the adverse disciplinary sanctions or decision of the board.

C. If timely received, the applicant's written request and all supporting documentation and/or information are delivered to the board's disciplinary committee which originally rendered the adverse decision to the applicant, and said committee shall determine if the applicant's request for reconsideration has substantial merit. In the course of the committee's review, if it deems necessary, it may require the applicant and all supporting references to appear in person before the committee for the purpose of affording the committee an opportunity to personally interview each person. All expenses for the attendance of the applicant and his/her personal references shall be borne by the applicant. Because of the nature of the request, the committee may entertain it in executive session at the option of the applicant. Moreover, the committee shall prescribe time limitations for all speakers appearing before it and order such other considerations as will promote a fair and orderly review of the subject matter. After review of the

documentation and completion of the interviews, if any, the committee will determine if the request for reconsideration has sufficient merit to warrant the committee's favorable recommendation to the full board. If the committee rules favorably to the applicant, then the applicant's entire request for reconsideration and all supporting documentation and/or information are forwarded to the full board for its further consideration at the next scheduled board meeting.

D. If the committee decides that the application is without substantial merit, it shall so inform the officers of the board and, thereafter, one officer shall be appointed to notify the applicant, in writing, of said unfavorable action. The applicant is not thereafter entitled to appear before the full board relative to this application; only applications which have been found to have substantial merit by the committee are to be submitted to the full board.

E. The full board, at its next meeting, may consider those applicants found by the committee to have substantial merit in open meeting if requested to do so by the applicant. In the absence of such request, the board shall entertain the matter in executive session. In the course of the board's review, if it deems necessary, it may require the applicant and all supporting references to appear in person before the board for the purpose of affording the board an opportunity to interview each person first hand. All expenses for the attendance of the applicant and his/her personal references shall be borne by the applicant. Moreover, the board shall prescribe time limitations for all speakers appearing before it and order such other considerations as will promote a fair and orderly meeting.

F. If the full board concurs with the favorable recommendations of the disciplinary committee, then the board shall decide upon the exact terms and conditions of any amendment, modification, or other change in the original decision rendered against the applicant. Thereafter, the applicant shall be notified, in writing, of the board's decision.

G. If the full board does not concur with the favorable recommendations of the disciplinary committee, then the board shall so notify the applicant in writing.

H. Any person desiring to file an application for a reconsideration with the board shall be permitted to do so only after 12 months following the board's decision or ratification of a consent decree and only once every 12 months thereafter, unless new and compelling information becomes available. If an application is denied, then that person must wait at least until the expiration of 12 months from the date appearing on the board's denial letter before submitting a subsequent application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1113 (June 1998), amended LR 26:1612 (August 2000), repromulgated LR 27:1890 (November 2001), amended LR 27:1893 (November 2001).

#### **§120. Temporary Licenses**

A. Under R.S. 37:760(6), the board is authorized to issue licenses in conformity with the Louisiana Dental Practice Act. However, under R.S. 37:752(8), dentists and dental hygienists may obtain a temporary license without satisfying all licensing requirements of the Louisiana Dental Practice Act provided the applicant applies for a full license by taking an examination at the next time the clinical licensure examination is given by the board or by applying for licensure by credentials for the nearest scheduled board meeting. In order to protect the public and to avoid abuses of this exemption, the board shall not award a temporary license to any dentist under the provisions of R.S. 37:752(8), and will not award a temporary license to any dental hygienist within 60 days before or 60 days after the clinical licensing examination is given. Under no circumstances shall a temporary license awarded to a dental hygienist be in effect for any period longer than 7 months. This section does not prohibit the awarding of temporary licenses to dentists who are seeking exemptions under R.S. 37:752(4).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1114 (June 1998), amended LR 26:1612 (August 2000), repromulgated LR 27:1893 (November 2001).

#### **§122. Scopes of Practice**

A. The board has reviewed and approved the "Standards for Advanced Specialty Education Programs" set forth by the Commission on Dental Accreditation of the American Dental Association and approves of the following specialties: 1. dental public health; 2. endodontics; 3. oral and maxillofacial surgery; 4. oral pathology; 5. orthodontic and facial orthopedics; 6. pediatric dentistry; 7. periodontics; 8. prosthodontics and 9. oral and maxillofacial radiology.

B. The board approves of the definition of the specialties listed in §122.A and as set forth in §301.D, and acknowledges that those definitions set forth the scope of practice of said specialties.

- C. A licensed dentist is recognized as a specialist in Louisiana if the dentist meets the standards set forth below.
1. The licensed dentist seeking specialty recognition must have successfully completed an ADA accredited post-doctoral program for each specialty.
  2. The requirements of Paragraph C. 1 of this Section shall not apply to otherwise qualified specialists who have announced their ADA approved specialty prior to the date of promulgation of this rule. (12/20/02)
  3. Specialists must provide the board with satisfactory documentation of their specialty training.
  4. Specialists are required to limit their practice exclusively to the indicated specialty area(s) as defined by the board and its rules.
  5. A specialist who wishes to practice general dentistry must be evaluated by the board in accordance with LAC 46:XXXIII.124 to determine the need of remediation prior to practicing general dentistry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1114 (June 1998), amended LR 28:1776 (August 2002), LR 28:2512 (December 2002).

#### **§ 124 Guidelines for Returning to Active Practice**

A. Section 124 is intended to provide guidelines to enable the board to provide evaluation and remediation to dentists and dental hygienists who have not actively practiced their professions for a sufficient length of time for any reason which would justify various levels of remediation to assure the board that the dentist or dental hygienist is sufficiently qualified to again practice on the public. This section applies whether or not a license has been inactivated.

B. In all cases where a dentist or dental hygienist has not practiced their profession due to a problem concerning unprofessional conduct, substance abuse, criminal activity, or other issues concerning moral turpitude, said dentist or dental hygienist shall be assessed by a psychiatrist or psychologist of the board's choosing to determine remediability. The cost of the assessment shall be borne by the dentist or dental hygienist.

C. Evaluations of the diagnostic, clinical, and laboratory skills of the dentist or dental hygienist shall be evaluated by an entity of the board's choosing. The costs of the evaluation shall be borne by the dentist or dental hygienist. Evaluations may include, but not be limited to, comprehensive table examinations, written examinations, and clinical examinations. These examinations shall cover those areas of dentistry the board feels are necessary to have evaluated.

D. When a license has been inactive for a period of three months to one year, it is the prerogative of the board to have the licensee evaluated in any specific or all fields of dentistry or dental hygiene as deemed necessary by the board.

E. In all cases where a license has been suspended for a period of three months or more, the dentist or dental hygienist shall successfully complete a course in ethics as determined by the board.

F. When a license has been inactive for one year or greater, an evaluation by a dentist and/or specialist appointed by the board shall be conducted. Varying degrees of remediation shall be determined by the board on a case-by-case basis. Areas of specific concern for general dentists are: 1. Oral diagnosis/treatment planning; 2. Dental materials; 3. Operative dentistry; 4. Fixed prosthodontics; 5. Removable prosthodontics; 6. Periodontics; 7. Endodontics; 8. Pain control/pharmacology; 9. Nitrous oxide sedation; 10. Cardiopulmonary Resuscitation; 11. Infection control; 12. OSHA regulations; 13. Jurisprudence; 14. Implantology; 15. Ethics.

G. Specialists may be evaluated by other specialists in that field appointed by the board, or oral examinations, or written examinations.

H. Dental hygienists shall be evaluated on all areas of dental hygiene for which they are authorized to perform. These evaluations may be performed by written and/or clinical examinations.

I. In all cases, the board has the discretion to prescribe any course of remediation it deems fit and proper, including, but not limited to, requiring further schooling at a dental or dental hygiene school, participation in mini-residencies, or practicing only under the direct supervision of other licensed dentists.

J. Any dentist or dental hygienist who is authorized to return to active practice with restrictions or requirements on their license who do not completely satisfy said requirements or restrictions shall be subject to sanctions, including, but not limited to, revocation of their license whether or not a complaint has been received by the board.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 25:511 (March 1999), amended LR:28:1776 (August 2002), LR 28:2512 (December 2002).

**§ 128 Provisional licensure for dental healthcare workers providing gratuitous services**

- A. The board of dentistry may grant a provisional license not to exceed sixty days in duration for any dentist or dental hygienist who is in good standing in the state of their licensure and who wishes to provide gratuitous services to the citizens of Louisiana at sites specified by the Department of Health and Hospitals provided:
1. The applicant is verified by the board to be in good standing in the state of licensure where the applicant is licensed;
  2. The applicant provides satisfactory documentation to the board that the dental healthcare provider is assigned to provide gratuitous services at sites specified by the Department of Health and Hospitals;
  3. The applicant agrees to render services on a gratuitous basis with no revenue of any kind to be derived whatsoever from the provision of dental services within the state of Louisiana.
- B. The board may renew this provisional license for no more than an additional sixty days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(6) and (8) and R.S. 49:953(B)

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 32:1227 (July 2006).

## Chapter 3. Dentists

### §301. Advertising and Soliciting by Dentists

A. Scope. This Section provides for advertising requirements in addition to those set forth in R.S. 37:774 and R.S. 37:775 for dentists licensed and practicing in this state. The provisions in this Section shall govern any and all forms of advertisements including but not limited to all forms of printed and electronic media and direct or telephone solicitations.

B. Identification of Licensee. All advertising in any medium must identify the Louisiana licensed dentist who sponsors or benefits from, and assumes total responsibility for, the advertisement. The term *identify* shall mean the use of the licensee's commonly used name or the name appearing on his dental license or renewal certificate, together with the current address and telephone number the licensee has on file with the board.

C. Approved Specialties. The board has reviewed and approved the "Standards for Advanced Specialty Education Programs" set forth by the Commission on Dental Accreditation of the American Dental Association and approves only the following specialties: 1. dental public health; 2. endodontics; 3. oral and maxillofacial surgery; 4. oral pathology; 5. orthodontics and dentofacial orthopedics; 6. pediatric dentistry; 7. periodontics; 8. prosthodontics; and 9. oral and maxillofacial radiology.

#### D. Definitions

*Advertisement and Advertising*—any statement, oral or written, disseminated to or displayed before the public or any portion thereof with the intent of furthering the purpose, either directly or indirectly, of selling professional services, or offering to perform professional services, or inducing members of the public to enter into any obligation relating to such professional services. The provisions of this Section shall apply to advertising of any nature regardless of whether it is in the form of paid advertising.

*Dental Public Health*—the science and art of preventing and controlling dental diseases and promoting dental health through organized community efforts. It is that form of dental practice which serves the community as a patient rather than the individual. It is concerned with the dental health education of the public, with applied dental research, and with the administration of group dental care programs, as well as the prevention and control of dental diseases on a community basis. Implicit in this definition is the requirement that the specialist have broad knowledge and skills in public health administration, research methodology, the prevention and control of oral diseases, the delivery and financing of oral health care, and the identification and development of resources to accomplish health goals.

*Endodontics*—the branch of dentistry that is concerned with the morphology, physiology, and pathology of the human dental pulp and periradicular tissues. Its study and practice encompass the basic clinical sciences including biology of the normal pulp, the etiology, diagnosis, prevention, and treatment of diseases and injuries of the pulp; and associated periradicular condition.

*Oral and Maxillofacial Radiology*—the specialty of dentistry and the discipline of radiology concerned with the production and interpretation of images and data produced by all modalities of radiant energy, in a manner that minimizes risk to the patient, operator and the public, that are used for the diagnosis and management of diseases, disorders and conditions of the oral and maxillofacial region.

*Oral and Maxillofacial Surgery*—the specialty of dentistry which includes the diagnosis, surgical, and adjunctive treatment of diseases, injuries and defects involving both the functional and aesthetic aspects of the hard and soft tissues of the oral and maxillofacial region.

*Oral Pathology*—the specialty of dentistry and discipline of pathology which deals with the nature, identification, and management of diseases affecting the oral and maxillofacial regions. It is a science that investigates the causes, processes and effect of these diseases. The practice of oral pathology includes research, diagnosis of diseases using clinical, radiographic, microscopic, biochemical, or other examinations, and management of patients.

*Orthodontics and Dentofacial Orthopedics*—the area of dentistry concerned with the supervision, guidance, and correction of the growing or mature dentofacial structures, including those conditions that require movement of teeth or correction of malrelationships and malformations of their related structures and the adjustment of relationships between and among teeth and facial bones by the application of forces and/or the stimulation and redirection of functional forces within the craniofacial complex. Major responsibilities of orthodontic practice include the diagnosis, prevention, interception, and treatment of all forms of malocclusion of the teeth and associated alterations of their surrounding structures; the design, application and control of functional and corrective appliances; and the guidance of the dentition and its supporting structures to attain and maintain optimum occlusal relations in physiological and aesthetic harmony among facial and cranial structures.

*Pediatric Dentistry*—an age-defined specialty that provides both primary and comprehensive preventive and therapeutic oral health care for infants and children through adolescence, including those with special health care needs.

*Periodontics*—that specialty of dentistry which encompasses the prevention, diagnosis, and treatment of diseases of the supporting and surrounding tissues of the teeth or their substitutes; the maintenance of the health, function and esthetics of these structures and tissues; and the replacement of lost teeth and supporting structures by grafting or implantation of natural and synthetic devices and materials.

*Prosthodontics*—the dental specialty pertaining to the diagnosis, treatment planning, rehabilitation and maintenance of the oral function, comfort, appearance and health of patients with clinical conditions associated with missing or deficient teeth and/or maxillofacial tissues using biocompatible substitutes.

E. Prohibition on Misrepresentative or Fraudulent Advertising. No dentist shall disseminate or cause the dissemination of any advertisement or advertising which is in any way fraudulent, false, deceptive, or misleading in form or content. Additionally, no dentist shall disseminate or cause the dissemination of any advertisement or advertising which: 1. contains misrepresentations of fact; 2. is likely to mislead or deceive because in its context or in the context in which it is presented it makes only a partial disclosure of relevant facts; 3. contains laudatory statements about the dentist or group of dentists; 4. is intended or likely to create false, unjustified expectations of favorable results; 5. relates to the quality of dental services provided as compared to other available dental services; 6. advertises any procedure mandated or prohibited by law; 7. contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or to be deceived. For example, it is fraudulent, false, deceptive, and misleading for a dentist who utilizes a laser in his dental practice to advertise that the use of lasers is painless, heals faster, or provides better results than other dental procedures. However, a dentist may advertise that he treats patients with a laser in certain circumstances.

F. Prohibition of In Person and Telephone Solicitations. In person and telephone solicitation of dental patients by a dentist or his agent poses an inherent danger to the public because such advertising cannot be supervised, may exert pressure on the prospective patient, and often demands an immediate response without affording the prospective patient an opportunity for comparison or reflection. Unlike an advertisement appearing in print or on television or radio, in person and telephone solicitation does not simply provide information and leave the recipient free to act or not, but is ripe with the potential for overbearing persuasion. Accordingly, in person and telephone solicitation of dental services by a dentist or his agent is prohibited.

G. Advertising through or with Referral Services. Any dentist who advertises by, through or with a referral service shall be held responsible for the contents of such advertising, and all advertisements shall comply with this rule.

#### H. Disclosure of Area of Practice

1. Specialists must disclose their specialties in print larger than and/or bolder and noticeably more prominent than any service offered in their specialty or related area of dentistry.

2. Those dentists who have not completed a post-doctoral training program in an approved specialty of dentistry listed in §301.C must advertise their areas of practice in such a way that the public is not misled into believing that the dentist has met the educational requirements for the specialties listed.

3. Anyone not qualified for the specialties listed in §301.C must disclose "General Dentistry" or "Family Dentistry" in print larger and/or bolder and noticeably more prominent than any area of practice or service advertised.

4. Those group practices which include general dentists and specialists must list the phrase "General Dentistry and Specialty Practice" or "Family Dentistry and Specialty Practice" larger and/or bolder and noticeably more prominent than any service offered. All dentists associated with the group and their area of practice shall be listed.

I. Prohibition on Advertising Names of Persons Not Involved in Practice. Advertising which includes the name of a person who is neither actually involved in the practice of dentistry at the advertised location nor an owner of the practice being advertised is not permitted. However, to facilitate the smooth transition of a practice after its sale from one licensee to another, it is permissible to identify the previous owner in advertising by the new owner for a reasonable period of time not to exceed a period of 24 months. If a practice is being managed in transition following the death or disablement of a dentist, it is permissible to identify the deceased or disabled dentist in advertising for a period not to exceed twenty-four months following the death or disability of said dentist. This rule does not provide authority to use a previous owner's name in any advertising without first obtaining that licensee's or his legal representatives written permission to do so.

#### J. Advertisement of Fees and Discounted Services

1. An appropriate disclosure regarding advertised fees is necessary to protect the public so all procedures or devices which are advertised with fees must adequately describe the procedure or device in such a way that a layperson is not misled. Proof of customary fee must be available if discounted fees are advertised, and the true fee from which the discount is taken must be in the advertisement also.

2. Any advertisement containing fee information shall contain a disclaimer statement that the fee is a minimum fee, and that the charges may increase depending on the treatment required, if any.

3. Any advertised fee for a dental service shall state a specified period during which the fee is in effect or that service shall remain available at or below the advertised fee for at least 90 days following the final advertisement for that service.

K. Appendages. In addition to those appendages required by law pertaining to one's business entity such as professional dental corporation (P.C.) or dental limited liability company (L.L.C.), dentists may only use those abbreviations or appendages as specified under R.S. 37:771 or other degrees earned from accredited colleges or universities after their names. Fellowships, awards, membership in academies, or non-degreed boards may be spelled out in their entirety under one's name, but not appended to the name so as to avoid confusion to the consumer. However, fellowships, awards, memberships in academies and non-degreed boards may be appended to names in newsletters which are not intended for publication or dissemination to the public but which remain peculiar to dentists or dental hygienists. An example is the "Pelican Pouch" which is a newsletter which goes out to members of the Academy of General Dentistry. It is permissible for persons to append "F.A.G.D." after their names in newsletters such as this.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Dentistry, December 1970, amended 1971, amended and promulgated LR 13:179 (March 1987), amended by the Department of Health and Hospitals, Board of Dentistry, LR 15:966 (November 1989), LR 18:739 (July 1992), LR 20:657 (June 1994), LR 21:567 (June 1995), LR 22:23 (January 1996), LR 22:1215 (December 1996), repromulgated LR 23:199 (February 1997), amended LR 23:1524 (November 1997), LR 25:509 (March 1999), LR 25:1476 (August 1999), LR 26:690 (April 2000), LR 27:1890 (November 2001), LR 28:1776 (August 2002), LR 28:2512 (December 2002), LR 30:2305 (October 2004), LR 32:243 (February 2006).

#### **§304. Address of Dental Practice and Mailing Address**

A. Each dentist shall inform the Louisiana State Board of Dentistry of his official mailing address and all office addresses at which the dentist practices dentistry within 30 days of changing his official mailing address or commencing practice at each location.

B. Failure of a dentist to notify the board within 30 days of any change of official mailing address or office move or relocation will result in the imposition of any one or more of the penalties set forth in R.S. 37:780(B).

C. Within 30 days following the abandonment of any office located within Louisiana, all signs or references to the practice of dentistry at said former office by the dentist shall be removed. This pertains to all references whether attached or not attached to the abandoned premises. A licensee's failure to remove said signs in accordance with this Section will result in the imposition of any one or more of the penalties set forth in R.S. 37:780(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 15:965 (November 1989), amended LR 18:739 (July 1992), LR 23:1525 (November 1997), LR 31:927 (April 2005).

#### **§305. Reuse of Toothbrush in Dental Office Prohibited**

A. If a dentist or any of his employees furnishes a patient with a toothbrush to be used in the dental offices, then it must be disposed of immediately following use by the patient. Reuse of any toothbrush in a dental office is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Dentistry, LR 13:180 (March 1987).

#### **§306. Requirements of Applicants for Licensure by Credentials**

A. Before any applicant is awarded a license according to his/her credentials in lieu of an examination administered by the board, said applicant shall provide to the board satisfactory documentation evidencing:

1. the applicant has satisfactorily passed an examination administered by the Louisiana State Board of Dentistry testing the applicant's knowledge of the Louisiana Dental Practice Act and the jurisprudence affecting same;

2. currently possesses a nonrestricted license in another state as defined in R.S. 37:751(A) (1);

3. Has been in active practice, while possessing a nonrestricted license in another state, by working full-time as a dentist at a minimum of 1,000 hours per year for the preceding three years before applying for licensure in Louisiana or full-time dental education as a teacher for a minimum of three years immediately prior to applying for licensure; or has completed a two-year general dentistry residency program or successfully completed a residency program in one of the board recognized dental specialties as defined in §301; the applicant completing the residency program must apply for licensure within one hundred eighty days of graduation from said specialty program or fellowship or work full-time as a dentist for three years before licensure

a. The requirement of practicing full-time as a dentist at a minimum of one thousand hours per year for the preceding three years may be waived if the applicant agrees to teach full-time for two years in an accredited dental education program within the state of Louisiana. However, this license shall be rescinded should the dentist fail to complete his or her two year agreement with the school or institution.

4. is endorsed as being in good standing by the State Board of Dentistry in the state of current practice and all prior states of licensure and practice;

5. has not failed the clinical examination of the Louisiana State Board of Dentistry within the last ten years;

6. has never been convicted of a felony or a misdemeanor involving moral turpitude including, but not limited to, driving while under the influence of alcohol or drugs;

7. has no pending criminal charges against him/her;

8. has never been charged with and found guilty of or entered into a consent agreement with any State Board of Dentistry to any charge affecting his ability to practice dentistry or showing evidence of unprofessional conduct;

9. has paid all costs and fees (nonrefundable);

10. has fully completed required application form with all supporting data and certification of competency and good character;

11. has appeared for a personal interview before the board;

12. has submitted Drug Enforcement Administration registration certificate number and state narcotics license number in all states wherein same are held or have been held;

13. has submitted two recent passport type color photographs;

14. has all units of time accounted for;

15. has provided true copy of diploma(s) and/or national board examination grades;

16. has furnished three current letters of recommendation from professional associates, i.e. associations, boards, or prior employers listed on application for licensure on letterhead stationery from said organization;

17. possesses a current certificate in Cardiopulmonary Resuscitation Course "C", Basic Life Support for Health Care Providers as defined by the American Heart Association or the Red Cross Professional Rescue Course;

18. is a citizen or permanent resident of the United States unless otherwise prohibited by the North American Free Trade Agreement;

19. is free of any communicable or contagious disease, including but not limited to Human Immunodeficiency Virus, Hepatitis B Virus, and Hepatitis C Virus, and provide a notarized certificate of health from a medical doctor relative to his physical and mental condition; and

20. has completed continuing education equivalent to the state of Louisiana's for the two years prior to applying for licensure by credentials.

B. The applicant must also:

1. show or provide a sworn affidavit that there are no unresolved complaints against him/her;

2. provide a notarized statement from the local peer review chairman where he/she is presently practicing stating that there have been no negative cases within the preceding five years relative to the applicant;

3. sign a release authorizing the peer review chairman to provide such information to the board;

4. show that his professional liability insurance has never been revoked, modified, or nonrenewed;

5. provide satisfactory documentation that the initial licensing examination passed by the applicant included the use of live patients and that the overall examination was at least equivalent to the licensing examination of the Louisiana State Board of Dentistry.

C. A person in a residency program may not apply for licensure by credentials unless they have held an active license for at least two years during said residency. The fact of passing a regional board examination is not acceptable unless the license has been activated.

D. Applicants must also meet those requirements set forth in R.S. 37:761 and LAC 46:XXXIII.103.

E. Regardless of the applicant's compliance with the foregoing requirements, the board may refuse to issue a dental or dental hygiene license based on the applicant's credentials for any reason listed in R.S. 37:775 and R.S. 37:776.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:739 (July 1992), amended LR 21:571 (June 1995), LR 22:23 (January 1996), LR 23:1528 (November 1997), LR 24:1114 (June 1998), LR 25:513 (March 1999), LR 26:692 (April 2000), LR 26:1612 (August 2000), repromulgated LR 27:1893 (November 2001), amended LR 28:1777 (August 2002), LR 30:2305 (October 2004), LR 31:927 (April 2005), LR 32:243 (February 2006), LR 33:846 (May 2007).

**§307. Criteria to be Utilized to Determine Professional Competence, Conduct and Ethics of an Applicant Seeking Licensure by Credentials**

A. The following procedures shall be utilized by the board in determining the professional ability, conduct, and character of all applicants for a dental license in Louisiana by licensure by credentials:

1. information from the National Practitioner Data Bank and/or the American Association of Dental Examiners' Clearinghouse for Disciplinary Information;
2. questioning under oath;
3. results of peer review reports from constituent societies of the American Dental Association or in all states wherein the applicant is or has been licensed, and/or federal dental services;
4. drug testing if reasonable cause is presented;
5. background check for criminal or fraudulent activities or conduct reflecting upon one's professional conduct or ability;
6. the board reserves the right to conduct investigations into any and all information provided to satisfy statutory or regulatory requirements for licensure by credentials. False or fraudulent statements or material omission will result in denial of licensure or suspension of licensure if discovered after issuance of a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:740 (July 1992).

**§308. Licensure by Credentials for Those Applicants Possessing D.D.S., D.M.D. and/or M.D. Degrees**

A. The board shall issue a license to an applicant without the necessity of further examination except as required by R.S. 37:761, if it is determined that the applicant meets the requirements of §306 of this Chapter or:

1. is a graduate, with either a D.D.S. or D.M.D., of an accredited dental school or college or of a dental department of a university approved by the board and accredited by the Commission on Dental Accreditation of the American Dental Association; and
2. is licensed to practice dentistry in another state as defined in R.S. 37:751 (A) (l); and
3. has successfully completed a graduate training program in a recognized specialty branch of dentistry; or has completed a residency in general dentistry as recognized by the American Dental Association; and
4. is currently duly licensed to practice medicine in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:740 (July 1992).

**§310. Transportation Provided to Patients by Dentists**

A. When transportation is provided to a patient by a dentist, or his agent, for the purpose of providing dental care to that patient, transportation must be provided for all subsequent follow-up treatments for the patient until all diagnosed treatment is completed. The dentist must keep written documentation for a minimum of three years following the initial visit by the patient evidencing his providing of transportation and/or his offer to provide transportation. An offer to provide transportation shall contain a signature by the patient, or the patient's parent or guardian, showing that they accepted or declined the offer of transportation for dental care. Lack of documentation shall be prima facie evidence that the offer to provide transportation was not made by the dentist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 21:573 (June 1995).

**§312. Mobile Dental Clinics**

A. Definition. *Mobile Dental Clinic* or *Mobile Dental Unit* means any self-contained facility in which dentistry will be practiced which may be moved, towed, or transported from one location to another.

B. Application for Permit. A licensed dentist who wishes to operate a mobile dental clinic shall apply to the board for a permit on an application form to be provided by the board and by providing evidence of compliance with the requirements of this section and paying all appropriate fees.

C. Exempt from the requirements of this rule are all federal, state, or local governmental agencies.

D. Requirements

1. The applicant shall certify that:

a. there is a written agreement for emergency follow-up care for patients treated in the mobile dental clinic and that such agreement includes identification of and arrangements for treatment in a dental facility which is permanently established in the immediate area. Such agreement shall be filed with the initial application and all subsequent renewals thereof;

b. the mobile dental clinic has communication facilities which will enable the operator thereof to contact necessary parties in the event of a medical or dental emergency;

c. the mobile dental clinic conforms to all applicable federal, state, and local laws, regulations, and ordinances dealing with radiographic equipment, flammability, construction, sanitation, zoning, and Federal Centers for Disease Control Guidelines and the applicant possesses all applicable parish and city licenses or permits to operate the unit.

2. The applicant shall maintain an official business or mailing address of record which shall not be a post office box and which shall be filed with the board. The board shall be notified within 30 days of any change in the address of record. All written or printed documents available from or issued by the mobile dental clinic shall contain the official address of record for the mobile dental clinic. When not in transit, all dental and official records shall be maintained at the official office address of record.

3. Each mobile dental clinic shall:

a. have ready access to a ramp or lift;

b. have a properly functioning sterilization system;

c. have ready access to an adequate supply of potable water, including hot water;

d. have ready access to toilet facilities;

e. have a covered galvanized, stainless steel, or other non-corrosive metal container for deposit of refuse and waste materials;

f. prominently display all applicable licenses and permits in compliance with LAC 46:XXXIII.104.

4. The applicant shall identify and advise the board within 30 days of any personnel change relative to all licensed dentists, dental hygienists, laboratory technicians, and auxiliary personnel associated with the mobile dental clinic by providing their full name, address, telephone numbers, and license numbers where applicable.

5. The applicant shall provide the exact street address or location of each and every place within this state where the mobile or movable dental office will provide dental services, and the dates and times such services will be provided at each location. This notification shall be updated within 10 days of any addition or deletion of a location and shall be sent to the board in writing.

E. Transferability. A permit to operate a mobile dental clinic is not transferable.

F. Renewal. A permit to operate a mobile dental clinic expires at the same time as the permit holder's dental license. The permit holder may apply for renewal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1497 (August 1998).

### **§314. Provision of Dental Services at Locations Other Than Dental Office**

A. When dental services are provided by dental health care providers to patients in locations other than the dental health care provider's dental office, or an accredited hospital, the dental health care provider shall:

1. provide the exact street address or location of each and every place within the state where the dental health care provider provides dental services and notify the board, in writing, within 10 days of each addition or deletion of any such place; and maintain a schedule of all dates and times such services were provided at each location other than the dentist's primary office;

2. insure that all dental services are provided in a clean, sanitary place, and in compliance with Federal Centers for Disease Control guidelines;

3. certify that there is a written agreement for emergency follow-up care for patients treated at said locations and that said agreement includes identification of and arrangements for treatment in a dental facility which is permanently established in the immediate area.

B. If the dental services provided by the dental health care provider are in a nursing facility or other long-term health care facility, the dental health care provider must obtain from the director a certification, in writing, on a form to be provided by the board, that the facility has entered into the written agreement for emergency follow-up care referenced in §314.A.3 and that all dental services are being provided in a safe and sanitary facility, and in compliance with Federal Centers for Disease Control guidelines.

C. However, the requirements of this rule do not apply to dentists providing dental health care services at locations within their immediate area. For purposes of this rule immediate area is defined as within 25 miles from the dentist's office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 23:1525 (November 1997), amended LR 25:513 (March 1999), LR 27:1891 (November 2001).

**§316. Disclosure of Financial Interest by Referring Dental Health Care Provider**

A. This rule is authorized and mandated by R.S. 37:1744 and R.S. 37:1745 and a violation of § 316 will constitute a violation of either R.S. 37:776(A)(24) or R.S. 37:777(A)(18).

B. No dental health care provider shall make referrals outside the same group practice as that of the referring dental health care provider to any licensed health care facility, or provider of health care goods and services, including, but not limited to, providers of clinical laboratory services, diagnostic services, medicinal suppliers, and therapeutic services when the referring dental health care provider has a financial interest served by such referrals, unless in advance of any such referral, the referring dental health care provider discloses to the patient, in writing, the existence of such financial interest. Nothing herein shall be construed to allow any Louisiana dentist or dental hygienist to violate LSA-R.S. 37:776(A)(9) or 37:777(A)(15), which prohibits patient referrals in return for the payment of something of value, except as provided therein, whether or not the arrangement is first disclosed, in writing, to the patient.

C. *Financial Interest*—a significant ownership or investment interest established through debt, equity, or other means and held by a dental health care provider or a member of a dental health care provider's immediate family, or any form of direct or indirect remuneration for referral.

D. It shall be a violation of § 316 for any licensee to enter into any arrangement or scheme, including cross-referral arrangements, if the licensee knows, or should know, that he or she has a principal purpose of insuring referrals by the licensee to a particular entity, which referral, if made directly by the licensee, would be a violation of §316.

E. Notwithstanding any other law to the contrary, any dental health care provider who violates the provisions of §316 shall refund all such sums received in payment for the goods and services furnished or rendered without disclosure of financial interest. Such a refund shall be paid to the individual patient, third-party payor, or other entity which made the payment.

F. Any violation of §316 constitutes grounds for the suspension or revocation of a license in addition to any other fines or restrictions on a dental license commensurate with the circumstances.

G. A dental healthcare provider may make a referral of a patient outside the dental healthcare provider's group practice for provision of healthcare items or services by other healthcare providers in which the referring dental healthcare provider has a financial interest as defined in Subsection C of this section provided that the dental healthcare provider discloses in advance to the patient his/her financial interest. This disclosure must be in writing and shall be furnished to the patient, or the patient's authorized representative, prior to or at the time of making the referral, and shall include:

1. The dental healthcare provider's name, address, and telephone number;
2. The name and address of the healthcare provider to whom the patient is being referred by the dental healthcare provider;
3. The nature of the items or services which the patient is to receive from the healthcare provider to which the patient is being referred; and

4. The existence and nature of the dental healthcare provider's financial interest in the healthcare provider to which the patient is being referred.

H. The form of the disclosure required in this section may include a signed acknowledgment by the patient or the patient's authorized representative that the required disclosure has been given.

I. Notice to a patient given substantially in the form of "Disclosure of Financial Interest" form prescribed in the Appendix to this rule shall be presumptively deemed to satisfy the disclosure requirements of this section.

J. Proportionate Return on Investment Payments or distributions by an entity representing a direct return on investment based upon a percentage of ownership shall not be deemed a payment prohibited by R.S. 37:1745(B) or by § 316 of these rules, provided that:

1. the amount of payment to an investor in return for the investment interest is directly proportional to the amount or value of the capital investment (including the fair market value of any pre-operational services rendered) of that investor;

2. the terms on which an investment was or is offered to an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity must be no different from the terms offered to other investors;

3. the terms on which an investment was or is offered to an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity must not be related to the previous or expected volume of referrals, items or services furnished, or the amount of business otherwise generated from that investor to the entity;

4. there is no requirement that an investor make referrals to, be in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity as a condition for becoming or remaining an investor;

5. the entity or any investor does not market or furnish the entity's items or services to investors differently than to non-investors; and

6. the entity does not loan funds to or guarantee a loan for an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity if the investor uses any part of such loan to obtain the investment interest.

K. General Exceptions. Any payment, remuneration, practice or arrangement which is not prohibited by or unlawful under §1128B(b) of the Federal Social Security Act (Act), 42 U.S.C. §1320a-7b(b), as amended, with respect to health care items or services for which payment may be made under Title XVII or Title XIX of the Act, including those payments and practices sanctioned by the Secretary of the United States Department of Health and Human Services, through the Office of Inspector General, pursuant to §1128B(b) (3)(E) of the Act, through regulations promulgated at 42 C.F.R. §1001.952, as the same may hereafter be amended, shall not be deemed a payment prohibited by R.S. 37:1745(B) or by §316 of these rules with respect to health care items or services for which payment may be made by any patient or private or governmental payor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and mandated by R.S. 37:1744.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 23:1527 (November 1997), amended LR 25:512 (March 1999), LR 27:1891 (November 2001), LR 28: 1777 (August 2002).

### **§318. Patient's Records**

A. Upon written request from the patient or the patient's legal representative, each dentist shall furnish a copy of any of the patient's dental records maintained in the dentist's office within 15 days, exclusive of holidays or weekends, from the receipt of the request.

B. 1. The original dental records are the property of the dentist. However, the dentist may charge a reasonable copying charge not to exceed:

- a. \$1 per page for the first 25 pages;
- b. \$.50 per page for pages 26-500; and
- c. \$.25 per page thereafter

2. A handling charge not to exceed \$7.50, and actual postage may also be charged.

3. The dentist may also charge a reasonable fee for duplication of diagnostic materials.

C. Computerized records are acceptable provided they meet the following requirements.

1. Information entered must not be alterable and must include the date of data entry.

2. The system must not permit placement of a date different from the actual date of data entry.

3. The software vender certifies that the system meets these requirements.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8) and R.S. 40:1299.96.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1114 (June 1998), amended LR 28:1777 (August 2002).

### **§320 Required Inventories**

A. The purpose of Section 320 is to supplement R.S. 37:794, "Dispensing of Controlled Substances; Records."

B. All licensees handling controlled substances in Schedules I, II, III, IV, or V shall prepare a complete and accurate inventory of each such substance in his or her possession or under his or her control. All licensees will have records open for inspection by the Department of Health and Hospitals, the Drug Enforcement Administration, and the Louisiana State Board of Dentistry.

C. This inventory shall list a common or established name of each such controlled substance.

D. If the controlled substances are in dosage unit form, it will fully identify the form (e.g., amphetamine sulfate, 10 mg. tablets), and record the number of dosage units. If the controlled substance is in an ingredient in a powder, crystalline, liquid, bead, or other form, this inventory will fully identify the form (e.g., dextroamphetamine sulfate, elixir, 5 mg. per 5 ml.) and record the amount of each form.

E. This inventory shall be placed on the record separate from other business, professional, or required records. This record shall be prepared, dated, and signed by the dentist under whose control the controlled substances are placed.

F. The record shall be kept for a period of at least two (2) years from the date of preparation. Inventory records shall be prepared in accordance with the provisions of §320. F every two (2) years on the anniversary date of the initial inventory. These inventories may coincide with the dentist's regular fiscal inventory, provided that he maintains his records of receipt, distribution, and dispensing in such a manner as to facilitate complete accounting for his or her handling of controlled substance (perpetual inventory control).

G. Any dentist failing to comply with the above conditions shall be deemed to have violated R.S. 37:776(A)(24) and R.S. 37:794.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 25:512 (March 1999).

**Chapter 4. Fees and Costs**

**Subchapter A. General Provisions**

**§401. Scope of Chapter**

A. The rules of this Chapter prescribe the fees and costs payable to and recoverable by the board with respect to the various services and functions performed by the board for or on behalf of the applicants for licensure, certification or registration, the holders of licenses and certificates issued by the board and the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:791 (November 1988).

**§403. Form of Payment Required**

A. Payment to the board of any fees or costs in excess of \$200 shall be made in the form of a certified check, cashier's check or money order. Other payments to the board of fees or costs shall be made in the form of a check drawn on an account located in Louisiana, a certified check, a cashiers check or a money order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:791 (November 1988).

**§405. Payments Nonrefundable**

A. Except as may be expressly provided by these rules, all fees and costs paid to the board shall be nonrefundable in their entirety. All licenses renewed for two years shall be paid in full whether the licensee intends to retire within the two-year period or not.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:791 (November 1988), amended LR 24:1115 (June 1998).

**§407. Dishonored Checks**

A. In addition to the amount of fees and costs elsewhere prescribed in this Chapter, a handling fee of \$50 shall be payable to the board by any person who, in payment of fees or costs, tenders to the board any check or other instrument which is dishonored or marked as an NSF check by the financial institution against which it is written or drawn. The handling fee shall be paid to the board within the notified period of time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:791 (November 1988).

**§409. Term of License; Renewal**

A. All licenses shall be renewed annually or biennially and will expire on December 31 of each calendar year of the renewal period. All renewal license applications are to be mailed by the board to licensed dentists and dental hygienists at their last known mailing address as indicated in the board files.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:791 (November 1988), amended LR 23:1529 (November 1997).

**Subchapter B. General Fees and Costs**

**§411. Miscellaneous Fees and Costs**

A. For providing the services indicated, the following fees shall be payable in advance to the board:

- |     |   |          |
|-----|---|----------|
| 1.  | Photocopies of documents, per page  | \$ .50   |
| 2.  | Certification of document as true copy  | \$5.00   |
| 3.  | Certification of document as official record  | \$5.00   |
| 4.  | Certification of good standing for licensee   | \$25.00  |
| 5.  | Official list of all licensed dentists  | \$500.00 |
| 6.  | Official list of all licensed dental hygienists   | \$500.00 |
| 7.  | Up to one-half of an official list of all licensed dentists or all licensed dental hygienists | \$250.00 |
| 8.  | Handling and mailing costs, per page  | \$1.00   |
| 9.  | Bound copy of Dental Practice Act   | \$35.00  |
| 10. | Unbound copy of Dental Practice Act   | \$25.00  |

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 19:207 (February 1993), LR 28:1778 (August 2002).

**Subchapter C. Fees for Dentists**

**§413. Scope of Subchapter**

A. The rules of this Subchapter prescribe the fees and costs applicable to the licensing, certification and registration of dentists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:791 (November 1988).

**§415. Licenses, Permits, and Examinations (Dentist)**

A. For processing applications for licensure, permits, and examinations, the following non-refundable fees shall be payable in advance to the board:

1.	Examination and licensing of dental applicant	\$750.00
a.	Licensing of dental applicants who have successfully completed an examination administered by another jurisdiction which is accepted by the board	\$300.00
2.	Temporary dental license	\$100.00
3.	Issuance of a restricted dental license (excluding advanced education students and dental residents)	\$100.00
4.	Biennial renewal fee for dental license	\$400.00
5.	Annual renewal fee for restricted dental license (excluding advanced education students and dental residents)	\$150.00
6.	Replacement or duplicate license, certificate, temporary permit	\$50.00
7.	Delinquency fee in addition to renewal fee for any dental license	\$250.00
8.	Reinstatement of a license which has been suspended, revoked or which has lapsed by nonrenewal	\$500.00
9.	Restricted dental license, advanced education students and dental residents:	
a.	For period July 1-December 31	\$100.00
b.	For each full year (January 1-December 31)	\$200.00
c.	For period January 1-June 30	\$100.00
10.	Dental application and licensure by credentials (nonrefundable)	\$2,000.00
11.	Application and permitting for general or parenteral anesthesia permit	\$400.00
12.	Application and permitting for nitrous oxide permit	\$50.00
13.	Renewal of general sedation or parenteral anesthesia permit	\$200.00
14.	Renewal of nitrous oxide permit	\$50.00
15.	Biennial Application and permit for mobile or moveable dental office	\$400.00
16.	Criminal history background check	\$100.00
17.	Clinical licensing examination makeup fee per portion	\$150.00
18.	retired volunteer dental license	\$50.00
19.	application and permitting for enteral conscious sedation office permit	\$100.00
20.	application and permitting for enteral conscious sedation personal permit	\$100.00
21.	renewal of enteral conscious sedation permit for adult patients	\$50.00
22.	renewal of enteral conscious sedation permit for pediatric patients	\$50.00

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:795.

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1526 (November 1997),

LR 24:1115 (June 1998), LR 25:1478 (August 1999), LR 26:691 (April 2000), LR 28:1778 (August 2002), LR 32:243 (February 2006), LR 33:846 (May 2007).

**Subchapter D. Fees for Dental Hygienists**

**§417. Scope of Subchapter**

A. The rules of this Subchapter prescribe the fees and costs applicable to the licensing, certification and registration of dental hygienists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988).

**§419. Licenses, Permits and Examinations (Dental Hygienists)**

A. For processing applications for licensure, permits, and examinations, the following fees shall be payable in advance to the board:

- |     |   |          |
|-----|---|----------|
| 1.  | Examination and licensing of dental hygienist applicant   | \$250.00 |
| a.  | Licensing of dental hygiene applications who have successfully completed an examination administered by another jurisdiction which is accepted by the board | \$150.00 |
| 2.  | Temporary dental hygienist permit   | \$100.00 |
| 3.  | Biennial renewal fee for dental hygienist license   | \$150.00 |
| 4.  | Replacement or duplicate dental hygienist license, certificate, temporary permit  | \$50.00  |
| 5.  | Delinquency fee in addition to renewal fee for any dental hygienist license   | \$100.00 |
| 6.  | Reinstatement of a dental hygienist license which has been suspended, revoked, or which has lapsed by nonrenewal  | \$250.00 |
| 7.  | Dental hygiene application and licensure by credentials (nonrefundable)   | \$800.00 |
| 8.  | Examination and permitting of dental hygiene applicants for administration of local anesthesia  | \$ 50.00 |
| 9.  | Renewal fee for dental hygienists administration of local anesthesia  | \$50.00  |
| 10. | Criminal history background check   | \$100.00 |
| 11. | Clinical licensing examination makeup fee per portion   | \$50.00  |

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (8) , R.S. 37:768, and R.S. 37:795.

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1527 (November 1997), LR 24:1115 (June 1998), LR 25:1478 (August 1999), LR 26:691 (April 2000), LR 28:1778 (August 2002), LR 32:243 (February 2006), LR 33:846 (May 2007).

**Subchapter E. Fees for Expanded Duty Dental Assistant**

**§420. Certificate Confirmation and Reconfirmation Fees**

A. For processing applications for certificate confirmations, the following fees shall be payable in advance to the board:

- |    |  |         |
|----|--|---------|
| 1. | Initial certificate confirmation fee   | \$25.00 |
| 2. | Certificate reconfirmation fee (not more than once every three calendar years) | \$25.00 |

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:207 (February 1993).

**Subchapter F. Adjudication Proceedings Costs**

**§421. Subpoenas**

A. For issuance of a subpoena or subpoena duces tecum with respect to an administrative hearing, a fee of \$15.00 shall be payable by the respondent to the board, but not by the board, in addition to the witness fees prescribed by law. [see R.S. 49:956(5)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:791 (November 1988), amended LR 25:509 (March 1999).

## **Chapter 5. Dental Assistants**

### **§501. Authorized Duties**

A. A dental assistant is one who is employed by and works in the office of a licensed, practicing dentist and performs the duties authorized by the Louisiana State Board of Dentistry under the direct on-premises supervision, direction and responsibility of the dentist.

B. A dental assistant may only perform the following under the direct on-premises supervision of the dentist who employs her or him as directly ordered by the dentist:

1. serve as the dentist's chair side assistant;
2. take and develop dental radiographs and intra-oral photographs;
3. take and record pulse, blood pressure and temperature;
4. apply:
  - a. non-aerosol topical anesthetics;
  - b. topical fluorides following prophylaxis by a dentist or dental hygienist;
  - c. desensitizing agents;
  - d. non-endodontic oxygenating agents;
5. chart existing restorations and missing teeth, floss teeth and make preliminary inspections of the mouth and teeth with a mouth mirror and floss only;
6. give intra-oral instructions and demonstrations on oral hygiene procedures;
7. receive removable prostheses for cleaning or repair work;
8. remove cement from dental restorations and appliances, with hand instruments, limited to the clinical crown;
9. make dental plaque smears;
10. place or remove preformed crowns or bands for determining size only when recommended by the dentist and only under his or her supervision;
11. place or remove ligatures, cut and tuck ligatures, remove tension devices and any loose or broken bands or arch wires;
12. place a removable retaining device in the mouth of a patient;
13. remove final impressions;
14. apply and remove rubber dams;
15. make preliminary study model impressions and opposing model impressions;
16. fabricate and remove interim crowns or bridges (interim meaning temporary while permanent restoration is being fabricated);
17. condition teeth prior to placement of orthodontics bands or brackets;
18. place or remove temporary orthodontic separating devices;
19. remove sutures, post-extraction dressing and surgical ligature ties
20. Exception: A dental assistant who has been employed by a licensed, practicing dentist and has worked as a dental assistant prior to July 30, 1992, may continue performing the following duties without registering as an expanded duty dental assistant. These duties must also be performed under the direct, on-premises supervision of the dentist:
  - a. apply cavity liners, excluding capping of exposed pulpal tissue;
  - b. place, wedge or remove matrices for restoration by the dentist;
  - c. place and remove periodontal dressings;
  - d. place and remove retraction cords.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:760(8).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Dentistry (October 1970), amended LR 2:186 (June 1976), LR 7:586 (November 1981), amended by Department of Health and Hospitals, Board of Dentistry, LR 15:965 (November 1989), LR 16:505 (June 1990), LR 19:205 (February 1993), LR 32:243 (February 2006)

### **§502. Authorized Duties of Expanded Duty Dental Assistants**

A. A person licensed to practice dentistry in the state of Louisiana may delegate to any expanded duty dental assistant any chairside dental act that said dentist deems reasonable, using sound professional judgment. Such act must be performed properly and safely on the patient and must be reversible in nature. Furthermore, the act must be under the direct supervision of the treating dentist. However, a dentist may not delegate to an expanded duty dental assistant:

1. periodontal screening and probing, or subgingival exploration for hard and soft deposits and sulcular irrigations;
2. the removal of calculus, deposits or accretions from the natural and restored surfaces of teeth or dental implants in the human mouth using hand, ultrasonic, sonic, or air polishing instruments;
3. root planing or the smoothing and polishing of roughened root surfaces using hand, ultrasonic, or sonic instruments;
4. placement and removal of antimicrobial agents;
5. comprehensive examination or diagnosis and treatment planning;
6. a surgical or cutting procedure on hard or soft tissue including laser and micro abrasion reduction of tooth material;
7. the prescription of a drug, medication, or work authorization;
8. the taking of an impression for a final fixed or removable restoration or prosthesis;
9. the final placement and intraoral adjustment of a fixed appliance;
10. the final placement and intraoral or extraoral adjustment of a removable appliance;
11. the making of any intraoral occlusal adjustment;
12. the performance of direct pulp capping or pulpotomy;
13. the placement or finishing of any final restoration;
14. the final placement of orthodontic bands or brackets except in indirect bonding procedures in which the dentist has either performed the final placement of the brackets on the model or when the dentist has written a detailed prescription to the laboratory for placement of the bracket;
15. the administration of a local anesthetic, parenteral, intravenous (IV), inhalation sedative agent or any general anesthetic agent.

B. The delegating dentist shall remain responsible for any dental act performed by an expanded duty dental assistant.

C. Certified expanded duty dental assistants may not hold themselves out to the public as authorized to practice dentistry or dental hygiene.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:205 (February 1993), amended LR 21:569 (June 1995), LR 22:1217 (December 1996), LR 24:1115 (June 1998), LR 25:1476 (August 1999), LR 26:1612 (August 2000), repromulgated, LR 27:1894 (November 2001).

### **§503. Guide to Curriculum Development for Expanded Duty Dental Assistants**

A. Cognitive Objectives. Before becoming registered to perform expanded duty dental assistant functions, dental assistants should be tested on the reasons for doing these procedures, the criteria for correct performance of these procedures, and the effects of improper performance of these procedures. The dental assistant shall be familiar with the state Dental Practice Act and the rules and regulations governing dental auxiliaries. This testing shall be included within at least 30 hours of instruction.

B. The following is a model outline for the expanded duty dental assistant course. The hours are to be allocated by the instructor in accordance with current law:

1. introduction: what is an expanded duty dental assistant?;
2. jurisprudence: legal duties of auxiliaries; limitation of auxiliary services; responsibility of dentists for all service provided under dentist's supervision; responsibility of auxiliaries to perform only those functions that are legally delegated; penalties for violation of Dental Practice Act; and mechanism to report to the board violations of dentists and/or auxiliaries;
3. infection control and prevention of disease transmission; dental assistants' responsibilities in upholding universal barrier techniques; and OSHA rules;
4. handling dental emergencies;
5. charting;
6. oral anatomy; morphology of the teeth; and medical and dental history for the dentist's review (vital signs, drug evaluation, medical laboratory reports, ascertaining the patient's chief dental problem);
7. overview of dental materials: cavity liners, temporary crown materials, periodontal dressings, post-surgical packs and acid-etch materials;
8. coronal polishing: rationale, materials, techniques and contraindications;
9. lab on coronal polishing and performance evaluation; half of the lab period shall be spent practicing on typodonts while the second half shall be spent practicing on partners;
10. lecture on use of gingival retraction cords; types of cords placement; and removal of cords;

11. lab on placement and removal of retraction cords; and performance evaluation-lab period shall be practicing on mannequins;

12. lab on placement of cavity liners; placement of temporary restorations; fabrications and placement of temporary crowns; placement of periodontal dressings; placement of post-surgical packs; performance of acid-etch techniques; placement and removal of wedges and matrices; and performance evaluation;

13. lecture on monitoring nitrous oxide/oxygen (N<sub>2</sub>O/O<sub>2</sub>) sedation;

14. Cardiopulmonary Resuscitation Course "C," Basic Life Support for Health Care Providers as defined by the American Heart Association or the Red Cross Professional Rescue Course; this course may count for three hours of instruction provided this course has been successfully completed within six months prior to certification;

15. clinical exam instructions;

16. clinical and written exams;

17. lecture on the placement of pit and fissure sealants;

18. Lab on placement of pit and fissure sealant; performance evaluation lab shall be practicing on typodonts.

C. All applicants for expanded duty dental assistant certificate confirmation must successfully complete a course in x-ray function and safety approved by the Louisiana State Board of Dentistry. Any dental assistant who may have been grandfathered in 1984 with the amendment to R.S. 37:792 must still take a radiology course as described herein in order to seek the certificate confirmation as an expanded duty dental assistant.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:205 (February 1993), amended LR 22:22 (January 1996), LR 24:1115 (June 1998), LR 26:1613 (August 2000), repromulgated, LR 27:1894 (November 2001).

#### **§504. Authorized Providers of Instruction for Expanded Duty Dental Assistant Courses**

A. Louisiana State University School of Dentistry and University of Louisiana at Monroe School of Dental Hygiene; or

B. Louisiana state schools of allied health science including vocational technical schools in affiliation with Louisiana State University School of Dentistry and University of Louisiana Monroe School of Dental Hygiene; or

C. Designated dentists, and/or dental hygienists, and/or EDDAs under the direction of the institutions listed in §504.A and B provided they have been legally trained to serve as instructors and have had a minimum of five years experience as a dental assistant;

D. The board reserves the right to randomly monitor any and all courses given under Chapter 5.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:205 (February 1993), amended LR 25:510 (March 1999), LR 28:1778 (August 2002).

#### **§505. Expanded Duty Dental Assistant Certificate Confirmation Fee and Reconfirmations**

A. Expanded duty dental assistants shall be charged an initial certification confirmation fee. A certificate reconfirmation fee shall be renewed no more than once in every three calendar years. Said fees shall be determined according to Chapter 4 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:206 (February 1993).

#### **§507. High School Diploma Requirement**

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1116 (June 1998).

#### **§508. Dental Assistants Graduating from Dental Assisting Schools Approved by the Commission on Dental Accreditation**

A. Since the inception of R.S. 37:751 (A) (6) defining an expanded duty dental assistant as a graduate from a dental assisting program accredited by the Commission on Dental Accreditation of the American Dental Association, many changes in technology and dental materials have taken place, and in the interests of the protection of the public those persons seeking expanded duty dental assistant status and who have graduated from CODA accredited schools, must comply with the following:

1. Present satisfactory documentation from their dental assisting school evidencing training in all functions which expanded duty dental assistants are allowed to perform. If their training is inadequate, they must undergo remediation in a program approved by the board; or
2. Complete a full expanded duty dental assistant program approved by the Louisiana State Board of Dentistry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 28:1778 (August 2002).

**§ 512. Sanctions**

A. Any dental assistant or expanded duty dental assistant who administers nitrous oxide inhalation anesthesia is subject to severe sanctions for practicing dentistry without a license. The dentist under whose instructions he or she performed the procedure will be subject to severe sanctions up to and including revocation of his or her dental license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR27:1892 (November 2001).

**Chapter 6. Dentists Employing Nurses**

**§601. Authorized Duties**

A. A dentist employing a registered nurse may assign any duty which the nurse is not prohibited from performing under: (1) the Nurse Practice Act, R.S. 37:911, et seq.; or (2) the Dental Practice Act, R.S. 37:751, et seq., as either may be amended from time to time.

B. Nothing herein contained shall be construed as empowering the Louisiana State Board of Dentistry to regulate nurses or the practice of nursing.

C. In the event of any conflict between the provisions of this rule and the provisions of the Nurse Practice Act, the provisions of the Nurse Practice Act shall prevail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Board of Dentistry, LR 16:507 (June 1990).

## Chapter 7. Dental Hygienists

### §701. Authorized Duties

A. Dental hygienists are expressly authorized to perform the procedure referred to as an *oral prophylaxis*, which is defined as the removal of plaque, calculus and stains from the exposed and unexposed surfaces of the teeth by scaling and polishing as a preventive measure for the control of local irritational factors.

B. A person licensed to practice dentistry in the state of Louisiana may delegate to any dental hygienist any chairside dental act which said dentist deems reasonable, using sound professional judgment. Such act must be performed properly and safely on the patient. Furthermore, the act must be under the direct on-premises supervision of the treating dentist. However, dental hygienists who perform authorized duties in any public institution or school may perform authorized duties under the general supervision of a licensed dentist. A dentist may not delegate to a dental hygienist:

1. comprehensive examination or diagnosis and treatment planning;
2. a surgical or cutting procedure on hard or soft tissue including laser and micro abrasion reduction of tooth material;
3. the prescription of a drug, medication, or work authorization;
4. the taking of an impression for a final fixed or removable restoration or prosthesis;
5. the final placement and intraoral adjustment of a fixed appliance;
6. the final placement and intraoral or extraoral adjustment of a removable appliance;
7. the making of any intraoral occlusal adjustment;
8. the performance of direct pulp capping or pulpotomy;
9. the placement or finishing of any final restoration except for the polishing of an amalgam restoration;
10. the final placement of orthodontic bands or brackets except in indirect bonding procedures in which the dentist has either performed the final placement of the brackets on the model or when the dentist has written a detailed prescription to the laboratory for placement of the bracket; and
11. the administration of parenteral, intravenous (IV), inhalation sedative agent, or any general anesthetic agent.

C. The delegating dentist shall remain responsible for any dental act performed by a dental hygienist.

D. Registered dental hygienists may not hold themselves out to the public as authorized to practice dentistry.

E. In accordance with Act 744 of the regular session of the Louisiana Legislature, effective June 29, 2006, dental hygienists may work under the general supervision of dentists licensed to practice in the state of Louisiana.

F. Under general supervision, a dental hygienist may provide to patients of record, for not more than five consecutive business days, all dental hygiene services (except local anesthesia and root planning which must be under direct supervision) if all of the following conditions are satisfied:

1. The dental hygienist has at least three years, or an equivalent amount of experience, in the practice of dental hygiene;
2. the dental hygienist has current CPR certification and complies with the established protocols for emergencies which the supervising dentist has established;
3. The supervising dentist has examined the patient of record not more than nine months prior to the date that the dental hygienist provides the dental hygiene services;
4. The dental hygienist provides dental hygiene services to the patient of record in accordance with a written treatment protocol prescribed by the supervising dentist for the patient;
5. The patient of record is notified in advance of the appointment that the supervising dentist will be absent from the location;
6. No licensed dental hygienist, under general supervision, may delegate or supervise any dental hygiene duties for an expanded duty dental assistant; and
7. The dentist is responsible for all actions of the dental hygienist during treatment of patients under general supervision.

G. The following limitations also apply to the practice of dental hygiene under general supervision:

1. No entity other than a public institution or school supervised by a Louisiana licensed dentist, or an office owned by a dentist or group of dentists licensed in Louisiana, may employ dental hygienists to provide treatment for patients of record under general supervision.
2. No duly licensed and registered dentist shall supervise more than two dental hygienists under general supervision at any one time.
3. No duly licensed and registered dentist shall supervise a dental hygienist for more than five consecutive business days or for more than 20 total days in any calendar year.

4. No patient can be seen twice consecutively under general supervision.
5. An examination fee must not be charged if a patient is seen under general supervision.
6. No person shall practice dental hygiene in a manner which is separate or independent from a supervising dentist, or establish or maintain an office or a practice that is primarily devoted to providing dental hygiene services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:791 (November 1988), amended LR 15:965 (November 1989), LR 19:206 (February 1993), LR 22:22 (January 1996), LR 22:1217 (December 1996), LR 24:1116 (June 1998), LR 27:1892 (November 2001), LR 32:2056 (November 2006).

**§703. Address of Employment and Mailing Address**

A. Each dental hygienist shall inform the Louisiana State Board of Dentistry of his or her official mailing address and all office addresses at which the dental hygienist is employed as a dental hygienist and the name of the employing dentist. Failure of a dental hygienist to notify the board within 30 days of a change in the mailing address or address of employment as a dental hygienist and the name of the new employing dentist will result in the imposition of any one or more of the penalties set forth in R.S. 37:780(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 15:966 (November 1989), amended LR 31:927 (April 2005).

**§705. Prohibition Against Illegal Conduct by Dental Hygienists**

A. Dental hygienists are prohibited from engaging in any conduct, in connection with their practice of dental hygiene, which is prohibited by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:791 (November 1988).

**§706. Requirements of Applicants for Licensure by Credentials (Hygienists)**

A. Before any applicant is awarded a license according to his/her credentials in lieu of an examination administered by the board, said applicant shall provide to the board satisfactory documentation evidencing that he/she:

1. has satisfactorily passed an examination administered by the Louisiana State Board of Dentistry testing the applicant's knowledge of the Louisiana Dental Practice Act and the jurisprudence affecting same;
2. is currently licensed in another state as defined in R.S. 37:751 A(1);
3. Has been in active practice or full-time dental hygiene education for a minimum of one year immediately prior to applying for licensure;
  - a. The requirement of practicing full-time as a dental hygienist at a minimum of one thousand hours per year for the preceding year may be waived if the applicant agrees to teach full-time for two years in an accredited dental education program within the state of Louisiana. However, this license shall be rescinded should the dental hygienist fail to complete his or her two year agreement with the school or institution.
4. is endorsed as being in good standing by the State Board of Dentistry in the state of current practice and all prior states of licensure and practice;
5. has not failed the clinical examination of the Louisiana State Board of Dentistry within the proceeding ten years;
6. has never been convicted of a felony or a misdemeanor involving moral turpitude including, but not limited to, driving while under the influence of alcohol or drugs;
7. has no pending criminal charges against him/her;
8. has never been charged with and found guilty of or entered into a consent decree with any state board of dentistry within the previous five years before applying for licensure by credentials to any charge affecting his/her ability to practice dental hygiene or showing evidence of unprofessional conduct;
9. has paid all costs and fees (nonrefundable);
10. has fully completed required application form with all supporting data and certification of competency and good character;
11. has appeared for a personal interview before the board;
12. has submitted two recent passport type color photographs;
13. has all units of time accounted for;

14. has provided true copy of diploma(s) and/or national board examination grades and transcript of dental hygiene school grades;

15. has furnished three current letters of recommendation from professional associates, i.e., associations, boards, or prior employers listed on application for licensure on letterhead stationery from said organization;

16. possesses a current certificate in Cardiopulmonary Resuscitation Course "C", Basic Life Support for Health Care Providers as defined by the American Heart Association or the Red Cross Professional Rescue Course;

17. is a citizen or permanent resident of the United States unless otherwise prohibited by the North American Free Trade Agreement;

18. is free of any communicable or contagious disease, including but not limited to Human Immunodeficiency Virus, Hepatitis B Virus, and Hepatitis C Virus, and provide a notarized certificate of health from a medical doctor relative to his/her physical and mental condition;

19. has completed continuing education equivalent to the state of Louisiana's for the two years prior to applying for licensure by credentials.

B. The applicant must also:

1. show or provide a sworn affidavit that there are no unresolved complaints against him/her;

2. show that his/her professional liability insurance has never been revoked, modified, or nonrenewed.

C. Applicants must also meet those requirements set forth in R.S. 37:764 and LAC 46:XXXIII.103.

D. Further, applicants must be in compliance with or not found guilty of any violations of R.S. 37:775 and/or R.S. 37:777.

E. Regardless of the applicant's compliance with the foregoing requirements, the board may refuse to issue a dental or dental hygiene license based on the applicant's credentials for any reason listed in R.S. 37:775 or R.S. 37:777.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8) and R. S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:737 (July 1992), amended LR 21:570 (June 1995), LR 22:23 (January 1996), LR 24:1117 (June 1998), LR 25:513 (March 1999), LR 26:692 (April 2000), LR 26:1613 (August 2000), repromulgated LR 27:1894 (November 2001), amended LR 28:1778 (August 2002), LR 33:846 (May 2007).

#### **§707. Criteria to be Utilized to Determine Professional Competence, Conduct and Ethics of an Applicant Seeking Licensure by Credentials**

A. The following procedures shall be utilized by the board in determining the professional ability, conduct, and character of all applicants for a dental hygiene license in Louisiana by licensure by credentials:

1. information from the National Practitioner Data Bank and/or the American Association of Dental Examiners' Clearinghouse for Disciplinary Information;

2. questioning under oath;

3. results of peer review reports from constituent societies of the American Dental Hygienists' Association and the constituent societies of the American Dental Association in all states wherein the applicant is or has been licensed, and/ or federal dental hygiene services;

4. drug testing if reasonable cause is presented;

5. background check for criminal or fraudulent activities or conduct reflecting upon one's professional conduct or ability;

6. the board reserves the right to conduct investigations into any and all information provided to satisfy statutory or regulatory requirements for licensure by credentials. False or fraudulent statements or material omission will result in denial of licensure or suspension of licensure if discovered after issuance of a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:738 (July 1992).

#### **§708. Advertising by Dental Hygienists**

A. Dental hygienists may advertise their practice of dental hygiene provided it is in conjunction with advertising by a dentist who employs him or her. No individual advertisement by a dental hygienist is allowed.

B. Dental hygienists may use the appendage "R.D.H." or other degrees earned from accredited colleges or universities after their names. Fellowships, awards, membership in academies, or nondegreed boards may be spelled out in their entirety under one's name, but not appended to the name so as to avoid confusion to the consumer.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 22:23 (January 1996).

**§710. Administration of Local Anesthesia for Dental Purposes**

A. After satisfying the board of his or her competence to administer local anesthesia, a licensed dental hygienist may qualify for a special endorsement to administer local anesthesia for dental procedures under the direct on-premises supervision of a licensed dentist.

B. Competence to administer local anesthesia must be demonstrated to the board by successful completion of a course of study of at least 72 hours of instruction in a formal program in administration of local anesthesia sponsored by an institutional program accredited by the Commission on Dental Accreditation of the American Dental Association and approved by the board. A certificate of course completion and a copy of the syllabus must be submitted to the board for approval. The course must include didactic studies and clinical experience in the administration of long buccal, maxillary and mandibular infiltration anesthesia, mental block anesthesia, lingual nerve block, inferior alveolar nerve block anesthesia, medical history and physical evaluation of the patient, and the prevention, diagnosis, and management of medical emergencies which can be encountered in the dental patient. A minimum of 20 satisfactory injections is required.

C. The curriculum for required study must include, but is not necessarily limited to:

1. medical history evaluation procedures;
2. physical evaluation;
3. CPR certification in accordance with board rules;
4. understanding pharmacology of local anesthesia and vasoconstrictors;
5. local anesthesia, didactic, and clinical course:
  - a. anatomy of head, neck, and oral cavity as it relates to administering local anesthetic agents;
  - b. indications and contraindications for administration of local anesthesia;
  - c. selection and preparation of the armamentaria and record keeping for administering various local anesthetic agents;
  - d. medical and legal management complications;
  - e. recognition and management of post-injection complications and management of reactions to injections;
  - f. proper infection control techniques with regard to local anesthesia and proper disposal of sharps;
  - g. methods of administering local anesthetic agents with emphasis on:
    - i. Technique; (a). aspiration; (b). slow injection; and
    - ii. minimum effective dosage;
6. medical emergency, prevention, diagnosis, and management.

D. The applicant must pass the board approved written examination in the administration of local anesthesia, depending upon the circumstances, if deemed necessary by the board.

E. A dental hygienist who has been licensed and trained in a course equivalent to §710 (B) and (C) to administer local anesthesia in another state may qualify, at the discretion of the board, to be permitted to administer local anesthesia in Louisiana by presenting written documentation of such licensure and training to the board and documentation of experience in the previous two years and by gaining approval of the board through the interview process. Factors to be considered are whether the dental hygienist had satisfactorily completed a course at a dental hygiene school approved by the Commission on Dental Accreditation or by having successfully completed a continuing education course in local anesthesia comparable to the requirements set forth in Section 710 (B) and (C).

F. The permit to administer local anesthesia shall expire with the expiration of the dental hygienist's license to practice dental hygiene.

G. A licensed dental hygienist who has demonstrated competence to the satisfaction of the board may qualify for a special endorsement and may undertake the administration of local anesthesia by:

1. providing satisfactory documentation via affidavit provided by the board evidencing the administration of local anesthesia for a period of not less than six months upon a minimum of fifty patients with no adverse complications;
2. substantiating the adequacy of training via affidavit provided by the board in the administration of local anesthesia; and
3. agreeing in writing via affidavit provided by the board to administer local anesthesia as provided by these rules.

H. Any hygienist who is not certified by the state of Louisiana in local anesthesia and who performs such a procedure is subject to severe sanctions up to and including revocation of his/her license. The dentist under whose instructions he/she performed the procedure will be subject to severe sanctions up to and including revocation of the dentist's license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1292 (July 1998), amended LR 25:1476 (August 1999), LR 26:1613 (August 2000), repromulgated LR 27:1894 (November 2001), amended LR 27:1892 (November 2001), LR 28:1779 (August 2002), LR 30:2306 (October 2004), LR 33:847 (May 2007).

**§720. Sanctions**

Any dental hygienist who administers nitrous oxide inhalation anesthesia is subject to severe sanctions up to and including revocation of his/her license to practice dental hygiene. The dentist under whose instructions he/she performed the procedure will be subject to severe sanctions up to and including revocation of his/her dental license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 27:1892 (November 2001)

## **Chapter 9. Formal Adjudication**

### **§901. Scope of Chapter**

A. The rules of Chapter 9 govern the board's initiation and adjudication of administrative complaints providing cause under law for the suspension or revocation, of a license issued by the board, imposition of probation on or other disciplinary action against persons holding licenses, permits, certifications, or registrations issued by the board, applicants therefor, or any non-licensed person illegally practicing dentistry or dental hygiene. The rules of Chapter 9 are promulgated in order to supplement the provisions of the Administrative Procedure Act, R.S.49:950 et seq., and the Dental Practice Act, R.S. 37:751 et seq.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760 (4), (5), and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Dentistry, LR 13:178 (March 1987), amended by the Department of Health and Hospitals, Board of Dentistry, LR 19:1317 (October 1993), amended LR 25:511 (March 1999).

### **§903. Initiation of Proceedings**

A. When determined by the president that a formal adjudication is warranted, proceedings to adjudicate an administrative enforcement action shall be initiated by providing notice of the charges against the licensee in accordance with §905 of this Chapter by service provided by any means authorized by the Administrative Procedure Act or the Louisiana Code of Civil Procedure. This notice may be signed by either the president or a board member or employee designated by the president. Said notice shall name the accused licensee as respondent.

B. Prior to the initiation of formal proceedings, the board shall, send correspondence to the licensee setting forth facts constituting legal cause under the law for administrative action and the statutory and/or regulatory provisions alleged to have been violated by the licensee. The correspondence shall be sent by certified, return receipt requested mail as well as by regular first class mail, or by any other means authorized by the Administrative Procedure Act or the Louisiana Code of Civil Procedure at the licensee's most current address as reflected in the official records of the board advising the licensee that he is being offered an opportunity to participate in an informal conference with a dentist(s) board member(s) to show compliance with all lawful requirements for the retention of his license in conformity with R.S. 49:961(C), that he may request a record be made at his expense, and that he has a right to counsel. The licensee shall have 10 calendar days from receipt of notice to advise the board whether he wishes to participate in such a meeting and whether he wishes a record be made of such a meeting. Said meeting shall be held no less than 10 days nor more than 30 days following receipt of said request by the board.

C. If the public health, safety, and/or welfare imperatively requires emergency action, the Board, through its President, may order an interim suspension of a dental or dental hygiene license pending formal disciplinary proceedings, as provided in R.S. 49:961(C). The President shall appoint one or more board members to hear the evidence in support of an immediate interim suspension and to make recommendations to the Board President, who shall thereafter issue whatever order of interim suspension pending formal adjudication as is warranted by the circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (4), (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1317 (October 1993), amended LR 22:1218 (December 1996), LR27:1892 (November 2001).

### **§905. Complaint**

A. The complaint shall set forth, in separately numbered paragraphs, a concise statement of the material facts and matters alleged and to be proven by the board including the facts giving rise to the board's jurisdiction over the respondent, the facts constituting legal cause under law for administrative action against the respondent, and the statutory or regulatory provisions alleged to have been violated by respondent. The complaint shall conclude with a description of the administrative sanctions or other relief which may be imposed by the board and shall bear the name, address and telephone number of complaint counsel engaged by the board to prosecute the adjudication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4), (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry LR 19:1318 (October 1993).

### **§907. Notice of Hearing**

A. Upon the filing of an administrative complaint pursuant to §903 and §905 of this Chapter, the board shall schedule the complaint for hearing before the committee not less than 45 days nor more than 180 days thereafter; provided, however, that such time may be lengthened or shortened as the board determines may be necessary or appropriate to protect the public interest or upon motion of the complaint counsel or respondent pursuant to a showing of proper grounds. In the event that the respondent's license, permit, certification, or registration has been suspended by the board pending hearing, pursuant to R.S. 49:961(C), formal adjudication of the complaint shall be

noticed and scheduled not more than 45 days after the filing of the complaint; provided, however, that such time may be lengthened or shortened as the board determines may be necessary or appropriate to protect the public interest or upon motion of the complaint counsel or respondent pursuant to a showing of proper grounds.

B. A written notice accompanied by the complaint of the time, date, and place of the scheduled hearing regarding the matters set forth in the complaint shall be sent to the respondent by certified mail, return-receipt-requested mail, by first class mail at the most current address for the respondent reflected in the official records of the board, or served by any other means authorized by the Administrative Procedure Act or the Louisiana Code of Civil Procedure. This notice shall include a statement of the legal authority and jurisdiction under which the hearing is to be held and shall be accompanied by a certified copy of the administrative complaint. In the event respondent fails to answer within the prescribed time, or the time as extended, the factual allegations contained within the administrative complaint shall be deemed admitted and proven by clear and convincing evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1318 (October 1993), amended LR 22:25 (January 1996), LR 25:1476 (August 1999), LR 27:1892 (November 2001).

### **§909. Response to Complaint; Notice of Representation**

A. Within 15 days of service of the complaint, or such longer time as the committee, on motion of the respondent may permit, the respondent may answer the complaint, admitting or denying each of the allegations of fact and of law set forth therein. Any matters admitted by respondent shall be deemed proved and established for purposes of adjudication. In the event that respondent does not file a response to the complaint, all matters asserted therein shall be deemed admitted.

B. Any respondent may be represented in an adjudication proceeding before the board by an attorney at law duly admitted to practice in this state. Upon receipt of service of a complaint pursuant to this Chapter, or thereafter, a respondent who is represented by legal counsel with respect to the proceeding shall, personally or through such counsel, give written notice to the board of the name, address and telephone number of such counsel. Following receipt of proper notice of representation, all further notices, complaints, subpoenas, orders or other processes related to the proceeding shall be served on respondent through his or her designated counsel of record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4), (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1318 (October 1993), amended LR 27:1892 (November 2001).

### **§911. Pleadings; Motions; Service**

A. All pleadings, motions or other papers permitted or required to be filed with the board in connection with a pending adjudication proceeding shall be filed by personal delivery at or by mail to the office of the board and shall certify that, by the same method of delivery, the same be concurrently served upon complaint counsel designated by the complaint, if filed by or on behalf of respondent, or upon respondent, through counsel of record if any, if filed by complaint counsel.

B. All such pleadings, motions or other papers shall be submitted on plain white, letter size (8 ½ inches by 11 inches) bond, with margins of at least one inch on all sides and text double-spaced except as to quotations and other matters customarily single-spaced, shall bear the caption of the case as it appears on the complaint and shall include the certificate of the attorney or person making the filing that service of a copy of the same has been effected in the manner prescribed by §911.A.

C. The board may refuse to accept for filing any pleading, motion or other paper not conforming to the requirements of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4), (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1318 (October 1993).

### **§913. Prehearing Motions**

A. Motions for continuance of hearing, for dismissal of the proceeding and all other prehearing motions shall be filed not later than 30 days following service of the complaint on the respondent or 15 days prior to the hearing, whichever is earlier. Each prehearing motion shall be accompanied by a memorandum which shall set forth a concise statement of the grounds upon which the relief sought is based and the legal authority therefor. A motion may be accompanied by an affidavit as necessary to establish facts alleged in support of the motion. Within 10 days of the filing of any such motion and memorandum or such shorter time as the board may order, the board's president, through complaint counsel, may file a memorandum in opposition to or otherwise setting forth the board president's position with respect to the motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4), (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1318 (October 1993).

**§915. Motions for Continuance of Hearing**

A. A motion for continuance of hearing shall be filed within the delay prescribed by §913 of these rules, provided that the board may accept the filing of a motion for continuance at any time prior to hearing upon a showing of good cause not discoverable within the time otherwise provided for the filing of prehearing motions.

B. A scheduled hearing may be continued by the disciplinary hearing committee chairman (chairman) only upon a showing by respondent or complaint counsel that there are substantial legitimate grounds that the hearing should be continued balancing the right of the respondent to a reasonable opportunity to prepare and present a defense to the complaint and the board's responsibility to protect the public health, safety and welfare. Except in extraordinary circumstances evidenced by verified motion or accompanying affidavit, the board will not ordinarily grant a motion to continue a hearing that has been previously continued upon motion of the same party.

C. If an initial motion for continuance is not opposed, it may be granted by the executive director of the board, the board president or the chairman.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4), (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1319 (October 1993), amended LR 23:1528 (November 1997).

**§917. Disposition of Prehearing Motions**

A. Any prehearing motion for continuance of hearing shall be referred for decision to the chairman for ruling. The chairman, in his discretion, may refer any prehearing motion to the entire hearing panel for disposition, and any party aggrieved by the decision on a prehearing motion may request judicial review by the Civil District Court for the Parish of Orleans.

B. Prehearing motions shall ordinarily be ruled upon by the chairman or the hearing panel, as the case may be, on the papers filed, without hearing. On the written request of respondent or of complaint counsel, however, and on demonstration that there are good grounds therefor, the chairman may grant opportunity for hearing, by oral argument, on any prehearing motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4), (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1319 (October 1993).

**§919. Subpoenas for Hearing**

A. Upon request of the respondent or complaint counsel and in compliance with the requirements of this Section, the president, a board member or the executive director shall sign and issue subpoenas in the name of the board requiring the attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence at an adjudication hearing.

B. No subpoena shall be issued unless and until the party who wishes to subpoena the witness first deposits with the board a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671, in addition to those fees required by LAC 46:XXXIII.421. Witnesses subpoenaed to testify before the board only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examinations, and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witnesses as may be fixed by the hearing panel with reference to the value of the time employed and the degree of learning or skill required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1319 (October 1993), amended LR 22:25 (January 1996).

**§921. Prehearing Conference**

A. In any case of adjudication noticed for hearing, counsel for respondent and complaint counsel may agree, or the chairman may require, that a prehearing conference be held among such counsel, or together with the board's independent counsel appointed pursuant to §923(D) of this Chapter, for the purpose of simplifying the issues for hearing and promoting stipulations as to facts and proposed evidentiary offerings which will not be disputed at hearing.

B. Following such prehearing conference the parties shall, and without such conference the parties may by agreement, reduce to writing a prehearing stipulation which shall include:

1. a brief statement by complaint counsel as to what such counsel expects the evidence to be presented against respondent to show;

2. a brief statement by respondent as to what the evidence and arguments in defense are expected to show;
3. a list of the witnesses to be called by complaint counsel and by respondent, together with a brief general statement of the nature of testimony each such witness is expected to give;
4. any stipulations which the parties may be able to agree upon concerning undisputed claims, facts, testimony, documents, or issues; and
5. an estimate of the time required for the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4), (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1319 (October 1993).

### **§923. Conduct of Hearing; Record**

A. Unless otherwise requested by the respondent, adjudication hearings shall be conducted in closed session. The provisions of this paragraph do not apply to nonlicensed persons named defendant(s) in a disciplinary administrative adjudication.

B. At an adjudication hearing, opportunity shall be afforded to complaint counsel and respondent to present evidence on all issues of fact and argument on all issues of law and policy involved, to call, examine and cross-examine witnesses, and to offer and introduce documentary evidence and exhibits as may be required for a full and true disclosure of the facts and disposition of the complaint.

C. Unless stipulation is made between the parties, and approved by the chairman, providing for other means of recordation, all testimony and other proceedings of an adjudication shall be recorded by a certified stenographer who shall be retained by the board to prepare a written transcript of such proceedings.

D. During and before an adjudication hearing, the chairman shall rule upon all evidentiary objections and other procedural questions, but in his discretion may consult with the entire hearing panel in executive session. At any such time, the hearing panel may be assisted by legal counsel, retained by the board for such purpose, who is independent of complaint counsel and who has not participated in the investigation or prosecution of the case. If the board or hearing panel is attended by such counsel, the chairman may delegate to such counsel ruling on evidentiary objections and other procedural issues raised during the hearing.

E. The record in a case of adjudication shall include:

1. the administrative complaint and notice of hearing, respondent's response to the complaint, if any, subpoenas issued in connection with discovery in the case or hearing of the adjudication, and all pleadings, motions, and intermediate rulings;
2. evidence received or considered at the hearing;
3. a statement of matters officially noticed except matters so obvious that statement of them would serve no useful purpose;
4. offers of proof, objections, and rulings thereon;
5. proposed findings and exceptions, if any;
6. the decision, opinion, report or other disposition of the case made by the board.

F. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4), (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1319 (October 1993), amended LR 25:1477 (August 1999).

### **§925. Evidence**

A. In an adjudication hearing, the board, or the designated hearing panel thereof, may give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. Effect shall be given to the rules of privilege recognized by law. The board or hearing panel may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

B. All evidence, including records and documents in the possession of the board which complaint counsel desires the board to consider, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. The materials so incorporated shall be available for examination by the respondent before being received in evidence.

C. Notice may be taken of judicially cognizable facts and of generally recognized technical or scientific facts within the board's dental knowledge. The board's dental experience, technical competence and technical knowledge may be utilized in the evaluation of the evidence.

D. Any member of the board serving as chairman in an adjudication hearing shall have the power to and shall administer oaths or affirmations to all witnesses appearing to give testimony, shall regulate the course of the hearing, set the time and place for continued hearings, fix the time for the filing of briefs and other documents, if any are required or requested, may direct the parties to appear and confer to consider simplification of the issues, and shall rule upon all motions filed by respondent or the board after the filing of the initial complaint upon respondent.

E. Except as otherwise governed by the provisions of these rules, adjudication hearings before the board shall be governed by the Administrative Procedure Act insofar as the same may be applied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4), (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1320 (October 1993).

**§927. Informal Disposition**

A. The hearing panel may make informal disposition, by default, consent order, agreement, settlement, or otherwise of any adjudication pending before it. A consent order, agreement, or settlement shall be evidenced by a document which shall be reduced to writing, signed by the licensee, before two witnesses, and thereafter submitted to the board president for his signature. The approval of the agreement shall thereafter be placed on the agenda of the next board meeting, considered for ratification, and, if so ratified, be given full force and effect and become a final action by the board, as set forth in R.S. 37:780(B). If not ratified, it shall have no force and effect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4), (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1320 (October 1993).

**§929. Decisions; Notice**

A. The final decision of the board in an adjudication proceeding shall be in writing, include findings of fact and conclusions of law, and signed by the chairman on behalf and in the name of the board.

B. Upon issuance of a final decision, a certified copy thereof shall promptly be served upon respondent's counsel of record, or upon respondent personally in the absence of counsel, by first class mail. The day after mailing of the decision shall be considered as the date of service on the respondent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4), (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1320 (October 1993), amended LR 25:1477 (August 1999).

**§931. Rehearings**

A. A decision by the board in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the board pursuant to written motion filed with the board within 10 days from service of the decision on respondent. A motion for rehearing, reopening, or reconsideration shall be made and served in the form and manner prescribed by §911 and shall set forth the grounds upon which such motion is based, as provided by §931.B.

B. The board may grant rehearing, reopening, or reconsideration if it is shown that:

1. the decision is clearly contrary to the law and the evidence;
  2. the respondent has discovered since the hearing evidence important to the issues which he or she could not have with due diligence obtained before or during the hearing;
  3. other issues not previously considered ought to be examined in order to properly dispose of the matter;
- or;
4. there exists other good grounds for further consideration of the issues and the evidence in the public interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4), (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1320 (October 1993).

## **Chapter 10. Infectious Waste Management**

### **§1001. Handling and Disposing of Infectious Waste**

A. The Louisiana State Board of Dentistry has accepted, in principal, the July, 1988 recommendations of the American Dental Association, Division of Scientific Affairs, on Dental Office Infectious Waste Management and adopts the following regulations in connection therewith.

B. Wastes generated in a dental office which are to be considered infectious, and are to be handled and disposed of with special precautions, include the following:

1. sharp items, such as needles, disposable syringes and scalpel blades;
2. human tissues, including extracted teeth;
3. blood, suctioned fluids or other liquid waste.

C. The proper method for handling and disposing of sharp items is as follows.

1. All sharp items should be placed intact in puncture-resistant containers for disposal.
2. The containers should be labeled with a biological hazard tag.
3. The labeled containers should be placed in impervious plastic bags before disposing of them in a sanitary landfill. Alternatively, as an additional step, the dentist may prepare a slurry of gypsum plaster, pour it into the container and allow it to harden to encase the sharp objects in the set plaster. The container may then be disposed of in sturdy, impervious plastic bags as appropriate for other solid waste materials.

D. The proper method of handling and disposing of human tissues is as follows:

1. Human tissue may be handled in the same manner as sharp items.
2. Alternatively, human tissues may be incinerated or autoclaved prior to disposal. Extracted teeth containing metal restorations should not be autoclaved prior to disposal because of the possible release of potentially harmful vapors, such as mercury vapor.

3. Human tissues and extracted teeth not placed in a fixative and submitted for pathological examination may be placed in a chemical agent for sterilization.

4. Human tissue, if handled in the same manner as sharp items, should be labeled with a biological hazard tag. If stored prior to incineration or being autoclaved, the containers holding such wastes should also be labeled with biological hazard tags. After incineration or autoclaving, the remaining waste is no longer infectious and any container holding such remaining waste would not require any labeling as a biological hazard.

E. The proper method for handling and disposing of blood, suctioned fluids or other liquid waste is as follows:

1. Blood, suctioned fluids or other liquid wastes may be carefully poured into a drain connected to a sanitary sewer system.
2. All bottles or other containers used to collect blood, suctioned fluids or other liquid wastes for disposal should be labeled with a biological hazard tag or symbol.

F. Other solid waste materials contaminated with blood or other body fluids, such as gloves, masks, wipes, paper drapes and surface covers, do not require special precautions. These materials should be placed in sealed, sturdy, impervious plastic bags to prevent human contact with them, and disposal should be in the same manner as with other solid wastes.

G. All dentists shall comply with the foregoing regulations in identifying, handling and disposing of infectious waste material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Board of Dentistry, LR 16:506 (June 1990).

## **Chapter 11. Provisions for Informal Disposition of Complaints**

### **§1101. Implementation of the Dental Practice Act to the Extent that it Affects Administrative Procedures of the State Board of Dentistry Pertaining to Informal Disposition of Complaints**

A. The Dental Practice Act (R.S. 37:751 et seq.) mandates the Louisiana State Board of Dentistry to regulate the practice of dentistry in the state of Louisiana. Included within the powers and duties of the board is the provision that it shall investigate complaints of illegal practice when evidence is presented to the board (R.S. 37:760(7)). The board has utilized the Administrative Procedure Act (R.S. 49:950 et seq.) and sections of the Dental Practice Act (R.S. 37:778) in conducting formal disciplinary hearings. The board now wishes to adopt certain rules pertaining to informal resolution of complaints (as provided in R.S. 49:953 et seq.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Dentistry, LR 13:178 (March 1987), amended by the Department of Health and Hospitals, Board of Dentistry, LR 19:1321 (October 1993).

### **§1103. Initial Review of Complaints**

A. After receiving and reviewing the initial complaint against the dentist or dental hygienist, the board president may select informal resolution as opposed to formal adjudication of the complaint, which may include any grounds recited in R.S. 37:776 and 37:777 or any other section of the Dental Practice Act, as amended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1321 (October 1993).

### **§1105. Procedures**

A. The president may elect among the following informal resolution procedures.

1. Informal disposition number one (correspondence between board and licensee).

a. A letter is mailed to the licensee from the board, outlining the nature of the complaint and inviting the licensee's response. Upon evaluation of that response, the board, through its president and one other board member, may thereafter investigate the matter further or consider the matter unworthy of further investigation; however, the board is at no time prohibited by these rules from taking, at any time, whatever additional actions it deems appropriate.

b. If the matter is resolved then the disposition thereof shall be kept in the board's office for future reference purposes and the disposition may be treated as a final action by the board, as set forth in R.S. 37:780(B).

2. Informal disposition number two (conference between board members and licensee on a "dentist-to-dentist" basis).

a. The board shall send correspondence to the licensee outlining the nature of the complaint. The letter will inform the licensee that there is to be a conference, conducted informally, on a personal "dentist-to-dentist(s)" basis. The correspondence will also inform the licensee that his appearance is voluntary, that no record will be made of the conference, which records, if any, he is to produce at the conference and the date, time and location of the conference.

b. If the matter is not resolved to the satisfaction of all parties, then, after the board member(s) assigned to conduct the conference have reported to the president of the board, the latter may then recommend whatever further action, if any, he deems necessary.

c. If the matter is resolved, then the disposition thereof shall be kept at the board's office for future reference purposes and the disposition may be treated as a final action by the board, as set forth in R.S. 37:780(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1321 (October 1993).

### **§1107. Consent Decree**

A. After the commencement of informal resolution proceedings or formal adjudication proceedings, at any time, the board and the licensee may agree to settle or dispose of the matter by way of consent decree, evidenced by a document which shall be reduced to writing, signed by the licensee, before two witnesses, and thereafter submitted to the board president for his signature. The approval of the agreement shall thereafter be placed on the agenda of the next board meeting, considered for ratification, and, if so ratified, be given full force and effect and become a final action by the board, as set forth in R.S. 37:780(B). If not ratified, it shall have no force and effect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1321 (October 1993).

## **Chapter 12. Transmission Prevention of Hepatitis B Virus, Hepatitis C Virus, and Human Immunodeficiency Virus**

### **§1201. Scope of Chapter**

A. As authorized and mandated by R.S. 37:1747, the rules of this Chapter prescribe practice and reporting requirements for dental health care providers including, but not limited to, dentists and dental hygienists to protect the public from the risk of the transmission of the Hepatitis B virus (HBV), Hepatitis C virus (HCV), and the Human Immunodeficiency Virus (HIV) to patients.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:760(8) and R.S. 37:1747.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:741 (July 1992), amended LR 21:572 (June 1995).

### **§1202. Definitions**

A. As used in this Chapter, the following terms shall have the meanings specified:

*AIDS*—acquired immune deficiency syndrome, as determined by the Federal Centers for Disease Control.

*Board*—Louisiana State Board of Dentistry.

*Dental Health Care Provider*—any dentist, dental hygienist, or other personnel working under the supervision of a dentist in a dental health care setting who may perform exposure-prone procedures during patient care.

*Disinfect*—to inactivate virtually all recognized pathogenic microorganisms, but not necessarily all microbial forms (e.g. bacterial endospores) on inanimate objects.

*Exposure-Prone Procedure*—an invasive procedure in which there is an increased risk of percutaneous injury to the practitioner by virtue of digital palpation of a needle tip or other sharp instrument in a body cavity or the simultaneous presence of the practitioner's fingers and a needle or other sharp instrument or object in a poorly visualized or highly confined anatomic site, or any other invasive procedure in which there is a significant risk of contact between the blood or body fluids of the dental health care provider and the blood or body fluids of the patient.

*Function Ancillary to an Invasive Procedure*—the preparation, processing, or handling of blood, fluids, tissues or instruments which may be introduced into or come into contact with any body cavity, internal organ, subcutaneous tissue, submucosal tissue, mucus membrane or percutaneous wound of the human body in connection with the performance of an invasive procedure.

*HBV*—the Hepatitis B Virus.

*HBV Seronegative*—a condition where one has been HBV seropositive but is no longer infectious under the criteria of the Federal Centers for Disease Control or the Association of State and Territorial Public Health Laboratory Directors, or where one has never been infected with HBV.

*HBV Seropositive*—a condition where one has developed antigens sufficient to diagnosis seropositivity to HBV evidencing infectability under the criteria of the Federal Centers for Disease Control or the Association of State and Territorial Public Health Laboratory Directors.

*HCV*—the Hepatitis C virus.

*HCV Seronegative*—a condition where one has been HCV seropositive but is no longer infectious under the criteria of the Federal Centers for Disease Control or the Association of State and Territorial Public Health Laboratory Directors, or where one has never been infected with HCV.

*HCV Seropositive*—a condition where one has developed antigens sufficient to diagnose seropositivity to HCV evidencing infectability under the criteria of the Federal Centers for Disease Control or the Association of State and Territorial Public Health Laboratory Directors.

*HIV*—any strain of the human immunodeficiency virus.

*HIV Seropositive*—a condition where one has developed antibodies sufficient to diagnose seropositivity to HIV under the criteria of the Federal Centers for Disease Control or of the Association of State and Territorial Public Health Laboratory Directors.

*Invasive Procedure*—any surgical or other diagnostic or therapeutic procedure involving manual or instrumental contact with or entry into any blood, body fluids, cavity, internal organ, subcutaneous tissue, mucous membrane, or percutaneous wound of the human body.

*Sterilization*—the process by which all forms of microorganisms within an environment are totally destroyed.

*Universal Precautions*—those generally accepted infection control practices, principals, procedures, techniques and programs as recommended by the Federal Centers for Disease Control to minimize the risk of

transmission of HBV or HIV from a dental health care provider to a patient, from a patient to a dental health care provider, or from a patient to a patient, as such recommendations may be amended or supplemented from time to time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:741 (July 1992), amended LR 21:572 (June 1995).

### **§1203. Universal Precautions**

A. All dental health care providers who perform invasive procedures or perform functions ancillary to invasive procedures shall, in the performance of any such procedures or functions, strictly observe recognized universal precautions as currently recommended by the Federal Centers for Disease Control to minimize the risk of transmission of HBV, HCV or HIV.

B. In the event that the Federal Centers for Disease Control issue a new version of their recommendations for universal precautions, the board will take into consideration the nature of the changes to those recommendations and establish a reasonable period of time in which dental health care providers have to comply with any new or altered recommendations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:742 (July 1992), amended LR 21:572 (June 1995).

### **§1204. Investigations**

A. In order to ensure compliance with this Chapter, the board shall conduct random announced inspections upon providing 48 hour notice. Notice may be provided by verbal, written, telephone or with other telecommunication means. Refusal by any licensee of access to licensee's premises for the purpose of conducting said inspection shall constitute a violation of R.S. 37:776(A)(24) and R.S. 37:775(6).

B. Unannounced inspections of dental offices may be conducted when bona fide complaints have been received regarding non-adherence to Federal Centers for Disease Control guidelines or other issues involving sanitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:742 (July 1992), amended LR 30:2306 (October 2004).

### **§1205. Prohibitions and Restrictions**

A. Except as may be permitted pursuant to §1207(G) and §1210 of this Chapter, a dental health care provider who is seropositive for HBV, HCV, or HIV, or who otherwise knows or should know that he or she carries and is capable of transmitting HBV, HCV, and HIV, shall not thereafter perform or participate directly in an exposure-prone procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:742 (July 1992), amended LR 21:572 (June 1995).

### **§1207 Self-Reporting**

A. Any dental health care provider who in the course of practice may at any time undertake to perform or participate in an exposure-prone procedure and who is or becomes HBV seropositive, HCV seropositive, or HIV seropositive shall be required to give notice of such seropositivity to the board in accordance with the provisions of this Section.

B. Within 90 days of the effective date of this Chapter, any dental health care provider who has previously been verified as being HBV seropositive, HCV seropositive, or HIV seropositive shall give notice of such diagnosis to the board on a reporting form supplied by the board.

C. Within 10 days from the date on which a dental health care provider has been verified as being HBV seropositive, HCV seropositive, or HIV seropositive, the dental health care provider shall give notice of such diagnosis to the board on a reporting form supplied by the board which shall be mailed to the executive director of the board, marked "Personal and Confidential" by registered or certified mail.

D. An applicant for licensure as a dental health care provider who at the time of application is verified as being HBV seropositive, HCV seropositive, or HIV seropositive shall acknowledge such diagnosis in his or her written application to the board.

E. Aforementioned reporting forms will be provided to each licensee with his or her license and additionally with his or her biennial renewal license application, or upon request.

F. The seropositive dental health care provider must submit to evaluation within 15 working days of his notification by the board ordering said dental health care provider to be examined by experts selected by the board, and those experts must complete and submit their reports to the executive director of the board with 15 days following their examination.

G. Reports from two physicians and two laboratories evidencing change in the dental health care provider's serostatus shall be submitted to the executive director for the board evaluation of the change of serostatus when any dental health care provider previously verified as HBV seropositive or HCV seropositive who becomes HBV seronegative or HCV seronegative.

H. Any dental health care provider or applicant for licensure who is required under this Section to report his/her HBV, HCV, or HIV seropositive status and fails or neglects to provide notice as set forth in this Section shall be deemed in violation of R.S. 37:776(A)(1), (3), (7), (12), (16), (17), (20) and (24), and subject to sanctions associated therewith.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:743 (July 1992), amended LR 21:573 (June 1995) LR 28:1779 (August 2002).

#### **§1208. Confidentiality of Reported Information**

A. Reports and information furnished to the board pursuant to §1207 of this Chapter and records of the board relative to such information shall not be deemed public records, but shall be deemed and maintained by the board as confidential and privileged and shall not be subject to disclosure by means of subpoena in any judicial, administrative or investigative proceeding; provided that such reports, information and records may be disclosed by the board as necessary for the board to investigate or prosecute alleged violations of this Chapter.

B. The identity of the seropositive practitioner or applicant for licensure who has reported their status as being HBV, HCV, or HIV seropositive pursuant to §1207 of this Chapter shall be maintained in confidence by the board on all matters pertaining to the HBV, HCV, and HIV diseases, and shall not be disclosed to any other party, except as may be necessary in the investigation or prosecution of suspected violations of this Chapter, necessary for the evaluation and monitoring of the physical and psychological condition of the seropositive practitioner or applicant for licensure, or as allowed by R.S. 40:1300.14.

C. Provided that the identity of self-reporting practitioners and applicants seeking licensure is not disclosed, the provisions of this Section shall not be deemed to prevent disclosure by the board of statistical data derived from such reports, including, without limitation, the number and licensure class of those who have reported themselves as HBV, HCV, or HIV seropositive and their geographical distribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:743 (July 1992), amended LR 21:573 (June 1995).

#### **§1209. Advertisement of HBV, HCV or HIV Status Prohibited**

A. No licensee may advertise within the state of Louisiana his/her HBV, HCV or HIV status or whether the dental office or environment is free of HBV, HCV or HIV.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:743 (July 1992), amended LR 21:573 (June 1995).

#### **§1210. Authorization to Practice; Expert Review Panel**

A. Dental health care providers who are HBV, HCV or HIV seropositive shall not perform exposure-prone procedures unless and until they have provided proper notice as required by this Chapter; submitted to periodic physical and psychological evaluations by board-appointed expert review panel, and have received authorization to practice and perform procedures as determined by said appointed panel. The panel shall serve as a consultant on a case-by-case determination of whether a procedure, when performed by a particular dental health care provider, does not pose a danger to the public. The panel must timely report any adverse or detrimental changes in the physical or psychological condition of the dental health care provider to the board. Following receipt of any and all such reports, the board shall have the right and the duty to re-evaluate the authorized procedures being practiced by the dental health care provider and may revise same or revoke same in its entirety if said report shows a change in the dental health care provider's physical or psychological condition which may affect the safety of the public.

B. Upon receipt of an adverse report from the panel, the board must review and evaluate said report, within 15 days of receipt of same, and take any and all necessary action to protect the safety of the public.

C. Licensees who are HBV or HCV seropositive may be authorized to continue practice without the necessity of receiving authorization from an expert review panel. This determination will be made by the board's committee on HIV/HBV/HCV on a case-by-case determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:743 (July 1992), amended LR 21:573 (June 1995), LR 25:1477 (August 1999).

## **Chapter 13. Dental Laser and Air Abrasion Utilization**

### **§1301. Requirements**

A. A laser capable of the removal of hard or soft tissue may be employed in the treatment of a dental patient only by a licensed dentist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:334 (March 1993), amended LR 29:2074 (October 2003).

### **§1302. Procedures**

A. American National Standards Institute standards for laser safety must be followed.

B. Use of the laser must be in accordance with the scientifically accepted treatment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:334 (March 1993), amended LR 29:2074 (October 2003).

### **§1303. Approval of Training**

A. Prior to commencing use of the laser for dental purposes, a dentist must obtain appropriate training for the laser being utilized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:334 (March 1993), amended LR 29:2074 (October 2003).

### **§1305. Air Abrasion Units**

A. Utilization of air abrasion units by licensed dental hygienists and dental auxiliaries is prohibited. However, this does not prevent the utilization of air polishing units by licensed dental hygienists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:334 (March 1993), amended LR 24:1117 (June 1998), LR 25:1477 (August 1999), LR 26:1613 (August 2000), repromulgated LR 27:1894 (November 2001).

## **Chapter 14. Rulemaking, Declaratory Opinions and Rules**

### **§1401. Scope of Chapter**

A. The rules of this Chapter govern the board's processes to consider petitions from interested persons relative to the adoption, amendment, or repeal of a rule or the request for the issuance of a declaratory order or ruling in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1322 (October 1993), amended LR 24:1117 (June 1998), LR 25:1477 (August 1999).

### **§1403. Forms**

A. All petitions, whether requesting the adoption, amendment, repeal, applicability of a rule, statutory provision, or order of the board, or the request for the issuance of a declaratory order or ruling shall be submitted on plain white, letter size (8½" by 11") bond; with margins of at least 1 inch on all sides and text double-spaced except as to quotations and other matter customarily single-spaced; shall bear the name, address, and phone number of the person requesting the action; and shall also state the complete and full name of each person(s), organization, or entity the requestor represents along with sufficient information to identify and fully describe said person(s), organization, or entity.

B. The petition relative to rules shall fully and succinctly state the reasons for the requested action, and what results, if any, would be expected from such action, and an estimate of any expenditures or increases in revenue reasonably expected if said rule is adopted, amended, or repealed.

C. All petitions for declaratory orders or rulings shall set forth the specific statute or rule and the pertinent factual circumstances, as well as those reasons in support of or in opposition to the issue presented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1322 (October 1993), amended LR 24:1117 (June 1998), LR 25:1477 (August 1999)

### **§1405. Exceptions**

A. The board may refuse to accept for filing any petition not conforming to the requirements of this Section, except upon a showing of good cause by the requestor at the time the requestor's petition is received by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1322 (October 1993).

## **Chapter 15. Anesthesia/Analgesia Administration**

### **§1501. Scope of Chapter**

A. The rules of this Chapter govern the administration of anesthesia/analgesia by persons licensed to practice dentistry in the state of Louisiana to dental patients. The rules of this Chapter are promulgated in order to supplement the provisions of the Dental Practice Act, R.S. 37:751 et seq., particularly R.S. 37:793.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:658 (June 1994).

### **§1503. Nitrous Oxide Inhalation Analgesia**

A. No dentist shall use nitrous oxide inhalation analgesia unless said dentist has received authorization by the board evidenced by receipt of a permit from the board.

B. In order to receive authorization the dentist must show and produce evidence that he/she complies with the following provisions:

1. completion of a board-approved course which conforms to American Dental Association guidelines; and

2. provide proof of current certification in cardiopulmonary resuscitation, Course "C", Basic Life Support for the Health Care Provider as defined by the American Heart Association, or its equivalent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:658 (June 1994).

### **§1505. Conscious Sedation with Parenteral Drugs**

A. The Board shall issue two types of conscious sedation with parenteral drugs permits.

1. A "limited" permit will be issued to those dentists who qualify for such permit by meeting the minimal educational requirements specified in §1509. This permit will be limited to the administration of parenteral drugs via intramuscular (IM), submucosal (SM), intranasal (IN), and subcutaneous (SC) routes only.

2. A "full" permit will be issued to those dentists who qualify for such permit by meeting all minimal educational requirements specified in §1509.

B. In order to receive authorization the dentist must show and produce evidence that he/she complies with the following provisions:

1. completion of an advanced training program beyond the pre-doctoral dental school level accredited by the Commission on Dental Accreditation of the American Dental Association which includes anesthesiology and related academic subjects as required in §1505 of this Chapter; or

2. utilization of the services of a trained medical doctor, doctor of osteopathy trained in conscious sedation with parenteral drugs, certified registered nurse anesthetist, a dentist who has successfully completed a program consistent with Part II of the American Dental Association Guidelines on Teaching the Comprehensive Control of Pain and Anxiety in Dentistry, or a qualified oral and maxillofacial surgeon provided that said doctor or certified registered nurse anesthetist must remain on the premises of the dental facility until any patient given parenteral drugs is sufficiently recovered; or

3. successful completion of a board-approved continuing education course as described in Part III of the American Dental Association Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry provided the applicant has held a license to practice dentistry for a minimum of three years. The board has determined that 80 hours of clinical airway management would be a minimum to achieve competency as described in Part III of the previously mentioned guidelines.

C. In addition to the requirements of Subsection B of this Part the dentist must provide proof of current certification in cardiopulmonary resuscitation, Course "C", Basic Life Support for the Health Care Provider as defined by the American Heart Association, or its equivalent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:659 (June 1994), amended LR 22:1216 (December 1996).

### **§1506. Conscious Sedation with Enteral Drugs**

A. In order to administer enteral conscious sedation, the dentist shall:

1. Comply with all requirements of this Chapter;

2. Utilize a working pulse oximeter on patients;

3. Maintain a proper record keeping mechanism in addition to a controlled substance log;

4. Utilize an accurate scale on pediatric patients (anyone under the age of thirteen).

B. Drugs for enteral conscious sedation must be administered in a dental office and the patient must be observed by a qualified office staff member with training and credentials to perform the specific tasks concomitant with the procedure being administered. Continuous monitoring with pulse oximetry must be initiated with early signs of conscious sedation and continued until the patient is alert. A precordial, pretracheal stethoscope must be available to assist intraoperatively in the monitoring of heart and respiratory rates. A sphygmomanometer shall be immediately available and utilized as needed throughout the procedure. Drugs for anxiolysis may be administered off premises prior to the dental procedure.

C. For those licensees who have received permits to administer pediatric enteral conscious sedation prior to the effective date of this rule, said licensee shall satisfactorily complete a Board approved course in the administration of pediatric enteral conscious sedation before the permit is renewed concurrently with the license renewal. However, a grace period of one hundred eighty days after the renewal of one's license shall be granted to the licensee if good cause can be shown that a course was not available.

D. The licensee must provide proof of current certification in cardiopulmonary resuscitation, Course "C," Basic Life Support for the Health Care Provider as defined by the American Heart Association or its equivalent.

E. For adult patients, the licensee must provide proof of current certification in cardiopulmonary resuscitation Course "C," Basic Life Support for the Health Care Provider as defined by the American Heart Association or its equivalent. For pediatric patients, the licensee must provide proof of current certification in Pediatric Life Support (PALS), or its equivalent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (8) and R.S. 37:793

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 30:2306 (October 2004), amended LR 32:244 (February 2006), LR 33:847 (May 2007).

#### **§1507. General Anesthesia/Deep Sedation**

A. When general anesthesia or deep sedation are administered, the provisions of this Subsection apply:

1. no dentist shall administer general anesthesia or deep sedation unless said dentist has received authorization by the board evidenced by receipt of a permit from the board.

2. in order to receive authorization the dentist must show and produce evidence that he complies with the following provisions:

a. completion of an oral and maxillofacial surgery training program accredited by the Commission on Dental Accreditation of the American Dental Association which includes anesthesiology and related academic subjects as required in §1509 of this Chapter; or successful completion of a program which complies with Part II of the American Dental Association Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dental Education at the Advanced level.

b. provide proof of current certification in the cardiopulmonary resuscitation course "Advanced Cardiac Life Support" as defined by the American Heart Association, or its equivalent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:659 (June 1994), amended LR 32: 2057 (November 2006).

#### **§1508. Oral Administration of Versed**

A. Oral administration of Versed shall be performed on the dental premises only. Prescriptions for oral Versed intended for at-home pre-medication is prohibited. Further, all dental offices where oral Versed is administered shall be in compliance with LAC 46:XXXIII.1511 "Required Facilities, Personnel and Equipment for Sedation Procedures" as it pertains to the administration of general anesthesia/deep sedation.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8) and R.S. 37:793.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 26:488 (March 2000).

#### **§1509. Minimal Educational Requirements for the Granting of Permits to Administer Nitrous Oxide Inhalation Analgesia, Conscious Sedation with Parenteral or Enteral Drugs and General Anesthesia/Deep Sedation**

A. Nitrous Oxide Inhalation Analgesia

1. To be permitted, the applicant must have successfully completed courses prescribed by the faculty of a dental school which would demonstrate mastery of scientific knowledge pertaining to use thereof and have documented a minimum of 12 successful cases of induction and recovery; or

2. At the post-doctoral level, the applicant must have successfully completed a continuing education course which includes a minimum of 14 hours, including a clinical component during which competency in nitrous oxide inhalation analgesia techniques are demonstrated.

B. Conscious Sedation with Parenteral Drugs

1. To be granted a "limited" permit, the applicant must submit verification of formal post-doctoral training in the use of parenteral drugs via the intramuscular (IM), submucosal (SM), intranasal (IN), and subcutaneous (SC) routes of administration and competency to handle all emergencies relating to parenteral sedation providing such program consists of a minimum of 60 hours of instruction and 100 hours of clinical experience which includes at least 10 documented cases of parenteral sedation.

2. To be granted a "full" permit, the applicant must submit verification of formal post-doctoral training in the use of parental drugs via the intramuscular (IM), submucosal (SM), intranasal (IN), subcutaneous (SC), and conscious IV sedation routes of administration and competency to handle all emergencies relating to parenteral sedation providing such program consists of a minimum of 60 hours of instruction and 100 hours of clinical experience which includes at least 20 documented cases of parenteral sedation.

C. Conscious Sedation with Enteral Drugs

1. To be granted an unrestricted (adults and children) permit to administer conscious sedation with enteral drugs, the applicant must submit verification of formal post-doctoral training in the use of enteral conscious sedation on both pediatric and adult patients or satisfactory completion of a board approved course which includes a minimum of 16 hours of didactic training and a component on handling emergencies incident to the administration of conscious sedation.

2. To be granted a restricted permit (adults only) to administer conscious sedation with enteral drugs, the applicant must submit verification of formal post-doctoral training in the use of enteral conscious sedation on adult patients or satisfactory completion of a board approved course which includes a minimum of 8 hours of didactic training and a component on handling emergencies incident to the administration of conscious sedation.

D. Deep Sedation and General Anesthesia

Successful completion of an American Dental Association accredited program in oral and maxillofacial surgery or a program which meets or exceeds the specifications outlined in Part II of the Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry adopted by the American Dental Association.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:659 (June 1994), amended LR 22:1216 (December 1996), LR 32:244 (February 2006).

**§1511. Required Facilities, Personnel and Equipment for Sedation Procedures**

A. The following are minimum requirements for facilities and equipment that must be available for use with sedation procedures.

1. The dental operatory where sedation procedures are performed must be large enough to accommodate the patient adequately on a dental chair and to permit an operating team consisting of three individuals to move about the patient.

2. The dental chair must permit the patient to be positioned so that the operating team can maintain the airway, quickly alter the patient position in an emergency, and provide a firm platform for performing cardiopulmonary resuscitation should it become necessary.

3. There must be a lighting system which is adequate to permit evaluation of the patient's skin and mucosal color.

4. There must be suction equipment which permits aspiration of the oral and pharyngeal cavities. A back-up suction device which can operate at the time of a general power failure must be available.

5. There must be an oxygen delivery system with adequate full-face masks and appropriate connectors capable of delivering a positive pressure oxygen supply to the patient.

6. Nitrous oxide equipment should:

- conform to all requirements as established by the Council on Dental Materials and Devices of the American Dental Association;

- provide a maximum of 100 percent and never less than 20 percent oxygen concentration at appropriate flow rates;

- have a functional fail-safe system;

- utilize a scavenger system in working condition;

- be free of any obvious leaks, such as those indicated by hissing sounds or poor connections or tears of the delivery tubing or reservoir bag.

7. Ancillary equipment must be available in the operatory where the sedation procedure is being performed, must be maintained in good operating condition, and must include the following:

- oral airways;

- b. tonsillary or pharyngeal-type suction device adaptable to all office outlets;
- c. sphygmomanometer of appropriate size for the patient and stethoscope;
- d. adequate equipment for the establishment of an intravenous infusion when parenteral sedation procedures are performed;
- e. Pulse oximeter when parenteral or enteral conscious sedation on a patient is performed.

8. There must be emergency equipment and drugs available in an emergency kit or crash cart which is immediately available to the dental operatory where the sedation procedure is being performed. These kits must include the necessary drugs and equipment to resuscitate a non-breathing unconscious patient and sustain life while the patient is being transported. There should be a list in each kit of the contents and a record of when the contents were checked. The following drugs should be available in the kit: a. Epinephrine; b. Vasopressor; c.

Corticosteroid; d. Bronchodilator; e. appropriate drug antagonists; f. Antihistaminic; g. Anticholinergic; h. coronary artery vasodilator; i. Anticonvulsant; j. Oxygen; k. 50 percent dextrose or other antihypoglycemic; and l. working electrocardiograph and defibrillator when general anesthesia or deep sedation are utilized.

**B. Personnel**

- 1. The authorized dentist must insure that every patient receiving nitrous oxide inhalation analgesia, conscious sedation with parenteral drugs, deep sedation or general anesthesia is constantly attended.
- 2. Direct supervision by the authorized dentist is required when nitrous oxide inhalation analgesia, conscious sedation with parenteral drugs, deep sedation or general anesthesia is being administered.
- 3. When nitrous oxide inhalation analgesia is being administered one auxiliary who is currently certified in basic life support must be available to assist the dentist in an emergency.
- 4. When conscious sedation with parenteral or enteral drugs is being administered one auxiliary who is currently certified in basic life support must be available to assist the dentist in an emergency.
- 5. When deep sedation or general anesthesia is being administered two auxiliaries who are currently certified in basic life support must be available to assist the dentist in an emergency.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:760(8).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:659 (June 1994), amended LR 32:244 (February 2006).

**§1513. Exceptions**

A. The board, based on formal application stating all particulars which would justify the granting of such anesthesia/analgesia permit, may grant a permit authorizing the utilization of nitrous oxide inhalation analgesia, conscious sedation with parenteral drugs, deep sedation or general anesthesia to those licensed dentists who have been using the requested sedation procedures in a competent and effective manner prior to the effective date of this Chapter, but who have not had the benefit of formal training as required in this Chapter or in R.S. 37:793.

B. The board shall continue to renew the anesthesia/ analgesia permits of dentists possessing such permits at the time these rules become effective provided there have been no disciplinary actions requiring suspensions or revocations of said permits.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:760(8).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:660 (June 1994).

**§1515. Hospitals and Outpatient Surgical Centers; Exemption**

A. Office permits for the administration of anesthesia are not required when the procedure is being performed in a hospital or outpatient surgical center approved by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:760(8)

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 31:927 (April 2005).

## **Chapter 16. Continuing Education Requirements**

### **§1601. Scope of Chapter**

A. The rules of this Chapter govern the board's minimum continuing education requirements for relicensure and recertification of dentists and dental hygienists as authorized by R.S. 37:760(13), and provides for record keeping, penalties, reporting, exemptions, approved courses of instruction, and all related matters. Except where noted, these rules shall apply equally to dentists and dental hygienists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8)(13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994).

### **§1603. Effective Date**

A. Beginning January 1, 1995, dentists and dental hygienists licensed to practice in the state of Louisiana, in addition to other requirements, shall complete the minimum hours of continuing education set forth in this Chapter during each renewal period in order to renew or have recertified their licenses, permits or certificates necessary to practice dentistry or dental hygiene in this state. These continuing education requirements also apply to all dentists and dental hygienists licensed to practice in Louisiana, but are practicing outside of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8)(13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994), amended LR 26:489 (March 2000).

### **§1605. Penalties**

A. Failure to comply with the requirements of this Chapter may be grounds for disciplinary action against the licensee under R.S. 37:776(A), (3), (24) for dentists, and R.S. 37:777(3), (18) for dental hygienists setting forth cause for the non-issuance, suspension, revocation, or imposition of restrictions on one's license to practice dentistry or dental hygiene, and/or imposition of a fine as set forth in R.S. 37:780(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8), (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994).

### **§1607. Exemptions**

A. Continuing education requirements shall not apply to:

1. dentists enrolled in full-time post-graduate specialty training;
2. dental hygienists enrolled in full-time post-graduate training;
3. dentists in the first calendar year of their graduation from dental school;
4. dental hygienists in the first calendar year of their graduation from dental hygiene school.

B. In the event of unusual circumstances or special hardship, the board may excuse licensees from continuing education requirements.

C. Due to the fact that dental and dental hygiene licenses are issued on a biennial basis, dentists and dental hygienists must accumulate one-half of the continuing education hours required under LAC 46:XXXIII.1611 and .1613 during the second year of the biennial period in which they received their initial licensure. For example, if a dentist receives his license immediately after graduation in June 1999, and he/she does not have to renew their license until the year 2001, that licensee need only accumulate 20 hours of continuing education, one-half of which must be clinical.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8), (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994), amended LR 24:1117 (June 1998), LR 26:1613 (August 2000), repromulgated LR 27:1894 (November 2001).

### **§1609. Reporting and Record Keeping**

A. Upon renewal of a dental or dental hygiene license, the licensee must list on a form provided by the board the date, location, sponsor, subject matter and hours completed during the past renewal period of continuing education courses. The licensee must attest to the truthfulness of his report by executing his signature where required on the reporting form.

B. The licensee shall retain satisfactory documentation such as certificates of attendance as may be necessary to document completion of the required number of continuing education hours. The board will not give credit unless the licensee can prove attendance at the course and, therefore, shall obtain and retain certificates of attendance. With cause, the board may request such documentation. Without cause the board may request such documentation from licensees selected at random.

C. Each dentist and dental hygienist shall maintain records of his/her continuing education for three calendar years following the calendar year in which the course was completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8), (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994), amended LR 26:489 (March 2000), LR 28:2512 (December 2002).

**§1611. Continuing Education Requirements for Relicensure of Dentists**

A. Unless exempted under §1607, each dentist shall complete a minimum of 40 hours of continuing education during each renewal period for the renewal of his/her license to practice dentistry.

B. At least one-half of the minimum credit hours (20) must be attained by personally attending clinical courses pertaining to the actual delivery of dental services to patients. However, ten of these twenty hours may be attained by completing ADA or AGD certified internet or correspondence courses which are clinical in nature and require successful completion of a written examination at the conclusion of said course.

C. No more than 20 of the required 40 hours can be completed from the following:

1. practice management courses;
2. audio and/or video tapes and those journals requiring completion of a written examination to secure proof of hours;
3. three credit hours for successful completion of Cardiopulmonary Resuscitation Course "C", Basic Life Support for Healthcare Providers as defined by the American Heart Association or the Red Cross Professional Rescue Course. When being audited for compliance with cardiopulmonary resuscitation course completion, a photocopy of the CPR card evidencing successful completion of the course for each year shall be appended to the form.

D. Continuing education ordered as a result of disciplinary matters shall not serve as credit for mandatory continuing education unless specifically authorized in a consent decree or in an order issued by the board.

E. Dentists are not allowed continuing education credit for courses sponsored and/or approved for dental hygiene continuing education.

F. Past and present dentist members of the Louisiana State Board of Dentistry are allowed four hours of continuing dental education credit for each meeting of the American Association of Dental Examiners attended by said past or present dentist member.

G. No credit will be given for activities directed primarily to persons preparing for licensure in Louisiana.

H. No credit will be given for activities sponsored by dental schools, dental practices, or federal, state or local agencies for the sole or principal benefit of their own members or employees.

I. Dentists who are on staffs of hospitals accredited by the Joint Commission on Accreditation of Health Care Organizations may receive continuing education credit for those continuing education courses provided by said hospital.

J. Dentists who successfully complete certification courses in advanced cardiac life support continuing education will be awarded up to 16 hours of clinical continuing dental education. However, dentists completing the shorter recertification course in advanced cardiac life support will be awarded 3 hours of non-clinical continuing dental education.

K. In order to renew permits for the administration of deep sedation, parenteral sedation, and enteral sedation, each licensee shall complete a board approved course pertinent to the level of their sedation permit no less than once every five years.

1. Recertification for deep sedation or general anesthesia as required by the American Association of Oral and Maxillofacial Surgeons every five years shall satisfy this requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994), amended LR 21:569 (June 1995), LR 22:24 (January 1996), LR 22:1216 (December 1996), LR 23:1526 (November 1997), LR 24:1117 (June 1998), LR 25:510 (March 1999), LR 26:489 (March 2000), LR 30:2307 (October 2004), LR 30:2307 (October 2004), LR 32:244 (February 2006).

**§1613. Continuing Education Requirements for Relicensure of Dental Hygienists**

A. Unless exempted under §1607, each dental hygienist shall complete a minimum of 24 hours of continuing education during each renewal period for the renewal of his/her license to practice dental hygiene.

B. At least one-half of the minimum credit hours (12) must be attained by personally attending clinical courses pertaining to the actual delivery of dental or dental hygiene services to patients. However, six of these twelve hours may be attained by completing ADA, AGD, or ADHA certified internet or correspondence courses which are clinical in nature and require successful completion of a written examination at the conclusion of said course.

- C. No more than 12 of the required 24 hours can be completed from the following:
1. practice management courses;
  2. audio and/or video tapes and those journals requiring completion of a written examination to secure proof of hours;
  3. three credit hours for successful completion of Cardiopulmonary Resuscitation Course "C", Basic Life Support for Healthcare Providers as defined by the American Heart Association or the Red Cross Professional Rescue Course. When being audited for compliance with cardiopulmonary resuscitation course completion, a photocopy of the CPR card evidencing successful completion of the course for each year shall be appended to the form.
- D. Continuing education ordered as a result of disciplinary matters shall not serve as credit for mandatory continuing education unless specifically authorized in a consent decree or in an order issued by the board.
- E. Dental hygienists are allowed continuing education credit for courses sponsored and/or approved for dentists continuing education.
- F. Past and present dental hygiene members of the Louisiana State Board of Dentistry are allowed four hours of continuing dental hygiene education credit for each meeting of the American Association of Dental Examiners attended by said past or present dental hygiene member.
- G. No credit will be given for activities directed primarily to persons preparing for licensure in Louisiana.
- H. No credit will be given for activities sponsored by dental schools, dental practices, or federal, state or local agencies for the sole or principal benefit of their own members or employees.
- I. Dental hygienists who are on staffs of hospitals accredited by the Joint Commission on Accreditation of Health Care Organizations may receive continuing education credit for those continuing education courses provided by said hospital.

J. Dental hygienists who successfully complete a continuing education course as set forth in § 710, Administration of Local Anesthesia for Dental Purposes, will be awarded 72 hours of clinical continuing dental hygiene education. However, these hours may not be carried over to a subsequent renewal period and will count only toward the renewal of their license during the period in which they attended the course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994), amended LR 21:570 (June 1995), LR 22:24 (January 1996), LR 22:1217 (December 1996), LR 23:1526 (November 1997), LR 24:1118 (June 1998), LR 25:510 (March 1999), LR 26:489 (March 2000), LR 30:2307 (October 2004), LR 30:2307 (October 2004), LR 32:245 (February 2006).

#### **§1615. Approved Courses**

- A. Courses sponsored or approved by the following organizations shall be accepted by the board:
1. American Dental Association and its affiliate associations and societies;
  2. American Dental Hygienists' Association and its affiliate associations and societies;
  3. Academy of General Dentistry courses when set forth on official documentation;
  4. National Dental Association and its affiliate societies;
  5. colleges and universities with dental programs which are accredited by the Commission on Dental Accreditation of the American Dental Association when continuing education courses are held under their auspices;
  6. armed services and veterans administration dental departments;
  7. national, state and district associations and/or societies of all specialties in dentistry recognized by the board, and study clubs approved by said specialty societies;
  8. American Heart Association as a provider of cardiopulmonary resuscitation courses (Course "C" Basic Life Support for the Health Care Provider).
  9. The American Red Cross as a provider of the cardiopulmonary resuscitation course "Red Cross Professional Rescue Course."
- B. The following standards represent minimum criteria to which component societies, as referred to in §1615.A.7 of this rule, should adhere to if they wish the board to allow the participants to receive continuing education credits.
1. Each sponsoring organization will be responsible for developing its own specific policies for accreditation of continuing education programs and/or activities, and awarding credit hours. These policies must be filed with the board. Satisfactory documentation evidencing approval of continuing education courses must be kept by the sponsoring or approving organization on file for a minimum of four years after the presentation of the course.
  2. The program shall be under the continuous guidance of an administrative authority and/or individual responsible for its quality, content, and ongoing conduct.

a. Each program or activity must have specific educational objectives or goals that relate to the dental as well as the overall health care needs of the public and/or the interest and needs of the dental profession. The content of the program will be directed at achieving the stated objectives or goals.

b. The instructor or instructors in charge of the program or activity must be qualified by education to provide instruction in the relevant subject matter.

c. Facilities selected for each activity must be appropriate to accomplish:

i. the educational methods being used;

ii. the stated educational objectives or goals.

C. In general, continuing education activities shall be made available to all dental healthcare workers. The board does recognize that facilities and the number of instructors may limit the number of participants.

D. Clinical credit will only be given to lectures and/or participation programs or activities that deal with the actual delivery of dental services to the patient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8), and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:662 (June 1994), amended LR 22:24 (January 1996), LR 24:1118 (June 1998).

**§1619. Violations**

A. Violation Table	<u>Minimum</u>	<u>Maximum</u>
(1) First violation of continuing education	\$500.00	\$2,000.00
(a) For completion of 3/4th or more of the requirement	\$500.00	
(b) For completion of 1/2 to 3/4th of the requirement	\$1,000.00	
(c) For completion of 1/4th to 1/2 of the requirement	\$1,500.00	
(d) For completion of 0 to 1/4th of the requirement	\$2,000.00	
(2) Second violation	\$1,000.00	\$4,000.00

(3) All continuing education not completed on time shall be completed no later than August of the following calendar year and shall not count toward the continuing education requirements of the subsequent renewal period.

(4) A second violation of the continuing education requirements shall be reported to the National Practitioner Data Bank, whereas the first violation will not.

(5) After a second violation of continuing education requirements, the licensee shall be placed on a minimum of a two-year period of probation, depending upon the number of hours not completed.

(6) A third violation of continuing education requirements will result in the suspension of a dental or dental hygiene license for a period of not less than six months.

(7) Any subsequent violation of continuing education requirements will result in the revocation of a dental or dental hygiene license.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8)and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 26:1613 (August 2000), repromulgated LR 27:1894 (November 2001).

## **Chapter 17. Licensure Examinations**

### **§1701. Scope of Chapter**

A. This Chapter shall describe all procedures relative to the administration of the clinical licensing examinations for persons wishing to practice dentistry or dental hygiene in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1118 (June 1998).

### **§1703. Candidate's Manual for the Dental Licensure Examination of the Louisiana State Board of Dentistry**

A. This manual is too voluminous to print and LAC 46:XXXIII.1703 is intended to put the public on notice that the board utilizes examination manuals which are revised every year. A copy may be obtained from the board office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1118 (June 1998), amended LR 32:245 (February 2006).

### **§1705. Candidate's Manual for the Dental Hygiene Licensure Examination of the Louisiana State Board of Dentistry**

A. This manual is too voluminous to print and LAC 46:XXXIII.1705 is intended to put the public on notice that the board utilizes examination manuals which are revised every year. A copy may be obtained from the board office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1118 (June 1998), amended LR 32:245 (February 2006).

### **§1707. Religious Obligations**

A. There will be no exceptions relative to religious obligations in the conducting of the clinical licensing examinations of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998).

### **§1709. Examination of Dentists**

A. Any person desiring to be licensed as a dentist shall apply to the board to take the licensure examination and shall verify the information required on the application by oath. The application shall include two recent photographs. There shall be an application fee set by the board. There shall also be an examination fee set by the Louisiana State University School of Dentistry.

B. An applicant shall be entitled to take the examinations required in this Section to practice dentistry in this state if such applicant:

1. is 18 years of age or older;
2. is of good moral character;
3. is a graduate of a dental school accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency, if any, or any other nationally recognized accrediting agency; and
4. has successfully completed the National Board of Dental Examiners Dental Examination within 10 years of the date of application.

C. To be licensed as a dentist in this state, an applicant must successfully complete the clinical licensing examination.

D. The board is expressly authorized to utilize the services of other Louisiana licensed dentists to facilitate the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998), amended LR 28:2513 (December 2002).

### **§1711. Examination of Dental Hygienists**

A. Any person desiring to be licensed as a dental hygienist shall apply to the board to take the licensure examination and shall verify the information required on the application by oath. The application shall include two recent photographs of the applicant. There shall be a nonrefundable application fee not to exceed \$400, and a clinical fee payable to the Louisiana State University School of Dentistry which shall not exceed \$100 and which may be refundable if the applicant is found ineligible to take the examination.

B. An applicant shall be entitled to take the examinations required in this Section to practice dental hygiene in this state if such applicant:

1. is 18 years of age or older;
2. is of good moral character;
3. is a graduate of a dental hygiene college or school approved by the board or accredited by the Commission on Accreditation of the American Dental Association or its successor agency; and
4. has successfully completed the National Board Dental Hygiene Examination as administered by the American Dental Association.

C. To be licensed as a dental hygienist in this state, an applicant must successfully complete the following:

1. a written examination on the jurisprudence and ethics of the state regulating the practice of dental hygiene;
2. a practical or clinical examination which shall test the competency of the applicant's ability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998), amended LR 28:1779 (August 2002).

**§1713. Examination Application Deadlines**

A. In order to qualify to sit for the Louisiana State Board of Dentistry clinical licensing examinations in dentistry, complete application forms and applicable fees must be received at the board office no later than sixty days prior to the first date of the examination. Dentists taking the re-make examination and hygienists taking the examination for the first time at the time that the re-make examination is given must have their completed application and applicable fees in the board office no later than thirty days prior to the first date of the administration of the make-up examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 28:1779 (August 2002).

## **Chapter 18. Criminal History Records Information**

### **§1801 Scope of Chapter**

A. The rules of this chapter govern the collection and use of criminal history records information in connection with applications for an initial license, renewal, or reinstatement of a license of a dentist or dental hygienist in conformity with R.S. 37:763.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (6), (8), and R.S. 37:763.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 28:1779 (August 2002).

### **§1803 Definitions**

A. As used in this chapter, the following terms shall have the meanings specified:

*Applicant*—an individual who has made application to the board for the issuance or reinstatement of any license, permit, certificate, or registration which the board is authorized by law to issue.

*Board*—the Louisiana State Board of Dentistry.

*Bureau*—the Louisiana Bureau of Criminal Identification and Information of the office of state police within the Department of Public Safety and Corrections.

*Criminal history record information*—information collected by the bureau or the Federal Bureau of Investigation of the United States Department of Justice or an individual consisting of detentions, indictments, bills of information, or any formal criminal charges and any disposition arising therefrom, including sentencing, criminal correctional supervision and release. *Criminal history record information* does not include information collected for intelligence or investigatory purposes nor does it include any identification information which does not indicate involvement of the individual in the criminal justice system.

*FBI*—the Federal Bureau of Investigation of the United States Department of Justice.

*Licensure or License*—means any license, permit, certification, or registration which the board is authorized by law to issue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (6), (8), and R.S. 37:763.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 28:1779 (August 2002).

### **§1805 Criminal History Record Information Requirement**

A. As a condition for eligibility for the issuance of an initial license or the reinstatement of any license, an applicant must submit to the board such number of full sets of fingerprints, other identifiable information, and fees and costs as may be incurred by the board in requesting or obtaining criminal history record information, in the form and manner prescribed in §1809.

B. The board will use the fingerprints to request and obtain criminal history record information relative to the applicant as provided in R.S. 37:763.1.

C. The application of an applicant who fails to comply with the requirements set forth in §1805 (A) shall be deemed incomplete and shall not be considered by the board unless and until such requirements have been satisfied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (6), (8), and R.S. 37:763.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 28:1779 (August 2002).

### **§1807 Effect of Application**

A. The submission of an application for licensure to the board shall constitute and operate as an acknowledgement and authorization by the applicant to any state or federal agency, including, but not limited to, the Bureau and the FBI, to disclose and release to the board any and all state, national, or foreign criminal history record information; the submission of an application for licensure to the board shall equally constitute and operate as a consent by the applicant for disclosure and release of such information and as a waiver by the applicant of any privilege or right of confidentiality which the applicant would otherwise possess with respect thereto.

B. The submission of an application for licensure to the board shall constitute and operate as an acknowledgement and authorization by the applicant to the board's utilization of criminal history record information to determine his or her suitability and eligibility for licensure, and whether just cause exists for the board to refuse to issue, suspend, revoke, or impose probationary or other terms, conditions, or restrictions on any license held or applied for by an applicant in the State of Louisiana for violation of any of the causes specified by R.S. 37:776 or R.S. 37:777, and the board's rules respecting any such health care provider as set forth in LAC 46:XXXIII.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (6), (8), and R.S. 37:763.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 28:1780 (August 2002).

### **§1809 Procedural Requirements**

A. In conformity with the substantive requirements of §1805, an application for licensure, whether initial, by credential, or reinstatement to the board, shall be accompanied by each of the following:

1. Two or such other number of fully completed fingerprint record cards, containing all identifiable information requested, as well as certified sets of fingerprints which have been affixed by a sheriff, police officer or other law enforcement personnel;

2. A check in the amount of no less than \$100 in satisfaction of the fees and costs incurred by the board to process fingerprint cards and to request and to receive criminal history record information, as well as two money orders for the following amounts:

(a) One in the amount of \$10 made payable to the Bureau; and one in the amount of \$24 made payable to the FBI.

B. Fingerprint cards and instructions pertaining thereto will be supplied by the board with an application. Such cards and instructions may also be obtained upon written request directed to the office of the board.

C. An applicant shall be responsible for any increase in the amounts specified in §1809 (A)(2), which may be assessed by any state or federal agency, including, but not limited to, the Bureau and the FBI, or for the fees and costs which may be incurred by the board in requesting and obtaining criminal history record information. An applicant shall also be responsible for payment of any processing fees and costs resulting from a fingerprint card being rejected by any state or federal agency, including, but not limited to, the Bureau and the FBI.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (6), (8), and R.S. 37:763.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 28:1780 (August 2002).

#### **§1811 Falsification of Criminal Record Information**

A. An applicant who denies the existence or extent of criminal history record information on an application, which is discovered by information, records, or documentation provided by the Bureau, FBI, or any other state, national, or foreign jurisdiction shall, in addition to the potential disqualification of licensure for any of the causes specified in §1807(B), be deemed to have provided false, misleading, or deceptive information, or false sworn information on an application for licensure, and to have engaged in unprofessional conduct, providing additional cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license held or applied for by an applicant in the State of Louisiana culpable of such violation, pursuant to R.S.

37:776(A)(3) or R.S. 37:777(A)(3).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (6), (8), and R.S. 37:763.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 28:1780 (August 2002).

#### **§1813 Confidentiality of Criminal History Record Information**

A. Criminal history record information obtained by the board pursuant to R.S. 37:763.1 and the rules of this Chapter, which is not already a matter of public record or to which the privilege of confidentiality has not otherwise been waived or abandoned, shall be deemed nonpublic and confidential information, restricted to and utilized exclusively by the board, its officers, members, investigators, employees, agents, and attorneys in evaluating the applicant's eligibility or disqualification for licensure. Criminal history record information shall not, except with the written consent of the applicant or by the order of a court of competent jurisdiction, be released or otherwise disclosed by the board to any other person or agency, provided, however, that any such information or documents which are admitted into evidence and made part of the administrative record in any adjudicatory proceeding before the board shall become public records upon the filing of a petition for judicial review of the board's final decision therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (6), (8), and 37:763.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 28:1780 (August 2002).

#### **§1815 Exceptions to Criminal History Information Requirement**

A. The criminal history record information requirements prescribed by this chapter shall not be applicable to a dentist or dental hygienist applicant who seeks:

1. A visiting dentist or dental hygienist temporary permit, issued in accordance with LAC 46:XXXIII.120.

B. The criminal history record information requirements prescribed by §1801 - §1813 may be waived in such instances as the board, in its discretion, may deem necessary or appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (6), (8), and R.S. 37:763.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 28:1781 (August 2002).

## MISCELLANEOUS STATUTES AFFECTING DENTISTRY

### REVISED STATUTES, TITLE 1

#### § 60 Timely filing of papers due; presumption

- A. Notwithstanding any other provision of law to the contrary, the filing of papers, including but not limited to applications, forms, reports, returns, statements, and filing of any kind with the state, its agencies, boards, and commissions shall be deemed timely in either of the following cases:
- (1) The papers are delivered on or before the due date.
  - (2) The papers are mailed on or before the due date. If the papers are received by mail on the first working day following the due date, there shall be a rebuttable presumption that they were timely filed. In all cases where the presumption does not apply, the timeliness of the mailing shall be shown only by an official United States postmark or by official receipt or certificate from the United States Postal Service made at the time of mailing which indicates the date thereof. For purposes of this Section, "by mail" applies only to the United States Postal Service.
- B. The provisions of this Section shall not apply to the legislative or judicial branches of government, the Department of State, the Department of Revenue, the Department of Elections and Registration, or to adjudications conducted pursuant to Chapter 13-B of Title 49 of the Louisiana Revised Statutes of 1950.

### REVISED STATUTES, TITLE 9

#### §2798.1 Policy-Making Or Discretionary Acts Or Omissions Of Public Entities Or Their Officers Or Employees

- A. As used in this Section, "public entity" means and includes the state and any of its branches, departments, offices, agencies, boards, commissions, instrumentalities, officers, officials, employees, and political subdivisions and the departments, officers, offices, agencies, boards, commissions, instrumentalities, officials, and employees of such political subdivisions.
- B. Liability shall not be imposed on public entities or their officers or employees based upon the exercise or performance or the failure to exercise or perform their policy-making or discretionary acts when such acts are within the course and scope of their lawful powers and duties.
- C. The provisions of Subsection B of this Section are not applicable:

- (1) To acts or omissions which are not reasonably related to the legitimate governmental objective for which the policy-making or discretionary power exists; or
  - (2) To acts or omissions which constitute criminal, fraudulent, malicious, intentional, willful, outrageous, reckless, or flagrant misconduct.
- D. The legislature finds and states that the purpose of this Section is not to reestablish any immunity based on the status of sovereignty but rather to clarify the substantive content and parameters of application of such legislatively created codal articles and laws and also to assist in the implementation of Article II of the Constitution of Louisiana.

## **REVISED STATUTES, TITLE 12**

### **§981,et seq. Professional Dental Corporations And Limited Liability Companies**

Due to space limitations the text of these statutes is not included in this booklet. This is intended to put licensees on notice that the formation of dental corporations and limited liability companies have specific requirements which are necessary to comply with. It is suggested that any licensee wishing to form a corporation or L.L.C. contact their personal attorney.

## **REVISED STATUTES, TITLE 13**

### **§3784 Privileged Communication Between Health Care Provider and Patient**

- F. Notwithstanding any law to the contrary, when conducting any investigation, the coroner or his authorized agents or employees may review any medical or dental records which he deems relevant to the investigation. Such records may be made available to him by the custodian thereof without the necessity of authorization, subpoena, or court order. No health care provider, custodian of records, or officer, employee, or agent thereof shall be held civilly or criminally liable for the disclosure of a patient's records, including any communication defined herein, when that disclosure is made pursuant to a request by the coroner or his authorized agents or employees.
- G. Notwithstanding any provision of this Section or any other law to the contrary, an official of another state, whose functions are comparable to those of a coroner in this state and who is conducting an investigation in which Louisiana medical or dental records are material evidence, may request authorization for the release of those records from the coroner of the parish in which the custodian of the records is located. If the coroner determines that the requested records are relevant to the out-of-state investigation and the release of those records is appropriate, then the coroner shall authorize the custodian of those records to release those records to the requesting official. No health care

provider, custodian of records, or officer, employee, or agent thereof shall be held civilly or criminally liable for the disclosure of a patient's records, including any communication defined herein, pursuant to a release authorized by the coroner.

### **Health Insurance Portability and Accountability Act (HIPAA)**

This act became effective April 14, 2003. It provides for numerous confidentiality requirements regarding the transmission of healthcare information. Regulatory healthcare agencies such as the Louisiana State Board of Dentistry are specifically exempted from the requirements of this act. Any patient healthcare records requested or subpoenaed by the Louisiana State Board of Dentistry must be provided in the time frame specified to the board which is statutorily required to keep such information confidential.

## **REVISED STATUTES, TITLE 14**

### **§93.2.2 Unlawful Placement Of Gold Fillings, Caps, And Crowns; Minors**

It is unlawful for any person to replace a tooth or part of a tooth or associated tissue by means of a filling, cap, or crown made of any gold substance on any person under the age of eighteen without the consent of the parent or guardian of such person. Whoever violates the provision of this Section shall be fined not less than five hundred dollars nor more than five thousand dollars.

## **REVISED STATUTES, TITLE 37**

### **§1274.1 Laser Surgery; Requirements**

Only persons licensed under the laws of this state to practice medicine, veterinary medicine, dentistry, or podiatry shall perform laser surgery.

### **§1701. Prescription; Name Of Patient And Prescription**

- A. Each physician, surgeon, optometrist, and dentist upon writing a prescription shall write the name of the patient and the trade name, or the generic name, or the most commonly used name on the prescription issued.
- B. No druggist, pharmacist or dispensing physician shall fill any prescription unless the name of the patient and the trade name, or the generic name, or the most commonly used name on the prescription appears on the label, unless otherwise specified by the physician, surgeon, optometrist, or dentist.

### **§1703. Penalty**

Whoever violates the provisions of R.S. 37:1701 or 37:1702 shall be fined not less than five dollars nor more than twenty-five dollars, or imprisoned for not less than ten days nor more than thirty days or both.

**§1721. Restrictions On Advertising Reserved To Legislature**

No state board, commission, department, bureau, or similar agency of the state regulating the practice of a trade or profession and exercising rulemaking powers shall make any rule or regulation which limits or restricts the right to advertise, provided that this Section shall not apply to any board, commission, department, bureau, or similar agency of the state created and regulated under the rulemaking power of The Supreme Court of Louisiana or to the Louisiana State Board of Medical Examiners, the Louisiana State Board of Barber Examiners, the Louisiana State Board of Dentistry, the State Board of Certified Public Accountants of Louisiana, Louisiana Board of Pharmacy, Louisiana Board of Chiropractic Examiners, Louisiana State Board of Veterinary Medicine Examiners, and the Louisiana State Board of Optometry Examiners, and further provided that nothing herein contained shall be construed to prevent the prohibition of false or misleading advertising by any board, commission, department, bureau, or similar agency of the state. The right to regulate advertising except as herein provided is reserved to the Legislature.

**§1731. Gratuitous Service At Scene Of Emergency; Limitation On Liability**

D. No dentist licensed under the provisions of Chapter 9 of this Title, who in good faith gratuitously renders emergency care or services at the scene of an emergency, except in a licensed dentist office or public or private hospital, to a person or persons in need thereof shall be liable for any civil damages as a result of any act of omission by such person in rendering the care or services or as a result of any act or failure to act to provide or arrange for further dental care or treatment or care for the person involved in the emergency.

**§1733. Dentists' Peer Review Committee; Immunity**

Any dentist who serves on a peer review committee or any dentist or physician who serves as a consultant to a peer review committee established by a dental society or association to review any controversy or dispute involving a patient, dentist or provider of dental benefits shall not be liable to any person for damages as a result of any action taken or recommendation made by him within the scope of his function as a member of or consultant to such peer review committee if such action was taken or recommendation made without malice. No dental association or dental society shall be liable for damages for any action taken or recommendation made by a peer review committee or any members of said committee or consultant to said committee.

**§1741. Laboratory Tests; Disclosure Of Costs; Violations**

A. No person licensed in the state to practice medicine, dentistry, optometry, podiatry, veterinary medicine, or chiropractic shall agree or contract with any

clinical, bio-analytical, or hospital laboratory, wherever located, to pay such laboratory for individual tests or analysis, combinations of tests or analysis, or tests or analysis series for patients or animals, and thereafter include such costs in his bill or statement submitted to the patient or other person for payment, unless the practitioner discloses on the bill or statement the name and address of the laboratory and the net amount or amounts paid or to be paid to the laboratory for the individual test or analysis, the combination of tests or analysis, or test or analysis series so included.

- B. The respective state licensing boards having jurisdiction over the practitioners enumerated above, in addition to all other authority granted by this Title, may revoke, suspend, or deny renewal of the license of any practitioner who violates the provision of this Section.

**§ 1744 Disclosure of Financial Interest by Referring Healthcare Providers**

C. For the purposes of this section, the following terms shall have the following meanings:

- (1) “Health care provider” means a person, partnership, or corporation, licensed by this state to provide health care or professional services as a physician, dentist, chiropractor, podiatrist, optometrist, physical therapist, psychologist, licensed professional counselor, registered or licensed practical nurse, pharmacist, and any officer, employee, or agent thereof acting in the course and scope of his employment.
  - (2) “Board” means Louisiana State Board of Medical Examiners, Louisiana State Board of Dentistry, Louisiana Board of Chiropractic Examiners, Louisiana State Board of Optometry Examiners, Louisiana State Board of Physical Therapy Examiners, Louisiana State Board of Examiners for Psychologists, Louisiana State Board of Nursing, Louisiana Licensed Professional Counselors Board of Examiners, Louisiana State Board of Practical Nurse Examiners, Louisiana Licensed Professional Counselors Board of Examiners, or Louisiana Board of Pharmacy.
  - (3) “Financial interest” means a significant ownership or investment interest established through debt, equity, or other means and held by a health care provider or a member of a health care provider’s immediate family, or any form of direct or indirect remuneration for referral.
- B. No health care provider shall make referrals outside the same group practice as that of the referring health care provider to any other health care provider,

licensed health care facility, or provider of health care goods and services including but not limited to providers of clinical laboratory services, diagnostic services, medical suppliers, and therapeutic services when the referring health care provider has a financial interest served by such referral, unless in advance of any such referral the referring health care provider discloses to the patient, in writing, the existence of such financial interest.

- C. (1) It shall be a violation of this Section for any licensee to enter into any arrangement or scheme, including cross-referral arrangements, if the licensee knows, or should know, that he or she has a principal purpose of ensuring referrals by the licensee to a particular entity, which referral, if made directly by the licensee, would be a violation of this Section.
- (4) Notwithstanding any other law to the contrary, any health care provider who violates the provisions of this Section shall refund all such sums received in payment for the goods and services furnished or rendered without disclosure of financial interest. Such a refund shall be paid to the individual patient, third-party payor, or other entity who made the payment.
- (5) Each respective board shall promulgate rules and regulations for enforcement of the provisions of this Section. Such rules and regulations shall include sanctions and restitution provisions and shall provide that a violation of this Section constitutes grounds for suspension or revocation of license or other credentials. Each board shall submit to the commissioner of insurance an annual report listing the investigations undertaken pursuant to this Section, including the number of violations and the sanctions imposed, if any.

**§ 1745 Prohibition on Payment for Patient Referrals**

- A. For the purposes of this Section, the following terms shall have the following meanings:
  - (1) "Board" means Louisiana State Board of Medical Examiners, Louisiana State Board of Chiropractic Examiners, Louisiana State Board of Dentistry, Louisiana State Board of Optometry Examiners, Louisiana State Board of Physical Therapy Examiners, Louisiana State Board of Examiners for Psychologists, Louisiana State Board of Nursing, Louisiana Licensing Professional Counselor Board of Examiners, Louisiana State Board of Practical Nurse Examiners, and Louisiana Board of Pharmacy.
  - (2) "Healthcare Provider" means a person, partnership, or corporation licensed by the state to provide health care or professional services as a physician, chiropractor, dentist, dental hygienist, podiatrist, optometrist,

physical therapist, psychologist, licensed professional counselor, registered or licensed practical nurse, pharmacist, and any officer, employee, or agent thereof acting in the course and scope of his employment.

- B. No health care provider shall offer, make, solicit, or receive payment, directly or indirectly, overtly or covertly, in cash or in-kind, for referring or soliciting patients. Payments representing a return on investment based upon a percentage of ownership are not considered a direct or indirect payment for the purposes of this Section.
- C.
  - (1) Each board shall promulgate rules and regulations for the implementation and enforcement of the provisions of Subsection B of this Section in accordance with the Administrative Procedure Act. Such rules and regulations shall include, at a minimum, sanctions and penalty provisions and permissible contracting activities known as “safe harbors”.
  - (2) Any activity permissible under the corresponding provisions of Title XVIII of the Social Security Act shall not be a violation of this Section.
  - (3) Violation of Subsection B of this Section by a health care provider may constitute grounds for suspension or revocation of license or other credential by the appropriate board.

**§1747. Hepatitis B Or Human Immunodeficiency Carriers; Practice Requirements; Report Procedures; Exemptions**

- A. Each board licensing health care providers shall establish by rule practice requirements based on applicable guidelines from the Federal Centers for Disease Control which will protect the public from the transmission of the hepatitis B virus or human immunodeficiency virus in the practice of a profession regulated by the appropriate board.
- B. The boards shall by rule, based on applicable guidelines from the Federal Centers for Disease Control, establish requirements and procedures for a licensee and a licensure applicant to report his status as a carrier of the hepatitis B virus or human immunodeficiency virus to the board and shall enforce such requirements and procedures.
- C. Each report of hepatitis B virus carrier status or human immunodeficiency virus carrier status filed by a licensee or licensure applicant in compliance with this section and each record maintained and meeting held by the boards in the course of monitoring a licensee for compliance with the practice requirements established by Subsection A are confidential and exempt from the public records by R.S. 44:4(7), (9), and (11), except for the purpose of the investigation or prosecution of alleged violations of this part by the boards.

## REVISED STATUTES, TITLE 40

### **§1239. Anabolic Steroid--Uses Authorized; Regulation; Penalties**

- C. (1) A physician, dentist, or veterinarian shall not prescribe, dispense, deliver or administer an anabolic steroid for human use or cause an anabolic steroid to be administered under his direction or supervision for human use except for a valid medical purpose and when required by demonstrable generally accepted medical indications. Bodybuilding, muscle enhancement, or increasing muscle bulk or strength through the use of an anabolic steroid by a person who is in good health is not a valid medical purpose.
- (2) Whoever violates the provision of this Subsection shall be subject to suspension or revocation of his license to practice medicine, dentistry, or veterinarian medicine by the governing board.
- (4) Whoever violates the provision of this Subsection shall also be fined not more than five thousand dollars or imprisoned with or without hard labor for not more than five years, or both.

### **§1299.96 Healthcare Information; Records**

A. \* \* \*

- (3) (a) Medical and dental records shall be retained by a physician or dentist in the original, microfilmed, or similarly reproduced form for a minimum period of six years from the date a patient is last treated by a physician or dentist.
- (b) Graphic matter, images, x-ray films, and like matter that were necessary to produce a diagnostic or therapeutic report shall be retained, preserved and properly stored by a physician or dentist in the original, microfilmed or similarly reproduced form for a minimum period of three years from the date a patient is last treated by the physician or dentist. Such graphic matter, images, x-ray film, and like matter shall be retained for a longer period when requested in writing by the patient.

### **§2009.13 Healthcare Provider Complaints; Procedure; Immunity**

- F. (1) If the report involves an alleged violation by an individual of laws governing professional licensure as provided in Title 37 of the Louisiana Revised Statutes of 1950 or rules and regulations promulgated pursuant to a professional practice act, the department shall refer the report to the appropriate professional licensing board.

- (2) If the ensuing investigation results in determination that an individual may have violated laws pertaining to the individual's licensure as a healthcare professional, such investigation results shall be referred to the appropriate licensing board.

# RECOMMENDED INFECTION-CONTROL PRACTICES FOR DENTISTRY, 1993

## SUMMARY

*This document updates previously published CDC recommendations for infection-control practices in dentistry to reflect new data, materials, technology, and equipment. When implemented, these recommendations should reduce the risk of disease transmission in the dental environment, from patient to dental/health-care worker (DHCW), from DHCW to patient, and from patient to patient. Based on principles of infection control, the document delineates specific recommendations related to vaccination of DHCWs; protect attire and barrier techniques; handwashing and care of hands, the use and care of sharp instruments and needles; sterilization or disinfection in the dental laboratory; use and care of handpieces, anti-retraction valves, and other intraoral dental devices attached to air and water lines of dental units; single-use disposable instruments; the handling of biopsy specimens; use of extracted teeth in dental educational settings; disposal of waste materials; and implementation of recommendations.*

## INTRODUCTION:

This document updates previously published CDC recommendations for infection control practices for dentistry (1-3) and offers guidance for reducing the risks of disease transmission among dental healthcare workers (DHCWs) and their patients. Although the principles of infection control remain unchanged, new technologies, materials, equipment, and data require continuous evaluation of current infection-control practices. The unique nature of most dental procedures, instrumentation, and patient-care settings also may require specific strategies directed to the prevention of transmission of pathogens among DHCWs and their patients. Recommended infection-control practices are applicable to all settings in which dental treatment is provided. These recommended practices should be observed in addition to the practices and procedures for worker protection required by the Occupational Safety and Health Administration (OSHA) final rule on Occupational Exposure to Bloodborne Pathogens (29 CFR 1910.1030), which was published in the Federal Register on December 6, 1991 (4).

Dental patients and DHCWs may be exposed to a variety of microorganisms via blood or oral or respiratory secretions. These microorganisms may include cytomegalovirus, Hepatitis B virus (HBV), Hepatitis C virus (HCV), herpes simplex virus types 1 and 2, human immunodeficiency virus (HIV) mycobacterium tuberculosis, staphylococci, streptococci, and other viruses and bacteria--specifically, those that infect the upper respiratory tract. Infections may be transmitted in the dental operatory through several routes, including direct contact with blood, oral fluids, or other secretions; indirect contact with contaminated instruments, operatory equipment, or environmental surfaces; or contact with airborne contaminants present in either droplet spatter or aerosols of oral and respiratory fluids. Infection via any of these routes requires that all three of the following conditions be present (commonly referred to as "the chain of infection"): A susceptible host; a pathogen with sufficient infectivity and numbers to cause infection; and a portal through which the pathogen may enter the host. Effective infection-

control strategies are intended to break one or more of these “links” in the chain, thereby preventing infection.

A set of infection-control strategies common to all health-care delivery settings should reduce the risk of transmission of infectious diseases caused by blood-borne pathogens such as HBV and HIV (2,5-10). Because of all infected patients cannot be identified by medical history, physical examination, or laboratory tests, CDC recommends that blood and body fluid precautions be used consistently for all patients (2,5). This extension of blood and body fluid precautions, referred to as “universal precautions,” must be observed routinely in the care of all dental patients (2). In addition, specific actions have been recommended to reduce the risk of tuberculosis transmission in dental and other ambulatory health-care facilities (11).

### **CONFIRMED TRANSMISSION OF HBV AND HIV IN DENTISTRY:**

Although the possibility of transmission of bloodborne infections from DHCWs to patients is considered to be small (12-15), precise risks have not been quantified in the dental setting by carefully designed epidemiologic studies. Reports published from 1970 through 1987 indicated nine clusters in which patients were infected with HBV associated with treatment by infected DHCWs (16-25). In addition, transmission of HIV to six patients of a dentist with acquired immunodeficiency syndrome has been reported (26,17). Transmission of HBV from dentist to patients has not been reported since 1987, possibly reflecting such factors as incomplete ascertainment and reporting, increased adherence to universal precautions including routine glove use by dentists--and increased levels of immunity due to use of hepatitis B vaccine. However, isolated sporadic cases of infection are more difficult to link with a health-care worker than are outbreaks involving multiple patients. For both HBV and HIV, the precise event or events resulting in transmission of infection in the dental setting have not been determined; epidemiologic and laboratory data indicate that these infections probably were transmitted from the DHCWs to patients, rather than from one patient to another (26,28). Patient-to-patient transmission of bloodborne pathogens has been reported, however, in several medical settings (29-31).

### **VACCINES FOR DENTAL HEALTH-CARE WORKERS:**

Although HBV infection is uncommon among adults in the United States (1%-2%), serologic surveys have indicated that 10%-30% of health-care or dental workers show evidence of past or present HBV infection (6,32). The OSHA bloodborne pathogens final rule requires that employers make hepatitis B vaccinations available without costs to their employees who may be exposed to blood or other infectious materials (4). In addition, CDC recommends that all workers, including DHCWs, who might be exposed to blood or blood-contaminated substances in an occupational setting be vaccinated for HBV (68). DHCWs also are at risk for exposure to and possible transmission of other vaccine-preventable diseases (33); accordingly, vaccination against influenza, measles, mumps, rubella, and tetanus may be appropriate for DHCWs.

### **PROTECTIVE ATTIRE AND BARRIER TECHNIQUES:**

For protection of personnel and patients in dental-care settings, medical gloves (latex or vinyl) always must be worn by DHCWs when there is potential for contacting blood, blood-contaminated saliva, or mucous membranes (1,2,4-6). Non-sterile gloves are appropriate for examinations and other non-surgical procedures (5); sterile gloves should be used for surgical procedures. Before treatment of each patient, DHCWs should wash their hands and put on new gloves; after treatment of each patient or before leaving the dental operatory, DHCWs should remove and discard gloves, then wash their hands. DHCWs always should wash their hands and gloves between patients. Surgical or examination gloves should not be washed before use; nor should they be washed, disinfected, or sterilized for reuse. Washing of gloves may cause “wicking” (penetration of liquids through undetected holes in the gloves) and is not recommended (5). Deterioration of gloves may be caused by disinfecting agents, oils, certain oil-based lotions, and heat treatments, such as autoclaving.

Chin-length plastic face shields or surgical masks and protective eyewear should be worn when splashing or spattering of blood or other body fluids is likely, as is common in dentistry (2,5,6,34,35). When a mask is used, it should be changed between patients or during patient treatment if it becomes wet or moist. Face shields or protective eyewear should be washed with an appropriate cleaning agent and, when visibly soiled, disinfected between patients.

Protective clothing such as reusable or disposable gowns, laboratory coats, or uniforms should be worn when clothing is likely to be soiled with blood or other body fluids (2,5,6). Reusable protective clothing should be washed, using a normal laundry cycle, according to the instructions of detergent and machine manufacturers. Protective clothing should be changed at least daily or as soon it become visibly soiled (9). Protective garments and devices (including gloves, masks, and eye and face protection) should be removed before personnel exit areas of the dental office used for laboratory or patient-care activities.

Impervious-backed paper, aluminum foil, or plastic covers should be used to protect items and surfaces (e.g., light handles or x-ray unit heads) that may become contaminated by blood or saliva during use and that are difficult or impossible to clean and disinfect. Between patients, the coverings should be removed (while DHCWs are gloved), discarded, and replaced (after ungloving and washing of hands) with clean material.

Appropriate use of rubber dams, high-velocity air evacuation, and proper patient positioning should minimize the formation of droplets, spatter, and aerosols during patient treatment. In addition, splash shields should be used in the dental laboratory.

### **HANDWASHING AND CARE OF HANDS:**

DHCWs should wash their hands before and after treating each patient (i.e., before glove placement and after glove removal) and after bare-handed touching of inanimate objects likely to be contaminated by blood, saliva, or respiratory secretions (2,5,6,9). Hands should be washed after removal of gloves because gloves may become perforated during use, and DHCWs’ hands may become contaminated through contact with patient material. Soap and water may remove transient microorganisms acquired directly or indirectly from patient contact(9); therefore, for

many routine dental procedures, such as examinations and nonsurgical techniques, handwashing with plain soap is adequate. For surgical procedures, an antimicrobial surgical handscrub should be used (10).

When gloves are torn, cut, or punctured, they should be removed as soon as patient safety permits. DHCWs then should wash their hands thoroughly and reglove to complete the dental procedure. DHCWs who have exudative lesions or weeping dermatitis, particularly on the hands, should refrain from all direct patient care and from handling dental patient-care equipment until the condition resolves (12). Guidelines addressing management of occupational exposures to blood and other fluids to which universal precautions apply have been published previously (6,8,36).

### **USE AND CARE OF SHARP INSTRUMENTS AND NEEDLES:**

Sharp items (e.g., needles, scalpel blades, wires) contaminated with patient blood and saliva should be considered, as potentially infective and handled with care to prevent injuries (2,5,6).

Used needles should never be recapped or otherwise manipulated utilizing both hands, or any other technique that involves directing the point of a needle toward any part of the body (2,5,6). Either a one-handed “scoop” technique or a mechanical device designed for holding the needle sheath should be employed. Using disposable syringes and needles, scalpel blades, and other sharp items should be placed in appropriate puncture-resistant containers located as close as is practical to the area in which the items were used (1,5,6). Bending or breaking of needles before disposal requires unnecessary manipulation and thus is not recommended.

Before attempting to remove needles from non-disposable aspirating syringes, DHCWs should recap them to prevent injuries. Either of the two acceptable techniques may be used. For procedures involving multiple injections with a single needle, the unsheathed needle should be placed in a location where it will not become contaminated or contribute to unintentional needlesticks between injections. If the decision is made to recap a needle between injections, a one-handed “scoop” technique or a mechanical device designed to hold the needle sheath is recommended.

### **STERILIZATION OR DISINFECTION OF INSTRUMENTS:**

#### **Indications for Sterilization or Disinfection of Dental Instruments**

- As with other medical and surgical instruments, dental instruments are classified into three categories--critical, semicritical, or noncritical--depending on their risk of transmitting infection and the need to sterilize them between uses (9,37-40). Each dental practice should classify all instruments as follows:

- *Critical.* Surgical and other instruments used to penetrate soft tissue or bone are classified as critical and should be sterilized after each use. These devices include forceps, scalpels, bone chisels, scalers, and burs.
- *Semicritical.* Instruments such as mirrors and amalgam condensers that do not penetrate soft tissue or bone but contact oral tissues are classified as semicritical. These devices should be sterilized after each use. If, however, sterilization is not feasible because the instrument will be damaged by heat, the instrument should receive, at a minimum, high-level disinfection.
- *Noncritical.* Instruments or medical services such as external components of x-ray heads that come into contact only with intact skin are classified as noncritical. Because these noncritical surfaces have a relatively low risk of transmitting infection, they may be reprocessed between patients with intermediate-level or low-level disinfection (see *Cleaning and Disinfecting of Dental Unit and Environmental Surfaces*) or detergent and water washing, depending on the nature of the surface and the degree and nature of the contamination (9,38).

#### **METHODS OF STERILIZATION OR DISINFECTION OF DENTAL INSTRUMENTS:**

Before sterilization or high-level disinfection, instruments should be cleaned thoroughly to remove debris. Persons involved in cleaning and reprocessing instruments should wear heavy-duty (reusable utility) gloves to lessen the risk of hand injuries. Placing instruments into a container of water or disinfectant/detergent as soon as possible after use will prevent drying of patient material and make cleaning easier and more efficient. Cleaning may be accomplished by thorough scrubbing with soap and water on a detergent solution, or with a mechanical device (e.g., an ultrasonic cleaner). The use of covered ultrasonic cleaners, when possible, is recommended to increase efficiency of cleaning and to reduce handling of sharp instruments.

All critical and semicritical dental instruments that are heat stable should be sterilized routinely between uses by steam under pressure (autoclaving), dry heat, or chemical vapor, following the instructions of the manufacturer of the instruments and the sterilizes. Critical and semicritical instruments that will not be used immediately should be packaged before sterilization.

Proper functioning of sterilization cycles should be verified by the periodic use (at least weekly) of biologic indicators (i.e., spore tests)(3,9). Heat-sensitive chemical indicators (e.g., those that change color after exposure to heat) alone do not ensure adequacy of a sterilization cycle but may be used on the outside of each pack to identify packs that have been processed through the heating cycle. A simple and inexpensive method to confirm heat penetration to all instruments during each cycle is the use of a chemical indicator inside and in the center of each of a load of unwrapped instruments or in each multiple instrument pack (41); this procedure is recommended for use in all dental practices. Instructions provided by the manufacturers of medical/dental instruments and sterilization devices should be followed closely.

In all dental and other health care settings, indications for the use of liquid chemical germicides to sterilize instruments (i.e., “cold sterilization”) are limited. For heat-sensitive instruments, this procedure may require up to 10 hours of exposure to a liquid chemical agent registered with the U.S. Environmental Protection Agency (EPA) as a “sterilant/disinfectant.” This sterilization process should be followed by aseptic rinsing with sterile water, drying, and if the instrument is not used immediately, placement in a sterile container.

EPA-registered “sterilant/disinfectant” chemicals are used to attain high-level disinfection of heat-sensitive semicritical medical and dental instruments. The product manufacturer’s directions regarding appropriate concentration and exposure time should be closely followed. The EPA classification of the liquid chemical agent (i.e. “sterilant/disinfectant”) will be shown on the chemical label. Liquid chemical agents that are less potent than the “sterilant/disinfectant” category are not appropriate for reprocessing critical or semicritical dental instruments.

### **CLEANING AND DISINFECTION OF DENTAL UNIT AND ENVIRONMENTAL SURFACES:**

After treatment of each patient and at the completion of daily work activities, countertops and dental unit surfaces that may have become contaminated with patient material should be cleaned with disposable toweling, using an appropriate cleaning agent and water as necessary. Surfaces then should be disinfected with a suitable chemical germicide.

A chemical germicide registered with the EPA as a “hospital disinfectant” and label for “tuberculocidal” (i.e. mycobactericidal) activity is recommended for disinfecting surfaces that have been soiled with patient material. These intermediate level disinfectants include phenolics, iodophors, and chlorine-containing compound. Because mycobacteria are among the most resistant groups of microorganisms, germicides effective against mycobacteria should be effective against many other bacterial and viral pathogens (9,38-40,42). A fresh solution of sodium hypochlorite (household bleach) prepared daily is an inexpensive and effective intermediate level germicide. Concentrations ranging from 500 to 800 ppm of chlorine (a 1:100 dilution of bleach and tap water of 1/4 cup of bleach to 1 gallon of water) are effective on environmental surfaces that have been cleaned of visible contamination. Caution should be exercised, since chlorine solutions are corrosive to metals, especially aluminum.

Low-level disinfectants -- EPA registered “hospital disinfectants” that are not labeled for “tuberculocidal” activity (e.g., quaternary ammonium compounds)-- are appropriate for general housekeeping purposes such as cleaning floors, walls, and other housekeeping surfaces. Intermediate and low level disinfectants are not recommended for reprocessing critical or semicritical dental instruments.

### **DISINFECTION AND THE DENTAL LABORATORY:**

Laboratory materials and other items that have been used in the mouth (e.g., impressions, bite registrations, fixed and removable prostheses, orthodontic appliances) should be cleaned and

disinfected before being manipulated in the laboratory, whether an onsite or remote location (43). These items also should be cleaned and disinfected after being manipulated in the dental laboratory and before placement in the patient's mouth (2). Because of the increasing variety of dental materials used intraorally, DHCWs are advised to consult with manufacturers regarding the stability of specific materials relative to disinfection procedures. A chemical germicide having at least an intermediate level of activity (i.e., "tuberculocidal hospital disinfectant") is appropriate for such disinfection. Communication between dental office and dental laboratory personnel regarding the handling and decontamination of supplies and materials is important.

### **USE AND CARE OF HANDPIECES, ANTIRETRACTION VALVES, AND OTHER INTRAORAL DENTAL DEVICES ATTACHED TO AIR AND WATER LINES OF DENTAL UNITS:**

Routine between patient use of a heating process capable of sterilization (i.e., steam under pressure [autoclaving], dry heat, or heat/chemical vapor) is recommended for all high-speed dental handpieces, low-speed handpiece components used intraorally, and reusable prophylaxis angles. Manufacturers' instructions for cleaning, lubrication, and sterilization procedures should be followed closely to ensure both the effectiveness of the sterilization process and the longevity of these instruments. According to manufacturers, virtually all high-speed and low-speed handpieces in production today are heat tolerant, and most heat-sensitive models manufactured earlier can be retrofitted with heat-stable components.

Internal surfaces of high-speed handpieces, low-speed handpiece components, and prophylaxis angles may become contaminated with patient material during use. This retained patient material then may be expelled intraorally during subsequent uses (44-46). Restricted physical access-particularly to internal surfaces of these instruments - limits cleaning and disinfection or sterilization with liquid chemical germicides. Surface disinfection by wiping or soaking in liquid chemical germicides is not an acceptable method for reprocessing high-speed handpieces, low-speed handpiece components used intraorally, or reusable prophylaxis angles.

Because retraction valves in dental unit water lines may cause aspiration of patient material back into the handpiece and water lines, antiretraction valves (one-way flow check valves) should be installed to prevent fluid aspiration and to reduce the risk of transfer of potentially infective material (47). Routine maintenance of antiretraction valves is necessary to ensure effectiveness; the dental unit manufacturer should be consulted to establish an appropriate maintenance routine.

High-speed handpieces should be run to discharge water and air for a minimum of 20-30 seconds after use on each patient. This procedure is intended to aid in physically flushing out patient material that may have entered the turbine and air or water lines (46). Use of an enclosed container or high-velocity evacuation should be considered to minimize the spread of spray, spatter, and aerosols generated during discharge procedures. Additionally, there is evidence that overnight or weekend microbial accumulation in water lines can be reduced substantially by removing the handpiece and allowing water lines to run and to discharge water for several

minutes at the beginning of each clinic day (48). Sterile saline or sterile water should be used as a coolant/irrigator when surgical procedures involving the cutting of bone are performed.

Other reusable intraoral instruments attached to, but removable from, the dental unit air or water lines - such as ultrasonic scaler tips and component parts and air/water syringe tips - should be cleaned and sterilized after treatment of each patient in the same manner as handpieces, which was described previously. Manufacturers' directions for reprocessing should be followed to ensure effectiveness of the process as well as longevity of the instruments.

Some dental instruments have components that are heat sensitive or are permanently attached to dental unit water lines. Some items may not enter the patient's oral cavity, but are likely to become contaminated with oral fluids during treatment procedures, including, for example, handles or dental unit attachments of saliva injector's, high-speed air evacuators, and air/water syringes. These components should be covered with impervious barriers that are changed after each use or, if the surface permits, carefully cleaned and then treated with a chemical germicide having at least an intermediate level of activity. As with high-speed dental handpieces, water lines to all instruments should be flushed thoroughly after the treatment of each patient; flushing at the beginning of each clinic day also is recommended.

#### **SINGLE-USE DISPOSABLE INSTRUMENTS:**

Single-use disposable instruments (e.g., prophylaxis angles; prophylaxis cups and brushes; tips for high-speed air evacuators, saliva ejectors, and air/water syringes) should be used for one patient only and discarded appropriately. These items are neither designed nor intended to be cleaned, disinfected, or sterilized for reuse.

#### **HANDLING OF BIOPSY SPECIMENS:**

In general, each biopsy specimen should be put in a sturdy container with a secure lid to prevent leaking during transport. Care should be taken when collecting specimens to avoid contamination of the outside of the container. If the outside of the container is visibly contaminated, it should be cleaned and disinfected or placed in an impervious bag (49).

#### **USE OF EXTRACTED TEETH IN DENTAL EDUCATIONAL SETTINGS:**

Extracted teeth used for the education of DHCWs should be considered ineffective and classified as clinical specimens because they contain blood. All persons who collect, transport, or manipulate extracted teeth should handle them with the same precautions as a specimen for biopsy (2). Universal precautions should be adhered to whenever extracted teeth are handled; because preclinical educational exercises simulate clinical experiences, students enrolled in dental educational programs should adhere to universal precautions in both preclinical and clinical settings. In addition, all person who handle extracted teeth in dental educational settings should receive hepatitis B vaccine (6-8).

Before extracted teeth are manipulated in dental educational exercises, the teeth first should be cleaned of adherent patient material by scrubbing with detergent and water or by using an ultrasonic cleaner. Teeth should then be stored, immersed in a fresh solution of sodium hypochlorite (household bleach diluted 1:10 with tap water) or any liquid chemical germicide suitable for clinical specimen fixation (50).

Persons handling extracted teeth should wear gloves. Gloves should be disposed of properly and hands washed after completion of work activities. Additional personal protective equipment (e.g., face shield or surgical mask and protective eyewear) should be worn in mucous membrane contact with debris or spatter is anticipated when the specimen is handled, cleaned, or manipulated. Work surfaces and equipment should be cleaned and decontaminated with an appropriate liquid chemical germicide after completion of work activities (37,38,40,51).

The handling of extracted teeth used in dental educational settings differs from giving patients their own extracted teeth. Several states allow patients to keep such teeth, because these teeth are not considered to be regulated (pathologic) waste (52) or because the removed body part (tooth) becomes the property of the patient and does not enter the waste system (53).

#### **DISPOSAL OF WASTE MATERIALS:**

Blood, suctioned fluids, or other liquid waste may be poured carefully into a drain connected to a sanitary sewer system. Disposable needles, scalpels, or other sharp items should be placed intact into puncture-resistant containers before disposal. Solid waste contaminated with blood or other body fluids should be placed in sealed, sturdy impervious bags to prevent leakage of the contained items. All contained solid waste should then be disposed of according to requirements established by local, state, or federal environmental regulatory agencies and published recommendations (9,49).

#### **IMPLEMENTATION OF RECOMMENDED INFECTION-CONTROL PRACTICES FOR DENTISTRY:**

Emphasis should be placed on consistent adherence to recommended infection-control strategies, including the use of protective barriers and appropriate methods of sterilizing or disinfecting instruments and environmental surfaces. Each dental facility should develop a written protocol for instrument reprocessing, operatory cleanup, and management of injuries (3). Training of all DHCWs in proper infection-control practices should begin in professional and vocational schools and be updated with continuing education.

#### **ADDITIONAL NEEDS IN DENTISTRY:**

Additional information is needed for accurate assessment of factors that may increase the risk for transmission of bloodborne pathogens and other infectious agents in a dental setting. Studies should address the nature, frequency, and circumstances of occupational exposures. Such information may lead to the development and evaluation of improved designs for dental instruments, equipment, and personal protective devices. In addition, more efficient reprocessing

techniques should be considered in the design of future dental instruments and equipment. Efforts to protect both patients and DHCWs should include improved surveillance, risk assessment, evaluation of measures to prevent exposure, and studies of post-exposure prophylaxis. Such efforts may lead to development of safer and more effective medical devices, work practices, and personal protective equipment that are acceptable to DHCWs, are practical and economical, and do not adversely affect patient care (54,55).

## **SUBJECT MATTER INDEX**

The following index is intended to serve as a guide to various subjects contained in this booklet. This index is not exclusive, but is intended solely to facilitate use of this booklet.

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