
BOARD OF DENTISTRY

**PROPOSED PERMANENT RULES RELATING TO
THE DUTIES OF HYGIENISTS AND ASSISTANTS**

STATEMENT OF NEED AND REASONABLENESS

BACKGROUND INFORMATION

Purpose of Amendments

The proposed rules expand the duties of registered dental assistants under general supervision, indirect supervision, and direct supervision; clarify the duties of dental hygienists under general supervision; and expand the duties of dental hygienists under direct supervision.

Statutory Authority

Minnesota Statutes, section 150A.04, subdivision 5 provides that "the board may promulgate rules as are necessary to carry out and make effective the provisions and purposes of sections 150A.01 to 150A.12, in accordance with sections 14.02, 14.04 to 14.36, 14.38, 14.44 to 14.45, and 14.57 to 14.62."

Minnesota Statutes, section 150A.06, subdivision 2 provides that an applicant to practice as a dental hygienist "may be examined by the board or by an agency pursuant to section 150A.03, subdivision 1, in a manner to test the applicant's fitness to practice dental hygiene."

Minnesota Statutes, section 150A.06, subdivision 2a provides that an applicant to practice as a registered dental assistant "may be examined by the board or by an agency pursuant to section 150A.03, subdivision 1, in a manner to test the applicant's fitness to perform as a registered dental assistant."

Minnesota Statutes, section 150A.08, subdivision 1, clause (6) establishes as one of the grounds for the board to suspend, revoke, limit, modify, or deny any license to practice dentistry or dental hygiene or the registration of any dental assistant "conduct unbecoming a person licensed to practice dentistry or dental hygiene or registered as a dental assistant, or conduct contrary to the best interest of the public, as such conduct is defined by the rules of the board."

Minnesota Statutes, section 150A.10, subdivision 1 provides that a "licensed dental hygienist may perform those services which are educational, diagnostic, therapeutic, or preventive in nature and are authorized by the board of dentistry."

Minnesota Statutes, section 150A.10, subdivision 2 provides that "the board may also define by rule the scope of practice of

registered and nonregistered dental assistants. The board by rule may require continuing dental education for differing levels of dental assistants, as a condition to their registration or authority to perform their authorized duties."

Rule Development Process

The board began the process of developing the proposed rules by publishing in the April 5, 1993 edition of the *State Register* a notice that the board is seeking information or opinions from sources outside the board in preparing to propose noncontroversial amendments.

The board developed the proposed amendments on the basis of needs identified by the board. After having compiled a list of suggested changes, the board surveyed the Minnesota Dental Association, the Minnesota Dental Hygienists' Association, and other dental groups and organizations and asked them to indicate, with respect to each proposed change, whether in their opinion the change was needed and whether it would be controversial. The board's Rules Committee subsequently held a public meeting on July 16, 1993 to review the proposed changes and the survey responses. Based on the input provided by the various groups, the survey results, and the comments received at the meeting, the committee placed the proposed changes into several categories. The amendments now being proposed were classified as category 2 changes, deemed to be needed and noncontroversial but not as high a priority as category 1 changes.

The Rules Committee subsequently held public meetings to consider drafts of the category 2 rules changes, and approved a proposed draft to be submitted to the full board. The draft was approved at a public meeting of the Board of Dentistry held on June 11, 1994.

Pursuant to Minnesota Statutes, section 14.23, the board has prepared this Statement of Need and Reasonableness and made it available to the public as of April 21, 1995.

The board will publish in the *State Register* the proposed rules and the Notice of Intent to Adopt Rules Without a Public Hearing. The board will also mail copies of the Notice to persons registered with the board pursuant to Minnesota Statutes, section 14.22 as well as to others who the board believes will have an interest in the rules. The Notice will comply with the requirements of Minnesota Statutes, section 14.22 and Minnesota Rules, part 2010.0300, item E.

These rules will become effective five working days after publication of a Notice of Adoption in the *State Register* pursuant to Minnesota Statutes, section 14.27.

DISCUSSION OF SPECIFIC PROVISIONS

Part 3100.1300 Application for Registration as a Registered Dental Assistant.

A technical amendment to item C changes a reference to the subparts in which the duties of registered dental assistants are defined. The change reflects the additional duties specified under part 3100.8500.

Part 3100.8500 Registered Dental Assistants.

Subpart 1. Duties under general supervision. Duties under general supervision are those that may be performed if a dentist has authorized the procedures and the registered dental assistant performs the procedures in accordance with the dentist's diagnosis and treatment plan. The proposal authorizes a registered dental assistant to perform the following duties under general supervision: cut arch wires, remove loose bands, or remove loose brackets on orthodontic appliances to provide palliative treatment. The amendment is designed to reflect changes in prevailing standards and practices of what duties registered dental assistants are qualified to perform and to allow dentists greater flexibility in delegating appropriate responsibilities to assistants.

Subp. 1a. Duties under indirect supervision. Duties under indirect supervision are those that may be performed if a dentist is in the office, authorizes the procedures, and remains in the office while the procedures are being performed. The proposal expands the duties which a registered dental assistant may perform under indirect supervision to include the following: apply topical fluoride and bleaching agents; dry root canals with paper points, and place cotton pellets and temporary restorative materials into endodontic access openings. The provision also clarifies that a registered dental assistant may, under indirect supervision, apply only topical medications that are physiologically reversible. The amendment is designed to reflect changes in prevailing standards and practices of what duties registered dental assistants are qualified to perform and to allow dentists greater flexibility in delegating appropriate responsibilities to assistants.

Subp. 1b. Duties under direct supervision. Duties under direct supervision are those that may be performed if a dentist is in the dental office, personally diagnoses the condition to be treated, personally authorizes the procedure, and evaluates the performance of the auxiliary before dismissing the patient. The proposal expands the duties which a dental assistant may perform under direct supervision to include the removal of temporary crowns with hand instruments only. The amendment is designed to reflect changes in prevailing standards and practices of what duties registered dental assistants are qualified to perform and to allow dentists greater flexibility in delegating appropriate

responsibilities to assistants.

3100.8700 Dental Hygienists

Subpart 1. Duties under general supervision. Duties under general supervision are those that may be performed if a dentist has authorized them and the hygienist carries them out in accordance with the dentist's diagnosis and treatment plan. The proposal clarifies the duties which a dental hygienist can perform under general supervision by deleting the phrase "temporary placement of restorations" and substituting "replacement of intact temporary crowns or restorations with temporary restorative materials prior to the placement of a permanent restoration. Replacement of restorations does not include the construction of temporary crowns." The amendment is designed to reflect changes in prevailing standards and practice of what duties dental hygienists are qualified to perform and to allow dentists greater flexibility in delegating appropriate responsibilities to hygienists.

Subp. 2a. Duties under direct supervision. Duties under direct supervision are those that may be performed if a dentist is in the office, personally diagnoses the condition to be treated, personally authorizes the procedure, and evaluates the performance of the dental hygienist before dismissing the patient. The proposal adds to the duties a dental hygienist can perform under direct supervision the removal of temporary crowns with hand instruments only. The authorization parallels what is authorized for dental assistants under direct supervision with the proposed new language in part 3100.8500, subpart 1b, item E.

ADDITIONAL INFORMATION

Expenditure of Public Money by Local Public Bodies

Minnesota Statutes, section 14.11, subdivision 1 requires that "if the adoption of a rule by an agency will require the expenditure of public money by local public bodies, the appropriate notice of the agency's intent to adopt a rule shall be accompanied by a written statement giving the agency's reasonable estimate of the total cost to all local public bodies." The board does not anticipate that the proposed amendments will require the expenditure of public money by local public bodies.

Impact on Agricultural Land

Minnesota Statutes, section 14.11, subdivision 2 requires that "if the agency proposing the adoption of the rule determines that the rule may have a direct and substantial adverse impact on agricultural land in the state, the agency shall comply with the requirements of sections 17.80 to 17.84." The board does not anticipate that the proposed amendments will have a direct and

substantial adverse impact on agricultural land in the state.

Small Business Considerations

Minnesota Statutes, section 14.115, subdivision 2 requires that when an agency proposes new or amended rules, it must consider "methods for reducing the impact of the rule on small business" and "document how it has considered these methods"; subdivision 4 requires the agency to "provide an opportunity for small businesses to participate in the rulemaking process."

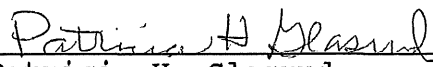
The board's position is that the requirements of section 14.115 do not apply to the proposed rules, because subdivision 7, clause (2) provides that the section does not apply to "agency rules that do not affect small business directly." The board's authority relates only to the qualifications of dentists, dental hygienists, and registered dental assistants to provide dental services; the board has not authority over the dental businesses in which they practice. Therefore the rules do not affect dental businesses as such, and the board is exempt from the requirements of section 14.115.

Fees

Minnesota Statutes, section 16A.128, subdivision 1a requires that "fees for accounts for which appropriations are made may not be established or adjusted without the approval of the commissioner [of finance]." The proposed rules do not establish or adjust fees.

Expert Witnesses

Minnesota Rules, part 1400.0500, subpart 1 requires that if rules are adopted with a public hearing, the statement of need and reasonableness must include "a list of any witnesses to be called by the agency to testify on its behalf." The board does not anticipate that it will be necessary to have a public hearing on the proposed amendments.



Patricia H. Glasrud
Executive Director

April 21, 1995