

November 18, 2021

Legislative Reference Library

645 State Office Building

100 Rev. Dr. Martin Luther King Jr. Blvd.

Saint Paul, Minnesota 55155-1050

sonars@lrl.mn.gov

Re: Proposed Amendments to Permanent Rules Relating to Professional Licensure, *Minnesota Rules* 3100.0100, 3100.1100, 3100.1120, 3100.1130, 3100.1150, 3100.1160, 3100.1170, 3100.1180, 3100.1200, 3100.1300, 3100.1320, 3100.1340, 3100.1350, 3100.1370, 3100.1380, 3100.1400, 3100.1700, 3100.1750, 3100.1850, 3100.3600, 3100.5100, 3100.6200, 3100.6600, 3100.6900, 3100.7000, 3100.8400, 3100.8500, 3100.8700, and 3100.9600; and

Proposed Repeal of Permanent Rules Relating to Obsolete, Unnecessary, or Duplicative Professional Licensure, *Minnesota Rules* 3100.0100, subparts 8b, 15, and 18b; 3100.1100, subparts 2, 4, and 5; 3100.1500; 3100.1600; 3100.1700, subpart 5; 3100.1750, subparts 4, 5, and 6; 3100.3100; 3100.3200; 3100.3300; 3100.3350; 3100.3400; 3100.3500; 3100.3600, subparts 2, 3, 4, 5, 6, 7, 8, 9, 9a, 9b, 10, and 11; 3100.5400; 3100.6325; 3100.7200; and 3100.8500, subpart 3. Revisor's ID Number 4672.

Dear Librarian:

The Minnesota Board of Dentistry intends to adopt rules relating to the following: a major portion of the amendments encompass creating a more user-friendly guide in Minnesota Rules, chapter 3100 for dentists, dental therapists, dental hygienists, and licensed dental assistants regarding standard licensure options. In addition, the proposed rules focus on achieving a major housekeeping throughout by either meticulously streamlining and eliminating all non-relevant requests made by the Board's current rules or simply updating some areas with minor changes.

We plan to publish a Dual Notice of Intent to Adopt Rules on November 29, 2021, State Register.

The Board has prepared a Statement of Need and Reasonableness. As required by Minnesota Statutes sections 14.131 and 14.23, the Board is sending the Library an electronic copy of the Statement of Need and Reasonableness about the same time as we are mailing our Dual Notice.

If you have any questions, please contact me at (612) 548-2134.

Yours very truly,



Kathy T. Johnson

Legal Analyst

Minnesota Board of Dentistry

Enclosures: Statement of Need and Reasonableness

**Minnesota Board of Dentistry
STATEMENT OF NEED AND REASONABLENESS**

Proposed Amendments to Permanent Rules Relating to Professional Licensure, *Minnesota Rules* 3100.0100, 3100.1100, 3100.1120, 3100.1130, 3100.1150, 3100.1160, 3100.1170, 3100.1180, 3100.1200, 3100.1300, 3100.1320, 3100.1340, 3100.1350, 3100.1370, 3100.1380, 3100.1400, 3100.1700, 3100.1750, 3100.1850, 3100.3600, 3100.5100, 3100.6200, 3100.6600, 3100.6900, 3100.7000, 3100.8400, 3100.8500, 3100.8700, and 3100.9600; and

Proposed Repeal of Permanent Rules Relating to Obsolete, Unnecessary, or Duplicative Professional Licensure, *Minnesota Rules* 3100.0100, subparts 8b, 15, and 18b; 3100.1100, subparts 2, 4, and 5; 3100.1500; 3100.1600; 3100.1700, subpart 5; 3100.1750, subparts 4, 5, and 6; 3100.3100; 3100.3200; 3100.3300; 3100.3350; 3100.3400; 3100.3500; 3100.3600, subparts 2, 3, 4, 5, 6, 7, 8, 9, 9a, 9b, 10, and 11; 3100.5400; 3100.6325; 3100.7200; and 3100.8500, subpart 3. Revisor's ID Number 4672.

INTRODUCTION

The Minnesota Board of Dentistry ("Board") is the state agency authorized to establish permanent rules for regulating dentists, dental therapists, dental hygienists, and licensed dental assistants in the State of Minnesota.

A major portion of the amendments in the Board's proposed rules create a more user-friendly guide listing all the different types of standard licensure or registration options in dentistry. Each standard licensure or registration option will still have the same application and examination requirements as before, but the new proposed language is now consistent throughout making for easy reading and interpretation of the Board's rules. Moreover, each standard licensure or registration option lists other relevant information such as terms and renewal, reinstatement, and professional development to name a few.

In addition, the proposed rules focus on achieving a major housekeeping throughout by either meticulously streamlining and eliminating all non-relevant requests made by the Board's current rules or simply updating some areas with minor changes in the following areas: licensure by credentials; terms and renewal of license or registration; reinstatement; administration of nitrous oxide inhalation analgesia, general anesthesia, deep sedation, and moderate sedation; professional development; conduct unbecoming a licensee; advertising; consideration for patient referral; assistants without a license; licensed dental assistants; dental hygienists; and recordkeeping.

Over the past year, various Committees of the Board have held several public meetings with all interested parties in attendance to thoroughly discuss and present scenarios regarding these proposed rule changes. Thereafter, all proposed rules were heard before the Board and given approval to proceed with the rulemaking process.

The decisions of the Board to propose an amendment to a rule in this rulemaking proceeding are explained and justified in the Rule-By-Rule Analysis section of this statement.

ALTERNATIVE FORMAT

Upon request, this Statement of Need and Reasonableness can be made available in an alternative format, such as large print, Braille, or audio. To make a request, contact Kathy Johnson at the Minnesota Board of Dentistry, 2829 University Avenue SE, Suite 450, Minneapolis, Minnesota 55414, (612) 548-2134, (612) 617-2250 or (888) 240-4762 (outside metro). TTY users may call (800) 627-3529.

STATUTORY AUTHORITY

The Board's statutory authority to adopt the rules set forth is found in Minnesota Statutes section 150A.04, subdivision 5, which provides:

“150A.04 RULES OF THE BOARD.

Subdivision 5. **Rules.** The Board may promulgate rules as are necessary to carry out and make effective the provisions and purposes of sections 150A.01 to 150A.12, in accordance with Chapter 14.”

Under Minnesota Statutes section 150A.04, subdivision 5, the Board has the necessary statutory authority to adopt the proposed rules. All sources of statutory authority were adopted and effective prior to January 1, 1996, and so Minnesota Statutes, section 14.125 does not apply. See Minnesota Laws 1995, chapter 233, article 2, section 58.

In addition, the Board's statutory authority to adopt the rules set forth is found in Minnesota Statutes section 150A.06, subdivision 9, which provides:

“150A.06 LICENSURE.

Subdivision 9. **Graduates of nonaccredited dental programs.** A graduate of a nonaccredited dental program who successfully completes the clinical licensure examination, and meets all other applicant requirements of the board shall be licensed to practice dentistry and granted a limited general dentist license by the board. The board shall place limitations on the licensee's authority to practice by requiring the licensee to practice under the general supervision of a Minnesota-licensed dentist approved by the board. A person licensed under this subdivision must practice for three consecutive years in Minnesota pursuant to a written agreement, approved by the board, between the licensee and a Minnesota-licensed dentist who may limit the types of services authorized. At the conclusion of the three-year period, the board shall grant an unlimited license without further restrictions if all supervising dentists who had entered into written agreements with the licensee during any part of the three-year period recommend unlimited licensure, and if no corrective action or disciplinary action has been taken by the board against the licensee.”

Under Minnesota Statutes section 150A.04, subdivision 5 and section 150A.06, subdivision 9, the Board has the necessary statutory authority to adopt the proposed rules within part 3100.1130.

REGULATORY ANALYSIS

Minnesota Statutes, section 14.131, sets out eight factors for a regulatory analysis that must be included in the SONAR. Paragraphs (1) through (8) below quote these factors and provide the Board's responses.

“(1) a description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule”

- Classes of persons affected by proposed rules will be all regulated dental professionals: dentists, dental therapists, dental hygienists, and licensed dental assistants;

- Costs of proposed rules to all regulated dental professionals: No new regulatory requirements are being proposed by these rules, so regulated dental professionals will NOT be financially impacted by these changes; and
- Classes benefiting from proposed rules: All regulated dental professionals will benefit from the proposed rules because the entire chapter has been reformatted to create a more user-friendly guide for each profession to easily access information pertinent to them.

“(2) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues”

- Regarding the proposed rules, the Board will NOT incur any increased costs beyond those currently associated with normal operating costs under the existing rules;
- The Board does NOT anticipate any probable costs to any other agency in the implementation and enforcement of the proposed rules; and
- The Board does NOT anticipate any change to net effect on state revenues.

“(3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule”

- Less costly or less intrusive methods for achieving the purpose of the proposed rules, in this case do not appear to apply. This is because the majority, if not all, of the rules amendments are housekeeping in nature and are meant to reorganize and clarify existing statutes and rules that have been in place for many years.

“(4) a description of any alternative methods for achieving the purpose of the proposed rules that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule”

- No alternative methods were considered by the Board because these proposed rules amendments are mainly housekeeping in nature and do not warrant a debate over alternative methods to these rules. The amendments do not make substantive changes and are non-controversial for regulated dental professionals.

“(5) the probable costs of complying with the proposed rules, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals”

- The probable costs of complying with these rule amendments for regulated dental professionals is not really a factor because of the housekeeping nature of most of the amendments. No additional costs are expected because most of what is proposed is already required or supplements existing requirements made by the Board; and
- No other classes of government units, businesses, or individuals are expected to bear costs associated with the proposed rules amendments.

“(6) the probable costs or consequences of not adopting the proposed rules, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals”

- The consequences of not adopting the proposed rules means keeping outdated and unclear language in the existing rules and not aligning the rules with the current statutes. These

consequences will cause confusion with the existing rules for regulated dental professionals, new dental applicants, Board staff, and the general public; and

- No other classes of government units or businesses will be affected by not adopting the proposed rules amendments.

“(7) an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference”

- None of the proposed rules amendments conflict with any federal regulations. The regulation of dental professionals is primarily a function of state government.

“(8) an assessment of the cumulative effect of the rule with other federal and state regulations related to the specific purpose of the rule. . . . ‘[C]umulative effect’ means the impact that results from incremental impact of the proposed rule in addition to other rules, regardless of what state or federal agency has adopted the other rules. Cumulative effects can result from individually minor but collectively significant rules adopted over a period of time.”

- The Board has found no cumulative effect with its proposed rules amendments because the regulating of dental professionals is not addressed by federal law or other Minnesota state laws. Therefore, this consideration is not applicable for this rule.

PERFORMANCE-BASED RULES

Minnesota Statutes, sections 14.002 and 14.131, require that the SONAR describe how the agency, in developing the rules, considered and implemented performance-based standards that emphasize superior achievement in meeting the agency’s regulatory objectives and maximum flexibility for the regulated party and the agency in meeting those goals.

For these proposed rules, the Board decided to perform the above analysis on a rule-by-rule basis and included the required information regarding the Board’s objectives and flexibility into the section entitled “Rule-By-Rule Analysis” of this statement.

NOTICE PLAN and ADDITIONAL NOTICE PLAN

Notice Plan

The Board’s Notice Plan includes the following mandated statutory actions:

1. **Rulemaking Mailing List.** A copy of the Dual Notice and proposed rules shall be mailed to all persons who have registered to be on the Board’s rulemaking mailing list under Minnesota Statutes, section 14.14, subdivision 1a. This mailing shall be accomplished by sending an electronic copy via e-mail to all persons on the list.
2. **Legislature.** A copy of the Dual Notice, proposed rules, and this Statement of Need and Reasonableness shall be mailed to the Legislative Coordinating Commission and the applicable House and Senate Committee members of the Legislature with jurisdiction over the subject matter of the proposed rules under Minnesota Statutes, section 14.116, as follows: (a) House: Human Services Finance and Policy Committee Chair and Lead; and Health Finance and Policy Committee Chair and Lead; and (b) Senate: Health and Human Services Finance and Policy Committee Chair and Ranking Minority Member; and Human Services Reform Finance and Policy Committee Chair and Ranking Minority Member.

Additional Notice Plan

Minnesota Statutes, sections 14.131 and 14.23, require that this SONAR contain a description of the Board's efforts to provide additional notice to persons who might be affected by the proposed rules or explain why these efforts were not made. Additional notice has been provided by the Board, as follows:

1. Throughout 2019, 2020, and 2021, several of the Board's Committees (e.g., Licensure and Credential, Policy, and Allied Dental Education) held numerous public meetings with all interested parties in attendance to thoroughly discuss and present scenarios regarding these proposed rules amendments. Official notices of these public meetings were electronically sent by the Board to all regulated dental professionals, association representatives, and the general public, as well as posting a notice of the meetings on the Board's website. During all public meetings, copies of the proposed rules amendments are distributed and reviewed by all individuals in attendance and input encouraged from all attendees. After these public meetings, the Board will review and approve the proposed rules amendments and proceed with the rulemaking process.
2. On March 18, 2021, the Board posted a draft copy of the proposed rules amendments on the Board's website at www.mn.gov/boards/dentistry making it accessible to the following individuals: all dentists; dental therapists; dental hygienists; dental assistants; state legislators; other health boards; professional associations; and members of the general public. This draft copy identified the Board rules that will be affected by the Board's proposed rules amendments.
3. On March 18, 2021, the Board posted a copy of the Request for Comments for publication in the State Register in the Board's newsletter and on the Board's website and Facebook page at www.mn.gov/boards/dentistry. This newsletter, website, and Facebook page are accessible to the following individuals: all dentists; dental therapists; dental hygienists; dental assistants; state legislators; other health boards; professional associations; and members of the general public.
4. On March 18, 2021, the Board posted its Statement of Need and Reasonableness ("SONAR") dated March 17, 2021, on the Board's website at www.mn.gov/boards/dentistry making this information accessible to the following individuals: all dentists; dental therapists; dental hygienists; dental assistants; state legislators; other health boards; professional associations; and members of the general public.
5. On March 22, 2021, the Board mailed the Request for Comments to all persons on the Board's rulemaking mailing list by sending an electronic copy via e-mail to all persons on the list.
6. On March 22, 2021, the Board contacted representatives of the Minnesota Dental Association (Dentists), the Minnesota Dental Therapy Association (Dental Therapists), the Minnesota Dental Hygienists Association (Dental Hygienists), and the Minnesota Dental Assistants Association (Dental Assistants) about the Board's Request for Comments period and the proposed rules.
7. On March 22, 2021, the Board sent an electronic mass mailing using GovDelivery service to nearly 22,000 licensees and the general public, including dentists, dental therapists, dental hygienists, and licensed dental assistants, regarding the Board's Request for Comments period and the proposed rules.

8. On March 29, 2021, the Board's Request for Comments was published in the State Register, requesting that all comments be submitted to the Board by May 28, 2021. All comments received by the Board regarding the proposed rules shall be reviewed and any suggested changes shall be considered by the Board.
9. Prior to publication of the Dual Notice in the State Register, the Board will send by electronic mail a copy of the Dual Notice of Intent to Adopt Rules, the proposed rules, and the SONAR to the representatives of the Minnesota Dental Association (Dentists), the Minnesota Dental Therapy Association (Dental Therapists), the Minnesota Dental Hygienists Association (Dental Hygienists), and the Minnesota Dental Assistants Association (Dental Assistants), and asked these representatives to disseminate this information to their member lists via newsletters, publications, or mailings.
10. Prior to publication of the Dual Notice in the State Register, the Board will send an electronic mass mailing using GovDelivery service to nearly 22,000 licensees and the general public, including dentists, dental therapists, dental hygienists, and licensed dental assistants, regarding the Board's Dual Notice period, the proposed rules, and the SONAR.

The Board believes that this Additional Notice Plan complies with the statutes because the notification pathways described above will provide the principal representatives of the affected parties and the affected parties through electronic mailings with ample notice and opportunity to provide suggestions, proposals, and comments regarding the proposed rules amendments.

The listed persons and organizations receiving the Additional Notice represents a major portion of the persons interested in these proposed rules. They represent several classes and a number of different positions in the spectrum of the dental workforce, which is the central purpose of the rulemaking process.

CONSULTATION WITH MMB ON LOCAL GOVERNMENT IMPACT

As required by Minnesota Statutes, section 14.131, the Board will consult with Minnesota Management and Budget ("MMB"). We will do this by sending MMB copies of the documents that we send to the Governor's Office for review and approval on or about the same day we send them to the Governor's Office. We will do this before the Board publishes its Dual Notice of Intent to Adopt in the State Register. The documents will include: the Governor's Office Proposed Rule and SONAR Form; the proposed rules; and the SONAR. The Board will submit a copy of the cover correspondence and any response received from MMB to OAH at the hearing or with the documents it submits for ALJ review.

Specifically, the Board will send copies of the required documents to Lindsay Dean, the Board's Executive Budget Officer (EBO), at MMB and will later provide Lindsay Dean's response to the OAH/ALJ.

DETERMINATION ABOUT RULES REQUIRING LOCAL IMPLEMENTATION

As required by Minnesota Statutes, section 14.128, subdivision 1, the Board has considered whether these proposed rules will require a local government to adopt or amend any ordinance or other regulation in order to comply with these rules. The Board has determined that the local units of government would not be required to adopt or amend an ordinance or regulation because the proposed rules do not require local implementation. All of the Board's proposed rules are intended

to provide guidelines and requirements limited to the regulated dental professionals who must comply with these rules.

COST OF COMPLYING FOR SMALL BUSINESS OR CITY

As required by Minnesota Statutes, section 14.127, the Board has considered whether the cost of complying with the proposed rules in the first year after the rules take effect will exceed \$25,000 for any small business or small city. The Board has determined that the cost of complying with the proposed rules in the first year after the rules take effect will not exceed \$25,000 for any small business or small city. The Board has made this determination based on the probable costs of complying with the proposed rules, as previously described in the Regulatory Analysis section of this SONAR on pages 2 and 3.

LIST OF WITNESSES

If these proposed rules go to a public hearing, the Board anticipates having the following witnesses testify in support of the need for and reasonableness of the proposed rules:

1. Angela Rake, D.D.S., Board Member
2. Hassan Ismail, D.D.S., Board Member
3. Bridgett Anderson, L.D.A., M.B.A., Executive Director

RULE-BY-RULE ANALYSIS

PROPOSED RULES AMENDMENTS

All rule parts hereafter shall include supportive information relative to the rule-by-rule analysis as follows:

3100.0100 DEFINITIONS.

Subparts 5, 9a, 9c, 12b, 13, and 16c – the changes made in these subparts reflect the changes made in other parts regarding allied dental personnel, CPR, dental assistant with a limited radiology registration, licensee, and registrant. Thus, the Board considers these proposed changes to be necessary and reasonable.

3100.1100 to 3100.1380.

Regarding the list below of the Board’s standard licensure options, the Board decided to create a more user-friendly guide in Minnesota Rules, chapter 3100 for all dentists, dental therapists, dental hygienists, and licensed dental assistants regarding the standard license options that are available to them. Previously, some of the standard license options were only found in Minnesota statutes and now are included in the proposed rules. Each standard license option will still basically have the same application and examination requirements as before, but the new proposed language is now consistent throughout making for easy reading and interpretation of the Board’s rules. In addition, each standard license option lists other key requirements pertaining to that license such as terms and renewal, reinstatement, and professional development to name a few. Furthermore, the Board has examined each standard license option and completed a major housekeeping of each license by eliminating non-relevant or outdated requests made by the Board’s existing rules. In the end, the Board believes in making the licensing process easier and considers these proposed changes to be necessary and reasonable.

- 3100.1100 GENERAL DENTIST
- 3100.1120 SPECIALTY DENTIST
- 3100.1130 LIMITED GENERAL DENTIST
- 3100.1150 FACULTY DENTIST; FULL OR LIMITED
- 3100.1160 RESIDENT DENTIST
- 3100.1170 RESIDENT DENTAL THERAPIST OR RESIDENT DENTAL HYGIENIST
- 3100.1180 DENTAL THERAPIST AND ADVANCED DENTAL THERAPIST
- 3100.1200 DENTAL HYGIENIST
- 3100.1300 LICENSED DENTAL ASSISTANT
- 3100.1320 LIMITED RADIOLOGY REGISTRATION
- 3100.1340 EMERITUS INACTIVE
- 3100.1350 EMERITUS ACTIVE
- 3100.1370 GUEST
- 3100.1380 GUEST-VOLUNTEER

3100.1400 LICENSURE BY CREDENTIALS.

The Board has made numerous changes to part 3100.1400 making it a logistical challenge to address each line change in detail. Overall, the Board updated all educational or examination requirements that are needed to pursue the licensure by credentials pathway. The Board also standardized the language to match other licensure paths by including the fee and CPR requirement. In addition, the Board completed major housekeeping of this rule by eliminating non-relevant or outdated language present in the Board’s existing rules. Furthermore, the Board supports streamlining the licensing by credentials process and considers these proposed changes to be necessary and reasonable.

3100.1400 APPLICATION FOR LICENSURE BY CREDENTIALS.

Subpart 1. Licensure application requirements. A person who is ~~already currently~~ a licensed dentist, dental therapist, or dental hygienist in another state United States jurisdiction or Canadian province ~~desiring seeking~~ to be licensed to practice dentistry, dental therapy, or dental hygiene in Minnesota shall, ~~in order to demonstrate the person's knowledge of dental subjects and ability to practice dentistry or dental hygiene in Minnesota, comply with the requirements in items A to N.~~ must provide the board:

- ~~A. The applicant shall complete an a completed application furnished by the board;~~
- B. the fee in Minnesota Statutes, section 150A.091, subdivision 9;

~~B C. The applicant shall furnish satisfactory evidence of having graduated from either a school of dentistry or dental hygiene, whichever the case may be, which has been accredited by the Commission on Dental Accreditation;~~

D. evidence of having graduated with a baccalaureate degree or a master's degree from a dental therapy education program that has been approved by the board or accredited by the Commission on Dental Accreditation or another board-approved national accreditation organization;

E. evidence of having graduated from a master's advanced dental therapy education program;

~~€ F. An applicant for licensure as a dentist must have been proof of completing at least 2,000 hours within the past 36 months in active practice in another state United States jurisdiction, Canadian province, or United States government service for at least 2,000 hours within 36 months prior to the board receiving a completed application and must submit at least three references from other practicing dentists;~~

~~D. An applicant for licensure as a dental hygienist must have been in active practice in another state, Canadian province, or United States government service for at least 2,000 hours within 36 months prior to the board receiving a completed application. The applicant must submit at least two character references from dentists and two references from practicing dental hygienists.~~

~~E G. An applicant must provide evidence of having passed passing a clinical examination for licensure in another state United States jurisdiction or Canadian province, where the licensure requirements are substantially equivalent to that of Minnesota;~~

~~F H. An applicant shall include a physician's statement attesting to the applicant's physical and mental condition and a statement from a licensed ophthalmologist or optometrist attesting to the applicant's visual acuity. evidence of passing all parts of a national board examination for the practice of dentistry, dental therapy, or dental hygiene;~~

~~G. An applicant must submit with the application a fee as prescribed in Minnesota Statutes, section 150A.091, subdivision 9.~~

~~H. For identification purposes, the applicant shall furnish submit one notarized unmounted passport type photograph, three inches by three inches, taken not more than six months before the date of application.~~

~~I. In advance of the appearance required by item J, an applicant for licensure by credentials as a dentist shall submit complete records on a sample of patients treated by the applicant. The sample must be drawn from patients treated by the applicant during the five years preceding the date of application. The number of records requested of the applicant shall be established by resolution of the board. The records submitted shall be reasonably representative of the treatment typically provided by the applicant.~~

~~J. An applicant must appear before the board and satisfactorily respond to questions designed to determine the applicant's knowledge of dental subjects and ability to practice dentistry or dental hygiene pursuant to Minnesota Statutes, section 150A.06, subdivision 4. Questions may be based on the records submitted pursuant to item I.~~

~~K I. An applicant shall successfully complete an evidence of passing the board's jurisprudence examination designed to test knowledge of Minnesota laws relating to the practice of dentistry and the rules of the board within the past five years; and~~

~~L. If the board adopts simulated dental patient examinations as part of the application process, applicants shall complete simulated dental patient examinations designed to test their knowledge of dental subjects.~~

~~M. An applicant shall provide adequate documentation of attained professional development or continuing dental education for the 60 months preceding the date of application.~~

~~N. An applicant may apply for licensure by credentials only once within any five year period of time.~~

J. documentation of current CPR certification.

Subp. 2. Disciplinary action. A person seeking licensure under subpart 1 must not be subject to any pending or final disciplinary action in another United States jurisdiction or Canadian province.

3100.1700 TERMS AND RENEWAL OF LICENSE OR REGISTRATION; GENERAL.

The Board has made numerous changes to part 3100.1700, including major housekeeping to eliminate non-relevant or outdated language that is present in the Board's existing rules. None of the actual terms or requirements for renewal of a license have changed. These format changes will make the Board's rules clearer and concise, therefore, the Board considers these proposed changes to be necessary and reasonable.

3100.1700 TERMS AND RENEWAL OF LICENSE OR PERMIT REGISTRATION; GENERAL.

Subpart 1. **Requirements.** The requirements of this part apply to the terms and renewal of a license or ~~limited license permit of an applicant other than a limited faculty or resident dentist registration.~~ The requirements for the terms and renewal of licensure as a limited faculty dentist, ~~or resident dentist, resident dental therapist, or resident dental hygienist~~ are specified in part 3100.1750.

Subp. 1a. **Initial term.** An initial license or ~~permit registration~~ issued by the board is valid from the date issued until the last day of the licensee's or registrant's birth month in either the following even-numbered year for an even-numbered birthdate year or the following odd-numbered year for an odd-numbered birthdate year, or terminated according to the procedures in this part.

Subp. 1b. **Biennial term.** A properly renewed license or ~~permit registration~~ issued by the board is valid from the first day of the month following expiration for 24 months until renewed or terminated according to the procedures in this part.

Subp. 1c. Fees. The initial, biennial renewal, and late fee amounts are in Minnesota Statutes, section 150A.091, subdivisions 3, 5, and 7.

Subp. 2. **Biennial renewal applications.** Each licensee ~~shall~~ or registrant must submit an application for biennial renewal of a license or ~~permit together with registration by paying the necessary required fee to the board~~ no later than the last day of the licensee's or registrant's birth month, which is the application deadline. ~~An application for renewal is deemed timely if received by the board or postmarked no later than the last day of the licensee's birth month.~~ The application form must provide a place for the renewal applicant's signature certifying compliance with the applicable professional development requirements including require the licensee or registrant to certify compliance with maintaining a consecutive and current CPR certification ~~and information including the applicant's office address or addresses, the license number, whether the licensee has~~

~~been engaged in the active practice of dentistry during the two years preceding the period for which renewal is sought as a licensee, and if so, whether within or without the state, and any other information that may be reasonably requested by the board. Failure by a licensee or registrant to maintain a consecutive and current CPR certification subjects the licensee or registrant to disciplinary proceedings under parts 3100.6100 and 3100.6200 and Minnesota Statutes, section 150A.08, subdivision 1.~~

Subp. 3. Failure to submit biennial renewal application. ~~The procedures in this subpart shall be followed by the board for all licensees who have failed to submit the biennial renewal application according to subpart 2 and applicable fees, except as provided in subpart 5.~~

~~A. Any time If a licensee or registrant fails to biennially renew their license or registration, the board shall, after the application deadline, the board will send, to the last address on file with the board, a notice to a the licensee who has not made application for the renewal of a license or permit or registrant. The notice will must state that licensee has failed to make application for renewal; the amount of the renewal and late fees; that.~~

~~B. A licensee may voluntarily or registrant must renew their license or registration within 30 days of the license's or registration's expiration date.~~

~~C. If the licensee or registrant fails to renew their license or registration according to item B, the board shall administratively terminate the license or permit by notifying the board; and that failure to respond to the notice by the date specified, which date must be at least 33 days after the notice is sent out by the board either by submitting the renewal application and applicable fees, or by notifying the board that licensee has voluntarily terminated the license or permit will result in the expiration of the license or permit and termination of the registration and the right to practice. The board shall not consider an administrative termination of a license or registration to be a disciplinary action against the licensee or registrant.~~

~~B.D. If the application for renewal, including the applicant's signature certifying compliance with the applicable professional development requirements, and the applicable biennial and late fees or notice of voluntary termination is not received by the board by the date specified in the notice, a licensee or registrant elected not to renew the license or registration, the licensee or registrant may:~~

~~(1) voluntarily terminate the license or permit will expire and the licensee's right to practice will terminate as of the date specified in the notice. The expiration and termination will not be considered a disciplinary action against the licensee registration; or~~

~~(2) apply for an emeritus inactive or emeritus active license through the board, except for individuals with a limited radiology registration.~~

Subp. 4. Reinstatement. ~~A license which has expired according to terminated in this part may be reinstated according to part 3100.1850. A limited radiology registration terminated in subpart 3 may be reinstated according to part 3100.1320.~~

Subp. 5. Contested case proceedings Repealed. ~~The board, in lieu of the process in subpart 3, may initiate a contested case hearing to revoke or suspend a license or permit for failure to submit the fees or provide the applicant's signature certifying compliance with the applicable professional development requirements on the renewal application, at the same time that it initiates disciplinary proceedings against the licensee for other grounds specified in Minnesota Statutes, section 150A.08, subdivision 1, and parts 3100.6100 to 3100.7200 and 3100.8100.~~

3100.1750 TERMS AND RENEWAL OF LICENSE; LIMITED FACULTY DENTIST, RESIDENT DENTIST, RESIDENT DENTAL THERAPIST, OR RESIDENT DENTAL HYGIENIST.

The two substantial modifications made to part 3100.1750 below include adding the resident dental therapist and resident dental hygienist to this group and adding a description of the Board process for those individuals who fail to renew their annual license. This process is the same as other license renewal requirements. The Board notifies the Licensee and the Licensee must respond within a specified time period. If they do not, the Licensee's license will be administratively terminated. The Licensee must be aware of the Board's process in order to comply with this rule. All remaining changes to this rule are considered housekeeping by eliminating non-relevant or outdated language that is present in the Board's existing rules. For this reason, the Board considers these proposed changes to be necessary and reasonable.

3100.1750 TERMS AND RENEWAL OF LICENSE; LIMITED FACULTY AND DENTIST, RESIDENT DENTIST, RESIDENT DENTAL THERAPIST, AND RESIDENT DENTAL HYGIENIST.

Subpart 1. **Requirements.** The requirements of this part apply to the terms and renewal of licensure as a limited faculty ~~or dentist, resident dentist, resident dental therapist, or resident dental hygienist.~~

Subp. 2. **Terms.** An initial license issued by the board is valid from the date issued until renewed or terminated in accordance with the procedures specified in this part. An annually renewed license ~~issued by the board~~ is valid from July 1 ~~of the year for which it was issued~~ until renewed no later than the following June 30 or terminated in accordance with the procedures specified in this part.

Subp. 2a. **Annual license fees.** The annual renewal and late fee amounts are in Minnesota Statutes, section 150A.091, subdivisions 4 and 6.

Subp. 3. **Annual license renewal applications.**

~~A. A limited faculty or dentist, resident dentist, resident dental therapist, or resident dental hygienist must complete and submit to the board an application form furnished by the board, together with the applicable annual renewal~~ annually renew their license by paying the required fee, no later than June 30 for the 12-month period for which licensure renewal is requested. Applications for renewal will be considered timely if received by the board no later than June 30 or postmarked on June 30. If the postmark is illegible, the application will be considered timely if received in the board office via United States first class mail on the first workday after June 30. The renewal requires maintaining a consecutive and current CPR certification.

~~B. An applicant must submit on the application form the following:~~

- ~~(1) the applicant's signature;~~
- ~~(2) the applicant's institutional addresses;~~
- ~~(3) the applicant's license number; and~~
- ~~(4) any additional information requested by the board.~~

Subp. 4. ~~**Application fees Repealed.** Each applicant for initial licensure as a limited faculty or resident dentist shall submit with a license application the fee in Minnesota Statutes, section 150A.091, subdivision 2.~~

Subp. 5. ~~**Annual license fees Repealed.** Each limited faculty or resident dentist shall submit with an annual license renewal application the fee in Minnesota Statutes, section 150A.091, subdivision 4.~~

Subp. 6. ~~**Annual license late fee Repealed.** Applications for renewal of any license received after the time specified in this part shall be assessed a late fee equal to 50 percent of the annual renewal fee.~~

Subp. 7. **Failure to submit annual license renewal.** After a license for a limited faculty dentist, resident dentist, resident dental therapist, or resident dental hygienist expires, the board shall send a notice to the licensee who has not renewed their license. The notice must state the amount of the renewal and late fees. The licensee must renew within 30 days of the expiration date of the license or the board shall administratively terminate the license and the right to practice. The board shall not consider an administrative termination of a license to be a disciplinary action against the licensee.

3100.1850 REINSTATEMENT OF LICENSE.

The Board has made numerous changes to part 3100.1850 below that includes major housekeeping by eliminating non-relevant or outdated language that is present in the Board's existing rules. None of the actual reinstatement requirements for licensure for the various time periods of termination have changed. The format changes will make the Board's rules clearer and concise, therefore, the Board considers these proposed changes to be necessary and reasonable.

3100.1850 REINSTATEMENT OF LICENSE.

Subpart 1. **Requirements.** ~~A. A person desiring the seeking reinstatement of a license after the board has terminated the license according to part 3100.1700, subpart 3, or the person has voluntarily terminated the license, must:~~

~~A. (1) submit to provide the board a completed reinstatement application provided by the board;~~

~~B. (2) submit with provide the board the biennial renewal and reinstatement application the fees specified in Minnesota Statutes, section 150A.091, subdivisions 5 and 10; and~~

~~(3) include with the reinstatement application a letter stating the reasons for applying for reinstatement; and~~

~~C. (4) comply with the applicable provisions of subparts 2 to 5 3.~~

~~B. Once the requirements of this subpart have been reviewed by the board, the board shall officially notify the applicant by letter as to whether the reinstatement of a license has been denied or granted by the board. If granted reinstatement, the person shall be assigned to the biennial term to which the licensee was assigned prior to termination of the license. An applicant denied~~

reinstatement of a license may appeal the denial by initiating a contested case hearing pursuant to Minnesota Statutes, chapter 14.

Subp. 2. ~~Expiration or voluntary termination of~~ **If terminated for six months or less.** An applicant whose license has expired according to part 3100.1700, subpart 3, or who voluntarily terminated the license six months or less previous to the application for reinstatement If the person's license is terminated for six months or less, the person must provide the board:

A. ~~provide evidence of having completed~~ completing the professional development requirements described under part 3100.5200 that would have applied to the applicant had the license not expired. Professional development requirements must have been completed 3100.5100 within 24 months prior to the board's receipt of the application; and

~~B. pay the biennial renewal fee and file a reinstatement application specified in subpart 1.~~

B. documentation of current CPR certification.

Subp. 2a. ~~Expiration or voluntary termination of~~ **If terminated for more than six months but less than 24 months.** An applicant whose license has expired according to part 3100.1700, subpart 3, or who voluntarily terminated the license more than six months but less than 24 months previous to the application for reinstatement If the person's license is terminated for more than six months but less than 24 months, the person must provide the board:

A. ~~provide evidence of having completed~~ completing the professional development requirements in part 3100.5200 that would have applied to the applicant had the license not expired. Professional development requirements must have been completed under part 3100.5100 within 24 months prior to the board's receipt of the application;

~~B. pay the biennial renewal fee and file a reinstatement application specified in subpart 1;~~

B. documentation of current CPR certification;

C. ~~submit evidence of having successfully completed the~~ passing the board's jurisprudence examination of the laws of Minnesota relating to dentistry and the rules of the board. The examination must have been completed within 12 months prior to the board's receipt of the application; and

D. a criminal background check if terminated more than one year as required by Minnesota Statutes, section 214.075.

~~D. submit evidence of having had a complete physical examination to include a physician's statement attesting to the applicant's physical and mental condition. The physical examination must have been completed within 12 months prior to the board's receipt of the application; and~~

~~E. submit evidence of having had a complete optical examination and having complied with required optical prescriptions. The optical examination must have been completed within 12 months prior to the board's receipt of the application.~~

Subp. 3. ~~Expiration or voluntary termination of~~ **If terminated for 24 months or more.** An applicant whose license has expired according to part 3100.1700, subpart 3, or who voluntarily terminated the license 24 months or more previous to the application for reinstatement If the person's license is terminated for 24 months or more, the person must provide the board:

~~A. comply with subpart 2a;~~

A. evidence of completing the professional development requirements under part 3100.5100 within 24 months prior to the board's receipt of the application;

B. documentation of current CPR certification;

C. evidence of passing the board's jurisprudence examination within 12 months prior to the board's receipt of the application;

D. a criminal background check as required by Minnesota Statutes, section 214.075; and

B.E. submit either evidence of passing the following examinations within 24 months prior to the board's receipt of the application:

~~(1) evidence of having successfully completed part II of the national board examination or the clinical examination in part 3100.1100, subpart 2, for dentists; the examinations in Minnesota Statutes, section 150A.106, subdivision 1, clauses (2) and (6), for advanced dental therapists; the clinical examination in Minnesota Statutes, section 150A.06, subdivision 1d, for dental therapists; the national board examination or the clinical examination in part 3100.1200, item C, for dental hygienists; and the two examinations in part 3100.1300, item C, for licensed dental assistants. The examination must have been completed within 24 months prior to the board's receipt of the application; or~~

~~(2) evidence of having successfully completed applicable board approved coursework with minimal hour requirements directly relating to the practice of dentistry, advanced dental therapy, dental therapy, dental hygiene, or dental assisting as indicated in the reinstatement application. The board approved coursework must have been completed within 24 months prior to the board's receipt of the application. The coursework completed under this subpart may not be used to fulfill any of the applicable professional development requirements in part 3100.5100. and~~

(1) a nationally recognized objective structured clinical examination for general dentists;

(2) a written specialty board examination or a nationally recognized objective structured clinical examination for specialty dentists;

(3) a nationally recognized objective structured clinical examination for dental therapists;

(4) a nationally recognized objective structured clinical examination for dental hygienists; and

(5) the examination in part 3100.1300, subpart 1, item D, for licensed dental assistants.

~~C. be available for an interview with the appropriate board committee to determine the applicant's knowledge of dental subjects and ability to practice dentistry, dental therapy, dental hygiene, or dental assisting under this subpart.~~

Subp. 4. [Repealed, 20 SR 2316]

Subp. 4a. Board review and appeals.

A. Once the requirements of subpart 1 have been reviewed by the board, the board shall notify the applicant as to whether the reinstatement of a license has been denied or granted by the

board. If granted reinstatement, the person shall be assigned to the biennial term to which the licensee was assigned prior to termination of the license.

B. An applicant denied reinstatement of a license may appeal the denial by initiating a contested case hearing pursuant to Minnesota Statutes, chapter 14.

Subp. 5. **Scope.** Nothing in this part prohibits a dentist, dental therapist, or dental hygienist from applying for licensure by credentials according to part 3100.1400.

3100.3600 ADMINISTRATION OF NITROUS OXIDE INHALATION ANALGESIA, GENERAL ANESTHESIA, DEEP SEDATION, AND MODERATE SEDATION.

The Board has made many changes to part 3100.3600 below. These changes reorganize the contents and revise the language regarding nitrous oxide, general anesthesia, and sedation. These changes aim to provide a more understandable guide for Licensees to find the information they need to acquire the skills to administer nitrous oxide, general anesthesia, and sedation. None of the actual educational requirements, equipment requirements, or inspection requirements for these services have changed in this part but are now better explained and simplified. The language regarding “Reporting of incidents required” has been moved to subpart 1a, the front of this part, so it is no longer buried in the middle, where the information is difficult for Licensees to find. For nitrous oxide, each profession is listed and represents what is required to administer this service. As for the certifications for dentists to administer general anesthesia/deep sedation and moderate sedation, the format is easier to follow with the application requirement listed, the types of certificates, and how to renew a certificate. The same goes for obtaining a certificate for a contracted sedation provider. With these improvements, the Board considers these proposed changes to be necessary and reasonable.

3100.3600 ADMINISTRATION OF NITROUS OXIDE INHALATION ANALGESIA, GENERAL ANESTHESIA, DEEP SEDATION, AND MODERATE SEDATION; ~~MINIMAL SEDATION, AND NITROUS OXIDE INHALATION ANALGESIA.~~

Subpart 1. **Prohibitions.** A dental therapist, dental hygienist, or licensed dental assistant ~~may~~ must not administer general anesthesia, deep sedation, moderate sedation, or minimal sedation.

Subp. 1a. **Reporting of incidents required.**

A. A dentist, dental therapist, dental hygienist, or licensed dental assistant must report to the board any incident that arises from the administration of nitrous oxide inhalation analgesia, general anesthesia, deep sedation, moderate sedation, local anesthesia, analgesia, or minimal sedation that results in:

(1) a serious or unusual outcome that produces a temporary or permanent physiological injury, harm, or other detrimental effect to one or more of a patient's body systems;
or

(2) minimal sedation unintentionally becoming moderate sedation, deep sedation, or general anesthesia when the licensee does not have a certificate for administering general anesthesia or moderate sedation described in subparts 18 and 20.

B. The report required under item A must be submitted to the board on forms provided by the board within ten business days of the incident by the dentist, dental therapist, dental hygienist, or licensed dental assistant. The requirements of this subpart apply even when another licensed

health care professional who, under contract or employment with the dentist, was the actual person administering the analgesia or pharmacological or nonpharmacological method. A licensee who fails to comply with this subpart is subject to disciplinary proceedings on grounds specified in parts 3100.6100 and 3100.6200 and Minnesota Statutes, section 150A.08, subdivision 1.

Subp. 2. **Repealed**, Subp. 3. **Repealed**, Subp. 4. **Repealed**, Subp. 5. **Repealed**, Subp. 6. **Repealed**, Subp. 7. **Repealed**, Subp. 8. **Repealed**, Subp. 9. **Repealed**, Subp. 9a. **Repealed**, Subp. 9b. **Repealed**, Subp. 10. **Repealed**, Subp. 11. **Repealed**,

Subp. 12. **Nitrous oxide inhalation analgesia requirement for a dentist.** A dentist licensed by the board is allowed to administer nitrous oxide inhalation analgesia.

Subp. 13. Nitrous oxide inhalation analgesia; application and educational training requirements for a dental therapist.

A. A dental therapist who administers nitrous oxide inhalation analgesia must be under the supervision of a licensed dentist.

B. A dental therapist who graduated from a board-approved dental therapy program in Minnesota after August 1, 2013, may administer nitrous oxide inhalation analgesia without completing any further requirements.

C. A dental therapist who graduated from a board-approved dental therapy program in Minnesota prior to August 1, 2013, or graduated from another United States jurisdiction or Canadian province, may administer nitrous oxide inhalation analgesia after providing the board:

(1) a completed application;

(2) evidence of having completed a course in administering nitrous oxide inhalation analgesia from an institution accredited by the Commission on Dental Accreditation. The course must be at least 12 hours total and contain didactic instruction, personal administration and management of at least three individual supervised cases of analgesia, and supervised clinical experience using fail-safe anesthesia equipment capable of positive pressure respiration; and

(3) documentation of current CPR certification.

Subp. 14. Nitrous oxide inhalation analgesia; application and educational training requirements for a dental hygienist.

A. A dental hygienist who administers nitrous oxide inhalation analgesia must be under the supervision of a licensed dentist.

B. A dental hygienist who graduated from a dental hygiene program in Minnesota after September 2, 2004, may administer nitrous oxide inhalation analgesia without completing any further requirements.

C. A dental hygienist who graduated from a dental hygiene program in Minnesota prior to September 2, 2004, or graduated from another United States jurisdiction or Canadian province, may administer nitrous oxide inhalation analgesia after providing the board:

(1) a completed application;

(2) evidence of having completed a course in administering nitrous oxide inhalation analgesia from an institution accredited by the Commission on Dental Accreditation. The course must be at least 12 hours total and contain didactic instruction, personal administration and

management of at least three individual supervised cases of analgesia, and supervised clinical experience using fail-safe anesthesia equipment capable of positive pressure respiration; and

(3) documentation of current CPR certification.

Subp. 15. Nitrous oxide inhalation analgesia; application and educational training requirements for a licensed dental assistant.

A. A licensed dental assistant who administers nitrous oxide inhalation analgesia must be under the supervision of a licensed dentist.

B. A licensed dental assistant who graduated from a dental assisting program in Minnesota after September 2, 2004, may administer nitrous oxide inhalation analgesia without completing any further requirements.

C. A licensed dental assistant who graduated from a dental assisting program in Minnesota prior to September 2, 2004, or graduated from another United States jurisdiction or Canadian province, may administer nitrous oxide inhalation analgesia after providing the board:

(1) a completed application;

(2) evidence of having completed a course in administering nitrous oxide inhalation analgesia from an institution accredited by the Commission on Dental Accreditation. The course must be at least 12 hours total and contain didactic instruction, personal administration and management of at least three individual supervised cases of analgesia, and supervised clinical experience using fail-safe anesthesia equipment capable of positive pressure respiration; and

(3) documentation of current CPR certification.

Subp. 16. Initial certification for general anesthesia or deep sedation; application and educational training requirements for a dentist.

A. A dentist may administer general anesthesia or deep sedation only after providing the board:

(1) a completed initial application;

(2) the nonrefundable fee in Minnesota Statutes, section 150A.091, subdivision 11;

(3) evidence of having completed:

(a) a didactic and clinical program at a dental school, hospital, or graduate medical or dental program accredited by the Commission on Dental Accreditation, resulting in the dentist becoming clinically competent in the administration of general anesthesia. The program must be equivalent to a program for advanced specialty education in oral and maxillofacial surgery;
or

(b) a one-year residency in general anesthesia at an institution certified by the American Society of Anesthesiology, the American Medical Association, or the Joint Commission on Hospital Accreditation, resulting in the dentist becoming clinically competent in the administration of general anesthesia. The residency must include a minimum of 390 hours of didactic study, 1,040 hours of clinical anesthesiology, and 260 cases of administration of general anesthesia to an ambulatory outpatient;

(4) documentation of current certification in ACLS or PALS;

(5) documentation of current CPR certification;

(6) attestation of compliance with the practice and equipment requirements in subpart 22; and

(7) attestation of compliance with an on-site inspection described in subpart 23.

B. Once a dentist possesses a valid certificate for general anesthesia, the dentist is not required to possess an additional certificate for deep or moderate sedation.

C. A dentist who administers general anesthesia or deep sedation without a general anesthesia certificate shall be subject to disciplinary proceedings by the board on the grounds specified in parts 3100.6100 and 3100.6200 and Minnesota Statutes, section 150A.08, subdivision 1.

Subp. 17. Initial certification for moderate sedation; application and educational training requirements for a dentist.

A. A dentist may administer moderate sedation only after providing the board:

(1) a completed initial application;

(2) the nonrefundable fee in Minnesota Statutes, section 150A.091, subdivision 11;

(3) evidence of having completed a course of education resulting in the dentist becoming clinically competent in the administration of moderate sedation. The course must include a minimum of 60 hours of didactic education in both enteral and parenteral administration and personal administration and management of at least ten individual supervised cases of parenteral moderate sedation of which a maximum of five cases may be performed on a patient simulation manikin;

(4) documentation of current certification in ACLS or PALS;

(5) documentation of current CPR certification;

(6) attestation of compliance with the practice and equipment requirements in subpart 22; and

(7) attestation of compliance with an on-site inspection described in subpart 23.

B. A dentist who administers moderate sedation without a moderate sedation certificate shall be subject to disciplinary proceedings by the board on the grounds specified in parts 3100.6100 and 3100.6200 and Minnesota Statutes, section 150A.08, subdivision 1.

Subp. 18. Board-issued certificates for general anesthesia or moderate sedation

A. The board shall issue the following certificates for general anesthesia and moderate sedation:

(1) general anesthesia, which authorizes a dentist to either administer general anesthesia, deep sedation, or moderate sedation, or to provide dental services to patients under general anesthesia, deep sedation, or moderate sedation when a dentist employs or contracts another licensed health care professional with the qualified training and legal qualification to administer general anesthesia, deep sedation, or moderate sedation; and

(2) moderate sedation, which authorizes a dentist to either administer moderate sedation or to provide dental services to patients under moderate sedation when a dentist employs or contracts another licensed health care professional with the qualified training and legal qualification to administer moderate sedation.

B. A dentist holding a certificate issued by the board must conspicuously display the certificate in plain sight of patients in every office in which the dentist administers general anesthesia, deep sedation, or moderate sedation.

C. A dentist may submit to the board a request for a duplicate general anesthesia or moderate sedation certificate. The request must include the fee in Minnesota Statutes, section 150A.091, subdivision 12.

D. To renew a general anesthesia or moderate sedation certificate, the dentist must provide the board:

(1) a completed application;

(2) the nonrefundable fee in Minnesota Statutes, section 150A.091, subdivision 11;

(3) documentation of current certification in ACLS or PALS;

(4) documentation of current CPR certification;

(5) attestation of compliance with the practice and equipment requirements in subpart 22; and

(6) attestation of compliance with an on-site inspection described in subpart 23.

E. A dentist's general anesthesia or moderate sedation certificate expires if the completed application and fee are not received by the board by the dentist's license renewal date. Immediately upon expiration, the dentist is prohibited from administering general anesthesia, deep sedation, or moderate sedation in the practice of dentistry until the board issues a current general anesthesia or moderate sedation certificate to the dentist described in subpart 19. After 30 days, the board shall terminate the dentist's general anesthesia or moderate sedation certificate.

Subp. 19. Expiration or termination of general anesthesia or moderate sedation certificate; requirements.

A. A dentist requesting renewal or recertification of a general anesthesia or moderate sedation certificate following expiration or termination must comply with the requirements for the applicable interval specified in subitem (1) or (2) and the requirements of this subpart.

(1) A dentist whose anesthesia or moderate sedation certificate that, within 30 calendar days, expired or was terminated by the board, must provide the board:

(a) a completed renewal application;

(b) the nonrefundable fee in Minnesota Statutes, section 150A.091, subdivision 11;

(c) the nonrefundable late fee in Minnesota Statutes, section 150A.091, subdivision 11a;

(d) documentation of current certification in ACLS or PALS;

(e) documentation of current CPR certification;

(f) attestation of compliance with the practice and equipment requirements in subpart 22; and

(g) attestation of compliance with an on-site inspection described in subpart 23.

(2) A dentist whose anesthesia or moderate sedation certificate that, for more than 30 calendar days prior, expired or was terminated by the board, must provide the board:

(a) a completed recertification application;

(b) the nonrefundable recertification fee in Minnesota Statutes, section 150A.091, subdivision 11b;

(c) the dentist's written attestation that the dentist has successfully completed the educational requirements for either general anesthesia described in subpart 16 or moderate sedation described in subpart 17;

(d) documentation of current certification in ACLS or PALS;

(e) documentation of current CPR certification; and

(f) attestation of compliance with the practice and equipment requirements in subpart 22.

B. Upon receipt of a recertification application for general anesthesia or moderate sedation, the board shall require that the dentist undergo an on-site inspection described in subpart 23.

C. A dentist whose anesthesia or moderate sedation certificate has expired or been terminated must not administer general anesthesia, deep sedation, or moderate sedation until the board issues a renewed or recertified general anesthesia or moderate sedation certificate to the dentist.

Subp. 20. Initial certification to provide dentistry with contracted sedation provider; application requirements for a dentist.

A. A dentist must not provide dental services to a patient who is under general anesthesia, deep sedation, or moderate sedation at any location other than a hospital, unless the dentist possesses the applicable contracted sedation services certificate for general anesthesia or moderate sedation issued by the board.

B. If a dentist possesses a moderate sedation certificate described in subpart 18 and desires to provide dental services to a patient under general anesthesia or deep sedation at any location other than a hospital, the dentist must contract with a sedation provider and obtain a contracted sedation services certificate for general anesthesia.

C. If a dentist possesses a moderate sedation certificate described in subpart 18 and desires to provide dental services to a patient under moderate sedation by a contracted sedation provider, the dentist is not required to possess an additional certificate for contracting with a sedation provider but is limited to moderate sedation.

D. To apply for a contracted sedation services certificate, the dentist must provide the board:

(1) a completed application;

(2) the nonrefundable fee in Minnesota Statutes, section 150A.091, subdivision 11;

(3) a copy of the contracted healthcare professional's current license;

(4) documentation of the contracted healthcare professional's current certification in ACLS or PALS;

(5) documentation of the contracted healthcare professional's current CPR certification;

(6) documentation of the dentist's current CPR certification;

(7) attestation of compliance with the practice and equipment requirements in subpart 22; and

(8) attestation of compliance with an on-site inspection described in subpart 23.

E. A dentist who does not comply with the requirements of this subpart is subject to disciplinary proceedings on grounds specified in parts 3100.6100 and 3100.6200, and Minnesota Statutes, section 150A.08, subdivision 1.

Subp. 21. Board-issued certificates to provide dentistry with contracted sedation provider.

A. The board shall issue the following certificates to provide dentistry with a contracted sedation provider:

(1) dentistry with contracted sedation services: general anesthesia, which authorizes a dentist to provide dental services to patients under general anesthesia, deep sedation, or moderate sedation when a dentist employs or contracts another licensed health care professional with the qualified training and legal authority to administer general anesthesia, deep sedation, or moderate sedation; and

(2) dentistry with contracted sedation services: moderate sedation, which authorizes a dentist to provide dental services to patients under moderate sedation when a dentist employs or contracts another licensed health care professional with the qualified training and legal qualification to administer moderate sedation.

B. A dentist holding a certificate issued by the board must conspicuously display the certificate in plain sight of patients in every office in which the dentist provides dental services to patients under general anesthesia, deep sedation, or moderate sedation.

C. A dentist may submit to the board a request for a duplicate contracted sedation services certificate. The request must include the fee in Minnesota Statutes, section 150A.091, subdivision 12.

D. To renew a contracted sedation services certificate, the dentist must provide the board:

(1) a completed application;

(2) the nonrefundable fee in Minnesota Statutes, section 150A.091, subdivision 11;

(3) a copy of the contracted healthcare professional's current license;

(4) documentation of the contracted healthcare professional's current certification in ACLS or PALS;

(5) documentation of the contracted healthcare professional's current CPR certification;

(6) documentation of the dentist's current CPR certification;

(7) attestation of compliance with the practice and equipment requirements in subpart 22; and

(8) attestation of compliance with an on-site inspection described in subpart 23.

E. A dentist's contracted sedation services certificate expires if the completed application and fee are not received by the board by the dentist's license renewal date. Immediately upon the certificate's expiration, the dentist must not provide dental services to patients under general anesthesia, deep sedation, or moderate sedation until the board issues a current contracted sedation services certificate to the dentist under item F.

F. To renew a contracted sedation services certificate within 30 calendar days of the certificate's expiration, a dentist must provide the board:

- (1) a completed renewal application;
- (2) the nonrefundable renewal fee in Minnesota Statutes, section 150A.091, subdivision 11;
- (3) the nonrefundable late fee in Minnesota Statutes, section 150A.091, subdivision 11a;
- (4) a copy of the contracted healthcare professional's current license;
- (5) documentation of the contracted healthcare professional's current certification in ACLS or PALS;
- (6) documentation of the contracted healthcare professional's current CPR certification;
- (7) documentation of the dentist's current CPR certification;
- (8) attestation of compliance with the practice and equipment requirements in subpart 22; and
- (9) attestation of compliance with an on-site inspection described in subpart 23.

G. The board shall terminate an expired contracted sedation services certificate that is not renewed under item F. The dentist may still apply for a contracted sedation services certificate by completing the application requirements in subpart 20, item D.

Subp. 22. Practice and equipment requirements.

A. Dentists who administer general anesthesia, deep sedation, or moderate sedation or who provide dental services to patients under general anesthesia, deep sedation, or moderate sedation must ensure that the practice requirements in this item are followed.

(1) A dentist must be prepared and competent to diagnose, resolve, and prevent any untoward reaction or medical emergency that may develop any time after the administration of general anesthesia, deep sedation, or moderate sedation. A dentist must apply the current standard of care to continuously monitor and evaluate a patient's blood pressure, pulse, respiratory function, and cardiac activity. The current standard of care to assess respiratory function requires the monitoring of tissue oxygenation or ventilation.

(2) A dentist who employs or contracts another licensed health care professional with the qualified training and legal qualification to administer general anesthesia, deep sedation, or moderate sedation, including a dentist, nurse anesthetist, or physician anesthesiologist, must notify the board that these services are being provided in the office facility. The dentist is also responsible for maintaining the facilities, equipment, emergency supplies, and a record of all general anesthesia, deep sedation, or moderate sedation procedures performed in the facility.

(3) An individual qualified to administer general anesthesia, deep sedation, or moderate sedation, who is in charge of the administration of the anesthesia or sedation, must remain in the operatory room to continuously monitor the patient once general anesthesia, deep sedation, or moderate sedation is achieved and until all dental services are completed on the patient. Prior to discharge, an individual qualified to administer anesthesia or sedation must assess the patient to ensure that the patient is no longer at risk for cardiorespiratory depression. The patient must be discharged into the care of a responsible adult.

(4) A dentist administering general anesthesia, deep sedation, or moderate sedation to a patient must have in attendance personnel who are currently certified in CPR.

B. Dentists who administer general anesthesia, deep sedation, or moderate sedation or who provide dental services to patients under general anesthesia, deep sedation, or moderate sedation must ensure that the offices in which it is conducted have:

(1) an immediately accessible automated external defibrillator or immediately accessible full-function defibrillator;

(2) a positive pressure oxygen delivery system and a backup system;

(3) a functional suctioning device and a backup suction device;

(4) auxiliary lighting;

(5) a gas storage facility;

(6) a recovery area;

(7) a method to monitor respiratory function; and

(8) an emergency cart or kit that must be available and readily accessible and includes the necessary and appropriate drugs and equipment to resuscitate a nonbreathing and unconscious patient and provide continuous support while the patient is transported to a medical facility. There must be documentation that all emergency equipment and drugs are checked and maintained on a prudent and regularly scheduled basis.

Subp. 23. **On-site inspection; requirements and procedures.** All offices in which general anesthesia, deep sedation, or moderate sedation is conducted under the terms of this part must be in compliance with this subpart.

A. A dentist who applies for an initial general anesthesia or moderate sedation certificate or who provides dental services to patients under general anesthesia, deep sedation, or moderate sedation must have an on-site inspection conducted at one primary office facility within 12 months following receipt of a certificate from the board. Thereafter, a dentist must have an on-site inspection conducted at one primary office facility at least once every five years.

B. A dentist must have an on-site inspection conducted at one primary office facility if the board receives a complaint alleging violation of this part and the board finds the complaint warrants further investigation.

C. If a dentist fails to meet the on-site inspection requirements of item A and, if applicable, item B because of extenuating circumstances, the dentist may apply for an extension of time to complete the requirements by making a written request to the board. If the board grants an extension, the board shall establish the length of the extension to obtain the on-site inspection requirements.

D. A dentist must pay all costs associated with an on-site inspection.

E. The board must notify the dentist if an on-site inspection is required. The board shall provide the dentist with the name of a sedation inspector or organization to arrange and perform the on-site inspection. The dentist may have an on-site inspection performed by another board-approved individual or board-approved organization. The dentist must ensure that the inspection is completed within 30 calendar days of the board's notice.

F. Within 30 calendar days following an on-site inspection, the dentist must direct the individual or organization conducting the inspection to provide the board with the written results of the inspection.

G. If a dentist fails or refuses an on-site inspection, the board shall suspend the dentist's general anesthesia or moderate sedation certificate and subject the dentist to disciplinary proceedings.

3100.5100 PROFESSIONAL DEVELOPMENT.

The Board has made many changes to part 3100.5100 below that includes eliminating the self-assessment examination as part of professional development. This is supported by the Board and other licensed dental professionals. For 16 years, the Board has required that Licensees complete the self-assessment as part of fundamental continuing education activities. It has been a challenge for the Board to produce a new self-assessment every two years due to the lack of new resources to create questions and the excessive amount of time required to manage the entire self-assessment project. The Board will allow credit for an alternative activity with similar educational content should Licensees choose.

Regarding the change to the core subject requirement, the Board is choosing not to use the phrase "core subjects" and go back to simply referring to these categories as "fundamental" courses. The list of fundamental courses will remain the same and also include HIPAA, as follows: Recordkeeping; Ethics; Patient Communications; Management of Medical Emergencies; Treatment and Diagnosis; and Health Insurance Portability and Accountability Act (HIPAA). One item that will NOT change is that the Board will still require that a Licensee complete at least two fundamental courses on the list for each initial or biennial professional development cycle. Other than these changes, the current professional development requirements will continue to remain the same.

Regarding CPR course/certification, Licensees will still be required to complete and maintain CPR as a requirement for licensure for each biennial cycle. However, the CPR course/certification will no longer be listed as a requirement under professional development. Therefore, the four or more hours obtained for taking a CPR course can no longer be counted as a professional development credit toward the Licensee's required credit hours. The same applies to an ACLS course/certification.

In addition, the Board added language to the extenuating circumstances section giving a seven-day deadline before the end of a cycle and informing the Licensee that their license will be terminated if they do not comply with this or completion of professional development by the end of the granted extension period. The Board needed to establish some deadlines and inform Licensees of the possible consequences for their actions in these situations.

Overall, there are some major housekeeping changes throughout this part eliminating non-relevant or outdated language that is present in the Board's existing rules. Due to the aforementioned reasons, the Board considers these proposed changes to be necessary and reasonable.

3100.5100 PROFESSIONAL DEVELOPMENT; DENTISTS, DENTAL THERAPISTS, DENTAL HYGIENISTS, AND LICENSED DENTAL ASSISTANTS.

Subpart 1. Professional development cycles.

A. The initial professional development cycle ~~must coincide with the initial licensure period for each dentist, dental therapist, dental hygienist, or licensed dental assistant. The initial cycle for each licensee~~ begins on the date of initial licensure is granted by the board and ends on the last day of the licensee's birth month in either an even-numbered or odd-numbered year that corresponds with the licensee's year of birth. The initial cycle varies in the number of months depending on the date of initial licensure ~~for each licensee~~ is granted.

B. A biennial professional development cycle coincides with the biennial ~~licensure periods for each dentist, dental therapist, dental hygienist, or licensed dental assistant~~ renewal period. Each biennial renewal cycle consists of a 24-month period beginning on the first day of the month following expiration of the previous ~~professional development~~ cycle. An established biennial cycle continues to apply even if the license is revoked, suspended, conditioned, or not renewed for any reason for any length of time.

Subp. 2. Professional development requirements.

A. ~~For the initial professional development requirements, e~~Each dentist, dental therapist, dental hygienist, and licensed dental assistant licensee shall establish a portfolio to record, monitor, and retain ~~acceptable~~ documentation of fundamental and elective professional development activities, CPR certification, and self-assessments.

B. The minimum number of required hours of fundamental and elective ~~professional development~~ activities for each initial or biennial cycle is 50 hours for dentists and dental therapists, and 25 hours for dental hygienists and licensed dental assistants. ~~Each dentist, dental therapist, dental hygienist, and licensed dental assistant shall establish a portfolio to record, monitor, and retain acceptable documentation of fundamental and elective professional development activities, CPR certification, and self-assessments.~~ Any professional development hours earned in excess of the required hours for an initial or biennial cycle must not be carried forward to the ~~subsequent next~~ next biennial cycle. ~~The requirements for the fundamental and elective professional development activities are described in subitems (1) and (2).~~

(1) ~~Each~~ Of the 50 hours required for a dentist, and dental therapist, dental hygienist, and licensed dental assistant must complete a minimum of 60 percent of the required biennial hours in fundamental activities directly related to the provision of clinical dental services as follows: a minimum of at least 30 hours for dentists and dental therapists, and a minimum of 15 hours for dental hygienists and licensed dental assistants must be fundamental activities and no more than 20 hours can be elective activities. ~~A licensee may earn all required biennial hours in fundamental activities only.~~

(2) ~~Dentists, dental therapists,~~ Of the 25 hours required for a dental hygienists, and licensed dental assistants are allowed a maximum of 40 percent of the required biennial hours in elective activities directly related to, or supportive of, the practice of dentistry, dental therapy,

dental hygiene, or dental assisting as follows: a maximum of 20 at least 15 hours for dentists and dental therapists, and a maximum of must be fundamental activities and no more than ten hours for dental hygienists and licensed dental assistants can be elective activities.

C. Professional development is credited on an hour-for-hour basis.

D. If a licensee fails to meet the professional development requirements because of extenuating circumstances, the licensee may apply for request to the board in writing an extension of time at least seven days before the end of the licensee's biennial cycle to complete the requirements by making a written request to the board. The licensee's written request shall include a complete explanation of must explain the circumstances, the renewal period, the number of hours earned, and the licensee's plan for completing the balance of the requirement. If an extension is granted after review the board grants the extension, the board shall establish the length notify the licensee of the extension to obtain the professional development requirements which must be completed concurrently with the subsequent renewal period. If the licensee fails to submit a written extension request to the board by the seven-day deadline or fails to complete the professional development requirements by the end of the extension period, the board shall administratively terminate the licensee's license. A licensee may reinstate a license that has been terminated under this subpart according to part 3100.1850.

Subp. 3. **Professional development activities.** ~~Professional development activities include, but are not limited to, continuing education, community services, publications, and career accomplishments throughout a professional's life.~~ Professional development activities are categorized as fundamental or elective activities as described in items A and B.

A. Fundamental activities ~~include, but are not limited to, clinical subjects, core subjects, CPR training, and the self-assessment examination.~~ Examples of fundamental activities for an initial or biennial cycle ~~are described in subitems (1) to (6).~~ must directly relate to clinical dental services to patients. Fundamental activities include:

(1) clinical subjects. Clinical subjects are those covered through seminars, webinars, symposiums, lectures, college courses pertaining to basic sciences, or programs whose contents directly relate to the provision of dental care and treatment to patients. College course credit is limited to five hours for each college course completed within a cycle with a maximum of 15 college credit hours per cycle.

(2) ~~Core subjects are those other fundamental courses listed in units (a) to (f) that are offered through seminars, webinars, symposiums, lectures, or programs that relate to public safety and professionalism.~~ Each licensee shall ~~complete a minimum of two of the categories of core subjects~~ must complete at least two courses out of the following list for each initial or biennial cycle. ~~Examples of core subject categories include, but are not limited to:~~

- (a) record keeping;
- (b) ethics;
- (c) patient communications;
- (d) management of medical emergencies; ~~and~~
- (e) treatment and diagnosis; and
- (f) Health Insurance Portability and Accountability Act (HIPAA).

~~(3) A CPR certification course is mandatory for each licensee to maintain licensure. The CPR course must be the American Heart Association healthcare provider course or the American Red Cross professional rescuer course. The licensee must maintain a consecutive and current CPR certificate when renewing a license or permit each biennial term.~~

~~(4) (3) an infection control course. An infection control course is mandatory for each licensee to maintain licensure. The course ~~will~~ must primarily address patient safety and health issues as referenced in part 3100.6300 and chapter 6950; and~~

~~(5) A licensee must complete one self-assessment examination obtainable through the board for each cycle.~~

~~(6) (4) The board shall approve other additional fundamental activities approved by the board. Fundamental activities under this subitem shall be approved by the board only if the board finds the activity ~~to be a seminar, symposium, lecture, or program~~ whose contents are directly related to dental care and treatment to patients or public safety and professionalism.~~

B. Elective activities for an initial or biennial cycle ~~include, but are not limited to, the examples described in subitems (1) to (7)~~ must directly relate to or support dentistry and include:

(1) general attendance at a multiday state or national dental convention for a maximum of three credit hours per convention;

(2) volunteerism or community service directly relating to ~~the practice of dentistry, dental therapy, dental hygiene, or dental assisting~~ such as international or national mission work, voluntary clinic work, or dental health presentations to students or groups;

(3) professional reading of published articles or other forms of self-study directly relating to ~~the practice of dentistry, dental therapy, dental hygiene, or dental assisting~~;

(4) scholarly activities ~~include, but are not limited to~~, including:

(a) teaching a professional course directly related to ~~the practice of dentistry, dental therapy, dental hygiene, or dental assisting~~; or presenting a continuing dental education program;

(b) presenting a table clinic directly related to ~~the practice of dentistry, dental therapy, dental hygiene, or dental assisting~~;

(c) authoring a published dental article or text in a recognized publication;

(d) participating in test construction for an accredited state or nationally recognized dental association or organization; ~~and~~

(e) participating in a scientific dental research program from an accredited institution or program or an evidence-based clinical study; and

(f) similar academic activities relating to dentistry;

(5) dental practice management courses ~~include, but are not limited to, computer, insurance claims or billing, and Health Insurance Portability and Accountability Act (HIPAA) training~~;

(6) leadership or committee involvement with ~~the~~ a dental board or a dental professional association for a maximum of three credit hours per cycle; ~~or and~~

(7) ~~the board shall approve other additional~~ elective activities approved by the board. Elective activities under this subitem shall be approved by the board only if the board finds the contents of the activity ~~to be directly related~~ relates to, or supportive of, the practice of supports dentistry, ~~dental therapy, dental hygiene, or dental assisting.~~

Subp. 4. **Acceptable Documentation of professional development activities.** A licensee must record or obtain acceptable documentation of hours in professional development activities for the licensee's portfolio. ~~Acceptable~~ Documentation includes:

~~A. a completed self-assessment examination;~~

~~B. a copy of the front and back of a completed CPR card from the American Heart Association or the American Red Cross;~~

~~€ A.~~ A. confirming documentation from the presenting organization that provides the attendee's name, ~~license number,~~ name of organization or presenter, course date, number of credit hours, subject matter, or program title; ~~and~~

~~Ð B.~~ B. a personal log of published articles read by the licensee including title of the article, name of author, name of journal or periodical, and date of published article-; and

C. similar documentation of professional development activities.

Subp. 5. **Retention of documentation.** A licensee must keep acceptable documentation for each fundamental and elective activity as required to meet professional development requirements. The licensee must retain the documentation for ~~24 months after each~~ the current biennial renewal ~~period~~ has ended cycle and the previous completed biennial cycle for purposes of an audit by the ~~appropriate board committee.~~

3100.6200 CONDUCT UNBECOMING A LICENSEE.

In part 3100.6200 below, the Board has chosen to update outdated language by changing its existing rules. The Board's changes will simplify the language regarding rebates and split fees and more accurately capture the true violations that are occurring with sexual misconduct issues, billing, and communication. It has been many years since significant changes have been made to this part by the Board, and now is the time to move forward with these more progressive changes relating to unprofessional conduct. Therefore, the Board considers these proposed changes to be necessary and reasonable.

3100.6200 CONDUCT UNBECOMING A LICENSEE.

"Conduct unbecoming a person licensed to practice dentistry, dental therapy, dental hygiene, or dental assisting, or conduct contrary to the best interests of the public," as used in Minnesota Statutes, section 150A.08, subdivision 1, clause (6), ~~shall include the act of~~ includes a dentist, ~~dental therapist, dental hygienist, licensed dental assistant, or applicant in:~~

A. engaging in personal conduct that brings discredit to the profession of dentistry;

B. demonstrating gross ignorance or incompetence in the practice of dentistry or repeated performance of dental treatment that falls below accepted standards;

C. making ~~suggestive, lewd, lascivious,~~ inappropriate sexual remarks or ~~improper~~ advances toward a patient or colleague;

~~D. dentists charging a patient an unconscionable fee or charging billing patients for unnecessary services or services not rendered or inaccurately documenting services;~~

~~E. performing unnecessary services; failing to communicate an accurate treatment plan and financial information;~~

~~F. dental therapists, hygienists, or licensed dental assistants performing services as a dental therapist, dental hygienist, or licensed dental assistant not authorized by the dentist under this chapter or Minnesota Statutes, chapter 150A;~~

~~G. accepting or offering rebates, split fees, or, applicable to dentists only, commissions from any source associated with the service for services rendered to a patient; provided, however, that the sharing of profits in a dental partnership or association, or dental professional firm approved by and registered with the board, shall not be construed as splitting fees nor shall compensating allied dental personnel on the basis of a percentage of the fee received for the overall service be deemed accepting a commission from or to any person other than a partner, employee, employer, associate in a dental professional firm, or a professional subcontractor or consultant authorized to practice in dentistry;~~

~~H. falsifying records relating to payment for services rendered, participation in a CDE course; or other records with respect to licensure, CDE, and the practice of dentistry;~~

~~I. perpetrating committing fraud upon patients, third-party payers, or others relating to the practice of dentistry;~~

~~J. failing to cooperate with the board, its agents, or those working on behalf of the board required by part 3100.6350;~~

~~K. failing to maintain adequate safety and sanitary conditions for a dental office specified in part 3100.6300; and~~

~~L. failing to provide access to and transfer of medical and dental records prescribed by Minnesota Statutes, sections 144.291 to 144.298.~~

3100.6600 ADVERTISING DENTAL FEES AND SERVICES.

In part 3100.6600 below, the Board made some housekeeping changes by eliminating non-relevant or outdated language that is present in the Board's existing rules. These changes will not change the meaning or intent of the rules in any way. Instead, these changes will make the Board's rules clearer and concise. Therefore, the Board considers these proposed changes to be necessary and reasonable.

3100.6600 ADVERTISING DENTAL FEES AND SERVICES.

Subpart 1. **Routine services.** If the following routine dental services are advertised, either the advertised service must include the listed components, or the advertisement must disclose the components which are not included.

A. Examination: a study documented diagnosis by the dentist ~~of all the structures~~ of the oral cavity, including ~~the appropriate recording or charting of the condition of all such structures and appropriate history thereof,~~ the identification of periodontal disease, and occlusal discrepancies, ~~the detection of caries,~~ and oral abnormalities, and the development of a treatment plan. If there ~~is a~~ are additional charges in addition to besides the examination fee for radiographs

and/or the provision to the patient of a written opinion of the items found in the examination (i.e., diagnosis) or of a written itemized treatment plan, recommendation and itemized fee (i.e., treatment plan), such fact shall these charges must be disclosed in the advertisement.

B. Radiographs (X-rays): adequate X-rays of the oral structures to provide necessary radiographic study.

C. Denture: either a complete maxillary or complete mandibular replacement of the natural dentition with artificial teeth. If the service advertised is for a denture which is partially prefabricated, intended for a partial replacement of the natural dentition, intended to be used as an emergency or temporary denture, or if any advertised fee does not include a reasonable number of readjustments, ~~such facts shall~~ this information must be disclosed in the advertisement.

D. Prophylaxis (cleaning): the removal of calculus (~~tartar~~) and stains from the clinically exposed surfaces of the teeth.

E. Extractions: the removal of nonimpacted teeth, including necessary X-rays, anesthesia, preoperative, and postoperative care.

Subp. 2. [Repealed, 10 SR 1613]

Subp. 2a. **Set fees.** Set fees may be advertised for any service where the dentist intends to charge a standard price for the service.

Subp. 3. **Identification of related services and additional fees.** Related services which may be required in conjunction with the advertised services, and for which additional fees will be charged, must be identified as such in the advertisement.

Subp. 4. **Range of fees.** When a range of fees is advertised, the advertisement must disclose the basic factors on which the actual fees will be determined.

Subp. 5. **Time period of advertised fees.** Advertised fees must be honored for those seeking the advertised services during the entire time period stated in the advertisement, whether or not the services are actually rendered in that time. If no time period is stated, the advertised fees shall be so honored for 30 days or until the next scheduled publication, whichever is later.

3100.6900 COMPENSATION FOR PATIENT REFERRAL.

Regarding part 3100.6900 below, the Board still upholds the idea that a dentist shall not engage with a third party where a fee or compensation is involved for the referral of the patient for dental services. On the other hand, the Board has now added language that does allow a dentist to provide a gift to a patient or provide a credit for dental services. The Board acknowledges that dentists have been giving gifts to their patients for years now, and it was decided to change the rules to accommodate what was already happening out in dental practices. Therefore, the Board considers these proposed changes to be necessary and reasonable.

3100.6900 CONSIDERATION COMPENSATION FOR PATIENT REFERRAL.

A ~~person licensee~~ shall not ~~directly or indirectly~~ offer, give, receive, or agree to receive any fee or other ~~consideration~~ compensation to or from a third party for the referral of a patient in connection with the performance of professional for dental services. Nothing contained in this part shall prohibit a dentist from providing a gift to a patient, or from providing a credit for dental services to a patient.

3100.7000 ADVERTISING DENTAL SPECIALTY PRACTICE.

Regarding part 3100.7000 below, the Board made changes that combined subparts 1 and 2 and eliminated the naming of all the specialty examining boards, which is unnecessary language. The Board only needs to list the actual specialty areas in its rules. The Board added dental anesthesiology, oral medicine, and orofacial pain, which have all been recognized as specialty areas by the American Dental Association. For these reasons, the Board considers these proposed changes to be necessary and reasonable.

3100.7000 ADVERTISING DENTAL SPECIALTY PRACTICE.

Subpart 1. **Specialty areas.** The following special areas of dentistry are recognized as suitable for the announcement of specialty dental practices:

- A. dental anesthesiology;
- A ~~B.~~ dental public health;
- ~~B~~ C. endodontics (endodontist);
- ~~C~~ D. oral and maxillofacial pathology (oral pathologist);
- ~~D~~ E. oral and maxillofacial radiology (oral radiologist);
- ~~E~~ F. oral and maxillofacial surgery (oral ~~surgeon/oral and~~ maxillofacial surgeon);
- G. oral medicine;
- H. orofacial pain;
- ~~F~~ I. orthodontics and dentofacial orthopedics (orthodontist);
- ~~G~~ J. pediatric dentistry (~~pediatric dentist /pedodontist~~ pedodontist);
- ~~H~~ K. periodontics (periodontist); and
- ~~I~~ L. prosthodontics (prosthodontist).

Subp. 2. ~~Specialty announcement~~ **Education criteria.** ~~Only~~ A licensed dentist ~~who has successfully completed~~ may advertise as a specialist in an area if the dentist has evidence of graduating from a postdoctoral course of study approved specialty program accredited by the Commission on Dental Accreditation in any of the designated specialty areas, or who has announced a limitation of practice prior to 1967, or who has successfully completed certification by any of the following specialty examining boards may announce each specialty area and may advertise as a specialist in that area: of subpart 1.

- ~~A. American Board of Dental Public Health;~~
- ~~B. American Board of Endodontics;~~
- ~~C. American Board of Oral and Maxillofacial Pathology;~~
- ~~D. American Board of Oral and Maxillofacial Radiology;~~
- ~~E. American Board of Oral and Maxillofacial Surgery;~~
- ~~F. American Board of Orthodontics;~~
- ~~G. American Board of Pediatric Dentistry;~~

~~H. American Board of Periodontology; and~~

~~I. American Board of Prosthodontics.~~

Subp. 3. **Restricting practice.** Subpart 2 does not prohibit a dentist who does not meet the above education or experience criteria from restricting a practice to one or more specific areas of dentistry. These dentists ~~may~~ must not use the terms "specialist," "specialty," "specializing," or "limited to." The advertising must state that the services are being provided by a general dentist.

3100.8400 ASSISTANTS WITHOUT A LICENSE.

With part 3100.8400 below, the Board made numerous housekeeping changes by eliminating non-relevant or outdated language that is present in the Board's existing rules. None of the actual permissible procedures or compliance requirements have changed. These changes will make the Board's rules clearer and concise, therefore, the Board considers these proposed changes to be necessary and reasonable.

3100.8400 ASSISTANTS WITHOUT A LICENSE.

Subpart 1. **Permissible ~~duties~~ procedures.** Assistants ~~under this subpart~~ without a license may:

~~A. perform all those duties not directly related with performing dental treatment or services on patients;~~

~~B~~ A. retract a patient's cheek, tongue, or other parts of tissue during a dental operation;

~~C~~ B. assist with the placement or removal of ~~a rubber dam and accessories used for its placement and retention~~ devices or materials for isolation purposes, as directed by ~~an operating the dentist or dental therapist during the course of a dental operation~~ treatment;

~~D~~ C. remove debris ~~by the use of vacuum devices, compressed air, mouthwash, and or water that is normally created or accumulated during the course of treatment rendered by a licensed dentist or dental therapist using suction devices;~~

~~E~~ D. provide any assistance, including the placement of articles and topical medication in a patient's oral cavity, ~~in response to a specific direction by a licensed dentist who is physically engaged in performing a dental operation as defined in the act and who is physically in a position to give~~ during dental treatment under the personal supervision to the assistant of a dentist or dental therapist;

~~F~~ E. aid dental hygienists and licensed dental assistants in the performance of their ~~duties~~ as delegated procedures defined in parts 3100.8500 and 3100.8700; and

~~G~~ F. apply fluoride varnish in a community setting under the authorization and direction of a licensed practitioner with prescribing authority such as a dentist or physician, as long as the licensed practitioner authorizing the service or the facility at which the fluoride varnish is administered maintains appropriate patient records of the treatment.

Subp. 1a. **Compliance with minimal requirements.** The dentist is responsible for ensuring that any assistant working under the dentist's or dental therapist's supervision as defined in subpart 1 ~~complies with items A and B:~~

~~A. completing~~ completes a CPR certification course and ~~maintaining~~ maintains current CPR certification thereafter; and

B. ~~compliance complies~~ with the most current infection control ~~recommendations, guidelines, precautions, procedures, practices, strategies, and techniques specified in the United States Department of Health and Human Services, Public Health Service, Centers for Disease Control publications of the Morbidity and Mortality Weekly Report (MMWR)~~ practices for a dental setting.

Subp. 2. [Repealed, 10 SR 1612]

Subp. 3. **Other ~~duties~~ procedures prohibited.** An assistant ~~may~~ must not perform any dental treatment or procedure on patients not otherwise authorized by this chapter.

3100.8500 LICENSED DENTAL ASSISTANTS.

The Board made numerous changes throughout part 3100.8500 below. The language changes mirror the current language used in the existing rules for dental hygienist's delegated procedures. Other changes were for housekeeping eliminating non-relevant or outdated language that is present in the Board's existing rules. None of the actual delegated procedures or the level of supervision for procedures for licensed dental assistants have changed.

As for subpart 2, the Board added language to clarify what type of education is required for each new delegated procedure added to the list over the years. If the procedure specifically states that additional education through a course is needed to perform that procedure, the licensed dental assistant must complete a course to perform that procedure. If the procedure is listed without any specific course requirements, this procedure can be performed by a licensed dental assistant only after in-office training by a dentist in the practice if the procedure was not included in the curriculum of their dental assisting program, and is considered an allowable delegated procedure within their scope of practice. Therefore, the Board considers these proposed changes to be necessary and reasonable.

As for subpart 3, the Board moved the "Limited-license Permit" to a new part (See 3100.1320) and renamed it "Limited Radiology Registration" as part of creating an understandable guide regarding the standard license or registration options that are available from the Board. This registration option will still have similar application and examination requirements as before, but more detailed information has been provided for the applicant. In addition, this registration option lists other key requirements pertaining to registration, including terms and renewal, reinstatement, and professional development. The Board considers these proposed changes to be necessary and reasonable.

3100.8500 LICENSED DENTAL ASSISTANTS.

Subpart 1. **Procedures under general supervision.** A licensed dental assistant may perform the following procedures without the dentist being present in the dental office or on the premises if the dentist has prior knowledge of and has consented to the procedures being performed ~~are with prior knowledge and consent of the dentist:~~

- A. cut arch wires on orthodontic appliances;
- B. remove loose bands on orthodontic appliances;
- C. remove loose brackets on orthodontic appliances;
- D. re-cement intact temporary crowns or restorations;

- E. place temporary fillings, not including temporization of inlays, onlays, crowns, and bridges;
- F. take radiographs;
- G. take impressions and bite registration;
- H. ~~fabricate and deliver vacuum formed orthodontic retainers~~ custom fitted trays;
- I. place and remove elastic orthodontic separators;
- J. complete preliminary charting of the oral cavity and surrounding structures with the exception of ~~periodontal probing and assessment of the periodontal structure~~ structures;
- K. take photographs extraorally or intraorally;
- L. take vital signs such as pulse rate and blood pressure as directed by a dentist;
- M. obtain informed consent, according to part 3100.9600, subpart 9, for treatments authorized by the supervising dentist pursuant to the licensed dental assistant's scope of practice;
- N. remove and place ligature ties and remove and replace existing arch wires on orthodontic appliances; and
- O. apply topical fluoride, including foam, gel, or varnish.

Subp. 1a. **Procedures under indirect supervision.** A licensed dental assistant, in addition to the services performed by an assistant described in part 3100.8400, subpart 1, may perform the following services if a dentist is in the office, authorizes the procedures, and remains in the office while the procedures are being performed:

- A. apply topical medications including bleaching agents, desensitizing agents, and cavity varnishes as prescribed by a dentist;
- B. place and remove ~~rubber dam~~ devices or materials for isolation purposes;
- C. remove excess cement from inlays, crowns, bridges, and orthodontic appliances with hand instruments only;
- D. perform mechanical polishing to clinical crowns not including ~~instrumentation~~. the removal of calculus by instrumentation must be done by a dentist or dental hygienist before mechanical polishing;
- E. preselect orthodontic bands;
- F. place and remove periodontal dressings;
- G. remove sutures;
- H. monitor a patient who has been induced by a dentist into nitrous oxide inhalation analgesia;
- I. place initial arch wires on orthodontic appliances. A dentist must select and, if necessary, adjust arch wires prior to placement;
- J. dry root canals with paper points;
- K. place cotton pellets and temporary restorative materials into endodontic access openings;

L. etch appropriate enamel surfaces; and apply and adjust pit and fissure sealants. ~~Before the application of pit and fissure sealants, a licensed dental assistant must have successfully completed a course in pit and fissure sealants at a dental, dental hygiene, or dental assisting school accredited by the Commission on Dental Accreditation;~~

M. perform restorative procedures as permitted in Minnesota Statutes, section 150A.10, subdivision 4;

N. maintain and remove intravenous lines while under indirect supervision of a dentist who holds a valid general anesthesia or moderate sedation certificate. Before managing and removing intravenous lines, a licensed dental assistant must have successfully completed board-approved allied dental personnel courses comprised of intravenous access and general anesthesia and moderate sedation training and be certified by the board; and

O. monitor a patient during preoperative, intraoperative, and postoperative phases of general anesthesia or moderate sedation using noninvasive instrumentation such as pulse oximeters, electrocardiograms, blood pressure monitors, and capnography while under indirect supervision of a dentist who holds a valid general anesthesia or moderate sedation certificate. Before monitoring a sedated patient, a licensed dental assistant must have successfully completed board-approved allied dental personnel courses comprised of intravenous access and general anesthesia and moderate sedation training and be certified by the board.

Subp. 1b. **Procedures under direct supervision.** A licensed dental assistant may perform the following services if a dentist is in the dental office, personally diagnoses the condition to be treated, personally authorizes the procedure, and evaluates the performance of the licensed dental assistant before dismissing the patient:

A. remove excess bond material from orthodontic appliances;

B. remove bond material from teeth with rotary instruments after removal of orthodontic appliances. Before utilizing rotary instruments for the removal of bond material, a licensed dental assistant must have successfully completed a course in the use of rotary instruments for the express purpose of the removal of bond material from teeth. ~~The course must be one that is presented by a dental, dental hygiene, or dental assisting~~ through a school accredited by the Commission on Dental Accreditation;

C. etch appropriate enamel surfaces before bonding of orthodontic appliances by a dentist;

D. fabricate, place, replace, cement, and adjust temporary crowns or restorations ~~extraorally or intraorally~~;

E. remove temporary restorations with hand instruments only;

F. place and remove matrix ~~bands~~ systems and wedges;

G. administer nitrous oxide inhalation analgesia according to part 3100.3600, ~~subparts 4 and 5~~ subpart 15;

H. attach prefrit and preadjusted orthodontic appliances;

I. remove fixed orthodontic bands and brackets;

J. initiate and place an intravenous line in preparation for intravenous medications and sedation while under direct supervision of a dentist who holds a valid general anesthesia or moderate sedation certificate. Before initiating and placing an intravenous line, a licensed dental

assistant must have successfully completed board-approved allied dental personnel courses comprised of intravenous access and general anesthesia and moderate sedation training and be certified by the board; and

K. place nonsurgical retraction material for gingival displacement. Before placing nonsurgical retraction material, a licensed dental assistant must have successfully completed a course in nonsurgical retraction material for gingival displacement at a ~~dental, dental hygiene, or dental assisting~~ school accredited by the Commission on Dental Accreditation.

Subp. 1c. **Procedures under personal supervision.** A licensed dental assistant may concurrently perform supportive services if the dentist holds a valid general anesthesia or moderate sedation certificate, is personally treating a patient, and authorizes the licensed dental assistant to aid in the physical management of medications, including the preparation and administration of medications into an existing intravenous line. Before administering any medications or agents, a licensed dental assistant must have successfully completed board-approved allied dental personnel courses comprised of general anesthesia and moderate sedation training and be certified by the board.

Subp. 2. **Other Procedures requiring more coursework or in-office training and procedures prohibited.**

A. If any delegated procedure within this part specifically indicates a requirement to complete additional coursework, the licensed dental assistant must complete the coursework to perform the procedure. All remaining delegated procedures listed are within the scope of practice for a licensed dental assistant with, if necessary, some required in-office training by the supervising dentist.

B. A licensed dental assistant ~~may~~ must not perform any dental treatment or procedure on patients not otherwise authorized by this chapter.

Subp. 3. **Limited license permit Repealed.** ~~A dental assistant, who by virtue of academic achievement which is equal to or greater than that of a licensed dental assistant, and is currently qualified in Minnesota in an allied health profession may take dental radiographs under the general supervision of a dentist if the person complies with the requirements of this subpart. The person shall file with the board a completed application furnished by the board and the fee prescribed in Minnesota Statutes, section 150A.091, subdivision 2. In addition, the person shall submit evidence of the successful completion of a course on dental radiographs and of passing an examination. The course must be board approved. The course shall be equivalent to the dental radiograph courses offered by dental assisting courses approved by the board under part 3100.1300, item B. The examination must be the radiograph part of the examination which is required of licensed dental assistant applicants.~~

3100.8700 DENTAL HYGIENISTS.

The Board made numerous changes throughout part 3100.8700 below. The language changes mirror the current language used in the rules for licensed dental assistant's delegated procedures. Other changes were for housekeeping eliminating non-relevant or outdated language that is present in the Board's existing rules. None of the actual delegated procedures or the level of supervision for procedures for licensed dental hygienists have changed. The Board considers these proposed changes to be necessary and reasonable.

3100.8700 DENTAL HYGIENISTS.

Subpart 1. **Principal procedures under general supervision.** A dental hygienist may ~~perform the following procedures,~~ under general supervision, as defined in part 3100.0100, subpart 21, item D:

A. perform preliminary charting of the oral cavity and surrounding structures, including case histories; perform initial and periodic examinations and assessments to determine periodontal status; and ~~creation of~~ create a dental hygiene treatment plan in coordination with a dentist's treatment plan;

B. obtain informed consent, according to part 3100.9600, subpart 9, for treatments authorized by the supervising dentist pursuant to the dental hygienist's scope of practice;

C. take photographs extraorally or intraorally;

D. take vital signs, including pulse rate and blood pressure;

E. make referrals to dentists, physicians, and other practitioners in consultation with a dentist;

F. complete debridement, prophylaxis, and nonsurgical periodontal therapy;

G. etch enamel surfaces, ~~application and apply~~ and adjustment of adjust pit and fissure sealants;

H. administer local anesthesia. Before administering local anesthesia, a dental hygienist must have successfully completed a didactic and clinical program sponsored by a dental or dental hygiene school accredited by the Commission on Dental Accreditation, resulting in the dental hygienist becoming clinically competent in the administration of local anesthesia;

I. administer nitrous oxide inhalation analgesia according to part 3100.3600, ~~subparts 4 and 5~~ subpart 14;

J. take radiographs;

K. apply topical medications, including topical fluoride, bleaching agents, cavity varnishes, and desensitizing agents;

L. place subgingival medicaments;

M. take impressions and bite registration;

N. ~~fabrication and delivery of~~ fabricate and deliver custom fitted trays;

O. provide nutritional counseling;

P. perform salivary analysis;

Q. remove marginal overhangs;

R. remove sutures;

S. place and remove periodontal dressings;

T. place and remove ~~isolation~~ devices or materials for ~~restorative~~ isolation purposes;

U. polish restorations;

V. remove excess cement from inlays, crowns, bridges, or orthodontic appliances;

~~W. fabrication, placement, replacement, cementation, and adjustment of fabricate, place, replace, cement, and adjust temporary crowns or restorations;~~

X. remove temporary crowns or restorations with hand instruments only;

Y. place and remove matrix systems and wedges; and

Z. place nonsurgical retraction material for gingival displacement. Before placing nonsurgical retraction material, a dental hygienist must have successfully completed a course in nonsurgical retraction material for gingival displacement at a ~~dental, dental hygiene, or dental assisting~~ school accredited by the Commission on Dental Accreditation.

Subp. 2. Restorative procedures under indirect supervision. A dental hygienist may perform restorative procedures pursuant to Minnesota Statutes, section 150A.10, subdivision 4, and under indirect supervision, as defined in part 3100.0100, subpart 21, item C, if the dental hygienist has ~~fulfilled either item A or B:~~

A. successfully graduated from a Minnesota dental hygiene program accredited by the Commission on Dental Accreditation that included training for restorative procedures and received a restorative procedures certificate from the program; or

B. successfully completed a board-approved course on restorative procedures and received a restorative procedures certificate from the course sponsor.

Subp. 2a. Orthodontic procedures under general, indirect, or direct supervision. If a dental hygienist has fulfilled the requirements of item A, subitems (1), (2), or (3), the dental hygienist may perform the procedures listed in item B under the level of supervision indicated, as defined in part 3100.0100, subpart 21, items B, C, and D.

A. A dental hygienist must have:

(1) been granted a Minnesota dental hygiene license from the board prior to September 1, 2019;

(2) successfully graduated from a Minnesota dental hygiene program accredited by the Commission on Dental Accreditation after September 1, 2019, that included training for orthodontic procedures and received an orthodontic procedures certificate from the program; or

(3) successfully completed a board-approved course comprised of orthodontic procedures and received an orthodontic procedures certificate from the course sponsor.

B. The dental hygienist may perform the following procedures under:

(1) general supervision:

(a) cut arch wires on orthodontic appliances;

(b) remove loose bands on orthodontic appliances;

(c) remove loose brackets on orthodontic appliances;

(d) remove excess bond material from orthodontic appliances;

(e) preselect orthodontic bands;

(f) place and remove elastic orthodontic separators; and

(g) remove and place ligature ties and remove and replace existing arch wires

on orthodontic appliances; ~~and~~

~~(h) deliver vacuum-formed orthodontic retainers;~~

(2) indirect supervision: place initial arch wires on orthodontic appliances. A dentist must select and, if necessary, adjust arch wires prior to placement;

(3) direct supervision:

(a) etch enamel surfaces before bonding of orthodontic appliances by a dentist;

- (b) remove bond material from teeth with rotary instruments after removal of orthodontic appliances;
- (c) attach prefrit and preadjusted orthodontic appliances; and
- (d) remove fixed orthodontic bands and brackets.

Subp. 2b. **Sedation monitoring and intravenous procedures under indirect, direct, or personal supervision.** If a dental hygienist has successfully completed board-approved allied dental personnel courses comprised of intravenous access and general anesthesia and moderate sedation training and ~~submitted to the board documentation of completion to receive a certificate from the board~~ is certified by the board, the dental hygienist may perform the following procedures under either indirect, direct, or personal supervision, as defined in part 3100.0100, subpart 21, items A, B, and C, for a dentist who holds a valid general anesthesia or moderate sedation certificate:

A. indirect supervision:

- (1) maintain and remove intravenous lines;
- (2) monitor a patient during preoperative, intraoperative, and postoperative phases of general anesthesia or moderate sedation using noninvasive instrumentation, including pulse oximeters, electrocardiograms, blood pressure monitors, and capnography;

B. direct supervision: initiate and place an intravenous line in preparation for intravenous medications and sedation;

C. personal supervision: aid in the physical management of medications, including the preparation and administration of medications into an existing intravenous line.

Subp. 3. **Other procedures prohibited.** A dental hygienist ~~may~~ must not perform any dental treatment or procedure on patients not authorized by this chapter.

3100.9600 RECORD KEEPING.

The Board made a number of minor housekeeping changes to part 3100.9600 below by eliminating non-relevant or outdated language that is present in the Board's existing rules. None of the actual components of recordkeeping have changed. These changes will make the Board's rules clearer and concise. Therefore, the Board considers these proposed changes to be necessary and reasonable.

3100.9600 RECORD KEEPING.

Subpart 1. **Definitions.** For the purposes of this part, "patient" means a natural person who has received dental ~~care services~~ treatment from a provider ~~for treatment of a dental condition~~. In the case of a minor who has received dental ~~care services~~ treatment pursuant to Minnesota Statutes, sections 144.341 to 144.347, the patient includes a parent or guardian, ~~or a person acting as a parent or guardian in the absence of a parent or guardian~~.

Subp. 2. **Dental records.** Dentists shall maintain dental records on each patient. The records must contain the components specified in subparts 3 to 10.

Subp. 3. **Personal data.** At a minimum, dental records must include ~~at least the following information~~ the patient's:

- A. ~~the patient's~~ name;
- B. ~~the patient's~~ address;
- C. ~~the patient's~~ date of birth;
- D. ~~if the patient is a minor, the name of the patient's parent or guardian~~ parent's or guardian's name, if the patient is a minor;
- E. ~~the name and telephone number of a person to contact in case of an emergency contact;~~
and
- F. ~~the name of the patient's insurance information carrier and insurance identification number, if applicable.~~

Subp. 4. **Patient's reasons for visit.** When a patient presents with a chief complaint, dental records must include the patient's stated oral health care reasons for visiting the dentist.

Subp. 5. **Dental and medical history.** Dental records must include information from the patient or the patient's parent or guardian on the patient's dental and medical history. The information must include a sufficient amount of data to support the recommended treatment plan. The dental and medical history must be updated to reflect the current status of the patient.

Subp. 6. **Clinical examinations.** When ~~emergency treatment~~ a limited examination is performed, items A to C pertain only to the area treated. When a ~~clinical~~ comprehensive examination is performed, dental records must include:

- A. recording of existing oral health care status;
- B. any radiographs used; and
- C. the ~~facsimiles or~~ results of any other diagnostic aids used.

Subp. 7. **Diagnosis.** Dental records must include a diagnosis.

Subp. 8. **Treatment plan.** Dental records must include an agreed upon written and dated treatment plan except for routine dental care ~~such as preventive services.~~ The treatment plan must be updated to reflect the current status of the patient's oral health and treatment.

Subp. 9. **Informed consent.** Dental records must include a notation that:

- A. the dentist, advanced dental therapist, dental therapist, dental hygienist, or licensed dental assistant discussed with the patient the treatment options and the prognosis, benefits, and risks of each treatment that is within the scope of practice of the respective licensee; and
- B. the patient has consented to the treatment chosen.

Subp. 10. **Progress notes.** ~~Dental Patient~~ records must ~~be legible and~~ include a chronology of the patient's progress throughout the course of all treatment ~~and postoperative visits.~~ All written progress notes must be legible and written in ink. The chronology must include:

- A. all treatment provided;
- B. all medications and anesthetics used ~~and materials placed;~~
- C. all dental materials placed;
- € D. the treatment provider by license number, name, or initials;

~~D~~ E. when applicable, the identity of the collaborating dentist authorizing treatment by license number; and

~~E~~ F. administration information for nitrous oxide inhalation analgesia, including indication for use, dosage, duration of administration, posttreatment oxygenation period prior to discharge, and patient status at discharge.

Subp. 11. **Corrections ~~Amendments to~~ records.** ~~Notations must be legible, written in ink, and contain no erasures or "white outs."~~ If incorrect information is placed in ~~the a~~ written record, it must be ~~crossed~~ amended by crossing out with one single line and initialed by ~~a dental health care worker~~ the provider. The provider initialing the record must identify who the provider is on the written record. In an electronic health record, an amendment to the record must be electronically time and date stamped by the provider.

Subp. 12. **Retention of records.**

A. For an adult patient with an active file, the dentist must maintain the patient's entire dental record. For an adult patient with an inactive file, the ~~A~~ dentist ~~shall~~ must maintain ~~a~~ the patient's dental records for at least seven years beyond the ~~time the dentist last treated the patient~~ patient's last date of treatment by the dentist.

B. ~~In the case of~~ For a minor patient with an active file, the dentist must maintain the patient's entire dental record. For a minor patient with an inactive file, the ~~a~~ dentist ~~shall~~ must maintain ~~a~~ the patient's dental records for at least seven years ~~past the age of majority~~ until the patient is 25 years old.

Subp. 13. **Transfer of records.** A patient's dental records must be transferred according to Minnesota Statutes, sections 144.291 to 144.298, irrespective of the status of the patient's account. Digital radiographs shall be transferred by compact or optical disc, or electronic communication, ~~or printing on high quality photographic paper~~. All transferred film or digital radiographs must reveal images of diagnostic quality ~~using proper exposure settings and processing procedures.~~

Subp. 14. **Electronic record keeping.**

A. The requirements of subparts 1 to 13 apply to electronic record keeping as well as to record keeping by any other means.

B. When electronic records are kept, a dentist must ~~keep either a duplicate hard copy record or~~ use an unalterable electronic record.

REPEALED. The Board's existing rules listed below will be repealed because they were found to be either obsolete, unnecessary, or duplicative rules. In general, the Board found that these rules no longer serve a purpose or some of the information within a part was kept and relocated to a different part in the Board's proposed rules.

3100.0100, subpart 8b (Core subject) and subpart 18b (Self-assessment) – these subparts are obsolete because this language has been eliminated from the Board's proposed rules related to professional development.

3100.0100, subpart 15 (National board) – this subpart is obsolete because the language gives the Board too much discretion regarding examinations.

3100.1100, subpart 2 (Clinical skills examination), subpart 4 (Photograph), and subpart 5 (Certification of character) – subpart 2 is unnecessary because this same information regarding clinical skills examination was moved to a new subpart within this part; subpart 4 is obsolete because the Board is no longer requiring the applicant’s photograph as part of the licensure application; subpart 5 is obsolete because the Board does not find this character information necessary during the licensure application process.

3100.1500 INCOMPLETE APPLICATIONS – this part is obsolete because an incomplete application received by the Board is no longer processed this way since the application and fee are not returned to the applicant. Instead, the Board is moving toward an electronic application and fees along with directly contacting the applicant.

3100.1600 ADDITIONAL INFORMATION FROM ALL APPLICANTS – this part is unnecessary and duplicative because all the application and educational requirements for applicants to become licensed by the Board can now be found under each licensed dental professional.

3100.1700, subpart 5 (Contested case proceedings) – this subpart is unnecessary because the Board already has the right to terminate the license according to another subpart.

3100.1750, subpart 4 (Application fees), subpart 5 (Annual license fees), and subpart 6 (Annual license late fee) – these subparts are unnecessary and duplicative because this same information regarding fees was moved to a new subpart within this part.

3100.3100 CONDUCT OF EXAMINATIONS – this part is obsolete because the Board does not actually conduct the written examinations for licensure; instead, the examinations are now administered by other testing agencies.

3100.3200 CLINICAL EXAMINATIONS - this part is obsolete because the Board does not actually conduct the clinical examinations for licensure. Instead, the examinations are now conducted by Board members that contract directly with the examining company as dental examiners.

3100.3300 EXAMINATION OF DENTISTS - this part is unnecessary and duplicative because this same information regarding various examinations and failed examinations requirements for applicants to become licensed by the Board can now be found under each licensed dental professional.

3100.3350 EXAMINATION OF DENTAL THERAPISTS AND ADVANCED DENTAL THERAPISTS - this part is unnecessary and duplicative because this same information regarding various examinations and failed examinations requirements for applicants to become licensed by the Board can now be found under each licensed dental professional.

3100.3400 EXAMINATION OF DENTAL HYGIENISTS - this part is unnecessary and duplicative because this same information regarding various examinations and failed examinations requirements for applicants to become licensed by the Board can now be found under each licensed dental professional.

3100.3500 EXAMINATION OF LICENSED DENTAL ASSISTANTS - this part is unnecessary and duplicative because this same information regarding various examinations and failed examinations requirements for applicants to become licensed by the Board can now be found under each licensed dental professional.

3100.3600, subpart 2 (General anesthesia or deep sedation; educational training requirements) - this subpart is unnecessary because this same information regarding general anesthesia or deep sedation was moved to a new subpart within this part.

3100.3600, subpart 3 (Moderate sedation; educational training requirements) - this subpart is unnecessary because this same information regarding moderate sedation was moved to a new subpart within this part.

3100.3600, subpart 4 (Nitrous oxide inhalation analgesia; educational training requirements) - this subpart is unnecessary because all the application and educational requirements for nitrous oxide inhalation analgesia have been separated into new subparts for each licensed dental professional.

3100.3600, subpart 5 (Notice to board) - this subpart is unnecessary because all the application and educational requirements for nitrous oxide inhalation analgesia have been separated into new subparts for each licensed dental professional.

3100.3600, subpart 6 (Analgesia) – this subpart is obsolete because the dentist is not the only licensed dental professional that can administer local anesthesia.

3100.3600, subpart 7 (Minimal sedation) – this subpart is unnecessary because a dentist is the only licensed dental professional that can administer minimal sedation.

3100.3600, subpart 8 (Reporting of incidents required) - this subpart is unnecessary because this same information regarding reporting of an incident was moved to a new subpart within this part.

3100.3600, subpart 9 (General anesthesia or moderate sedation certificate) - this subpart is unnecessary because this same information regarding certificates was moved to a new subpart within this part.

3100.3600, subpart 9a (Expiration or termination of general anesthesia or moderate sedation certificate; requirements) - this subpart is unnecessary because this same information regarding expiration or termination of a certificate was moved to a new subpart within this part.

3100.3600, subpart 9b (Certificate to provide dentistry with contracted sedation provider) - this subpart is unnecessary because this same information regarding a contracted sedation provider was moved to a new subpart within this part.

3100.3600, subpart 10 (Practice and equipment requirements) - this subpart is unnecessary and duplicative because this same information regarding practice and equipment requirements was moved to a new subpart within this part.

3100.3600, subpart 11 (On-site inspection; requirements and procedures) - this subpart is unnecessary and duplicative because this same information regarding on-site inspections was moved to a new subpart within this part.

3100.5400 PROFESSIONAL DEVELOPMENT TRANSITION – this part is obsolete because it explained the previous process of switching from the Board tracking continuing education credits earned to having the licensed dental professional track their own credits for professional development.

3100.6325 VOLUNTARY TERMINATION OF LICENSE – this part is unnecessary because the Board has the right to take disciplinary action against a licensed dental professional.

3100.7200 FAILURE TO RESPOND TO ADVERTISING COMPLAINT – this part is unnecessary and duplicative because the Board already has the authority under other statutes and rules to act regarding advertising complaints.

3100.8500, subpart 3 (Limited-license permit) – this subpart is unnecessary and duplicative because this same information regarding the application and examination requirements for applicants to become registered by the Board can now be found under the renamed title of Limited Radiology Registration.

CONCLUSION

In this SONAR, the Board has established the need for and the reasonableness of each of the proposed amendments to Minnesota Rules, chapter 3100. The Board has provided the necessary notification to all interested parties and documented in this SONAR its compliance with all applicable administrative rulemaking requirements of Minnesota statutes and rules.

Based on the foregoing, the proposed amendments are both needed and reasonable.

Dated: March 17, 2021



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Executive Director

Minnesota Board of Dentistry