

February 16, 2024

Legislative Reference Library

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Saint Paul, Minnesota 55155-1050

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Re: Proposed Amendments to Permanent Rules Relating to Licensing and Administration of Sedation and Anesthesia, *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, 3100.3600, 3100.5100, 3100.5300, 3100.6300, 3100.8400, 3100.8500, 3100.8700, and 3100.9600. Revisor's ID Number RD4813.

Dear Librarian:

The Minnesota Board of Dentistry intends to adopt rules relating to the following: the required CPR course is open to other vendors; a dentist must obtain a pediatric endorsement to administer general anesthesia or moderate sedation to younger children; a dentist who has a general anesthesia or moderate sedation certificate must complete additional professional development credits; an unlicensed dental assistant can perform new procedures including taking digital impressions and taking photographs; and a licensed dental assistant can administer local anesthesia after completing the required training.

We plan to publish a Dual Notice of Intent to Adopt Rules on February 20, 2024, in the 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 Licensing and Administration of Sedation and Anesthesia, *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, 3100.3600, 3100.5100, 3100.5300, 3100.6300, 3100.8400, 3100.8500, 3100.8700, and 3100.9600. Revisor’s ID Number RD4813.

INTRODUCTION

The Minnesota Board of Dentistry (“Board”) is the state agency authorized to establish permanent rules for regulating all licensed dental professionals and assistants without a license (or unlicensed dental assistants) in the State of Minnesota.

The Board’s proposed rules amendments will primarily address the following areas: the CPR course may be completed through other vendors who follow the stated requirements; a dentist must obtain a pediatric endorsement to administer general anesthesia or moderate sedation to younger children; a dentist who has a general anesthesia or moderate sedation certificate must complete additional professional development credits; an unlicensed dental assistant can perform new procedures including taking digital impressions and taking photographs; and a licensed dental assistant can administer local anesthesia after completing the required training.

After completing a massive reorganization in the previous rulemaking, the Board found certain areas that still need minor housekeeping and clarification to coincide with statute changes, affirm scope of practice relative to nitrous oxide and sedation, allow renewal of a late emeritus active license, and eliminate the fundamental list (record keeping, ethics, patient communications, management of medical emergencies, treatment and diagnosis, and HIPAA) and the requirement of completing two courses from this list for professional development.

All pertinent 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.

For this rulemaking, the Board has provided a detailed explanation and justification for the amendments to its proposed rules 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, 335 Randolph Avenue, Suite 250, Saint Paul, Minnesota 55102, kathy.t.johnson@state.mn.us, phone: (612) 548-2134 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 this statute, 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.

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: All regulated dental professionals and unlicensed dental assistants.
- Costs of proposed rules to all regulated dental professionals and unlicensed dental assistants: Numerous changes throughout these proposed rules are geared toward being less restrictive which will not generate any concerns regarding financial impact.
- Classes benefiting from proposed rules: All regulated dental professionals and unlicensed dental assistants will benefit from the proposed rules because making the proposed rules overall less restrictive is a beneficial situation for the entire dental community.

“(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”

- The Board will not incur any increased costs, and neither will any other agency in the implementation and enforcement of the proposed rules.
- The Board’s proposed rules will not affect state revenues.

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

- The Board has addressed the issue of less costly or less intrusive methods by proposing rules that are less restrictive throughout allowing for more flexibility.

“(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”

- The Board did not consider alternative methods because all proposed rules were deemed acceptable to regulated dental professionals. The Board is required to promulgate rules in order to achieve and implement the changes.

“(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 Board found that these proposed rules changes are geared toward being less restrictive which will not generate any concerns regarding costs.
- The Board found that no other classes of government units, businesses, or individuals are expected to incur costs associated with the proposed rules.

“(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 government units, businesses, or individuals”

- The Board has not considered the costs/consequences of not adopting its proposed rules because the Board believes that it has a regulatory duty to pursue proposed rules that are less restrictive for all regulated dental professionals.
- The Board found that no other classes of government units, businesses, or individuals are affected by its proposed rules.

“(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”

- The Board found that its proposed rules regulate Minnesota dental professionals and do not 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 found no cumulative effect with its proposed rules because the regulating of dental professionals is not addressed by federal law or other Minnesota state laws.

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.

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 2022 and 2023, several of the Board's Committees, including the Sedation Committee, Policy Committee, Professional Development Committee, and Allied Dental Education Committee, held numerous public meetings with all interested parties in attendance to thoroughly discuss and present scenarios regarding these proposed rules changes. 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 changes were distributed and reviewed by all individuals in attendance and input encouraged from all attendees.
2. By August 23, 2023, the Board posted a draft copy of the proposed rules amendments on the Board's website at <https://mn.gov/boards/dentistry/board-information/lawsandrules/rulemaking/>. This website is accessible to these individuals: all dentists; dental therapists; dental hygienists; dental assistants; state legislators; other health boards; professional associations; and general public. This draft copy identified the Board rules that will be affected by the Board's proposed rules amendments.
3. By August 23, 2023, the Board posted a copy of the Request for Comments for publication in the State Register on the Board's website at <https://mn.gov/boards/dentistry/board-information/lawsandrules/rulemaking/>. This website is accessible to these individuals: all dentists; dental therapists; dental hygienists; dental assistants; state legislators; other health boards; professional associations; and members of the general public.
4. By August 23, 2023, the Board posted its Statement of Need and Reasonableness ("SONAR") dated August 16, 2023, on the Board's website at <https://mn.gov/boards/dentistry/board-information/lawsandrules/rulemaking/>. This website is accessible to these individuals: all dentists; dental therapists; dental hygienists; dental assistants; state legislators; other health boards; professional associations; and members of the general public.
5. On August 25, 2023, 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 August 25, 2023, 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 August 25, 2023, the Board sent an electronic mass mailing using GovDelivery service to nearly 127,000 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 August 28, 2023, the Board's Request for Comments was published in the State Register, requesting that all comments be submitted to the Board by October 27, 2023. 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 this link <https://mn.gov/boards/dentistry/board-information/lawsandrules/rulemaking/> for a copy of the Dual Notice of Intent to Adopt Rules, proposed rules, and SONAR to:
 - a. the representatives of the Minnesota Dental Association, Minnesota Dental Therapy Association, Minnesota Dental Hygienists Association, and Minnesota Dental Assistants Association, with a request to disseminate this information to their member lists via newsletters, publications, or mailings; and
 - b. all persons on the Board's rulemaking mailing list.
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 127,000 licensees and the general public, including dentists, dental therapists, dental hygienists, and licensed dental assistants, regarding the Board's Dual Notice period, proposed rules, and 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 Hannah Millang, the Board's Executive Budget Officer (EBO), at MMB and will later provide Hannah Millang'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.

The Board has made changes to part 3100.0100 by revising Subpart 9a below. These changes will allow all dental professionals to take CPR courses from other vendors rather than being limited to only the American Heart Association and the American Red Cross. The Board will still require that a hands-on practice component and a written examination be part of the CPR course as well as the other components indicated below. The Board believes that other vendors can offer comparable CPR courses, and therefore, the Board considers these proposed changes to be necessary and reasonable.

Subp. 9a. **CPR.** “CPR” refers to a ~~comprehensive, hands-on course and certification~~ for a health care provider that ~~includes: cardiopulmonary resuscitation on an adult, child, and infant; two-person rescuer; barrier mask or bag for ventilation; foreign body airway obstruction; and automated external defibrillation.~~ The CPR course and certification must be for health care professionals through the American Heart Association or the American Red Cross teaches basic life support for adults, children, and infants. The course must include both hands-on practice and written examination and must address the following topics:

A. rapid assessment of the patient and provision of emergency care based upon the patient’s condition;

B. relief of foreign-body airway obstruction or choking;

C. basic life support giving chest compressions and delivering appropriate ventilations;

D. early use of an automated external defibrillator (AED); and

E. effective coordination of multiple rescuers performing basic life support.

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

The Board has made changes to part 3100.3600 by adding Subparts 16a and 17a below. These changes address the current trends of an increasing number of dentists electing to complete general anesthesia and sedation care on their pediatric patients in the confines of their dental office. For all levels of sedation, the dentist must have the training, skills, drugs, equipment, and have significant advanced pediatric training in recognizing and managing pediatric emergencies to provide safe sedation and anesthetic care. The dentist is also the primary dental provider who takes on the significant responsibility of creating a dental team of highly qualified dental staff members to deliver care in an optimal and safe fashion. Additionally, the Board supports the current guidelines established by the American Association of Oral and Maxillofacial Surgeons (AAOMS) regarding the definitive age of a pediatric patient. The Board believes that these new anesthesia and sedation rules will provide the safety measures necessary for this younger patient population and the risks associated with these procedures, which makes these rules necessary and reasonable.

Subpart 16a. Initial and renewal endorsement for pediatric general anesthesia or deep sedation; application and educational training requirements for a dentist.

A. A dentist may administer general anesthesia or deep sedation to a pediatric patient who is eight years old or younger only after providing the board:

(1) a completed initial application;

(2) evidence of holding a current general anesthesia or deep sedation certificate under subpart 16; and

(3) attestation of completing at least 12 cases of general anesthesia or deep sedation on patients who are eight years old or younger within 12 months prior to the board’s receipt of the application for a pediatric endorsement.

B. A dentist administering general anesthesia or deep sedation to a pediatric patient must have two additional licensed personnel who are currently certified in CPR and allied sedation monitoring present during the administration.

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

D. To renew an endorsement for pediatric general anesthesia, the dentist must provide the board:

(1) a completed renewal application; and

(2) attestation of completing at least 12 cases of general anesthesia or deep sedation on patients who are eight years old or younger within 12 months prior to the board's receipt of the renewal application. The dentist must maintain proof of these cases upon request by the board for up to two renewal periods.

E. A dentist who administers general anesthesia or deep sedation on patients who are eight years old or younger without a pediatric general anesthesia endorsement is 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. 17a. Initial and renewal endorsement for pediatric moderate sedation; application and educational training requirements for a dentist.

A. A dentist may administer moderate sedation to a pediatric patient who is eight years old or younger only after providing the board:

(1) a completed initial application;

(2) evidence of holding a current moderate sedation certificate under subpart 17;

(3) evidence of completing a pediatric program accredited by the Commission on Dental Accreditation or an equivalent residency program that requires clinical competency in the administration of moderate sedation on pediatric patients; and

(4) attestation of completing at least 12 cases of moderate sedation on patients who are eight years old or younger within 12 months prior to the board's receipt of the application for a pediatric endorsement.

B. A dentist administering moderate sedation to a pediatric patient must have two additional licensed personnel who are currently certified in CPR and allied sedation monitoring present during administration.

C. To renew an endorsement for pediatric moderate sedation, the dentist must provide the board:

(1) a completed application; and

(2) attestation of completing at least 12 cases of moderate sedation on patients who are eight years old or younger within 12 months prior to the board's receipt of the application. The dentist must maintain proof of these cases upon request by the board for up to two renewal periods.

D. A dentist who administers moderate sedation on patients who are eight years old or younger without a pediatric moderate sedation endorsement is 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.

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

The Board has made changes to part 3100.5100 by adding item C to Subpart 2 below. This increase in professional development credits of 15 hours applies only to dentists who have a certificate to administer general anesthesia, deep sedation, or moderate sedation. In addition to the current requirement of 50 hours of professional development for a licensed dentist, a dentist who has a general anesthesia/moderate sedation certificate will have to obtain 15 more credit hours for a total of 65 credit hours. There are many specific areas listed that qualify as acceptable areas of education but there are no hour requirements for each particular area, only a total of 15. The Board believes that this additional educational requirement is necessary to maintain a high-level of competency when performing general anesthesia or moderate sedation. For this reason, the Board finds these proposed changes are necessary and reasonable.

Subp. 2. Professional development requirements.

A. Each licensee shall establish a portfolio to record, monitor, and retain documentation of fundamental and elective professional development activities.

B. The minimum number of required hours of fundamental and elective 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. Any professional development hours earned in excess of the required hours for an initial or biennial cycle must not be carried forward to the next biennial cycle.

(1) Of the 50 hours required for a dentist and dental therapist, at least 30 hours must be fundamental activities and no more than 20 hours can be elective activities.

(2) Of the 25 hours required for a dental hygienist and licensed dental assistant, at least 15 hours must be fundamental activities and no more than ten hours can be elective activities.

C. In addition to the 50 hours required for a dentist under item B, a dentist with a certificate to administer general anesthesia, deep sedation, or moderate sedation under part 3100.3600, subpart 18, must earn at least 15 hours of professional development in any of the following areas:

- (1) moderate sedation or general anesthesia and deep sedation;
- (2) medications and physical evaluation;
- (3) anesthesia emergencies and complications;
- (4) monitoring equipment and monitoring during anesthesia;
- (5) pharmacology of anesthetic drugs;
- (6) infection control related to anesthesia procedures; and
- (7) simulation courses involving anesthesia emergencies.

3100.8400 ASSISTANTS WITHOUT A LICENSE.

The Board has made changes to part 3100.8400 by revising and adding Subpart 1b below. These changes will enhance the role of the unlicensed dental assistant by allowing this assistant to take digital impressions and to take photographs extraorally (outside of the mouth) and intraorally (inside of the mouth) on patients. The taking of “digital impressions” is a type of dental scan taken with 3D scanning technology in order to produce an image of the patient’s dentition or used for simple treatments like a single crown or for more extensive restorative procedures like a bridge or full dentures. Digital impressions can be performed by the unlicensed dental assistant under direct supervision by the dentist or dental therapist. As for the traditional impression that uses elastic impression materials, this procedure CANNOT be performed by an unlicensed dental assistant.

The unlicensed dental assistant can also take photographs to completely document the current state of the patient’s facial and oral status. Photographs can be taken by the unlicensed dental assistant under direct supervision by the dentist or dental therapist. The digital impression and the photographs are both noninvasive procedures that can be taught with some in-office training in the office. Because of this, the Board finds these proposed changes are necessary and reasonable.

Subpart 1. **Permissible Procedures under personal supervision.** Assistants An assistant without a license may perform the following supportive procedures if the dentist or dental therapist is personally treating a patient and concurrently authorizes the assistant without a license to aid in treatment:

- A. retract a patient's cheek, tongue, or other parts of tissue during a dental operation;
- B. assist with the placement or removal of devices or materials for isolation purposes as directed by the dentist or dental therapist during dental treatment;
- C. remove debris or water that is created during treatment rendered by a dentist or dental therapist using suction devices; and
- D. provide any assistance, including the placement of articles and topical medication in a patient's oral cavity during dental treatment ~~under the personal supervision of a dentist or dental therapist;~~
- E. ~~aid dental hygienists and licensed dental assistants in the performance of their delegated procedures defined in parts 3100.8500 and 3100.8700;~~
- 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~~ Procedures under general supervision.** ~~The dentist is responsible for ensuring that any assistant working under the dentist’s or dental therapist’s supervision as defined in subpart 1:~~ An assistant without a license may apply fluoride varnish without the dentist or physician being present in the dental office or facility or on the premises if the licensed practitioner with prescribing authority has prior knowledge of and has consented to the procedure being performed and maintains appropriate patient records of the treatment.

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

~~B. complies with the most current infection control practices for a dental setting.~~

Subp. 1b. Procedures under direct supervision. An assistant without a license may perform the following services if a dentist or dental therapist is in the dental office, personally authorizes the procedure, and evaluates the performance of the assistant before dismissing the patient:

A. take digital impressions;

B. take photographs extraorally or intraorally; and

C. aid dental hygienists and licensed dental assistants in the performance of their delegated procedures defined in parts 3100.8500 and 3100.8700.

Subp. 1c. Compliance with minimal requirements. The dentist is responsible for ensuring that any assistant working under the dentist's or dental therapist's supervision pursuant to subparts 1 to 1b:

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

B. complies with the most current infection control practices for a dental setting.

Subp. 2. [Repealed, 10 SR 1612]

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

3100.8500 LICENSED DENTAL ASSISTANTS.

The Board has made changes to part 3100.8500 by adding item L to Subpart 1b below. These changes will allow the licensed dental assistant to administer local anesthesia to patients under the direct supervision of the dentist. This procedure, local anesthesia, is limited to supraperiosteal and field block injections as prescribed by the dentist and under direct supervision which means the dentist must authorize that the licensed dental assistant can actually perform this procedure or not on patients. Prior to administering local anesthesia, the licensed dental assistant must comply with the other stated requirements regarding experience, completing accredited courses with competency, passing an examination, and receiving a certificate from the Board. The Board believes that a licensed dental assistant who satisfies all of these requirements can administer local anesthesia to patients safely on a competent level. For this reason, the Board finds these proposed changes are necessary and reasonable.

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:

L. administer local anesthesia limited to supraperiosteal and field block injections as prescribed by a dentist. Before administering local anesthesia, a licensed dental assistant must provide the board:

1) evidence of at least one year of experience in general chairside dental assisting;

2) evidence of completing a board-approved didactic and clinical course at a school accredited by the Commission on Dental Accreditation that requires clinical competency in the administration of local anesthesia;

3) evidence of passing a board-approved, nationally recognized local anesthetic examination; and

4) evidence of application for local anesthesia certification through the board.

3100.0100 to 3100.9600

Throughout these rules stated 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.

3100.0100 DEFINITIONS

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

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

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

3100.5300 AUDIT PROCESS OF PORTFOLIO

3100.6300 ADEQUATE SAFETY AND SANITARY CONDITIONS FOR DENTAL OFFICES

3100.8500 LICENSED DENTAL ASSISTANTS

3100.8700 DENTAL HYGIENISTS

3100.9600 RECORD KEEPING

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: August 16, 2023



Bridgett Anderson, L.D.A., M.B.A.
Executive Director
Minnesota Board of Dentistry