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**PRESIDENT'S MESSAGE**

*"I consider it an honor to serve as the President for the State Board of Dental Examiners."*

This is a great group of people who I feel privileged to serve with to protect the citizens of North Dakota and maintain the excellent quality of dental care that we have available in our state. I appreciate hearing input from all of you with your ideas for making your dental practice more productive and efficient. We do give those our consideration. We do give thought to each suggestion we receive but may decide to not act on many of them as our charge is to protect the citizens of state not necessarily to enhance the efficiency of an office. We are just now beginning a process to integrate some of those ideas into rules changes.

The verification of CE credit is an "on your honor" system now. It is enforced by random audits and so far results have been exemplary! Thank you! Just a reminder though that you are responsible for the number of clinical hours and to make sure that the course is actually clinical in nature. If there is any doubt, please make sure you have additional clinical hours to make up any shortfall if some hours are deemed non-clinical. FYI, the Saturday lectures for the dentists at the NDDA annual meeting this year were non-clinical so make sure you have extra hours if those were counting on those to fulfill your requirements!

There is the ability to have recorded webinars counted as lecture hours for staff if the doctor is the proctor for the presentation. The webinar can be paused to allow for discussions during the presentation and there can be time set aside afterwards to discuss how the knowledge gained can be put into use in your office. We have put this method to use several times in our office with great results! Please make sure to have the doctor who was the proctor sign the certificate of completion to get credit for the CE.

There is evidence that the focus on the opioid crisis has had success. Thank you to Governor Burgum and Attorney General Stenhjem for their leadership in addressing this issue. Please make sure all who prescribe scheduled drugs are enrolled with and checking the PDMP data base when appropriate according to the rules, a summary of which can be found on the NDBDE web site. Please remember that the 2 hours of ethics CE can be satisfied by retaking the Jurisprudence exam from the web site and is completely free!

In 2019 the Board said thank you and farewell to Dr. Troy Peterson, who served 10 years, completing two terms on the NDBDE. Dr. Petersen, an OMFS in Grand Forks, served as NDBDE President in 2012, and 2016, and chaired the Anesthesia Committee during his tenure bringing expertise in the pharmacology, physiology and clinical management of dentists providing anesthesia and sedation and providing recommendations during complaint deliberations related to sedation and anesthesia. Dr. Petersen's wit, and wisdom will be missed. Thank you, Dr. Petersen!!!

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Regarding legislative activity, occupational licensing and reform has become a hot-button along with the dental therapist issue, and will certainly be an interesting debate. At the time of the writing of this newsletter, it is uncertain what outcomes or details lie ahead, military spouses being a key example of why reform may be needed. As momentum builds our legislators may implement oversight regarding licensure.

The Board remains opposed to expanding the use of mid-level providers or dental therapists and instead believes that engaging the current workforce who are appropriately educated and committed to deliver quality dental healthcare is the best option for the citizens of ND.

Thank you to all of the dentists and dental auxiliary who work tirelessly to provide our citizens with excellent care and help to maintain the integrity of our profession.

Sincerely, Michael Keim, DDS

GOVERNOR

APPOINTS

NEW

MEMBER

## Meet Dr. Fallgatter

Newly appointed member of the NDBDE, Dr Fallgatter earned a Master's of Science Degree, Doctorate of Dental Surgery, and Certificate in Orthodontics at the University of Minnesota. Dr. Fallgatter practices general dentistry for three years prior to advancing to an education in orthodontics which was completed in 2006. Dr. Fallgatter provides orthodontic care in the Jamestown community and surrounding areas.



"I have the chance to not only transform my patients' smiles, but also establish a relationship with them that goes beyond just working on their teeth".

CE

PAGE

### Webinar Defined

A web based event attended exclusively by an online audience and proctored. For CE requirement purposes, webinars are considered equivalent to classroom style learning rather than self study. Half of all CE credits may be obtained online (without a proctor). Keep in mind, all online courses are not webinars. A certificate of completion must include the term "webinar" to be counted as such.

### Who is exempt from CE?

Dentists and hygienists who have their license on INACTIVE STATUS are exempt from providing CE to renew inactive status. Also, a licensee who has endured a severe hardship and has been, unable to fulfill the CE requirement, may be exempt. For example, a deployed member of the military or a military spouse. Newly Licensed by Examination DDS, RDH, or RDA are exempt from CE during the cycle in which they were licensed or registered. Licensed by Credential? Save proof of CE submitted with your initial application for License by Credential that was taken within 24 months of renewal.

### Does the Board grant waivers?

CE is a requirement of renewal of licensure. The ND laws governing dentistry authorize the Board to extend a renewal deadline if the licensee provides evidence of medical or other hardship rendering the licensee unable to meet the deadline.

### When should I submit CE to the Board? Other than CE

submitted with a new application for licensure, CE SHOULD NEVER BE SENT TO THE BOARD'S OFFICE. Maintain the CE records of the previous two CE cycles (four years). The deadline for completing CE for a dentist or dental hygienist is Decemberr 31, 2019 which completes the license cycle. For dental assistants registered with the NDBDE, the renewal cylce ends Decemberr 31, 2020. The Board monitors CE compliance by conducting random audits. Not all CE is accepted by the Board. CE must pertain to the clinical practice of dentistry.

### Newly licensed?

Clinical CE obtained within the 24 month period prior to renewal is accepted by the Board even if you submitted the CE as part of your initial application. The exception being CPR which must be renewed prior to the expiration of the certification.

## CE Audits – What to Expect

"If there is one way for an audit to go smoothly.... It would be to maintain CE records and be certain you are taking qualified courses."

Bev Marsh, CE Committee Chair

Laws governing CE may be found in the North Dakota Administrative Rules Section 20-02. Total number of hours required for renewal of license differ between dentists (32 hours per cycle) and dental hygienists and registered dental assistants (16 hours per cycle). Subject matter must pertain to the clincical practice of dentistry, CPR, or BLS, ACLS, PALS, Ethics/Jurisprudence, and any permit requirements such as Anesthesia Dental Assistant, or a permit to administer any level of sedation.

**NOTICE: Renewal notification for dentists and dental hygienists begins early to mid October, 2019. Is your mailing address**

**AND E-mail address CORRECT? \* Notices will be E-mailed.**



**\*NDCC 48-28-23. Practitioners must notify the Board within 30 days of change of address.**



## Question: Can a dental assistant who is being trained on the job, take xrays?

Answer: The qualifications required for QDA (Qualified Dental Assistant) registration and duties outlined for non registered dental assistants have not changed... yet. Currently, a dental assistant lacking the QDA designation, may not perform, provide, or take a dental xray. Requirements for QDA may be found in the Admin Rules Section 20-03-01-05(2). Duties for the RDH/RDA/QDA may be found at: [https://www.nddentalboard.org/download\\_resource.asp?id=329](https://www.nddentalboard.org/download_resource.asp?id=329).

## Question: I am a newly licensed and now have to renew my license.



Answer: New license applicants frequently ask about the initial licensure

fee and the renewal fee, specifically when an initial license fee has been paid and license renewal is coming up soon. Both fees are required in order to obtain and maintain a license and registration. The initial license application fee is paid to initiate administrative processes and verifications that must be completed by the Board's administrative office. The renewal fee, grants the license for the following two year period. Failure to pay the renewal fee will result in late fees or cause the license to expire.

## Question: If I successfully completed the online jurisprudence/ethics exam, can I take it again for two CE credits during the next CE cycle?

Answer: Yes! The exam satisfies the requirement for two hours of CE for ethics/jurisprudence. The Board encourages licensees to take the online exam. The exam is a good review, is an open book exam and therefore allows the test taker to participate in a review of current laws and rules regarding dentists, hygienists and dental assistants.

## Regarding dental laws and rules, how is a rule different than a law?

Answer: Rules further clarify and define the laws contained in the Dental Practice Act, a.k.a., the North Dakota Century Code or N.D.C.C. The Administrative Rules (N.D.A.C.) or ND Administrative Code, specifically describe what is included and excluded from the practice of dentistry, dental hygiene or dental assisting. ND Administrative Rules have the force of law. The last time new rules were enacted was July 1, 2017. The Board has recently proposed amendments to the rules which will soon be open for public comment. Laws must be amended during a legislative session. Administrative Rules are promulgated, repealed or amended by the Board, but only after review and approval of the Attorney General's Office and the Legislative Council.

## EYE ON IT

At its June meeting, the Board reviewed an initial draft of proposed Administrative Rules amendments. A new section will be created under sedation and anesthesia, additional definitions, and clarification of existing definitions such as 'general supervision.' Regarding Legislative issues relative to the NDBDE, the NDBDE was in support of the spirit of initiatives to expedite licensure for military and military spouses. The NDBDE remained focused in its mission to protect the dental health and well being of the citizens of ND opposing efforts to remove background checks, and granting license without due diligence and absent credentials otherwise required for application of license. The Board remained unanimously opposed to other initiatives including a bill to restructure all boards, sweep board funds, and a bill introduced to create a new practitioner, the dental therapist.

## Professional Development



A friendly reminder, The NDBDE requires Compliance with the current CDC Guidelines. Going into 2020, and due to

COVID-19 the CDC 'updates' were almost weekly! For dental resources:

<https://www.cdc.gov/oralhealth/infectioncontrol/summary-infection-prevention-practices/index.html> for the most up to date COVID-19 Interim Guidance regarding infection prevention and control practices.

To order books, fact sheets, pamphlets and educational materials at CDC-INFO On Demand click on the following link:

[CDC Publications on Demand](#)

## SUMMARY of the RULES AMENDMENT PROCESS

Many steps are involved in the administrative rulemaking process. In summary, once the Board adopts amendments, the public is invited to comment during a specified time period. All interested persons are provided the opportunity to submit comments concerning the proposed rules. The Board must conduct a hearing and provide a written summary of each oral comment on the rules and provide a written record of its consideration of all comments contained in the rulemaking record. The Board reviews the comments during a full and formal meeting of the Board and may amend proposed rules. Debate related to rules may take a considerable amount of time, depending on the number of amendments and content. The Board considers all comments. The Office of Attorney General must review proposed administrative rules and issue an opinion as to its legality prior to final adoption of the rules. Although the rules are promulgated by the Board, the Attorney General's office and the Legislative Rules Committee must also review and approve the rules before they become law. Once enacted, the Administrative Rules have the full force and effect of law.

proposed amendments to the administrative code Section 20-01 through 20-05.

AT ITS JANUARY 17, 2020 MEETING, THE NDBDE MOVED TO ADOPT PROPOSED ADMINISTRATIVE RULES AMENDMENTS. THE FOLLOWING IS A SUMMARY OF PROPOSED RULES AMENDMENTS. A PREVIEW OF THE THE FULL DOCUMENT MAY BE FOUND AT [WWW.NDDENTALBOARD.ORG](http://WWW.NDDENTALBOARD.ORG) UNDER THE LAWS & REGULATIONS TAB. CONSIDER IT A "MUST READ." THE DOCUMENT WILL SOON BE OPEN FO PUBLIC COMMENT ONCE THE DRAFT FORMAT HAS

**Chapter 20-01-02** Definitions: Nineteen (19) amendments were made to this section including deletion of obsolete definitions or deletion due to moving the definition to a more appropriate section and the addition of several new definitions.

**Chapter 20-02-01** General Requirements for Dentists: Includes a new section for licensure of military spouses; specialty advertising amendment; office emergency amendment; the nitrous oxide section is relocated; additional requirements for licensure by examination by adding a fixed prosthetic component. Volunteer license to practice dentistry stipulates the applicant agrees to provide primary health services without remuneration directly or indirectly in a board-approved setting; clarification provided regarding inactive status and reinstatement; new section added for Members of the Military and Military spouses. *The most comprehensive amendments may be found in **Section 20-02-01-05.*** Anesthesia and sedation permit requirements which includes three pages of anesthesia sedation related definitions and the requirements for administration of nitrous oxide inhalation therapy. The section also authorizes a dentist to administer minimal sedation when used in combination with nitrous oxide inhalation therapy if the intent is minimal sedation. Although a permit is not required, the amendments clarify limitations for use. Site evaluation requirements have been addressed in Section 7. Section 9 – qualified dental auxiliary requirements addresses who may assist with moderate sedation and general anesthesia. The section also lays out requirements for record keeping, informed written consent, patient evaluation, pediatric patients, emergency management, authorization of duties and reporting.

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## TO LEAD SHIELD...OR NOT TO LEAD SHIELD?

That is the question!! After hearing numerous comments over the past few years regarding use of the lead shield, it may be helpful to share what can be found via our friend, GOOGLE. Laws do not exist in dental statutes/admin rules specifically for lead aprons etc. However, it is a violation to fail to comply with commonly accepted national infection control guidelines and standards [NDCC 43-28-18(19)]. That would be CDC and OSHA.

While digital radiography is known to use lower amounts of radiation than film based models, radiation is still being generated. We also know that radiation is cumulative over time and with exposures. Every subsequent exposure to radiation adds to that accumulated amount. There are numerous articles on the internet that recommend every precaution should be taken to ensure that radiation exposure is "as low as reasonably achievable" also known as the ALARA principle. Many dental professionals feel that a leaded apron minimizes exposure to the abdomen and should be used when any dental radiograph is taken. The use of leaded thyroid collar is recommended for women of childbearing age, pregnant women and children.

Please see:

[Osha.gov/SLTC/etools/hospital/clinical/radiology/radiology.html](https://www.osha.gov/SLTC/etools/hospital/clinical/radiology/radiology.html)

"Lead aprons and lead gloves offer some protection for employees and patients and should be worn in the direct x-ray field."

And from the CDC: [Cdc.gov/nceh/radiation/alara.html](https://www.cdc.gov/nceh/radiation/alara.html)

"ALARA stands for "as low as reasonably achievable". The guiding principle of radiation safety is ALARA. The principle means that even if it is a small dose, if receiving that dose has no direct benefit, you should avoid it. To do this, you can use three basic protective measures in radiation safety: time, distance and shielding." The article illustrates the employee being safe as well as use of a lead apron on the patient.

( The ALARA principle similarly has been applied to prescribing of opioids see: <https://onerxproject.org/wp-content/uploads/2020/03/ManagingPainAfterDentalSurgery-2-002.pdf> ).

The ADA issued a statement in 2012 (perhaps there is more recent advisement?). Below is the link to that statement.

[www.ada.org/~media/ADA/Member%20Center/Files/Dental\\_Radiographic\\_Examinations\\_2012.ashx](http://www.ada.org/~media/ADA/Member%20Center/Files/Dental_Radiographic_Examinations_2012.ashx)

Rita Sommers | NDBDE Executive Director

**Worth repeating:** The North Dakota Board of Dental Examiners issues one renewal reminder via USPS and one reminder by way of email. The Board will use email to communicate renewal reminders and important changes in statute, regulations and policies related to dentistry. Failure to provide a working email address will prevent you from receiving these important updates. If you are unable to receive email to communicate with the Board, please notify the Board.



## CHANGE OF ADDRESS?

**Pursuant to the North Dakota Century Code, notice of change of address must be provided to the Board within thirty days.**

**Failure to update your address with the Board to ensure you receive all correspondence in a timely manner will help avoid late fees during renewal season. Email the Board to provide a new email address or any other new contact information.**

[INFO@NDDENTALBOARD.ORG](mailto:INFO@NDDENTALBOARD.ORG)

## UPCOMING DATES

• NDBDE meetings - Dates, time and venue for all public meeting notices of the Board may be found at

<https://apps.nd.gov/sos/ndpmn/mainmenu.htm>

or

<https://www.nddentalboard.org/about/meetings/agendas.asp>

• March 1, 2020 - Grace period for the license renewal of RDH/DDS ends. Anyone seeking to renew the license must reapply for license. Download an application from [www.nddentalboard.org](http://www.nddentalboard.org).

# Board Actions

## 2019

Regarding complaints: All complaints are initially reviewed to determine whether any statutes or rules in laws or rules have been potentially violated. Violations of the laws in 2019 encompassed a wide variety of allegations and issues including substance abuse, auxiliary abuse and practicing outside the scope of practice of the profession.

Complaints are sometimes submitted to the Board by other licensees via emails to the Board. Complaints should be submitted on forms which can be found under the Consumer tab on the Board's website, <https://www.nddentalboard.org/consumers/complaints.asp>.

If you are unsure about the complaint process, or have questions, please email your concern or question to the Board's Executive Director, [Rita@nddentalboard.org](mailto:Rita@nddentalboard.org). Once a complaint is received by the Board, a response (from the party the complaint is against) to the allegations is requested. Failure to respond to the request for the response could result in disciplinary action. If more time is required to gather documentation for a response, notify the Board's Executive Director immediately.

Complaints are reviewed on a case by case basis. When disciplinary action against the license does not seem warranted in the opinion of the Board, the matter may be resolved by legal agreements made between the Board and the licensee. Alternatively, the Board may refer the matter to the NDDA's Peer Review.

The Board votes on all action taken. Any action can be contested by licensees through the Administrative Hearing process.

If an action of the Board is *disciplinary*, it must be reported to the National Practitioner Data Bank as mandated by Federal law. The laws determine the types of actions that can or must be reported to the data bank. *Non disciplinary* agreements or actions taken by the board, or letters of concern, are not reportable to the National Practitioner Data Bank.

LICENSE TYPE	& ACTION	VIOLATION
DDS - DISCIPLINARY SETTLEMENT AGREEMENT	The Board determined that the practitioner directed others to perform acts or provide dental services for which they were not licensed or qualified or were prohibited by law or rule from performing or providing; . fines, CE, payment of legal costs incurred by Board.	NDCC § 43-28-18(14),(28),(27) and the ADA's Principles of Ethics and Code of Professional Conduct 2.C.
DDS - DISCIPLINARY SETTLEMENT AGREEMENT	The Board determined that the practitioner directed others to perform acts or provide dental services for which they were not licensed or qualified or were prohibited by law or rule from performing or providing; fines, CE, payment of legal costs incurred by Board.	NDCC § 43-28-18(14),(28),(27) and the ADA's Principles of Ethics and Code of Professional Conduct 2.C.
DDS - DISCIPLINARY SETTLEMENT AGREEMENT	The Board determined that the practitioner directed others to perform acts or provide dental services for which they were not licensed or qualified or were prohibited by law or rule from performing or providing; fines, CE, payment of legal costs incurred by Board.	NDCC § 43-28-18(14),(28),(27) and the ADA's Principles of Ethics and Code of Professional Conduct 2.C.
DDS - DISCIPLINARY SETTLEMENT AGREEMENT	The Board determined that the practitioner failed to practice within the scope of that dentist's education or training as recognized by the Board; Letter of reprimand, fines, CE, JP exam, payment of legal costs incurred by Board.	NDCC § 43-28-18(22),(28).
DDS - NON DISCIPLINARY SETTLEMENT AGREEMENT	The Board determined that the practitioner failed to meet the minimum standard of professional competence and was issued a letter of concern, additional CE, responsible for paying legal costs incurred by the Board; letter of concern; conditional dismissal.	NDCC § 43-28-18(11).
RDA - DISCIPLINARY SETTLEMENT AGREEMENT	The Board determined that the practitioner engaged in gross unprofessional conduct, conviction of an offense determined by the board to have a direct bearing on the individual's ability to serve the public, abused or was addicted to drugs or alcohol, engaged in fraud or deceit in obtaining a registration, and failed to report to the Board within 60 days a violation.	NDCC § 43-20-05(1),(5),(7),(8),(12),(15) and(17) and a health care fraud conviction pursuant to 18 U.S.C. § 1347, the ADA's Code of Professional Conduct 2.D.
RDA - DISCIPLINARY SETTLEMENT AGREEMENT	The Board determined that the practitioner engaged in falsification of records related to the number of hours she worked during her previous public employment. Letter of reprimand;CE ethics and record keeping related.	NDCC § 43-20-05(1).
DDS - NON DISCIPLINARY SETTLEMENT AGREEMENT	Letter of concern; Quality of care issue; fine; voluntary relinquish permit for sedation for 5 years, JP exam, payment of legal costs incurred by the Board.	NDCC § 43-28-18(5),(13),(14),(22) and (28).

# PROPOSED RULES

Continued from Pg. 4

**Section 20-02-01-09**, Management of patient records also received a major overhaul. Telehealth language, also found in definitions, is included in the section. Section 20-02-01-11 related to use of dermal fillers and botulinum toxin for dental use adds language for a new licensee who may have administered botox in another state.

In **ARTICLE 20-03, dental assistants**, new duties were proposed to be added for a dental assistant who provides basic supportive dental duties under direct supervision. RDA duties would be added such as; application of bleaching solutions, administering fluoride varnish, silver diamine fluoride topically, under indirect or direct supervision. Also duties that pertain to the Anesthesia and Sedation section would be added. The most interesting amendment is probably the Board's opinion that a registered dental assistant authorized by permit and under the indirect supervision of a dentist could administer nitrous oxide analgesia. New rules apply to this section. A dental assistant could not monitor a patient who has been induced to moderate conscious sedation or deep sedation or general anesthesia until the dentist authorized by permit to administer sedation or anesthesia determines that the patient may be discharged for recovery. Similar amendments apply to the dental hygienist. In 20-03-01-05 a new applicant who has successfully completed the JCNDE or DH certification Board of Canada may be eligible to become authorized to provide registered dental assistant duties. Qualified dental assistant requirements are proposed to include NELDA and 300 hours of OTJ training or complete NELDA and the ND State Dept of Career Technical Education's dental assisting education program plus 300 hours of OTJ training.

**Article 20-04 pertaining to dental hygienist**, introduces a new *Section, Volunteer License to Practice Dental Hygiene*. New duties were also proposed, such as: administration of Nitrous oxide, producing a final impression on a patient of record for digital capture for review by the authorizing dentist for prescriptive removable or permanent appliances; language regarding bleaching materials and sedation procedure preparation and pre-sedation documentation. An RDH would not be permitted to monitor a patient who has been induced to moderate conscious sedation or deep sedation or general anesthesia until the dentist authorized to administer sedation or anesthesia determines that the patient could be discharged for recovery. In section 20-04-01-03, the age restriction to administer local anesthesia to a patient of 18 years or younger was proposed to be stricken. Section 20-04-01-04(2) was amended to allow RDH applicants to submit examination results completed within five years (instead of two years) of application, similar to dentist requirements (see 20-02-01-03.2) for clinical competency examination. Another significant proposed RDH amendment is to accept the ADEX hygiene clinical competency board exam.

## Article 20-05-01-01 pertains to Fees.

The most recent fee change was in **JAN 2008**.

The Board has managed to avoid reducing fees however, administrative costs, legal fees etc., dictate that the fees must be amended to reflect inflationary factors as well as the fact that expenses/costs have increased. The proposed fee schedule is as follows: **20-05-01-01. Fees.**

The board is still debating this section. The Board's consumer member, Tim Mehlhoff, CPA, will provide guidance in this area.

### For dentists:

- a. License by examination application fee ~~\$440.00~~ 485.00
- b. License by credential review application fee ~~\$1,200.00~~ 1,320.00
- c. Renewal fee ~~\$400.00~~ 440.00
- d. Late fee ~~\$400.00~~ 440.00
- e. Temporary license application and license fee ~~\$250.00~~ 275.00
- f. Volunteer license application and license fee ~~\$65.00~~ 25.00
- g. Inactive status application fee ~~\$35.00~~ 42.00
- h. Inactive status annual renewal fee ~~\$35.00~~ 42.00
- i. Inactive status reinstatement fee ~~\$400.00~~ 485.00
- j. Dermal fillers and botulinum toxin permit \$200.00
- k. Dermal fillers and botulinum toxin permit renewal \$100.00

### For dental hygienists:

- a. License by examination application fee ~~\$200.00~~ 220.00
- b. License by credential review application fee ~~\$450.00~~ 495.00
- c. Renewal fee ~~\$150.00~~ 165.00
- d. Late fee ~~\$150.00~~ 165.00
- e. Inactive status application fee ~~\$35.00~~ \$42.00
- f. Volunteer license application and license fee \$25.00
- f. Inactive status annual renewal fee ~~\$35.00~~ \$42.00
- g. Inactive status reinstatement fee ~~\$150.00~~ 220.00
3. For registered and qualified dental assistants:
  - a. Application fee ~~\$130.00~~ 145.00
  - b. Renewal fee ~~\$100.00~~ 110.00
  - c. Late fee ~~\$100.00~~ 110.00
4. For general anesthesia and sedation permits:
  - a. Application fee ~~\$200.00~~ \$250
  - b. Inspection fee - actual cost
  - c. Renewal fee ~~\$200.00~~ \$250
  - d. Late fee ~~\$200.00~~ \$250
5. For a duplicate license, registration, or permit ~~\$45.00~~ 50.00
6. For an active duty military and military spouse, temporary licensing and temporary permit fees shall not be collected by the board.