

NORTH DAKOTA BOARD OF DENTAL EXAMINERS
SPECIAL MEETING MINUTES
December 4, 2021 | 12:00 PM CDT
Via Zoom | Brady Martz & Associates, Bismarck, ND

- 1. Call to Order and roll call:** Dr. Fallgatter called the teleconference meeting to order at 12:00 PM CDT. The ND Board of Dental Examiners convened for the purpose of discussion of Administrative Rules and to address complaints.

Board Members and Administrative Staff Attendance

Alison Fallgatter, DDS, President	Gregory Evanoff, DDS
Tim Mehlhoff, CPA, President-Elect	Otto Dohm, DDS, MS
Bev Marsh, RDH, Secretary Treasurer	Marcus Tanabe, DDS, OMFS
Michael Keim, DDS	Andrea Carlson, RDA
David Schaibley, Assistant Attorney General	
Rita Sommers, RDH, MBA, Executive Director	

- 2. Administrative rules draft:** The Board reviewed a draft with amendments to Title 20 of the ND Administrative Rules, attached here to. Amendments to the Board's previous draft are highlighted in yellow. Motions:

Regarding host dentists (page 30) Dr. Dohm moved to require a host dentist (see definitions) have a moderate sedation or anesthesia permit. Motion seconded by Ms. Carlson. Discussion: The Board is concerned about the airway management of the patient. Roll call vote: Fallgatter, yes; Mehlhoff, yes; Marsh, yes; Evanoff, yes; Dohm, yes; Tanabe, yes; Carlson, yes; Keim, yes. Motion passes 8-0. No descent regarding this issue. Highlighted strike out reflects the motion.

Ms. Carlson commented that RDH duties should be separated according to supervision as shown in the dental assisting section because it is questionable that duties which require a dentist to be present be shown as authorized under general supervision. Further discussion: Ms. Carlson also commented that the RDH should be required to have more than sixteen hours of CE, to enhance their advanced education and duties compared to that of the RDA. Currently, registered dental hygienist's required CE is equal to that of a registered dental assistant; sixteen hours for the two-year license renewal cycle. Ms. Marsh will subdivide levels of dental hygiene supervision and duties as all dental hygiene duties (except administration of local anesthetics) require the presence of DDS are listed under general supervision and provide recommended amendments to Ms. Sommers. Ms. Marsh moved to complete the hygiene section regarding division of duties as it relates to supervision and a that added that once the draft is complete with the latest amendments, the draft be made available to all stakeholders and the Board then move forward at the January meeting with the scheduling of formal rule making procedures. Motion seconded by Dr. Dohm. Hearing no further discussion. A roll call vote was taken: Fallgatter, yes; Mehlhoff, yes; Marsh, yes; Evanoff, yes; Dohm, yes; Tanabe, yes; Carlson, yes; Keim, yes. Motion passed 8-0.

- 3. Complaints:** Due to time constraints, the Board will review complaint responses at their January 14, 2022 meeting.

4. Adjournment: Hearing no objection Dr. Fallgatter moved to adjourn the meeting, seconded by Dr. Dohm. The meeting was adjourned at 5:35 PM. The remainder of the December 4 agenda will be addressed at the next quarterly meeting of the Board.

Submitted by:

Rita Sommers, RDH, MBA, Executive Director

Bev Marsh, RDH, Secretary-Treasurer

CHAPTER 20-01-02

DEFINITIONS

Section

20-01-02-01. Definitions.

Unless specifically stated otherwise, the following definitions are applicable throughout this title:

1. "Advertising" means any public communication, made in any form or manner, about a licensee's professional service or qualifications, for the purpose of soliciting business.

2. "Aldrete score" means a measurement of recovery after anesthesia that includes gauging consciousness, activity, respiration, and blood pressure.

ALDRETE SCORING GUIDELINES				
ACTIVITY	RESPIRATION	CIRCULATION	CONSCIOUSNESS	OXYGENATION
2 Able to move four extremities voluntarily on command and / or returned to pre-procedure level	2 Patient can cough and deep breathe on command and / or Respirations unlabored, oxygen saturation at pre-procedure level	2 B/P and HR + / - 20% of pre- sedation level and / or asymptomatic alteration	2 Fully awake (able to answer questions) or at preprocedure level	2 Able to maintain oxygen saturation > 92 or at pre-procedure level Pink or normal skin color
1 Able to move two extremities voluntarily on command and / or moves weakly, unable to stand	1 Dyspnea or limited breathing or requires oxygen > baseline level to maintain adequate saturation	1 B/P and HR + / - 20-50% of pre-anesthetic level or mildly symptomatic alteration that requires fluid bolus intervention or Dopamine at < 10mcg / kg/min for heart failure patients.	1 Arousable on calling (arousable only to calling)	1 Needs oxygen to maintain adequate oxygenation Pale, dusky, blotchy, jaundiced, or other
0 Unable to move	0 apneic or requires airway support	0 B/P HR > 50% +/- pre-sedation levels and / or requires pharmacological intervention, or Dopamine at > 10 mcg/kg/min for heart failure patients	0 Unresponsive	0 O2 saturation < 90% adult, < 92% peds even with oxygen support. Cyanotic
Target 2	Target 2	Target 1-2	Target 1-2	Target 2
A score of less than 8, reevaluate q 15 min/ > 8 discharge to recovery or ≥ discharge home				

"Anxiolysis" means diminution or elimination of anxiety.

2. "Analgesia" means the diminution or elimination of pain.

3. "Anesthesia" means the art and science of managing anxiety, pain, and awareness. It includes analgesia, local anesthesia, minimal sedation, moderate sedation, deep sedation and general anesthesia.

34. "Basic full upper and lower denture" means replacement of all natural dentition with artificial teeth. This replacement includes satisfactory tissue adaptation, satisfactory function, and satisfactory aesthetics. Materials used in these replacements must be nonirritating in character and meet all the standards set by the national institute of health and the bureau of standards and

Commented [Ma1]: Change numbering after Board determines what stays. RS

Commented [RS2]:

testing agencies of the American dental association for materials to be used in or in contact with the human body.

45. "Board certified" means the dentist has been certified in a specialty area in which there is a certifying body approved by ~~the commission on dental accreditation of the American dental association~~ an agency recognized by the United States department of education and is a diplomate of a nationally recognized certifying board that meets the criteria as provided by 20-02-01-01.

5. "Board eligible" means the dentist has successfully completed a duly accredited training program or in the case of a dentist in practice at the time of the adoption of these rules has experience equivalent to such a training program in an area of dental practice in which there is a certifying body approved by ~~the commission on dental accreditation of the American dental association~~ an agency recognized by the United States department of education.

6. "Bona fide specialties" means the those specialties meeting the qualification as set forth in section 20-02-01-01 of dental public health, endodontics, oral and maxillofacial pathology, oral and maxillofacial radiology, oral and maxillofacial surgery, orthodontics and dentofacial orthopedics, pediatric dentistry, periodontics, and prosthodontics.

7. "Capnography" means a process to determine the presence and percent of carbon dioxide in a patient's breath through the use of a carbon dioxide monitor, the noninvasive measurement of the partial pressure of carbon dioxide in exhaled breath expressed as carbon dioxide concentration over time and is graphically represented. Carbon dioxide measure at the airway can be displayed as a function of time (carbon dioxide concentration over time or exhaled tidal volume (carbon dioxide concentration over volume).

78. "Cardiopulmonary resuscitation course" means the American heart association's health care provider course, the American red cross professional rescuer course, or an equivalent course.

89. "Certified dental assistant" means a dental assistant who meets the education or experience prerequisites, or both, established by the dental assisting national board and passes the dental assisting national board's certified dental assistant examination, is currently cardiopulmonary resuscitation-certified, and continues to maintain the credential by meeting the dental assisting national board requirements. A certified dental assistant must be registered by the board as a qualified dental assistant or registered dental assistant to provide any expanded duties.

910. "Code of ethics" means the ~~January 2009~~ November 2020 version of the American dental association's principles of ethics and code of professional conduct.

Commented [RS3]: Yellow highlighted language = amendments made on 12/4/2021;

~~10. "Combination inhalation-enteral conscious sedation" (combined conscious sedation) means conscious sedation using inhalation and enteral agents. When the intent is anxiolysis only, and the appropriate dosage of agents is administered, then the definition of enteral or combined inhalation-enteral conscious sedation (combined conscious sedation), or both, does not apply. Nitrous oxide/oxygen when used in combination or with sedative agents may produce anxiolysis, conscious or deep sedation, or general anesthesia.~~

11. "Complete evaluation" means an examination, review of medical and dental history, the formulation of a diagnosis, and the establishment of a written treatment plan, documented in a written record to be maintained in the dentist's office or other treatment facility or institution.

~~12. "Conscious sedation" means depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command and that is produced by a pharmacological or nonpharmacological method or a combination thereof. The drugs or technique, or both, should carry a margin of safety wide enough to render unintended loss of consciousness unlikely. Patients whose only response is reflex withdrawal from repeated painful stimuli would not be considered to be in a state of conscious sedation.~~

~~13. "Contiguous supervision" means that the dentist whose patient is being treated and has personally authorized the procedures to be performed. The supervising dentist is continuously onsite and physically present in the treatment facility while the procedures are performed by the qualified dental anesthesia auxiliary staff member and capable of responding immediately in the event of an emergency. The term does not require a supervising dentist to be physically present in the operator.~~

13. "Clinical continuing education" means information that relates to the examination, assessment, diagnosis, or and treatment of patients.

Commented [RS4]: 12/4/2021 Ms. Marsh provided a broader definition for CE.

14. "Coronal polishing" is the mechanical polishing of clinical crowns using a rubber cup or brush only and not to include any instrumentation.

~~15. "Deep sedation" means a is an drug induced state of depressed depression of consciousness during which patients cannot be easily aroused accompanied by partial loss of protective reflexes, including the inability to continually maintain an airway independently or to but respond purposefully following repeated or to physical painful stimulation. or verbal command, and is produced by pharmacological or nonpharmacological method, or combination thereof. The ability to independently maintain ventilatory function may be impaired. Patients may require assistance~~

in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.

16. "Direct supervision" means the dentist is physically present in the dental office or treatment facility, personally diagnoses the condition to be treated, personally authorizes the procedures and remains in the dental office or treatment facility while the procedures are being performed by the dental hygienist or dental assistant, and before dismissal of the patient, evaluates the performance of the dental hygienist or dental assistant.

17. "Direct visual supervision" means ~~supervision by a~~ the dentist by is physically present to issue a verbal command and under direct line of sight.

18. "Evaluation" means the act or process by a dentist of assessing and determining the patient's oral health status, the progress of dental therapy, or the performance of the dental hygienist or dental assistant.

19. "General anesthesia" means ~~an induced a drug induced loss state~~ of consciousness during which patients are not arousable, even by painful stimulation. The ability to maintain ventilatory function is often impaired. Patients often require assistance in maintaining patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug induced depression of neuromuscular function. Cardiovascular function may be impaired. accompanied by a partial or complete loss of protective reflexes, including the inability to continually maintain an airway independently and respond purposefully to physical stimulation or verbal command, and is produced by a pharmacological or nonpharmacological method, or a combination thereof.

20. "General supervision" means the dentist has authorized the procedures and they are carried out in accordance with the dentist's diagnosis, if necessary, and treatment plan. The dentist is not required to be in the treatment facility. A new patient who has not been examined by the authorizing dentist may be seen by a dental hygienist authorized to provide duties under general supervision. Limitations are contained in North Dakota Century Code section 43-20-03.

20. "Host dentist" a dentist who provides a qualified dentist or independently practicing qualified anesthesia healthcare provider to administer moderate, or deep sedation or general anesthesia. The host dentist is subject to site evaluations for the level of sedation provided as per section 20-02-01-05(5)(6). A host dentist must be authorized by permit to administer moderate sedation or general anesthesia and deep sedation.

Commented [Ma5]: New definition; most common complication – laryngospasm- i.e. airway complications. Discussion; must be managed quickly and concisely, CRNA does not have direct visual and rely on DDS to clear airway. The person in the airway who has the direct visual, must be knowledgeable. Board members commented it would be ideal for the host dentist have the permit for the level of sedation provided.

Commented [RS6]: Dr. Dohm **moved** to require a host dentist have a moderate sedation or anesthesia permit. Motion seconded by Ms. Carlson. Roll call vote: Fallgatter, yes; Mehlhoff, yes; Marsh, yes; Evanoff, yes; Dohm, yes; Tanabe, yes; Carlson, yes; Keim, yes. Motion passes 8-0. No descent regarding this issue. Highlighted strike out reflects the motion.

21. "Inactive status" means the licensee shall not engage in the practice of dentistry or dental hygiene in the state of North Dakota. The license that is placed on inactive status remains on that status until such time as the license is reinstated.

22. "Incremental dosing" means administration of multiple doses of a single drug until a desired effect is reached, but not to exceed the maximum recommended dose at the recommended interval.

Commented [RS7]: Dr. Evanoff recommended "at the recommended interval" This phrase used to be part of the ADA's definition. This language may be a good trade for only listing Halcion and there are other benzos that are less hazardous for overdosing. Ohio language "

23. "Indirect supervision" means that a dentist is in the dental office or treatment facility, has personally diagnosed the condition to be treated, authorizes the procedures, and remains in the dental office or treatment facility while the procedures are being performed by the dental hygienist or dental assistant.

24. "Local anesthesia" means the elimination of sensations in one part of the body by regional injection of drugs without causing the loss of consciousness.

25. "Maximum recommended single dose" means the maximum recommended dose of a drug as printed in the United States food and drug administrations approved labeling for unmonitored home use.

Commented [RS8]: If anything it should be the MRD is the maximum total dose in milligrams that can be safely given to a patient based on weight, health history etc Remove "single" 12/4/2021.

26. "Minimal sedation" means a drug induced state during which patients respond normally to verbal commands. Although cognitive function and physical coordination may be impaired, airway reflexes and ventilatory and cardiovascular functions are unaffected. Minimal sedation may be achieved by the administration of a single drug administered in a single or divided dose not to exceed the maximum recommended dose at the recommended interval for unmonitored home use during a single appointment. A permit is not required for minimal sedation.

Commented [RS9]: Removed in V2 Dr Tanabe recommended limitation of drug for minimal sedation should be Halcion but others commented on pushback from GDS. Dr. Evanoff rec'd adding "at the recommended interval" The Board discussed adverse reactions which may occur although Halcion considered very safe given dose.

27. "Moderate sedation" means a drug induced depression of consciousness during which a patient responds purposefully to verbal commands either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained. Administration of sedative drugs exceeding the maximum recommended dose for unmonitored home use during a single appointment and use of nitrous oxide inhalation therapy, or the use of more than one enteral drug administer, with or without concomitant use of nitrous oxide is considered moderate sedation.

Commented [RS10]: Remove per Tanabe.

28. "Nitrous oxide inhalation analgesia" means a technique in which the inhalation of nitrous oxide enables treatment to be carried out and in which purposeful verbal contact with the patient can be maintained or the patient responds appropriately to light tactile stimulation throughout the administration of nitrous oxide inhalation analgesia, and the drugs and techniques used have a margin of safety wide enough to render unintended loss of consciousness extremely unlikely.

~~2429.~~ "Oral assessment" means the evaluation of data pertaining to the patient's condition to help identify dental problems leading to a professional treatment plan. The final diagnosis of disease or treatment plan is the sole responsibility of the supervising or collaborative dentist.

~~2530.~~ "Oral hygiene treatment planning" is a component of a comprehensive treatment plan developed by the hygienist or dentist to provide the hygienist a framework for addressing the preventative, educational, and clinical treatment needs of the patient.

31. "Parenteral moderate sedation" means the intravenous, intramuscular, intranasal, subcutaneous, sublingual, submucosal, transdermal, or rectal administration of pharmacological agents with the intent to obtain a depressed level of consciousness that meets the definition of moderate sedation.

Commented [RS11]: The Board will authorize by permit moderate sedation and no longer separate enteral or parenteral... hence the education requirement.

~~2632.~~ "Patient of record" means a patient who has undergone a complete dental evaluation, has had a medical and dental history completed and evaluated, performed by a licensed dentist, or a patient who has been examined, and has had oral conditions diagnosed and a written plan developed by the dentist or dental hygiene treatment authorized by a dentist, and the patient has compensated the dentist or dental facility for a procedure.

33. "Pediatric patient" means a dental patient ten years of age or younger.

Commented [RS12]: Defined by the pediatric dental association/specialists; also relates to Caleb's law – California- pediatric death. Number broken down by risk management factors. Age is not ALWAYS a good indicator of difficulty. Age 10 being the compromise.

34. "Primary practice site" means the office location that is to be considered the main location of the dental practice. This office location would be listed first on the biennial registration.

~~2835.~~ "Qualified dental assistant" means a dental assistant who has been employed and trained as a dental assistant and has received at least ~~six~~ three hundred ~~forty~~ hours of on-the-job training, has completed a board-approved infection control seminar and passed the x-ray, infection control, and dental anatomy portions of the dental assisting national board examination, and has applied to the board and paid the certificate fee and met any other requirements of section 20-03-01-05.

Commented [RS13]: Makes the section consistent to page 54 stricken language.

~~2936.~~ "Qualified dental staff member" means an individual trained and competent in the use of monitoring and emergency equipment, capable of assisting with procedures and emergency incidents that may occur as a result of the sedation or secondary to the unexpected medical complication and has received documented training acquired directly by an employer-dentist or by a planned sequence of instruction in an educational institution and holds a current basic life support registration.

Commented [RS14]:

~~2937.~~ "Registered dental assistant" means a dental assistant who is a graduate of a dental assistant program accredited by the commission on dental accreditation of the American dental association or a substantially equivalent curriculum approved by the board or has been certified

ddsby the dental assistant national board, and has applied to the board and paid the registration fee and met any other requirements of section 20-03-01-05.

38. "Remedial education" means an educational intervention prescribed by the board that is designed to restore an identified practice deficiency of a licensee. Remediation may include successful demonstration by the licensee that the learned knowledge and skills have been incorporated into the licensee's practice.

39. "Satellite office" means an office, building, or location used at any time by a dentist for the practice of dentistry other than the office listed on the dentist's biennial registration certificate.

40. "Screening" means an inspection used for the early identification of individuals at potentially high risk for a specific condition or disorder and can indicate a need for further evaluation or preliminary intervention. A screening is neither diagnostic nor a definitive indication of a specific condition and does not involve making diagnoses that lead to treatment plans.

41. "Self-study", for the purposes of continuing education requirements, means the licensee engages in obtaining education without direct supervision, without attendance in a classroom setting, or without a proctor during online education. A certificate of completion must be obtained as proof of education.

42. "Time-oriented anesthesia record" means documentation at appropriate intervals of drugs, doses, and physiologic data obtained during patient monitoring.

43. "Titration" means administration of incremental doses of an intravenous or inhalation drug until a desired effect is reached.

44. "Topical anesthesia" means the elimination of sensation, especially pain, in one part of the body by skin or mucous membrane surface application of a drug.

45. "Webinar", for the purposes of continuing education requirements, means the licensee engages in a live web-based seminar or presentation using video conferencing software. A webinar is interactive and has the ability to give, receive, and discuss information in real-time. A certificate of completion indicating "webinar", or other evidence of attendance must be maintained as proof of education.

History: Effective September 1, 1980; amended effective February 1, 1992; October 1, 1993; May 1, 1996; August 1, 1998; April 1, 2000; June 1, 2002; July 1, 2004; April 1, 2006; October 1, 2007; January 1, 2011; April 1, 2015; July 1, 2017.

Commented [RS15]: Discussion; Board addressed webinar vs use of how a proctor is used and that it would qualify for live or classroom hours of education. Use of a proctor would no longer be a webinar rather a proctor providing CE using the tool of someone else's resources to educate the audience.

General Authority: NDCC 43-20-10; 43-28-06

Law Implemented: NDCC 43-20, 43-28

ARTICLE 20-02

DENTISTS

Chapter

20-02-01 General Requirements

CHAPTER 20-02-01

GENERAL REQUIREMENTS

Section

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20-02-01-02 Office Emergency

20-02-01-03 Nitrous Oxide [Repeal]

20-02-01-03.1 Additional Requirements for Licensure by Examination

20-02-01-03.2 Additional Requirements for Licensure by Credential Review

20-02-01-03.3 Additional Requirements for Applications

20-02-01-03.4 Clinical Competency Examination Retakes

20-02-01-04 Temporary License to Practice Dentistry

20-02-01-04.1 Restricted License to Practice Dentistry [Repealed]

20-02-01-04.2 Volunteer License to Practice Dentistry

20-02-01-04.3 Inactive Status - License Reinstatement

20-02-01-05 Anesthesia and Sedation Permit for Anesthesia Use Requirements

20-02-01-06 Continuing Dental Education for Dentists

20-02-01-07 Removable Dental Prostheses Owner Identification

20-02-01-08 Discontinuance of Practice - Retirement - Discontinuance of Treatment

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20-02-01-11 Permit for the Use of Dermal Fillers and Botulinum Toxin for Dental Use

20-02-01-12 Dental Prescribers and Use of the Prescription Drug Monitoring Program

20-02-01-13 Exceptions to the Review Requirement

20-02-01-01. Advertising.

1. Advertising by dentists is permitted to disseminate information for the purpose of providing the public a sufficient basis upon which to make an informed selection of dentists. In the interest of protecting the public health, safety, and welfare, advertising which is false, deceptive, or misleading is prohibited.

2. All advertising must contain the legal name of the dentist, or a reasonable variation thereof. In the case of a partnership or corporation, the name used in the advertisement may be the true name of the partnership or corporation. The advertisement must also contain the location, or locations, of the dentist, partnership, or corporation. It is false or misleading for a dentist to hold themselves out to the public as a specialist, or any variation of that term, in a practice area unless the dentist meets the criteria of subsection 3 of this rule.

3. A dentist engaged in general practice who wishes to announce the services available in the dentist's practice is permitted to announce the availability of those services as long as the dentist avoids using language that expresses or implies that the dentist is a specialist. If a dentist, other than a specialist, wishes to advertise a limitation of practice, such advertisement must state that the limited practice is being conducted by a general dentist. A dentist who is a specialist may announce the dentist's bona fide specialty provided that the dentist has successfully completed ~~an~~ qualifying postdoctoral educational program accredited by an agency recognized by the U.S. department of education the commission on accreditation of dental and dental auxiliary educational programs, of full time study two or more years in length, as specified by the commission on dental accreditation of the American dental association resulting in a master of science degree or certificate from an accredited program or be a diplomate of a nationally recognized certifying board **approved by this board**. Such a dentist may announce that the dentist's practice is limited to the special area of dental practice in which the dentist has or wishes to announce. In determining whether an organization is a qualifying specialty board or organization, the Board shall consider the following standards:

- a. Whether the organization requires completion of an educational program with didactic, clinical, and experiential requirements appropriate for the specialty or subspecialty field of dentistry in which the dentist seeks certification, and the collective didactic, clinical and experiential requirements are similar in scope and complexity to a qualifying postdoctoral educational program. Programs that require solely experiential training, continuing education classes, on-the-job training, or payment to the specialty board shall not constitute a qualifying specialty board or organization;

Commented [RS16]: The board is trying to avoid naming membership driven organizations and rather apply standards used by organizations to determine whether or not the specialty should be considered a bona fide specialty rather than the certifying board de jour. **No motion.** Comments came from ND Dental Association And the American Association of Orthodontists to include the name of a certifying board - *National Commission on Recognition of Dental Specialties and Certifying Boards*. As specialties continue to proliferate, the NDBDE recognizes that it cannot be the gate keeper of the integrity of certifying boards or which certifying boards should be allowed to determine recognition of a specialty but rather avoid bias, conflict of interest and antitrust litigation.

Commented [RS17R16]:

- b. Whether the organization requires all dentists seeking certification to pass a written or oral examination, or both, that tests the applicant's knowledge and skill in the specialty or subspecialty area of dentistry and includes a psychometric evaluation for validation;
 - c. Whether the organization has written rules on maintenance of certification and requires periodic recertification;
 - d. Whether the organization has written by-laws and a code of ethics to guide the practice of its members;
 - e. Whether the organization has staff to respond to consumer and regulatory inquiries; and
 - f. Whether the organization is recognized by another entity whose primary purpose is to evaluate and assess dental specialty boards and organizations.
4. A dentist who advertises on radio or television must retain a recorded copy of such advertising for a period of one year following the termination of the use of such advertising, and is responsible to make recorded copies of such advertising available to the North Dakota state board of dental examiners within thirty days following a request from the board for such copies.
5. No dentist may advertise the dentist, the dentist's staff, the dentist's services, or the dentist's method or methods of delivery of dental services to be superior to those of any other licensed dentist, unless such claim or claims can be substantiated by the advertiser, upon whom rests the burden of proof.
6. Nothing in this section shall be construed to prohibit a dentist who does not qualify to hold themselves out to the public as a specialist under section 3 of this rule from restricting the dental practice to one or more specific areas of dentistry or from advertising the availability of dental services, provided that such advertisements do not include the term "specialist," or any variation of that term, and must state that the services advertised are to be provided by a general dentist. No advertising by a dentist may contain representations or other information contrary to the provisions of North Dakota Century Code section 43-28-18 or North Dakota Administrative Code title 20.

Commented [RS18]:

History: Effective September 1, 1980; amended effective February 1, 1992; October 1, 1993; April 1, 2015.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-06

20-02-01-02. Office emergency.

Every dentist, dental hygienist, dental assistant, qualified dental assistant, or registered dental assistant practicing in North Dakota must have a current certificate of proficiency in cardiopulmonary resuscitation.

History: Effective February 1, 1992; amended effective October 1, 1993; May 1, 1996; August 1, 1998; January 1, 2011.

General Authority: NDCC 43-20-10, 43-28-06

Law Implemented: NDCC 43-20-01.2, 43-20-01.3, 43-20-10, 43-20-13.2, 43-28-06, 43-28-10.1, 43-28-15

~~20-02-01-03. Nitrous oxide. [Repeal]~~

~~A duly licensed dentist may use nitrous oxide for treating patients only when the following conditions are met:~~

- ~~1. Documentation has been provided by the dentist to the board that verifies completion of fourteen hours of instruction or continuing professional education dealing specifically with the use of nitrous oxide. In the absence of documentation of classroom training, the dentist must provide proof acceptable to the board that demonstrates three years of practical experience in the use of nitrous oxide.~~
- ~~2. A dentist who induces a patient into a state of psychosedation or relative analgesia using nitrous oxide shall ensure that the patient will be continually and personally monitored by a dentist. A dentist may delegate the monitoring tasks to a licensed dental hygienist or a registered dental assistant utilizing indirect supervision only after the patient has been stabilized at the desired level of conscious sedation or relative analgesia by the action of the dentist. The licensed dental hygienist or registered dental assistant who is assigned the monitoring task shall remain in the treatment room with the patient at all times. A dental hygienist or a dental assistant may not initiate the administration of nitrous oxide to a patient. A dental hygienist or a registered dental assistant may terminate or reduce the amount of nitrous oxide previously administered by the dentist.~~
- ~~3. The dentist must provide and document training for the dental hygienist or registered dental assistant in the proper and safe operation of the analgesia machine being used prior to the registered dental hygienist or registered dental assistant monitoring the patient. Training shall~~

~~include emergency procedures to be employed if required.~~

History: Effective February 1, 1992; amended effective May 1, 1996; April 1, 2000; October 1, 2007; January 1, 2011; April 1, 2015.

General Authority: NDCC 43-20-10, 43-28-06

Law Implemented: NDCC 43-20-03, 43-20-10, 43-20-12, 43-20-13, 43-28-06

20-02-01-03.1. Additional requirements for licensure by examination.

The board may grant a license to practice dentistry to an applicant who has met the requirements of North Dakota Century Code section 43-28-10.1 and all the following requirements:

1. The applicant has passed the examination administered by the joint commission on national dental examinations or the national dental examining board of Canada within five years of application.
2. The applicant has passed, within five years of application, a clinical competency examination approved by the board. Required components shall include a periodontal component, posterior composite or amalgam restoration, a class three restorative procedure, and an endodontic component, and after April 1, 2021, a fixed prosthetic component.
3. The applicant has successfully completed a cardiopulmonary resuscitation course within two years of application.
4. The applicant has the physical health and visual acuity to enable the applicant to meet the minimum standards of professional competence.

History: Effective January 1, 2011; amended effective April 1, 2015; July 1, 2017; April 1, 2021.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-10.1

20-02-01-03.2. Additional requirements for licensure by credential review.

The board may grant a license to practice dentistry to an applicant who has met the requirements of North Dakota Century Code section 43-28-15 and all the following requirements:

1. The applicant has successfully completed a cardiopulmonary resuscitation course within two years of application.

2. The applicant has the physical health and visual acuity to enable the applicant to meet the minimum standards of professional competence.

3. The applicant has completed thirty-two hours of continuing education in accordance with section 20-02-01-06 within two years of application.

History: Effective January 1, 2011.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-15

20-02-01-03.3. Additional requirements for applications.

Applications must be completed within six months of filing. The board may require an interview with the applicant. In addition to the application requirements of North Dakota Century Code sections 43-28-11 and 43-28-17, the board may require an application to include:

1. Proof of identity, including any name change.
2. An official transcript sent by an accredited dental school directly to the board.
3. Evidence demonstrating the applicant passed the examination administered by the joint commission on national dental examinations within five years of application.
4. Evidence demonstrating the applicant passed a clinical competency examination, approved by the board, within five years of application.
5. Anything necessary for a criminal history record check pursuant to North Dakota Century Code section 43-28-11.2.
6. A certification, from the licensing board of every jurisdiction in which the applicant is licensed, that the applicant is licensed in good standing.
7. Certification that the applicant has completed a cardiopulmonary resuscitation course within two years of application.
8. Verification of physical health and visual acuity.
9. For applications for licensure by credential review, the law and rules stating the requirements for licensure, when the applicant was licensed, of the jurisdiction in which the applicant is licensed.
10. For applications for licensure by credential review and reinstatement from inactive status, proof of completion of thirty-two hours of continuing education in accordance with section 20-02-01-06 within two years of application.

11. Any information required by the application forms prescribed by the board.

History: Effective January 1, 2011; amended effective April 1, 2015.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-10.1, 43-28-11, 43-28-11.2, 43-28-15, 43-28-17

20-02-01-03.4. Clinical competency examination retakes.

If an applicant taking the clinical competency examination in the integrated format is unsuccessful after having exhausted all allowable retake opportunities for the failed parts, one failure is recorded. The applicant must then retake all five parts of the examination in the traditional format. If the applicant is unsuccessful in one or more parts, a second failure is recorded. If the failed parts are retaken and failed again, a third failure will be recorded. A dental applicant may take a clinical examination three times before remedial training is required. After failing the examination for a third time, and prior to the fourth attempt of the examination, an applicant shall:

1. Submit to the board a detailed plan for remedial training by an accredited dental school. The board must approve the proposed remedial training.
2. Submit proof to the board of passing the remedial training within twenty-four months of its approval by the board. The board may grant or deny a fourth attempt of the clinical examination. A fourth attempt must occur within twelve months of the date of the board's decision. If an applicant fails any part of the examination after remedial training, the board must approve additional retakes.

History: Effective January 1, 2011.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-06, 43-28-10.1, 43-28-17

20-02-01-04. Temporary license to practice dentistry.

The board may grant a nonrenewable temporary license to practice dentistry in the state of North Dakota for a period not to exceed one year. Between meetings of the board, the executive director of the board may review the temporary license application and grant a provisional license if all requirements are met.

1. A temporary license to practice dentistry in North Dakota may be granted to a dentist when the dentist:

- a. Has applied to the board as prescribed in North Dakota Century Code section 43-28-11.

b. Has paid the nonrefundable application and license fee that may be prescribed by the board.

c. Holds an active dental license in another jurisdiction, has been a full-time student or resident of a dental program accredited by the American dental association's commission on dental accreditation within the last six months and provides evidence of a diploma from a program accredited by the commission on dental accreditation of the American dental association and meets any other requirements to receive a license to practice dentistry under section 20-02-01-03.1, and 20-02-01-03.2, or has held a North Dakota dental license within the previous five years.

d. Has provided a statement from the licensing authority of all the states in which the dentist is licensed that the dentist's license is unencumbered, unrestricted, and that the dentist's professional record is free of blemish for professional misconduct, substandard care, or violations of the state's practice act.

e. Has certified that no disciplinary actions are pending in other states or jurisdictions.

f. Has authorized the board to seek information concerning the dentist's professional and personal background and agrees to hold harmless those individuals who may provide such information to the board.

g. The applicant has completed thirty-two hours of continuing education in accordance with section 20-02-01-06.

h. The board shall require a criminal background check if the licensee anticipates practicing for a period greater than ten days.

2. The board may apply such restrictions as it deems appropriate to limit the scope of the practice of dentistry under the authority of the temporary license.

3. The board may restrict the licensee to engage in dental practice, as may be limited above, only at certain and specifically defined practice locations.

4. The board may require the North Dakota jurisprudence examination.

History: Effective February 1, 1992; amended effective October 1, 2007; January 1, 2011; April 1, 2015; July 1, 2017.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-06

20-02-01-04.1. Restricted license to practice dentistry.

Repealed effective October 1, 2007.

20-02-01-04.2. Volunteer license to practice dentistry.

A patient who is seen by a dentist who holds a volunteer license to practice dentistry shall not be considered a patient of record of the volunteer dentist. The dentist is not obligated to treat the patient outside of the volunteer practice setting. Between meetings of the board, the executive director of the board may review the volunteer license application and grant a provisional license if all the requirements are met. A volunteer license to practice dentistry in North Dakota, renewable annually by application to the board, may be granted when the following conditions are met:

1. The applicant was formerly licensed and actively practicing in the state of North Dakota or another jurisdiction for at least three of the five years immediately preceding application, where the requirements are at least substantially equivalent to those of this state; or
 - a. The applicant is the resident of a board-approved specialty program; or
 - b. The board determines that the applicant is qualified and satisfies the criteria specified under North Dakota Century Code section 43-28-10.1.
2. The applicant agrees to provide primary health services without remuneration directly or indirectly in a board-approved setting.
3. The applicant holds a current cardiopulmonary resuscitation course certification.
4. The applicant has completed continuing education requirements of the board.
5. The applicant has made application for a volunteer dental license in a manner prescribed by the board.
6. The board may collect from the applicant the nonrefundable application and license fee prescribed by the board.
7. The board may apply such restrictions as it deems appropriate to limit the scope of the practice of dentistry under the authority of the volunteer license.

History: Effective April 1, 2000; amended effective January 1, 2011; April 1, 2015.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-06

20-02-01-04.3. Inactive status - License reinstatement.

A dentist may, upon payment of the fee determined by the board, place the dentist's license on inactive status. A dentist on inactive status shall be excused from the payment of renewal fees, except inactive status renewal fees, and continuing education. A dentist on inactive status shall

not practice in North Dakota. To reinstate a license on inactive status, the dentist shall apply on the form as prescribed by the board, pay a reinstatement fee, and meet all of the following requirements:

1. The applicant has passed a clinical competency examination administered by a regional dental testing service, approved by the board in section 20-02-01-03.1, within five years of application or provides evidence of the clinical practice of dentistry within the previous five years. The board may, within the board's discretion, waive this requirement.
2. The applicant passes a written examination on the laws and rules governing the practice of dentistry in this state administered by the board at a meeting.
3. The applicant has completed thirty-two hours of continuing education in accordance with section 20-02-01-06 within two years of application.
4. The applicant has successfully completed a cardiopulmonary resuscitation course within two years of application.
5. Grounds for denial of the application under North Dakota Century Code section 43-28-18 do not exist.

History: Effective April 1, 2006; amended effective January 1, 2011; July 1, 2017.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-17

20-02-01-05. Anesthesia and sedation permit for anesthesia use requirements.

The rules in this chapter are adopted for the purpose of defining standards for the administration of anesthesia and sedation by dentists or a dentist who collaborates with a qualified and licensed anesthesia or sedation provider. ~~The standards specified in this chapter shall apply equally to general anesthesia, deep sedation, moderate (conscious) sedation, or a combination of any of these with inhalation, but do not apply to sedation administered through inhalation alone.~~ A dentist licensed under North Dakota Century Code chapter 43-28 and practicing in North Dakota may not use any form of sedation if the intent is beyond anxiolysis minimal sedation on any patient unless such dentist has a permit, currently in effect, issued by the board, and renewable biennially thereafter, authorizing the use of such general anesthesia, deep sedation, or moderate (conscious) sedation, or minimal sedation when used in combination with inhalation. With the administration of anesthesia, the qualified dentist must have the training, skills, drugs, and equipment immediately available in order to rapidly identify and manage an adverse occurrence

Commented [Ma19]: In line w/ license by credential /hygiene section

Commented [Ma20]: Highlighted in grey is current rule.

until either emergency medical assistance arrives or the patient returns to the intended level of sedation or full recovery without airway, respiratory, or cardiovascular complications.

2. An applicant may not be issued a permit initially as required in subsection 1 unless:

a. The board of dental examiners approves the applicant's facility and any other facility, clinic, or mobile dental clinic where anesthesia services are provided after an inspection conducted by an individual or individuals designated by the dental examiners;

b. The board of dental examiners is satisfied that the applicant is in compliance with the American dental association's most recent policy statement: the use of sedation and general anesthesia by dentists;

c. The initial application includes payment of a fee in the amount determined by the dental examiners; and

d. If the application appears to be in order, the board may issue a temporary permit prior to the site evaluation. The temporary permit may be revoked if the applicant fails the site inspection or if the applicant fails to cooperate with the timely scheduling of the site inspection.

1. Administration of nitrous oxide inhalation analgesia - requirements. The following standards shall apply to the administration of nitrous oxide inhalation analgesia:

- a. Inhalation equipment must have a fail-safe system that is appropriately checked and calibrated. The equipment must also have either a functioning device that prohibits the delivery of less than 30% oxygen or an appropriately calibrated and functioning in-line oxygen analyzer with audible alarm. A scavenging system must be available if gases other than oxygen or air are used.
- b. Patient dental records must include the concentration administered and duration of administration.
- c. A dentist may not delegate monitoring of nitrous oxide inhalation analgesia once the patient has ingested an enteral drug for the purpose of minimal sedation.
- d. Prior to authorizing a dental hygienist or registered dental assistant to administer nitrous oxide inhalation analgesia, the dentist must have provided and

documented training in the proper and safe operation of the nitrous oxide inhalation analgesia equipment.

Commented [RS21]: Dr. King comment “adds to the regulatory burden”
No motion to amend.

e. A patient receiving nitrous oxide inhalation analgesia shall be continually monitored by a dental hygienist or a registered dental assistant authorized dental staff. A dental hygienist or a registered dental assistant may terminate or reduce the amount of nitrous oxide previously administered by the authorized nitrous oxide inhalation analgesia permit provider.

Commented [Ma22]: Could also be a dentist ? not just the RDH RDA

f. The board may issue a permit authorizing the administration of nitrous oxide inhalation to a dentist or dental hygienist or registered dental assistant when the following requirements are met:

Commented [RS23]: A dentist is no longer the only authorized provider of relative analgesia / nitrous oxide inhalation. Strike “permit” The only permit provider is the Board.

(1) Evidence of successful completion of a twelve hour board approved course of training or course provided by a program accredited by an accrediting body recognized by the United States department of education, and either:

Commented [RS24]: Also responding to NDDAA 5/22/2019 letter request for the Duty to allow duty of administer nitrous oxide inhalation analgesia under direct supervision as they understood the Board would be discussing Administrative rules changes at the 6/2019 mtg.

Commented [RS25]:

(a) Completed the course within thirteen months prior to application; or

Commented [RS26]: King DDS comment regarding pg. 17, Board determined that the curriculum is more relevant than the number of hours. Parts of the curriculum may include out of classroom didactic materials. U of MN offers the program. NDSCS was also consulted.

(b) Completed the course more than thirteen months prior to application, has legally administered nitrous oxide inhalation analgesia for a period of time during the three years preceding application, and provides written documentation from a dentist that has employed or supervised the applicant, attesting to the current clinical proficiency of the applicant to administer nitrous oxide inhalation analgesia.

Commented [RS27]: DANB comment “accrediting body” added by the Board

Commented [RS28]: DANB suggestion added

(2) Evidence of current certification in basic life support by the American heart association for the healthcare provider, or an equivalent program approved by the board.

2. Administration of minimal sedation. A dentist administering minimal sedation shall maintain basic life support certification and comply with the following standards:

Commented [RS29]:

a. An appropriate sedative record must be maintained and must contain the names and time of all drugs administered, including local anesthetics and nitrous oxide. The time and condition of the patient at discharge from the treatment area and facility requires documentation.

b. Medications used to produce minimal sedation ~~are~~ shall be limited to the use of the sedative drug Halcion and the recommended dose and approved labeling by the United States food and drug administration a single enteral drug, administered either singly or in divided doses, by the enteral route to achieve the desired clinical effect, not to exceed the maximum recommended dose for unmonitored home use in a single appointment. The administration of enteral drugs exceeding the maximum recommended dose during a single appointment is considered to be moderate sedation.

c. A supplemental dose should not exceed one half of the initial dose and should not be administered until the dentist has determined the clinical half-life of the initial dosing has passed. The total aggregate dose must not exceed 1.5x the maximum recommended dose on the day of treatment.

c. Drugs and techniques used must carry a margin of safety wide enough to render the unintended loss of consciousness unlikely for minimal sedation, factoring in titration and the patient's age, co morbidities, weight, body mass index, and ability to metabolize drugs.

d. Combining two or more enteral drugs, excluding nitrous oxide, prescribing or administering drugs that are not recommended for unmonitored home use, or administering any parenteral drug constitutes moderate sedation and requires that the dentist must hold a moderate sedation permit.

e. Excluding minimal sedation by inhalation therapy alone, pre-sedation vitals including, but not limited to, blood pressure and heart rate must be obtained and recorded. Facilities and equipment must include:

- (1) Suction equipment capable of aspirating gastric contents from the mouth and pharynx.
- (2) Portable oxygen delivery system including full face masks and a bag-valve-mask combination with appropriate connectors capable of delivering positive pressure, oxygen enriched ventilation to the patient.

Commented [RS30]:

Discussion: Halcion is a type of benzodiazepine. Also known as Triazolam, it's a sleeping pill that often causes amnesia and reduces anxiety. Unlike general anesthesia, Halcion is considered a type of conscious sedation. The patient is awake during the procedure, but will have limited memory. According to a study published by the National Institute of Health, Halcion is ideal for short to moderate-length procedures (2-4 hours), and is ideal for patients with moderate levels of anxiety. Referenced the package insert as it contains warnings for toxicity and weight recommendations.

Commented [RS31]: Discussed use of limit to FDA dose of Halcion. Xanax Ativan Valium 1/2 life all different. Decision to leave language relates to Halcion sensitivity or treatment of patient already taking benzo or patient does not disclose all meds they are taking. And if we limit "drug are we limiting access"???

Commented [RS32]: V1 entry...Deleted in V2 delete?

Commented [RS33]: V2 entry renumber accordingly once Board determines....

Commented [RS34]: ASDA comment

Commented [RS35]: V2 deleted language

- (3) Blood pressure cuff (or sphygmomanometer) of appropriate size;
- (4) Automated external defibrillator (AED) or defibrillator.
- (5) Stethoscope or equivalent monitoring device.
- (6) The following emergency drugs must be available and maintained:
 - (a) Bronchodilator;
 - (b) Anti-hypoglycemic agent;
 - (c) Aspirin;
 - (d) Antihistaminic;
 - (e) Coronary artery vasodilator;
 - (f) Anti-anaphylactic agent.

g. A dentist or qualified dental staff member responsible for patient monitoring is continuously in the presence of the patient in the office, operatory, and recovery area before administration or if the patient self-administered the sedative agent immediately upon arrival, and throughout recovery until the patient is discharged by the dentist.

h. A dentist shall ensure that any advertisements related to the availability of antianxiety premedication, or minimal sedation clearly reflect the level of sedation provided and are not misleading.

Commented [Ma36]:

3. Administration of moderate sedation. Before administering moderate sedation, a dentist licensed under NDCC 43-28 must have a permit issued by the board, renewable biennially thereafter. An applicant for an initial permit must submit a completed application and application fee on a form provided by the board and meet the following requirements:

- a. An applicant for an initial moderate sedation permit must meet the following educational requirements. This section does not apply to a dentist who has maintained a parenteral sedation permit in North Dakota and has been administering parenteral sedation in a dental office prior to **April 1, 2022.**

(1) Successfully completed a comprehensive 60-hour predoctoral dental school, postgraduate education or continuing education in moderate

sedation with a participant-faculty ratio of not more than four-to-one. The course shall include courses in enteral and parenteral moderate sedation plus individual management of 20 live patient clinical case experiences by the intravenous route and provide certification of competence in rescuing patients from a deeper level of sedation than intended including managing the airway, intravascular or intraosseous access, and reversal medications. The formal training program shall be sponsored by or affiliated with a university, teaching hospital or other facility approved by the board or provided by a curriculum of an accredited dental school and have a provision by course director or faculty of additional clinical experience if participant competency has not been achieved in allotted time.

Commented [RS37]: Board addressed ASDA comments that it would be “highly unlikely” that the practitioner would be able to meet the requirement even a trainee in a residency. Dr. Goebel however commented that it is not an issue because although the practitioner may not have 20 patients personally, the residents observe at least 100 as they collaborate with other residents. The Board has had the requirement in place by way of the anesthesia permit application process and has not experienced pushback from any applicant regarding this particular requirement.

(2) The course must be directed by a dentist or physician qualified by experience and training with a minimum of three years of experience including formal postdoctoral training in anxiety and pain control. The course director must possess a current permit or license to administer moderate or deep sedation and general anesthesia in at least one state.

Commented [RS38]: NDDA comment; AAOMS standard is for more than 60 hours. ADA standard is 60 hours

b. A dentist utilizing moderate sedation must maintain current certification in basic life support and advanced cardiac life support if treating adult patients and or pediatric advanced life support if treating pediatric patients and have present a staff of supervised personnel capable of handling procedures, complications, and emergency incidents, including at least one qualified dental staff members as specified in section 20-01-02-01(36).

Commented [RS39]:

c. A permit holder shall not administer or employ any agents which have a narrow margin for maintaining consciousness including, but not limited to, ultra-short acting barbiturates, propofol, ketamine, or similarly acting drugs, agents, or techniques, or any combination thereof that would likely render a patient deeply sedated, generally anesthetized or otherwise not meeting the conditions of moderate sedation.

d. During moderate sedation the adequacy of ventilation shall be evaluated by continual observation of qualitative clinical signs and monitoring for the presence of exhaled carbon dioxide unless precluded or invalidated by the nature of the patient, procedure, or equipment.

Commented [RS40]: Not in V2

e. Successfully completed the moderate site evaluation required by this chapter. An initial site evaluation must be completed within 60 days of the approval of the initial permit application.

f. Administering intranasal versed and or fentanyl shall be considered moderate sedation. Rules for deep sedation and general anesthesia site evaluations shall apply for administration of intranasal versed and or fentanyl.

Commented [RS41]: Benzo

Commented [RS42]: 20-01-02-05(5)

4. Administration of deep sedation and general anesthesia. Before administering deep sedation or general anesthesia, a dentist licensed under NDCC 43-28 must have a permit issued by the board and renewable biennially thereafter. An applicant for an initial permit must submit a completed application and application fee on a form provided by the board and meet the following educational requirements:

a. Within the three years before submitting the permit application, provide evidence the applicant has successfully completed an advanced education program accredited by the commission on dental accreditation that provides training in deep sedation and general anesthesia and formal training in airway management, and completed a minimum of five months of advanced training in anesthesiology and related academic subjects beyond the undergraduate dental school level in a training program approved by the board; or

Commented [RS43]:

Commented [RS44]: Discussion 12/4/21: This is a requirement of CODA. Advanced training for anesthesia service is five months.

b. Be, within the three years before submitting the permit application, a diplomate of the American board of oral and maxillofacial surgeons or eligible for examination by the American board of oral and maxillofacial surgeons, a fellow of the American association of oral and maxillofacial surgeons, a fellow of the American dental society of anesthesiology, a diplomate of the national dental board of anesthesiology, or a diplomate of the American dental board of anesthesiology or eligible for examination by the American dental board of anesthesiology; or

Commented [RS45]: ASDA comment added

c. For an applicant who completed the requirements of subsections (4)(a) or (4)(b) more than three years before submitting the permit application, provide on a form provided by the Board, a written affidavit affirming that the applicant has administered general anesthesia to a minimum of twenty-five patients within the year

before submitting the permit application or seventy-five patients within the last five years before submitting the permit application and the following documentation:

- (1) A copy of the deep sedation and general anesthesia permit in effect in another jurisdiction or certification of military training in general anesthesia from the applicant's commanding officer; and
- (2) On a form provided by the Board, a written affidavit affirming the completion of 32 hours of continuing education pertaining to oral and maxillofacial surgery or general anesthesia taken within three years prior to application.

d. Successfully completed the general anesthesia and deep sedation site evaluation required by this chapter. An initial site evaluation must be completed within 60 days of the approval of the initial permit application.

e. A dentist utilizing deep sedation or general anesthesia must maintain current certification in basic life support and advanced cardiac life support if treating adult patients and or pediatric advanced life support if treating pediatric patients.

f. The dentist authorized to provide deep sedation and general anesthesia shall utilize and have present a staff of supervised personnel capable of handling procedures, complications, and emergency incidents, including at least two qualified dental staff members as specified in section 20-01-02-01(36).

5. Site Evaluations for moderate sedation, deep sedation and general anesthesia. A licensed dentist or host dentist utilizing moderate sedation, deep sedation or general anesthesia shall be required to have an evaluation of the location(s) where sedation or anesthesia services are rendered initially and every ~~five~~ three years thereafter and shall maintain a properly equipped facility. A North Dakota licensed anesthesia or sedation provider authorized by the board shall reevaluate the credentials, facilities, equipment, personnel, and procedures of a permitholder within every ~~five~~ three years following a successful initial application or renewal. The purpose of the evaluation is to assess the patient's anesthetic risk and assess a sites ability to provide emergency care; therefore, the site evaluation emphasizes recognition and management of emergencies and complications associated with office administration of sedation and record keeping. Requirements of the site evaluation are as follows:

Commented [RS46]:

Commented [RS47]: 12/4/2021 amended length of time between site evaluations and amended type of education required to renew permit (added 4 hours of the 32 required hours must also pertain to "closed claim anesthesia for sedation").

Commented [Ma48]: new

a. The applicant is responsible with scheduling a site evaluation with a board-appointed anesthesia site evaluator. The ~~host dentist~~ ~~anesthesia provider~~ must be present during the site evaluation and submit the site evaluation form to the site evaluator no less than two weeks prior to the scheduled site evaluation and must include the following:

Commented [Ma49]: Definition added.

- (1) Life support credentials of any qualified dental staff or medical staff and anesthesia provider or host dentist;
- (2) Copy of license of qualified dental staff and or other attending medical staff;
- (3) Copy of current permit to prescribe and administer controlled substances in this state issued by the United States drug enforcement administration;
- (4) Copy of patient consent agreement and health history forms;
- (5) Copy of a blank sedation monitoring form;
- (6) Pre anesthesia sedation instructions; and
- (7) Post care instructions.

Commented [Ma50]: 12/4/2021 Added "and the anesthesia provider"

b. The site evaluator shall submit a completed site evaluation form and documentation to the board. The dentist's facility where anesthesia and sedation are provided must meet the requirements of this chapter and maintain the following properly operating equipment and supplies appropriate for the age and relative size of the patient during the provision of anesthesia and sedation by the permit holder or physician anesthesiologist or certified registered nurse anesthetist or other qualified sedation provider;

Commented [RS51]: NDDA comment addressed with addition of "appro..
.... Age of the patient"

Commented [RS52]: Clerical error / "or" to "of"

Commented [RS53]: Clerical error... added word "sedation"

(1) Emergency drugs as required by the Board including:

___ (a) Vasopressor

___ (b) Corticosteroid

___ (c) Bronchodilator

___ (d) Muscle relaxant

___ (e) Intravenous medication for treatment of cardiopulmonary arrest

___ (f) Narcotic antagonist

___ (g) Benzodiazepine antagonist

___ (h) Antihistamine:

Commented [RS54]:

- (i) Antiarrhythmic
- (j) Anticholinergic
- (k) Coronary artery vasodilator
- (l) Antihypertensive
- (m) Antihypoglycemic agent;
- (n) Antiemetic
- (o) Adenosine (for general anesthesia and deep sedation sites)
- (p) Dantrolene (for general anesthesia and deep sedation sites) if volatile gases are used; and,
- (q) Anticonvulsant
- (2) Positive pressure oxygen and supplemental oxygen delivery system.
- (3) Stethoscope
- (4) Suction equipment, including tonsillar or pharyngeal and emergency backup medical suction device
- (5) Oropharyngeal and or nasopharyngeal airways
- (6) Pulse oximeter
- (7) Auxiliary lighting
- (8) Blood pressure monitor with an automated time determined capability and method for recording the data;
- (9) Cardiac defibrillator or automated external defibrillator (AED)
- (10) End-tidal carbon dioxide monitor
- (11) Electrocardiograph monitor
- (12) Laryngoscope multiple blades, backup batteries and backup bulbs.
- (13) Endotracheal tubes and appropriate connectors
- (14) Magill forceps
- (15) Appropriate IV set-up, including appropriate supplies and fluids
- (16) Cricothyrotomy equipment

Commented [RS55]: Part of ACLS protocol

Commented [RS56]: Can cause muscles to hold contraction; ups potassium, patient overheats. Very \$\$\$ drug. 8-12 syringes required. Very rare; malignant hypotheria. IF using volatile gases... Who uses inhalation gases in their office? May be a requirement of a surgery center? Leave this requirement for now....per Dr. T.

Commented [RS57]: Pulse oximetry, heart rate, respiratory rate and blood pressure must be recorded continually until an Aldrete score greater than or equal to 8 is met.

Aldrete was deleted in V2 ; Discussion

(17) Thermometer, and

(19) Scale.

c. The operatory where moderate sedation, deep sedation or general anesthesia is to be administered must:

(1) Be of adequate size and design to permit physical access of emergency equipment and personnel and to permit effective emergency management;

(2) Be equipped with a chair or table adequate for emergency treatment, including a chair or cardiopulmonary resuscitation board suitable to administer cardiopulmonary resuscitation;

(3) Be equipped with a lighting system to permit the evaluation of the patient's skin and mucosal color with a backup system to permit the completion of any operation underway at the time of a general power failure;

(4) Be equipped with suction and backup suction equipment also including suction catheters and tonsil suction; and

(5) Be equipped with an oxygen delivery system and backup system complete with full-face masks and appropriate connectors, capable of delivering oxygen to the patient under positive pressure.

d. An operatory may double as a recovery location. A recovery room shall be equipped with the following:

(1) Suction and back up suction equipment;

(2) Positive pressure oxygen;

(3) Sufficient light to provide emergency treatment.

(4) Be of adequate size and design to allow emergency access and management.

(5) Be situated to allow the patient to be observed by the dentist or a qualified staff member at all times.

e. The applicant or permit holder shall provide written emergency protocol and written documentation of **quarterly** mock codes to the site evaluator and provide training to familiarize office staff in patient monitoring and the treatment of the following clinical emergencies:

Commented [RS58]: Discussed during 12/4/2021 mtg

- (1) Laryngospasm;
- (2) Bronchospasm;
- (3) Emesis and aspiration;
- (4) Airway blockage by foreign body;
- (5) Angina pectoris;
- (6) Myocardial infarction;
- (7) Hypertension/hypotension;
- (8) Hypertensive crisis;
- (9) Hematoma;
- (10) Extravasation;
- (11) Phlebitis;
- (12) Intra-arterial injection;
- (13) Syncope;
- (14) Hyperventilation/hypoventilation;
- (15) Seizures;
- (16) Allergic and toxicity reactions;
- (17) Malignant hypothermia (deep sedation and general anesthesia only)

(f) Failure to successfully complete the anesthesia inspection shall result in an automatic suspension of anesthesia and sedation privileges. The applicant shall have 30 days from the date of inspection to correct documented deficiencies. Once the deficiencies are corrected and approved by the site evaluator, the permit authorizing sedation and anesthesia privileges may be reinstated.

Commented [Ma59]: Need to specify criteria for temporary sedation permit or NO sedation permits provided until site eval is completed??? Currently once the Board is satisfied with the credentials of the permit the Board may grant a temporary authorization for sedation or deep or general anesthesia. Rita

~~(f) Following review of the inspection consultants documentation of the site evaluation, the board's anesthesia committee shall determine if the site evaluation is in compliance with the requirements of this section by assigning a grade of pass or fail. Any permit holder who fails the inspection shall be notified by the anesthesia inspection consultant board and shall be given a written~~

~~statement at the time of inspection which specifies the deficiencies which resulted in a failing grade. The board will be notified by anesthesia inspection consultant and the anesthesia permit of any dentist who has failed an onsite inspection and evaluation will be automatically suspended. The inspection team shall give the permit holder 30 days from the date of inspection to correct any documented deficiencies. Upon notification by the permit holder to the inspection consultant that the deficiencies have been corrected, the inspector shall reinspect to insure that the deficiencies have been corrected. If the deficiencies have been corrected, a passing grade shall be assigned, and the board will be notified and the anesthesia privileges authorized permit renewed.~~

~~(1) Any applicant who receives a failing grade as a result of the on site inspection shall be denied a Moderate Sedation and Deep Sedation/General Anesthesia Permit.~~

~~(g) Effective January 1, 2026, completion of a board-approved anesthesia simulation course and the completion of anesthesia simulation training successfully every 5 years thereafter as required by section 20-02-01-06.~~

~~6. Other anesthesia providers. A host dentist who is not authorized by permit to provide anesthesia or sedation services and who intends to use the services of a certified registered nurse anesthetist, anesthesiologist, or other dentist authorized by permit to administer moderate sedation, deep sedation or general anesthesia, shall notify the board prior to sedation services being provided and arrange a site evaluation with the board appointed anesthesia professional. The sedation provider is responsible for discharge assessment. The host dentist shall run a mock code quarterly with the sedation team and maintain a record of the mock code schedule and attendance. The anesthesia provider and the host dentist shall remain at the facility until the sedated patient is discharged. The host dentist shall maintain advanced cardiovascular life support certification if treating adult patients and or pediatric advanced life support certification if treating pediatric patients.~~

~~37. The board of dental examiners may renew such permit biennially, provided: Renewal of permit and site evaluation. Both the sedation and anesthesia permit and the site evaluation are subject to renewal. All sedation and anesthesia permits must be renewed biennially, concurrent with the dentist's license renewal. The board of dental examiners may renew such permit biennially provided:~~

Commented [RS60]: 12/4/2021 highlighted added and removed pass or fail language.

Commented [Ma61]: If the Board keeps "Effective 1/1/2026" then we need to identify why the date is 2026, and this should be a new section in CE? Would definitely need addition of criteria for a "board approved" simulation course... must identify the elements of Board approved course. Rita

Commented [RS62]: 12/4/2021: Dr. Dohm moved to require a host dentist have a moderate sedation or anesthesia permit. Motion seconded by Ms. Carlson. Roll call vote: Fallgatter, yes; Mehlhoff, yes; Marsh, yes; Evanoff, yes; Dohm, yes; Tanabe, yes; Carlson, yes; Keim, yes. Motion passes 8-0. No descent regarding this issue. Highlighted strike out reflects the motion. Amended host dentist definition.

Commented [Ma63]: "mock code quarterly" discussed at 12/4/2021 mtg. Airway management CE would be required for HOST sedation providers should a moderate sedation permit not be achieved. Mock codes provided quarterly are becoming the standard of care for sedation and anesthesia.

Commented [RS64]: Due to motion above, this section becomes redundant.

- a. ~~Continuing education~~ Requirements of the permit application have been met;
- b. ~~Application for renewal and renewal fee is received by the board before the date of expiration of the permit. If the renewal application and renewal fee have not been received by the expiration of the permit, late fees as determined by the board shall apply; and~~
- c. ~~An onsite evaluation of the dentist's facility may be conducted by an individual designated by the board of dental examiners, and the board of dental examiners must approve the results of each such evaluation. Each facility where anesthesia is administered must be evaluated. The anesthesia site inspection is in good standing with the board of dental examiners.~~

~~4.8. A North Dakota licensed anesthesia or sedation provider authorized by the board shall reevaluate the credentials, facilities, equipment, personnel, and procedures of a permitholder within every five years following a successful initial application or renewal. Documentation. Dentists administering sedation or anesthesia must maintain adequate documentation.~~

- a. For the administration of local **anesthesia, minimal sedation, and analgesia**, the following documentation is required:
 - (1) Pertinent medical history, including weight and height;
 - (2) Medication(s) administered and dosage(s);
 - (3) Vital signs include heart rate and blood pressure.
- b. For administration of **mild sedation**, moderate sedation, deep sedation or general anesthesia the following documentation is required:
 - (1) A current and comprehensive medical history, to include current medications;
 - (2) Informed consent of the patient for the administration of anesthesia;
 - (3) An anesthesia record, which includes documentation of:
 - (a) Height and weight of the patient to allow for the calculation of body mass index and dosage of emergency medications;
 - (b) American society of anesthesiologist's physical status classification;
 - (c) Fasting or nothing by mouth status;
 - (d) Dental procedure(s) performed on the patient;
 - (e) Time anesthesia commenced and ended;
 - (f) Parenteral access site and method, if utilized;

Commented [RS65]: Discussion 12/4/2021; board debated the need for info -- in light of current complaints related to documentation of weight/ht. and inappropriate dosages of local anesthetic.

- (g) Medication(s) administered (including oxygen) dosage, route, and time given;
- (h) Vital signs before and after anesthesia is utilized, to include heart rate, blood pressure, respiratory rate and oxygen saturation for all patients;
- (i) Intravenous fluids, if utilized;
- (j) Response to anesthesia, including any complications;
- (k) Condition and **Aldrete score** of patient at discharge; and
 - l) Records showing continuous monitoring of blood pressure, heart rate and respiration using electrocardiographic monitoring and pulse oximetry recorded every five minutes, **if utilized;**
- (m) Emergency protocols followed in the instance of an adverse event;
- (n) Staff participating in the administration of anesthesia, treatment, and monitoring.

Commented [Ma66]: IF?

9. Personnel.

- a. During the administration of minimal sedation, the supervising dentist and at least one other individual who is experienced in patient monitoring and documentation must be present.
- b. During the administration of moderate sedation, the anesthesia permit provider and at least one other individual who is experienced in patient monitoring and documentation must be present.
- c. During the administration of deep sedation or general anesthesia the anesthesia permit provider and at least two other individuals:
 - (1) One individual to assist the (host) dentist as necessary.
 - (2) One individual solely responsible to assist with observation and monitoring of the patient. This individual shall be a class I or II **dental anesthesia** assistant permit holder as provided in 20-03-01-05 or the anesthesia permit provider if utilized by a host dentist.
- d. During any sedation or anesthesia procedure, the anesthesia permit provider retains full accountability, but delegation to trained dental personnel may occur under:
 - (1) Direct, continuous, and visual supervision by the anesthesia permit holder when medication, excluding local anesthetic, is being administered to a patient in

Commented [RS67]: 12/4/2021Dental anesthesia assistant is the term for a dental assistant or dental hygienist authorized by the board to provide anesthesia assistance in 20-03-01-05.

the intraoperative phase of surgery. A patient under general anesthesia, deep sedation and moderate sedation is in the intraoperative phase of surgery from the 1st administration of anesthetic medication to:

(a) End of the surgical procedure(s);

(b) No additional anesthetic medication(s) will be administered;

(c) Peak effect of the anesthesia medication(s) has been reached;

(d) The patient has regained consciousness with a full return of protective reflexes, including the ability to respond purposely to physical and verbal commands; or

(2) Direct supervision by the dentist and anesthesia permit holder when a patient is being monitored in postoperative phase of surgery.

e. All individuals assisting the anesthesia permit holder during sedation or anesthesia shall maintain current BLS, ACLS and / or PALS and shall be appropriately trained in emergency procedures through updates or drills that must be held at least quarterly and documented.

10. Standards for patient monitoring.

a. For the administration of local anesthesia and analgesia, patient monitoring shall include, but is not limited to, the general state of the patient.

b. For the administration of minimal sedation, patient monitoring shall include, but is not limited to the following:

(1) Pre and post procedure heart rate and respiratory rate;

(2) Pre and post procedure blood pressure; and

(3) Level of anesthesia or sedation.

c. For the administration of moderate sedation, patient monitoring shall include, but is not limited to the following:

(1) Continuous heart rate, respiratory rate, and oxygen saturation;

(2) Intermittent blood pressure every 5 minutes or more frequently;

(3) Continuous electrocardiograph, if clinically indicated by patient history, medical condition(s), or age;

- (4) End-tidal carbon dioxide monitoring (capnography); and
- (5) Level of anesthesia or sedation.
- d. For the administration of deep sedation or general anesthesia, patient monitoring shall include, but is not limited to the following:
 - (1) Continuous heart rate, respiratory rate, and oxygen saturation;
 - (2) Continuous ventilatory status (spontaneous, assisted, controlled) for the administration of general anesthesia to a patient with an advanced airway in place (e.g. endotracheal tube or laryngeal mask airway);
 - (3) Intermittent blood pressure every 5 minutes or more frequently;
 - (4) Continuous electrocardiograph;
 - (5) Continuous temperature for the administration of volatile anesthesia gases or medications which are known triggers of Malignant Hyperthermia (MH); otherwise the ability to measure temperature should be readily available;
 - (6) End-tidal carbon dioxide monitoring; and
 - (7) Level of anesthesia or sedation
- e. Monitoring equipment should be checked and calibrated in accordance with the manufacturer's recommendations and documented on an annual basis.

11. Patient evaluation required. The decision to administer controlled drugs for dental treatment must be based on a documented evaluation of the health history and current medical condition of the patient in accordance with the class I through V risk category classifications of the American society of anesthesiologists. The findings of the evaluation, the American society of anesthesiologists risk assessment class assigned, and any special considerations must be recorded in the patient's record.

12. Informed written consent. Prior to administration of any level of sedation or general anesthesia, the dentist shall discuss the nature and objectives of the planned level of sedation or general anesthesia along with the risks, benefits, and alternatives and shall obtain informed, written consent from the patient or other responsible party for the administration and for the treatment to be provided. The written consent must be maintained in the patient record.

13. Pediatric patients. Sedating medication may not be prescribed for or administered to a patient 10 years of age or younger prior to the patient's arrival at the dentist office or treatment facility.

14. Emergency management. The licensed dentist authorized by permit to administer sedation or anesthesia and staff with patient care duties shall be trained in emergency preparedness. Written protocols must include training requirements and procedures specific to the permitholder's equipment and drugs for responding to emergency situations involving sedation or anesthesia, including information specific to respiratory emergencies. The permitholder shall document this review of office training and mock codes. Emergency management protocols shall include:

a. The American heart association's basic life support or cardiopulmonary resuscitation and advanced cardiac life support and / or pediatric advanced life support for any practitioner administering moderate sedation, deep sedation or general anesthesia.

b. Quarterly mock codes to simulate office medical emergencies must be documented and available during a site evaluation.

c. If a patient enters a deeper level of sedation than the dentist is qualified and prepared to provide, the dentist shall stop the dental procedure until the patient returns to and is stable at the intended level of sedation.

d. Authorization of duties. A dentist who authorizes the administration of general anesthesia, deep sedation or moderate sedation in the dentist's dental office is responsible for assuring that:

(1) The equipment for administration and monitoring is readily available and in good working order prior to performing dental treatment with anesthesia or sedation. The equipment either must be maintained by the dentist in the dentist's office or provided by the anesthesia or sedation provider;

(2) The person administering the anesthesia or sedation is appropriately licensed;

(3) The individual authorized to monitor the patient is qualified;

(4) A physical evaluation and medical history is taken prior to administration of general anesthesia or sedation. A dentist holding a permit shall maintain records of the physical evaluation, medical history, and general anesthesia or sedation procedures; and

- (5) Administration of sedation by another qualified provider requires the operating dentist to maintain advanced cardiac life support if the patient is eleven years of age and / or older and pediatric advanced live support if the patient is 10 years old or younger. .

e. Reporting. All licensed dentists in the practice of dentistry in this state shall submit a report within a period of seven days to the board office of any mortality or other incident which results in temporary or permanent physical or mental injury requiring hospitalization of the patient during, or as a result of, minimal sedation, nitrous oxide inhalation analgesia, moderate sedation, deep sedation or general anesthesia.

- (1) The report must include responses to at least the following:
 - (a) Description of dental procedure.
 - (b) Description of preoperative physical condition of patient.
 - (c) List of drugs and dosage administered.
 - (d) Description, in detail, of techniques utilized in administering the drugs utilized.
 - (e) Description of adverse occurrence:
 - (i) Description, in detail, of symptoms of any complications, to include onset and type of symptoms in patient.
 - (ii) Treatment instituted on the patient.
 - (iii) Response of the patient to the treatment.
 - (f) Description of the patient's condition on termination of any procedures undertaken.
 - (g) The unique reporting ID issued by the dental anesthesia incident reporting system, indicating a report has been submitted to the national database.
- (2) Violations. A violation of any provision of this article constitutes unprofessional conduct and is grounds for the revocation or suspension of the dentist's permit, license, or both, or the dentist may be reprimanded or placed on probation.

15) Controlled Pharmaceuticals.

- a. A dentist must secure and maintain controlled pharmaceuticals in accordance with the state and federal guidelines.

b. Used controlled pharmaceuticals medications must be discarded immediately with documentation of disposal in conformance with drug enforcement administration guidelines.

History: Effective October 1, 1993; amended effective May 1, 1996; June 1, 2002; July 1, 2004; April 1, 2006; October 1, 2007; January 1, 2011; April 1, 2015; July 1, 2017.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-06

20-02-01-06. Continuing dental education for dentists.

Each dentist shall ~~provide evidence~~ maintain documentation on forms supplied by the board that the dentist has attended or participated of attendance or participation in continuing clinical dental education in accordance with the following conditions:

Commented [RS68]: 12/4/2021

1. Continuing education activities include publications, seminars, symposiums, lectures, college courses, and online education.
2. The continuing dental education hours will accumulate on the basis of one hour of credit for each hour spent in education. Subject matter directly related to clinical dentistry will be accepted by the board without limit.
3. The minimum number of hours required within a two-year cycle for dentists is thirty-two. Of these hours, a dentist may earn no more than sixteen hours from self-study. Self-study is an educational process designed to permit a participant to learn a given subject without involvement of a proctor. A qualified professional may act as a proctor who oversees a clinical continuing education course which may be used for classroom style continuing education credits. Cardiopulmonary resuscitation courses must provide hands-on training. All other continuing education requirements may be satisfied from online education. The continuing education must include:

- a. Two hours of ethics or jurisprudence. Passing the laws and rules examination is the equivalent of two hours of ethics or jurisprudence.
- b. Two hours of infection control.
- c. A cardiopulmonary resuscitation course.
- d. For anesthesia and sedation permitholders;
 - (1) four hours related to sedation or anesthesia; and-
 - (2) four hours of closed claim anesthesia continuing education courses.

Commented [RS69]:

e. For anesthesia and sedation permit holders effective January 1, 2026 and every five years thereafter, successful completion of a board approved anesthesia simulation course and the completion of anesthesia simulation training.

Commented [Ma70]: In order to require the course, criteria for the course would need to be inserted somewhere in rules.

4. Mere registration at a dental convention without specific attendance at continuing education presentations will not be creditable toward the continuing dental education requirement.

5. All dentists must hold a current cardiopulmonary resuscitation certificate. ~~Anesthesia permit holders are required to maintain current advanced cardiac life support certification or pediatric advanced life support as specified by permit.~~ General anesthesia, deep sedation and moderate sedation providers shall maintain current ACLS and / or PALS certification. A host dentist who utilizes the services of other qualified anesthesia providers to administer moderate sedation, deep sedation or general anesthesia in the dentist's facility or satellite office shall maintain current ACLS and / or PALS certification as determine by the age of the patients treated. A dentist who utilizes minimal sedation shall maintain BLS certification.

6. Effective Jan.1, 2026, all dentists who administer general anesthesia, deep sedation and moderate sedation must successfully complete an approved anesthesia simulation training course and complete anesthesia simulation training successfully every 5 years thereafter. Proof of completion of this requirement must be submitted to the anesthesia inspector as required in subsection 5 of 20-02-01-05.

7. The board may audit the continuing education credits of a dentist. Each licensee shall maintain certificates or records of continuing education activities from the previous renewal cycle. Upon receiving notice of an audit from the board, a licensee shall provide satisfactory documentation of attendance at, or participation in the continuing education activities ~~listed on the licensee's continuing education form.~~ Failure to comply with the audit is grounds for nonrenewal of or disciplinary action against the license.

78. A dentist who maintains a license on inactive status is not subject to continuing education requirements.

History: Effective October 1, 1993; amended effective May 1, 1996; August 1, 1998; June 1, 2002; April 1, 2006; October 1, 2007; January 1, 2011; April 1, 2015; July 1, 2017.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-06, 43-28-16.2

20-02-01-07. Removable dental prostheses owner identification.

1. Every complete upper and lower denture or removable dental prosthesis fabricated by a dentist or fabricated pursuant to the dentist's work order must be marked with the name of the patient for whom the prosthesis is intended. The markings must be done during the fabrication process and must be permanent, and cosmetically acceptable. The exact location of the markings and methods used to apply or implant them shall be determined by the dentist or dental laboratory fabricating the prosthesis. If in the professional judgment of the dentist or dental laboratory this identification is not practical, identification must be provided as follows:
 - a. The initials of the patient may be used if the entire name is not practical.
 - b. The identification marks may be omitted in their entirety if no form of identification is practical or clinically safe.
2. Failure of any dentist to comply with this section shall be deemed to be a violation of the rules of the board and the dentist may be liable to penalty as permitted under statute.

History: Effective October 1, 1993; amended effective April 1, 2006.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-06

20-02-01-08. Discontinuance of practice - Retirement - Discontinuance of treatment.

These rules are adopted for the purpose of avoiding practice abandonment. A licensed dentist shall maintain patient records in a manner consistent with the protection of the welfare of the patient. Upon request of the patient or patient's legal guardian, the dentist shall furnish the dental records or copies of the records, including dental radiographs or copies of the radiographs. The dentist may charge a nominal fee for duplication of records as provided by North Dakota Century Code section 23-12-14, but may not refuse to transfer records for nonpayment of any fees.

1. A licensee, upon retirement, or upon discontinuation of the practice of dentistry, or upon moving from a community, shall notify all active patients in writing and by publication once a week for three consecutive weeks in a newspaper of general circulation in the community that the licensee intends to discontinue the practice of dentistry. The licensee shall make reasonable arrangements with active patients for the transfer of patient records, or copies thereof, to the succeeding licensee. In the event of a transfer of patient records to another licensee assuming the practice, written notice must be furnished to all patients as hereinbefore specified. For the purposes of this section "active ~~Active~~ patient" is defined as a person whom the licensee has examined, treated, cared for, or otherwise consulted with during the two-year period prior to

the discontinuation of the practice of dentistry by the licensee. In the event of a nontransfer of records, a licensee shall have the ongoing obligation of ~~not less than~~ at least two years to afford the licensee's prior patients access to those records not previously provided to the patient.

2. In the event of termination of a dentist-patient relationship by a licensee, notice of the termination must be provided to the patient. A dentist-patient relationship exists if a dentist has provided treatment to a patient on at least one occasion within the preceding year. The dentist who is the owner or custodian of the patient's dental records shall mail notice of the termination of the dentist's relationship to the patient, which shall provide the following:
 - a. The date that the termination becomes effective, and the date on which the dentist and patient relationship may resume, if applicable;
 - b. A location at which the patient may receive emergency dental care for at least thirty days following the termination of the dentist and patient relationship;
 - c. A statement of further dental treatment required, if any; and
 - d. The dentist shall respond to a written request to examine or copy a patient's record within ten working days after receipt. A dentist shall comply with North Dakota Century Code section 23-12-14 for all patient record requests.
3. If a licensee dies or becomes unable to practice dentistry due to disability, for the purpose of selling or otherwise disposing of the deceased or disabled licensee's dental practice, a person who is not licensed to practice dentistry but who is the personal representative of the estate of a deceased dentist or the personal representative of a disabled dentist may contract with a dentist to manage the dental practice for a period not to exceed twenty-four months.
4. If a dentist agrees to provide dental care without remuneration to underserved patients in the absence of a public health setting, the patient may not be considered a patient of record of the dentist providing the donated dental service.
5. If a licensee retires from a group practice and continuity of patient dental care will not be interrupted, the dentist is exempt from notifying active patients in writing. The licensee must notify patients by publication once a week for three consecutive weeks in a newspaper of general circulation in the community that the licensee intends to discontinue the practice of dentistry.

History: Effective April 1, 2006; amended effective April 1, 2015.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-06

20-02-01-09. Retention of Patient records.

Dental records must be legible and include a chronology of the patient's progress throughout the course of all treatment and postoperative visits. All entries in the patient record must be dated, initialed and handwritten in ink or computer printed. Digital radiographs shall be transferred by compact or optical disc, 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. For purposes of this section:

1. "Patient" means an individual who has received dental care services from a provider for treatment of a dental condition.

2. "Dental record" or "patient's chart" means the detailed history of the physical examination, diagnosis, treatment, patient-related communications, and management of a patient documented in chronological order. The dental record must contain the following components:

- a. Personal data to include name, address, date of birth, name of patient's parent or guardian, name and telephone number of a person to contact in case of an emergency and patient's insurance information.
- b. Patient's reason for visit or chief complaint.
- c. Dental and physical health history.
- d. Clinical examination must include record of existing oral health status, radiographs used and any other diagnostic aids used.
- e. Diagnosis
- f. Dated treatment plan except for routine dental care such as preventive services.
- g. Informed consent must include notation of treatment options discussed with the patient including prognosis of such treatment plan, benefits and risks of each treatment; and documentation of the treatment the patient has chosen.
- h. Corrections of records must be legible, written in ink, and contain no erasures or use of "white-outs." If incorrect information is placed in the record, it must be crossed out with one single line and initialed by a dental health care worker.

i. Progress notes shall include a chronology of the patient's progress throughout the course of all treatment and postoperative visits of treatment provided, medications used and materials placed, the treatment provider by name or initials, and name of collaborating dentist, administration information of nitrous oxide inhalation or any medication dispensed before during or after discharge and patient status at discharge.

j. Each patient shall have access to health provider information as it pertains to their treating doctor or potential doctors. Any entity, utilizing telehealth must provide upon request of a patient the name of the dentist, telephone number, practice address, and state license number of any dentist who was involved with the provision of services to a patient before, prior to or during the rendering of dental services.

3. "Retention of records" shall mean that a A-dentist shall retain a patient's dental record for a minimum of six years after the patient's last examination, prescription, or treatment. Records for minors shall be retained for a minimum of either one year after the patient reaches the age of eighteen or six years after the patient's last examination, prescription, or treatment, whichever is longer. Proper safeguards shall be maintained to ensure safety of records from destructive elements. The requirements of this rule apply to electronic records as well as to records kept by any other means.

History: Effective April 1, 2006; amended effective January 1, 2011. General Authority: NDCC 43-28-06 Law Implemented: NDCC 43-28-06

20-02-01-10. Authorization of laboratory services.

A dentist using the services of any person, not licensed to practice dentistry in this state, to construct, alter, repair, or duplicate any orthodontic or prosthetic device, must furnish the unlicensed person a written prescription which shall include all of the following:

1. The name and address of the unlicensed person.
2. The patient's name or patient number.
3. The date on which the prescription was written.
4. The description of the work to be done, with a diagram, if necessary.
5. A specification of the materials to be used if necessary.

6. The signature of the dentist and the number of the dentist's North Dakota license. The dentist shall retain a duplicate copy of the prescription for inspection by the board or the board's agent for two years.

History: Effective January 1, 2011.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-02, 43-28-06, 43-28-18, 43-28-25

10

20-02-01-11. Permit for the use of dermal fillers and botulinum toxin for dental use.

1. The rules in this chapter are adopted for the purpose of defining standards for the administration of dermal fillers and botulinum toxin by a dentist if the use is limited to the practice of dentistry as defined in North Dakota Century Code section 43-28-01(7). Notwithstanding a dentist who specializes in oral and maxillofacial surgery, the board may issue a permit to a dentist who applies on forms prescribed by the board and pays the initial fee or biennial renewal fee as required by section 20-05-01-01(1) to administer botulinum toxin or dermal fillers for the purpose of functional, therapeutic, and aesthetic dental treatment purposes under the following conditions:

a. The dentist provides evidence that demonstrates:

- (1) The applicant has completed a course and received satisfactory training in a residency or other educational program accredited by the commission on dental accreditation of the American dental association; or
- (2) The applicant has successfully completed a board-approved continuing education course of instruction within the previous three months of application which includes neurophysiology, including facial tissues, parasympathetic, sympathetic, and peripheral nervous systems relative to the peri-oral tissue, and facial architecture, and:
 - (a) Patient assessment and consultation for botox and dermal fillers;
 - (b) Indications and contraindications for techniques;
 - (c) Proper preparation and delivery techniques for desired outcomes;
 - (d) Enhancing and finishing esthetic dentistry cases with dermal fillers;
 - (e) Botulinum neurotoxin treatment of temporomandibular joint syndrome and bruxism;
 - (f) Knowledge of adverse reactions and management and treatment of possible complications;

- (g) Patient evaluation for best esthetic and therapeutic outcomes;
- (h) Integrating botulinum neurotoxin and dermal filler therapy into dental therapeutic and esthetic treatment plans; and
- (i) Live patient hands-on training, including diagnosis, treatment planning, and proper dosing and delivery of botox and dermal fillers.

(3) The applicant has successfully completed a continuing education course of instruction substantially equivalent to the requirements of this state and provide evidence from another state or jurisdiction where the applicant legally is or was authorized to administer dermal fillers and botulinum toxin.

History: Effective April 1, 2015; amended effective July 1, 2017.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-02

20-02-01-12. Dental prescribers and use of the prescription drug monitoring program.

Subject to the exceptions described in section 20-02-01-13, prior to the initial prescribing of any controlled substance, including samples, a dentist authorized by the drug enforcement administration to prescribe, administer, sign for, dispense, or procure pharmaceuticals shall authorize an employee to review or personally request and review the prescription drug monitoring program report for all available prescription drug monitoring program data on the patient within the previous twelve months, and shall do all of the following:

1. Assess a patient's drug monitoring program data every twelve months during the patient's treatment with a controlled substance.
2. Review the patient's prescription drug monitoring program data if the patient requests early refills or demonstrates a pattern of taking more than the prescribed dosage.
3. Review the patient's prescription drug monitoring program data if there is a suspicion of or a known drug overuse, diversion, or abuse by the patient.
4. Document the assessment of the patient's prescription drug monitoring program data.
5. Discuss the risks and benefits of the use of controlled substances with the patient, the patient's parent if the patient is an unemancipated minor child, or the patient's legal guardian or health care surrogate, including the risk of tolerance and drug dependence.

6. Request and review prescription drug monitoring program data on the patient if the practitioner becomes aware that a patient is receiving controlled substances from multiple prescribers.

7. Request and review the patient's prescription drug monitoring program data if the prescriber has a reasonable belief that the patient may be seeking the controlled substance, in whole or in part, for any reason other than the treatment of an existing medical condition.

History: Effective July 1, 2017.

General Authority: NDCC 19-03.5-09, 43-28-01(7), 43-28-06

Law Implemented: NDCC 19-03.5-09, 43-28-06

20-02-01-13. Exceptions to the review requirement.

A practitioner may not be required to review a patient's prescription drug monitoring program data if any of the following apply:

1. The controlled substance is prescribed or dispensed for a patient who is currently receiving hospice care.
2. The controlled substance is prescribed or dispensed to a patient of record as a nonrefillable prescription as part of treatment for a surgical procedure.
3. The dentist prescribes a controlled substance after the performance of oral surgery and no more than a seventy-two hour supply of the controlled substance is prescribed.
4. The dentist prescribes pre-appointment medication for the treatment of procedure anxiety.
5. The dentist obtains a report through a board-approved risk assessment tool for health care providers that accesses patient prescription information from prescription drug monitoring program databases, analyzes the data, and provides a risk-based score that includes prescription drug monitoring program data.

History: Effective July 1, 2017.

General Authority: NDCC 43-28-01(7), 43-28-06

Law Implemented: NDCC 19-03.5-09, 43-28-06(1)

ARTICLE 20-03

DENTAL ASSISTANTS

CHAPTER 20-03-01

DUTIES

Section

20-03-01-01 Duties

20-03-01-01.1 Expanded Duties of Registered Dental Assistants

20-03-01-02 Prohibited Services

20-03-01-03 Annual Registration of Dental Assistants Performing Expanded Duties [Repealed]

20-03-01-04 Criteria for Dental Assistants Placing Sealants [Repealed]

20-03-01-05 Registration of Registered and Qualified Dental Assistants

20-03-01-05.1 Additional Expanded Duties of Registered Dental Assistants

20-03-01-06 Continuing Dental Education for Qualified and Registered Dental Assistants

20-03-01-01. Duties.

A dental assistant may perform the duties listed in subsections 1 through ~~5~~ 6 under direct, indirect, or general supervision of a dentist as follows:

1. A dental assistant who is not registered with the board employed by a dentist may perform the following basic supportive dental duties under direct supervision:
 - a. Take and record pulse, blood pressure, and temperature.
 - b. Take and record preliminary dental and medical history for the interpretation by the dentist.
 - c. Apply topical medications and drugs to oral tissues, including topical anesthetic, but not including desensitizing or caustic agents or anticariogenic agents.
 - d. Receive removable dental prosthesis for cleaning or repair.
 - e. Take impressions for study casts.
 - f. Hold impression trays in the mouth (e.g., reversible hydrocolloids, rubber base).
 - g. Retract patient's cheek, tongue or other tissue parts during a dental procedure.
 - h. Remove such debris as is normal created in the course of treatment during or after dental procedures by vacuum devices, compressed air, mouthwashes and water.
 - i. Isolate the operative field, not to include rubber dams.
 - j. Hold a curing light for any dental procedure. Such curing lights shall not include a laser capable of cutting, burning, or damaging hard or soft tissue or for electrosurgery for tissue retraction.
 - k. Take dental photographs including the use of intraoral cameras on a patient of record.
2. A qualified dental assistant may perform the duties set forth in subsection 1 and take dental radiographs on a patient of record under the direct supervision of a dentist.

3. A registered dental assistant may perform the duties set forth in subsection 1 and 2 and the following duties under the direct supervision of a dentist:
 - a. Place and remove arch wires or appliances that have been activated by a dentist.
 - b. Acid etch enamel surfaces prior to direct bonding of orthodontic brackets or composite restorations.
 - c. Place orthodontic brackets using an indirect bonding technique by seating the transfer tray loaded with brackets previously positioned in the dental laboratory by a licensed dentist.
 - d. Take face bow transfers.
 - e. Place and remove matrix bands and wedges.
 - f. Adjust permanent crowns outside of the mouth.
 - g. Orally transmit a prescription that has been authorized by the supervising dentist.
 - h. Administer emergency medications to a patient in order to assist the dentist in an emergency.
4. A registered dental assistant may perform the following duties on a patient of record under the direct or indirect supervision of a dentist:
 - a. Apply anticariogenic agents, fluoride varnish, and silver diamine fluoride, topically.
 - b. Apply desensitizing solutions to the external surfaces of the teeth.
 - c. Dry root canal with paper points.
 - d. Place and remove rubber dams.
 - e. Take impressions or occlusal bite registration for study casts.
 - f. Place retraction cord in the gingival sulcus of a prepared tooth prior to the dentist taking an impression of the tooth.
 - g. Remove excess cement from inlays, crowns, bridges, and orthodontic appliances with hand instruments or a slow speed handpiece only.
 - h. Perform nonsurgical clinical and laboratory diagnosis tests, including pulp testing, for interpretation by the dentist.
 - i. Place and remove periodontal dressings, dry socket medications, and packing.
 - j. Monitor a patient who has been inducted by a dentist into nitrous oxide ~~relative~~ inhalation analgesia.
 - k. Take impressions for fixed or removable orthodontic appliances, athletic mouth guards, bleaching trays, bite splints, flippers, and removable prosthetic repairs.
 - l. Preselect and prefit orthodontic bands.
 - m. Place, tie, and remove ligature wires and elastic ties, and place orthodontic separators.
 - n. Take dental radiographs.

Commented [RS71]: Also responding to NDDAA 5/22/2019 letter request for the Duty to allow duty of applying fluoride varnish Under general supervision, necessary for public Health school based programs. As they understood the Board would be discussing Administrative rules changes at the 6/2019 mtg.

Commented [RS72]: request from NDDAA 5/2018 letter. Board agreed with slow speed handpiece.

o. Apply bleaching solution, activate light source, monitor and remove bleaching materials.

p. Produce on a patient of record, a final scan by digital capture for review by the authorizing dentist for a prescriptive fixed or removable permanent appliance.

q. Take impressions or occlusal bite registrations for study casts.

5. A registered dental assistant may assist a dentist authorized by permit under direct or indirect supervision to provide the following duties as set forth in administrative rule 20-02-01-05(9) as follows:

a. Sedation procedure preparation and pre-sedation documentation including but not limited to date of procedure, nothing by mouth status, availability of responsible adult escort, and allergies.

b. Emergency equipment and use preparedness.

c. Monitor a patient discharged by a dentist once the patient is in recovery.

d. Documentation of patient responsiveness, vital signs including heart rate, respiratory rate, blood pressure, oxygen saturation, and expired carbon dioxide.

e. Training must be documented and may be acquired directly by an employer-dentist by a planned sequence of instruction in an educational institution or by in-office training.

56. A registered dental assistant may perform the following duties under the direct, indirect, or general supervision of a dentist:

a. Take and record pulse, blood pressure, and temperature.

b. Take and record preliminary dental and medical history for the interpretation by the dentist.

c. Apply topical medications and drugs to oral tissues, including topical anesthetic, topical fluoride, fluoride varnish and but not including desensitizing agents or but not including caustic agents or anticariogenic agents.

d. Receive removable dental prosthesis for cleaning or repair.

~~e. Take impressions or occlusal bite registrations for study casts.~~

ef. Fabricate, adjust, place, recement, or remove a temporary crown, bridge, or onlay or temporary restorative material. This applies only to dentitions actively under treatment for which a permanent restoration is being fabricated.

fg. Remove sutures.

Commented [RS73]: Per SDC changed to final scan rather than final Impression. SDC asserts that there is "no clinical knowledge required to take a digital photograph of the hard and soft tissues in the mouth". This is patently false. Dental assistants who utilize scanning devices to capture a margin during crown preps must be extremely precise, and even then, the dentist must review the final scan (a virtual final impression thanks to new technology) prior to submitting the scanned impression to a dental laboratory for manufacture of the permanent or temporary device. Therefore the Board is not regulating technology, rather regulating the duties of auxiliary.

Commented [RS74]: Also responding to NDDAA request for the Duty to produce a final scan 5/22/2019 letter As they understood the Board would be discussing Administrative rules changes at the 6/2019 mtg.

Commented [RS75]: 12/4/2021

Commented [RS76]: DANB comment pg. 6, disagree with comment as training refers to a registered dental assistant and not a qualified dental staff member (which may or may not be a surgical tech, RN, LPN etc). A new definition was created in response to this comment; Qualified dental staff member.

Commented [RS77]: Amendments Responding to NDDAA

Commented [RS78]: Letter from NDDAA 5/22/2019 sent in preparation for agenda item at 6/14/2019 admin rules discussion. Letter requests duty allowing application of fluoride varnish under *general supervision*, necessary for public Health school based programs.

Commented [RS79]: 12/4/2021 Concern regarding patient safety, ie choking, tooth or crown loss.

- ~~g~~. Cut and remove arch wires or replace loose bands, loose brackets, or other orthodontic appliances for palliative treatment.
- ~~h~~. Provide oral hygiene education and instruction.
- ~~i~~. Provide an oral assessment for interpretation by the dentist.
- ~~j~~. Repack dry socket medication and packing for palliative treatment.
- ~~k~~. Apply pit and fissure sealants if the registered licensed dental assistant has provided documentation of a board-approved sealant course. Adjust sealants with slow-speed handpiece.
- ~~l~~. Polish the coronal surfaces of the teeth with a rubber cup or brush.
- ~~m~~. Polish restorations with a slow-speed handpiece.
- ~~n~~. Provide screenings as defined by section 20-01-02-01(33).

History: Effective September 1, 1980; amended effective February 1, 1992; October 1, 1993; May 1, 1996; August 1, 1998; April 1, 2000; June 1, 2002; July 1, 2004; April 1, 2006; January 1, 2011; April 1, 2015; July 1, 2017.

General Authority: NDCC 43-20-10

Law Implemented: NDCC 43-20-01.1, 43-20-08, 43-20-10, 43-20-13

20-03-01-01.1. Expanded duties of registered dental assistants.

A registered dental assistant shall apply for a permit to perform the following duties:

1. A registered dental assistant authorized by permit and under the direct supervision of a dentist may perform the following restorative functions:
 - a. Place, carve, and adjust class I, II, and class V amalgam or glass ionomer restorations with hand instruments or a slow-speed handpiece;
 - b. Adapt and cement stainless steel crowns; and
 - c. Place, contour, and adjust class I, II, and class V composite restorations where the margins are entirely within the enamel with hand instruments or a slow-speed handpiece.
2. A registered dental assistant authorized by permit and under the contiguous supervision of a dentist authorized by permit to provide parenteral sedation may provide anesthesia duties as follows:
 - a. Initiate and discontinue an intravenous line for a patient being prepared to receive intravenous medications, sedation or general anesthesia;
 - b. Adjust the rate of intravenous fluids infusion only to maintain or keep the line patent or open;
 - c. Prepare anesthesia equipment and perform patient monitoring; and
 - d. Assist with emergency treatment and protocols.

3. A registered dental assistant authorized by permit and under the direct visual supervision of a dentist authorized by permit to provide parenteral sedation shall provide anesthesia duties as follows:
 - a. Draw up and prepare medications;
 - b. Follow instructions to deliver medication into an intravenous line upon verbal command of the supervising dentist;
 - c. Adjust the rate of intravenous fluids infusion beyond a keep-open rate upon verbal command of the supervising dentist; and
 - d. Adjust an electronic device to provide medications, such as an infusion pump upon verbal command of the supervising dentist.
4. A registered dental assistant authorized by permit and under the indirect supervision of a dentist may administer nitrous oxide analgesia to a patient who has not taken sedative medications prior to treatment in accordance with section 20-03-01-05(2).

Commented [RS80]: Also responding to NDDAA 5/22/2019 letter request for the duty to allow duty of, induce or administer nitrous oxide inhalation analgesia. Letter sent in preparation for agenda item at 6/14/2019 admin rules discussion

History: Effective April 1, 2015; amended effective July 1, 2017.

General Authority: NDCC 43-20-10

Law Implemented: NDCC 43-20-01.1, 43-20-08, 43-20-10, 43-20-13

20-03-01-02. Prohibited services.

A dental assistant, qualified dental assistant, or registered dental assistant may not perform the following services:

1. Diagnosis and treatment planning.
2. Surgery on hard or soft tissue.
3. Administer local anesthetics, sedation or general anesthesia drugs or titrate local anesthetics, sedation or general anesthesia drugs without a board permit.
4. Any irreversible dental procedure or procedures which require the professional judgment and skill of a licensed dentist.
5. **Adjust a crown which has been cemented by a dentist.**
6. Activate any type of orthodontic appliance or fabricate orthodontic impressions for an individual who is not a patient of record.
7. Cement or bond orthodontic bands or brackets that have not been previously placed by a dentist.
8. Place bases or cavity liners.
9. Scaling, root planing, or gingival curettage.
10. Measure the gingival sulcus with a periodontal probe.
11. Use a high-speed handpiece inside the mouth.

12. Unless authorized by permit in accordance with section 20-03-01-05.1, Monitor a patient who has been induced to a level of moderate 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.

History: Effective February 1, 1992; amended effective October 1, 1993; April 1, 2000; June 1, 2002; July 1, 2004; January 1, 2011; April 1, 2015. General Authority: NDCC 43-20-10 Law Implemented: NDCC 43-20-01.1, 43-20-08, 43-20-10, 43-20-13

20-03-01-03. Annual registration of dental assistants performing expanded duties.

Repealed effective January 1, 2011.

20-03-01-04. Criteria for dental assistants placing sealants.

Repealed effective January 1, 2011.

20-03-01-05. Registration of registered and qualified dental assistants.

An individual seeking registration as a registered or qualified dental assistant shall apply on forms prescribed by the board. The application must be notarized and include the application fee.

1. The board may grant registration as a registered dental assistant to an applicant meeting all the following requirements:
 - a. The applicant meets any of the following requirements:
 - (1) The applicant successfully completed a dental assisting program accredited by the commission on dental accreditation of the American dental association or approved by the board, within one year of application.
 - (2) The applicant was certified by the dental assisting national board within one year of application.
 - (3) The applicant successfully completed a dental assisting program, accredited by the commission on dental accreditation of the American dental association or approved by the board, and completed, within two years before application, sixteen hours of continuing education in accordance with section 20-03-01-06.
 - (4) The applicant was certified by the dental assisting national board, and completed within two years before application, sixteen hours of continuing education in accordance with section 20-03-01-06.
 - (5) The applicant successfully completed the exam administered by the joint commission on national dental examinations or the dental hygiene certification board of Canada and completed within two years of application

sixteen hours of continuing education in accordance with section 20-03-01-06.

- b. The applicant passed a written examination on the laws and rules governing the practice of dentistry in North Dakota within one year of application.
 - c. The applicant successfully completed a cardiopulmonary resuscitation course within two years of application.
 - d. Grounds for denial of the application under North Dakota Century Code section 43-20-05 do not exist.
2. The board may grant registration as a qualified dental assistant to an applicant meeting all the following requirements:
- a. The applicant meets any of the following requirements:
 - (1) The applicant passed the infection control and radiation parts of national entry level dental assistant certification administered by the dental assisting national board examination and completed 300 hours of on the job training within one year of application.
 - (1) The applicant passed the infection control and radiation parts of national entry level dental assistant certification administered by the dental assisting national board examination, 300 hours of on the job training, and completed within two years before application, sixteen hours of continuing education in accordance with section 20-03-01-06.
 - (2) The applicant successfully completed the national entry level dental assistant certification administered by the dental assisting national board and successfully completed the North Dakota State Department of Career Technical Education dental assisting education program and submits evidence of 300 hours of on the job training within one year of application.
 - b. ~~The applicant completed six hundred fifty hours of dental assistance instruction, including on the job training.~~

Commented [RS81]: NDDAA comment urging the Board to

Maintain the 650 hour requirement. The Board worked together With dental assistants and DANB to Arrive at the 300 hour requirement. The Board believes the components of the NELDA exam compliment the on the Job training dental assistant receive and Furthermore, the duties that may be Provided are extremely limited, non Invasive duties. Regarding the NDDAA Question "Will ND's rules language mirror That renewal limitation and goal Of becoming DANB certified?" the NDBDE does NOT require DANB Renewal of certification to remain Registered with the Board as a Qualified Dental Assistant (QDA). That would be akin to requiring a Dentist who successfully completed The National Board exam to Remain a membership with the ADA. In the 6/8/2020 NDDA letter to the Board the NDDA in support of High school students interested in Dental assisting career, stated "The NELDA Program is a good way for student to Get started on their dental assisting Career and their clinical dental assisting Instruction hours could then be applied Towards the 650 clinical hours currently Required to become a QDA in ND" That is exactly what the new language Accomplishes by exchanging 650 Hours for 300 hours plus NELDA.

12/04/2021 NDBDE debated removal of strike through on language in a.(1)(2) "the infection control and radiation parts of" to be consistent with definition on page 6 regarding qualified dental assistant.

be. The applicant passed a written examination on the laws and rules governing the practice of dentistry in North Dakota within one year of application.

cd. The applicant successfully completed a cardiopulmonary resuscitation course within two years of application.

de. Grounds for denial of the application under North Dakota Century Code section 43-20-05 do not exist.

History: Effective January 1, 2011.

General Authority: NDCC 43-20-10

Law Implemented: NDCC 43-20-13.2

20-03-01-05.1. Additional expanded duties of registered dental assistants requiring a permit.

The board may grant a permit to a registered dental assistant for the following:

1. The board may issue or renew a class I dental anesthesia assistant permit authorizing a registered dental assistant to provide anesthesia assistance under the supervision of a dentist authorized by permit to provide general anesthesia, deep parenteral sedation or moderate sedation, upon successful completion of the following:

- a. The applicant submits evidence of a board-approved dental anesthesia assistant education and training course.
- b. Submits proof of current certification status from the American association of oral and maxillofacial surgeon's dental anesthesia assistant national certification or a board approved competency examination.
- c. The applicant holds current and valid certification for health care provider basic life support, or advanced cardiac life support or pediatric advanced life support; and
- d. The applicant provides a copy of a valid North Dakota general anesthesia, deep sedation or moderate sedation permit or parenteral sedation permit of the dentist where the registered dental assistant will be performing anesthesia assistant services.

2. The board may issue or renew a class II dental anesthesia assistant permit authorizing a

registered dental assistant to provide anesthesia assistance under the supervision of a dentist authorized by permit to provide general anesthesia, deep sedation or moderate parenteral sedation, upon successful completion of the following:

- a. The applicant submits evidence of a board-approved dental anesthesia assistant education and training course.
- b. Submits proof of current dental anesthesia assistant national certification or a board-approved competency examination;
- ~~b~~c. The applicant has successfully completed hands-on training in intravenous access or phlebotomy that includes live experience starting and maintaining intravenous lines;
- ~~e~~d. The applicant holds current and valid certification for health care provider basic life support, or advanced cardiac life support or pediatric advanced life support; and
- ~~e~~e. The applicant provides a copy of a valid North Dakota general anesthesia, deep sedation or ~~parenteral moderate~~ sedation permit of the dentist where the registered dental assistant will be performing anesthesia assistant services.

3. The board may issue or renew a permit on forms prescribed by the board authorizing a registered dental assistant under the direct supervision of a dentist to provide restorative functions under the following conditions:

- a. The applicant meets any of the following requirements:
 - (1) The applicant has successfully completed a board-approved curriculum from a program accredited by the commission on dental accreditation of the American dental association or other board-approved course and successfully passed the western regional examining board's restorative examination or other equivalent examinations approved by the board within the last five years. The board may require successful completion of the restorative function component of the dental assisting national board's certified restorative functions dental assistant certification examination; or
 - (2) The applicant has successfully passed the western regional examining board's restorative examination or other board-approved examination over five years from the date of application and successfully completed the restorative function component of the dental assisting national board's certified restorative functions dental assistant certification examination or other board-approved examination and provide evidence from another state or jurisdiction where the

applicant legally is or was authorized to perform restorative functions and certification from the supervising dentist of successful completion of at least twenty-five restorative procedures within the immediate five years from the date of application.

- b. A registered dental assistant may perform the placement and finishing of direct alloy or direct composite restorations, under the direct supervision of a licensed dentist, after the supervising dentist has prepared the dentition for restoration.
- c. The restorative functions shall only be performed after the patient has given informed consent for the placement of the restoration by a restorative functions dental assistant.
- d. Before the patient is released, the final restorations shall be checked and documented by the supervising dentist.

History: Effective April 1, 2015; amended effective July 1, 2017.

General Authority: NDCC 43-20-10

Law Implemented: NDCC 43-20-13.2

20-03-01-06. Continuing dental education for qualified and registered dental assistants.

Each qualified or registered dental assistant shall ~~provide evidence~~ maintain documentation on forms supplied by the board that of attendance or participation the qualified or registered dental assistant has attended or participated in continuing clinical dental education in accordance with the following conditions:

Commented [RS82]: 12/4/2021 highlighted text amended in RDH and DDS sections

1. Continuing education activities include publications, seminars, symposiums, lectures, college courses, and online education.
2. The continuing dental education hours will accumulate on the basis of one hour of credit for each hour spent in education. Subject matter directly related to clinical dentistry will be accepted by the board without limit.
3. The minimum number of hours required within a two-year cycle is sixteen. Of these hours, a qualified or registered dental assistant may earn no more than eight hours from self-study. Self-study is an educational process designed to permit a participant to learn a given subject without involvement of a proctor. A qualified professional may act as a proctor who oversees a clinical continuing education course which may be used for classroom style continuing education credits. Cardiopulmonary resuscitation courses must provide hands-on training. All other continuing education requirements

Commented [RS83]: 12/4/2021

may be satisfied from ~~online education~~ webinars or classroom style learning. The continuing education must include:

- a. Two hours of ethics or jurisprudence. Passing the laws and rules examination is the equivalent of two hours of ethics or jurisprudence.
 - b. Two hours of infection control.
 - c. A cardiopulmonary resuscitation course.
 - d. For registered dental anesthesia assistant permitholders, two hours related to sedation or anesthesia.
 - e. For registered licensed dental restorative assistant permitholders, two hours related to restorative dentistry.
4. Mere registration at a dental convention without specific attendance at continuing education presentations will not be creditable toward the continuing dental education requirement.
5. All qualified or registered dental assistants must hold a current cardiopulmonary resuscitation certificate.
6. The board may audit continuing education credits of a registered dental assistant. Proof of continuing education shall be maintained from the previous renewal cycle. Upon receiving notice of an audit from the board, a registered dental assistant shall provide satisfactory documentation of attendance at, or participation in, the continuing education activities listed on the licensee's continuing education form. Failure to comply with the audit is grounds for nonrenewal of or disciplinary action against the registration.

Commented [RS84]: The CE Committee no longer relies on the CE form. Licensees must provide evidence such as certificates of completion.

History: Effective January 1, 2011; amended effective April 1, 2015; July 1, 2017.

General Authority: NDCC 43-20-10

Law Implemented: NDCC 43-20-13.1

ARTICLE 20-04

DENTAL HYGIENISTS

Chapter

20-04-01 Duties

CHAPTER 20-04-01

DUTIES

Section

- 20-04-01-01 Duties
- 20-04-01-02 Prohibited Services
- 20-04-01-03 Duties of Dental Hygienists
- 20-04-01-03.1 Duties of the Dental Hygienist Requiring a Permit
- 20-04-01-04 Additional Requirements for Licensure by Examination
- 20-04-01-04.1 Clinical Competency Examination Retakes
- 20-04-01-05 Additional Requirements for Licensure by Credential Review
- 20-04-01-05.1 NEW SECTION Refresher Course – re-entry.**
- 20-04-01-06 Additional Requirements for Applications
- 20-04-01-07 Inactive Status - License Reinstatement
- 20-04-01-08 Continuing Dental Education for Dental Hygienists

DUTIES

Section

- 20-04-01-01 Duties
- 20-04-01-03.1 01.1 Duties of the Dental Hygienist Requiring a Permit**
- 20-04-01-02 Prohibited Services**
- 20-04-01-03 Duties of Dental Hygienists
- 20-04-01-04 Additional Requirements for Licensure by Examination
- 20-04-01-04.1 Clinical Competency Examination Retakes
- 20-04-01-05 Additional Requirements for Licensure by Credential Review
- 20-04-01-05.1 NEW SECTION Refresher Course**
- 20-04-01-06 Additional Requirements for Applications
- 20-04-01-07 Inactive Status - License Reinstatement
- 20-04-01-08 Continuing Dental Education for Dental Hygienists

20-04-01-01. Duties.

A dental hygienist may perform the following services under the ~~general, direct, direct visual, indirect, or contiguous~~ supervision of a dentist:

1. Place and remove matrix bands or wedges.
2. Adjust permanent crowns outside the mouth.
3. Take face bow transfers.
4. Acid-etch enamel surfaces prior to **pit and fissure sealants**, direct bonding of orthodontic brackets, or composite restorations.

A dental hygienist may perform the following services under the ~~general, direct, direct visual, indirect, or contiguous~~ supervision of a dentist:

1. Hold impression trays in the mouth after placement by a dentist (e.g., reversible hydrocolloids)
2. Produce on a patient of record, a final scan by digital capture for review by the authorizing dentist for a prescriptive removable or permanent appliance. G

Bev – delete 20-04-01-03 (local anesthesia) and include that entire section with 20-04-01-01 under the direct supervision section cuz now it's without a permit, only an authorization.

20-04-01-03.1 becomes 20-04-01-01.1 to keep the duties together and move prohibited services after duties

Bev - RDH do sealants/acid etch under general but not bonding. #3 was under general but RDA was under direct.

3. Place orthodontic brackets using an indirect bonding technique by seating the transfer tray loaded with brackets previously positioned in the dental laboratory by a dentist.
4. Dry root canal with paper points.
5. Place and remove rubber dams.
6. Place retraction cord in the gingival sulcus of a prepared tooth prior to the dentist taking an impression of the tooth.
7. Monitor a patient who has been inducted by a dentist into nitrous-oxide inhalation analgesia.
8. Administer emergency medications to a patient in order to assist the dentist.

Commented [RS85]: Move to indirect ???

A dental hygienist may perform the following services under the ~~general, direct, direct~~

~~visual, indirect, or contiguous~~ supervision of a dentist:

Commented [RS86]: RDH section – duties reorganized per 12/4/2021 meeting.

1. Complete prophylaxis to include removal of accumulated matter, deposits, accretions, or stains from the natural and restored surfaces of exposed teeth. The dental hygienist may also do root planing and soft tissue curettage upon direct order of the dentist.
2. Polish and smooth existing restorations with a slow-speed handpiece.
3. Apply topical applications of drugs to the ~~surface~~ oral tissues of the mouth and to ~~exposed surfaces of the teeth, including~~ anticariogenic agents, **caries arresting** and desensitizing solutions **to the teeth**.
4. Take impressions for study casts on a patient of record.
5. Take and record preliminary medical and dental histories for the interpretation by the dentist.
6. Take and record pulse, blood pressure, and temperature.
7. Provide oral hygiene treatment planning after an oral assessment or dentist's diagnosis.
8. Take dental radiographs.
9. Apply therapeutic agents subgingivally for the treatment of periodontal disease.
10. ~~Hold impression trays in the mouth after placement by a dentist (e.g., reversible hydrocolloids, rubber base, etc.).~~

Bev - The strike-through duties are moved to either direct or indirect supervision with the letter corresponding to the supervision Renumber

- 10 **Remove excess cement from inlays, crowns, bridges, and orthodontic appliances with hand instruments or a slow speed handpiece only.**

Commented [RS87]: request from NDDAA 5/2018 letter. Board agreed with slow speed handpiece.

11. Receive removable dental prosthesis for cleaning and repair.

- ~~12. Dry root canal with paper points. I~~
- ~~13. Place and remove rubber dams. I~~
- ~~14. Place and remove matrix bands or wedges. I~~
- 12.45. Take occlusal bite registration for study casts.
- ~~16. Place retraction cord in the gingival sulcus of a prepared tooth prior to the dentist taking an impression of the tooth. I~~
13. 17. Fabricate, adjust, place, recement, or remove a temporary crown, bridge, onlay, or temporary restorative material. This applies only to dentitions actively under treatment for which a permanent restoration is being fabricated.
- ~~18. Adjust permanent crowns~~
- 15 20. Apply pit and fissure sealants. Adjust sealants with slow speed handpiece.
- 16 24. Place and remove periodontal dressings, dry socket medications, and packing.
- 17 22. Remove sutures.
- ~~23. Monitor a patient who has been inducted by a dentist into nitrous oxide inhalation analgesia. I~~
- 18 24. Take impressions for fixed or removable orthodontic appliances, athletic mouth guards, bleaching trays, bite splints, flippers, and removable prosthetic repairs.
- 19 25. Preselect and prefit orthodontic bands.
- 20 26. Place, tie, and remove ligature wires and elastic ties, and place orthodontic separators.
- 21 27. Place and remove arch wires or appliances that have been activated by a dentist.
- 22 28. Cut and remove arch wires or replace loose bands, loose brackets, or other orthodontic appliances for palliative treatment.
- ~~29. Acid etch enamel surfaces prior to pit and fissure sealants, direct bonding of orthodontic brackets, or composite restorations. D~~
- ~~30. Place orthodontic brackets using an indirect bonding technique by seating the transfer tray loaded with brackets previously positioned in the dental laboratory by a dentist. D~~
31. Take face bow transfers. D
- 23 30. Provide an oral assessment for interpretation by the dentist.
- 24 32. Orally transmit a prescription that has been authorized by the supervising dentist.
- 25 33. Repack dry socket medication and packing for palliative treatment.

~~34 Administer emergency medications to a patient in order to assist the dentist. |~~

26 ~~35.~~ Screenings as defined in section 20-01-02-01.

27 ~~36.~~ Produce on a patient of record, a final digital scan for review by the authorizing dentist for a prescriptive orthodontic fixed or removable permanent appliance

28 ~~37.~~ Apply bleaching solution, activate light source, and monitor and remove bleaching materials.

29 ~~38.~~ Apply interim therapeutic restorations using the standards and protocols established by an authorizing dentist and after completion of a board-approved course.

30 ~~39.~~ A dental hygienist under direct or indirect supervision may assist a dentist authorized by permit as set forth in section 20-02-01-05 as follows:

- a. Sedation procedure preparation and presedation documentation, including date of procedure, nothing by mouth status, availability of responsible adult escort, and allergies.
- b. Emergency equipment and use preparedness.
- c. Monitor a patient discharged by a dentist once the patient is in recovery.
- d. Documentation of patient responsiveness, vital signs, including heart rate, respiratory rate, blood pressure, oxygen saturation, and expired carbon dioxide.
- e. Training must be documented and may be acquired directly by an employer-dentist, by a planned sequence of instruction in an educational institution or by in-office training.

31 ~~40.~~ A dental hygienist authorized by permit and under contiguous supervision of a dentist authorized by permit to provide moderate ~~parenteral~~ sedation, deep sedation or general anesthesia may:

- a. Initiate and discontinue an intravenous line for a patient being prepared to receive intravenous medications, sedation or general anesthesia.
- b. Adjust the rate of intravenous fluids infusion only to maintain or keep the line patent or open.
- c. Prepare anesthesia equipment and perform patient monitoring.
- d. Assist with emergency treatment and protocols.

Commented [RS88]: Per SDC changed to final scan rather than final Impression. SDC asserts that there is "no clinical knowledge required to take a digital photograph of the hard and soft tissues in the mouth". This is patently false. Dental assistants who utilize scanning devices to capture a margin during crown preps must be extremely precise, and even then, the dentist must review the final scan (a virtual final impression thanks to new technology) prior to submitting the scanned impression to a dental laboratory for manufacture of the permanent or temporary device. Therefore the Board is not regulating technology, rather regulating the duties of auxiliary.

Commented [RS89]: Also responding to NDDAA request for the Duty to produce a final scan 5/22/2019 letter As they understood the Board would be discussing Administrative rules changes at the 6/2019 mtg.

32 44. A dental hygienist authorized by permit and under direct visual supervision of a dentist authorized by permit to provide moderate parenteral sedation, deep sedation or general anesthesia may:

- a. Draw up and prepare medications;
- b. Follow instructions to deliver medication into an intravenous line upon verbal command of the supervising dentist;
- c. Adjust the rate of intravenous fluids infusion beyond a keep-open rate upon verbal command of the supervising dentist; and
- d. Adjust an electronic device to provide medications, such as an infusion pump upon the verbal command of the supervising dentist.

33 42. A dental hygienist authorized by permit and under the direct supervision of a dentist may:

- a. Place, carve, and adjust class I, II, and class V amalgam or glass ionomer restorations with hand instruments or a slow-speed handpiece;
- b. Adapt and cement stainless steel crowns; and
- c. Place, contour, and adjust class I, II, and class V composite restorations where the margins are entirely within the enamel with hand instruments or a slow-speed handpiece.

34 43. A dental hygienist authorized by permit and under the indirect supervision of a dentist may administer nitrous oxide analgesia to a patient who has not taken sedative medications prior to or for the duration of the dental hygiene treatment in accordance with subsection 2 of section 20-02-01-05.

History: Effective September 1, 1980; amended effective February 1, 1992; October 1, 1993; May 1, 1996; August 1, 1998; April 1, 2000; July 1, 2004; April 1, 2006; January 1, 2011; April 1, 2015; July 1, 2017; April 1, 2021.

General Authority: NDCC 43-20-10

Law Implemented: NDCC 43-20-03, 43-20-11, 43-20-12

20-04-01-02. Prohibited services.

A dental hygienist may not perform the following services:

1. Diagnosis and treatment planning.
2. Surgery on hard or soft tissue.

3. Administer anesthetics, except topical and local anesthetic, as permitted under sections 20-04-01-01 and 20-04-01-03, or titrate local anesthetics, sedation or general anesthesia drugs without a board authorized permit.
4. Monitor a patient who has been induced to moderate sedation, deep sedation or general anesthesia until the dentist authorized by permit to administer sedation or anesthesia determines the patient may be discharged for recovery.
5. Any irreversible dental procedure or procedures which require the professional judgment and skill of a dentist.
6. Adjust a crown which has been permanently cemented ~~without a restorative functions permit.~~
7. Activate any type of orthodontic appliance or fabricate impressions for an individual who is not a patient of record.
8. Cement or bond orthodontic bands or brackets that have not been previously placed by a dentist.
9. Place bases or cavity liners.
10. Use a high-speed handpiece inside the mouth.

History: Effective February 1, 1992; amended effective October 1, 1993; July 1, 2004; January 1, 2011; April 1, 2015; April 1, 2021.

General Authority: NDCC 43-20-10

Law Implemented: NDCC 43-20-03; 43-20-11, 43-20-12, 43-20-12.3

20-04-01-03. Duties of dental hygienists.

A dental hygienist may perform the following services under the direct supervision of a dentist:

1. A licensed dental hygienist may apply for a permit authorization to administer local anesthesia ~~to a patient who is at least eighteen years old,~~ under the direct supervision of a licensed dentist.

2. Requirements for local anesthesia authorization are as follows:

- a. Submit evidence that ~~a~~ the hygienist must have successfully completed a didactic and clinical course in local anesthesia within the last twenty-four months sponsored by a dental or dental hygiene program accredited by the commission on dental accreditation of the American dental association resulting in the dental hygienist becoming clinically competent in the administration of local anesthesia; or

Commented [RS90]: 12/4/2021: Removed highlighted section.

Commented [RS91]: FYI: Amending this rule will be a two-part process as per 43-20-12.3. Supervised administration of anesthesia - Board rules. A licensed dentist may delegate to a dental hygienist licensed by the board the administration of block and infiltration anesthesia to a patient who is at least eighteen years old.

b. Submit evidence that the hygienist has been authorized to administer local anesthesia in another jurisdiction and provide verification of clinical competency during the previous twelve months. Verification may consist of the following:

- (1) A letter from the accredited school with the school seal affixed. Photocopies will not be accepted.
- (2) A notarized copy of the certification of the local anesthesia course.
- (3) A notarized letter from a licensed dentist stating the licensed dental hygienist has competently administered local anesthesia competently.

Commented [Ma92]: typo

c. A licensed dental hygienist requesting authorization to administer local anesthesia who cannot provide verification as required in ~~subdivision a~~ this section must submit evidence of successful completion of a didactic and clinical course in local anesthesia sponsored by a dental or dental hygiene program accredited by the commission on dental accreditation of the American dental association.

History: Effective July 1, 2004; amended effective April 1, 2021.

General Authority: NDCC 43-20-10

Law Implemented: NDCC 43-20-03

20-04-01-03.1. Duties of the dental hygienist requiring a permit.

The board may issue or renew a permit to a dental hygienist for the following:

1. The board may issue or renew a class I dental anesthesia assistant permit authorizing a dental hygienist to provide anesthesia assistance under the supervision of a dentist authorized by permit to provide ~~parenteral~~ moderate sedation, deep sedation or general anesthesia, upon successful completion of the following:
 - a. The applicant submits evidence of a board-approved dental anesthesia assistant education and training course.
 - b. The applicant submits proof of current certification status from the American association of oral and maxillofacial surgeons dental anesthesia assistant national certification, or a board-approved competency examination;
 - c. The applicant holds current and valid certification for health care provider basic life support, or advanced cardiac life support or pediatric advanced life support; and

- d. The applicant provides a copy of a valid North Dakota general anesthesia, ~~or parenteral deep sedation or moderate sedation~~ permit of the dentist where the registered dental hygienist will be performing anesthesia assistant services.
2. The board may issue or renew a class II dental anesthesia assistant permit authorizing a registered dental hygienist to provide anesthesia assistance under the supervision of a dentist authorized by permit to provide ~~parenteral moderate sedation, deep sedation or general anesthesia~~ upon successful completion of the following:
 - a. The applicant submits evidence of a board-approved dental anesthesia assistant education and training course and has proof of current certification status from the American association of oral and maxillofacial surgeon's dental anesthesia assistant national certification or a board-approved competency examination;
 - b. The applicant has successfully completed hands-on training in intravenous access or phlebotomy that includes live experience starting and maintaining intravenous lines;
 - c. The applicant holds current and valid certification for health care provider basic life support, or advanced cardiac life support or pediatric advanced life support; and
 - d. The applicant provides a copy of a valid North Dakota general anesthesia, deep sedation or ~~parenteral moderate~~ sedation permit of the dentist where the registered dental hygienist will be performing anesthesia assistant services.
3. The board may issue or renew a permit on forms prescribed by the board authorizing a registered dental hygienist under the direct supervision of a dentist to provide restorative functions under the following conditions:
 - a. The applicant meets any of the following requirements:
 - (1) The applicant has successfully completed a board-approved curriculum from a program accredited by the commission on dental accreditation of the American dental association or other board-approved course and successfully passed the western regional examining board's restorative examination or other equivalent examinations approved by the board within the last five years. The board may require successful completion of the restorative function component of the dental assisting national board's certified restorative functions dental assistant certification examination; or
 - (2) The applicant has successfully passed the western regional examining board's restorative examination or other board-approved examination over five years

from the date of application and successfully completed the restorative function component of the dental assisting national board's certified restorative functions dental assistant certification examination or other board-approved examination and provided evidence from another state or jurisdiction where the applicant legally is or was authorized to perform restorative functions and certification from the supervising dentist of successful completion of at least twenty-five restorative procedures within the immediate five years before the date of application.

- b. A dental hygienist may perform the placement and finishing of direct alloy or direct composite restorations, under the direct supervision of a licensed dentist, after the supervising dentist has prepared the dentition for restoration.
- c. The restorative functions shall only be performed after the patient has given informed consent for the placement of the restoration by a restorative functions dental hygienist.
- d. Before the patient is released, the final restorations shall be checked and documented by the supervising dentist.

History: Effective April 1, 2015; amended effective July 1, 2017.

General Authority: NDCC 43-20-10

Law Implemented: NDCC 43-20-03

20-04-01-04. Additional requirements for licensure by examination.

The board may grant a license to practice dental hygiene to an applicant who has met the requirements of North Dakota Century Code section 43-20-01.2 and all the following requirements:

- 1. The applicant has passed the examination administered by the joint commission on national dental examinations or the dental hygiene certification board of Canada within five years of application.
- 2. The applicant has passed, within five years of application, a clinical competency examination administered by one of the following:
 - a. Any regional dental testing service before September 17, 2009.
 - b. Central regional dental testing service.
 - c. Council of interstate testing agencies.
 - d. Commission on dental competency assessments-western ~~Western~~ regional examining board.

Commented [RS93]: CDCA and WREB merged in 2021 and is now known as the CDCA-WREB which administers the ADEX examination for dental hygienists and dentists.

e. American board of dental examiners.

3. The applicant has successfully completed a cardiopulmonary resuscitation course within two years of application.
4. The applicant has the physical health and visual acuity to enable the applicant to meet the minimum standards of professional competence.

History: Effective January 1, 2011; amended effective April 1, 2021.

General Authority: NDCC 43-20-10

Law Implemented: NDCC 43-20-01.2

20-04-01-04.1. Clinical competency examination retakes.

A dental hygiene applicant may take a clinical examination three times before remedial training is required. After failing the examination for a third time, and prior to the fourth attempt of the examination, an applicant shall:

1. Submit to the board a detailed plan for remedial training by an accredited dental hygiene school. The board must approve the proposed remedial training.
2. Submit proof to the board of passing the remedial training within twenty-four months of its approval by the board. The board may grant or deny a fourth attempt of the clinical examination. A fourth attempt must occur within twelve months of the date of the board's decision. If an applicant fails any part of the examination after remedial training, the board must approve additional retakes.

History: Effective April 1, 2015.

General Authority: NDCC 43-20-10

Law Implemented: NDCC 43-20-01.2

20-04-01-05. Additional requirements for licensure by credential review.

The board may grant a license to practice dental hygiene to an applicant who has met the requirements of North Dakota Century Code section 43-20-01.3 and all the following requirements:

1. The applicant has successfully completed a cardiopulmonary resuscitation course within two years of application.
2. The applicant has the physical health and visual acuity to enable the applicant to meet the minimum standards of professional competence.
3. The applicant has completed sixteen hours of continuing education in accordance with

Commented [RS94]: The ADEX dental examination series is the examination developed by the American Board of Dental Examiners, Inc. (ADEX) The ADEX examination series consists of computer simulations and clinical examinations performed on patients and manikins. Clinical examinations are utilized to assist licensing jurisdictions in making decisions concerning the minimal competency of practitioners.

section 20-04-01-08 within two years of application.

NEW SECTION CREATED

20-04-01-05.1 Refresher course - reentry.

An eligible dental hygienist may return to the practice of dental hygiene, upon submitting an application fee and application on a form provided by the board and providing proof of having successfully completed a refresher course approved by the board and meet the following requirements:

1. Was previously licensed to practice dental hygiene in another state or jurisdiction where the licensure requirements were substantially equivalent.
2. Grounds for denial of the application under section North Dakota Century Code 43-20-05 do not exist;
3. The applicant has passed, within one year of making application, a written examination on the laws and rules governing the practice of dentistry in this state.
4. Has successfully completed a cardiopulmonary resuscitation course within the previous two years;
5. Has the physical health and visual acuity to enable the applicant to meet the minimum standards of professional competence.
6. Has practiced dental hygiene; and
7. Has successfully completed a refresher course approved by the board that meets the following minimum criteria:
 - a. Be taught at a dental hygiene school accredited by the American dental association's commission on dental accreditation;
 - b. consist of a minimum of 43 clock hours, including a minimum of 32 clock hours of clinical instruction;
 - c. include didactic coursework, which may be presented in a classroom or independent study setting, or both, and clinical coursework covering the following:
 - (1) infection control and sterilization;

- (2) patient assessment, including the taking of health histories, an oral inspection and evaluation, and charting;
 - (3) radiographic techniques;
 - (4) instrumentation techniques, including periodontal procedures and instrument sharpening;
 - (5) current techniques in the polishing of teeth and the application of fluoride;
 - (6) patient education; and
 - (7) office emergency situations.
8. A formerly licensed dental hygienist who is returning to the practice of dental hygiene, may not administer local anesthesia or nitrous oxide until having completed courses of instruction in local anesthesia and nitrous oxide approved by the board.
9. Anything necessary for a criminal history record check pursuant to North Dakota Century Code section 43-28-11.2
10. The applicant may be required to appear before the board.

History: Effective January 1, 2011.

General Authority: NDCC 43-20-10

Law Implemented: NDCC 43-20-01.3

20-04-01-06. Additional requirements for applications.

Applications must be completed within twelve months of filing. The board may require an interview with the applicant. In addition to the application requirements of North Dakota Century Code sections 43-20-01.2, 43-20-01.3, and 43-20-06, the board may require an application to include:

- 1. Proof of identity, including any name change.
- 2. An official transcript sent by an accredited dental school directly to the board.
- 3. Evidence demonstrating the applicant passed the examination administered by the joint commission on national dental examinations within two years of application.
- 4. Evidence demonstrating the applicant passed a clinical competency examination, approved by the board, within two years of application.

5. A certification, from the licensing board of every jurisdiction in which the applicant is licensed, that the applicant is licensed in good standing.
6. Certification that the applicant has completed a cardiopulmonary resuscitation course within two years of application.
7. Verification of physical health and visual acuity.
8. For applications for licensure by credential review, the law and rules stating the requirements for licensure, when the applicant was licensed, of the jurisdiction in which the applicant is licensed.
9. For applications for licensure by credential review and reinstatement from inactive status, proof of completion of sixteen hours of continuing education in accordance with section 20-04-01-08 within two years of application.
10. Any information required by the application forms prescribed by the board.

History: Effective January 1, 2011; April 1, 2015.

General Authority: NDCC 43-20-10

Law Implemented: NDCC 43-20-01.2, 43-20-01.3, 43-20-06

20-04-01-07. Inactive status - License reinstatement.

A dental hygienist may, upon payment of the fee determined by the board, place the dental hygienist's license on inactive status. A dental hygienist on inactive status shall be excused from continuing education requirements. Inactive status must be renewed annually by completing the inactive status renewal application and paying the renewal fee. A dental hygienist on inactive status shall not practice dental hygiene in North Dakota. To reinstate a license on inactive status, the dental hygienist shall apply on a form prescribed by the board, pay a reinstatement fee, and meet all of the following requirements:

1. The applicant has passed a clinical competency examination administered by a regional dental testing service, approved by the board in section 20-04-01-04, within two years of application. The board may, within the board's discretion, waive this requirement.
2. The applicant passes a written examination on the laws and rules governing the practice of dentistry in this state administered by the board at a meeting.

3. The applicant has completed sixteen hours of continuing education in accordance with section 20-04-01-08 within two years of application.
4. The applicant has successfully completed a cardiopulmonary resuscitation course within two years of application.
5. Grounds for denial of the application under North Dakota Century Code section 43-20-05 do not exist.

History: Effective January 1, 2011; amended effective July 1, 2017; April 1, 2021.

General Authority: NDCC 43-20-10

Law Implemented: NDCC 43-20-06

20-04-01-08. Continuing dental education for dental hygienists.

Each dental hygienist shall ~~provide-maintain evidence on forms supplied by the board that the documentation of attendance or participation dental hygienist has attended or participated in continuing~~ clinical dental education in accordance with the following conditions:

1. Continuing education activities include publications, seminars, symposiums, lectures, college courses, and online education.
2. The continuing dental education hours will accumulate on the basis of one hour of credit for each hour spent in education. Subject matter directly related to clinical dentistry will be accepted by the board without limit.
3. The minimum number of hours required within a two-year cycle is sixteen. Of these hours, a dental hygienist may earn no more than eight hours from self-study. Self-study is an educational process designed to permit a participant to learn a given subject without involvement of a proctor. A qualified professional may act as a proctor who oversees a clinical continuing education course which may be used for classroom style continuing education credits. Cardiopulmonary resuscitation courses must provide hands-on training. All other continuing education requirements may be satisfied from webinars or classroom style learning. The continuing education must include:
 - a. Two hours of ethics or jurisprudence. Passing the laws and rules examination is the equivalent of two hours of ethics or jurisprudence.
 - b. Two hours of infection control.
 - c. A cardiopulmonary resuscitation course.
 - d. For registered dental anesthesia hygienist permitholders, two hours related to sedation

or anesthesia.

e. For registered dental restorative hygienist permitholders, two hours related to restorative dentistry.

f. For a dental hygienist practicing under general supervision, two hours related to medical emergencies.

4. Mere registration at a dental convention without specific attendance at continuing education presentations will not be creditable toward the continuing dental education requirement.

5. All dental hygienists must hold a current cardiopulmonary resuscitation certificate.

6. A dental hygienist who maintains a license on inactive status is not subject to continuing education requirements.

7. The board may audit the continuing education credits of a dental hygienist. Each licensee shall maintain certificates or records of continuing education activities from the previous renewal cycle. Upon receiving notice of an audit from the board, a licensee shall provide satisfactory documentation of attendance at, or participation in the continuing education activities listed. Failure to comply with the audit is grounds for nonrenewal of or disciplinary action against the license.

History: Effective January 1, 2011; amended effective April 1, 2015; July 1, 2017; April 1, 2021.
General Authority: NDCC 43-20-10 Law Implemented: NDCC 43-20-01.4

ARTICLE 20-05

CHAPTER 20-05-01

Section

20-05-01-01. Fees.

The board shall charge the following nonrefundable fees:

1. For dentists:

a. License by examination application fee \$485.00

b. License by credential review application fee \$1,320.00

c. Renewal fee \$440.00

d. Late fee \$440.00

e. Temporary license application and license fee \$275.00

f. Volunteer license application and license fee \$25.00

g. Inactive status application fee \$40.00

- h. Inactive status annual renewal fee \$40.00
- i. Inactive status reinstatement fee \$485.00
- j. Dermal fillers and botulinum toxin permit \$200.00
- k. Dermal fillers and botulinum toxin permit renewal \$100.00
- 2. For dental hygienists:
 - a. License by examination application fee \$220.00
 - b. License by credential review application fee \$495.00
 - c. Renewal fee \$165.00
 - d. Late fee \$165.00
 - e. Inactive status application fee \$42.00
 - f. Volunteer license application and license fee \$25.00
 - g. Inactive status annual renewal fee \$40.00
 - h. Inactive status reinstatement fee \$220.00
- 3. For registered and qualified dental assistants:
 - a. Application fee \$145.00
 - b. Renewal fee \$110.00
 - c. Late fee \$110.00
- 4. For anesthesia permits:
 - a. Application fee \$200.00
 - b. Inspection fee actual cost
 - c. Renewal fee \$200.00
 - d. Late fee \$200.00
- 5. For a duplicate license, registration, or permit \$50.00

History: Effective May 1, 1992; amended effective October 1, 1993; May 1, 1996; August 1, 1998; April 1, 2000; June 1, 2002; July 1, 2004; April 1, 2006; January 1, 2008; January 1, 2011; April 1, 2015; April 1, 2021.

General Authority: NDCC 43-20-10, 43-28-06

Law Implemented: NDCC 43-20-01.2, 43-20-01.3, 43-20-01.4, 43-20-06, 43-20-13.1, 43-20-13.2, 43-28-11, 43-28-16.2, 43-28-17, 43-28-24, 43-28-27

***reference**

Drugs Commonly Used for Sedation⁴⁰

Generic Name (Brand Name)	Dose Range (mg)*	Oral Formulations	Onset (min)†	Half-Life (h)†	Comments
Nonprescription drugs					
Diphenhydramine (Benadryl)	25–50	Syrup: 12.5 mg/5 mL and 25 mg/5 mL Tablets and capsules: 25 and 50 mg	15–60	2.4–9.3	Anticholinergic side effects can occur
Hydroxyzine (Atarax, Vistaril)	50–100	Syrup: 10 mg/5 mL Capsules: 10, 25, 50, and 100 mg Oral suspension: 25 mg/5 mL Tablets and capsules: 25, 50, and 100 mg	15–60	14	Anticholinergic side effects can occur
Promethazine (Phen- ergan)	25–50	Syrup: 6.25 mg/5 mL and 25 mg/5 mL Tablets: 12.5, 25, 50, and 100 mg	15–60	7–15	Anticholinergic side effects can occur
Prescription drugs: benzodiazepines					
Triazolam (Halcion)	0.125–0.5	Tablets: 0.125 and 0.25 mg	15–30	1.5–5	Very good for short to moder- ate length appointments (2– 4 hours)
Lorazepam (Ativan)	0.25–4	Oral solution: 2 mg/mL Tablets: 0.5, 1, and 2 mg	30–60	>8	Very good for longer appoint- ments (>3 hours)
Diazepam (Valium)	2–10	Oral solution: 5 mg/5 mL and 5 mg/mL Tablets: 2, 5, and 10 mg Extended release tablets: 15 mg	20–40	>24	Best administered the evening before a sedation appoint- ment given long half-life
Prescription drugs: nonbenzodiazepines					
Eszopiclone (Lunesta)	1–3	Tablets: 1, 2, and 3 mg	30	6	Metabolized by CYP450‡ 3A4 and 2E1
Ramelteon (Rozerem)	8	Tablets: 8 mg	30	1–2	Melatonin receptor agonist Not a controlled substance
Zolpidem (Ambien)	5–10	Tablets: 5 and 10 mg	30	1.5–4.5	Not contraindicated in preg- nancy
Zaleplon (Sonata)	5–20	Capsules: 5 and 10 mg	20	0.5–1	Good for short appointments (1–2 hours) Not contraindicated in preg- nancy

* In general, therapy should be started at the low end of the dose range and increased if needed based on effect.

† Administration of a drug with a fast onset and short half-life decreases the risk of adverse effects such as falls.

‡ CYP450 indicates cytochrome P450.

NOTE: For most drugs, irrespective of their indications or mechanisms of actions, there is a recommended dose for adults and often multiple age- or weight-based recommended doses for children in the U.S. Food and Drug Administration (FDA)-approved labeling, as seen in the package insert. Dr. Tanabe touched on this at 12/4 mtg and that for Halcion (triazolam) the usual recommended adult dose is 0.25 mg. Some drugs also have a recommended dose for elderly, medically compromised, or debilitated patients. For Halcion, this FDA-recommended dose is 0.125 mg. Many drugs also have an FDA maximum recommended dose (MRD) above which either there is insufficient data on safety and efficacy or else there is sufficient data to suggest that administering or prescribing above that limit markedly increases the risk of

serious side effects such as overdose toxicity. For Halcion, the FDA's MRD is 0.5 mg. In fact, in the package insert, the FDA warns, "A dose of 0.5 mg should be used only for exceptional patients who do not respond adequately to a trial of a lower dose because the risk of several adverse reactions increases with the size of the dose administered. A dose of 0.5 mg should not be exceeded. In geriatric and/or debilitated patients the recommended dosage range is 0.125 mg to 0.25 mg. Therapy should be initiated at 0.125 mg in these groups, and the 0.25 mg dose should be used only for exceptional patients who do not respond to a trial of the lower dose. A dose of 0.25 mg should not be exceeded in these patients." Although it is true that Halcion (triazolam) is indicated only for short-term insomnia, it is no more or less safe when used off label for procedural sedation at the recommended doses. Depending on the potential severity of the possible toxicity for a selected patient, one could consider giving more than the MRD if needed. However, if subsequent overdose toxicity occurs and causes significant harm, the practitioner may not have sufficient scientific evidence to demonstrate that the decision to use that higher dose was safe, justified, and within the standard of care.

We are all aware of the bell-shaped curve of biological variability, where the response to a dose of a drug can produce only a small effect in some people, a usual effect in most people, and an exaggerated effect in others. Thus, neither the recommended dose nor the MRD is absolutely safe for everyone. The dentist must understand this point and take into consideration all the patient variables that might make the MRD, or even the recommended dose, unsafe. So who are these susceptible patients? Smaller females and children certainly can have exaggerated drug effects from a usual dose. Those with unknown genetic factors that slow drug biotransformation or have altered drug receptors may fit into this category. Patients who have other drugs in their system that are known or sometimes unknown to the dentist can have additive effects. A large number of medically compromised, debilitated, and elderly patients can also exhibit drug toxicity from even small doses.

re anesthesia closed claims courses: See

<https://www.thedoctors.com/articles/anesthesiology-closed-claims-study/>

<https://pubs.asahq.org/anesthesiology/article/103/1/33/7466/Management-of-the-Difficult-Airway-A-Closed-Claims>