

CHAPTER 3100
BOARD OF DENTISTRY
DENTISTS, HYGIENISTS, AND ASSISTANTS

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3100.0100 DEFINITIONS.

Subpart 1. Scope. For the purpose of this chapter and unless the context otherwise requires, the terms in subparts 2 to 21 have the meanings given them.

Subp. 2. Act. "Act" means Laws of Minnesota 1969, chapter 974, codified as Minnesota Statutes, sections 150A.01 to 150A.12.

Subp. 3. Applicant. "Applicant" means a person who has submitted an application to become a licensee, registrant, or a CDE sponsor.

Subp. 4. Assistant. "Assistant" means a person who assists the dentist in carrying out the basic duties of a dental office.

Subp. 5. Auxiliary. "Auxiliary" means a dental hygienist, registered dental assistant, assistant, and dental technician.

Subp. 6. Board. "Board" means the Board of Dentistry.

Subp. 7. CDE. "CDE" means continuing dental education.

Subp. 8. Commission on accreditation. "Commission on accreditation" means the Commission on Accreditation of the Dental and Dental Auxiliary Education Programs.

Subp. 9. Course. "Course" means an educational offering, class, presentation,

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meeting, or other similar event which is offered by a sponsor and qualifies for CDE credit or for which a licensee or registrant requests CDE credit pursuant to part 3100.4300.

Subp. 9a. **Dental hygienist.** "Dental hygienist" means a person holding a license as a dental hygienist issued by the board pursuant to the act.

Subp. 10. **Dental technician.** "Dental technician" means a person other than a licensed dentist who performs any of the services described in Minnesota Statutes, section 150A.10, subdivision 3.

Subp. 11. **Dentist.** "Dentist" means a person holding a license issued by the board pursuant to the act.

Subp. 12. [Repealed, 10 SR 1613]

Subp. 13. **Licensee.** "Licensee" means a dentist or hygienist.

Subp. 14. **Minnesota Professional Corporations Act.** "Minnesota Professional Corporations Act" means Minnesota Statutes, sections 319A.01 to 319A.22.

Subp. 15. **National board.** "National board" means an examination administered nationally and acceptable to the board.

Subp. 16. **Person.** "Person" includes an individual, corporation, partnership, association, or any other legal entity.

Subp. 17. **Registered dental assistant.** "Registered dental assistant" means an assistant registered by the board pursuant to Minnesota Statutes, section 150A.06, subdivision 2a.

Subp. 18. **Registrant.** "Registrant" means a registered dental assistant.

Subp. 19. [Repealed, 10 SR 1613]

Subp. 20. **Sponsor.** "Sponsor" means an organization approved by the board pursuant to part 3100.4200 to offer CDE courses.

Subp. 21. **Supervision.** "Supervision" means one of the following levels of supervision, in descending order of restriction:

A. "Personal supervision" means the dentist is personally operating on a patient and authorizes the auxiliary to aid in treatment by concurrently performing supportive procedures.

B. "Direct supervision" means the dentist is in the dental office, personally diagnoses the condition to be treated, personally authorizes the procedure, and before dismissal of the patient, evaluates the performance of the auxiliary.

C. "Indirect supervision" means the dentist is in the office, authorizes the procedures, and remains in the office while the procedures are being performed by the auxiliary.

D. "General supervision" means the dentist has authorized the procedures and they are being carried out in accordance with the dentist's diagnosis and treatment plan.

Statutory Authority: *MS s 150A.04; 150A.06; 150A.08; 150A.10; 150A.11; 214.06; 319A.18*

History: *10 SR 1613; 14 SR 1214*

3100.0200 TENSE, GENDER, AND NUMBER.

For the purposes of these rules, the present tense includes the past and future tenses, and the future, the present; the masculine gender includes the feminine, and the feminine, the masculine; and the singular includes the plural, and the plural, the singular.

Statutory Authority: *MS s 150A.04 subd 5*

3100.0300 MEETINGS.

Subpart 1. **Regular and special meetings.** The board shall hold at least two

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regular meetings each year. It may hold special meetings at such other times as may be necessary and as it may determine.

Subp. 2. Open and closed meetings. Meetings conducted by the board shall be open to the public, except that those for the purpose of investigating and adjudicating charges against persons licensed or registered by the board shall be closed to public attendance unless the person or persons under investigation request that such meetings be open to the public.

Subp. 3. Quorum. A majority of the members of the board shall constitute a quorum for the conduct of business.

Subp. 4. Parliamentary procedure. When not otherwise provided, Sturgis Standard Code of Parliamentary Procedure shall govern the conduct of all business meetings of the board.

Statutory Authority: *MS s 150A.04 subd 5*

3100.0400 OFFICERS.

The officers of the board shall consist of a president, a vice-president, and a secretary, as provided in Minnesota Statutes, section 150A.03, subdivision 1, of the act. Election of officers may be held at any regular or special meeting.

Statutory Authority: *MS s 150A.04 subd 5*

LICENSING AND REGISTRATION**3100.1100 APPLICATIONS FOR LICENSE TO PRACTICE DENTISTRY.**

Subpart 1. Form, credentials, and certification. Any person desiring licensure to practice dentistry within the state of Minnesota must first present to the board an application and credentials, as prescribed by the act, and shall conform to the following rules of the board:

A. An application on a form furnished by the board must be completely filled out.

B. The applicant shall furnish satisfactory evidence of having graduated from a school of dentistry which has been accredited by the Commission on Accreditation.

C. The applicant must furnish certification of having passed all parts of a national board examination as defined in part 3100.0100.

Subp. 2. Clinical skills examination. The applicant shall submit evidence of satisfactorily passing a board approved examination designed to determine the applicant's level of clinical skills.

Subp. 3. Graduates of nonaccredited schools. Graduates of dental schools not accredited by the Commission on Accreditation shall furnish the following information to the board:

A. Applicants must show evidence of training equivalent to the requirements of the Commission on Accreditation.

B. Applicants must furnish the board with the following notarized credentials in English translation: diploma or evidence of graduation from dental school; evidence of being licensed or admitted to practice in the country of graduation; complete transcript of all academic grades in dental school with courses completed, along with pre-dental school transcripts; and birth certificates or equivalent.

C. After successful completion of items A and B, the applicant must complete such preclinical and clinical testing procedures at the School of Dentistry, University of Minnesota, or its substantial equivalent, as the board shall approve, to determine whether the applicant has the clinical proficiency in dentistry comparable to that of a student who has graduated from the University of Minnesota, School of Dentistry.

D. Only after successful completion of items A, B, and C will the board

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certify the applicant's eligibility to take a national board examination as defined in part 3100.0100.

E. Only upon completion of items A to D may the applicant make application to the board to take the examination for licensure.

Subp. 4. **Photograph.** For identification purposes, the applicant shall furnish one notarized unmounted passport-type photograph, three inches by three inches, taken not more than six months before the date of application.

Subp. 5. **Certification of character.** The applicant shall furnish a testimonial of good professional character from an authorized representative of the dental school from which the applicant graduated and a certification by the secretary of the Board of Dental Examiners of the state or Canadian province in which he is licensed. Provided, however, the board may in its discretion and for good cause waive the certification of good professional character by an authorized representative of the dental school.

Statutory Authority: *MS s 150A.04 subd 5; 150A.06 subd 1; 150A.08 subd 3; 150A.09 subd 1; 214.06 subd 2*

History: *10 SR 1612*

3100.1200 APPLICATION FOR LICENSE TO PRACTICE DENTAL HYGIENE.

Any person desiring licensure to practice dental hygiene must present an application and credentials as prescribed by the act and shall conform to the following rules of the board:

A. An application on a form furnished by the board must be completely filled out.

B. Applicants must furnish certification that they have passed the national board examination as defined in part 3100.0100.

C. The applicant shall submit evidence of satisfactorily passing a board approved examination designed to determine the applicant's level of clinical skills.

D. The applicant shall furnish satisfactory evidence of having been granted a diploma or certificate in dental hygiene from a school which has been accredited by the Commission on Accreditation.

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

F. The applicant shall furnish evidence of good professional character satisfactory to the board and certification from the Board of Dental Examiners in the state or Canadian province in which he is already licensed.

Statutory Authority: *MS s 150A.04 subd 5; 150A.06 subd 2; 150A.08 subd 3; 150A.09 subd 1; 214.06 subd 2*

History: *10 SR 1612*

3100.1300 APPLICATION FOR REGISTRATION AS A REGISTERED DENTAL ASSISTANT.

Any person desiring to be registered as a dental assistant shall submit to the board an application and credentials as prescribed by the act and shall conform to the following rules:

A. An application on a form furnished by the board shall be completely filled out.

B. The applicant shall furnish a certified copy or its equivalent of a diploma or certificate of satisfactory completion of a training program approved by the Commission on Accreditation or other program which, in the judgment of the board, is equivalent. If the curriculum of the training program does not

include training in the expanded duties specified in part 3100.8500, the applicant must successfully complete a course in these functions which has been approved by the board.

C. Submission of evidence of satisfactorily passing a board-approved registration examination designed to determine the applicant's knowledge of the clinical duties specified in part 3100.8500, subpart 1.

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

E. The applicant shall furnish evidence of good moral character satisfactory to the board.

Statutory Authority: *MS s 150A.04 subd 5; 150A.06 subd 2a; 150A.08 subd 3; 150A.09 subd 1; 214.06 subd 2*

History: *10 SR 1612*

3100.1400 APPLICATION FOR LICENSURE BY CREDENTIALS.

Any person who is already a licensed dentist or dental hygienist in another state or Canadian province desiring to be licensed to practice dentistry or dental hygiene in Minnesota shall present to the board an application and credentials as prescribed by the act. The applicant shall conform to the following rules of the board:

A. The applicant shall complete an application on forms furnished by the board.

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

C. An applicant for licensure as a dentist must have been in active practice in another state or Canadian province for at least three of the four years prior to the receipt of a completed application by the board (United States governmental service may be included) and must submit at least three references from other practicing dentists.

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

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

F. An applicant shall include a physician's statement attesting to the applicant's physical and mental condition and a statement from a licensed ophthalmologist or optometrist attesting to the applicant's visual acuity.

G. Each applicant must submit with the application a fee as prescribed in part 3100.2000, subpart 3.

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

I. An applicant must appear before the board for a personal interview to determine the applicant's fitness to practice dentistry or dental hygiene pursuant to Minnesota Statutes, section 150A.06, subdivision 4.

J. An applicant shall successfully complete an examination designed to test knowledge of Minnesota laws relating to the practice of dentistry and the rules of the board.

Statutory Authority: *MS s 150A.04; 150A.06; 150A.08; 150A.09; 150A.10; 150A.11; 214.06*

History: *10 SR 1612; 14 SR 1214*

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3100.1500 INCOMPLETE APPLICATIONS.

Incomplete applications shall be returned to the applicant with the tendered fee, together with a statement setting forth the reason for such rejection.

Statutory Authority: *MS s 150A.04 subd 5*

3100.1600 ADDITIONAL INFORMATION FROM ALL APPLICANTS.

Every applicant shall provide evidence of having fulfilled all the requirements of the act. Every applicant shall sign his application and shall swear to the truth of the statements contained therein before a notary public or other person authorized by law to administer oaths.

Nothing contained in these rules shall be construed to limit the board's authority to seek from an applicant such other information pertinent to the character, education, and experience of the applicant insofar as it relates to the applicant's ability to practice as a licensee or registrant as the board may deem necessary in order to pass on the applicant's qualifications.

Statutory Authority: *MS s 150A.04 subd 5*

3100.1700 TERMS AND RENEWAL OF LICENSE AND REGISTRATION.

Subpart 1. Terms. Each initial license or registration issued by the board is valid from the date issued until renewed or terminated in accordance with the procedures specified in this part. Each annually renewed license or registration issued by the board is valid from January 1 of the year for which it was issued until renewed or terminated in accordance with the procedures specified in this part.

Subp. 2. Renewal applications. Each dentist, dental hygienist and registered dental assistant, shall submit an application for renewal of his license or registration together with the necessary fee no later than December 31 of the year preceding that for which the license or registration renewal is requested. Applications for renewal will be considered timely if received by the board no later than December 31 or postmarked on December 31. If the postmark is illegible, the application will be considered timely if received in the board office via United States first class mail on the first workday after December 31. The application form must provide a place for the renewal applicant's signature and must solicit information to include but not be limited to the applicant's office address or addresses, the number of his license or registration certificate, whether the licensee or registrant has been engaged during the year preceding the year for which renewal is sought in the active practice of dentistry or dental hygiene or has worked as a registered dental assistant, and if so, whether within or without the state, and such other information which may be reasonably requested by the board.

For those licensees or registrants whose five-year CDE cycle expired the previous June 30 and who have not submitted evidence of compliance with the five-year CDE requirement set forth in part 3100.4100, the board will include in its written notice relating to annual renewal, that the licensee or registrant shall submit verified evidence of having taken the requisite number of CDE credit hours or of having passed the applicable examinations listed in part 3100.1850, subpart 4, in order to have his or her license or registration renewed.

Subp. 3. Failure to submit renewal application. The following procedure will be followed by the board for all licensees and registrants who have failed to submit the annual renewal application in accordance with subpart 2 including, if applicable, required information about CDE, and applicable fees, except as provided in subpart 5.

A. Any time after January 1, the board will send, to the last address on file with the board, a notice to all licensees or registrants who have not made application for the renewal of their license or registration. The notice will state that licensee or registrant has failed to make application for renewal; the amount

of the renewal and late fees and/or the information required about CDE as specified in subpart 2 which must be submitted in order for the license or registration to be renewed; that licensee or registrant may voluntarily terminate the license or registration by notifying the board; and that failure to respond to the notice by the date specified, which date must be at least 33 days after the notice is sent out by the board, either by submitting the renewal application and applicable fees, and/or the information required about CDE, or by notifying the board that licensee or registrant has voluntarily terminated his or her license or registration will result in the expiration of the license or registration and termination of the right to practice.

B. If the application for renewal, including required information about CDE and the applicable annual and late fees or notice of voluntary termination is not received by the board by the date specified in the notice, the license or registration will expire and the licensee's or registrant's right to practice will terminate as of the date specified in the notice. The expiration and termination will not be considered a disciplinary action against the licensee or registrant.

C. Notwithstanding items A and B, the expiration date shall be extended six months when a licensee or registrant failed to meet the CDE requirements and requests permission to take the applicable examination specified in part 3100.1850, subpart 2, item A. The license or registration shall expire at the end of the six-month extension if the licensee or registrant does not submit within that time period evidence of having passed the examination. In those cases where a licensee or registrant was physically incapable, at the end of that person's five-year reporting cycle, of taking CDE courses, the expiration date shall also be extended six months for the purpose of giving the person an opportunity to take the necessary number of CDE course hours. The licensee or registrant must submit clear and convincing evidence of physical incapability. The license or registration shall expire at the end of the six-month extension if the licensee or registrant does not submit within that time period evidence of taking the number of CDE course hours necessary to comply with part 3100.4100, subpart 2. Any CDE hours accumulated during the six-month extension shall not count toward meeting the requirement of the new CDE cycle.

In either instance referenced above, a licensee or registrant may submit a request for an extension of the six-month period. The board shall grant the extension only in cases of extreme hardship or other compelling reasons. Financial hardship caused by loss of license shall not meet these standards. The burden rests on the licensee or registrant to prove that an extension should be granted, which in no case shall exceed an additional six months.

Subp. 4. **Reinstatement.** A license or registration which has expired pursuant to this part may be reinstated pursuant to part 3100.1850.

Subp. 5. **Contested case proceedings.** The board, in lieu of the process set out in subpart 3, may initiate a contested case hearing to revoke or suspend a license or registration for failure to submit the fees and CDE information requested on the renewal application, at the same time that it initiates disciplinary proceedings against the licensee or registrant for other grounds specified in Minnesota Statutes, section 150A.08, subdivision 1, and parts 3100.6100 to 3100.7200 and 3100.8100.

Statutory Authority: *MS s 150A.04 subd 5; 150A.08 subd 3; 150A.09 subd 1; 214.06 subd 2*

History: *10 SR 1612*

3100.1800 [Repealed, 10 SR 1612]

3100.1850 REINSTATEMENT OF LICENSURE OR REGISTRATION.

Subpart 1. **Requirements.** Upon complying with the requirements specified in this part, the applicant's license or registration shall be reinstated. Any person desiring the reinstatement of a license or registration shall:

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A. submit to the board a completed application on a form provided by the board;

B. submit with the application the fee specified in part 3100.2000, subpart 6;

C. include with the application a letter stating the reasons for applying for reinstatement; and

D. comply with the applicable provisions of subparts 2 to 5. Upon reinstatement, the person shall be assigned to the CDE cycle to which the licensee or registrant was assigned prior to termination of the license or registration.

Subp. 2. Expiration or voluntary termination of less than five years. Applicants whose license or registration has expired pursuant to part 3100.1700, subpart 3, or who voluntarily terminated their license or registration less than five years previous to the application for reinstatement must:

A. Submit evidence of having completed the CDE requirements that would have applied to them had their licenses or registration not expired. If the license or registration had expired because of failure to meet CDE requirements or if the applicant's CDE cycle concluded during the time that the license or registration was in expired status and the requirements had not been complied with, the applicant must first successfully complete part II of the national board examination or the clinical examination specified in part 3100.1100, subpart 2, for dentists; the national board examination or the clinical examination specified in part 3100.1200, item C, for dental hygienists; and the examination for initial registration for registered dental assistants.

B. Pay the annual renewal fees and applicable penalty fees for the years between expiration or termination of licensure or registration and filing a reinstatement application.

Subp. 3. Expiration or voluntary termination of more than five years. Applicants whose license or registration has expired pursuant to part 3100.1700, subpart 3, or who voluntarily terminated their license or registration more than five years previous to the application for reinstatement must:

A. Submit evidence of having successfully completed part II of the national board examination and the clinical examination specified in part 3100.1100, subpart 2, for dentists; the national board examination and the clinical examination specified in part 3100.1200, item C, for dental hygienists; and the registration examination specified in part 3100.1300, item C, for registered dental assistants.

B. Pay the annual renewal fees and applicable penalty fees for the five years immediately preceding application for reinstatement.

Subp. 4. Revoked or suspended licenses. No license or registration which has been suspended or revoked by the board may be reinstated unless the applicant for reinstatement provides evidence of full rehabilitation from the offense for which the license or registration was suspended or revoked and complies with all other reasonable conditions imposed by the board for the purpose of establishing the extent of rehabilitation. In addition, if the disciplinary action were based in part on failure to meet CDE requirements, the license or registration may not be reinstated until the applicant has successfully completed the applicable examination specified in part 3100.1850, subparts 2 and 3.

Subp. 5. Scope. Nothing in this part prohibits a dentist or dental hygienist from applying for licensure pursuant to part 3100.1400.

Statutory Authority: *MS s 150A.04 subd 5; 150A.08 subd 3; 150A.09 subd 1; 214.06 subd 2*

History: *10 SR 1612*

3100.1900 [Repealed, 10 SR 1612]

3100.2000 FEES.

Subpart 1. Application fees. Each applicant for licensure as a dentist or dental hygienist or for registration as a registered dental assistant shall submit with a license or registration application a fee in the following amounts:

- A. dentist application, \$100;
- B. dental hygienist application, \$45; and
- C. dental assistant application, \$25.

Subp. 2. Annual license or registration fees. Each dentist, dental hygienist, and registered dental assistant shall submit with an annual license or registration renewal application a fee as established by the board not to exceed the following amounts:

- A. dentist, \$80;
- B. dental hygienist, \$30; and
- C. registered dental assistant, \$20.

Subp. 3. Licensure by credentials. Each applicant for licensure as a dentist or dental hygienist by credentials pursuant to Minnesota Statutes, section 150A.06, subdivision 4 and part 3100.1400 shall submit with the license application a fee in the following amounts:

- A. dentist, \$425; and
- B. dental hygienist, \$100.

Subp. 4. Annual license or registration late fee. Applications for renewal of any license or registration received after the time specified in part 3100.1700 are subject to a late fee equal to 50 percent of the annual renewal fee.

Subp. 5. Duplicate license or registration fee. Each licensee or registrant shall submit with a request for issuance of a duplicate of the original license or registration or of an annual renewal of it a fee in the following amounts:

- A. original dentist or dental hygiene license, \$10; and
- B. initial and renewal registration certificates and license renewal certificates, \$8.

Subp. 6. Reinstatement fee. No dentist, dental hygienist, or registered dental assistant whose license or registration has been suspended or revoked shall have the license or registration reinstated or a new license or registration issued until a fee has been submitted to the board in the following amount:

- A. dentist, \$100;
- B. dental hygienist, \$45; and
- C. registered dental assistant, \$25.

Subp. 7. Application for permission to take dental X rays. A person applying for permission to take dental X rays pursuant to part 3100.8500, subpart 3, shall submit with an application a fee in the amount of \$10.

Subp. 8. Application for approval as sponsor of CDE courses. A person applying for approval as a sponsor of CDE programs pursuant to part 3100.4200, subpart 2, shall submit with an application a fee in the amount of \$75.

Subp. 9. Affidavit of licensure. Each licensee or registrant shall submit with a request for an affidavit of licensure a fee in the amount of \$10.

Subp. 9a. Verification of licensure. Each institution or corporation shall submit with a request for verification of a licensure or registration a fee in the amount of \$5 for each license or registration to be verified.

Subp. 10. Refunds. No fee shall be refunded for any reason except in those cases where the applicant for licensure or registration is found to be ineligible to take the examination.

Statutory Authority: *MS s 16A.128; 150A.04; 150A.06; 150A.08; 150A.09; 150A.10; 150A.11; 214.06*

History: *9 SR 1098; 10 SR 955; 10 SR 1612; 12 SR 952; 14 SR 1214*

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EXAMINATIONS FOR LICENSURE

3100.3100 CONDUCT OF EXAMINATIONS.

The following rules govern the conduct of examinations given to those applicants for licensure as a dentist or dental hygienist or for registration as a registered dental assistant and must be strictly adhered to throughout the entire examination. An examinee who violates any of the rules or instructions applicable may be declared by the board to have failed the examination.

A. The board may employ qualified persons to serve as proctors to assist members in the conduct of the examinations.

B. The board shall assign each applicant a number, and said applicant shall be known by that number throughout the entire examination.

C. The ability of an examinee to read and interpret instructions and examination material is a part of the examination.

D. Any examinee who gives or receives assistance in any portion of the examination may be dismissed from the examination.

E. An examinee shall not leave the examination room without permission of an examiner or proctor.

F. Notes, textbooks, or other informative data shall not be brought to the examination rooms.

G. An examinee shall not alter questions or write explanations to answers on the examination paper.

H. Copying of examination questions is forbidden.

I. Question sheets must be returned with the answer sheets.

J. An examinee shall occupy the space assigned throughout the entire examination.

K. When finished writing during an assigned period, the examinee shall turn in the complete papers to an examiner or proctor and leave the room.

L. Under no circumstances shall an examination paper be returned to an examinee once it has been submitted as in K.

M. No persons other than those directly connected with the examination shall be admitted to the examination rooms.

Statutory Authority: *MS s 150A.04 subd 5; 150A.08 subd 1; 319A.18*

History: *10 SR 1613*

3100.3200 CLINICAL EXAMINATIONS.

Every dentist and dental hygienist applicant shall give a demonstration of skill in those operations appropriate for his level of licensure or registration prescribed by the board. Registered dental assistant applicants may also be so examined. All operations shall be performed in the presence of a board member qualified for the particular examination being given or consultant appointed by the board for that purpose.

Statutory Authority: *MS s 150A.04 subd 5; 150A.06 subds 1,2; 150A.08 subd 1; 319A.18*

History: *10 SR 1613*

3100.3300 EXAMINATION OF DENTISTS.

Subpart 1. Scope. The act provides that the examination of applicants for a license to practice dentistry in this state shall be sufficiently thorough to test the fitness of the applicant to practice dentistry.

Subp. 2. National board examination. Each applicant must pass a national board examination. At the discretion of the board, any dentist who has lawfully practiced dentistry in another state for five years may be exempted from taking a national board examination.

Subp. 3. Additional written examination content. All applicants shall be examined for general knowledge of the act, the rules of the board and the Minnesota Professional Corporations Act. Additional written theoretical examinations may be administered by the board for licensure.

Subp. 4. Diagnosis and treatment examination. All dentist applicants may be examined in oral diagnosis and treatment planning. Such examination shall be formulated to test the applicant's ability to recognize and institute treatment of common oral pathologic conditions as well as to test his knowledge, understanding, and judgment relative to all types of dental health service.

Subp. 4a. Additional education for two failed clinical examinations. When an applicant fails twice any part of the clinical examination required by Minnesota Statutes, section 150A.06, subdivision 1, the applicant may not take it again until the applicant successfully completes additional education provided by an institution accredited by the Commission on Accreditation. The education must cover all of the subject areas failed by the applicant in each of the two clinical examinations. The applicant may retake the examination only after the institution provides to the board information specifying the areas failed in the previous examinations and the instruction provided to address the areas failed, and certifies that the applicant has successfully completed the instruction. The applicant must take the additional instruction provided above each time the applicant fails the clinical examination twice.

Subp. 5. Examination for continued licensure. The board may administer any other examination it deems necessary to determine qualification for continued licensure.

Statutory Authority: *MS s 150A.04; 150A.06; 150A.08; 150A.09; 150A.10; 150A.11; 214.06*

History: *10 SR 1612; 14 SR 1214*

3100.3400 EXAMINATION OF DENTAL HYGIENISTS.

Subpart 1. Scope. The act provides that the examination of applicants for a license to practice dental hygiene in this state shall be sufficiently thorough to test the fitness of the applicant to practice dental hygiene.

Subp. 2. National board examination. Each applicant must pass a national board examination. At the discretion of the board, any dental hygienist duly licensed to practice as such in another state which has and maintains laws regulating the practice of dental hygiene by dental hygienists, equivalent to this state's, who is of good professional character and is desirous of licensure in this state and presents a certificate from the examining board of the state in which the applicant is licensed so certifying, may be exempted from taking a national board examination provided the applicant has been licensed for five or more years.

Subp. 3. Additional examination content. All applicants shall be examined for general knowledge of the act and the rules of the board. Additional written theoretical examinations may be administered by the board.

Subp. 3a. Additional education for two failed clinical examinations. When an applicant fails twice any part of the clinical examination required by Minnesota Statutes, section 150A.06, subdivision 2, the applicant may not take it again until the applicant successfully completes additional education provided by an institution accredited by the Commission on Accreditation. The education must cover all of the subject areas failed by the applicant in each of the two clinical examinations. The applicant may retake the examination only after the institution provides to the board information specifying the areas failed in the previous examinations and the instruction provided to address the areas failed, and certifies that the applicant has successfully completed the instruction. The applicant must take the additional instruction provided above each time the applicant fails the clinical examination twice.

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Subp. 4. Examination for continued licensure. The board may administer any other examination it deems necessary to determine qualifications for continued licensure.

Statutory Authority: *MS s 150A.04; 150A.06; 150A.08; 150A.09; 150A.10; 150A.11; 214.06*

History: *10 SR 1612; 14 SR 1214*

3100.3500 EXAMINATION OF REGISTERED DENTAL ASSISTANTS.

Subpart 1. Scope. The act provides that the examination of applicants for registration as dental assistants in this state shall be sufficiently thorough to test the fitness of the candidate to practice the skills that a registered dental assistant is authorized to perform.

Subp. 2. Registration examination. All applicants must pass a registration examination approved by the board.

Subp. 2a. Additional education for two failed clinical examinations. When an applicant fails twice any part of the clinical examination required by Minnesota Statutes, section 150A.06, subdivision 2a, the applicant may not take it again until the applicant successfully completes additional education provided by an institution accredited by the Commission on Accreditation. The education must cover all of the subject areas failed by the applicant in each of the two clinical examinations. The applicant may retake the examination only after the institution provides to the board information specifying the areas failed in the previous examinations and the instruction provided to address the areas failed, and certifies that the applicant has successfully completed the instruction. The applicant must take the additional instruction provided above each time the applicant fails the clinical examination twice.

Subp. 3. Additional examination content. All candidates shall be examined for general knowledge of the act and the rules of the board.

Subp. 4. Examination for continued registration. The board may administer any other examination it deems necessary to determine qualifications for continued registration.

Statutory Authority: *MS s 150A.04; 150A.06; 150A.08; 150A.10; 150A.11; 214.06*

History: *14 SR 1214*

CONTINUING EDUCATION

3100.4100 CONTINUING DENTAL EDUCATION.

Subpart 1. Evidence of attendance. Each licensee and registrant shall provide evidence on forms supplied by the board, that the person has attended or participated in CDE as required by parts 3100.4100 to 3100.4600.

Subp. 2. Minimum hours. The minimum number of hours of approved CDE for each five years shall be: for dentists, 75 hours; for dental hygienists, 40 hours; and for registered dental assistants, 25 hours. Of these hours, dentists may earn no more than 15 hours, dental hygienists no more than eight hours, and registered dental assistants no more than five hours on nonclinical subjects relating to the dental profession.

Nonclinical subjects relating to the dental profession are those which cover skills related to dental services in general which are not directly related to, but are nevertheless supportive of, the provision of clinical services. Examples of nonclinical subjects relating to the dental profession are patient management, the legal and ethical responsibilities of the dental profession, and stress management.

Examples of subjects that are not considered to be related to the dental profession are estate planning, financial planning, marketing, investments, and personal health.

Subp. 3. Five-year cycles. The five-year cycles shall be established as follows.

Each person licensed prior to July 1, 1977, shall remain within the five-year time cycle already assigned to him under Minnesota Statutes 1974, section 150A.09, subdivision 2.

Each person registered on or before June 30, 1977, shall commence the first five-year cycle on July 1, 1977.

Each person initially licensed after July 1, 1977, and each person initially registered after June 30, 1977, shall commence the first five-year cycle on July 1 following the date of initial licensure or registration.

The anniversary date for completing CDE credits shall be June 30.

Subp. 4. Exemptions. A licensee or registrant who pays an annual license or registration renewal fee is exempt from complying with the CDE requirements if he or she files with the board an affidavit specifying that the licensee or registrant does not practice, including on a volunteer or free basis, within the state.

Subp. 5. Expiration of exemption. A licensee or registrant claiming exemption under subpart 4 who subsequently decides to resume practice shall submit to the board, before resuming practice, a written notice of the intended change and evidence of having completed CDE requirements equivalent to what the requirements would have been without the exemption for the five years immediately preceding the date of receipt of the notice of the intent to resume practice. If the licensee or registrant has not complied with the CDE requirements, the licensee or registrant must comply with part 3100.1850, subpart 2, if the licensee or registrant had been exempt from complying with CDE requirements for less than five years and with part 3100.1850, subpart 3, if exempt more than five years. The licensee or registrant may not resume practice until notified by the board that the evidence submitted is acceptable. The licensee or registrant will be placed into the CDE cycle that he or she would have been in if the exemption was not claimed.

Statutory Authority: *MS s 150A.04; 150A.06; 150A.08; 150A.09; 150A.10; 150A.11; 214.06; 214.12*

History: *10 SR 1612; 14 SR 1214*

3100.4200 CDE SPONSORS.

Subpart 1. Sponsor approval system. The board adopts a sponsor approval CDE system except as provided for in part 3100.4300.

Subp. 2. Application procedure. Persons or organizations intending to offer courses for CDE credit shall present a completed application on a form provided by the board. The form will request the submission of information which will enable the board to determine whether the applicant meets the standards for sponsor approval as specified in subpart 5. The board may require the submission of any other information it deems necessary to determine whether the applicant meets those standards. Each application for sponsor approval submitted to the board must include the application fee established in part 3100.2000 before the application will be considered. The board may use as a consultant a committee, which may include nonboard members, to evaluate sponsor applications.

Subp. 3. [Repealed, 10 SR 1612]

Subp. 4. Sponsor renewal. When the board approves a sponsor, the approval will remain in effect for four years. In order to remain an approved sponsor, the sponsor must again submit an application and fee as provided for in subpart 2 and be approved before the expiration of the four-year period.

Subp. 5. Approval standards. The board will approve as a sponsor those applicants which meet the following standards:

A. The applicant is formally organized as a corporation (for profit or not for profit), partnership, accredited educational institution, or other formal association and has as one of its principal purposes the sponsoring of CDE courses.

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B. The courses proposed by a sponsor must have significant intellectual or practical content which deal in the clinical and scientific aspect of dentistry and patient communication or in nonclinical subjects relating to the dental profession as specified in part 3100.4100, subpart 2.

C. The applicant shall permit only those who are qualified by practical or academic experience to teach, speak, lecture, or make presentations at CDE course sponsored by it.

Subp. 6. Proof of participation. Each sponsor, at least once during each CDE course sponsored by it, shall announce to all participants that in order to receive CDE credit that they submit to the sponsor a card supplied by the board within two weeks of completion of the course. The sponsor shall submit all cards to the board within three weeks after completion of the course.

Subp. 7. Denial or revocation of approval. The board shall state in writing its reasons for denying any sponsor application.

The board may deny approval of a specific course offered by an approved sponsor if such a course does not meet the standards of courses as specified by part 3100.4300, subpart 3.

The board may revoke its approval of any sponsor for failure to comply with provisions of subparts 4, 5, and 6 and part 3100.4700, for falsification of any information requested or required by the board relating to the application for approval as a sponsor or to the administration of courses of a sponsor, or for other just cause.

Statutory Authority: *MS s 150A.04 subd 5; 150A.09 subd 6; 214.06 subd 1; 214.12*

History: *10 SR 1612*

3100.4300 APPROVAL OF COURSES ATTENDED.

Subpart 1. Credit for nonapproved courses. Licensees or registrants may apply individually for approval of CDE courses which are sponsored by organizations which have not applied and been approved as sponsors pursuant to part 3100.4200. Information as specified in subpart 2 as well as any other information which the board may reasonably require for the purposes of evaluating the course for which approval is sought shall be submitted to the board. The board may use as consultants a committee appointed for such evaluation.

Subp. 2. Information required. The following information, along with the form supplied by the board for reporting participation in CDE courses with the back side of it completed, shall be submitted to the board by a licensee or registrant:

A. the name and address of the organization sponsoring the course for which credit is requested;

B. the name and address of the person in the sponsoring organization with which the board may correspond with respect to the course for which credit is requested;

C. a detailed description of the content of the course;

D. the name of each instructor or person making a presentation and his credentials;

E. the location including the name and address of the facility at which the course will be conducted.

Subp. 3. Course approval standards. The board shall grant CDE credit for any course which meets the following standards. The course shall have significant intellectual or practical content dealing in the clinical and scientific aspect of dentistry and patient communication, or in nonclinical subjects related to the dental profession as specified in part 3100.4100, subpart 2.

Subp. 4. Qualifications to present courses. Each person making a CDE course

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presentation shall be qualified by practical or academic experience to teach the subjects he covers. Participants shall attend courses in a classroom, laboratory, or setting suitable for the course. Video, motion picture, or sound tape presentations may be used provided a qualified person is present to verify attendance.

Subp. 5. Excluded courses. No course will be approved which involves TV viewing in the home, correspondence work, or self-study only.

Ordinarily, credit will not be given for speeches given at luncheons or banquets.

Subp. 6. Written denial. The board shall state in writing its reasons for denying any application for approval of a course for CDE credit hours.

Statutory Authority: *MS s 150A.04 subd 5; 150A.09 subd 6; 214.06 subd 1; 214.12*

History: *10 SR 1612*

3100.4400 ESTABLISHING CREDIT HOURS FOR COURSES.

For courses presented by sponsors approved pursuant to part 3100.4200, and for courses approved pursuant to part 3100.4300, the board shall fix the number of hours of CDE credit based upon the following criteria:

A. Multiday convention-type meetings such as state or national dental conventions or their equivalent will be given three clock hours credit.

B. Scientific or educational meetings or courses or similar offerings will be credited on an hour-for-hour basis.

C. Home study with an accompanying examination will be awarded hourly credit if the examination is successfully completed based upon a determination by the board or sponsor of the reasonable amount of time necessary to cover the material and take the examination and not on the basis of the individual time taken to study or review the material.

D. Presentation of a course made on behalf of an approved sponsor will be credited on an hour-for-hour basis.

Statutory Authority: *MS s 150A.04 subd 5; 150A.09 subd 6; 214.06 subd 1; 214.12*

History: *10 SR 1612*

3100.4500 SOURCES OF CDE CREDIT.

Subpart 1. Lectures, research, and study. Sponsors may offer for, and licensees and registrants may request continuing dental education for, the following which shall also comply with the requirements of parts 3100.4200, subpart 5 and 3100.4300, subpart 3:

A. lectures;

B. study clubs;

C. college postgraduate courses;

D. scientific sessions of conventions;

E. research;

F. graduate study;

G. course presentation made on behalf of an approved sponsor; and

H. home study with a testing mechanism supplied by the sponsor. In order to receive CDE credit, the licensee or registrant must successfully complete and pass the test.

Subp. 2. Other forms of CDE. The board may also approve other forms of CDE if the approval standards as specified in parts 3100.4200, subpart 5 and 3100.4300, subpart 3 are met. Examples of such other forms of CDE are:

A. Successfully passing part II of the national board examination for dentists if taken five or more years after graduation. This will fulfill the five year requirement for dentists.

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B. Satisfactory completion of an advanced education program such as an internship or residency accredited by the American Dental Association Commission on Accreditation and approved by the board. Such programs will fulfill the five year requirement for dentists.

C. Successfully passing the national board examination for dental hygiene if taken five or more years after graduation. This will fulfill the five year requirement for hygienists.

D. Satisfactory completion of an advanced education program approved by the board. This will fulfill the five year requirement for hygienists.

E. Publication of articles or books. CDE credit will be granted on an individual consideration basis.

Statutory Authority: *MS s 214.12*

3100.4600 TIME LIMITS FOR NOTICE OF ATTENDANCE.

Within two weeks after completing a course given by a sponsor approved pursuant to part 3100.4200, the licensee or registrant shall fill out the form supplied by the board for reporting participation in CDE courses and submit it to the sponsor. If a course is taken from a sponsor not approved by the board under part 3100.4200, CDE credit for that course will not be granted unless the licensee or registrant applies for course approval under part 3100.4300 within two weeks after completion of the course. If a licensee or registrant fails to comply with the time limits specified, the board may refuse to grant CDE credit for the applicable course.

Statutory Authority: *MS s 150A.04 subd 5; 150A.09 subd 6; 214.06 subd 1; 214.12*

History: *10 SR 1612*

3100.4700 [Repealed, 10 SR 1612]

SUSPENSION OR REVOCATION OF LICENSE OR REGISTRATION

3100.6100 STATUTORY GROUNDS FOR DISCIPLINE.

In general terms, the grounds for suspension or revocation of licenses of dentists and dental hygienists and of the registration of dental assistants are set forth in Minnesota Statutes, section 150A.08, subdivision 1 of the act.

Statutory Authority: *MS s 150A.04 subd 5*

3100.6200 CONDUCT UNBECOMING A LICENSEE OR REGISTRANT.

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

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

B. gross ignorance or incompetence in the practice of dentistry and/or repeated performance of dental treatment which fall below accepted standards;

C. making suggestive, lewd, lascivious, or improper advances to a patient;

D. charging a patient an unconscionable fee or charging for services not rendered (applicable to dentists only);

E. performing unnecessary services;

F. performing services not authorized by the dentist, the act, or these rules (applicable to hygienist or registered dental assistants only);

G. accepting rebates, split fees, or, applicable to dentists only, commis-

sions from any source associated with the service rendered to a patient; provided, however, that the sharing of profits in a dental partnership or association, or dental professional corporation approved by and registered with the board, shall not be construed as splitting fees nor shall compensating dental auxiliaries on the basis of a percentage of the fee received for the overall service be deemed accepting a commission;

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

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

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

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

L. failing to provide access to and transfer of medical and dental records as prescribed by Minnesota Statutes, section 144.335.

Statutory Authority: *MS s 150A.04; 150A.06; 150A.08; 150A.10; 150A.11; 214.06; 319A.18*

History: *10 SR 1613; 14 SR 1214*

3100.6300 ADEQUATE SAFETY AND SANITARY CONDITIONS FOR DENTAL OFFICES.

Subpart 1. **Minimum conditions.** The following subparts 2 to 11 are minimum safety and sanitary conditions.

Subp. 2. **Premises.** The premises shall be kept neat and clean, and free of accumulations of rubbish, ponded water, or other conditions of similar nature which would have a tendency to create a public health nuisance.

Subp. 3. **Housekeeping facilities and services.** Housekeeping facilities and services necessary to assure comfortable and sanitary conditions for patients and employees shall be utilized.

Subp. 4. **Control of insects and vermin.** The premises shall be kept free of ants, flies, roaches, rodents, and other insects or vermin. Proper methods for their eradication or control shall be utilized.

Subp. 5. **Refuse disposal.** Refuse shall be kept in approved containers and emptied at frequent intervals.

Subp. 6. **Heating, lighting, and other service equipment.** The heating of offices shall be by heating systems conforming to state and local heating codes and regulations. Individual room heaters shall be so located as to avoid direct contact with any combustible material. Installation and maintenance of electric wiring, motors, and other electrical equipment shall be in accordance with applicable state and local electric codes and regulations.

Subp. 7. **Water supply.** An ample supply of water of a safe, sanitary quality, from a source that is approved by the agent of a board of health as authorized under Minnesota Statutes, section 145A.04, shall be piped under pressure, and in an approved manner, to all equipment and fixtures where the use of water is required.

Subp. 8. **Plumbing.** Plumbing shall be in accordance with all applicable plumbing codes. Adequate hand washing facilities, of an approved type, shall be provided convenient to the work area. Hand washing facilities shall be equipped with soap and towels, and the drain from such facility shall be properly trapped and connected directly to the waste disposal system.

Subp. 9. **Disposal of liquid and human waste.** All liquid and human waste, including floor wash water, shall be disposed of through trap drains into a public

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sanitary sewer system in localities where such a system is available. In localities where a public sanitary sewer system is not available, liquid and human waste shall be disposed of through trapped drains and in a manner approved by the authorized agent.

Subp. 10. **Clean rooms.** Floors, walls, and ceilings of all rooms, including store rooms, shall be clean and free of any accumulation of rubbish.

Subp. 11. **Sterilizers and sterilization.** Every dental office shall be equipped with adequate sterilizing facilities for instruments and supplies. Sterilization procedures shall be adequately and regularly employed.

Statutory Authority: *MS s 150A.08 subd 1*

History: *L 1987 c 309 s 24*

3100.6325 VOLUNTARY TERMINATION OF LICENSURE OR REGISTRATION.

The board may refuse to accept a licensee's or registrant's voluntary termination of license or registration if the board has reason to believe that the licensee or registrant has violated any of the provisions of Minnesota Statutes, chapter 150A or board rules, and has determined that allegations are serious enough to warrant resolution other than by voluntary termination.

Statutory Authority: *MS s 150A.04 subd 5; 150A.08 subd 1; 319A.18*

History: *10 SR 1613*

3100.6350 REQUIRED COOPERATION.

Any licensee, registrant, or applicant who is the subject of an investigation or proceeding under these parts or under Minnesota Statutes, sections 150A.08 and 214.10 shall cooperate with the board, its agents, or those working on behalf of the board by complying with any reasonable request including requests to:

A. furnish designated papers, documents, or tangible objects;

B. furnish in writing a full and complete explanation covering the matter under consideration;

C. appear for conferences and hearings at the time and places designated.

Violation of this part is conduct unbecoming a licensee or registrant or conduct contrary to the best interests of the public. Good faith challenges to requests of the board will not be deemed a failure to cooperate. These challenges shall be brought before the appropriate agency or court.

Statutory Authority: *MS s 150A.04 subd 5; 150A.08 subd 1; 319A.18*

History: *10 SR 1613*

3100.6400 IMPROPER AND UNJUSTIFIED NAMES.

Any name used for a dental practice which connotes unusual or superior dental ability, or which is likely to create a false or unjustified expectation of favorable results shall be in violation of Minnesota Statutes, sections 150A.11, subdivision 1 and 319A.07.

Statutory Authority: *MS s 150A.04 subd 5; 150A.11 subds 1,2; 214.15; 319A.07*

History: *10 SR 1613*

ADVERTISING

3100.6500 COMMUNICATING DECEPTIVE STATEMENT OR CLAIM.

A person shall not, on behalf of himself, a partner, associate, or any other dentist affiliated with him through a corporation or association, use or participate in the use of any form of public communication containing a false, fraudulent, misleading, or deceptive statement or claim.

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A false, fraudulent, misleading, or deceptive statement or claim is one which:

- A. contains a misrepresentation of fact;
- B. is likely to mislead or deceive because in context it makes only a partial disclosure of relevant facts;
- C. is intended or is likely to create false or unjustified expectations of favorable results;
- D. appeals to an individual's anxiety in an excessive or unfair way;
- E. contains material claims of superiority that cannot be substantiated;
- F. misrepresents a dentist's credentials, training, experience, or ability;

or

G. contains other representations or implications that in reasonable probability will cause an ordinary, prudent person to misunderstand or be deceived.

Statutory Authority: *MS s 150A.04 subd 5; 150A.11 subd 2; 214.15*

History: *10 SR 1613*

3100.6600 ADVERTISING DENTAL FEES AND SERVICES.

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

A. **Examination:** a study by the dentist of all the structures of the oral cavity, including the appropriate recording or charting of the condition of all such structures and appropriate history thereof, the identification of periodontal disease and occlusal discrepancies, the detection of caries and oral abnormalities, and the development of a treatment plan. If there is a charge in addition to the examination fee for radiographs and/or the provision to the patient of a written opinion of the items found in the examination (i.e., diagnosis) or of a written itemized treatment recommendation and itemized fee (i.e., treatment plan), such fact shall be disclosed in the advertisement.

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

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

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

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

Subp. 2. [Repealed, 10 SR 1613]

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

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

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

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

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Statutory Authority: *MS s 150A.04 subd 5; 150A.11 subd 2; 214.15*

History: *10 SR 1613*

3100.6700 NAME AND ADDRESS IN ADVERTISEMENT.

Any advertising must include the corporation, partnership, or individual dentist's name and address.

Statutory Authority: *MS s 150A.11 subd 2; 214.15*

3100.6800 NEWS MEDIA COMPENSATION.

A person shall not compensate or give anything of value to a representative of the press, radio, television, or other communicative medium in anticipation of or in return for professional publicity unless the fact of compensation is made known in such publicity.

Statutory Authority: *MS s 150A.11 subd 2; 214.15*

3100.6900 CONSIDERATION FOR PATIENT REFERRAL.

A person shall not directly or indirectly offer, give, receive, or agree to receive any fee or other consideration to or from a third party for referral of a patient in connection with the performance of professional services.

Statutory Authority: *MS s 150A.11; 214.15*

3100.7000 ADVERTISING DENTAL SPECIALTY PRACTICE.

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

- A. endodontics (endodontist);
- B. oral and maxillofacial surgery (oral surgeon/oral maxillofacial surgeon);
- C. oral pathology (oral pathologist);
- D. orthodontics (orthodontist);
- E. pediatric dentistry (pediatric dentist);
- F. periodontics (periodontist);
- G. prosthodontics (prosthodontist); and
- H. public health.

Subp. 2. Postdoctoral course completion. Only licensed dentists who have successfully completed a postdoctoral course approved by the Commission on Accreditation in one of the specialty areas, or who announced a limitation of practice prior to 1967, or who have been approved by one of the following specialty examining boards, may announce specialty practice and may advertise as a specialist: American Board of Dental Public Health, American Board of Endodontics, American Board of Oral Surgery, American Board of Oral Pathology, American Board of Orthodontics, American Board of Pedodontics, American Board of Periodontology, and American Board of Prosthodontics.

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

Statutory Authority: *MS s 150A.04; 150A.06; 150A.08; 150A.10; 150A.11; 214.06; 214.15*

History: *14 SR 1214*

3100.7100 PROHIBITED ADVERTISEMENTS.

Advertisements shall not:

- A. reveal a patient's identity or personally identifiable facts, data, or

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information obtained in a professional capacity without having first obtained a written waiver of patient confidentiality; or

B. after one year, include the name of any dentists formerly practicing at or associated with any advertised location.

Statutory Authority: *MS s 150A.04 subd 5; 150A.11 subd 2; 214.15*

History: *10 SR 1613*

3100.7200 FAILURE TO RESPOND TO ADVERTISING COMPLAINT.

Failing to respond within 30 days to written communications from the Board of Dentistry or failure to make available to the board any relevant records with respect to an inquiry or complaint about the licensee's advertising practices shall constitute a violation of Minnesota Statutes, section 150A.08, subdivision 1, clause (5) of the act and parts 3100.6500 to 3100.7200. The period of 30 days shall commence on the date when such communication was sent from the board by certified mail with return receipt requested to the address appearing in the last registration.

Statutory Authority: *MS s 150A.11 subd 2; 214.15*

AUXILIARY PERSONNEL**3100.8100 EMPLOYING, ASSISTING, OR ENABLING UNLICENSED PRACTICE.**

"Employing, assisting, or enabling in any manner an unlicensed person to practice dentistry," defined:

A. The phrase "employing, assisting, or enabling in any manner an unlicensed person to practice dentistry" as found in Minnesota Statutes, section 150A.08, subdivision 1, clause (9) of the act shall include the practice by a licensed dentist in the same premises occupied by a dental laboratory or technician if such dental laboratory or technician advertises, solicits, represents, or holds itself out in any manner to the general public that it will sell, supply, furnish, construct, repair, or alter prosthetic, orthodontic, or other devices or structures to be used as substitutes for, or as a part of natural teeth or jaws or associated structures or for correction of malocclusions or deformities, or who in any way violates the provisions of Minnesota Statutes, section 150A.11, subdivision 3, of the act.

B. "In the same premises" as used in item A shall mean public facilities used in common, such as office door, reception room, receptionist, files, telephone, telephone number, address, post office box, etc.

C. Permitting persons to perform services for which they have not been registered or licensed.

Statutory Authority: *MS s 150A.08 subd 1; 150A.11 subd 1*

3100.8200 UNLAWFUL PRACTICE BY AUXILIARY PERSONNEL.

Any assistant, hygienist, or dental technician who assists a dentist in practicing dentistry in any capacity other than as an employee or independent contractor, who directly or indirectly procures a licensed dentist to act as nominal owner, proprietor, or director of a dental office as a guise or subterfuge to enable such assistant, hygienist, or dental technician to engage directly in acts defined by the act as the "practice of dentistry," or who performs dental services within the meaning of Minnesota Statutes, section 150A.11, subdivision 1, of the act for members of the public, other than as an employee or independent contractor for an employing dentist, shall be deemed to be practicing dentistry without a license.

Statutory Authority: *MS s 150A.08 subd 1; 150A.10 subs 1,2,3; 150A.11 subd*

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3100.8300 RESPONSIBILITIES OF LICENSED DENTIST.

Nothing contained in these rules relating to the scope of services rendered by assistants, technicians, or hygienists shall diminish or abrogate the professional and legal responsibilities of employing dentists to their patients, to their profession, and to the state of Minnesota. Dentists employing assistants, technicians, or hygienists shall be fully responsible for all acts or omissions of such personnel performed or omitted if within the normal scope of their employment; i.e., acts or omissions of such personnel whether or not omitted or committed by such personnel at the instance and request of the employing dentist if the omission or commission thereof is within the normal scope of their employment.

Statutory Authority: *MS s 150A.04 subd 5*

3100.8400 ASSISTANTS.

Subpart 1. Permissible duties. Assistants may perform all those duties not directly related with performing dental treatment or services on patients; retract a patient's cheek, tongue, or other parts of tissue during a dental operation; assist with the placement or removal of a rubber dam and accessories used for its placement and retention, as directed by an operating dentist during the course of a dental operation; remove such debris as is normally created or accumulated during the course of treatment being rendered by a licensed dentist during or after operative procedures by the dentist by the use of vacuum devices, compressed air, mouthwash, and water; provide any assistance, including the placement of articles and topical medication in a patient's oral cavity, in response to a specific direction to do so by a licensed dentist who is then and there actually engaged in performing a dental operation as defined in the act and who is then actually in a position to give personal supervision to the rendition of this assistance; and aid dental hygienists and registered dental assistants in the performance of their duties as defined in subpart 2 and parts 3100:8600 and 3100.8700.

Subp. 2. [Repealed, 10 SR 1612]

Subp. 3. Other duties prohibited. No assistant may perform any other dental treatment or procedure on patients not otherwise authorized by these rules.

Statutory Authority: *MS s 150A.04 subd 5; 150A.10 subds 1,2*

History: *10 SR 1612*

3100.8500 REGISTERED DENTAL ASSISTANTS.

Subpart 1. Permissible duties. Registered dental assistants in addition to services performed by the assistant may perform the following services under the indirect supervision of a dentist:

- A. take radiographs;
- B. take impressions for study casts and opposing casts;
- C. apply topical medications and cavity varnishes prescribed by dentists, not to include pit and fissure sealants;
- D. place and remove rubber dam;
- E. remove excess cement from inlays, crowns, bridges, and orthodontic appliances with hand instruments only;
- F. perform mechanical polishing to clinical crowns not including instrumentation. Removal of calculus by instrumentation must be done by the dentist or dental hygienist prior to performance of mechanical polishing;
- G. preselect orthodontic bands;
- H. remove and replace ligature ties on orthodontic appliances;
- I. place and remove periodontal packs;
- J. remove sutures; and
- K. monitor a patient who has been inducted by a dentist into nitrous oxide-oxygen relative analgesia.

Subp. 2. Other duties prohibited. No registered dental assistant may perform any other dental treatment or procedure on patients not otherwise authorized by these rules.

Subp. 3. Limited registration. A dental assistant, who by virtue of academic achievement which is equal to or greater than that of a registered dental assistant, and is currently qualified in Minnesota in an allied health profession may take dental radiographs under the indirect supervision of a dentist if the person complies with the requirements of this subpart. The person shall file with the board a completed application on a form furnished by the board and the fee prescribed in part 3100.2000, subpart 7. In addition, the person shall submit evidence of the successful completion of a course on dental radiographs and of passing an examination. The course must be board-approved. The course shall be equivalent to the dental radiograph courses offered by dental assisting courses approved by the board under part 3100.1300, item B. The examination must be the radiograph part of the examination which is required of registered dental assistant applicants.

Statutory Authority: *MS s 150A.04 subd 5; 150A.10 subs 1,2*

History: *10 SR 1612*

3100.8600 [Repealed, 10 SR 1612]

3100.8700 DENTAL HYGIENISTS.

Subpart 1. Permissible duties. Dental hygienists may perform the following services under the general supervision of a dentist:

- A. all services permitted under parts 3100.8400 to 3100.8500, subpart 1;
- B. complete prophylaxis to include scaling, root planing, polishing of restorations, and temporary replacement of restorations;
- C. preliminary charting of the oral cavity and surrounding structures to include case histories, and periodontal charting (this does not infer the making of a diagnosis);
- D. dietary analysis, salivary analysis, and preparation of smears for dental health purposes; and
- E. application of pit and fissure sealants.

Subp. 2. Other duties. Dental hygienists, under the indirect supervision of a licensed dentist, may remove marginal overhangs.

Subp. 3. Other duties prohibited. No dental hygienist may perform any other dental treatment or procedure on patients not authorized by these parts.

Statutory Authority: *MS s 150A.04; 150A.06; 150A.08; 150A.10; 150A.11; 214.06*

History: *10 SR 1612; 14 SR 1214*

3100.8800 DENTAL TECHNICIANS.

Subpart 1. Permissible duties. As prescribed by Minnesota Statutes, section 150A.10, subdivision 3 of the act, dental technicians may only upon a written authorization prepared and signed by a licensed dentist, construct, alter, repair, reline, reproduce, or duplicate any prosthetic device or other structure to be used in the human mouth.

Subp. 2. Written authorization forms. A dentist may not use the services of a technician without written authorization, and a carbon copy thereof shall be on printed forms and shall include:

- A. the date and city where the authorization was issued;
- B. the name of the laboratory or technician to whom the authorization was issued;

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- C. the name of the patient, or an identifying symbol;
- D. a description of the work authorized;
- E. the signature of the dentist in his actual handwriting; and
- F. the dentist's license number issued to him by the board.

Subp. 3. **Records and inspections.** A duplicate copy of each such written authorization issued by the dentist shall be retained by the dentist for not less than two years.

The original of each written authorization issued shall be retained by the technician or dental laboratory to whom it was issued for not less than two years.

The board or its agents may inspect the original and the duplicate copy of all written authorizations retained by either the dentist issuing the same, or the technician or dental laboratory to whom it was issued.

The board or its agents may inspect any devices being fabricated by a technician or dental laboratory, as well as the casts, impressions, interocclusal records, other materials sent to the technician or dental laboratory by the dentist, and the written authorization accompanying the same.

Statutory Authority: *MS s 150A.10 subd 3*

PROFESSIONAL CORPORATIONS

3100.9100 ANNUAL REPORTS.

Annual reports of professional corporations organized under Minnesota Statutes, sections 319A.01 to 319A.22, inclusive, must be submitted upon forms furnished by the board and must require submission of the following information under oath:

- A. name and registered office of the corporation;
- B. address or addresses at which the corporation is providing dental services;
- C. name and address of each director, officer, and shareholder, and the corporate title of each officer; and
- D. a certification as to the licensure status of each shareholder, director, officer, employee, and agent as required by Minnesota Statutes, section 319A.21, paragraph (b).

Statutory Authority: *MS s 150A.04 subd 5; 150A.08 subd 1; 319A.18; 319A.21*

History: *10 SR 1613*

3100.9200 REVIEW OF ANNUAL REPORT.

The board will review its licensure records and conduct such further investigation as it may deem necessary and, if it finds that the annual report does not conform to the requirements of the Minnesota Professional Corporations Act and the rules promulgated thereunder, it shall inform the applicant of the necessary requirements for conformity.

The board may delegate the review and investigation of annual reports to the executive secretary so that annual reports will be acted upon in a timely manner in the intervals between meetings of the board. Any annual reports which are not approved by the executive secretary must be considered by the full board at its next meeting.

Statutory Authority: *MS s 150A.04 subd 5; 150A.08 subd 1; 319A.18*

History: *10 SR 1613*

3100.9300 REVOCATION OF REGISTRATION.

The board shall revoke or, if appropriate, refuse to renew the registration of any corporation which no longer meets all the requirements of the Minnesota Professional Corporations Act. The corporation's eligibility to be registered or

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to continue registration must be adjudicated under the applicable provisions of the Administrative Procedure Act, Minnesota Statutes, chapter 14, and the rules of the Office of Administrative Hearings, parts 1400.5100 to 1400.8500.

Statutory Authority: *MS s 150A.04 subd 5; 150A.08 subd 1; 319A.18; 319A.20*

History: *10 SR 1613*

3100.9400 NOTICE OF NEW SHAREHOLDERS OR MEMBERS.

Whenever a professional corporation intends to admit to the corporation a new shareholder or member, the corporation shall, at least 20 days prior thereto, notify the board in writing of its intended action, indicating the identity, licensure status, and residence address of such proposed new shareholder or member.

Statutory Authority: *MS s 319A.18*

3100.9500 CORPORATE NAMES.

The names of professional corporations are governed by Minnesota Statutes, section 319A.07 and part 3100.6400.

Statutory Authority: *MS s 150A.04 subd 5; 150A.08 subd 1; 150A.11 subd 1; 319A.18*

History: *10 SR 1613*