

**THE BOARD OF REGISTRATION IN DENTISTRY WILL PROMULGATE THE
FOLLOWING REGULATIONS ON AUGUST 20, 2010.
PLEASE NOTE THAT, UNTIL THAT DATE, THE BOARD'S CURRENT
REGULATIONS AT 234 CMR SHALL REMAIN IN EFFECT.**

234 CMR 2.00: Purpose, Authority, Definitions

- 2.01: Purpose
- 2.02: Authority
- 2.03: Definitions

2.01: Purpose

234 CMR 2.00 governs the licensure and practice of dentistry and dental hygiene in Massachusetts by establishing the eligibility and licensure requirements and by establishing the standards for the practice of dentistry and dental hygiene in the Commonwealth.

2.02: Authority

The Board of Registration in Dentistry adopts 234 CMR 2.00 under authority of M. G. L. c. 13, §§ 9, 19 and M. G. L. c. 112, §§ 43 through 53, and pursuant to M. G. L. c. 30A, § 3.

2.03: Definitions

The following definitions apply to all parts of 234 CMR 2.00.

ADA means the American Dental Association.

ADAA means the American Dental Assistants Association.

ADHA means the American Dental Hygienists' Association.

Address of Record means the address of an individual licensed, registered or permitted by the Board as provided by the applicant/licensee and maintained by the Board and where the Board will send written communication(s) to the individual.

Adjudicatory Hearing means an administrative hearing held by the Board to determine the truth and validity of the allegations contained in a complaint filed against a licensee, registrant or permit holder of the Board. The hearing is held in accordance with the State Administrative Procedure Act, M. G. L. c. 30A, and the Standard Rules of Adjudicatory Practice and Procedure at 801 CMR 1.01.

Advanced Cardiac Life Support (ACLS) Certification means that an individual has successfully completed an advanced cardiac life support course offered by the American Heart Association or other entity approved by the Board.

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Advertising means a representation or other notice given to the public or members thereof, directly or indirectly, by a dentist on behalf of himself/herself, his/her facility, his/her partner or associate, or any dentist affiliated with the dentist or his/her facility by any means or method for the purpose of inducing purchase, sale or use of dental methods, services, treatments, operations, procedures or products or to promote continued or increased use of such dental methods, treatments, operations, procedures or products.

Basic Life Support (BLS) Certification means that an individual has successfully completed a course in basic life support for health care providers offered by the American Heart Association or other entity approved by the Board.

Board means the Board of Registration in Dentistry or any committee or subcommittee thereof established in the Massachusetts Department of Public Health pursuant to the provisions of the M. G. L. c. 13, §§9, 19, c. 112, §§43 through 53 and c. 30A.

Cardiopulmonary Resuscitation/Automated External Defibrillation (CPR/AED) Certification means that an individual has successfully completed a cardiopulmonary resuscitation course for professional rescuers offered by the American Red Cross or other entity approved by the Board.

CDC Guidelines means Guidelines for Infection Control in Dental Health-Care Settings-2003, United States Centers for Disease Control and Prevention as may be amended and republished.

CMR means the Code of Massachusetts Regulations published by the Regulations Division of the Massachusetts Office of the Secretary of the Commonwealth.

CODA means the Commission on Dental Accreditation of the American Dental Association.

Collaborative Agreement means a written agreement that complies with 234 CMR 5.08 and is between a public health dental hygienist and a local or state government agency or institution or with a licensed dentist who holds a valid license issued pursuant to M. G. L. c. 112, § 45 who agrees to provide the appropriate level of communication and consultation with the public health dental hygienist to ensure patient health and safety.

Community Health Center means a non-profit agency licensed by the Department of Public Health under M. G. L. c. 111, §51.

Complaint means a communication to, or other information obtained by, the Board or the Division of Health Professions Licensure which alleges that an individual, person or entity subject to regulation by the Board has engaged in conduct that violates any law, regulation, or both, related to dentistry and/or dental practice.

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Consent Agreement means a legally binding document reflecting the agreement, including specified terms and conditions, entered into by an individual licensed, registered or permitted by the Board and the Board in resolution of any complaint against such licensee.

Continuing Education Unit (CEU) means a minimum of fifty (50) minutes of education and/or experience as set forth in 234 CMR 8.00.

Conviction shall include any guilty verdict or finding of guilt and any admission to or finding of sufficient facts to warrant a finding of guilt, a continuance without a finding, and any plea of guilty or *nolo contendere* which has been accepted by the court, whether or not sentence has been imposed. A conviction of any person licensed by the Board shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against that licensee based upon the conviction.

Dental Assistant means a person qualified by education, training or experience who, under the supervision of a licensed dentist, aids or assists the dentist in the performance of procedures or duties related to the provision of dental care in accordance with the provisions in 234 CMR 2.00. A dental assistant may be classified in four categories:

- (a) Certified Dental Assistant (CDA) means a person currently certified by the Dental Assisting National Board, Inc., or its successor agency, as a certified dental assistant in general dentistry or in one of the appropriate specialties.
- (b) Dental Assistant Trained On the Job (OJT) means a person trained on the job by a dentist licensed to practice dentistry in the Commonwealth who has completed the training requirement pursuant to M. G. L. c. 112, §51 ½.
- (c) Expanded Function Dental Assistant (EFDA) means a person who is a graduate of a school or program for dental assistants accredited by the Commission on Dental Accreditation, is currently certified by the Dental Assisting National Board, Inc., or its successor agency, and has completed a formal program in expanded functions at a program accredited by the CODA.
- (d) Formally Trained Dental Assistant (FTDA) means a person who is a graduate of a school or program, of not less than one year, for dental assistants accredited or recognized by CODA or the New England Association of Schools and Colleges (NEASC), or which meets the standards of the Massachusetts Department of Education.

DANB means Dental Assisting National Board, Inc.

DANB-RHS means the DANB Radiation Health and Safety Examination.

DANB-ICE means the DANB Infection Control Examination.

Dental Auxiliary Personnel means a dental hygienist or a dental assistant.

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Dentist means any person licensed under the provisions of M. G. L. c. 112, §45 or §45A.

Dentistry A person shall be deemed to be practicing dentistry if he/she holds himself/herself out as being able to diagnose, treat, operate or prescribe for any disease, pain, injury, deficiency, deformity or other condition of the human teeth, alveolar process, gums or jaws, and associated parts, intra-orally or extra-orally, or if he/she either offers or undertakes by any method to diagnose, treat, operate or prescribe for any disease, pain, injury, deficiency, deformity or other condition of the same; or if he/she, except on the written prescription of a registered dentist and by the use of impressions made by a registered dentist, directly or indirectly by mail, carrier, personal agent, or by any other method, supplies, constructs, reproduces, relines, repairs, adds or directs the application of any substance, of a durable nature, to dentures, bridges, appliances or other structures to be used and worn as substitutes for natural teeth or solicits or advertises, except as permitted in M. G. L. c. 112 § 52A , to supply, construct, reproduce, repair, reline, add or direct the application of any substance, of a durable nature, to dentures, bridges, appliances or other structures to be used and worn as substitutes for natural teeth; or if he/she places such substitutes in the mouth or adjusts the same; or if he/she, except on the written prescription of a registered dentist, observes a patient's natural dentition for purposes of matching coloration or other aesthetic characteristic to aid in the fabrication or repair of a prescribed restorative appliance.

Faculty means an individual appointed to the faculty of a CODA-accredited dental college or dental hygiene program. Faculty may include full or part-time assistant or associate clinical instructors, adjunct instructors, assistant or associate professors, teachers, post-doctoral fellows, visiting lecturers and graduate assistants.

Final Decision and Order means the written findings of fact, conclusions of law, and order for sanction or other disposition issued to a licensee by the Board following the final adjudication of a complaint.

Good Moral Character means those virtues of a person which are generally recognized as beneficial to the public health, safety and welfare.

HIPDB means Healthcare Integrity and Protection Data Bank.

Homebound means an individual "confined to his/her home" if the individual has a condition, due to an illness or injury, that restricts the ability of the individual to leave his or her home except with the assistance of another individual or the aid of a supportive device (such as crutches, a cane, a wheelchair, or a walker), or if the individual has a condition such that leaving his or her home is medically contraindicated. While an individual does not have to be bedridden to be considered "confined to his home", the condition of the individual should be such that there exists a normal inability to leave home and that leaving home requires a considerable and taxing effort by the individual.

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Any absence of an individual from the home attributable to the need to receive health care treatment, including regular absences for the purpose of participating in therapeutic, psychosocial, or medical treatment in an adult day-care program that is licensed or certified by a state, or accredited, to furnish adult day care services in the state shall not disqualify an individual from being considered to be "confined to his/her home". Any other absence of an individual from the home shall not so disqualify an individual if the absence is of infrequent or of relatively short duration. For purposes of the preceding sentence, any absence for the purpose of attending a religious service shall be deemed to be an absence of infrequent or short duration. [42 U.S.C. '1395n(a)(2)(F)]

Impaired means the inability to practice dentistry or dental hygiene with reasonable judgment, skill, and safety by reason of alcohol or drug abuse, use of other substances, a physical or mental illness or condition, or by any combination of the foregoing.

Institutional Facility means any entity that hosts an MDF or PDO including, but not limited to a school, long term care facility, residential home, residential treatment facility or correctional institution.

Jurisdiction means any municipality, state, territory or country, including the Commonwealth of Massachusetts.

Legal Representative means an individual who has either been appointed by a court or who is named under a written agreement with the patient to serve as the patient's representative including, but not limited to, guardian, conservator, health care agent, or power of attorney.

License as used in 234 CMR 2.00 is synonymous with registration, permit or the right to renew said license, registration or permit.

Licensee means a person registered as holding or having held any type of license, registration, and/or permit issued pursuant to M. G. L. c. 112, §§ 43 through 53 and 234 CMR 2.00 whether or not such license is expired, surrendered, suspended, or revoked.

Limited Licensee means a person licensed to practice dentistry under the provisions of M. G. L. c. 112, § 45A. A limited licensee may be a dental intern or a full-time faculty member.

(a) Limited License Dental Intern means an individual granted a limited license to practice dentistry in the Commonwealth, pursuant to M. G. L. c. 112, § 45A, who has graduated from a reputable dental college, pursuant to M. G. L. c. 112, § 46, and who practices in a hospital or other institution maintained by the state, a county or municipality, or hospital or dental infirmary incorporated under the laws of the Commonwealth. A limited license dental intern shall not practice dentistry in a private dental office or private dental clinic and may only practice at

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institution(s) specified in the dental intern's license application. A person who has been issued a limited license shall work under the direction of a registered dentist who is licensed by the Board, pursuant to M. G. L. c. 112, § 45, and is employed by the institution.

(b) Limited License Faculty means an individual granted a limited license to practice dentistry in the Commonwealth, pursuant to M. G. L. c. 112, § 45A, who has graduated from a reputable dental college, pursuant to M. G. L. c. 112, § 46, who is employed as a full-time member of the faculty of a CODA accredited dental college and who works under the direction of a registered dentist who is licensed by the Board, pursuant to M. G. L. c. 112, § 45 and is employed by said dental college. A person who has been issued a limited license faculty license shall not practice dentistry in a private dental office or private dental clinic, except that a full-time faculty member may participate in an intramural group practice which is operated, managed and physically located within a nonprofit dental educational or research institution and their affiliated hospitals in which the limited license full-time faculty member is employed.

MDF or PDO Director means a dentist who is currently licensed to practice dentistry in the Commonwealth pursuant to M. G. L. c. 112, § 45, or a dental hygienist practicing pursuant to M. G. L. c. 112, § 51, for the purposes of providing dental hygiene services in public health settings who is responsible for dental services provided by the MDF or PDO.

MDF or PDO Permit Holder means a dentist, who is currently licensed to practice dentistry in the Commonwealth, pursuant to M. G. L. c. 112, § 45, or a public health dental hygienist in whose name the MDF and/or PDO Facility Permit is issued. Where the MDF or PDO is not wholly owned by a dentist(s) or public health dental hygienist licensed to practice in the Commonwealth, the owner(s) shall apply for a license to operate as a clinic pursuant to M. G. L. c. 111, § 51, unless the entity is exempt from such licensure pursuant to M. G. L. c. 111, § 52.

M. G. L. means Massachusetts General Laws.

Mobile Dental Facility (MDF) means any self-contained facility where dentistry will be practiced which may be driven, moved, towed, or transported from one location to another. *See* related definition under Portable Dental Operation below.

NERB means the Northeast Regional Board of Dental Examiners, Inc. qualifying examinations for dentists and dental hygienists.

NPDB means National Practitioner Data Bank.

Order to Show Cause means a notice issued by the Board to a licensee of the Board containing allegations that the licensee engaged in conduct that violates any law or regulation, or both related to the practice of dentistry or dental hygiene. The Order to

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Show Cause may also order the licensee to appear at an adjudicatory hearing held by the Board to “show cause” why the Board should not take disciplinary action against a license or the right to renew such license. *See* 801 CMR 1.01(6) (a).

OSHA means General Industry Standards at 29 CFR, United States Occupational Safety and Health Administration.

Patient includes a parent or legal representative.

Portable Dental Operation (PDO) means any non-facility where dental equipment utilized in the practice of dentistry, is transported to and utilized on a temporary basis at an out-of-office location. *See* related definitions under Mobile Dental Facility (MDF).

Public Health Dental Hygienist (PHDH) means a registered dental hygienist who holds a valid license to practice in the Commonwealth issued pursuant to M. G. L. c. 112, § 51, who has three years of full-time or an equivalent 4500 hours of clinical experience and has the appropriate training pursuant to 234 CMR 5.07(2) and who works in a public health setting pursuant to a written collaborative agreement with a local or state government agency or institution or a licensed dentist who holds a valid license issued pursuant to M. G. L. c. 112, § 45.

Public Health Setting includes, but is not limited to, residences of the homebound, schools, Head Start programs, nursing homes and long-term care facilities licensed pursuant to M. G. L. c. 111, § 71, clinics, community health centers, and hospitals licensed pursuant to M. G. L. c. 111, § 51, medical facilities, prisons, residential treatment facilities, federal, state or local public health programs, mobile dental facilities and portable dental programs which are permitted by the Board pursuant to 234 CMR 7.00 or licensed or certified by the Department pursuant to M. G. L. c. 111, § 51, and other facilities or programs deemed appropriate by the Board and the Department.

Reactivation means the renewal of an expired license to practice dentistry or dental hygiene.

Registered Dental Hygienist (RDH) or Dental Hygienist means a person who has been successfully examined by the Board or its designee and who has been licensed by the Board to practice dental hygiene in the Commonwealth pursuant to M. G. L. c. 112, § 51.

Reinstatement means the issuance of a license to practice dentistry or dental hygiene which has been suspended or revoked.

Substance Abuse means a dysfunctional pattern of human response characterized by excessive, inappropriate, or unhealthy use of chemical substances including alcohol or drugs, or both.

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Supervision includes three types of supervision as follows:

- (a) General Supervision means supervision of dental procedures based on instructions given by a licensed dentist but not requiring the physical presence of a supervising dentist during the performance of those procedures. A public health dental hygienist may perform all delegated duties permitted under general supervision as described in 234 CMR 5.00 provided the public health dental hygienist has entered into a collaborative agreement with a dentist who holds a valid license issued pursuant to M. G. L. c. 112, § 45 or with an appropriate municipal or state agency or institution to ensure the public health and safety.
- (b) Direct Supervision means supervision of dental procedures based on instructions given by a licensed dentist who remains in the dental facility while the procedures are being performed by the auxiliary.
- (c) Immediate Supervision means the supervision of dental procedures by a licensed dentist, who remains in the dental facility, personally diagnoses the condition to be treated, personally authorizes the procedures, and before dismissal of the patient, evaluates the treatment rendered.

Valid License means a license to engage in the practice of dentistry or dental hygiene in the Commonwealth properly issued to a licensee by the Board on the basis of truthful information related to qualifications for licensure and which license is not expired, surrendered, suspended, or revoked.

REGULATORY AUTHORITY 234 CMR 2.00; M. G. L. c. 13, § 19; M. G. L. c. 112, §§ 43-53, 61, 65, and 65A; c. 30A.

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234 CMR 3:00: Reserved

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234 CMR 4.00 LICENSURE AND LICENSE RENEWAL REQUIREMENTS

- 4.01: Purpose
- 4.02: Reporting of Disciplinary Action, License Denial or Other Restriction of Professional Privileges
- 4.03: Initial Dentist Licensure by Examination
- 4.04: Initial Dentist Licensure by Credentials
- 4.05: Initial Licensure as Limited License Full-Time Faculty or Limited License Dental Intern
- 4.06: Renewal of Limited License Full-Time Faculty License and Limited License Dental Intern License
- 4.07: Initial Dental Hygienist Licensure by Examination
- 4.08: Initial Dental Hygienist Licensure by Credentials
- 4.09: Application for Licensure as a Dental Hygienist by a Dental Student
- 4.10: License Renewal, Reactivation, and Reinstatement
- 4.11: Applicant and Licensee Responsibilities
- 4.12: Reinstatement of a License which has been Revoked, Surrendered, Suspended, or Placed on Probation by the Board

4.01: Purpose

The purpose of 234 CMR 4.00 is to specify the licensing eligibility and application requirements to obtain initial and renewal licenses issued by the Board, and to describe procedures for reinstatement of certain licenses after a license has been placed on probation, suspended, surrendered or revoked by the Board.

4.02: Reporting of Disciplinary Action, License Denial or Other Restriction of Professional Privileges

For license application purposes prescribed in this section, the term disciplinary action includes, but is not limited to, revocation, suspension, probation, censure, reprimand, or restriction of the license to practice dentistry or dental hygiene, non-renewal, denial or restriction of privileges or termination of participation. The applicant for initial licensure or renewal of licensure shall report:

- (1) A denial or restriction of privileges when related in any way to:
 - (a) The applicant's competence to practice dentistry or dental hygiene; or
 - (b) A complaint or allegation regarding any violation, whether specifically cited or not, of the laws, regulations, or bylaws of the Board or any authority, institution, association, facility, agency, or company.

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- (2) Information concerning any disciplinary action taken against an applicant by any of the following:
- (a) Governmental authorities, including boards of registration in other jurisdictions;
 - (b) Hospitals;
 - (c) Health care facilities, but not including disciplinary action taken against a student by a dental school or dental hygiene school or program;
 - (d) Professional dental or dental hygiene associations, but not including professional association peer review proceedings;
 - (e) Insurance companies or other third party payors which shall only include findings of billing irregularities for any of the following as stated in M. G. L. c. 112 §, 52E:
 - 1. Obtaining a total payment in excess of that usually received by the dentist for services rendered;
 - 2. Falsely reporting treatment dates for the purpose of obtaining payment;
 - 3. Reporting charges for services not rendered;
 - 4. Falsely reporting services rendered for the purpose of obtaining payment;or
 - 5. Abrogating the co-payment provisions of a contract by accepting the payment received from the third party as full payment.
- (3) Information concerning any civil litigation related to the practice of dentistry which has resulted in a finding against the applicant and/or a settlement with the applicant, as may be required by the Board.
- (4) Information concerning any criminal proceedings commenced against the applicant but not including minor traffic offenses as may be required by the Board.
- (5) Information concerning an applicant's privilege to possess, prescribe, or dispense controlled substances.

4.03: Initial Dentist Licensure by Examination

The Board may grant a license by examination provided the applicant is of good moral character, has met all of the eligibility requirements, and has submitted the following information and documentation to the Board:

- (1) An accurate, complete and signed application, as specified by the Board for that purpose;

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- (2) Payment of a non-refundable licensing and application fee as determined by the Executive Office of Administration and Finance;
- (3) An original transcript with the college seal indicating the degree granted and the date of issue from a CODA-accredited dental school or any successor accrediting agency approved by the Board, or a letter including the college's seal which is signed by the appropriate authority and attests to the applicant's degree and date of graduation;
- (4) A physician's statement that is the result of an examination, conducted within six months of the date of application, attesting to the health of the applicant and to any impairments which may affect the ability of the applicant to practice dentistry;
- (5) Documentation of a passing score on each of the following exams:
 - (a) Parts I and II of the American Dental Association National Board Examination;
 - (b) The Northeast Regional Board (NERB) or other state or regional examination approved by the Board; and
 - (c) Massachusetts Dental Ethics and Jurisprudence Examination or other successor examination of the Board;
- (6) Documentation demonstrating current certification in American Red Cross Cardiopulmonary Resuscitation/Automated External Defibrillation for the Professional Rescuer (CPR/AED), except that an applicant who is also applying for an anesthesia permit shall provide documentation of compliance with 234 CMR 6.00;
- (7) A passport-size photograph in color;
- (8) A statement disclosing any disciplinary action, civil, and/or criminal action taken against the applicant at any time prior to the date of application, with supporting documentation as may be required by the Board;
- (9) Proof satisfactory to the Board of good moral character; and
- (10) An attestation, signed under pains and penalties of perjury, that the applicant has complied with all state tax laws pursuant to M. G. L. c. 62C, § 49A and child support laws pursuant to M. G. L. c. 119A § 16 (a)..

4.04: Initial Dentist Licensure by Credentials

The Board may grant a license by credentials, without further professional examination, to a dentist currently licensed in another jurisdiction, provided the applicant is of good

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moral character, has met all of the eligibility requirements, and has submitted the following information and documentation to the Board:

- (1) An accurate, complete and signed application on forms specified by the Board for that purpose;
- (2) Payment of a non-refundable licensing and application fee as determined by the Executive Office of Administration and Finance;
- (3) An original transcript with the college seal indicating the degree granted and the date of issue from a CODA-accredited dental school or any successor accrediting agency approved by the Board, or a letter including the college's seal which is signed by the appropriate authority and attests to the applicant's degree and date of graduation;
- (4) A physician's statement that is the result of an examination, conducted within six months of the date of application, attesting to the health of the applicant and to any impairments which may affect the ability of the applicant to practice dentistry;
- (5) Proof satisfactory to the Board of a minimum of five years of practice in dentistry or dental education immediately preceding the application for licensure by credentials. Applicants may include: private practice, the practice of dentistry in the armed forces, federal, state, and municipal programs, and intern and residency programs as part of the five year dental practice requirement;
- (6) Proof satisfactory to the Board that the applicant is currently licensed and in good standing in another jurisdiction based on successful completion of an examination approved by the Board;
- (7) Documentation of a passing score on each of the following exams:
 - (a) Parts I and II of the American Dental Association National Board Examination;
 - (b) The Northeast Regional Board (NERB) or other state or regional examination approved by the Board; and
 - (c) Massachusetts Dental Ethics and Jurisprudence Examination or any successor examination;
- (8) Certified letters of standing from all jurisdictions in which the applicant has ever been issued a license to practice dentistry attesting to the standing of his/her license, including report of any past or pending disciplinary action, or any pending complaints against the applicant;
- (9) Letters of endorsement from two licensed dentists who are in good standing and familiar with the applicant and his/her practice of dentistry which attest to the applicant's professional competency and good moral character;

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- (10) Original report from the National Practitioner Data Bank (NPDB) Self-Query;
- (11) Documentation demonstrating current certification in American Red Cross Cardiopulmonary Resuscitation/Automated External Defibrillation for the Professional Rescuer (CPR/AED), except that an applicant who is also applying for an anesthesia permit shall provide documentation of compliance with 234 CMR 6.00;
- (12) A statement disclosing any disciplinary action, civil and/or criminal action, or restriction of privileges taken against the applicant at any time prior to the date of application, with supporting documentation as may be required by the Board;
- (13) A passport-size photograph in color;
- (14) Proof satisfactory to the Board of good moral character; and
- (15) An attestation, signed under pains and penalties of perjury, that the applicant has complied with all state tax laws pursuant to M. G. L. c. 62C, § 49A and child support laws pursuant to M. G. L. c. 119A § 16 (a)..

4.05: Initial Licensure as Limited License Full-Time Faculty or Limited License Dental Intern

Pursuant to M. G. L. c. 112, §45A, the Board may grant a limited license for a dentist to serve as a full-time member of a dental college faculty or as a limited license dental intern in a hospital or other institution maintained by the state, a county or municipality, or hospital or dental infirmary incorporated under the laws of the Commonwealth, provided that the applicant is of good moral character, has met all of the eligibility requirements, and has submitted the following information and documentation to the Board:

- (1) An accurate, complete, and signed application as specified by the Board for that purpose;
- (2) Payment of a non-refundable licensing and application fee as determined by the Executive Office of Administration and Finance;
- (3) Proof satisfactory to the Board that the applicant has received a diploma in dentistry from the faculty of a reputable dental college as defined in M. G. L. c. 112, § 46:
 - (a) Graduates of a dental school accredited by CODA or any successor accrediting agency approved by the Board shall submit an original transcript with the college seal indicating the degree granted and the date of issue from a CODA-accredited dental school or any successor accrediting agency approved by the

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- Board, or a letter including the college's seal which is signed by the appropriate authority and attests to the applicant's degree and date of graduation.
- (b) Graduates of non-CODA or foreign dental schools shall submit an original transcript, with college seal that indicates the date of issuance of a dental diploma from a reputable dental college. If the transcript is not in English, the applicant shall provide a certified translated copy of the original dental college transcript demonstrating the applicant received a dental degree from a reputable dental college.
- (4) Proof satisfactory to the Board of employment as full-time faculty in a dental school accredited by CODA or as a dental intern in a hospital or other institution maintained by the state, a county or municipality, or hospital or dental infirmary incorporated under the laws of the Commonwealth.
- (a) A full-time member of faculty shall submit an original letter with the college seal that confirms the applicant's status and dates of appointment as a full-time faculty member. The application for licensure shall also include the printed name, signature and license number of the applicant's supervising dentist, who shall hold a valid license issued by the Board pursuant to M. G. L. c. 112, § 45 and be in good standing with the Board.
- (b) A dental intern employed by a hospital or other institution maintained by the state, county or municipality, or hospital or dental infirmary incorporated under the laws of the Commonwealth shall submit an application for licensure that indicates the applicant's place(s) of employment and date of appointment. The application shall also include the printed name, signature and license number of the applicant's supervising dentist, who shall hold a valid license issued by the Board pursuant to M. G. L. c. 112, § 45 and be in good standing with the Board.
- (5) Documentation of successful completion of continuing education in the following areas of study or a signed attestation from the applicant which confirms that he/she will, within one year of initial licensure, successfully complete the following in accordance with 234 CMR 8.00:
- (a) A minimum of three CEUs in *CDC Guidelines*;
- (b) A minimum of three CEUs in OSHA Standards at 29 CFR;
- (c) A minimum of six CEUs in treatment planning and diagnosis;
- (d) A minimum of three CEUs in record-keeping;
- (e) A minimum of two CEUs in risk management; and
- (f) A minimum of three CEUs in pharmacology, with emphasis on prescription writing; or
- (g) Submit evidence of enrollment in a CODA-accredited dental school that includes areas of study included in 234 CMR 4.05 (5) (a) through (f).
- (6) Documentation demonstrating current certification in American Red Cross Cardiopulmonary Resuscitation/Automated External Defibrillation for the Professional

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Rescuer (CPR/AED) or current certification in the American Heart Association Basic Life Support for Healthcare Providers (BLS);

(7) If the applicant has graduated from a dental school where the language of written or oral instruction (including textbooks) or both, is in a language other than English, the applicant shall submit documentation satisfactory to the Board that the applicant has achieved a minimum score, as specified by the Board, on a Board-designated test of English proficiency;

(8) A physician's statement that is the result of an examination, conducted within six months of the date of application, attesting to the health of the applicant and reporting impairments which may affect the applicant's ability to practice dentistry;

(9) Certified letters of standing from all jurisdictions in which the applicant has ever been issued a license to practice dentistry attesting to the standing of his/her license, including report of any past or pending disciplinary action, or any pending complaints against the applicant;

(10) A practice history;

(11) An original report from the National Practitioner Data Bank (NPDB) Self-query;

(12) A statement disclosing any disciplinary action, civil and/or criminal action taken against the applicant at any time prior to the date of application, with supporting documentation as may be required by the Board;

(13) Proof satisfactory to the Board of good moral character;

(14) Documentation of successful completion of the Massachusetts Dental Ethics and Jurisprudence Examination or any successor examination;

(15) A passport-size photograph in color; and

(16) An attestation, signed under pains and penalties of perjury, that the applicant has complied with all state tax laws pursuant to M. G. L. c. 62C, § 49A and child support laws pursuant to M. G. L. c. 119A § 16 (a)..

4.06: Renewal of Limited License Full-Time Faculty License and Limited License Dental Intern License

(1) Full-time Faculty. A licensee who has been initially issued a limited full-time faculty license by the Board pursuant to M. G. L. c. 112, § 45A may apply to the Board annually to renew his/her limited license by submitting the applications, fees, documents

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and information required by the Board including the applicant's compliance with 234 CMR 8.02 (2).

(2) Limited License Dental Intern. A licensee who has been initially issued a limited dental intern license by the Board pursuant to M. G. L. c. 112, § 45A may apply to the Board annually to renew his/her limited license(s) for a maximum of five one-year periods, except that said licensee may, upon permission of the Board, take the NERB Clinical Examination in Dentistry (CED) or successor examination required by the Board. A limited license dental intern who successfully completes and passes the NERB /CED may thereafter apply to the Board annually to renew his/her license to practice dentistry in the Commonwealth in settings specified in M.G. L. c.112, § 45A and in compliance with 234 CMR 8.02(2).

3) An individual who holds a license to practice dentistry pursuant to M. G. L. c. 112, §45A on or before August 20, 2010 shall be exempt from demonstrating proficiency in English (*See* 234 CMR 4.05 (7)).

4.07: Initial Dental Hygienist Licensure by Examination

The Board may grant a license by examination to an applicant provided the applicant is of good moral character, has met all of the eligibility requirements, and has submitted the following information and documentation to the Board:

(1) An accurate, complete and signed application, as specified by the Board for that purpose;

(2) Payment of a non-refundable licensing and application fee as determined by the Executive Office of Administration and Finance;

(3) An original transcript with the college seal indicating the degree granted and the date of issue from a CODA-accredited dental hygiene program or any successor accrediting agency approved by the Board, or a letter including the college's seal which is signed by the appropriate authority and attests to the applicant's degree and date of graduation;

(4) Documentation of a passing score on each of the following examinations:

(a) Parts I and II of the American Dental Association National Board Examination for Dental Hygienists;

(b) The NERB examination for Dental Hygiene or other state or regional examination approved by the Board; and

(c) Massachusetts Dental Ethics and Jurisprudence Examination or any successor examination;

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- (5) Documentation demonstrating current certification in American Red Cross Cardiopulmonary Resuscitation/Automated External Defibrillation for the Professional Rescuer (CPR/AED) or current certification in the American Heart Association Basic Life Support for Healthcare Providers (BLS);
- (6) A physician's statement that is the result of an examination, conducted within six months of the date of application, attesting to the health of the applicant and reporting impairments which may affect the applicant's ability to practice dental hygiene;
- (7) A passport-size photograph in color;
- (8) A statement disclosing any disciplinary, civil and/or criminal action taken against the applicant at any time prior to the date of application, with supporting documentation as may be required by the Board;
- (9) Proof satisfactory to the Board of good moral character; and
- (10) An attestation, signed under pains and penalties of perjury, that the applicant has complied with all state tax laws pursuant to M. G. L. c. 62C, § 49A and child support laws pursuant to M. G. L. c. 119A § 16 (a)..

4.08: Initial Dental Hygienist Licensure by Credentials

The Board may grant a license by credentials, without further professional examination, to a dental hygienist currently licensed in another jurisdiction provided that the applicant is of good moral character, has met all of the eligibility requirements, and has submitted the following information and documentation to the Board:

- (1) An accurate, complete and signed application, as specified by the Board for that purpose;
- (2) Payment of a non-refundable licensing and application fee as determined by the Executive Office of Administration and Finance;
- (3) An original transcript with the college seal indicating the degree granted and the date of issue from a CODA-accredited dental hygiene program or any successor accrediting agency approved by the Board, or a letter including the college's seal which is signed by the appropriate authority and attests to the applicant's degree and date of graduation;
- (4) A physician's statement that is the result of an examination, conducted within six months of the date of application, attesting to the health of the applicant and to any impairments which may affect the ability of the applicant to practice dentistry;

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- (5) Proof satisfactory to the Board of a minimum of one year of practice in dental hygiene or dental hygiene education immediately preceding the application for licensure by credentials;
- (6) Proof satisfactory to the Board that the applicant is currently licensed and in good standing in another jurisdiction based on successful completion of an examination approved by the Board;
- (7) Documentation of a passing score on each of the following examinations:
 - (a) Parts I and II of the American Dental Association National Board Examination for Dental Hygienists; and
 - (b) Massachusetts Dental Ethics and Jurisprudence Examination or any successor examination.
- (8) Certified letters of standing from all jurisdictions in which the applicant has ever been issued a license to practice dental hygiene attesting to the standing of his/her license including a report of any past or pending disciplinary action, or any pending complaints against the applicant;
- (9) Documentation demonstrating current certification in American Red Cross Cardiopulmonary Resuscitation/Automated External Defibrillation for the Professional Rescuer (CPR/AED) or current certification in the American Heart Association Basic Life Support for Healthcare Providers (BLS);
- (10) A statement disclosing any disciplinary, civil and/or criminal action taken against the applicant at any time prior to the date of application, with supporting documentation as may be required by the Board;
- (11) A passport-size photograph in color;
- (12) Proof satisfactory to the Board of good moral character; and
- (13) An attestation, signed under pains and penalties of perjury, that the applicant has complied with all state tax laws pursuant to M. G. L. c. 62C, § 49A and child support laws pursuant to M. G. L. c. 119A § 16 (a)..

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4.09: Application for Licensure as a Dental Hygienist by a Dental Student

The Board may grant a dental hygiene license to a student who has successfully completed four full semesters in a CODA-accredited dental school provided that the applicant is of good moral character, has met all of the eligibility requirements, and has submitted the following information and documentation to the Board:

- (1) An accurate, complete and signed application, as specified by the Board for that purpose;
- (2) Payment of a non-refundable licensing and application fee as determined by the Executive Office of Administration and Finance;
- (3) An original transcript with the college seal from the program's authorized official indicating the applicant's enrollment and successful completion of four semesters in a CODA-accredited dental school;
- (4) Documentation of a passing score on each of the following examinations:
 - (a) Part I of the American Dental Association National Board Examination for Dentistry; and
 - (b) The Northeast Regional Board (NERB) for Dental Hygiene or other state or regional examination approved by the Board; and
 - (c) Massachusetts Dental Ethics and Jurisprudence Examination or any successor examination;
- (5) Documentation demonstrating current certification in American Red Cross Cardiopulmonary Resuscitation/Automated External Defibrillation for the Professional Rescuer (CPR/AED) or current certification in the American Heart Association Basic Life Support for Healthcare Providers (BLS);
- (6) A physician's statement that is the result of an examination, conducted within six months of the date of application, attesting to the health of the applicant and reporting impairments which may affect the applicant's ability to practice dental hygiene;
- (7) A passport-size photograph in color;
- (8) A statement disclosing any disciplinary, civil and/or criminal action taken against the applicant at any time prior to the date of application, with supporting documentation as may be required by the Board;
- (9) Proof satisfactory to the Board of good moral character; and

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(10) An attestation, signed under pains and penalties of perjury, that the applicant has complied with all state tax laws pursuant to M. G. L. c. 62C, § 49A and child support laws pursuant to M. G. L. c. 119A § 16 (a)..

4.10: License Renewal, Reactivation and Reinstatement

(1) A dentist issued a license pursuant to M. G. L. c. 112, § 45 shall renew his/her license to practice dentistry biennially no later than March 31st of even-numbered years.

(2) A dental hygienist issued a license pursuant to M. G. L. c. 112, § 51 shall renew his/her license to practice dental hygiene biennially no later than March 31st of odd-numbered years.

(3) Continuing Education Required for Renewal, Reactivation or Reinstatement. No licensee may renew, reinstate, or reactivate his/her license to practice dentistry or dental hygiene unless and until he/she has completed all of the continuing education required for renewal set forth in 234 CMR 8.00.

(4) If a licensee fails to renew his/her license by the expiration date of the license or fails to meet requirements for renewal of his/her license, the license of such person shall expire on the license expiration date.

(5) A licensee shall not practice dentistry or dental hygiene in the Commonwealth while his/her license is expired, suspended or revoked by the Board. A licensee who practices dentistry or dental hygiene in the Commonwealth during a period in which the individual's license was expired, may be subject to a civil administrative penalty imposed by the Board pursuant to M. G. L. c. 112, § 65(b) and may also be subject to imposition of discipline by the Board, including but not limited to reprimand, censure, probation, suspension, and revocation.

(6) Renewal on or Prior to License Expiration Date. An individual who holds a license to practice dentistry or dental hygiene issued by the Board may renew his/her license by filing a properly completed license renewal application and providing all related application documentation and information to the Board, on forms and in accordance with instructions specified by the Board for that purpose, and paying the license renewal fee(s) established by the Executive Office of Administration and Finance.

(7) Renewal After License Expiration Date, but Within Two Renewal Cycles

(a) An individual whose license to practice dentistry or dental hygiene is expired for two renewal cycles may apply for renewal of his/her license only by:

1. Filing an accurate, complete, and signed license renewal application and providing all related application documentation and information to the

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- Board as required by the Board on forms and in accordance with instructions specified by the Board for that purpose;
2. Paying license renewal fee(s) for each intervening renewal cycle(s) and paying the late renewal fee(s) established by the Executive Office of Administration and Finance;
 3. Submitting to the Board required documentation to prove completion of continuing education credits required for each renewal cycle pursuant to 234 CMR 8.00; and
 4. Furnishing the Board with satisfactory written explanation of the reasons for his/her failure to renew the license in a timely manner.
- (b) The Board may require the licensee to submit to the Board such additional information and documentation as may be required by the Board to make a determination on the licensee's application for license renewal. The Board may require a licensee to provide such additional information either in person or in writing. Failure to respond to or cooperate with such requests shall constitute grounds for denial of the application.
- (8) Renewal Two or more Renewal Cycles after License Expiration Date
- (a) An individual whose license to practice dentistry or dental hygiene is expired for longer than two renewal cycles, may apply for renewal of his/her license by:
 1. Filing an accurate, complete, and signed license renewal application and providing all related application documentation and information to the Board as required by the Board on forms and in accordance with instructions specified by the Board for that purpose;
 2. Paying license renewal fee(s) for each intervening renewal cycle and paying the late renewal fee as established by the Executive Office of Administration and Finance;
 3. Submitting to the Board completion certificates for continuing education credits required for each renewal cycle, pursuant to 234 CMR 8.00.; and
 4. Furnishing the Board with satisfactory written explanation of the reasons for his/her failure to renew the license in a timely manner.
 - (b) The Board may require the licensee to submit to the Board such additional information and documentation as may be required by the Board to make a determination on the licensee's application for license renewal. Failure to respond to or cooperate with such requests shall constitute grounds for denial of the application.
 - (c) Pursuant to M. G. L. c. 112, § 46A, when a dentist has not practiced dentistry in the Commonwealth within five years from the date of the Board's issuance of an initial license, or if a dentist does not maintain a current license to practice dentistry in the Commonwealth for a period of five consecutive years,

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the Board may, in its discretion, require the licensee to be re-examined for competency.

- (d) A licensee may also be required to fulfill such other terms and conditions as may be required by the Board.

(9) The Board may, in its discretion, decline to renew, reactivate or reinstate an expired license and may refer cases of unlicensed practice of dentistry or dental hygiene to appropriate law enforcement authorities for prosecution.

4.11: Applicant and Licensee Responsibilities

(1) Each licensee shall inform the Board in writing, as directed by the Board, of any change in the address where the licensee receives mail within 30 calendar days of such change. Failure to comply with this requirement shall not excuse the licensee from the responsibility to renew his/her license or to respond to Board communications in a timely manner.

(2) Applicants or licensees shall inform the Board, in writing within 30 calendar days of any changes in any information provided to the Board in connection with his/her license or application. Such changes shall include, but are not limited to those described in 234 CMR 9.05 (9), (22) and (28).

(3) All applications for licensure to practice dentistry, dental hygiene or for anesthesia or mobile or portable dental service permits shall be made on forms furnished by the Board or its designee for that purpose, and shall be completed in accordance with all instructions and procedures prescribed by the Board.

(4) Applicants and licensees shall be responsible for ensuring that any and all information provided to the Board or its designee in connection with any application for licensure or permit is accurate and complete.

(5) An applicant shall notify the Board or its designee, in writing, of any and all material changes in any information provided to the Board in connection with his/her license application or permit application which may occur during the application process.

(6) An applicant may be required to submit to the Board such additional information as the Board may require in order to determine whether the applicant is qualified and of good moral character for licensure. The Board may require such applicant or licensee to provide such information either in person or in writing, or both. Failure to respond to or cooperate with such requests from the Board shall constitute grounds for denial of the application.

(7) Applicants shall be responsible for payment of all fees and charges required for licensing examinations, processing of license applications, and issuance of licenses. All such fees and charges are non-refundable.

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4.12: Reinstatement of a License which has been Revoked, Surrendered, Suspended or Placed on Probation by the Board

(1) A person previously registered by the Board whose license has been revoked, surrendered, suspended or placed on probation by the Board may petition the Board for reinstatement of the license or return of the license to good standing as provided in a written agreement between the licensee and the Board, or as ordered by the Board. If no procedure has been previously agreed to by the licensee and the Board or ordered by the Board, then the licensee may petition the Board for reinstatement or return of the license to good standing in accordance with the following procedures:

- (a) A petition for reinstatement must be filed with the Board which sets forth in detail the background of the complaint and/or disciplinary action taken regarding the licensee and the reasons why the license should be reinstated or returned to good standing at that time. The petition shall include:
1. Documentation acceptable to the Board of completion of and compliance with the terms and conditions of any consent agreement or final decision and order issued by the Board;
 2. A detailed summary of the licensee's activities during the period of probation, revocation, suspension or surrender including, but not limited to, the licensee's professional conduct, remedial actions, and academic and other continuing education pursuits;
 3. Documentation acceptable to the Board of completion of the continuing education requirements of 234 CMR 8.00 and any additional continuing education requirements ordered by the Board;
 4. An outline of projected professional plans for the 24-month period following reinstatement;
 5. If requested by the Board, statements from at least three persons attesting to the character and/or health of the applicant as well as the applicant's work and professional history since the date of revocation, suspension or surrender that describe the basis of the affiant's knowledge;
 6. Upon request of the Board, a licensee may be required to undergo assessment by a qualified medical, psychiatric or psychological professional who is acceptable to the Board, and grant consent authorizing the assessor to release assessment information to the Board so that the Board can determine the licensee's ability to practice dentistry in a safe and competent manner; and
 7. An affidavit, signed under pains and penalties of perjury, attesting to the petitioner's compliance with all laws of the Commonwealth relating to the payment of state taxes pursuant to M. G. L. c. 62C, § 49A, child support laws pursuant to M. G. L. c. 119A § 16 (a), to the completion of all continuing education requirements pursuant to 234 CMR 8.00, and to the truthfulness of all statements contained in the licensee's petition for reinstatement.

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(2) If requested by the Board, the applicant, any supervisor, and treating health practitioner may be required to personally appear before the Board or a subcommittee of its members.

(3) Pursuant to a final decision and order or a consent agreement, the applicant may be required to achieve a passing score on a current dentistry or dental hygiene licensure examination and any other examination required for initial licensure to practice dentistry or dental hygiene in the Commonwealth. The Board will not reinstate the license of an applicant who is required to achieve a passing score on such examination(s) prior to the Board's receipt of official notice that the applicant has achieved a passing score on the required examination(s).

(4) Unless the Board orders otherwise, a person whose license has been revoked, suspended, surrendered or placed on probation may petition the Board for reinstatement or return to good standing no sooner than two months preceding the expiration of the period of revocation, suspension, surrender or probation consented to or ordered by the Board.

(5) No license which has been revoked, surrendered, suspended, or placed on probation by the Board shall be reinstated or otherwise returned to good standing prior to the licensee's compliance with the application requirements of 234 CMR 4.00 .

REGULATORY AUTHORITY: 234 CMR 4.00; M. G. L. c. 13, § 19; M. G. L. c. 112, §§ 43-53, 61, 65 and 65A.

234 CMR 5.00: Requirements for the Practice of Dentistry and Dental Hygiene

- 5.01: Purpose
- 5.02: General Requirements for the Conduct of a Dental Practice
- 5.03: Dental Specialties
- 5.04: Posting of Licenses and Permits, and Identification of Personnel
- 5.05: Infection Control, Occupational Safety and Health Standards, and Radiation Control Requirements
- 5.06: Controlled Substances
- 5.07: Dental Hygiene Practice, Public Health Dental Hygienist Practice

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- 5.08: Collaborative Agreement with a Public Health Dental Hygienist
- 5.09: On-the-Job Trained Dental Assistants (OJT) General Training Requirements
- 5.10: Requirements for Training in Radiology
- 5.11: Delegation of Duties
- 5.12: Delegable Procedures
- 5.13: Non-Delegable Dental Duties
- 5.14: Patient Records: Content, Confidentiality, Retention, and Availability
- 5.15: Content of Patient Records
- 5.16: Emergency Protocol
- 5.17: Reporting of Patient Deaths in Dental Facilities
- 5.18: Inspection of Facilities and Requirements for Corrective Action
- 5.19: Advertising
- 5.20: Principles of Ethics and Code of Professional Conduct
- 5.21: Prohibited Practices

5.01: Purpose

The purpose of 234 CMR 5.00 is to set forth the standards and requirements that licensees of the Board must comply with in the practice of dentistry and dental hygiene in the Commonwealth.

5.02: General Requirements for the Conduct of a Dental Practice

(1) Any person who owns, leases, maintains, or operates a dental practice in any facility or room(s) where dental services are provided, or directly or indirectly is director, proprietor or conductor of same, is required to conduct such dental practice in accordance with M. G. L. c. 112, §§ 43-53 and 234 CMR 2.00.

(2) A dental practice not wholly owned by a dentist or dentists licensed to practice dentistry in the Commonwealth shall be licensed as a dental clinic or hospital pursuant to M. G. L. c. 111, § 51 unless it is exempt from such licensure pursuant to M. G. L. c. 111, § 52.

(3) The owner(s) of a dental practice where any non-owner dentist practices dentistry shall designate a dentist who holds a valid license issued pursuant to M. G. L. c. 112, § 45 to act as Dental Director. The appointment of a Dental Director shall not absolve any owner or other licensee practicing at the site from ensuring that the dental practice is established, maintained and operated in accordance with statutes and regulations governing the practice of dentistry or dental hygiene in the Commonwealth. A non-owner dentist includes, but is not limited to, a dentist who works full-time, part-time or on a temporary basis or as an independent contractor.

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- (a) The name of the Dental Director and at least one of the owners who is a dentist licensed to practice dentistry in the Commonwealth shall be posted at each practice site in a public place where a patient can observe such notice.
- (b) The Dental Director shall, at a minimum, be responsible for implementing policies and procedures to ensure compliance with local ordinances and state and federal statutes and regulations governing the practice of dentistry in areas including, but not limited to:
1. Licensure and qualifications of dentists and dental auxiliaries;
 2. Delegation of duties to dental auxiliaries pursuant to 234 CMR 2.00;
 3. Anesthesia administration as permitted by the Board;
 4. State and federal controlled substances rules and regulations;
 5. CDC Guidelines, including weekly spore testing;
 6. OSHA standards;
 7. Radiation control requirements;
 8. Posting dental licenses in the practice;
 9. Advertising dental services or fees;
 10. Schedule of equipment and drugs to ensure timely inspections, maintenance and current drugs; and
 11. Compliance with applicable local, state and federal regulations and statutes, including, but not limited to, occupancy codes, fire safety codes, and disposal of hazardous waste.

5.03: Dental Specialties

- (1) A dentist may hold him/herself out as an ADA specialist in a particular area of practice only if he/she:
- (a) Has completed a specialty education program approved by the American Dental Association (ADA) and the Commission on Dental Accreditation or the Commission on Dental Accreditation of Canada; and
 - (b) Is eligible for examination by a national specialty board recognized by the ADA;
or
 - (c) Is a diplomate of a national specialty board recognized by the ADA.
- (2) A dentist is prohibited from holding him/herself out in directories, listings or other written or electronic publications as a practitioner in any specialty recognized by the ADA unless his/her practice is limited only to the specialty area(s) that is being advertised, listed, or otherwise noted or published.

5.04: Posting of Licenses and Permits and Identification of Personnel

- (1) A licensee shall post his/her name and current license, or copy of said license in each location of practice in a place where it can be observed by the public.

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(2) A licensee shall post his/her individual anesthesia and Facility Permit, if applicable, in each practice site in a place where they can be observed by the public.

(3) All licensees and dental auxiliaries providing dental services to a patient, or assisting a dentist in the direct care or treatment of a patient, shall wear a name tag with the individual's name and professional title and function.

5.05: Infection Control, Occupational Safety and Health Standards, and Radiation Control Requirements

(1) Infection Control Practices. All persons licensed by the Board and all practices providing dental services are required to operate in compliance with the current *Recommended Infection Control In Dental Health-Care Settings-2003*, Centers for Disease Control and Prevention (CDC), U.S. Department of Health and Human Services, Atlanta, Georgia, as may be amended and republished.

(2) Occupational Health and Safety Practices. All persons licensed by the Board and all practices providing dental services are required to operate in compliance with the Occupational Safety and Health Administration Standards at 29 CFR OSHA Standards.

(3) Radiation Control. All persons licensed by the Board and all dental practices providing dental services utilizing radiological equipment are required to operate and maintain such equipment in compliance with Massachusetts Radiation Control Program statutes and regulations.

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5.06: Controlled Substances

(1) Dentists registered to dispense, administer and prescribe any controlled substances shall do so in accordance with M. G. L. c. 94C and 105 CMR 700.00 and all applicable state and federal statutes and regulations pertaining to controlled substances.

(2) Dentists are limited to writing prescriptions for controlled substances for legitimate dental purposes in the usual course of practice and are prohibited from prescribing controlled substances in Schedules II- IV, inclusive, for personal use.

(3) Except in an emergency, a dentist is prohibited from prescribing Schedule II controlled substances to a member of his/her immediate family including a spouse (or equivalent), parent, child, sibling, parent-in-law, son/daughter-in-law, brother/sister-in-law, step-parent, step-child, step-sibling, or other relative permanently residing in the same residence as the licensee.

5.07: Dental Hygiene Practice and Public Health Dental Hygienist Practice

(1) A dental hygienist may provide dental services which are educational, therapeutic, prophylactic and preventive in nature as may be authorized by the Board and may perform all tasks performed by a dental assistant under the specific type of supervision set forth in this section. A dental hygienist or public health dental hygienist may not perform acts or services which require diagnosis and treatment planning for non-dental hygiene services, surgical or cutting procedures on hard or soft tissue, and/or the prescription of medications, unless specifically authorized in 234 CMR 5.07 and 5.12.

(2) Educational Requirements for Public Health Dental Hygiene Practice.

a) Prior to practicing as a public health dental hygienist pursuant to 234 CMR 2.03 and 5.08, a dental hygienist shall successfully complete a minimum of ten (10) hours of continuing education as follows:

(1) A minimum of six hours of hands-on experience in a public health setting. A dental hygienist who has documentation demonstrating a minimum of six hours of hands-on experience in a public health setting between January 1, 2005 and August 20, 2010 shall be deemed to have fulfilled this requirement.

(2) Successful completion, within twenty-four months prior to commencement of practice as a public health dental hygienist, of continuing education in each of the following areas:

- a. *CDC Guidelines*;
- b. Risk Management for practice in a public health setting; and
- c. Management of medical emergencies.

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(b) The public health dental hygienist shall permanently retain documentation demonstrating compliance with 234 CMR 5.07(2) and 234 CMR 5.08.

(3) A public health dental hygienist practicing in a public health setting may perform those dental services which are authorized by the Board pursuant to M. G. L. c. 112, § 51, to be provided in a public health setting, pursuant to a written collaborative agreement that complies with requirements described in 234 CMR 5.08 including a signed affidavit that confirms successful completion of the continuing education required in 234 CMR 5.07 (2).

(4) A registered dental hygienist practicing in a public health setting may provide dental hygiene services, including placement of sealants, without first having a dentist examine the patient, either pursuant to a written collaborative agreement that complies with requirements described in 234 CMR 5.08, or pursuant to a standing order under the general supervision of a dentist licensed pursuant to M. G. L. c. 112, § 45.

5.08: Collaborative Agreement with a Public Health Dental Hygienist

A public health dental hygienist who holds a valid license to practice dental hygiene in the Commonwealth issued pursuant to M. G. L. c. 112, § 51 and who has completed the appropriate training required by the Board and has either three years of full-time or an equivalent 4,500 hours of clinical experience shall practice in accordance with Board statutes and regulations and shall enter into a written collaborative agreement with a dentist who holds a valid license issued pursuant to M. G. L. c. 112, § 45 or with the appropriate local or state government agency or institution pursuant to M. G. L. c.112, §51, where a dentist licensed pursuant to M. G. L. c. 112, §45, is available to provide the appropriate level of communication and consultation with the dental hygienist to ensure patient health and safety.

(1) A public health dental hygienist shall:

- (a) Enter into a written collaborative practice which complies with the requirements at 234 CMR 5.08 before rendering treatment, advertising, or soliciting patients to provide any dental hygiene services in a public health setting pursuant to a collaborative agreement;
- (b) Maintain contact and document communication with the dentist with whom the public health dental hygienist has entered into a collaborative agreement;
- (c) Practice in accordance with Board rules and regulations;
- (d) Practice in accordance with systems, policies and procedures established pursuant to Board statutes and regulations;
- (e) Obtain written, signed informed consent of the patient or legal representative which complies with Board regulations contained herein, informs the patient or legal representative that the services provided by the

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public health dental hygienist are not a substitute for a dental examination by a dentist and informs the patient that the patient or legal representative that the patient should obtain, or should have had, a dental examination by a dentist within 90 days;

(f) Provide each patient with a written Information Sheet at the conclusion of the patient's visit. Said Information Sheet shall, at a minimum, include the following:

1. Results of the dental hygiene evaluation;
2. The name(s) of the public health dental hygienists and any licensed dentist and other dental auxiliaries who provided services;
3. A description of the treatment rendered including, but not limited to, billed service codes and fees associated with treatment, and tooth numbers when appropriate;
4. Information on how to contact the public health dental hygienist, dental health services program director, mobile dental facility or portable dental operation permit holder (*See 234 CMR 7.00*);
5. If necessary, provide a referral for emergency assessment by a dentist;
6. When a referral is made, the patient or legal representative shall be referred to the patient's regular dentist if one is identified. If none is identified, then the patient or legal representative must be provided with the names of dentist(s), community health center(s) or dental school clinic(s) located within a reasonable geographic distance from the patient's home and with whom the public health dental hygienist or dental health services program has communicated with regarding the acceptance of referrals;
7. The name and signature of the public health dental hygienist; and
8. If the patient or legal representative has given consent for an institutional facility (e.g. school, nursing home) to access the patient's dental health records, then the dental hygienist shall also provide the institution with a copy of the information sheet.

(2) A dentist entering into a collaborative agreement with a public health dental hygienist, may, but is not required to, provide subsequent dental treatment to patients served under said agreement.

(3) Written Collaborative Agreement. A collaborative agreement between a public health dental hygienist and a municipality or state agency or institution, or with a licensed dentist who holds a valid license issued pursuant to M. G. L. c. 112, §45 shall, at a minimum, address all of the following:

- (a) Identify by name(s) the dentist(s) who shall be available to provide the appropriate level of communication and consultation with the public health dental hygienist to ensure patient health and safety;

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- (b) Describe, with specificity, how communication and consultation between the dentist and public health dental hygienist will be accomplished, including the frequency and arrangements for back-up coverage when the dentist is not accessible to provide communication and consultation (e.g., during vacation, illness);
- (c) Provide the names, license numbers, addresses, telephone and facsimile numbers, and emergency contact information for the dentist(s) and public health dental hygienist;
- (d) Include an attestation from the public health dental hygienist which is signed under the pains and penalties of perjury that describes the public health dental hygienist's qualifications to practice as a public health dental hygienist and explicitly states that the dental hygienist has a minimum of three years of full-time or an equivalent of 4,500 hours of clinical experience as a registered dental hygienist and has completed all training required by the Board;
- (e) Identify entity(ies) and geographic area(s) where public health dental hygienist services will be provided pursuant to the collaborative agreement;
- (f) Specify the dental hygiene procedures to be provided and the populations to be served pursuant to the collaborative agreement;
- (g) Specify and describe responsibilities for creating, maintaining, storing, retrieving and providing for the confidentiality of patient records;
- (h) Specify and describe responsibilities for establishing systems, policies and procedures to ensure compliance with Board regulations, including but not limited to requirements of 234 CMR 5.00 and 7.00 as may be applicable;
- (i) Specify and describe responsibilities for developing, implementing, and maintaining emergency medical protocols and for the provision of periodic review and training on same;
- (j) Include any considerations for age- or procedure- specific protocols as may be deemed necessary by the dentist or public health dental hygienist;
- (k) Include any considerations for medically-compromised patients as may be deemed necessary by the dentist or public health dental hygienist;
- (l) Outline responsibilities for billing and reimbursement for services rendered by the dental hygienist in the public health setting, if indicated;
- (m) Identify a process for the public health dental hygienist to legally obtain prescription products (e.g. chemotherapeutics, fluoride varnish) pertinent to the provision of dental hygiene services and which are to be utilized when rendering services in a public health setting; and
- (n) Term of the collaborative agreement, if applicable.

(4)The dentist and public health dental hygienist shall review and update the written collaborative agreement at least annually.

(5) The dentist and public health dental hygienist shall immediately notify each other and, if applicable, the municipality, state agency or institution involved in the collaborative agreement of any disciplinary action imposed by the Board or any other

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governmental agency against his/her license to practice dentistry or dental hygiene in the Commonwealth.

(6) A copy of the written collaborative agreement shall be maintained by the municipality, state agency or institution, licensed dentist, and the public health dental hygienist. Upon written request, said agreement shall be made available to the Board, or to a patient who received treatment pursuant to the agreement or his/her legal representative.

(7) Each public health dental hygienist shall maintain the following data to be reported to the Massachusetts Department of Public Health's Office of Oral Health on forms and in accordance with procedures and time lines established by that office:

- (a) The dates of each session with name and address of the site where public health dental hygiene services were provided; and
- (b) The number of patients served and the type(s) and quantity(ies) of each service provided.

5.09 Reserved

5.10 Requirements for Training in Radiology

(1) A Registered Dental Hygienist (RDH), Public Health Dental Hygienist (PHDH), Expanded Function Dental Assistant (EFDA), Certified Dental Assistant (CDA), or Formally-Trained Dental Assistant (FTDA), may take dental radiographs only under the supervision of a dentist provided that the dental auxiliary has successfully completed a course with a curriculum that complies with CODA-standards for radiological techniques and safeguards in dentistry.

(2) An On-the-Job Trained Dental Assistant (OJT) may take radiographs only under the direct supervision of a dentist and must have completed a course in radiological techniques and safeguards and successfully passed the DANB Radiation Health and Safety Examination (RHS), or other examination as approved by the Board, within one year of the course completion.

5.11 Delegation of Duties

(1) A dentist licensed to practice dentistry in the Commonwealth pursuant to M. G. L. c. 112, § 45 may delegate certain dental duties set forth in this section to a dental auxiliary who is properly educated, trained, and qualified as specified in Board statutes and regulations.

(2) The supervising dentist shall be responsible for all delegated acts and procedures performed by the dental auxiliary. Any dentist who delegates a procedure to an auxiliary

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who does not meet the requirements necessary to perform that procedure may be subject to disciplinary action by the Board.

5.12: Delegable Procedures

Registered Dental Hygienists (RDH), Public Health Dental Hygienist (PHDH), Expanded Function Dental Assistant (EFDA), Certified Dental Assistant (CDA), Formally-Trained Dental Assistant (FTDA), and On-the-Job Trained Dental Assistant (OJT) and may perform the following dental procedures pursuant to the designated level of supervision or direction: General Supervision (G), Collaborative Agreement (CA), Direct Supervision (D), Immediate Supervision (I) or Delegation Not Allowed (N/A).

	DELEGATED DUTY	RDH	PHDH	EFDA	CDA	FTDA	OJT
(1)	Review medical and dental history and consult when necessary with medical practitioner	G	CA	G	G	G	G
(2)	Perform preliminary evaluation to determine needed dental hygiene services	G	CA	N/A	N/A	N/A	N/A
(3)	Make referrals to dentists, physicians, and other practitioners in consultation with a dentist	G	CA	N/A	N/A	N/A	N/A
(4)	Provide oral health instruction	G	CA	G	G	G	G
(5)	Perform dietary screening for dental disease prevention and control	G	CA	G	G	G	G
(6)	Conduct dental screenings	G	CA	N/A	N/A	N/A	N/A
(7)	Record dental screenings	G	CA	D	D	D	D
(8)	Expose radiographs	G	CA	G	G	D	D
(9)	Evaluate radiographs for provision of dental hygiene services	G	CA	N/A	N/A	N/A	N/A
(10)	Take intra-oral photographs	G	CA	G	G	G	G
(11)	Perform and record charting of the oral cavity and surrounding structures, including but not limited to, existing dental restorations, lesions and periodontal probing depths	G	CA	N/A	N/A	N/A	N/A
(12)	Record charting of the oral cavity and surrounding structures, including but not limited to, dental restorations, lesions and periodontal probing depths	G	CA	D	D	D	D
(13)	Take and record vital signs	G	CA	G	G	G	G
(14)	Perform minor emergency denture adjustments to eliminate pain and discomfort in nursing homes and other residential or	G	CA	N/A	N/A	N/A	N/A

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	DELEGATED DUTY	RDH	PHDH	EFDA	CDA	FTDA	OJT
	long term care facilities						
(15)	Perform pulp testing	D	N/A	N/A	N/A	N/A	N/A
(16)	Apply anti-cariogenic agents, including fluoride varnish	G	CA	G	G	G	D
(17)	Apply topical anesthetic agents	G	CA	I	I	I	I
(18)	Apply and adjust dental sealants	G	CA	I	I	I	N/A
(19)	Take impressions for study casts, bite registrations, including for identification purposes, night guards, and custom fluoride and bleaching trays pursuant to a dentist's prescription or order	G	CA	G	G	G	I
(20)	Take impressions for athletic mouth guards	G	CA	G	G	G	I
(21)	Retract lips, cheek, tongue and other oral tissue parts	G	CA	G	G	G	G
(22)	Irrigate and aspirate the oral cavity	G	CA	D	D	D	D
(23)	Re-cement and adjust intact temporary restorations intra-orally	G	CA	G	D	D	N/A
(24)	Place temporary restorations (not including temporization of inlays, on-lays, crowns, and bridges) to provide palliative treatment	G	CA	G	D	D	I
(25)	Assist or monitor nitrous oxide analgesia	I	I	I	I	I	I
(26)	Place and remove gingival retraction materials	D	D	D	D	D	D
(27)	Apply cavity varnish, liner(s) and bonding agents	I	I	I	I	I	I
(28)	Apply desensitizing agents	G	CA	G	D	D	D
(29)	Place restorative materials in tooth for condensation and finishing by the dentist	I	I	I	I	I	I
(30)	Remove temporary restorations with hand instruments	G	CA	G	I	I	N/A
(31)	Place and remove wedges	G	CA	G	D	D	I
(32)	Place and remove matrix bands	G	CA	G	D	D	I
(33)	Place and remove dental dams	G	CA	G	G	G	D
(34)	Place and remove periodontal dressings	G	CA	G	G	G	N/A
(35)	Remove sutures	G	CA	G	G	G	D
(36)	Removal of implant healing caps/cover screws for restorative procedures	I	I	I	I	I	I
(37)	Irrigate and dry root canals with paper points	I	I	I	I	I	I
(38)	Place cotton pellets and temporary restorative materials into endodontic openings	G	CA	G	D	D	D

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	DELEGATED DUTY	RDH	PHDH	EFDA	CDA	FTDA	OJT
(39)	Remove excess cement and bonding agents from bridges and appliances with hand instruments	G	CA	G	D	D	I
(40)	Cement and remove temporary crowns and bridges	G	CA	G	G	G	I
(41)	Insert and/or perform minor adjustment of night mouth guards, athletic mouth guards, and custom fluoride trays	G	CA	G	G	G	I
(42)	Select and adapt stainless steel crowns or other pre-formed crown for insertion by dentist	I	I	I	I	I	I
(43)	Perform sub-gingival and supra-gingival scaling	G	CA	N/A	N/A	N/A	N/A
(44)	Polish teeth, after dentist or dental hygienist has determined that teeth are free of calculus, with slow speed hand piece	G	CA	G	G	G	N/A
(45)	Administer local anesthesia pursuant to 234 CMR 6.00	D	D	N/A	N/A	N/A	N/A
(46)	Perform gross debridement and/ or scaling and root planing	G	CA	N/A	N/A	N/A	N/A
(47)	Prepare and perform oral cytological smears or studies	D	N/A	N/A	N/A	N/A	N/A
(48)	Use diagnostic and periodontic non-cutting lasers	G	CA	N/A	N/A	N/A	N/A
(49)	Perform any other procedure approved by the Board						
	Orthodontic Procedures: Performed only pursuant to an orthodontic treatment plan developed by a dentist.						
(50)	Take impressions for orthodontic retainers	G	CA	G	G	G	D
(51)	Preliminary intra-oral fit of bands	G	CA	G	G	G	D
(52)	Preliminary oral fit of arch wire	G	CA	G	G	G	D
(53)	Select size of headgear	G	CA	G	G	G	D
(54)	Place and remove orthodontic separators	G	CA	G	G	G	D
(55)	Place and remove orthodontic arch wires	G	CA	G	G	G	D
(56)	Etch appropriate enamel surfaces before bonding of orthodontic appliances by a dentist	G	CA	G	G	G	D
(57)	Place elastics and ligature wires	G	CA	G	G	G	D
(58)	Remove fixed orthodontic appliances	G	CA	G	G	G	D
(59)	Remove excess cement and bonding agents from orthodontic appliances with hand	G	CA	G	G	G	D

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	DELEGATED DUTY	RDH	PHDH	EFDA	CDA	FTDA	OJT
	instruments						
(60)	Perform minor emergency palliative orthodontic adjustments to eliminate pain and discomfort	G	CA	G	G	G	D

5.13: Non-Delegable Dental Duties

Only licensed dentists shall:

- (1) Perform final diagnoses and treatment planning;
- (2) Perform surgical or cutting procedures on hard or soft tissue;
- (3) Prescribe or parenterally administer drugs or medicaments;
- (4) Prescribe dental lab work orders for any appliance or prosthetic device or restoration to be inserted into a patient's mouth;
- (5) Operate high speed rotary instruments in the mouth;
- (6) Perform pulp-capping procedures;
- (7) Take final impressions for fixed and removable prosthetic restoration of teeth or oral structures;
- (8) Perform final positioning and attachment of orthodontic bonds and bands; and
- (9) Perform final cementation of crowns and bridges.

5.14: Patient Records: Content, Confidentiality, Retention, and Availability

(1) Content of Patient Record.

Patient records include, but are not limited to, dental charts, photographs, patient histories, examination and test results, diagnoses, treatment plans, progress notes, anesthesia charts, orthodontic models, prescriptions, radiographs, patient consents, and billing records.

(2) Confidentiality of Patient Records.

All patient records including, but not limited to, dental charts, photographs, patient histories, examination and test results, diagnoses, treatment plans, progress notes, anesthesia charts, orthodontic models, prescriptions, radiographs, patient consents, and billing records of any patient treated shall be maintained in a manner that ensures confidentiality and access for patients and authorized practitioners who may wish to obtain a copy of patient records.

(3) Record Retention Requirement.

The licensee shall maintain a patient's original dental record and original radiographs (x rays) for a minimum of seven years from the date of the last patient treatment. In

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addition, the patient record of a minor shall be retained for a minimum of seven years from the date of the last patient treatment or three years from when the patient has reached the age of majority, whichever is later.

(4) Availability of Dental Records.

(a) Request for Copy of Dental Record. The licensee shall provide upon request by a patient or another specifically authorized person, a complete copy of the patient's dental record in accordance with M. G. L. c. 112 § 12CC. A copy of the patient record, including radiographs, shall be provided within a reasonable amount of time not to exceed thirty calendar days from the date of the request. The licensee may charge a reasonable fee for the expense of providing a patient's dental record, not to exceed the cost of either labor and/or materials incurred in the copying of the patient record, radiographs and models. The licensee shall not require payment for dental services rendered as a condition of providing a copy of the dental record. A dentist may offer to provide the patient with a summary of the patient's record, but the summary shall not be in lieu of the complete patient record, if requested.

(b) Treatment in a School Setting. Where consent has been granted by the patient or legal representative, a copy of the patient's Information Sheet or other written summary of the screening, examination, or treatment shall be provided to the official designated by the school.

(c) Treatment in a Nursing Home or Residential Treatment Facility. A copy of the patient's information sheet or other written summary of the screening, examination, or treatment shall be provided to the official designated by the facility or institution and shall be made part of the patient record pursuant to the applicable state and federal statutes and regulations.

(d) If the licensee dies and the practice is closed, the estate may notify patients treated within the two years prior to the date of passing. Said notice shall inform patients of how they may obtain a copy of their patient record, including radiographs. Notice may be by a written letter to each patient, by electronic notice, public notice in the appropriate newspaper, and/or by other means which is widely disseminated. A copy of said notice must be submitted to the Board upon issuance and/or publication.

(e) Electronic patient records shall comply with the requirements of 234 CMR 5.14 and 5.15 and shall be unalterable and producible in paper form upon request.

5.15: Content of Patient Records.

(1) The patient record shall be a complete record of all patient contact including, but not limited to, a general description of the patient's medical and dental history and status at time of examination, diagnoses, patient education, treatment plan, referral for specialty treatment, medications administered and prescribed, pre- and post- treatment instructions

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and information conveyed to the patient pursuant to M. G. L. c. 112, §§ 43-53 and 234 CMR 2.00.

(2) Patient records shall be legible and clear in meaning to a subsequent examining or treating dentist, the patient, dental auxiliaries or other authorized persons.

(3) At a minimum, a patient's record must include:

(a) Patient Information.

1. Name, address and date of birth of the patient;
2. If the patient is not of the age of majority, the name of the parent or legal representative;
3. If the parents of the minor child are separated or divorced, the name of the custodial parent;
4. If the patient has a legal representative pursuant to 234 CMR 2.00, the name and address of the legal representative;
5. Whether the patient is an emancipated minor; and
6. Patient's telephone numbers(s) and electronic mail addresses, except if the patient declines to provide this information.

(b) Medical and Dental History Form. The patient's medical history and dental history shall include, but not be limited to:

1. A review of past and present illnesses, diseases and disabilities;
2. Systemic disease(s) that may affect the oral cavity;
3. Current prescription and non-prescription medications as well as any known drug allergies;
4. Documentation of consultation with the patient's medical physician(s) as appropriate; and
5. Date of the patient's last dental examination, frequency of dental visits, current home care regime and documentation of the patient's primary dental complaint, if any.
6. Upon review of the patient's medical and dental history, any licensee or dental auxiliary in the practice treating the patient shall sign and date the medical and dental history.
7. At each patient visit, the licensee shall inquire and document and initial in the patient record, whether there are any changes in the patient's medical history, including but not limited to, changes in prescription medications.

(c) Record of Dental Examination. Each patient record shall include documentation of the results of a comprehensive clinical examination of the following areas:

1. Head and neck;
2. Radiographic images as necessary and appropriate to facilitate a comprehensive diagnosis of the patient. Radiographs shall be clearly identified with the patient name, date of examination and the name of the dentist;

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3. Intra-oral and extra-oral soft tissue examination, including charting of existing restorations and current status of patient's hard and soft tissue;
4. Comprehensive periodontal screening;
5. Oral cancer screening;
6. Examination of the teeth;
7. The results of any other examination performed by the licensee and/or dental auxiliary as necessary and appropriate to facilitate comprehensive diagnoses of the patient's dental status; and
8. Findings which are within or outside of normal limits.

(d) Diagnoses. The patient record shall include written diagnoses of the patient's current dental status based on the evaluation of the patient's medical and dental history, dental clinical examination and radiographic findings.

(e) Treatment Plan.

The patient record shall include a written treatment plan describing in detail the proposed treatment. The proposed treatment plan and information regarding estimated fees must be reviewed with the patient prior to the commencement of treatment. The treatment plan shall also include referrals to specialists as necessary. If there is no treatment plan this must be explained and documented in the patient record.

(f) General and Specific Informed Consent. General and/or specific informed consent must be obtained in writing, signed and dated from the patient or legal representative prior to treatment and shall not be obtained fraudulently from a patient under duress or who is not mentally competent, the age of majority or an emancipated minor.

1. General Informed Consent. Each licensee shall obtain from the patient or legal representative general informed consent allowing the licensee to examine, diagnose and treat the patient. Procedures covered by a general informed consent include basic restorative or preventive procedures and permission to bill patient's insurer, if any. The general informed consent may remain in effect until treatment is terminated either by the licensee and/or the patient and the patient is no longer regarded as a patient of record.

2. Specific Informed Consent. Each licensee shall obtain from the patient or the patient's legal representative a specific informed consent allowing the licensee to perform specialized treatment including, but not limited to: administration of anesthesia other than local anesthesia, periodontal, endodontic, orthodontic, prosthetic and oral and maxillofacial procedures, and specialized treatment for pediatric patients, including behavior management techniques.

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3. Additional Requirements for Mobile Dental Facilities, Portable Dental Operations, and for Licensees Providing Dental Services in a Public Health Setting An MDF, PDO as defined in 234 CMR 7.03 or licensee providing dental services in a public health setting shall obtain a signed written consent from the patient or legal representative which conforms to 234 CMR 5.15(3)(f) and also includes the following:

- a. An explanation of the scope of services that may be rendered;
- b. Notice that the patient may continue to obtain dental care through any other provider;
- c. Notice that the treatment of the patient may affect the future rights and benefits due the patient under private insurance, Medicaid, or the children's health insurance program;
- d. If applicable, a request for permission to allow the patient's dental insurance carrier to be billed for treatment provided to the patient;
- e. If applicable for services rendered in a public health setting, a request for permission to provide the official designated by the school, nursing home, residential facility, or institution with a written summary of the examination; and
- f. Information on how the patient or legal representative can contact the MDF or PDO permit-holder, or public health dental services program.

(g) Progress Notes. The patient record shall include written documentation of the treatment provided by the dentist and/or dental auxiliary including, but not limited to:

1. Administration of medicines and medicaments including the type, amount, and route of administration;
2. A statement of services provided including patient reaction, if any, during the treatment visit, procedures performed and diagnoses;
3. A description of the pre- and post- treatment instructions including, if applicable, plans for subsequent treatment;
4. Documentation of any referral for specialty treatment, including the name of the specialist the patient is referred to; and
5. A dated written or electronic signature by the dentist or dental auxiliary who treated the patient.

(h) Prosthetic and Orthodontic Prescriptions. All prosthetic and orthodontic prescriptions, whether filled by the licensee or other laboratory, shall be written in accordance with M. G. L. c. 112, § 50, must be in duplicate (copy to be retained by dentist) and include:

1. Name and address of the dental laboratory;
2. Name, initials or identifying number for the patient;
3. Date;
4. Description of the treatment and procedures, including placement of the patient's name and/or identifying patient number;

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5. Specification of the type and quality of materials to be used; and
6. Signature and license number of the dentist.

(i) Patient Financial Record. The patient's financial record shall include, but not be limited to, the name of the patient's dental insurer, documentation of fees for treatment and payment schedule, and claims submitted to third parties.

5.16: Emergency Protocol

All dental practices shall:

- (1) Have a written protocol for managing medical or dental emergencies;
- (2) Maintain a current emergency drug kit;
- (3) Have communication equipment that ensures rapid access to emergency responders and others as necessary; and
- (4) Ensure that all staff are trained when hired, and at least annually thereafter, to implement the emergency protocols.

5.17: Reporting of Patient Deaths in Dental Facilities

(1) Purpose. All dental patient deaths that occur in a dental facility or that are pronounced in another facility, *e.g.* hospital to which the dental patient has been transported from a dental facility, must be reported to the Board. The dentist who was treating and/or responsible for said patient must submit a written report describing the event to the Board by certified mail, electronic mail, or facsimile within seven days.

(2) Failure to Comply. The license, permit, or registration of the dentist-responsible for said patient may be revoked, suspended, or placed on probation for failure to comply with this reporting requirement.

5.18: Inspection of Facilities and Requirements for Corrective Action

(1) Inspection of Dental Facilities. The Board or its designee(s) may visit a dental practice at any time without prior notice and conduct an inspection to determine compliance with state law M.G. L. c. 112, §§ 43 through 53 and § 61 and 234 CMR 2.00 or both, or any state or federal statutes or regulations relating to the practice of dentistry and dental hygiene.

(2) Deficiency Statement. Following a Board inspection during which any violation of M.G.L. c. 112, §§ 43 through 53 and 234 CMR 2.00 is found, the Board or its designee(s) may prepare a deficiency statement citing any and all violations observed, a copy of which shall be sent to the licensee for response.

(3) Plans of Correction. The licensee shall submit to the Board a written plan of correction for violations cited in a deficiency statement within the time specified by the

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Board. The plan of correction shall set forth, with respect to each deficiency, the specific corrective step(s) to be taken, a timetable for such steps, and the date by which compliance will be achieved. The timetable and the compliance dates shall be consistent with achievement of compliance in the most expeditious manner possible. A plan of correction which does not meet the requirements of this section shall be considered unacceptable by the Board and may be returned to the licensee for further correction.

5.19: Advertising

(1) Illegal Advertising Practices. A dentist may advertise truthful and accurate information pertaining to dental services. Unfair, misleading, deceptive and fraudulent advertising is prohibited.

(2) Advertising Dental Services and Dental Fees.

(a) A dental service is one that a dentist and/or dental auxiliary performs for a specific fee.

(b) Dental services advertised as free or no charge must describe the specific services offered and the comparative monetary value.

(c) The period of time during which the advertised fees will be in effect must be included in the advertisement. Advertised fees for all dental services must be in effect for a reasonable period of time from the initial date of the advertisement.

(3) Content of Advertisements.

(a) Any advertisement for dental services, regardless of medium, must include the following:

1. The name of at least one owner of the practice who is currently licensed to practice dentistry in the Commonwealth; and

2. If the dental practice is organized as a professional corporation pursuant to M. G. L. c. 156A, the name of at least one of the owners who is licensed to practice dentistry in the Commonwealth.

The information disclosed by the advertising dentist in a publication or a broadcast shall comply with M. G. L. c. 112, § 52A, and other provisions of 234 CMR 2.00.

5.20: Principles of Ethics and Code of Professional Conduct.

All dentists licensed by the Board and all practices providing dental services shall comply with the *Principles of Ethics and Code of Professional Conduct*, January 2004 of the American Dental Association, as may be amended and republished, and all registered dental hygienists shall comply with the *Code of Ethics, 2006 of the American Dental Hygienists Association, Inc.*, as may be amended and republished.

5.21: Prohibited Practices

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Licensees are prohibited from engaging in the following practices:

- (1) Associating or cooperating with any person, firm or corporation in any manner in an effort to avoid or circumvent the intent or provisions of M. G. L. c. 112, §§ 43 through 53 and § 61;
- (2) Paying or accepting fees in any form or manner as compensation for referring patients to any person for professional services, written work orders, or other services or articles supplied to the patient;
- (3) Entering into an agreement or other arrangement with a person who does not hold a valid license to practice dentistry in the Commonwealth which allows said person final decision-making authority over any of the following:
 - (a) Selection of a course of treatment for a patient;
 - (b) Procedures for materials to be used as part of such treatment;
 - (c) Manner in which treatment is carried out by the licensee;
 - (d) Professional practice decision-making;
 - (e) Patient records;
 - (f) Policies and decisions relating to pricing, credit, refunds, warranties and advertising;
 - (g) Decisions related to delegation of dental duties; and
 - (h) Control and maintenance of dental equipment, materials and supplies.
- (4) Operating or owning a commercial dental laboratory and continuing in the active practice of dentistry except where a dentist owns or operates a private, non-commercial dental laboratory for his/her own use and benefit. Where the licensee owns or operates a private, non-commercial dental laboratory and employs a dental technician, the licensee shall provide the dental technician a written work order which contains the date, information identifying the patient (e.g. name, initials, or social security number), the description of the work to be done, and a specification of the type and quality of materials to be used. The work order shall be in duplicate, signed by the dentist and a copy be retained in the patient record.

REGULATORY AUTHORITY: 234 CMR 5.00; M. G. L. c. 112, §§ 12CC, 43-53, 61, 65 and 65A; c. 94C; c. 111, §§ 51, 52.

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234 CMR 6.00: ADMINISTRATION OF ANESTHESIA AND SEDATION

- 6.01: Scope
- 6.02: Definitions
- 6.03: Facility Permit: Anesthesia Permits Required for Facilities
- 6.04: Facility Permit: D-A: Facility Requirements for Administration of General Anesthesia and Deep Sedation
- 6.05: Facility Permit D-B1: Facility Requirements for Administration of Moderate Sedation and Nitrous Oxide-Oxygen in Conjunction with Any Other Anesthetic or Enteral Sedative Agents Dispensed or Administered in a Dental Facility.
- 6.06: Facility Permit D-B2: Facility Requirements for Administration of Minimal Sedation and/or Nitrous Oxide-Oxygen in Conjunction with an Enteral Agent Dispensed or Administered in a Dental Facility
- 6.07: Facility Permit D-C: Administration of Nitrous Oxide-Oxygen Sedation Only
- 6.08: Mobile Facility Permit D-H: Facility Requirements for Dental Offices Using Mobile and/or Portable Anesthesia Services
- 6.09: Facility Permit D-P: Requirements for the Use and Provision of Portable and/or Mobile Anesthesia Services
- 6.10: Requirements for Individual Anesthesia Permits for the Administration of General Anesthesia, Deep Sedation, Moderate Sedation, Minimal Sedation, Nitrous Oxide-Oxygen, and Local Anesthesia
- 6.11: Individual Permit A: Administration of General Anesthesia and/or Deep Sedation
- 6.12: Individual Permit B-1: Administration of Moderate Sedation and Nitrous Oxide-Oxygen in Conjunction with any Other Anesthetic or Enteral Sedative Agents Dispensed or Administered in a Dental Facility.
- 6.13: Individual Permit B-2: Facility Requirements for Administration of Minimal Sedation and/or Nitrous Oxide-Oxygen in Conjunction with an Enteral Agent Dispensed or Administered in a Dental Facility
- 6.14: Individual Permit C: Administration of Nitrous Oxide-oxygen Alone or in Conjunction with Local Anesthesia
- 6.15: Administration of Local Anesthesia Only
- 6.16: Permit L: Administration of Local Anesthesia by a Dental Hygienist
- 6.17: Reporting of Adverse Occurrences
- 6.18: Penalty for Non-Compliance

6.01: Scope

In order to ensure the protection and safety of patients, every dental facility must be properly equipped, supplied and permitted for the administration of specific types of anesthesia and levels of sedation, and every dentist and/or dental hygienist must be properly educated, trained, and permitted for the specific type of anesthesia or sedation being administered. To guarantee a wide margin of safety for the patient, the

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qualifications and requirements for permits for anesthesia administration shall be based on a continuum of types of procedures, equipment, drugs, qualifications and training of personnel necessary and appropriate for each type of anesthesia or sedation to be administered at the site.

The following standards are based on the *ADA Guidelines for The Use of Sedation and General Anesthesia by Dentists 2007*, as may be amended and republished, and the *Guidelines for Office Anesthesia On-Site Evaluation of the Massachusetts Society of Oral and Maxillofacial Surgeons, 2006*, as may be amended and republished, and shall be applied in determining the adequacy of the facility and competence of the personnel administering anesthesia and/or sedation.

(1) A dentist licensed to practice dentistry in the Commonwealth pursuant to M. G. L. c. 112, §§ 45 and 45A may administer local anesthesia in a facility that complies with the requirements of 234 CMR 6.15.

(2) Facility Permits. A dental facility where general anesthesia or deep sedation, moderate sedation, minimal sedation, and/or nitrous oxide-oxygen are administered shall have a Facility Permit D issued by the Board for the type of anesthesia to be administered, unless the facility is exempt from permitting requirements pursuant to 234 CMR 6.03 (1) (c)..

(3) A Facility Permit D is not required for the administration of local anesthesia only.

(4) Individual Anesthesia Permits for a Qualified Dentist: A qualified licensee pursuant to M.G.L. 112 s. 45 is required to obtain an Individual Anesthesia Permit issued by the Board for the type of anesthesia to be administered before he/she may administer general anesthesia, deep sedation, moderate sedation, minimal sedation, or nitrous oxide-oxygen in a dental facility having a Facility D Permit for the type of anesthesia the dentist will be administering.

(5) Individual Anesthesia Permit for Qualified Dental Hygienist. A qualified dental hygienist is required to obtain a Permit L issued by the Board for the administration of local anesthesia under the direct supervision of a licensed dentist.

(6) A dentist issued an individual anesthesia permit may administer anesthesia or sedation of the type authorized by his/her individual anesthesia permit only at those sites which have a Facility Permit issued by the Board for the type of anesthesia being administered by said dentist, unless the facility is exempt from these standards under 234 CMR 6.03(1)(c).

(7) Anesthesia Administration Evaluations. The Board may conduct anesthesia administration evaluations as deemed necessary by the Board to ensure compliance with

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the requirements in 234 CMR 6.00. Such an evaluation may include observing the administration of anesthesia appropriate to the permit sought by the licensee. Every applicant shall be given notice by the Board of all deficiencies reported as a result of the evaluation. The Board may provide the applicant with a reasonable period of time in which any deficiencies must be corrected. If the results of the evaluation are deemed unsatisfactory, the Board may conduct a second evaluation, within a reasonable time, or upon written request of the applicant.

(8) Inspections. The Board may require an on-site inspection of any facility, medications, equipment and qualifications of personnel utilized in the administration of general anesthesia, deep sedation, moderate sedation or nitrous oxide-oxygen sedation.

(9) Refusal to permit an anesthesia evaluation or inspection shall constitute a valid ground for denial, suspension or revocation of an anesthesia permit.

6.02: Definitions

ADA Sedation Guidelines means the American Dental Association Policy Statement: The Use of Sedation and General Anesthesia by Dentists; The Guidelines for Teaching Pain Control Sedation to Dentists and Dental Students 2007; and The Guidelines for the Use of Sedation and General Anesthesia by Dentists, as may be amended and republished.

AHA/ACLS Guidelines means the 2005 American Heart Association Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular Care, as may be amended and republished.

Anesthesia means an artificially induced insensibility to pain usually achieved by the administration of gases or the use of drugs.

Analgesia means the diminution or elimination of pain. An analgesic (colloquially known as a "painkiller") is any member of the diverse group of drugs used to control pain.

ASA I, II, III, and IV are classifications of patient physical status as determined by the American Society of Anesthesiologists (ASA).

Conscious sedation means sedation in which protective reflexes are normal or minimally altered. The patient remains conscious and maintains the ability to independently maintain an airway and respond appropriately to verbal command. Conscious sedation also includes the use of other sedative agents and/or pre-medication in combination with nitrous oxide-oxygen.

Continual means repeated regularly and frequently in a steady succession.

Continuous means prolonged without any interruption at any time.

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Deep Sedation means a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. 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 (American Society of Anesthesiologists, adopted October 2009).

Enteral means any technique of administration in which the agent is absorbed through the gastrointestinal (GI) tract or oral mucosa (*i.e.*, oral, rectal, sublingual).

Facility Permits are issued by the Board before a qualified dentist licensed pursuant to M.G.L. c. 45 or a medical anesthesiologist licensed by the Massachusetts Board of Registration in Medicine may administer general anesthesia and/or deep sedation, moderate sedation, minimal sedation, or nitrous oxide-oxygen in a dental office. A dentist owning or operating a dental facility or practice must obtain a Facility Permit in order to allow the administration of these categories of anesthesia services to be provided on the premises. The types of Facility Permits issued by the Board are:

- (a) Facility Permit D-A authorizes the administration of general anesthesia, deep, moderate, minimal sedation, and nitrous oxide-oxygen sedation at the site named on the Permit, as performed by a qualified dentist licensed to practice under M. G. L. c. 112 §45, or by a medically licensed anesthesiologist.
- (b) Facility Permit D-B1 authorizes the administration of moderate, minimal, and nitrous oxide-oxygen sedation at the site named on the Permit, as performed by a qualified dentist licensed to practice under M. G. L. c. 112, § 45 and permitted dentist, or by a medically licensed anesthesiologist.
- (c) Facility Permit D-B2 Permit authorizes the administration of minimal sedation at the site named on the Permit, as performed by a qualified dentist licensed to practice under M. G. L. c. 112, §45, or by a medically licensed anesthesiologist.
- (d) Facility Permit D-C authorizes the administration of nitrous oxide-oxygen sedation on the premises named on the permit by a qualified dentist licensed to practice dentistry in the Commonwealth under M. G. L. c. 112, § 45, or by a medically licensed anesthesiologist.
- (e) Facility Permit D-H authorizes the dental facility or practice site named on the Permit to contract for or host a mobile or portable anesthesia service offered by a qualified dentist licensed under M. G. L. c. 112, § 45 who holds a Facility Permit D-P, or offered by a medically licensed anesthesiologist.
- (f) Facility Permit D-P authorizes a qualified dentist to use his/her portable or mobile anesthesia equipment, drugs and personnel for the administration of general anesthesia, deep sedation, moderate sedation, minimal sedation, or nitrous oxide-oxygen sedation at a dental facility or dental practice that possesses a Facility Permit D-H.

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General Anesthesia means a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Patients often require assistance in maintaining a 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 (American Society of Anesthesiologists, adopted October 2009).).

Immediately Available means physically located in the facility and ready for immediate response or utilization.

Incremental Dosing means administration of multiple doses of a drug until a desired effect is reached, but not to exceed the maximum recommended dose.

Individual Anesthesia Permits are permits authorizing qualified dentists to administer deep sedation and general anesthesia, moderate sedation, minimal sedation, and /or nitrous oxide-oxygen sedation that may be issued by the Board to a dentist licensed to practice pursuant to M. G. L. c. 112, § 45 who meets the qualifications specified in 234 CMR 6.10, 6.11, 6.12, 6.13 and/or 6.14. The following individual anesthesia permits may be issued:

- (a) Individual Permit A authorizes a qualified dentist to administer general anesthesia, deep sedation, moderate sedation, minimal sedation, and nitrous oxide-oxygen in a dental facility that has the required Facility Permit for the type of anesthesia being administered by said dentist.
- (b) Individual Permit B-1 authorizes a qualified dentist to administer moderate sedation and nitrous oxide-oxygen in conjunction with any other anesthetic or enteral sedative agents dispensed or administered in the dental facility that has the required Facility Permit for the type of anesthesia being administered by said dentist.
- (c) Individual Permit B-2 authorizes a qualified dentist to administer minimal sedation and/or nitrous oxide-oxygen in conjunction with an enteral agent dispensed or administered in the dental facility that has the required Facility Permit for the type of anesthesia being administered by said dentist.
- (d) Individual Permit C authorizes a qualified dentist to administer nitrous oxide-oxygen alone, or in conjunction with a local anesthetic in a dental facility that has the required Facility Permit for the type of anesthesia being administered by said dentist.

Inhalation means a technique of administration in which a gaseous or volatile agent is introduced into the lungs and whose primary effect is due to absorption through the gas/blood interface.

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Local Anesthesia means the elimination of sensation, especially pain, in one part of the body by the topical application or regional injection of a drug. Administration of local anesthesia requires awareness of the maximum, safe dosage limits for each patient.

Maximum Recommended Dose means the maximum FDA-recommended dose of a drug as printed in FDA approved labeling for unmonitored home use.

Minimal Sedation (Anxiolysis) is 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 (American Society of Anesthesiologists, adopted October 2009).

Mobile Anesthesia Permit P means a permit issued by the Board to a qualified dentist anesthesiologist who travels to a dental office(s) bringing equipment, supplies, drugs and qualified staff for the purpose of providing mobile or portable anesthesia or sedation services at a dental office which has the required Facility Permit D-H to contract or host an anesthesia service that uses portable or mobile dental anesthesia equipment, drugs, and personnel.

Moderate Sedation is a drug-induced depression of consciousness during which patients respond 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 (American Society of Anesthesiologists, adopted October 2009). Administration of moderate sedation includes parenteral, enteral and/or combination inhalation-enteral conscious sedation

Nitrous Oxide-oxygen Sedation means conscious sedation accomplished solely by the use of nitrous oxide-oxygen.

Operating Dentist means a dentist licensed pursuant to M. G. L. c. 112, § 45 to practice dentistry in the Commonwealth who provides treatment to the patient.

Parenteral means a technique of administration in which drugs bypass the gastrointestinal (GI) tract *e.g.* through intramuscular (IM), intravenous (IV), intranasal (IN), sub-mucosal (SM), subcutaneous (SC), or intraosseous (IO) administration.

Pediatric Advanced Life Support (PALS) Certification means that an individual has successfully completed a pediatric advanced life support course offered by the American Heart Association or other entity approved by the Board.

Permit L means a permit issued by the Board to a dental hygienist who is qualified to administer local anesthesia under the direct supervision of a dentist licensed to practice pursuant to M. G. L. c. 112, § 45.

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Qualified Dentist means a dentist licensed pursuant to M. G. L. c. 112, § 45 to practice dentistry in the Commonwealth who has completed the appropriate education and training and holds a current permit to administer deep sedation and general anesthesia, moderate sedation, minimal sedation, and/or nitrous oxide-oxygen pursuant to 234 CMR 6.00.

Routes of Administration include parenteral, enteral, and inhalation-enteral methods.

Supplemental Dosing means the administration of a single additional dose of the initial drug administered during sedation.

Time-oriented Anesthesia Record means documentation of drugs, doses, and physiologic data obtained during patient monitoring at appropriate time intervals.

Titration means the administration of incremental doses of a drug until the desired effect is reached, and applies to achieving moderate and deeper levels of sedation.

Transdermal means a technique of administration in which a drug is administered by patch or iontophoresis through the skin.

Transmucosal means a technique of administration in which the drug is administered across mucosa such as intranasal, sublingual, or rectal.

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6.03: Facility Permit: Anesthesia Permits Required for Facilities

(1) General Requirements.

(a) Prior to the administration of general anesthesia and/or deep sedation, moderate sedation, minimal sedation, or nitrous oxide-oxygen in a dental office by a qualified dentist as described in 234 CMR 6.02, or a medical anesthesiologist licensed by the Massachusetts Board of Medicine, a dental facility must obtain a Facility Permit issued by the Board to allow the administration of these anesthesia services on the premises.

(b) The Board may issue a Facility Permit for a specific office site in the name of a dentist who is qualified and licensed pursuant to M. G. L. c. 112, § 45.

(c) Exemption: A Facility Permit is not required for the administration of anesthesia at those hospital and/or dental school settings that have been approved by the Joint Commission on Accreditation of Hospitals or the Commission on Accreditation of the Council on Education of the American Dental Association, or for hospitals and clinics licensed pursuant to M. G. L. c. 111, §§ 51 through 56. A private dental office of a licensed dentist that is located within a hospital or dental school facility, however, is subject to 234 CMR 6.00.

(d) A Facility Permit issued by the Board shall be posted in each office in a public area.

(e) A Facility Permit issued by the Board is not transferable to another person, site, location, facility or entity.

(2) Initial Application and Renewal of a Facility Permit.

(a) Initial Application for a Facility Permit shall be submitted on forms provided by the Board and shall be accompanied by:

1. The permit fee, to be determined annually by the Executive Office of Administration and Finance; and
2. Documentation demonstrating compliance with any and all requirements for the permit for the type(s) of anesthesia to be administered at the site(s) named in the application.

(b) Renewal of a Facility Permit shall be biennial, at the same time the applicant's license to practice dentistry is renewed, and shall be made on forms provided by the Board and accompanied by the permit fee, to be determined annually by the Executive Office of Administration and Finance.

6.04: Facility Permit D-A. Facility Requirements for the Administration of General Anesthesia and Deep Sedation

(1) Application. An applicant shall submit an accurate and complete application on form(s) provided by the Board and accompanied by the permit fee, to be determined annually by the Executive Office of Administration and Finance. The application shall, at a minimum, include the following:

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- (a) Applicant name and Massachusetts dental license number;
 - (b) Name(s) of dental establishment(s), owner(s) of said establishment(s), and address(es) of the site(s) where anesthesia will be administered;
 - (c) Documentation of provision and maintenance of equipment, materials, and drugs required for the administration of general anesthesia and deep, moderate, minimal, and nitrous oxide-oxygen sedation; and either
 1. A written request for an on-site inspection conducted by the Board; or
 2. A certificate of successful completion of an on-site inspection conducted by the Massachusetts Society of Oral and Maxillofacial Surgeons, if eligible by membership in that organization.
- (2) Equipment Required for Facility Permit D-A. The following equipment shall be required to be provided and maintained on-site:
- (a) Alternative light source for use during power failure;
 - (b) Ambu-bag or portable bag-mask ventilator;
 - (c) Automated or manual external defibrillator;
 - (d) Current certifications in Advanced Cardiac Life Support (ACLS);
 - (e) Disposable CPR masks, pediatric and adult;
 - (f) Disposable syringes (assorted sizes);
 - (g) Endotracheal tubes with inflatable cuffs and other equipment designed to maintain patient airway including:
 1. Pediatric endotracheal tubes, assorted sizes;
 2. Adult endotracheal tubes, assorted sizes;
 3. Connectors from tubes to gas delivery machines;
 4. Syringe for cuff inflation; and
 5. Stylet.
 - (h) Endotracheal tube forceps;
 - (i) Equipment for emergency crico-thyroidotomy and/or tracheostomy with appropriate connectors to deliver 100% oxygen and establish an emergency airway;
 - (j) Equipment for the insertion and maintenance of an intravenous infusion
 - (k) Equipment suitable for proper positioning of the patient for administration of cardiopulmonary resuscitation, including a back board;
 - (l) Equipment for continuous monitoring during anesthesia;
 - (m) Gas delivery system capable of positive pressure ventilation, which must include:
 1. Oxygen;
 2. Safety-keyed hose attachments;
 3. Capability to administer 100% oxygen in all rooms (operatory, recovery, examination, and reception);
 4. Gas storage in compliance with safety codes;
 5. Adequate waste gas scavenging system; and
 6. Nasal hood or cannula.

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- (n) Laryngoscope (straight and/or curved blades, assorted sizes; extra batteries and bulbs);
- (o) Latex free tourniquet;
- (p) List of emergency telephone numbers clearly visible;
- (q) Magill forceps or other suitable instruments;
- (r) Means of monitoring blood pressure (pediatric and adult);
- (s) Means of monitoring heart rate and rhythm, with battery pack back-up;
- (t) Means of monitoring respirations;
- (u) Means of monitoring temperature;
- (v) Means of transporting patients;
- (w) Method to accurately record elapsed time;
- (x) Nasopharyngeal airways (pediatric and adult);
- (y) Oropharyngeal airways (pediatric and adult);
- (z) Oxygen (portable Cylinder E tank) pediatric and adult masks capable of giving positive pressure ventilation including bag-valve-mask system;
- (aa) Scavenger system, if inhalation agents are used;
- (bb) Sphygmomanometer and stethoscope (pediatric and adult);
- (cc) Suction:
 - 1. Suction catheter for endotracheal tube;
 - 2. Tonsillar suction tip;
 - 3. Suction equipment for use during power failure; and
 - 4. Capability of suction in all operatories and recovery rooms.
- (dd) Schedule and log for checking and recording dates when anesthesia accessories and supply of emergency drugs have been checked;
- (ee) If nitrous oxide and oxygen delivery equipment capable of delivering less than 25% oxygen is used, an in-line oxygen analyzer must be used; and
- (ff) Any other equipment as may be required by the Board.

3) Drugs Required for Facility Permit D-A. The following drugs and/or categories of drugs shall be provided and maintained in accordance with the *AHA/ACLS Guidelines* (234 CMR 6.02) or as determined by the Board for emergency use. All drugs shall be current and not expired.

- (a) Acetylsalicylic acid (rapidly absorbable form);
- (b) Ammonia inhalants;
- (c) Anticonvulsant;
- (d) Antihistamine;
- (e) Antihypoglycemic agent;
- (f) Antihypertensive medications;
- (g) Antiemetic;
- (h) Atropine;
- (i) Bronchodilator;
- (j) Corticosteroid;

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- (k) Dantrolene Sodium (required if a halogenated anesthesia agent *e.g.* halothane, enflurane, isoflurane is used or depolarizing skeletal muscle relaxants *e.g.* succinylcholine are administered);
- (l) Epinephrine pre-loaded syringes and ampules (pediatric and adult);
- (m) Lidocaine;
- (n) Intravenous antihypoglycemic agent (dextrose 50% or glucagon);
- (o) Medication to treat supraventricular tachycardia (*e.g.* adenosine, verapamil, etc.);
- (p) Muscle relaxants;
- (q) Narcotic antagonist and reversing agents;
- (r) Oxygen;
- (s) Sodium bicarbonate;
- (t) Succinylcholine;
- (u) Vasodilator;
- (v) Vasopressor; and
- (w) And any other drugs or categories of drugs as may be required by the Board.

6.05: Facility Permit D-B1. Facility Requirements for Administration of Moderate Sedation including Nitrous Oxide-Oxygen in Conjunction with any Anesthetic or Enteral Sedative Agents Dispensed or Administered in the Dental Facility

(1) Application. An applicant shall submit an accurate and complete application on form(s) provided by the Board and accompanied by the permit fee to be determined annually by the Executive Office of Administration and Finance. The application shall, at a minimum, include the following:

- (a) Applicant name and Massachusetts dental license number;
- (b) Name(s) of dental establishment(s), owner(s) of said establishment, and address(es) of the site(s) where anesthesia will be administered;
- (c) Documentation of provision and maintenance of equipment, materials, and drugs required for the administration of moderate, minimal and nitrous oxide-oxygen sedation;
- (d) A written request for an on-site inspection conducted by the Board; and
- (e) Other information as may be requested by the Board.

(2) Equipment Required for a Facility Permit D-B1. The following equipment shall be required to be provided and maintained on-site:

- (a) Alternative light source for use during power failure;
- (b) Automated or manual external defibrillator;
- (c) Disposable syringes, assorted sizes;
- (d) Disposable CPR masks (pediatric and adult);

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- (e) Equipment suitable for proper positioning of the patient for administration of cardiopulmonary resuscitation, including a back board;
- (f) Equipment and maintenance of an intravenous infusion (if IV medications are to be administered by a qualified dentist who is educated and trained commensurate with the *ADA Guidelines of Teaching Pain Control Sedation to Dentists and Dental Students 2007*;
- (g) Gas delivery system capable of positive pressure ventilation, which must include:
 - 1. Oxygen;
 - 2. Safety-keyed hose attachments;
 - 3. Capability to administer 100% oxygen in all rooms (operator, recovery, examination, and reception);
 - 4. Gas storage in compliance with safety codes;
 - 5. Adequate waste gas scavenging system; and
 - 6. Nasal hood or cannula.
- (h) Latex free tourniquet;
- (i) Means of monitoring vital signs (pediatric and adult);
- (j) Oxygen (portable Cylinder E tank) pediatric and adult masks capable of giving positive pressure ventilation (including bag-valve-mask system);
- (k) Pulse oximeter with battery pack;
- (l) Sphygmomanometer and stethoscope (pediatric and adult);
- (m) Suction;
- (n) Supervised area for recovery; and
- (o) Any other equipment as may be required by the Board.

(3) Drugs Required for a Facility Permit D-B1 Permit. The following drugs and/or categories of drugs shall be provided and maintained in accordance with the *AHA/ACLS Guidelines* (234 CMR 6.02) or as determined by the Board for emergency use. All drugs shall be current and not expired..

- (a) Acetylsalicylic acid (readily absorbable form)
- (b) Ammonia inhalants;
- (c) Anticonvulsant;
- (d) Antihistamine;
- (e) Antihypoglycemic agent;
- (f) Bronchodilator;
- (g) Corticosteroid;
- (h) Epinephrine preloaded syringes (pediatric and adult) ;
- (i) Two Epinephrine ampules;
- (j) Oxygen;
- (k) Vasodilator;
- (l) Vasopressor;
- (m) Reversal agents; and
- (n) Any other drug or category of drugs as may be required by the Board.

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6.06: Facility Permit D-B2. Facility Requirements for Administration of Minimal Sedation and/or Nitrous Oxide-Oxygen in Conjunction with an Enteral Agent Dispensed or Administered in a Dental Facility.

(1) Application. An applicant shall submit an accurate and complete application on form(s) provided by the Board and accompanied by the permit fee to be determined annually by the Executive Office of Administration and Finance. The application shall, at a minimum, include the following:

- (a) Applicant name and Massachusetts dental license number;
- (b) Name(s) of dental establishment(s), owner(s) of said establishment, and address(es) of the site(s) where anesthesia will be administered;
- (c) Documentation of provision and maintenance of equipment, materials, and drugs required for the administration of minimal and nitrous oxide-oxygen sedation;
- (d) A written request for an on-site inspection conducted by the Board; and
- (e) Any other information as may be requested by the Board.

(2) Equipment Required for a Facility Permit D-B2. The following equipment shall be required to be provided and maintained on-site:

- (a) Alternative light source for use during power failure;
- (b) Automated or manual external defibrillator;
- (c) Disposable CPR masks (pediatric and adult);
- (d) Disposable syringes, assorted sizes;
- (e) Equipment suitable for proper positioning of the patient for administration of cardiopulmonary resuscitation, including a back board;
- (f) Gas delivery system capable of positive pressure ventilation, which must include:
 - 1. Oxygen;
 - 2. Safety-keyed hose attachments;
 - 3. Capability to administer 100% oxygen in all rooms (operatory, recovery, examination, and reception);
 - 4. Gas storage in compliance with safety codes;
 - 5. Adequate waste gas scavenging; and
 - 6. Nasal hood or cannula.
- (g) Latex free tourniquet;
- (h) Means of monitoring vital signs (pediatric and adult);
- (i) Oxygen (portable Cylinder E tank) pediatric and adult masks capable of giving positive pressure ventilation (including bag-valve-mask system);
- (j) Pulse oximeter with battery pack;
- (k) Sphygmomanometer and stethoscope (pediatric and adult);
- (l) Suction;
- (m) Supervised area for recovery; and
- (n) Any other equipment as may be required by the Board.

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(3) Drugs Required for a Facility Permit D B-2 The following drugs and/or categories of drugs shall be provided and maintained in accordance with the *AHA/ACLS Guidelines* (234 CMR 6.02) or as determined by the Board for emergency use. All drugs shall be current and not expired.

- (a) Acetylsalicylic acid (readily absorbable form);
- (b) Ammonia inhalants;
- (c) Anticonvulsant;
- (d) Antihistamine;
- (e) Antihypoglycemic agent;
- (f) Bronchodilator;
- (g) Corticosteroid;
- (h) Epinephrine preloaded syringes (pediatric and adult);
- (i) Oxygen;
- (j) Reversal agents;
- (k) Two (2) epinephrine ampules;
- (l) Vasodilator;
- (m) Vasopressor; and
- (n) Any other drugs or categories of drugs as may be required by the Board.

6.07: Facility Permit D-C: Administration of Nitrous Oxide-oxygen Sedation Only

(1) Application. An applicant shall submit an accurate and complete application on form(s) provided by the Board and accompanied by the permit fee, to be determined annually by the Executive Office of Administration and Finance. The application shall, at a minimum, include the following:

- (a) Applicant name and Massachusetts dental license number;
- (b) Name(s) of dental establishment(s), owner(s) of said establishment(s), and address(es) of the site(s) where anesthesia will be administered; and
- (c) Documentation of the provision and maintenance of equipment, materials, and drugs required for emergency response and the administration of nitrous oxide-oxygen sedation.

(2) Equipment Required for a Facility Permit D-C. The following equipment shall be required to be provided and maintained on site:

- (a) Alternative light source for use during power failure;
- (b) Automated or manual external defibrillator, except that the manual defibrillator shall only be operated by an individual certified in ACLS or PALS;
- (c) Disposable CPR masks (pediatric and adult);
- (d) Disposable syringes (assorted sizes);
- (e) Gas delivery system capable of positive pressure, which must include:
 - 1. An oxygen fail-safe system;

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2. Safety-keyed hose attachments;
 3. Capability to administer 100% oxygen in all rooms (operator, recovery, examination, and reception);
 4. Gas storage in compliance with safety codes;
 5. Adequate waste gas scavenging; and
 6. Nasal hood or cannula.
- (f) Pulse oximeter;
 - (g) Sphygmomanometer and stethoscope (pediatric and adult);
 - (h) Suction; and
 - (i) Any other equipment as may be required by the Board.

(3) Drugs Required for a Facility Permit D-C. The following drugs and/or categories of drugs shall be provided and maintained in accordance with the *AHA/ACLS Guidelines (234 CMR 6.02)* or as determined by the Board for emergency use. All drugs shall be current and not expired.

- (a) Acetylsalicylic acid (readily absorbable form) ;
- (b) Ammonia inhalants;
- (c) Antihistamine;
- (d) Antihypoglycemic agent;
- (e) Bronchodilator;
- (f) Epinephrine preloaded syringes (pediatric and adult);
- (g) Two epinephrine ampules ;
- (h) Oxygen;
- (i) Vasodilator; and
- (j) Any other drugs or categories of drugs as may be required by the Board.

6.08 Mobile Facility Permit D-H. Facility Requirements for Dental Offices Using Mobile and/or Portable Anesthesia Services

Each dental facility or practice site utilizing mobile or portable anesthesia services is required to have a Facility Permit D-H. The operating dentist shall be responsible for ensuring that the qualified dental anesthesiologist has the proper individual anesthesia permit issued by the Board, and that the portable anesthesia service is appropriately permitted and equipped in accordance with 234 CMR 6.00 for the level of pain control and/or sedation to be provided.

(1) Application. An applicant shall submit an accurate and complete application on form(s) provided by the Board and accompanied by the permit fee to be determined annually by the Executive Office of Administration and Finance. The application shall, at a minimum, include the following:

- (a) Applicant name and Massachusetts dental license number;

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- (b) Name(s) of dental establishment(s), owner(s) of said establishment(s), and address(es) of the site(s) where anesthesia will be administered; and
- (c) Documentation of the provision and maintenance of equipment, materials, and drugs and emergency response protocols required by the Board pursuant to 234 CMR 6.0 8(2).

(2) Equipment and Drugs Required for Facility Permit D-H. A facility that hosts a mobile or portable dental anesthesia service will be required, at a minimum, to have the following equipment supplies and drugs:

(a) Equipment and Supplies:

1. Alternative light source for use during power failure;
2. Automated or manual external defibrillator, except that the manual defibrillator shall only be operated by an individual certified in ACLS or PALS;
3. Disposable CPR masks (pediatric and adult);
4. Disposable syringes, assorted sizes;
5. Latex-free tourniquet;
6. Oxygen (portable Cylinder E tank) pediatric and adult masks capable of giving positive pressure ventilation (including bag-valve-mask system);
7. Sphygmomanometer and stethoscope (pediatric and adult);
8. Suction; and
9. Any other equipment as may be required by the Board.

(b) Drugs. The following drugs and/or categories of drugs shall be provided and maintained in accordance with the *AHA/ACLS Guidelines (234 CMR 6.02)* or as determined by the Board for emergency use. All drugs shall be current and not expired.

1. Acetylsalicylic acid (readily absorbable form);
2. Ammonia inhalants;
3. Antihistamine;
4. Antihypoglycemic agent;
5. Bronchodilator;
6. Epinephrine preloaded syringes (pediatric and adult);
7. Two (2) epinephrine ampules;
8. Oxygen;
9. Vasodilator; and
10. Any other drugs or categories of drugs as may be required by the Board.

(3) The operating dentist shall be responsible for ensuring that the qualified dental anesthesiologist has the proper anesthesia permit and that the portable anesthesia service is appropriately permitted for the level of pain control and/or sedation to be provided.

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6.09: Facility Permit D-P. Requirements for the Use and Provision of Portable and/or Mobile Anesthesia Services

(1) A qualified dentist anesthesiologist who travels to dental facilities or practice sites for the purpose of delivering anesthesia services or sedation services at the site must hold a Mobile Facility D-P Permit for the use of portable and/or mobile anesthesia equipment, supplies and personnel.

(2) Application. Each applicant shall submit an accurate and complete application on form(s) provided by the Board and accompanied by the permit fee to be determined annually by the Executive Office of Administration and Finance. The application shall, at a minimum, include the following:

- (a) Applicant name and Massachusetts dental license number, and copy of current Individual Anesthesia Permit number or copy of a permit application pending approval by the Board;
- (b) Name(s) of dental establishment(s), owner(s) of said establishment(s), and address(es) of the site(s) where mobile or portable anesthesia will be administered;
- (c) Documentation of provision and maintenance of equipment, materials, and drugs required for the administration of the type of anesthesia to be administered;
- (d) Request for an on-site inspection by the Board of the applicant's equipment; supplies, anesthesia administration protocols; and site(s) where anesthesia will be administered;
- (e) Names and qualifications of staff who will assist the applicant in the administration of anesthesia;
- (f) Copies of the following:
 1. Proof of current ACLS (BLS for auxiliaries) certification for the applicant and other dental professionals, as applicable for the type of anesthesia or sedation to be administered by the applicant;
 2. Medical history form to be utilized by the applicant;
 3. Anesthesia chart; 4. Schedule of drug and equipment checks;
 5. Written protocol for management of emergencies;
 6. Schedule of emergency drills; and
 7. List of drugs and equipment that the applicant will provide at each site.
- (g) Other information as may be required by the Board.

(3) The holder of a Facility Permit D-P shall comply with requirements of 234 CMR 6.00 pertaining to the category of anesthesia/sedation to be administered including:

- (a) Equipment and drugs;
- (b) Auxiliary personnel;
- (c) Patient evaluation;
- (d) Pre-operative preparation;
- (e) Patient monitoring and documentation;
- (f) Management of recovery and discharge of patients;

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- (g) Management of pediatric and special needs patients; and
- (h) Emergency management.

(4) The holder of a Facility Permit D-P shall:

- (a) Comply with requirements of the Board pursuant to 234 CMR 5.05 and the reporting of adverse occurrences, pursuant to 234 CMR 6.17;
- (b) Employ and provide immediate supervision of at least one dental or clinical auxiliary who is trained and qualified to assist in anesthesia administration and who is fully familiar with the procedures and protocols of the permit holder at each site where anesthesia is being administered by said permit holder;
- (c) Schedule and perform maintenance checks of all equipment conducted by a certified equipment vendor at least once per year, and retain maintenance records for a minimum of three years;
- (d) Conduct annual emergency drills for all staff involved in the administration of anesthesia, and retain records that describe the dates of the training activities, content of the training, and the attendance roster for a minimum of three years; and
- (e) Place a copy of the anesthesia chart in the patient's dental record at the site where the anesthesia was administered.

(5) The Facility Permit D-P, or a copy thereof, shall be prominently displayed in the facility by the qualified dental anesthesiologist whenever and wherever he/she is providing anesthesia services.

(6) The operating dentist shall be responsible for verifying that the qualified dental anesthesiologist has the proper anesthesia permit and that the portable anesthesia service is appropriately permitted for the level of pain control and/or sedation to be provided.

(7) The qualified dental anesthesiologist shall be responsible for verifying that the operating dentist and his/her clinical staff maintain current certification in ACLS or BLS for Healthcare Providers, as applicable given the type of anesthesia being administered.

(8) There shall be a written and signed agreement between the Facility Permit D-P applicant and the operating dentist for each site where anesthesia is to be administered by the Facility Permit D-P holder which, at a minimum describes how emergency response training and protocols will be developed and practiced, procedures for verifying qualifications of personnel who assist in the care and monitoring of the patient, responsibilities for pre- and post- operative patient assessment and monitoring, responsibilities for obtaining informed consent, and how compliance with applicable board statutes and regulations will be achieved and maintained at the site.

6.10: Requirements for Individual Anesthesia Permits for the Administration of General Anesthesia, Deep Sedation, Moderate Sedation, Minimal Sedation, Nitrous Oxide-oxygen, and Local Anesthesia

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(1) The Board may issue an anesthesia permit to administer deep sedation and general anesthesia and/or moderate sedation and/or nitrous oxide-oxygen sedation to a dentist licensed under the provisions of M. G. L. c. 112, § 45 who meets the qualifications described in 234 CMR 6.00.

(2) The Board may issue a dental hygienist licensed to practice pursuant to M. G. L. c. 112, § 51 a Permit L to administer local anesthesia under the direct supervision of a licensed dentist.

(3) Renewal of Individual Anesthesia Permits An Individual Anesthesia Permit shall be renewed biennially by March 31 of even-numbered years. (234 CMR 4.10). The application for renewal of an Individual Anesthesia Permit shall be accompanied by the permit fee to be determined annually by the Executive Office of Administration and Finance.

Exemption: A dentist holding an Individual Anesthesia Permit issued on or before *August 20, 2010* shall be exempt from the educational requirements contained in 234 CMR 6.00.

6.11: Individual Permit A: Administration of General Anesthesia and/or Deep Sedation

(1) Initial Application Requirements. An applicant shall submit an accurate and complete application on forms provided by the Board and accompanied by a fee established annually by the Executive Office of Administration and Finance, and includes documentation that demonstrates proof that the applicant:

- (a) Is a dentist licensed under M. G. L. c. 112, § 45 to practice in the Commonwealth;
- (b) Has current certification in ACLS or PALS;
- (c) Has successfully completed an education program accredited by the ADA Commission on Dental Accreditation that provides comprehensive and appropriate training necessary to administer and manage deep sedation or general anesthesia, commensurate with Part III. C of the *ADA Guidelines for the Use of Sedation and General Anesthesia, 2007* at the time training was commenced; or
- (d) Is certified by the American Board of Oral and Maxillofacial Surgery (ABOMS); or
- (e) Is certified as a Fellow and/or has Board certification in Anesthesia issued by the American Dental Board of Anesthesiology.

(2) Auxiliary Personnel Required. A qualified dentist administering deep sedation and general anesthesia must have a minimum of three individuals present during the procedure:

- (a) A dentist qualified in accordance with 234 CMR 6.11; and

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(b) Two additional individuals who have been appropriately trained to assist in anesthesia administration and have current certification in BLS for the Healthcare Provider.

(c) When the same individual administering the deep sedation or general anesthesia is performing the dental procedure, one of the additional appropriately trained auxiliaries must be designated specifically for patient monitoring.

(3) Patient Evaluation Required. Patients considered for deep sedation or general anesthesia must be suitably evaluated prior to the start of any sedative procedure. For healthy or medically stable patients (ASA I, II), this must consist of a review of their current medical history and medication use and NPO status. For patients with a significant medical history (ASA III, IV), consultation with their primary care physician or consulting medical specialist may be required.

(4) Pre-operative Preparation Required. Pre-operative preparation for the administration of deep sedation or general anesthesia shall include:

- (a) The patient shall be advised regarding the procedure associated with the delivery of any sedative or anesthetic agents and a signed informed consent (234 CMR 5.15 (3) (f)) for the proposed sedation/anesthesia shall be obtained prior to the administration of general anesthesia or deep sedation;
- (b) Determination of adequate oxygen supply and equipment necessary to deliver oxygen under positive pressure must be completed;
- (c) Baseline vital signs including blood pressure, respiration, and heart rate, must be obtained and documented in the patient record. If the patient's behavior or condition prohibits such determination, this must be documented in the patient record. The temperature of pediatric patients administered general anesthesia deep/sedation must be monitored;
- (d) A medical history must be completed and problem-focused physical evaluation must be performed where deemed appropriate;
- (e) Specific dietary instructions must be provided to the patient based upon the type of sedative/anesthetic technique prescribed and patient's physical status;
- (f) Pre-operative verbal and written instructions must be given to the patient; and
- (g) An intravenous line, which is secured throughout the procedure, must be established except as provided for pediatric and/or special needs patients (*See* 234 CMR 6.1 1(7)).

(5) Patient Monitoring and Documentation Required

(a) A qualified dentist administering deep sedation or general anesthesia must remain in the room with the patient to monitor the patient continuously until the patient meets the criteria for recovery and must not leave the facility until the patient meets the criteria for discharge and is discharged from the facility.

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(b) Monitoring and documentation of patient administered deep sedation or general anesthesia shall include, but not be limited to, continuous monitoring and evaluation of :

1. Color of mucosa, skin or blood (monitoring only);
2. Oxygenation saturation by pulse oximetry;
3. For intubated patient, end-tidal CO₂;
4. For non-intubated patient, breath sounds via auscultation and/or end-tidal CO₂;
5. Respiration rate;
6. Heart rate and rhythm via ECG and pulse oximetry;
7. Blood pressure (unless the patient is unable to tolerate such monitoring which must be specifically noted in the patient record);
8. A device capable of measuring body temperature must be readily available; and
9. Body temperature whenever triggering agents associated with malignant hyperthermia are administered.

(c) Anesthesia Chart. The Anesthesia Chart shall contain documentation of all events related to the administration of the sedative or anesthetic agents, including but not limited to the following:

1. Time-oriented anesthesia record including the names of all drugs administered, including local anesthetics, and date, dosage and method of administration;
2. Pulse oximetry and end-tidal CO₂ measurements (if taken), heart rate, respiratory rate and blood pressure recorded at specific intervals during the procedure;
3. The duration of the procedure; and
4. The individuals present during the procedure.

(6) Requirements for Management of Recovery and Discharge of Patients. The recovery and discharge procedures for a patient administered deep sedation or general anesthesia, shall include, but not be limited to:

- (a) Immediate availability of oxygen and suction equipment;
- (b) Continuous monitoring and documentation of the patient's blood pressure, heart rate, oxygenation and level of consciousness;
- (c) Determination and documentation that the level of consciousness, oxygenation, ventilation, and circulation are satisfactory for discharge; and
- (d) Documentation that post-operative verbal and written instructions have been provided to patient and responsible person.

(7) Requirements for Management of Pediatric and Special Needs Patients. The Board adopts the American Academy of Pediatrics/American Academy of Pediatric Dentistry's *Guidelines for Monitoring and Management of Pediatric Patients During and After*

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Sedation of Diagnostic and Therapeutic Procedures, and the American Dental Association's guidance on pediatric and special needs patients as contained in its *Policy Statement on The Use of Sedation and General Anesthesia by Dentists* (2007).

(8) Requirements for Emergency Management. The qualified dentist is responsible for the sedative management, adequacy of the facility and staff, diagnosis and treatment of emergencies related to the administration of sedation and providing and maintaining the equipment, drugs and protocol for patient rescue. If a patient enters a deeper level of sedation than the qualified dentist is permitted to provide, the dentist must stop the dental procedure until the patient returns to the intended level of sedation.

6.12: Individual Permit B-1. Administration of Moderate Sedation and Nitrous Oxide-Oxygen in Conjunction with any Other Anesthetic or Enteral Sedative Agents Dispensed or Administered in a Dental Facility.

(1) Initial Application Requirements. An applicant shall submit an accurate and complete application on forms provided by the Board and accompanied by a fee established annually by the Executive Office of Administration and Finance, and includes documentation that demonstrates proof the applicant:

- (a) Is a dentist licensed under M. G. L. c. 112, § 45 to practice in the Commonwealth;
- (b) Has current certification in ACLS or PALS;
- (c) Has successfully completed an education program accredited by the ADA Commission on Dental Accreditation that provides comprehensive and appropriate training necessary to administer and manage moderate sedation commensurate with the *ADA Guidelines for Teaching Pain Control Sedation to Dentists and Dental Students, 2007*, at the time training was commenced; or
- (d) Is certified by the American Board of Oral and Maxillofacial Surgery (ABOMS); or
- (e) Is certified as a Fellow and/or has Board certification in Anesthesia issued by the American Dental Board of Anesthesiology.

(2) Auxiliary Personnel Required. A qualified dentist inducing moderate sedation must have at least two additional individuals trained in BLS present during the administration of the anesthesia.

(3) Patient Evaluation Required. Patients considered for moderate sedation must be suitably evaluated prior to the start of any sedative procedure. For healthy or medically stable patients (ASA I, II), this must consist of a review of their current medical history and medication use. For patients with a significant medical history (ASA III, IV), consultation with their primary care physician or consulting medical specialist may be required.

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(4) Pre-operative Preparation Required. Pre-operative preparation for the administration of moderate sedation shall include:

- (a) The patient or legal representative shall be advised regarding the procedure associated with the delivery of any sedative or anesthetic agents and a signed informed consent shall be obtained pursuant to 234 CMR 5.15 (3) (f) for the proposed sedation/anesthesia obtained prior to the administration of the anesthesia or sedative agent(s);
- (b) Determination of adequate oxygen supply and equipment necessary to deliver oxygen under positive pressure must be completed;
- (c) Baseline vital signs, including blood pressure, respiration, and heart rate, must be obtained and documented in the patient record. If the patient's behavior prohibits such determination, this must be documented in the patient record;
- (d) A medical history must be completed and problem focused physical evaluation must be performed where deemed appropriate;
- (e) Specific dietary instructions must be provided to the patient based upon the type of sedative/anesthetic technique prescribed and patient's physical status; and
- (f) Pre-operative verbal and written instructions must be given to the patient and responsible person.

(5) Patient Monitoring and Documentation Required.

- (a) A qualified dentist administering moderate sedation anesthesia must remain in the room with the patient to monitor the patient continuously until the patient meets the criteria for recovery and must not leave the facility until the patient meets the criteria for discharge and is discharged from the facility.
- (b) Monitoring and documentation of patient administered moderate sedation anesthesia shall include, but not be limited to continuous monitoring and evaluation of:
 - 1. Color of mucosa, skin or blood (monitoring only);
 - 2. Oxygenation saturation by pulse oximetry;
 - 3. Level of consciousness (e.g. responsiveness to verbal command);
 - 4. Chest excursions;
 - 5. Ventilation either by auscultation of breath sounds, monitoring end-tidal CO₂ or by verbal communication with the patient; and
 - 6. ECG for patients with significant cardiovascular disease (may be considered).

(c) Anesthesia Chart. The Anesthesia Chart shall contain documentation of all events related to the administration of the sedative or anesthetic agents, including but not limited to the following:

- 1. Time-oriented anesthetic record including the names of all drugs administered, including local anesthetics, dosages, and monitored physiologic parameters;
- 2. Pulse oximetry, heart rate, respiratory rate, and blood pressure;

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3. The duration of the procedure; and
4. The individuals present during the procedure.

(6) Requirements for Management of Recovery and Discharge of Patients.

- (a) The recovery and discharge procedures for a patient administered moderate sedation anesthesia shall include, but not be limited to:
1. Immediate availability of oxygen and suction equipment;
 2. Continuous monitoring and documentation of the patient's blood pressure, heart rate, oxygenation, and level of consciousness;
 3. Determination and documentation that the level of consciousness, oxygenation, ventilation, and circulation are satisfactory for discharge; and
 4. Post-operative verbal and written instructions provided.
- (b) If a reversal agent is administered before discharge criteria have been met, the patient must be monitored until recovery is assured.

(7) Requirements for Management of Pediatric and Special Needs Patients. The Board adopts the American Academy of Pediatrics/American Academy of Pediatric Dentistry's *Guidelines for Monitoring and Management of Pediatric Patients During and After Sedation of Diagnostic and Therapeutic Procedures*, as may be amended and republished, and the American Dental Association's guidance on pediatric and special needs patients as contained in its *Policy Statement on The Use of Sedation and General Anesthesia by Dentists* (2007)

(8) Requirements for Emergency Management. The qualified dentist is responsible for the sedative management, adequacy of the facility and staff, diagnosis and treatment of emergencies related to the administration of sedation, providing and maintaining the equipment, drugs and protocol for patient rescue, and conducting and documenting emergency drills. If a patient enters a deeper level of sedation than the qualified dentist is permitted to provide, the dentist must stop the dental procedure until the patient returns to the intended level of sedation.

6.13: Individual Permit B-2. Administration of Minimal Sedation and/or Nitrous Oxide-Oxygen in Conjunction with an Enteral Agent Dispensed or Administered in a Dental Facility

(1) Initial Application Requirements. An applicant shall submit an accurate and complete application on forms provided by the Board and accompanied by a fee established annually by the Executive Office of Administration and Finance, and includes documentation that demonstrates proof that the applicant:

- (a) Is a dentist licensed under M. G. L. c. 112, § 45 to practice in the Commonwealth;
- (b) Has current certification in ACLS or PALS;

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- (c) Has successfully completed an education program that complies at a minimum with the *ADA Guidelines for Teaching Pain Control Sedation to Dentists and Dental Students, 2007*, at the time training was commenced; or
- (d) Is certified by the American Board of Oral and Maxillofacial Surgery (ABOMS); or
- (e) Is certified as a Fellow and/or has Board certification in Anesthesia issued by the American Dental Board of Anesthesiology.

(2) Auxiliary Personnel Required. A qualified dentist inducing moderate sedation must have at least one (1) additional individual trained in BLS present during the administration of the anesthesia.

(3) Patient Evaluation Required. Patients considered for minimal sedation must be suitably evaluated prior to the start of any sedative procedure. For healthy or medically stable patients (ASA I, II), this must consist of a review of their current medical history and medication use. For patients with a significant medical history (ASA III, IV), consultation with their primary care physician or consulting medical specialist may be required.

(4) Pre-operative Preparation Required. Pre-operative preparation for the administration of minimal sedation shall include:

- (a) The patient or legal representative shall be advised regarding the procedure associated with the delivery of any sedative or anesthetic agents and a signed informed consent shall be obtained pursuant to 234 CMR 5.15 (3) (f) for the proposed sedation/anesthesia obtained prior to the administration of the anesthesia or sedative agent(s);
- (b) Determination of adequate oxygen supply and equipment necessary to deliver oxygen under positive pressure must be completed;
- (c) Baseline vital signs, including blood pressure, respiration, and heart rate, must be obtained and documented in the patient record. If the patient's behavior prohibits such determination, this must be documented in the patient record;
- (d) A medical history must be completed and problem focused physical evaluation must be performed where deemed appropriate;
- (e) Specific dietary instructions must be provided to the patient based upon the type of sedative/anesthetic technique prescribed and patient's physical status; and
- (f) Pre-operative verbal and written instructions must be given to the patient and responsible person.

(5) Patient Monitoring and Documentation Required

- (a) A qualified dentist administering minimal sedation anesthesia must remain in the room with the patient to monitor the patient continuously until the patient

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meets the criteria for recovery and must not leave the facility until the patient meets the criteria for discharge and is discharged from the facility.

(b) Monitoring and documentation of patient administered Minimal sedation anesthesia shall include, but not be limited to continuous monitoring and evaluation of:

1. Color of mucosa, skin or blood (monitoring only);
2. Oxygenation saturation by pulse oximetry;
3. Level of consciousness (e.g. responsiveness to verbal command);
4. Chest excursions;
5. Ventilation either by auscultation of breath sounds, monitoring end-tidal CO₂ or by verbal communication with the patient; and
6. ECG for patients with significant cardiovascular disease (may be considered).

(c) Anesthesia Chart. The Anesthesia Chart shall contain documentation of all events related to the administration of the sedative or anesthetic agents, including but not limited to the following:

1. Time-oriented anesthetic record including the names of all drugs administered, including local anesthetics, dosages, and monitored physiologic parameters;
2. Pulse oximetry, heart rate, respiratory rate, and blood pressure;
3. The duration of the procedure; and
4. The individuals present during the procedure.

(6) Requirements for Management of Recovery and Discharge of Patients. The recovery and discharge procedures for a patient administered Minimal sedation anesthesia shall include, but not be limited to:

- (a) Immediate availability of oxygen and suction equipment;
- (b) Continuous monitoring and documentation of the patient's blood pressure, heart rate, oxygenation, and level of consciousness;
- (c) Determination and documentation that the level of consciousness, oxygenation, ventilation, and circulation are satisfactory for discharge; and
- (d) Post-operative verbal and written instructions provided; and
- (e) If a reversal agent is administered before discharge criteria have been met, the patient must be monitored until recovery is assured.

(7) Requirements for Management of Pediatric and Special Needs Patients. The Board adopts the American Academy of Pediatrics/American Academy of Pediatric Dentistry's *Guidelines for Monitoring and Management of Pediatric Patients During and After Sedation of Diagnostic and Therapeutic Procedures*, as may be amended and republished and the American Dental Association's guidance on pediatric and special needs patients as contained in its policy statement on *The Use of Sedation and General Anesthesia by Dentists* (234 CMR 6.02).

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(8) Requirements for Emergency Management. The qualified dentist is responsible for the sedative management, adequacy of the facility and staff, diagnosis and treatment of emergencies related to the administration of sedation, providing and maintaining the equipment, drugs and protocol for patient rescue, and conducting and documenting emergency drills. If a patient enters a deeper level of sedation than the qualified dentist is permitted to provide, the dentist must stop the dental procedure until the patient returns to the intended level of sedation.

6.14: Individual Permit C: Administration of Nitrous Oxide-Oxygen Alone or in Conjunction with Local Anesthesia

(1) Initial Application Requirements. An applicant shall submit an accurate and complete application on forms provided by the Board and accompanied by a fee established annually by the Executive Office of Administration and Finance, and includes documentation that demonstrates proof that the applicant:

- (a) Is a dentist licensed under M. G. L. c. 112, § 45 to practice in the Commonwealth;
- (b) Has current certification in BLS, ACLS or PALS;
- (c) Has successfully completed fourteen hours of didactic and clinical training in the administration of nitrous oxide-oxygen only; or
- (d) An advanced education program accredited by the ADA Commission on Dental Accreditation that affords comprehensive and appropriate training necessary to administer and manage nitrous oxide-oxygen only.

(2) Patient Evaluation Required. Patients considered for nitrous oxide-oxygen sedation must be suitably evaluated prior to the start of any sedative procedure. In healthy or medically stable individuals (ASA I, II) this shall consist of at least a review of their current medical history and medication use. For patients with significant medical considerations (*e.g.*, ASA III, IV) may require consultation with their primary care physician or consulting medical specialist.

(3) Pre-Operative Preparation for Patients Required. Pre-operative preparation for the administration of nitrous oxide-oxygen sedation shall include the following:

- (a) The patient, or legal representative shall be advised regarding the procedure associated with the delivery of any sedative or anesthetic agents and signed informed consent pursuant to 234 CMR 5.15 (3) (f) for the proposed sedation/anesthesia shall be obtained prior to the administration of nitrous oxide-oxygen;
- (b) Determination of adequate oxygen supply and equipment necessary to deliver oxygen under positive pressure must be completed;
- (c) Baseline vital signs must be obtained and documented in the patient record. If the patient's behavior prohibits such determination, this must be documented in the patient record;

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- (d) A focused physical evaluation must be performed as deemed appropriate;
- (e) Specific dietary instructions must be provided to the patient based upon the type of sedative/anesthetic technique prescribed and patient's physical status; and
- (f) Pre-operative verbal and written instructions must be given to the patient.

(4) Requirements for Patient Monitoring and Documentation.

(a) A qualified dentist, or at the qualified dentist's direction, an appropriately trained dental auxiliary, must remain in the operatory during active dental treatment to monitor the patient continuously until the patient meets the criteria for discharge to the recovery area. The appropriately trained dental auxiliary must be familiar with monitoring techniques and equipment.

(b) Anesthesia Chart. The Anesthesia Chart shall contain documentation of all events related to the administration of the sedative or anesthetic agents, including but not limited to the following:

1. The color of mucosa, skin or blood (monitoring only);
2. The qualified dentist and/or appropriately trained dental auxiliary must observe chest excursions continually;
3. Blood pressure, respirations, and heart rate should be evaluated pre-operatively, post-operatively and intra-operatively as necessary. If the patient is uncooperative or cannot tolerate such monitoring, this must be documented in the patient record.

(5) Requirements for Recovery and Discharge.

- (a) Oxygen and suction equipment must be immediately available;
- (b) The qualified dentist or appropriately trained dental auxiliary must monitor the patient during recovery until the patient is ready for discharge;
- (c) The qualified dentist must determine and document that level of consciousness, oxygenation, ventilation and circulation are satisfactory for discharge;
- (d) Post-operative verbal and written instructions must be given to the patient and responsible person.

(6) Requirements for Management of Pediatric Patients. The Board adopts the American Academy of Pediatrics/American Academy of Pediatric Dentistry's *Guidelines for Monitoring and Management of Pediatric Patients During and After Sedation of Diagnostic and Therapeutic Procedures* as may be amended, and the American Dental Association's guidance on pediatric and special needs patients as contained in its *Policy Statement on The Use of Sedation and General Anesthesia by Dentists (2007)*.

(7) Requirements for Emergency Management for Patients. The qualified dentist is responsible for the sedative management, adequacy of the facility and staff, diagnosis and treatment of emergencies related to the administration of sedation and providing and maintenance of the equipment, drugs and protocol for patient rescue. If a patient enters a

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deeper level of sedation than the qualified dentist is permitted to provide, the dentist must stop the dental procedure until the patient returns to the intended level of sedation.

6.15: Administration of Local Anesthesia Only.

(1) Scope of Practice.

A dentist licensed to practice dentistry may administer local anesthesia under the authority of his/her dental license.

- (a) The Board may issue qualified dental hygienists, licensed pursuant to M. G. L. c. 112, § 51, a Permit L which authorizes the holder to administer local anesthesia under the direct supervision of a licensed dentist.

(2) Equipment and Supplies Required. The following equipment and drugs are required where local anesthesia is administered:

- (a) Alternative light source for use during power failure;
- (b) Automated External Defibrillator (AED);
- (c) Disposable CPR masks (pediatric and adult);
- (d) Disposable syringes, assorted sizes;
- (e) Disposable pediatric and adult face masks or positive pressure ventilation with supplemental oxygen;
- (f) Oxygen (portable Cylinder E tank) pediatric and adult masks capable of giving positive pressure ventilation (including bag-valve-mask system);
- (g) Sphygmomanometer and stethoscope for pediatric and adult patients;
- (h) Suction; and
- (i) And any other equipment as may be required by the Board.

(3) Drugs Required. The following drugs and/or categories of drugs shall be provided and maintained in accordance with the *AHA/ACLS Guidelines (234 CMR 6.02)* or as determined by the Board for emergency use. All drugs shall be current and not expired.

- (a) Acetylsalicylic acid (readily absorbable form);
- (b) Ammonia inhalants;
- (c) Antihistamine;
- (d) Antihypoglycemic agent;
- (e) Bronchodilator;
- (f) Epinephrine preloaded syringes (pediatric and adult);
- (g) Two (2) epinephrine ampules;
- (h) Oxygen;
- (i) Vasodilator; and
- (j) Any other drugs or categories of drugs as may be required by the Board.

6.16 Permit L: Administration of Local Anesthesia by a Dental Hygienist

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(1) No licensed dental hygienist shall administer local anesthesia unless he/she has been issued a Permit L by the Board. A dental hygienist who has been issued a Permit L may only administer local anesthesia under the direct supervision of a licensed dentist.

(2) Application for Permit L by Examination Application for a Permit L shall be on forms provided by the Board and shall be accompanied by the permit fee, to be determined annually by the Secretary of Administration and Finance, and documentation demonstrating proof of:

- (a) Licensure as a dental hygienist in the Commonwealth;
- (b) Current Basic Life Support (BLS) certification;
- (c) Successful completion of a training program or course of study, no more than two years prior to application for the permit, in a formal program in the administration of local anesthesia, which shall be a minimum of thirty-five hours of instruction, including no less than twelve hours of clinical training, and be conducted by an educational institution accredited by the Commission on Dental Accreditation of the American Dental Association; and
- (d) Successful completion of a written examination in the administration of local anesthesia administered by the Northeast Regional Board of Dental Examiners (NERB) or any successor agency approved by the Board.

(3) Application for Permit L by Credentials. Application for local anesthesia permit by a dental hygienist qualified in another jurisdiction by virtue of successful completion of an examination to administer local anesthesia shall, at a minimum, be accompanied by the permit fee, to be determined annually by the Secretary of Administration and Finance and documentation demonstrating proof of:

- (a) Licensure as a dental hygienist in the Commonwealth;
- (b) Current BLS certification;
- (c) Documentation of successful completion of a training program or course of study in a formal program in the administration of local anesthesia accredited by the American Dental Association and equivalent to the course of study described in 234 CMR 6.14 (4); and
- (d) A letter from a dentist who directly supervised the hygienist attesting to the hygienist's experience in administering local anesthesia within the previous two years.

(4) Requirements for Course of Study for Permit L.

- (a) An applicant for a Permit L-Administration of Local Anesthesia shall have completed a minimum of thirty-five hours of instruction, which must include, but is not limited to:
 - 1. Medical history evaluation procedures;
 - 2. Physical evaluation of the dental patient;
 - 3. Pharmacology of local anesthesia and vasoconstrictors; and
 - 4. Local anesthesia, didactic and clinical courses, including the following:
 - a. Anatomy of head, neck, and oral cavity as it relates to administering

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local anesthetic agents;

b. Indications and contraindications for administration of local anesthesia;

c. Selection and preparation of the armamentaria and record-keeping for administering various local agents;

d. Medical and legal management of complication;

e. Recognition and management of post-injection complications;

f. Proper infection control techniques with regard to local anesthesia and proper disposal of sharps;

g. Methods of administering local anesthetic agents with emphasis on technique and minimum effective dosage; and

h. Management of diagnosis, prevention and treatment of medical emergencies.

(b) Instructors preparing students for certification to administer local anesthesia in Massachusetts shall be licensed to practice dentistry or dental hygiene in the Commonwealth.

(5) Renewal of Permit L. A permit to administer Local Anesthesia shall be renewed biennially at the same time the applicant's license to practice dental hygiene is renewed. The application for renewal of Permit L shall be accompanied by the permit fee, to be determined annually by the Executive Office of Administration and Finance; and an attestation confirming current BLS certification.

(6) Recording of Anesthesia Required.

(a) The dental hygienist shall obtain the local anesthesia only from the licensed dentist who is exercising direct supervision of the dental hygienist administering the local anesthesia.

(b) The dental hygienist shall sign and document in the patient record the date, type and amount of local anesthesia obtained from the supervising dentist.

(c) Upon completion of the treatment, any unused portion of the local anesthesia and armamentarium shall be returned to the supervising dentist and disposed of in accordance with M. G. L. c. 94C.

6.17: Reporting of Adverse Occurrences.

A qualified dentist who holds an anesthesia administration permit issued pursuant to 234 CMR 6.00 shall report to the Board any anesthesia, deep sedation and general anesthesia, moderate sedation, minimal sedation, and nitrous Oxide-oxygen only and local anesthetic related mortality which occurs during or as a result of treatment provided by the administration permit holder within twenty-four hours of the occurrence of any such mortality. Any morbidity which may result in permanent physical or mental injury as a result of the administration of general anesthetic agents, sedative agents or nitrous oxide-oxygen analgesia shall be reported to the Board by the anesthesia permit holder providing such treatment within 30 days of the occurrence of any such morbidity.

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6.18: Penalty for Non-Compliance

Non-compliance with 234 CMR 6.00 shall subject a licensee's administration permit, Facility Permit and/or dental license to disciplinary action by the Board.

REGULATORY AUTHORITY

234 CMR 6.00: M. G. L. c. 112, §§ 43-53, 61, 65 and 65A.

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234 CMR 7.00 MOBILE AND PORTABLE DENTISTRY

- 7.01: Scope
- 7.02: Purpose

- 7.03: Permit M Application for Mobile Dental Facility Permit and/or Portable Dental Operation
- 7.04: General Requirements
- 7.05: Physical Requirements for Mobile Dental Facility and Portable Dental Operations
- 7.06: Cessation of Operation and Transfer of Ownership or Control

7.01: Scope

The Board may issue a permit for operation of a Mobile Dental Facility (MDF) or Portable Dental Operation (PDO) to a dentist licensed pursuant to M. G. L. c. 112, § 45 provided that the applicant has met all the requirements of 234 CMR 2.00.

The Board may issue a permit for operation of an MDF or PDO to a dental hygienist practicing pursuant to M.G. L. c. 112, § 51 provided that the services are limited to services provided in a public health setting as described in 234 CMR 5.00.

A MDF is any self-contained facility where dentistry will be practiced, which may be driven, moved, towed or transported from one location to another. A PDO is any dental practice where a portable dental unit is transported to and utilized on a temporary basis at an out-of-office location. Exceptions: Licensees may provide dental services through the use of dental instruments and materials taken out of a dental office without a MDF or PDO permit if:

- (a) The service is provided as emergency treatment;
- (b) A patient of record is homebound; or
- (c) The services rendered are limited to dental screening only.

This section shall take effect on February 20, 2011. A MDF or PDO which is in operation on or before this date must submit their application for a Facility D-P Permit (234 CMR 6.00) on or before February 20, 2011. A MDF or PDO commencing operation after February 20, 2011 shall not do so without a Facility D-P Permit

7.02: Purpose

The purpose of 234 CMR 7.00. is to set forth the requirements for the practice of dentistry utilizing a MDF or PDO in the Commonwealth.

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7.03: Permit M: Application for Mobile Dental Facility Permit and/or Portable Dental Operation

(1) Initial Application. The Board may issue a permit to operate a MDF or PDO to a qualified dentist who holds a valid license issued pursuant to M.G. L. c. 112, § 45 or a qualified dental hygienist who holds a valid license pursuant to M. G. L. c. 112, § 51, provided the applicant is of good moral character, has met all of the eligibility requirements, and has submitted a complete, accurate and signed application on forms specified by the Board for that purpose and which is accompanied by the permit fee established by the Secretary of Administration and Finance.

(2) Renewal of Permit. A MDF or PDO permit issued pursuant to 234 CMR 7.00 shall be subject to biennial renewal at the same time the applicant's license to practice dentistry or dental hygiene is renewed on forms specified by the Board for that purpose and accompanied by the permit fee established by the Secretary of Administration and Finance.

(3) On-Site Inspection. The Board may require an on-site inspection of the MDF or PDO prior to the issuance of a permit.

(4) A permit issued pursuant to 234 CMR 7.00 is not transferable to another person or entity.

7.04: General Requirements

(1) Official Business or Mailing Address. The operator of a MDF or PDO shall maintain a phone number and official address of record which shall be filed with the Board. The operator of a MDF or PDO who does not maintain an office in Massachusetts shall also file the name, address, and telephone number of the entity's resident agent as filed with the Massachusetts Secretary of State.

(2) The Board shall be notified within thirty days of any change in the address or telephone number of record, or director of the MDF or PDO.

(3) All written or electronic publications and documents issued by the MDF or PDO shall include the name of the MDF or PDO director and official telephone number and the address of record for the MDF or PDO.

(4) Patient Records. Patient records shall be maintained in accordance with 234 CMR 5.14 and 5.15. In addition, the MDF or PDO shall also comply with the following:

(a) Treatment in a School Setting. Where consent has been granted by the patient or legal representative, a copy of the patient's information sheet or other written

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summary of the screening, examination or treatment shall be provided to the official designated by the school.

(b) Treatment in a Nursing Home or Residential Treatment Facility. A copy of the patient's information sheet or other written summary of the screening, examination or treatment shall be provided to the official designated by the nursing home or residential treatment facility and shall become part of the patient's record.

(5) Informed Consent. The MDF or PDO shall obtain a signed written consent from the patient or legal representative which conforms to the requirements of 234 CMR 5.15(3)(f).

(6) Discharge and Referral.

(a) Information Sheet. At the conclusion of the patient's visit to the MDF or PDO, the patient or institutional facility, as may be appropriate, shall be given a written report that shall include the following:

1. Results of the dental and/or dental hygiene examination;
2. The name(s) of the licensed dentist and dental auxiliaries who provided services;
3. A description of the treatment rendered, including billed service codes and fees associated with treatment, and tooth numbers when appropriate;
4. Information on how to contact the MDF or PDO;
5. A timely written referral to a dentist in order to address emergent needs and achieve positive oral health outcomes for the patient;
6. Names of dentists or other organizations providing dental services located within a reasonable geographic distance from the patient's home and with whom the MDF or PDO has communicated regarding acceptance of referrals;
and
7. The signature of the dentist or dental hygienist.

(b) If the patient has given consent for an institutional facility (school, nursing home, residential facility, etc.) to access the patient's dental health records, the MDF or PDO shall provide the institution with a copy of the Information Sheet.

(7) Emergency or Other Follow-up Treatment

The MDF or PDO shall:

- (a) Have a written procedure for referral of patients for emergency or other follow-up treatment;
- (b) Provide necessary follow-up treatment or make a timely referral for follow-up examination and treatment by the patient's dentist or by another dentist with whom the MDF or PDO has communicated regarding acceptance of referrals;
- (c) Provide the patient with the names of dentists, community health centers or dental school clinics located within a reasonable geographic distance from the

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patient's home and with whom the MDF or PDO has communicated with regarding the acceptance of referrals; and

(d) Where consent has been granted, provide the subsequent provider with treatment information, including a copy of radiographs, within a reasonable period of time.

(8) Emergency Protocol

The MDF and PDO shall:

- (a) Have a written protocol for managing medical or dental emergencies;
- (b) Have communication equipment that ensures rapid access to emergency responders and others as necessary; and
- (c) Ensure that all staff are trained when hired, and at least annually thereafter, to implement the emergency protocols.

(9) Identification of Personnel. Any person providing dental service(s) on behalf of a MDF or PDO shall wear a name tag that states his/her name, professional title, and function.

(10) The MDF or PDO shall maintain a log that includes the dates, locations where services were provided, and names of all individuals providing services on behalf of the MDF or PDO.

(11) Display of License(s). An original or copy of all licenses and permits issued by the Board shall be displayed at the location where services are being provided in an area where they may be viewed by patients.

(12) Background Checks for Personnel. The MDF or PDO shall comply with any rules, regulations or statutory requirements for performance of Criminal Offender Record Information (CORI) and background checks of personnel serving vulnerable populations e.g. children, elderly or disabled person(s).

7.05: Physical Requirements for Mobile Dental Facility and Portable Dental Operation

(1) An MDF or PDO shall comply with all applicable local, state and federal statutes, regulations, or ordinances concerning radiographic equipment, flammability, ventilation, construction, sanitation, zoning, infectious waste management, OSHA Standards at 29 CFR, *CDC Guidelines*, and for the registration and operation of a motor vehicle being used for the provision of mobile or portable dental services.

(2) The MDF or PDO shall have the following:

- (a) Handicap access;
- (b) Equipment and sterilization system which is necessary to comply with *CDC Guidelines*;

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- (c) Ready access to an adequate supply of potable water;
- (d) Ready access to hand-washing and toilet facilities;
- (e) A covered galvanized, stainless steel, or other non-corrosive container for deposit of refuse and waste material as required by 310 CMR 73.00, *Amalgam, Wastewater and Recycling Regulations for Dental Facilities*; and
- (f) Equipment necessary for services being provided.

7.06: Cessation of Operations and Transfer of Ownership or Control

- (1) Upon cessation of operation, the permit holder shall:
 - (a) Within 30 calendar days notify the Board in writing of the last day of operations of the final date of service and the disposition of patient records;
 - (b) Notify all of the permit holder's patients who have received treatment within two years of the date of cessation of operations by letter to each patient or electronic notice or public notice in appropriate newspaper(s) or by other means which is widely disseminated how patients may obtain a copy of their dental records; and
 - (c) Within 30 calendar days make arrangements with the patients of the MDF or PDO for the transfer of the patient's records, including if applicable, radiographs or copies thereof, to a succeeding practitioner, or, at the written request of the patient, to the patient.
 - (d) A minimum of 30 calendar days prior to cessation of operation, notify any and all entities for whom the MDF or PDO is providing services or who are hosting said services.

- (2) Upon cessation of operations or transfer of ownership and control, the existing MDF's or PDO's Permit M is not transferable to any person or entity and shall expire.

- (3) A licensee who intends to purchase or acquire control of an existing MDF or PDO shall file an application for a permit to operate the MDF or PDO at least 30 calendar days before the anticipated sale or acquisition.

REGULATORY AUTHORITY

234 CMR 7.00; M. G. L. c. 13, § 19; M. G. L. c. 112, §§ 43 through 53, 61

234 CMR 8.00 Continuing Education

8.01: Purpose

**THE BOARD OF REGISTRATION IN DENTISTRY WILL PROMULGATE THE
FOLLOWING REGULATIONS ON AUGUST 20, 2010.
PLEASE NOTE THAT, UNTIL THAT DATE, THE BOARD'S CURRENT
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- 8.02: General Requirements
- 8.03: Required Biennial Continuing Education
- 8.04: Criteria for Acceptance: Responsibilities of Licensees and Sponsors of Continuing Education Programs
- 8.05: Categories of Continuing Education Programs and Continuing Education Units (CEU) Allowed in each Category
- 8.06: Certification of Compliance with CEU Requirements
- 8.07: Waiver of Continuing Education Requirements

8.01: Purpose

The purpose of 234 CMR 8.00 is to describe the continuing education requirement for license renewal. Each licensed dentist and dental hygienist seeking renewal of their license to practice in the Commonwealth shall complete continuing education as a condition precedent to such renewal.

8.02: General Requirements

(1) A dentist licensed to practice dentistry in the Commonwealth pursuant to M. G. L. c. 112, § 45 must complete a minimum of forty CEUs per renewal cycle. This requirement must be fulfilled during the twenty-four months immediately preceding the March 31st renewal date in even numbered years.

(2) A limited license dental intern or limited license faculty licensed to practice dentistry in the Commonwealth pursuant to M. G. L. c. 112, § 45A must complete a minimum of twenty CEUs during the twelve months preceding the submission of an application for annual renewal of his/her limited license.

(3) A dental hygienist licensed pursuant to M. G. L. c. 112, § 51 seeking renewal of his/her license to practice in the Commonwealth must complete a minimum of twenty CEUs per renewal cycle. This requirement must be fulfilled during the twenty-four months immediately preceding the March 31st renewal date in odd numbered years.

(4) A dental student licensed as a dental hygienist pursuant to M. G. L. c. 112, § 51 is exempt from CEU requirements while he/she is enrolled in a CODA accredited dental school.

(5) New Graduates. A new graduate of a CODA-accredited dental school or dental hygiene program is exempt from the requirements of 234 CMR 8.00 for the licensing period in which he/she graduates.

(6) No licensee shall be eligible for renewal of a license without completion of the requisite number of CEUs for renewal.

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- (7) A licensee seeking renewal of his/her license shall submit to the Board with a renewal application a statement, signed under pains and penalties of perjury, that the applicant has satisfactorily completed the requisite number of CEUs required for such renewal.
- (8) CEUs may not be carried over from one renewal cycle to the next.
- (9) CEUs required by a consent agreement between the licensee and the Board, or by final decision and order of the Board, shall not be used to satisfy the continuing education requirement for license renewal.
- (10) A licensee seeking reinstatement of his/her license which has expired, or has been suspended or revoked by the Board shall, upon request of the Board, submit documentation of completion of CEUs equal to the requirements for the number of renewal cycles in which his/her license has been expired, suspended or revoked in Massachusetts.

8.03: Required Biennial Continuing Education

A licensee seeking to renew his/her license must complete continuing education as a condition precedent to the biennial renewal of his/her license in the following areas:

- (a) Infection Control in the dental health-care setting;
- (b) Certification in CPR/AED, or BLS, or, if the licensee has an anesthesia permit issued pursuant to 234 CMR 6.00, then the licensee must maintain certification in ACLS or PALS in accordance with requirements for the level of anesthesia permit issued to the licensee.

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8.04: Criteria for Acceptance: Responsibilities of Licensees and Sponsors of Continuing Education Programs

(1) Continuing education activities must have significant intellectual or practical content which deals primarily with matters directly related to the practice of dentistry or dental auxiliary functions, or with the professional responsibilities or ethical obligations of the profession. Non-clinical subjects relevant to clinical dentistry and dental hygiene skills necessary to provide dental or dental hygiene services and supportive of clinical services (e.g. patient and practice management, legal and ethical responsibilities, third party billing, stress management) may meet the criteria for acceptance for CEU credit. Courses not acceptable for the purpose of fulfilling the CEU requirement include, but are not limited to, personal financial planning and retirement planning.

(2) Standards. In order to qualify under 234 CMR 8.00 a continuing education program must require attendance, be at least one class hour (50 minutes) in length, be conducted by an instructor qualified by education and/or experience, and retain a written course description.

(3) Certificate of Attendance and Course Description. The licensee may only receive continuing education credit for those courses in which the sponsor or its agent (e.g. a nationally recognized professional registry) certifies the attendance and maintains attendance records for at least five years.

(a) Certification of attendance must include:

1. The name and address of the sponsor;
2. The name, address and license number of the licensee;
3. A brief statement of the subject matter;
4. Number of lecture and clinical or laboratory participation contact hours;
5. An indication of whether the course fulfills CEU requirements for dentists, dental hygienists or both;
6. The date and location of the program; and
7. Verification by the sponsor that licensee completed the program.

(b) The sponsor, or its agent, shall keep the following records for a period of five (5) years. All records shall be furnished to the Board upon request:

1. Course description;
2. Faculty;
3. Date of the course;
4. Location of the course;
5. Number of contact hours; and
6. Roster of attendees.

(4) Evaluation. Provisions must be made for evaluation of the participant's attainment of the course objectives. Participants must also be given the opportunity to evaluate faculty,

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learning experiences, instructional methods, facilities and educational resources utilized for the program.

8.05: Categories of Continuing Education Programs and Continuing Education Units (CEU) Allowed in each Category

(1) Educational and Scientific Courses, Examinations, and Specialty Boards. A licensee may obtain 100% of the required continuing education credits in this category:

(a) Educational and scientific courses sponsored or approved by any or all of the following:

1. Accredited educational or service institutions;
2. Professional associations and societies;
3. Accredited post doctoral programs;
4. Local, state and federal governmental health agencies and health institutions; and
5. Accredited community and teaching hospitals.

(b) Successful completion of Part II of the National Board Examination for dentists or successful completion of the National Board Dental Hygiene Examination for dental hygienists.

(c) Successful completion of the North East Regional Board Diagnosis, Oral Medicine, Radiology and Comprehensive Treatment Planning examination for dentists or successful completion of the North East Regional Board Dental Hygiene Comprehensive examination for dental hygienists.

(d) Successful completion of continuing education requirements for maintaining certification of nationally-recognized board specialties.

(2) Self-Instruction. A dentist may earn a maximum of twenty CEUs and a dental hygienist may earn a maximum of ten CEUs per renewal cycle by the completion of an individual study course (home study, on-line, correspondence, audio or video). Such courses must include a test, which the licensee must pass to obtain credit.

(3) Teaching and Research

(a) Continuing Education Instructor. A dentist may earn a maximum of twenty CEUs and dental hygienist may earn a maximum of ten CEUs per renewal cycle as an instructor of continuing education courses that satisfy criteria in 234 CMR 8.04 given by approved sponsors. Two CEUs may be earned for every hour taught and only for the first presentation of the program. CEUs shall not be accepted for repeat presentations.

(b) Academic Participation. A dentist or dental hygienist who conducts research and/or who is an appointed member of the faculty at a CODA-accredited dental school or dental hygiene program, may receive CEUs for his/her participation in these dental related activities.

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1. Faculty Appointments. A dentist may receive a maximum of ten CEUs and a dental hygienist may receive a maximum of five CEUs per renewal cycle through a faculty appointment for teaching at a dental school or dental hygiene program accredited by the Commission on Dental Accreditation.
 2. Research Appointments. A dentist may receive a maximum of ten CEUs and a dental hygienist may receive a maximum of five CEUs through a research appointment at a CODA-accredited dental school or dental hygiene program or other research institution. Documentation of the research project conducted by the licensee shall be provided, upon request, to the Board and may include:
 - a. Results of research conducted;
 - b. Publications authored by the licensee and published in a professional scientific journal;
 - c. Presentation of research studies at professional conferences; and
 - d. A written statement by the licensee's supervisor of the research project, estimated number of hours and a description of the licensee's role in research.
- (4) Papers, Publications and Scientific Presentations. A dentist may receive a maximum of twenty CEUs and a dental hygienist may receive a maximum of ten CEUs in this category.
- (a) A maximum of ten CEUs for a dentist and five CEUs for a dental hygienist will be given for each original scientific paper authored by the licensee and published in a scientific professional journal.
 - (b) For each original presentation of a paper, essay or formal lecture to a recognized group of fellow professionals, the presenter shall receive three hours of CEUs for every hour of presentation.
- (5) Table Clinics and Scientific Exhibits. A maximum of eight CEUs may be obtained in this category. The original presentation of a table clinic or scientific exhibit at a professional meeting will provide a maximum of two hours of CEU per clinic or exhibit.
- (6) General Attendance at Conferences. A dentist may receive a maximum of five CEUs per renewal cycle and a dental hygienist may receive a maximum of four CEUs per renewal cycle for general attendance at a multi-day professional conference.
- (7) Pro bono Service. A dentist may earn a maximum of five CEUs and a dental hygienist may earn a maximum of two and one-half CEUs per renewal cycle for *pro bono* services provided in public health settings as defined in 234 CMR 2.00.
- (a) A CEU credit may be earned for each hour of service, and may include, but not be limited to, direct patient care and oral health education programs.
 - (b) A licensee seeking to earn CEU credit for *pro bono* service must submit, upon request of the Board, documentation from the dental facility director or person responsible for the program or institution attesting to the licensee's

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participation, including the date(s), location(s), and number of hours of service.

(8) Non-clinical Practice-Related Courses. A dentist may earn a maximum of four CEUs and a dental hygienist may earn a maximum of two CEUs per renewal cycle for completion of non-clinical practice-related courses.

8.06: Certification of Compliance with CEU Requirements

(1) Each licensee shall maintain documentation of completion of the requisite CEUs for four years or two renewal cycles following renewal of the license, which shall be furnished to the Board upon request. Such documentation must comply with the requirements of 234 CMR 8.00.

(2) The Board may conduct random audits to verify compliance with CEU requirements.

(3) When there is evidence of a lack of compliance with CEU requirements, an applicant shall be notified in writing and the Board may initiate disciplinary proceedings.

8.07: Waiver of Continuing Education Requirements

(1) The Board may upon written request and a demonstration of good cause waive the CEU requirements. Good cause may include, but may not be limited to:

- (a) Full-time service in the armed forces of the United States or the U. S. Public Health Service;
- (b) Service in the armed forces of the United States during a substantial part of such period;
- (c) An incapacitating illness documented by a licensed physician;
- (d) Undue hardship (*e.g.*, prolonged hospitalization, physical and/or psychological);
- (e) Disability and inability to practice dentistry or dental hygiene on a temporary basis;
- (f) Matriculation in a program of advanced and/or specialty study in dentistry or dental hygiene.

(2) The Board may request an interview with the licensee whenever a request for a waiver is filed with the Board.

REGULATORY AUTHORITY

234 CMR 8.00; M. G. L. c. 112, § 51A

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234 CMR 9.00: Investigation of Complaints, Disposition of Complaints, Grounds for Discipline

9.01: Purpose

9.02: Investigation of Complaints

9.03: Disposition of Complaints

9.04 Suspension Prior to a Hearing

9.05: Grounds for Discipline

9.06: Civil Administrative Penalties for Unlicensed Practice of Dentistry or Dental Hygiene

9.01: Purpose

234 CMR 9.00 sets forth the actions the Board may take on any complaint received by the Board concerning a Board licensee or the practice of dentistry or dental hygiene in the Commonwealth. The Board may take disciplinary action for any violation of M. G. L. c. 112, §§ 43- 53 and § 61 and 234 CMR 2.00 and Board policies and any other state and federal statutes or regulations pertaining to the practice of dentistry.

9.02: Investigation of Complaints

- (1) Response by Licensee. Upon receipt of a written complaint from the Board, a licensee shall submit to the Board a written response addressing the allegations set forth in the complaint. Said response shall include any information requested by the Board and shall be signed by the licensee. The response shall be submitted to the Board within the time frame specified by the Board.
- (2) Complaint Committee. The Board may establish a Complaint Committee, comprised of a minimum of two members of the Board, one of whom must be a dentist, to review complaints alleging misconduct by a licensee and to make recommendations regarding disposition of the matter to the full Board.
- (3) Investigative Conference. To facilitate disposition of any complaint, the Complaint Committee, acting on behalf of the Board, or the Board, may schedule an investigative conference at any time prior to the commencement of a formal adjudicatory proceeding. The Board shall give timely notice of the conference, including a general statement of the nature of the complaint and issues to be discussed.
- (4) Ex parte Communication with Board Members. Neither a party nor the representative of a party shall make or knowingly cause to be made an ex parte communication with Board members regarding a complaint and/or adjudicatory proceeding.

9.03: Disposition of Complaints.

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The actions set forth in 234 CMR 9.03 constitute the non-disciplinary and disciplinary dispositions the Board may impose on a licensee or on a licensee's right to renew his/her license.

(1) Non-Disciplinary Actions.

- (a) Dismissal. The Board may dismiss a complaint by Dismissal with Prejudice, Dismissal Without Prejudice, or Dismissal with an Advisory Letter where it determines that:
 - 1. The Board lacks jurisdiction over the person named in the complaint;
 - 2. There is insufficient evidence to support the complaint;
 - 3. There are no violations of laws, rules and regulations governing the practice of dentistry;
 - 4. The conduct complained of does not warrant disciplinary or other remedial action.
- (b) Dismissal with Prejudice. A complaint may be dismissed with prejudice when the alleged conduct does not violate the Board's statutes or regulations or the Board lacks jurisdiction over the licensee.
- (c) Dismissal without Prejudice. A complaint may be dismissed without prejudice when the Board determines that the facts supporting the alleged conduct have not been or cannot be proven due to lack of evidence or insufficient evidence. The complaint may be revisited by the Board if new evidence becomes available.
- (d) Dismissal with an Advisory Letter. Dismissal with an Advisory Letter is an official written notice retained in the Board's files delineating the Board's concerns with the licensee's professional practice. An advisory letter does not constitute formal disciplinary action.
- (e) Stayed Probation. Stayed Probation is a non-disciplinary agreement between the licensee and the Board and consists of a period of time during which a dentist or registered dental hygienist who holds a valid license may continue to practice in the Commonwealth under terms and conditions specified by the Board. Stayed Probation does not constitute formal discipline, but may include provisions for the Board to subject the licensee to disciplinary action if the Board finds that the licensee has failed to comply with the terms and conditions of his/her agreement with the Board.

(2) Disciplinary Actions. The disciplinary actions set forth in 234 CMR 9.03 (2) (a) through (g) constitute disciplinary actions the Board may impose on a licensee of the Board, or on the right of a licensee to renew his/her license. The Board may only impose disciplinary action as part of a final decision and order issued in connection with the adjudication of a complaint, or under the terms of an agreement entered into between a licensee and the Board in resolution of any complaint or complaints.

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Where the Board initiates adjudicatory proceedings, the Board shall conduct such proceeding in accordance with M. G. L. c. 30(A), the *State Administrative Procedure Act* and the *Standard Adjudicatory Rules of Practice and Procedure* at 801 CMR 1.01.

The Board may, after a hearing in accordance with the provisions of M. G. L. c. 30A and 801 CMR. or by agreement of the parties, reprimand, place on probation, censure, suspend, or revoke any license, registration or permit issued by the Board and/or otherwise limit the practice of dentistry or dental hygiene in the Commonwealth as the Board deems necessary and appropriate.

A disciplinary action against a license to practice dentistry or dental hygiene in the Commonwealth constitutes a public record and is reportable by the Board to other licensing entities and to the appropriate national disciplinary reporting systems as a disciplinary action on a license to practice dentistry or dental hygiene, or on the right to renew such license.

- (a) Reprimand. A Reprimand is a written statement issued by the Board which describes the manner in which the licensee has failed to comply with any law and/or regulation, or both, related to the practice of dentistry or dental hygiene. A reprimand may include terms or conditions specified by the Board. Failure of a licensee to comply with such terms or conditions may result in further disciplinary action by the Board.
- (b) Probation. Probation consists of a period of time during which a licensee who holds a valid license may continue to practice in the Commonwealth under terms and conditions specified by the Board. A licensee whose license is subject to probation must comply with the terms and conditions of probation in order to continue to practice dentistry or dental hygiene in the Commonwealth. A licensee's failure to comply with terms and conditions may result in the imposition of a suspension or other discipline, as deemed appropriate by the Board.
- (c) Censure. Censure is a severe reprimand.
- (d) Voluntary Surrender. Pursuant to an agreement with the Board, a licensee may surrender his/her license to practice dentistry or dental hygiene in the Commonwealth. A licensee's Voluntary Surrender of a license to engage in the practice of dentistry or dental hygiene in the Commonwealth terminates the licensee's right to practice dentistry or dental hygiene in the Commonwealth and to represent himself/herself by title or other designation as a licensed dentist or dental hygienist.
- (e) Suspension. Suspension of a license or the right to renew said license to engage in the practice of dentistry or dental hygiene in the Commonwealth, is the temporary denial by the Board of the right of a licensee to engage in the practice of dentistry or dental hygiene in the Commonwealth, and to represent himself/herself by title or other designation as a licensed dentist or dental hygienist.
- (f) Stayed Suspension. A stayed suspension is a period of suspension on a license to practice dentistry or dental hygiene in the Commonwealth which suspension the Board does not activate pending compliance by a licensee with

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specified terms and conditions described in a Final Decision and Order or in a consent agreement between the licensee and the Board.

- (g) Revocation. A revocation of a license or the right to renew said license to engage in the practice of dentistry or dental hygiene in the Commonwealth terminates the licensee's right to practice dentistry or dental hygiene in the Commonwealth, and to represent himself/herself by title or other designation as a licensed dentist and/or dental hygienist.

9.04 Suspension Prior to a Hearing.

If, based upon affidavits or other documentary evidence, the Board determines that a licensee is an immediate or serious threat to the public health, safety, or welfare, the Board may suspend or refuse to renew a license pending a final hearing on the merits of the allegations regarding the licensee. A hearing limited to the determination of the necessity of the summary action shall be afforded the licensee within seven days of the Board's action pursuant to M.G. L. c. 112, s.52F.

9.05 Grounds for Discipline

The Board may impose disciplinary action against an individual licensed by the Board to practice dentistry or dental hygiene, on one or more of the following grounds for discipline:

- (1) Engaging in misconduct in the practice of dentistry, unprofessional conduct, and/or conduct that undermines public confidence in the integrity of the dental profession;
- (2) Violating any of the duties and standards set out in Board regulations 234 CMR 2.00 or any rule or written policy adopted by the Board pursuant to its authority under M. G. L. c. 112, §§43-53, 61;
- (3) Failing to provide services and maintain the dental office, in compliance with the *CDC Guidelines* and the requirements of the Occupational Safety and Health Regulations at 29 CFR as described in 234 CMR 5.05.;
- (4) Practicing while the ability to practice is impaired by substance abuse, or any physical or mental condition;
- (5) Engaging in the illegal use or abuse of prescription drugs or controlled substances;
- (6) Continuing to practice dentistry, in the Commonwealth, after his/her license is expired, suspended, revoked or surrendered;
- (7) Violation of a consent agreement, Final Decision and Order, or any other order of, or agreement with, the Board;

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- (8) Engaging in conduct that places the public health, safety, or welfare at risk;
- (9) Being convicted of any crime, except minor traffic offenses, including any guilty verdict or finding of guilt and any admission to or finding of sufficient facts, a continuance without a finding, and any plea of guilty or nolo contendere which has been accepted by the court, whether or not sentence has been imposed;
- (10) Fraudulently procuring a certificate of licensure or a permit or its renewal;
- (11) Providing false information on an application for registration or renewal of a license or permit;
- (12) Cheating or attempting to compromise the integrity of any dental licensing or certification examination;
- (13) Failing to comply with a Board subpoena or failing to furnish the Board, its investigators, or representatives with records, documents, information, or testimony to which the Board is legally entitled;
- (14) Committing an act that violates recognized standards of care;
- (15) Failing to maintain professional dentist or dental hygienist patient boundaries;
- (16) Engaging in conduct with a patient which is sexual or may be reasonably interpreted by the patient as sexual or engaging in behavior, gestures, or expressions, verbal or nonverbal, that are seductive, suggestive or sexually demeaning to a patient;
- (17) Failing to comply with established ethical standards of the profession and/or specialty;
- (18) Falsifying, altering or willfully making incorrect entries or failing to make essential entries in patient records;
- (19) Violating M. G. L. c. 94C, *Controlled Substances Act* or regulations promulgated thereto;
- (20) Issuing a prescription for medication(s) or prosthesis (pursuant to M. G. L. c.112, § 50), including but not limited to, internet or other electronic process, without a medical history or without conducting an appropriate dental examination or without recording a corresponding diagnosis and treatment plan;

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- (21) Any disciplinary action against a licensee in another state or jurisdiction for conduct similar to conduct that would constitute grounds for discipline by the Board;
- (22) Charging a patient or third party payor for a service not performed;
- (23) Failing, without just cause, to refund a prepayment for treatment and services not completed and/or not performed;
- (24) Offering, giving or receiving commissions, rebates or other forms of remuneration for the referral of patients;
- (25) Failing to file any report required pursuant to M G. L. c. 19A, c. 19C, or M. G. L. c. 119, § 51A;
- (26) Failing to report or failing to accurately report to the Board in writing, within 30 days, any disciplinary action, as defined by these regulations, taken against the licensee by an entity or its agent, including but not limited to, a governmental authority, a health care facility, an employer, a dental insurance company, or a professional dental or medical society (international, national, state or local);
- (27) Failing to report to the Board, in writing, within 30calendar days, any final action taken regarding one's license to practice dentistry or dental hygiene or other health care related professional license by any other governmental authority in this state or another jurisdiction;
- (28) Failing to report to the Board, in writing, within 30 calendar days any criminal charge or conviction as defined in 234 CMR 2.03 in this state or any other jurisdiction.
- (29) Failing to comply with a plan for corrective action required by an agreement with or an order of the Board;
- (30) Nothing herein shall limit the Board's adoption of policies and grounds for discipline through adjudication and rule-making.

9.06: Civil Administrative Penalties for Unlicensed Practice of Dentistry or Dental Hygiene. A civil administrative penalty may be assessed for unlicensed practice of dentistry or dental hygiene in the Commonwealth pursuant to M. G. L. c. 112, §§65(b) and 65A.

REGULATORY AUTHORITY: 234 CMR 9.00; M. G. L. c. 13, § 19; c. 112, §§ 43-53, 61, 65 and 65A; c. 30A, § 13A.