

RULE ADOPTIONS
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LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
NEW JERSEY BOARD OF DENTISTRY

Readoption with Amendments: N.J.A.C. 13:30
Adopted New Rules: N.J.A.C. 13:30-8.5, 8.18, 8.23 and 8.24

Board of Dentistry Rules

Proposed: September 20, 2010 at 42 N.J.R. 2217(a).

Adopted: December 1, 2010 by the New Jersey Board of Dentistry, John Ricciani, D.M.D., President.

Filed: January 5, 2011 as R.2011 d.041, **without change**.

Authority: N.J.S.A. 45:1-15.1 and 45:6-1 et seq.

Effective Dates: January 5, 2011, Readoption;
February 7, 2011, Amendments and New Rules.

Expiration Date: January 5, 2016.

Federal Standards Statement

A Federal standards analysis is not required because the rules readopted with amendments and new rules are governed by N.J.S.A. 45:6-1 et seq., and are not subject to any Federal standards or requirements. Although the rules in N.J.A.C. 13:30 are not subject to any mandated Federal requirements or standards, where deemed appropriate, the Board has voluntarily required licensees and permit holders to comply with applicable Federal laws and regulations. Specifically, the Board has readopted N.J.A.C. 13:30-1A.2, concerning the scope of practice of licensed dental hygienists, which allows a dental hygienist to place intrasulcular therapeutic medications, as directed by a dentist, provided that the medications have been approved by the Food and Drug Administration (FDA). In addition, amendments to N.J.A.C. 13:30-1A.3 provide that a licensed dental hygienist who has been issued a permit to administer local anesthesia under the direct supervision of a New Jersey dentist, may also administer local anesthetic reversal agents approved by the FDA. The Board has also adopted a new rule at N.J.A.C. 13:30-8.5, which requires all licensees and registrants to comply with Federal Occupational Safety and Health Administration (OSHA) regulations and Centers for Disease Control and Prevention (CDC) guidelines concerning infection control practices in the provision of dental services. The readoption of N.J.A.C. 13:30-8.13 continues to require dentists who provide professional services as independent contractors to comply with State and Federal laws regarding such arrangements.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 13:30.

Full text of the adopted amendments and new rule follows:

SUBCHAPTER 1. LICENSURE TO PRACTICE DENTISTRY

13:30-1.2 Application for licensure to practice dentistry

(a)-(c) (No change.)

(d) A candidate for dental licensure who has successfully completed the North East Regional Board examination five years or more prior to the date of application shall submit a completed application to the Board, which shall contain the following information and materials:

1.-3. (No change.)

4. Results from the successful completion of the New Jersey Jurisprudence examination taken within two years of the date of application;

5.-8. (No change.)

(e) A candidate for dental licensure by credentials, who is licensed to practice dentistry in another state or jurisdiction, shall submit a completed application to the Board, which shall contain the following information and materials:

1. Evidence demonstrating that the applicant has actively practiced dentistry, which may include practice in a dental residency, in a single state or jurisdiction for at least five years prior to the date of application;

2.-4. (No change.)

5. Results of the successful completion of a clinical examination administered or recognized by another state or jurisdiction that is comparable to the examination recognized by the North East Regional Board or was comparable at the time the applicant took the examination;

6. Results from the successful completion of the New Jersey Jurisprudence examination taken within two years of the date of application;

7.-10. (No change.)

(f) (No change.)

13:30-1.3 Resident permit

(a)-(b) (No change.)

(c) A student who is enrolled in a post-graduate program for the awarding of a Certificate of Advanced Graduate Standing (CAGS) or its equivalent, at a Commission on Dental Accreditation-approved dental school, shall not be required to obtain a resident permit. This individual shall be identified as a student.

13:30-1.4 Exemption from licensure

(a) The following individuals shall not be required to obtain a license to practice dentistry pursuant to N.J.S.A. 45:6-19:

1.-4. (No change.)

5. Licensed dentists of other states or jurisdictions appearing as instructors or attendees at Board-approved continuing education courses in which they will engage in hands-on training or demonstrations on live patients, provided the dentist is covered by malpractice insurance;

Recodify existing 5.-6. as 6.-7. (No change in text.)

13:30-1A.2 Scope of practice of licensed dental hygienist

(a) (No change.)

(b) A licensed dental hygienist practicing under the direct supervision of a licensed dentist may:

1.-19. (No change.)

20. Place and remove retraction cords and medicated pellets. This shall not include electrosurgery or the use of lasers for tissue retraction;

21.-30. (No change.)

31. Hold a curing light for any dental procedure. Such curing light shall not include a laser capable of altering, cutting, burning or damaging hard or soft tissue or electrosurgery for tissue retraction;

32.-33. (No change.)

34. Demonstrate home-use bleaching systems and apply bleaching agents;

35.-37. (No change.)

(c) In addition to the activities set forth in (b) above, a licensed dental hygienist practicing under the direct supervision of a licensed dentist pursuant to N.J.A.C. 13:30-8.20 may monitor a patient to whom the supervising dentist has administered nitrous oxide/oxygen inhalation analgesia, provided that:

[page=312] 1. The licensed dental hygienist has successfully completed a Board-approved course offered in a Commission on Dental Accreditation of the American Dental Association (CODA) accredited college or university or in a hospital licensed by the Department of Health and Senior Services, which emphasizes the administration of nitrous oxide simultaneous with the administration of oxygen and safe and effective patient monitoring;

i.-iii. (No change.)

2.-5. (No change.)

(d) (No change.)

(e) A licensed dental hygienist practicing under the supervision of a New Jersey licensed dentist in an institution may:

1.-8. (No change.)

(f) Each licensed dentist may supervise no more than three licensed dental hygienists at one time in a dental office. In an institutional setting, a licensed dentist shall review all chart entries within 30 days of treatment of the patient by a licensed dental hygienist.

(g) A licensed dental hygienist who engages in the activities outlined in (b) and (c) above without direct supervision, except as provided in (e) above, shall be deemed to be engaging in the unauthorized practice of dental hygiene and shall be subject to the penalties set forth in N.J.S.A. 45:6-58 and 45:1-25.

(h) A licensed dentist who permits a licensed dental hygienist to engage in the activities outlined in (b) and (c) above without direct supervision, except as provided in (e) above, shall be subject to the penalties set forth in N.J.S.A. 45:1-21 and 45:1-25.

(i) (No change.)

13:30-1A.3 Administration of local anesthesia by licensed dental hygienists

(a)-(b) (No change.)

(c) A licensed dental hygienist who has been issued a permit to administer local anesthesia may do so only under the

direct supervision of a New Jersey licensed dentist who shall determine which anesthetic agent shall be administered by the hygienist and for which procedures the anesthetic agent shall be utilized, consistent with the following:

1. The licensed hygienist may administer supraperiosteal (infiltration), periodontal ligament (PDL, intraligamentary), intraseptal and block anesthesia except as provided in (c)1i below.

i. The licensed dental hygienist shall not administer a maxillary (second division, V2) nerve block via the high tuberosity approach or the greater palatine approach; and

2. The licensed hygienist may administer local anesthetic reversal agents approved by the Federal Food and Drug Administration and the American Dental Association, as determined by the dentist.

(d) A licensed dental hygienist applying for a Board permit to administer local anesthesia shall satisfy the following requirements:

1. Successful completion of a Board-approved course in the administration of local anesthesia offered in a dental hygiene program approved by the Commission on Dental Accreditation, or in an accredited college or university, teaching hospital or other training institution or facility approved pursuant to N.J.S.A. 45:6-2.

i. (No change.)

ii. The course shall include instruction in: head and neck anatomy; pharmacology of anesthetic and analgesic agents, including appropriate and efficacious injection techniques and minimum and maximum dosages; administration of reversal agents; patient pre-evaluation, including medical and dental history considerations; recognition of adverse events, emergency procedures and basic life support; and selection of appropriate armamentarium, agents and techniques.

iii. The course shall consist of 20 hours of didactic training and 12 hours of clinical training. The clinical training shall include 25 monitored administrations of local anesthesia, including all types of blocks set forth in (c)1 above; and

2. (No change.)

(e)-(h) (No change.)

13:30-2.4 Scope of practice of registered dental assistant

(a) A registered dental assistant may perform the following duties under the direct supervision of a licensed dentist:

1.-14. (No change.)

15. Place and remove retraction cords and medicated pellets. This shall not include electrosurgery or the use of lasers for tissue retraction;

16.-26. (No change.)

27. Hold a curing light for any dental procedure. Such curing light shall not include a laser capable of altering, cutting, burning or damaging hard or soft tissue or for electrosurgery for tissue retraction;

28.-29. (No change.)

30. Demonstrate home-use bleaching systems and apply bleaching agents;

31. (No change.)

32. Administer a topical treatment on a patient after a licensed dentist or licensed dental hygienist has performed a prophylaxis;

33. Assist a licensed dentist in the administration of nitrous oxide, provided the licensed dentist is physically present in the operatory at all times during the procedure; and

34. Provide prophylactic and preventive measures, such as the application of fluorides and pit and fissure sealants and other recognized topical agents for the prevention of oral disease or discomfort. This shall not include prophylaxis.

(b)-(e) (No change.)

13:30-2.6 Scope of practice of unregistered dental assistant

(a) A dental assistant who has not obtained a registration from the Board may perform the following duties under the direct supervision of a licensed dentist:

1.-8. (No change.)

9. Hold a curing light in any dental procedure. Such curing light shall not include a laser capable of altering, cutting, burning or damaging hard or soft tissue or for electrosurgery for tissue retraction;

10.-13. (No change.)

(b) (No change.)

SUBCHAPTER 5. CONTINUING EDUCATION

13:30-5.1 Continuing dental education requirements for dentists

(a)-(h) (No change.)

(i) A licensee may obtain continuing education credits from any of the areas of study listed below. A licensee shall not receive credit for more than the maximum number of hours permitted in each area of study for each biennial period, as set forth in (i)1 through 4 below.

1. (No change.)

2. Papers, publications and scientific presentations:

i.-ii. (No change.)

iii. For each original presentation of a paper, essay or formal lecture to a recognized group of fellow professionals as part of a course or program eligible for Board approval for credit pursuant to this section, a licensee shall receive two hours of continuing education credit for every hour of presentation;

3. Teaching and research appointments:

i. A licensee involved in teaching or research activities at least one full day or the equivalent of one full day per week per academic year and who holds at least a part-time faculty or research appointment shall receive five hours of continuing education credit annually for each full day of teaching or research activity up to a maximum of 10 hours of credit per biennial period or two and one-half hours annually for each half day of teaching or research activity up to a maximum of five hours of credit per biennial period.

4. (No change.)

(j)-(m) (No change.)

13:30-5.2 Continuing education requirements for dental hygienists

(a) All licensed dental hygienists shall submit a certification verifying the completion of 20 hours of continuing education every two years at the time of license renewal, except as provided in (b) and (d) below. No more than one-half of the required continuing education hours in the two-year period may be obtained through written or electronic media distance learning courses.

(b) An individual who graduates from a program in dental hygiene in the first year of the biennial period shall complete 10 credits of continuing education for biennial renewal. An individual who graduates from a program in dental hygiene in the second year of the biennial [page=313] period shall be exempt from continuing education requirements for that biennial period.

(c) The following shall be considered acceptable forms of continuing education:

1.-2. (No change.)

3. Teaching and research appointments:

i. A licensee involved in teaching or research activities at least one full day or the equivalent of one full day per week per academic year and who holds at least a part-time faculty or research appointment shall receive two hours of continuing education credit annually for each full day of teaching or research up to a maximum of four hours of credit per biennial period and one credit annually for each half day of teaching or research up to a maximum of two hours of credit per biennial period.

(d) The Board shall recognize as acceptable the courses of study and amount of hours credited in continuing education programs approved by the following, provided that the courses satisfy the minimum requirements set forth in this subchapter:

1.-3. (No change.)

4. The American Dental Assistants' Association and its constituents and components;

5. The American Academy of Dental Hygiene and its constituents and components; and

6. (No change in text.)

(e)-(f) (No change.)

13:30-5.3 Continuing education requirements for registered dental assistants and limited registered dental assistants in orthodontics

(a) (No change.)

(b) The following shall be considered acceptable forms of continuing education:

1.-2. (No change.)

3. Teaching and research appointments:

i. A registrant involved in teaching or research activities at least one full day or the equivalent of one full day per week per academic year and who holds at least a part-time faculty or research appointment shall receive two hours of

continuing education credit annually for each full day of teaching or research up to a maximum of four hours of credit per biennial period and one credit annually for each half day of teaching or research up to a maximum of two hours of credit per biennial period.

(c) The Board shall recognize as acceptable the courses of study and amount of hours credited in continuing education programs approved by the following, provided that the courses satisfy the minimum requirements set forth in this subchapter:

1.-3. (No change.)

4. The American Dental Assistants' Association and its constituents and components;

5. The American Academy of Dental Hygiene and its constituents and components; and

6. (No change in text.)

(d)-(e) (No change.)

SUBCHAPTER 6. ADVERTISING

13:30-6.2 Professional advertising

(a)-(h) (No change.)

(i) If a licensee advertises that he or she has obtained master, member, fellow or diplomate status in any dental organization, the advertisement shall disclose the licensee's status as either a general dentist or as the holder of a specialty permit pursuant to N.J.A.C. 13:30-6.1, the name of the dental organization, and if the advertisement concerns an area of practice not recognized by the Board as a specialty pursuant to N.J.A.C. 13:30-6.1(c), that the services provided are not a recognized dental specialty.

(j) If a dentist advertises that he or she possesses an M.D. or D.O. degree, the advertisement shall not imply in any manner that the dentist is licensed to practice medicine in this State unless he or she holds a license to practice medicine issued by the State Board of Medical Examiners.

Recodify existing (j)-(l) as (k)-(m) (No change in text.)

(n) Offers of discounts or fee reductions or free services shall indicate the advertiser's fixed or stated range of fees against which the discount is to be made and/or the value of the free service.

1.-3. (No change.)

4. Services advertised as complimentary, free of charge or for a discounted fee shall be offered equally to all patients identified as eligible in the advertisement (for example "new patients"), regardless of the patient's third-party coverage.

5. A licensee who holds a specialty permit, as permitted by N.J.A.C. 13:30-6.1, shall in a manner similar to that in (n)2 above, include a representative list of the most frequently performed services in the advertiser's office.

(o) (No change in text.)

(p) A licensee shall be presumed to have approved and shall be personally responsible for the form and contents of an advertisement which contains the licensee's name, office address, or telephone number or which is published or caused to be published by an entity to which the licensee has paid a fee or when the licensee has agreed to have his or her name listed as a participant pursuant to (q) below. A licensee who employs or allows another to employ for his benefit an intermediary source or other agent in the course of advertising shall be personally responsible for the form and

contents of said advertisement.

Recodify existing (p)-(q) as (q)-(r) (No change in text.)

SUBCHAPTER 8. GENERAL PROVISIONS

13:30-8.4 Enteral sedation with single or multiple pharmacological agents

(a) (No change.)

(b) No dentist shall administer, dispense or prescribe enteral sedation with single or multiple pharmacological agents (hereinafter "enteral sedation") unless the minimum standards of training and procedure set forth in this section are satisfied.

(c) No dentist shall administer, dispense or prescribe enteral sedation unless such dentist possesses an enteral sedation permit issued by the State Board of Dentistry, except as provided in (d) below, for a specified practice location which shall be renewed biennially. A dentist shall obtain a separate enteral sedation permit for each practice location at which enteral sedation is administered, dispensed or prescribed.

(d) (No change.)

(e) No dentist may administer, dispense or prescribe any pharmacological agent in a dosage which has the potential to inhibit patient response beyond anxiolysis without the possession of an enteral sedation permit issued pursuant to this section.

(f)-(p) (No change.)

13:30-8.5 OSHA and CDC requirements

(a) When providing dental services, all licensees and registrants shall comply with:

1. Occupational Safety and Health Administration (OSHA) regulations set forth at 29 CFR 1910.1030, concerning occupational exposure to blood or other potentially infectious materials, in the provision of dental services, the requirements of the New Jersey Public Employees Occupational Safety and Health (PEOSH) Act, N.J.S.A. 34:6A-25, incorporated herein by reference; and

2. Centers for Disease Control and Prevention (CDC) Recommended Infection Control Practices for Dentistry, incorporated herein by reference, as amended and supplemented, and available at the CDC website, www.cdc.gov, specifically, <http://www.cdc.gov/oralhealth/infectioncontrol/guidelines/index.htm>.

13:30-8.6 Biennial license and registration renewal; license and registration suspension; reinstatement of suspended license or registration; inactive status; return from inactive status

(a) (No change.)

(b) The Board shall send a notice of renewal to each licensee and registrant at the address of record registered with the Board at least 60 days prior to the expiration of the license or registration. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew during the [page=314] period following license or registration expiration, not to exceed the number of days short of 60 before the renewal notices were issued.

(c)-(f) (No change.)

(g) Renewal applications shall provide the licensee or registrant with the option of either active or inactive status. A

licensee or registrant choosing inactive status shall be provided with the option of choosing either inactive paid or inactive unpaid status. A licensee or registrant electing inactive paid status shall pay the applicable inactive renewal fee set forth in N.J.A.C. 13:30-8.1, which shall entitle the licensee or registrant to obtain all printed information disseminated by the Board to all active licensees and registrants. Inactive paid licensees shall not engage in practice. A licensee or registrant choosing inactive unpaid status shall not be required to pay the inactive renewal fee and shall not receive printed information disseminated by the Board to active licensees and registrants. Inactive unpaid licensees or registrants shall not engage in practice.

(h)-(i) (No change.)

13:30-8.7 Patient records

(a) A contemporaneous, permanent patient record shall be prepared and maintained by a licensee for each person seeking or receiving dental services, regardless of whether any treatment is actually rendered or whether any fee is charged. Licensees also shall maintain records relating to charges made to patients and third-party carriers for professional services. All treatment records, bills and claim forms shall accurately reflect the treatment or services rendered. Such records shall include, at a minimum:

1.-4. (No change.)

5. The dates of each patient visit and an accurate description of all treatment or services rendered and the materials used at each visit;

6. Radiographs, if any, of a diagnostic quality and a description of all diagnostic models made, identified with the patient's name and the date. If the radiographs are sent out of the dental office, the dentist shall retain the originals or a diagnostic copy of the radiographs in the patient record;

7. (No change.)

8. Copies of any prescriptions to laboratories for dental prostheses;

Recodify existing 8.-10. as 9.-11. (No change in text.)

12. A record of any recommendations or referrals for treatment or consultation by a specialist, including those which were refused by the patient;

13. The name of the dentist of record consistent with the requirements of N.J.A.C. 13:30-8.15; and

14. If written notations appear in the patient record, the notations shall be legible, written in ink and contain no erasures or white-outs. If incorrect information is placed in the record, it shall be crossed out with a single non-deleting line and shall be initialed and dated by the licensee on the date the change was made. If additions are made to the record, the additions shall be initialed and dated by the licensee on the date the change was made.

(b)-(d) (No change.)

(e) Licensees shall provide patient records to the patient or the patient's authorized representative or another dentist of the patient's choosing in accordance with the following:

1.-2. (No change.)

3. The licensee may charge a reasonable fee for:

i. (No change.)

ii. The reproduction of radiographs or any other material within a patient record, which cannot be routinely copied or duplicated on a commercial duplicating machine. The fee for duplication for a set of up to nine radiographs shall not exceed \$ 15.00. The fee for duplication for a set of up to 18 radiographs shall not exceed \$ 30.00. The fee for duplication of a panorex shall not exceed \$ 30.00.

4.-5. (No change.)

(f)-(g) (No change.)

(h) Patient records need not be maintained in situations where no patient-dentist relationship exists, such as where the professional services of a dentist are rendered at the behest of a third party for the purposes of examination and evaluation only, at the behest of the Board or for dental screenings.

(i) Services not recorded in the patient record in accordance with the requirements of this section shall be presumed not to have been performed. It shall be the responsibility of the licensee to produce evidence to establish that the non-recorded services were actually performed.

13:30-8.8 Reporting of incidents or deaths

(a) All licensees shall report to the State Board of Dentistry within seven days, in writing, on a form supplied by the Board and available on the Board's website at <http://www.njconsumeraffairs.gov/dentistry/>, any incident occurring in a dental office, clinic or any other dental facility after dental treatment has been initiated, which requires the removal of a patient to a hospital for observation or treatment.

(b) All licensees shall report to the Board within seven days, in writing, on a form supplied by the Board and available on the Board's website at <http://www.njconsumeraffairs.gov/dentistry/>, any death, which may be related to dental treatment, whether or not the death occurred in a dental office, clinic or other dental facility.

13:30-8.10 Dental insurance forms

(a) (No change.)

(b) No licensee shall submit to a third-party payor any claim, bill or governmental assistance claim, which contains any of the following:

1. Any treatment date, which does not accurately reflect the date when the service and procedures were actually performed;

2. Any description of a dental service or procedure, which does not accurately reflect the actual work performed;

3. (No change.)

4. Any statement or attachment material to the claim, which is known to be false or misleading; or

5. (No change.)

(c)-(e) (No change.)

13:30-8.13 Permissible business structures, prohibition on referral fees and fee splitting

(a)-(c) (No change.)

(d) Dentists shall not receive, solicit, offer or pay any remuneration as an inducement to make a referral or as compensation for a referral of a patient for a service, product, drug or device or to purchase, prescribe or recommend a

product, drug or device. Nothing contained in this section shall prohibit a licensee from paying the reasonable costs of any advertisement permitted pursuant to N.J.A.C. 13:30-6.1 and 6.2. Nothing contained in this section shall prohibit a dentist from providing a gift to a patient, or from providing a credit for dental services to a patient, provided the gift or credit does not exceed \$ 25.00 in value.

(e) Dentists shall not participate in any arrangement or agreement, with any person other than an associate, whereby any remuneration received by that person in payment for the provision of space, professional services, facilities, equipment, personnel, marketing or management services used by the dentist is to be determined or calculated as a fixed percentage of, or otherwise dependent upon, the income or receipts derived from the practice of dentistry. Nothing in this section, however, shall preclude a dentist from entering into a bona fide profit sharing plan or retaining the services of a collection agency.

(f) (No change.)

13:30-8.18 Issuance of prescriptions; NJPBs; controlled dangerous substances

(a) A licensee shall issue written prescriptions only on New Jersey Prescription Blanks (NJPB) that have been secured from an approved vendor and which meet the security requirements of the prescription blanks program set forth in N.J.A.C. 13:45A-27. A licensee's NJPB shall include all information required to appear on the blank pursuant to Division of Consumer Affairs rules, set forth at N.J.A.C. 13:45A-27, including the licensee's National Provider Identifier, if one has been obtained.

(b) Licensees issuing prescriptions for controlled dangerous substances shall comply with all State and Federal laws concerning the issuance of such prescriptions, including requirements set forth at N.J.A.C. 8:65.

[page=315] 13:30-8.23 Disclosure of participation in third-party payor plans

If a dentist providing services in a dental practice does not participate in a third-party payor plan in which other providers in the dental office participate, the dentist shall clearly disclose this fact to the patient prior to treatment.

13:30-8.24 Animals and pets in dental office

A licensee shall not permit animals or pets in a dental office unless the animals or pets are maintained in an enclosed space that cannot be accessed by patients. This requirement shall not apply to trained guide or service dogs (or dogs in training) for the disabled, sightless or hearing impaired, consistent with the provisions of the Laws Against Discrimination, N.J.S.A. 10:5-29.