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Notice of Final Action on Petition for Rulemaking

Scope of Practice of Dental Auxiliaries in an Orthodontic Office

Petitioner: Dr. Rene Johe, President, New Jersey Association of Orthodontists.

Authority: N.J.S.A. 45:1-15.1.

Take notice that on January 24, 2014, the State Board of Dentistry (Board) received a petition for rulemaking from Dr. Rene Johe, President, on behalf of the New Jersey Association of Orthodontists, requesting that the Board amend the rules governing the scope of practice of dental auxiliaries in an orthodontic office.

The petitioner proposes expanding the functions a limited registered dental assistant in orthodontics (LRDA-O) may perform to include: 1) holding and applying a curing light; 2) applying topical anesthetic; 3) applying topical fluoride; 4) placing and ligating arch wires; and 5) preparing teeth for bonding, that is, polish, etch, and seal. The petitioner notes that these functions are already performed by licensed dental hygienists and registered dental assistants and that the orthodontic-specific training of an LRDA-O is more intense and extensive than that of a licensed dental hygienist or a registered dental assistant. The petitioner also notes that the testing for an LRDA-O is exclusively in the field of orthodontics and an LRDA-O is required to spend a minimum of two years in an orthodontic office. The petitioner further notes that despite this orthodontic-specific testing and experience, an LRDA-O is not permitted to perform orthodontic functions performed by licensed dental hygienists and registered dental assistants.

In addition, the petitioner recommends expanding the functions of licensed dental hygienists, registered dental assistants, and limited registered dental assistants in orthodontics to include: 1) taking impressions for orthodontic appliances; 2) placing orthodontic separators; 3) removing bands and brackets without the use of rotary instruments; 4) removing primary adhesive after debanding/debonding without the use of rotary instruments; 5) performing intra-oral scanning for the purpose of obtaining digital study models or orthodontic appliances; and 6) under direct supervision, performing emergency treatment to provide immediate relief from an offending appliance, for example, clipping a protruding arch wire or removing a loose bracket. The petitioner believes that the performance of these procedures, which are reversible in nature, involve skills in which these dental auxiliaries are trained.

The petitioner also requests that the Board institute a new mechanism for attaining LRDA-O status because the requisite examinations specified in N.J.A.C. 13:30-2.3 are no longer administered by the Dental Assisting National Board.

On March 19, 2014, the Board referred this matter to its Rules and Regulations Committee for further deliberation in order to develop a better understanding of the implications this request would have for licensees, registrants, and patients, and to obtain additional information from the petitioner about a proposed new mechanism for attaining LRDA-O status. A notice acknowledging the Board's action on March 19, 2014, was filed with the Office of Administrative Law and was published in the New Jersey Register on April 21, 2014, at 46 N.J.R. 716(a).

The Board and the petitioner subsequently agreed to three extensions of the period for Board deliberation. The notices acknowledging these extensions were published in the New Jersey Register on July 7, 2014, at 46 N.J.R. 1655(b), on January 5, 2015, at 47 N.J.R. 234(a), and on April 6, 2015, at 47 N.J.R. 745(b).

Take further notice that the Board considered the petition for rulemaking at the open public session of its June 3, 2015, meeting and determined to grant, in part, the petition and initiate a rulemaking proceeding.

The Board agrees with the petitioner that it is necessary to create a new mechanism for attaining LRDA-O status because the current requisite examinations (New Jersey Orthodontics Certification Examination and New Jersey Expanded Functions in Orthodontics Examination) specified in N.J.A.C. 13:30-2.3 are no longer administered by the Dental Assisting National Board.

In addition, the Board agrees with the petitioner that the functions that an LRDA-O may perform should be expanded to include: 1) using a curing light; 2) applying topical anesthetic; 3) applying topical fluoride; 4) placing and ligating arch wires; and 5) etching teeth in preparation for bonding, sealants, and desensitizing agents.

The Board also agrees, in part, with the petitioner that the functions that licensed dental hygienists, registered dental assistants, and LRDA-O are permitted to perform should be expanded. The Board determined to allow licensed dental hygienists, registered dental assistants, and LRDA-O, under the direct supervision of a licensed dentist, to: 1) take impressions for orthodontic appliances; 2) place orthodontic separators; 3) remove bands and brackets without the use of rotary instruments; and 4) perform emergency treatment to provide immediate relief from an offending appliance, for example, clipping a protruding arch wire or removing a loose bracket.

The Board determined to deny the petitioner's request to include intra-oral scanning for the purpose of obtaining digital study models or orthodontic appliances as one of the functions performed by licensed [page=1883] dental hygienists, registered dental assistants, and LRDA-O. The Board believes including this function is unnecessary as it is encompassed in taking impressions for orthodontic appliances.

In addition, the Board determined to grant the petitioner's request to expand the functions of licensed dental hygienists to include removing primary adhesive after debanding or debonding without the use of rotary instruments. The licensed dental hygienist may perform this function under the general supervision of a licensed dentist. The Board denied the petitioner's request to expand the functions of registered dental assistants and LRDA-O to include this function. The Board is concerned about the risk to the tooth enamel under the bonding, especially when there is decalcification. Registered dental assistants and LRDA-O do not have the necessary training in tooth histology, or training and experience in the removal of all types of foreign accumulations on enamel surfaces to protect against inadvertent tooth damage.

A copy of this notice has been mailed to the petitioner pursuant to N.J.A.C. 1:30-4.2.