

## 50 N.J.R. 1282(a)

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### RULE ADOPTIONS

#### Reporter

50 N.J.R. 1282(a)

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> LAW AND PUBLIC SAFETY -- DIVISION OF CONSUMER AFFAIRS*

#### Agency

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LAW AND PUBLIC SAFETY > DIVISION OF CONSUMER AFFAIRS > **STATE BOARD OF DENTISTRY**

#### Administrative Code Citation

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Adopted Amendments: N.J.A.C. 13:30-1A.3, 1A.4, 1A.5, and 2.3 through 2.6

#### Text

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**Scope of Practice: Dental Hygienist, Registered Dental Assistant, Limited Registered Dental Assistant in Orthodontics, and Unregistered Dental Assistant; Application for Registration as Limited Registered Dental Assistant in Orthodontics**

Proposed: July 3, 2017, at 49 N.J.R. 1821(a).

Adopted: December 6, 2017, by the State Board of Dentistry, Nicholas DeRobertis, DMD, President.

Filed: April 16, 2018, as R.2018 d.106, **without change**.

Authority: N.J.S.A. 45:1-15 and 45:6-19.4.

Effective Date: May 21, 2018.

Expiration Date: October 11, 2024.

#### **Summary** of Public Comment and Agency Response:

The official comment period ended on September 1, 2017. The Board of Dentistry (Board) received one comment from Jean Publiee.

1. COMMENT: The commenter stated that the proposed changes to allow assistants and hygienists to do so much more are not conducive to efficient and effective dentistry. The commenter also stated that the consumer will be paying prices for this work as if the dentist did it, when the hygienist with less training is doing the work. The commenter does not support the proposed changes with respect to the work a dentist performs on a tooth as opposed to the assistant, and believes that the dentist should continue to be required to do the tasks currently performed.

RESPONSE: The Board, in accordance with N.J.S.A. 45:6-49.d and 45:6-50, has the authority to prescribe expanded functions that licensed dental hygienists and registered dental assistants may perform and to impose such restrictions and requirements, including the necessary educational prerequisites and administration of examinations, as necessary to ensure adherence to a standard of proficiency necessary and proper to protect the health and welfare of the citizens of this State. The Board believes that licensed dental hygienists and registered dental assistants have the necessary education and training to perform the additional functions adopted in this rulemaking. The Board also notes that both the licensed dental hygienists and registered dental assistants are subject to the supervision of a licensed dentist and supervising dentists retain the discretion to determine the functions within the scope of practice that auxiliary personnel perform in a particular setting.

#### **Federal Standards Statement**

A Federal standards analysis is not required because the adopted amendments are governed by N.J.S.A. 45:6, and are not subject to any Federal requirements or standards.

#### **Regulations**

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**Full text** of the adoption follows:

##### **SUBCHAPTER 1A. DENTAL HYGIENISTS**

##### **13:30-1A.3** Scope of practice of licensed dental hygienist under direct supervision

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

1.-35. (No change.)

36. 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.

- i. In accordance with this subsection, a licensed dental hygienist who is monitoring a patient to whom the supervising dentist has administered nitrous oxide/oxygen inhalation analgesia may, while monitoring the patient, perform other functions within the dental hygienist scope of practice as delegated by the supervising dentist even if the dentist is not physically present in the operator;
37. Administer local anesthesia provided he or she satisfies the requirements set forth in N.J.A.C. 13:30-1A.5;
38. Take impressions for orthodontic appliances;
39. Place orthodontic separators. The supervising licensed dentist shall review the placement to ensure proper placement of the orthodontic separators;
40. Remove bands and brackets without the use of rotary instruments;
41. Remove primary adhesive, without the use of rotary instruments, after debanding and/or debonding; and
42. Perform emergency treatment to provide immediate relief from an offending appliance, such as clip a protruding arch wire or remove a loose bracket.

(b) - (c) (No change.)

(d) A licensed dental hygienist who engages in the activities outlined in (a) and (b) above without direct supervision, except as provided in N.J.A.C. 13:30-1A.4, shall be deemed to be engaging in the unauthorized practice of dental hygiene and professional misconduct and shall be subject to the penalties set forth in N.J.S.A. 45:6-58, 45:1-22, and 45:1-25.

(e) (No change.)

**13:30-1A.4** Scope of practice of licensed dental hygienist under general supervision

(a) Dental office or dental clinic. A licensed dental hygienist practicing under the general supervision of a licensed dentist in a dental office or a dental clinic may:

- 1.-22. (No change.)
23. Isolate the operative field for the placement of sealants, including the placement and removal of rubber dams;
24. Take alginate impressions for diagnostic casts, bleaching trays, and athletic mouth guards;
25. Take impressions for orthodontic appliances;

26. Place orthodontic separators. The supervising licensed dentist shall review the placement to ensure proper placement of the orthodontic separators;
27. Remove bands and brackets without the use of rotary instruments;
28. Remove primary adhesive, without the use of rotary instruments, after debanding and/or debonding; and
29. Perform emergency treatment to provide immediate relief from an offending appliance, such as clip a protruding arch wire or remove a loose bracket.

**(b)** Institution. A licensed dental hygienist practicing under the general supervision of a New Jersey licensed dentist in an institution may:

1.-10. (No change.)

11. Isolate the operative field for the placement of sealants, including the placement and removal of rubber dams;
12. Apply topical anesthetic agents;
13. Take impressions for orthodontic appliances;
14. Remove bands and brackets without the use of rotary instruments;
15. Remove primary adhesive, without the use of rotary instruments, after debanding and/or debonding; and
16. Perform emergency treatment to provide immediate relief from an offending appliance, such as clip a protruding arch wire or remove a loose bracket.

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

**13:30-1A.5** Administration of local anesthesia by licensed dental hygienists

**(a) - (f)** (No change.)

**(g)** A licensed dental hygienist who administers local anesthesia without a permit and without direct supervision shall be deemed to be [page=1283] engaging in the unauthorized practice of dental hygiene and professional misconduct and shall be subject to the penalties set forth in N.J.S.A. 45:6-58, 45:1-22, and 45:1-25.

**(h)** (No change.)

SUBCHAPTER 2. DENTAL ASSISTANTS

**13:30-2.3** Application for registration as limited registered dental assistant in orthodontics

(a) An applicant desiring to secure registration as a limited registered dental assistant in orthodontics shall have:

1. Satisfactorily completed and graduated, within the past 10 years, from a training program for dental assistants approved by the Board and accredited by the Commission on Dental Accreditation (CODA), and within 10 years prior to the date of application passed the Certified Orthodontic Assistant (COA) Examination, or successor examination, the Topical Fluoride Examination, or successor examination, and the Coronal Polish Examination, or successor examination, which are administered by the Dental Assisting National Board (DANB); or
2. Successfully completed high school (or its equivalent) and shall have obtained at least two years work experience as a dental assistant under the supervision of a licensed dentist holding a specialty permit in orthodontics during the five-year period prior to making application for registration, passed the Certified Orthodontic Assistant (COA) Examination, or successor examination, the Topical Fluoride Examination, or successor examination, and the Coronal Polish Examination, or successor examination, which are administered by the Dental Assisting National Board (DANB) within 10 years prior to the date of application.
  - i. To satisfy the work experience required pursuant to this section, the applicant shall satisfy the work experience requirements to sit for the COA examination as set forth in DANB's COA examination application packet, and which is available at [www.danb.org](http://www.danb.org).
  - ii. An applicant obtaining work experience pursuant to this section shall not perform the duties of a registered dental assistant or a limited registered dental assistant. An applicant may perform the duties of an unregistered dental assistant as set forth in N.J.A.C. 13:30-2.6. Nothing in this subparagraph shall be construed to preclude an applicant from observing any tasks or duties performed in a dental office.

(b) An applicant for registration as a limited registered dental assistant in orthodontics shall submit a completed application to the Board, which contains the following information and materials:

1. (No change.)

2. Proof of the following, if applicable, pursuant to (a) above:

i. (No change.)

ii. A certificate of successful completion of an approved program in expanded functions in orthodontics. The Board shall recognize the following as providers of approved programs in expanded functions:

(1) - (2) (No change.)

(3) In-service training programs conducted at the graduate level by agencies of the Federal, State, or local government, which are substantially similar to programs described in (b)2ii(1) and (2) above; or

iii. A certification of work experience from the licensee(s) who possess(es) the specialty permit in orthodontics under whose supervision the applicant obtained the required work experience. The certification shall be on a form provided by the Board;

3. A certificate of successful completion of the Certified Orthodontic Assistant (COA) Examination, or successor examination, administered by DANB, the Topical Fluoride Examination, or successor examination, administered by DANB, and the Coronal Polish Examination, or successor examination, administered by DANB;

Recodify existing 3.-4. as 4.-5. (No change in text.)

**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.-3. (No change.)

4. Remove excess cement from crowns or other restorations and orthodontic appliances. Such removal shall not include any subgingival cement or debris;

5.-26. (No change.)

27. Use 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.-32. (No change.)

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;

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;
35. Take impressions for orthodontic appliances. The supervising licensed dentist shall review and evaluate the impression prior to its use for fabrication;
36. Place orthodontic separators. The supervising licensed dentist shall ensure proper placement;
37. Remove bands and brackets without the use of rotary instruments; and
38. Perform emergency treatment to provide immediate relief from an offending appliance, such as clip a protruding arch wire or remove a loose bracket.

(b) A registered dental assistant 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 the registered dental assistant does not perform any other function while monitoring the patient, and provided that:

1.-4. (No change.)

5. Upon any untoward reaction of the patient, the registered dental assistant immediately turns off the flow of nitrous oxide, maintains the established oxygen level, and immediately summons the dentist.

(c) (No change.)

(d) A registered dental assistant who engages in the activities outlined in (a), (b), and (c) above without direct supervision shall be deemed to be engaging in the unauthorized practice of dental assisting and professional misconduct, and shall be subject to the penalties set forth in N.J.S.A. 45:1-22 and 45:1-25.

(e) (No change.)

**13:30-2.5** Scope of practice of limited registered dental assistant in orthodontics

(a) A limited registered dental assistant in orthodontics may perform the following duties under the direct supervision of a New Jersey licensed dentist who has obtained a Board permit number to announce a specialty in orthodontics pursuant to N.J.A.C. 13:30-6.1:

- 1.-7. (No change.)
8. Remove excess cement from crowns and other restorations and orthodontic appliances. Such removal shall not include any subgingival cement or debris;
- 9.-10. (No change.)
11. Remove such debris as is normally created in the course of treatment during or after dental procedures by vacuum devices, compressed air, mouthwashes, and water;
12. Use 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;
13. Apply topical anesthetic agents;
14. Apply topical fluoride;
15. Etch teeth in preparation for bonding, sealants, and desensitizing agents;
16. Place and ligate arch wires. Before a limited registered dental assistant in orthodontics places the arch wire, the supervising licensed dentist shall verify the fit. Only the supervising licensed dentist shall customize the arch wire for the patient;
17. Take impressions for orthodontic appliances. The supervising licensed dentist shall review and evaluate the impression prior to its use for fabrication;
18. Place orthodontic separators. The supervising licensed dentist shall ensure proper placement;
19. Remove bands and brackets without the use of rotary instruments;
- [page=1284] 20. Perform emergency treatment to provide immediate relief from an offending appliance, such as clip a protruding arch wire or remove a loose bracket; and
21. (No change in text.)

(b) (No change.)

(c) A limited registered dental assistant in orthodontics who engages in the activities outlined in (a) above without direct supervision shall be deemed to be engaging in the unauthorized practice of limited registered dental assisting in orthodontics and professional misconduct, and shall be subject to the penalties set forth in N.J.S.A. 45:1-22 and 45:1-25.

(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. Use 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.)

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