Office of the Revisor of Statutes

Administrative Rules

TITLE: Adopted Permanent Rules Relating to Advanced Dental Therapists and Dental Therapists

AGENCY: Minnesota Board of Dentistry

MINNESOTA RULES: Chapter 3100

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RULE APPROVED
OFFICE OF ADMINISTRATIVE HEARINGS
November 21, 2011
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ADMINSTRATIVE LAW JUDGE.

The attached rules are approved for
filing with the Secretary of State

Sandy Glass-Sirany
Senior Assistant Revisor

1201268

Minnesota Board of Dentistry

Adopted Permanent Rules Relating to Advanced Dental Therapists and Dental Therapists

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3100.0100 DEFINITIONS.

[For text of subps 1 to 4, see M.R.]

Subp. 5. **Allied dental personnel.** "Allied dental personnel" means an advanced dental therapist, dental therapist, dental hygienist, licensed dental assistant, dental assistant with a limited-license permit, assistant without a license or permit, and dental technician.

[For text of subps 5a to 9b, see M.R.]

Subp. 9c. **Dental assistant with a limited-license permit.** "Dental assistant with a limited-license permit" means a person holding a limited-license permit as a dental assistant under part 3100.8500, subpart 3.

Subp. 9d. **Dental health care personnel or DHCP.** "Dental health care personnel" or "DHCP" means individuals who work in a dental practice who may be exposed to body fluids such as blood or saliva.

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

[For text of subps 10 and 11, see M.R.]

Subp. 11a. **Elective activities.** "Elective activities" refers to those activities directly related to, or supportive of, the practice of dentistry, dental therapy, dental hygiene, or dental assisting.

[For text of subps 11b to 12e, see M.R.]

Subp. 13. **Licensee.** "Licensee" means a dentist, dental therapist, dental hygienist, licensed dental assistant, or dental assistant with a limited-license permit.

[For text of subps 13a to 22, see M.R.]

3100.1170 LICENSE TO PRACTICE AS A RESIDENT DENTAL THERAPIST OR RESIDENT DENTAL HYGIENIST.

Subpart 1. **Licensure.**

A. In order to practice dental therapy or dental hygiene as directly related to a respective graduate or advanced educational clinical experience, an enrolled graduate student or a student of an advanced education program must be licensed by the board.

B. The board must license a person to practice dental therapy or dental hygiene as a resident dental therapist or resident dental hygienist if:

(1) the person completes and submits to the board an application furnished by the board;

(2) the person provides evidence of being an enrolled graduate student or a student of an advanced dental education program approved by the board; and

(3) the person has not engaged in behavior for which licensure may be suspended, revoked, limited, modified, or denied on any of the grounds specified in Minnesota Statutes, section 150A.08.

Subp. 2. **Termination of licensure.**

A. A person's license to practice dental therapy or dental hygiene as a resident dental therapist or resident dental hygienist is terminated when the person is no longer an enrolled graduate student or a student of an advanced dental education program approved by the board.

B. A person licensed to practice dental therapy or dental hygiene as a resident dental therapist or resident dental hygienist must inform the board when the licensee is no longer an enrolled graduate student or a student of an advanced dental education program approved by the board.

C. A person who fails to inform the board as required in item B within 30 days of no longer being enrolled as a student or graduate student in a program approved by the board, is deemed to have committed fraud or deception within the meaning of Minnesota Statutes, section 150A.08, subdivision 1, clause (1).

3100.1700 TERMS AND RENEWAL OF LICENSE OR PERMIT; GENERAL.

[For text of subps 1 to 1b, see M.R.]

Subp. 2. **Renewal applications.** Each licensee shall submit an application for biennial renewal of a license or permit together with the necessary fee no later than the last day of the licensee's birth month which is the application deadline. An application for renewal is deemed timely if received by the board or postmarked no later than the last day of the licensee's birth month. The application form must provide a place for the renewal applicant's signature certifying compliance with the applicable professional development requirements including holding a current CPR certification and information including the applicant's office address or addresses, the license number, whether the licensee has been engaged in the active practice of dentistry during the two years preceding the period for which renewal is sought as a licensee, and if so, whether within or without the state, and any other information which may be reasonably requested by the board.

[For text of subps 3 to 5, see M.R.]

3100.1850 REINSTATEMENT OF LICENSE.

[For text of subps 1 to 2a, see M.R.]

Subp. 3. **Expiration or voluntary termination of 24 months or more.** An applicant whose license has expired according to part 3100.1700, subpart 3, or who voluntarily terminated the license 24 months or more previous to the application for reinstatement must:

A. comply with subpart 2a; and

B. submit either:

(1) evidence of having successfully completed part II of the national board examination or the clinical examination in part 3100.1100, subpart 2, for dentists; the examinations in Minnesota Statutes, section 150A.106, subdivision 1, clauses (2) and (6), for advanced dental therapists; the clinical examination in Minnesota Statutes, section 150A.06, subdivision 1d, for dental therapists; the national board examination or the clinical examination in part 3100.1200, item C, for dental hygienists; and the two examinations in part 3100.1300, item C, for licensed dental assistants. The examination must have been completed within 24 months prior to the board's receipt of the application; or

(2) evidence of having successfully completed applicable board-approved coursework with minimal hour requirements directly relating to the practice of dentistry, advanced dental therapy, dental therapy, dental hygiene, or dental assisting as indicated in the reinstatement application. The board-approved coursework must have been completed within 24 months prior to the board's receipt of the application. The coursework completed under this subpart may not be used to fulfill any of the applicable professional development requirements in part 3100.5100.

[For text of subps 4 and 5, see M.R.]

3100.3100 CONDUCT OF EXAMINATIONS.

This part and parts 3100.3300 to 3100.3500 govern the conduct of examinations and must be strictly adhered to throughout each entire examination given to those applicants for licensure as a dentist, dental therapist, dental hygienist, or licensed dental assistant, or for certification as an advanced dental therapist. An examinee who violates any of the applicable rules or instructions may be declared by the board to have failed the examination.

[For text of items A to M, see M.R.]

3100.3200 CLINICAL EXAMINATIONS.

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

3100.3350 EXAMINATION OF DENTAL THERAPISTS AND ADVANCED DENTAL THERAPISTS.

Subpart 1. **Scope.** This part provides that the examination of applicants for a license to practice dental therapy and become certified to practice advanced dental therapy in this state shall be sufficiently thorough to test the fitness of the applicant to practice dental therapy or advanced dental therapy.

Subp. 2. **Clinical examination.** An applicant must pass a board-approved clinical examination designed to determine the applicant's clinical competency.

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

Subp. 4. **Additional education for two failed clinical examinations.** If an applicant fails twice any part of the clinical examination required by Minnesota Statutes, section 150A.06, subdivision 1d, for dental therapists, or Minnesota Statutes, section 150A.106, subdivision 1, for advanced dental therapists, the applicant may not retake the examination until the applicant successfully completes additional education provided by an institution approved by the board. The education must cover all of the subject areas failed by the applicant in the clinical examination. The applicant may retake the examination only after the institution provides information to the board specifying the areas failed in

the previous examinations and the instruction provided to address the areas failed, and certifies that the applicant has successfully completed the instruction. The applicant must take the additional instruction provided above each time the applicant fails the clinical examination twice.

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

3100.3600 ADMINISTRATION OF GENERAL ANESTHESIA, DEEP SEDATION, MODERATE SEDATION, MINIMAL SEDATION, AND NITROUS OXIDE INHALATION ANALGESIA.

Subpart 1. **Prohibitions.** A dental therapist, dental hygienist, or licensed dental assistant may not administer general anesthesia, deep sedation, moderate sedation, or minimal sedation.

[For text of subps 2 and 3, see M.R.]

Subp. 4. **Nitrous oxide inhalation analgesia; educational training requirements.** A dentist may administer nitrous oxide inhalation analgesia only according to items A to D and subpart 5, items A and C. A dental therapist may administer nitrous oxide inhalation analgesia only according to items C to F. A dental hygienist may administer nitrous oxide inhalation analgesia only according to items C to F and subpart 5, item D. A licensed dental assistant may administer nitrous oxide inhalation analgesia only after a maximum dosage has been prescribed by a dentist for a specific patient, and it is administered according to items C to F and subpart 5, item D.

[For text of items A and B, see M.R.]

C. A dentist, dental therapist, dental hygienist, or licensed dental assistant must complete CPR training and maintain current CPR certification thereafter.

D. A dentist, dental therapist, dental hygienist, or licensed dental assistant must only use fail-safe anesthesia equipment capable of positive pressure respiration.

E. A dental therapist, dental hygienist, or licensed dental assistant may administer nitrous oxide inhalation analgesia only after satisfactorily completing a course on the administration of nitrous oxide inhalation analgesia from an institution accredited by the Commission on Accreditation, and submitting to the board original documentation from the institution of successful completion of the course. The course must be a minimum of 12 hours total comprised of didactic instruction, personally administering and managing at least three individual supervised cases of analgesia, and supervised clinical experience using fail-safe anesthesia equipment capable of positive pressure respiration.

F. A dental therapist, dental hygienist, or licensed dental assistant may administer nitrous oxide inhalation analgesia under the appropriate level of supervision by a dentist who is current with the requirements to administer nitrous oxide inhalation analgesia according to items A to D and subpart 5, items A to C.

[For text of subps 5 to 7, see M.R.]

Subp. 8. **Reporting of incidents required.** A dentist, dental therapist, dental hygienist, or licensed dental assistant must report to the board any incident that arises from the administration of nitrous oxide inhalation analgesia, general anesthesia, deep sedation, moderate sedation, local anesthesia, analgesia, or minimal sedation that results in:

[For text of item A, see M.R.]

B. minimal sedation unintentionally becoming moderate sedation, deep sedation, or general anesthesia when the licensee does not have a certificate for administering general anesthesia or moderate sedation described in subpart 9.

The report must be submitted to the board on forms provided by the board within ten business days of the incident by the dentist, dental therapist, dental hygienist, or licensed dental assistant, even when another licensed health care professional who, under contract or employment with the dentist, was the actual person administering the analgesia or pharmacological or nonpharmacological method. A licensee who fails to comply with

reporting of incidents is subject to disciplinary proceedings on grounds specified in parts 3100.6100 and 3100.6200 and Minnesota Statutes, section 150A.08, subdivision 1.

[For text of subps 9 to 11, see M.R.]

3100.5100 PROFESSIONAL DEVELOPMENT.

Subpart 1. **Professional development cycles.**

A. The initial professional development cycle must coincide with the initial licensure period for each dentist, dental therapist, dental hygienist, or licensed dental assistant. The initial cycle for each licensee begins on the date of initial licensure and ends on the last day of the licensee's birth month in either an even-numbered or odd-numbered year that corresponds with the licensee's year of birth. The initial cycle varies in the number of months depending on the date of initial licensure for each licensee.

B. A biennial professional development cycle coincides with the biennial licensure periods for each dentist, dental therapist, dental hygienist, or licensed dental assistant. Each biennial renewal cycle consists of a 24-month period beginning on the first day of the month following expiration of the previous professional development cycle. An established biennial cycle continues to apply even if the license is revoked, suspended, conditioned, or not renewed for any reason for any length of time.

Subp. 2. **Professional development requirements.**

A. For the initial professional development requirements, each dentist, dental therapist, dental hygienist, and licensed dental assistant shall establish a portfolio to record, monitor, and retain acceptable documentation of fundamental and elective professional development activities, CPR certification, and self-assessments.

B. The minimum number of required hours of fundamental and elective professional development for each biennial cycle is 50 hours for dentists and dental therapists, and 25 hours for dental hygienists and licensed dental assistants. Each dentist,

dental therapist, dental hygienist, and licensed dental assistant shall establish a portfolio to record, monitor, and retain acceptable documentation of fundamental and elective professional development activities, CPR certification, and self-assessments. Any professional development hours earned in excess of the required hours for a biennial cycle must not be carried forward to the subsequent biennial cycle. The requirements for the fundamental and elective professional development activities are described in subitems (1) and (2).

(1) Each dentist, dental therapist, dental hygienist, and licensed dental assistant must complete a minimum of 60 percent of the required biennial hours in fundamental activities directly related to the provision of clinical dental services as follows: a minimum of 30 hours for dentists and dental therapists, and a minimum of 15 hours for dental hygienists and licensed dental assistants. A licensee may earn all required biennial hours in fundamental activities only.

(2) Dentists, dental therapists, dental hygienists, and licensed dental assistants are allowed a maximum of 40 percent of the required biennial hours in elective activities directly related to, or supportive of, the practice of dentistry, dental therapy, dental hygiene, or dental assisting as follows: a maximum of 20 hours for dentists and dental therapists, and a maximum of ten hours for dental hygienists and licensed dental assistants.

[For text of items C and D, see M.R.]

Subp. 3. **Professional development activities.** Professional development activities include, but are not limited to, continuing education, community services, publications, and career accomplishments throughout a professional's life. Professional development activities are categorized as fundamental or elective activities as described in items A and B.

[For text of item A, see M.R.]

B. Elective activities for an initial or biennial cycle include, but are not limited to, the examples described in subitems (1) to (6):

[For text of subitem (1), see M.R.]

(2) volunteerism or community service directly relating to the practice of dentistry, dental therapy, dental hygiene, or dental assisting such as international or national mission work, voluntary clinic work, or dental health presentations to students or groups;

(3) professional reading of published articles or other forms of self-study directly relating to the practice of dentistry, dental therapy, dental hygiene, or dental assisting;

(4) scholarly activities include, but are not limited to:

(a) teaching a professional course directly related to the practice of dentistry, dental therapy, dental hygiene, or dental assisting; or presenting a continuing dental education program;

(b) presenting a table clinic directly related to the practice of dentistry, dental therapy, dental hygiene, or dental assisting;

[For text of units (c) to (e), see M.R.]

[For text of subitem (5), see M.R.]

(6) the board shall approve other additional elective activities if the board finds the contents of the activity to be directly related to, or supportive of, the practice of dentistry, dental therapy, dental hygiene, or dental assisting.

[For text of subps 4 and 5, see M.R.]

3100.6100 STATUTORY GROUNDS FOR DISCIPLINE.

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

3100.6200 CONDUCT UNBECOMING A LICENSEE.

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

[For text of items A to E, see M.R.]

F. dental therapists, hygienists, or licensed dental assistants performing services not authorized by the dentist under this chapter or Minnesota Statutes, chapter 150A;

[For text of items G to L, see M.R.]

3100.6300 ADEQUATE SAFETY AND SANITARY CONDITIONS FOR DENTAL OFFICES.

[For text of subps 1 to 13, see M.R.]

Subp. 14. **Hazardous waste.** Dental health care personnel shall comply with the requirements for hazardous waste in chapter 7045.

Subp. 15. **Ionizing radiation.** Each licensee shall comply with the requirements for ionizing radiation in chapter 4732.

3100.8200 UNLAWFUL PRACTICE BY ALLIED DENTAL PERSONNEL.

An assistant, hygienist, dental therapist, or dental technician who assists a dentist in practicing dentistry in any capacity other than as an employee or independent contractor, who directly or indirectly procures a licensed dentist to act as nominal owner, proprietor, or director of a dental office as a guise or subterfuge to enable the assistant, hygienist, dental therapist, or dental technician to engage directly in acts defined by the act as the

"practice of dentistry," or who performs dental services within the meaning of Minnesota Statutes, section 150A.11, subdivision 1, for members of the public, other than as an employee or independent contractor for an employing dentist, shall be deemed to be practicing dentistry without a license.

3100.8300 RESPONSIBILITIES OF LICENSED DENTIST.

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

3100.9600 RECORD KEEPING.

[For text of subps 1 to 8, see M.R.]

Subp. 9. **Informed consent.** Dental records must include a notation that:

A. the dentist, advanced dental therapist, or dental therapist discussed with the patient the treatment options and the prognosis, benefits, and risks of each; and

B. the patient has consented to the treatment chosen.

[For text of subps 10 to 14, see M.R.]