



## MINNESOTA BOARD OF DENTISTRY

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April 29, 2010

Legislative Reference Library  
645 State Office Building  
100 Rev. Dr. Martin Luther King Jr. Blvd.  
St. Paul, Minnesota 55155-1050

**Re: Proposed Amendments to Permanent Rules Relating to Licensure and Practice in Dentistry, *Minnesota Rules*, Chapter 3100; Proposed Repeal, *Minnesota Rules*, Parts 3100.0200 and 3100.2000; Governor's Tracking Number AR467**

Dear Librarian:

The Minnesota Board of Dentistry intends to adopt rules relating to licensure and the practice of dentistry. We plan to publish a Dual Notice in the May 10, 2010 State Register.

The Board has prepared a Statement of Need and Reasonableness. As required by Minnesota Statutes, sections 14.131 and 14.23, the Board is sending the Library an electronic copy of the Statement of Need and Reasonableness at the same time we are mailing our Dual Notice.

If you have any questions, please contact me at (612) 548-2134.

Yours very truly,

A handwritten signature in blue ink that reads "Kathy T. Johnson".

Kathy T. Johnson  
Legal Analyst Liaison  
Minnesota Board of Dentistry

Enclosures: Statement of Need and Reasonableness

# Minnesota Board of Dentistry

## STATEMENT OF NEED AND REASONABLENESS

### **Proposed Amendments to Permanent Rules Relating to Licensure and Practice in Dentistry, *Minnesota Rules*, Chapter 3100; Proposed Repeal, *Minnesota Rules*, Parts 3100.0200 and 3100.2000**

#### INTRODUCTION

The Minnesota Board of Dentistry is the state agency authorized to establish permanent rules for regulating dental professionals to include dentists, dental hygienists, and dental assistants. Through the establishment of rules, the Board may obtain optimal results towards protecting the public with regard to the practice of dentistry.

The Board is seeking to amend the rules governing a number of different components relating to dentistry. The amendments that are under consideration are to add new or modify existing language in the following areas: definitions; anesthesia and sedation; and duties and supervision relating to dental hygienists and dental assistants. In addition, there are various technical changes to properly coordinate rule language with current statute language and some supplemental clarification and minor technical corrections in certain rules which are not substantial changes to the regulatory requirements. [See executive summary of proposed rules below]

The process used to draft these amendments to the rules started with multiple open meetings involving the Board, various standing and task force committees of the Board, Board staff, professional association representatives, dental professionals and specialists, and the general public. The rules in need of change or clarification were identified and amended and proposed resolutions were presented to the Board. All of these amendments and proposed resolutions were heard before the Board and given approval to proceed with the rulemaking process. Over the course of multiple open meetings involving the aforementioned groups and individuals, drafts and proposals of the rules were discussed and created.

Based on recommendations from various standing and task force committees of the Board, the Board's staff published a draft copy of the proposed rule changes being considered on the Board's website. On October 19, 2009, a copy of the Board's Request for Comments regarding these proposed rules was posted on the Board's website. On this same date, a Board staff member sent a broadcast e-mailing to 9,774 licensees notifying them of the Board's Request for Comments. In addition, the formal Request for Comments was published in the State Register on October 19, 2009, and mailed to all known interested persons on the Board's rulemaking mailing list at least three days before publication. All comments received by the Board regarding the proposed ruled changes were reviewed and subsequent minor changes were made to the proposed rules.

The decisions of the Board to propose an amendment to a rule in this rulemaking proceeding are explained and justified in the Rule-By-Rule Analysis section of this statement.

## **EXECUTIVE SUMMARY OF SUBJECTS OF PROPOSED RULES**

Regarding definitions, the proposed rules reflect the existing definitions and terminology used by the American Dental Association for deep sedation, general anesthesia, moderate sedation, and minimal sedation. Moreover, the proposed rules add two new definitions including hospital and pediatric advanced life support (“PALS”).

Regarding a dental hygienist, the proposed rules add personal supervision and the following duties: under indirect supervision – maintain and remove intravenous lines, and monitor phases of anesthesia/sedation using noninvasive instrumentation; under direct supervision – initiate and place intravenous infusion line; and under personal supervision – perform supportive services including administering medications into an existing intravenous line, an enteral agent, or emergency medications in an emergent situation. To perform the aforementioned new duties listed under indirect, direct, and personal supervision, the proposed rules require a dental hygienist to be supervised by a dentist holding anesthesia/sedation certification and complete certain board-approved courses.

Regarding a licensed dental assistant, the proposed rules require the taking of a national examination by an applicant seeking initial licensure after January 1, 2010. This examination requirement does not apply to a dental assistant who is licensed or registered prior to this date. Each licensed dental assistant must obtain and pay for an original license for public display. In addition, for a licensed dental assistant, the proposed rules add personal supervision and either move or add the following duties: move under general supervision - place and remove elastic orthodontic separators; add under indirect supervision – maintain and remove intravenous lines, and monitor phases of anesthesia/sedation using noninvasive instrumentation; add under direct supervision – initiate and place intravenous infusion line; and add under personal supervision – perform supportive services including administering medications into an existing intravenous line, an enteral agent, or emergency medications in an emergent situation. To perform the aforementioned new duties listed under indirect, direct, and personal supervision, the proposed rules require a licensed dental assistant to be supervised by a dentist holding anesthesia/sedation certification and complete certain board-approved courses.

Regarding a dental assistant with a limited-license permit, the proposed rules rename this dental assistant who was formerly known as having a limited registration.

Regarding the dental assisting student, the proposed rules allow the student who has failed the clinical examination to receive remediation from an independent instructor, not just from an accredited institution.

Regarding an assistant without a license or permit, the proposed rules rename this assistant by adding that the assistant does not have a license or permit to practice. In addition, this assistant is required to become CPR certified and comply with current infection control guidelines under the dentist’s supervision.

Regarding license reinstatement, the proposed rules allow a dental assistant seeking licensure reinstatement to take the national examination as an option. Moreover, an applicant cannot use coursework completed for reinstatement purposes towards their professional development requirement.

Regarding the educational training requirements for general anesthesia, deep sedation, or moderate sedation, the proposed rules allow a dentist to take PALS as an alternative advanced emergency management course, and clarify that current CPR certification remains required for dentists based upon existing biennial renewal requirements for licensure. For moderate sedation, the proposed rules also allow for a maximum of five cases to be performed on a patient-simulated manikin relative to the required ten cases of parenteral moderate sedation.

Regarding providing notice to the Board for general anesthesia, deep sedation, moderate sedation, and nitrous oxide inhalation analgesia, the proposed rules require an initial submission by the licensee to the Board both a transcript and other official record from the institution to verify completion of relative education. For nitrous oxide inhalation analgesia, the proposed rules do not require a dentist who graduated after April 15, 2008, to submit nitrous forms to the Board.

Regarding the general anesthesia or moderate sedation certificate, the proposed rules provide clarification and improve the overall organization of these subparts for the dentist who obtains a certificate. Certain requirements regarding education, practice / equipment, and an on-site inspection are reiterated as well as enhanced descriptions of the four types of certificates. The proposed rules also inform the dentist about the renewal or recertification process for an expired or terminated certificate including the submission of specific documentation and certain fees to the Board.

Regarding an on-site inspection of office facility providing general anesthesia, deep sedation, or moderate sedation, the proposed rules replace the year of 2007 with the year 2010 as the new timeframe to have an inspection.

Regarding the audit process of a professional development portfolio, the proposed rules allow the Board to grant a time period of less than six months to a licensee to resolve any deficiencies in their professional development requirements.

Regarding dental specialty practices, the proposed rules require a dentist to have successfully completed certification by one of the specialty examining boards, instead of just being approved for certification. The proposed rules also added the American Board of Oral and Maxillofacial Radiology as a specialty examining board.

Moreover, two entire rule parts are repealed that are redundant: Minnesota Rules, part 3100.0200, because the same language regarding drafting is contained within Minnesota Statutes, section 645.08; and Minnesota Rules, part 3100.2000, because the same language regarding Board fees is contained within Minnesota Statutes, section 150A.91.

Finally, a majority of the proposed rules address editorial and technical issues by clarifying existing requirements, mirroring current statutes or rules, or eliminating outdated language.

## **ALTERNATIVE FORMAT**

Upon request, this Statement of Need and Reasonableness can be made available in an alternative format, such as large print, Braille, or cassette tape. To make a request, contact Kathy Johnson at the Minnesota Board of Dentistry, 2829 University Avenue SE, Suite 450, Minneapolis, Minnesota 55414, (612) 548-2134, (612) 617-2250 or (888) 240-4762 (outside metro). TTY users may call (800) 627-3529.

## **STATUTORY AUTHORITY**

The Board of Dentistry's statutory authority to adopt the rules set forth is found in Minnesota Statutes section 150A.04, subdivision 5, which provides:

### **"150A.04 RULES OF THE BOARD.**

Subdivision 5. **Rules.** The Board may promulgate rules as are necessary to carry out and make effective the provisions and purposes of sections 150A.01 to 150A.12, in accordance with Chapter 14."

Under this statute, the Board of Dentistry has the necessary statutory authority to adopt the proposed rules. All sources of statutory authority were adopted and effective prior to January 1, 1996, and so Minnesota Statutes, section 14.125 does not apply. See Minnesota Laws 1995, chapter 233, article 2, section 58.

## **REGULATORY ANALYSIS**

Minnesota Statutes, section 14.131, sets out seven factors for a regulatory analysis that must be included in the SONAR. Paragraphs (1) through (7) below state these factors and then give the Board of Dentistry's responses.

**(1) A description of the classes of persons who probably will be affected by the proposed rules, including classes that will bear the costs of the proposed rules and classes that will benefit from the proposed rules is as follows:**

- the classes of affected persons will include primarily those individuals who are regulated by the Board of Dentistry (dentists, dental hygienists, and dental assistants); and the general public;
- the costs of the proposed rules will be borne by those dentists who choose to maintain their expired or terminated anesthesia/sedation certificate through certain fees; and by dental hygienists and dental assistants who choose to perform certain surgically-related duties by pursuing further education;
- regulated dental professionals and the general public will benefit from the proposed rules.

**(2) The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues are as follows:**

- the primary costs to the Board to implement and enforce the proposed rules will be administrative costs involving the revising of current procedures, forms, and database processes to accommodate the proposed rules relating to anesthesia and sedation. These costs are anticipated to be minimal since the underlying foundation to implement the proposed rules has general similarities to other administrative functions already in place;
- the Board does not anticipate any probable costs to any other agency in the implementation and enforcement of the proposed rules; and
- the Board does not anticipate any net effect on state revenues.

**(3) A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule is as follows:**

- no less costly methods are known to the Board of Dentistry; and
- no less intrusive methods are known to the Board of Dentistry.

**(4) A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule is as follows:**

- discussions between the Board, various standing and task force committees of the Board, Board staff, professional association representatives, dental professionals and specialists, and the general public involved only slight variations from the actual proposed rules. Nothing substantial as far as alternative methods for achieving the purpose of the proposed rules were seriously considered, since the Board believes that accountability and education are the foundation for public protection.

**(5) The probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals are as follows:**

- the probable costs of complying with the proposed rules associated with the anesthesia and sedation certificates [for those dentists who choose to provide this service] is a late fee equal to 50% of the renewal fee (or \$125) and a re-certification fee not to exceed \$500, which is charged in cases where the dentist's certificate has expired or been terminated. As for the additional surgically-related duties for dental hygienists and dental assistants who choose to pursue specific training to perform these duties, these individuals will be responsible for the educational costs through a particular program which will cost an unknown amount; and
- the dentist is responsible for all related costs of maintaining their anesthesia/sedation certificate as stated within the previous paragraph. The dental hygienist and dental assistant are also totally responsible for all educational costs to perform additional duties

under the supervision of the dentist. The Board believes that any costs borne by dentists who choose to maintain an anesthesia/sedation certificate will be outweighed by the benefit to patients in ensuring that anesthesia and/or sedation will be administered only by certificate holders who are appropriately trained and properly equipped to administer such anesthesia and/or sedation.

**(6) The probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals are as follows:**

- the probable costs or consequences of not adopting the proposed rules relating to an expired or terminated anesthesia/sedation certificate are increasing administrative costs incurred by the Board, no regulations for the dentist to become re-certified in anesthesia and/or sedation due to expiration or termination of certification, and adverse consequences that may effect the general public's health, safety and welfare unless more definitive regulations are implemented for all parties concerned; and
- the probable consequences of not adopting the proposed rules regarding surgically-related duties for dental hygienists and dental assistants is the possible negative impact on patient monitoring with certain members of the surgical team being restricted by existing rules.

**(7) An assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference is as follows:**

- there are no existing federal regulations relating to these proposed rules.

**PERFORMANCE-BASED RULES**

Minnesota Statutes, sections 14.002 and 14.131, require that the SONAR describe how the agency, in developing the rules, considered and implemented performance-based standards that emphasize superior achievement in meeting the agency's regulatory objectives and maximum flexibility for the regulated party and the agency in meeting those goals.

For these proposed rules, the Board decided to perform the above analysis on a rule-by-rule basis and included the required information regarding the Board's objectives and flexibility into the section entitled "Rule-By-Rule Analysis" of this statement.

**ADDITIONAL NOTICE PLAN and NOTICE PLAN**

Additional Notice Plan

Minnesota Statutes, sections 14.131 and 14.23, require that this statement contain a description of the Board of Dentistry's efforts to provide additional notice to persons who may be affected by the proposed rules. Additional notice provided as follows:

1. Since August 2007, various standing and task force committees of the Board have held monthly public meetings to develop these proposed rules. The Board has disseminated notice of these public meetings to those directly affected by the rules or who have expressed an interest in the rules. Drafts of the proposed rules have been distributed and reviewed during these public meetings to all individuals in attendance.
2. The Board of Dentistry posted a draft copy of the proposed rule changes on the Board's website on October 19, 2009, making it accessible to the following individuals: all dentists; dental hygienists; dental assistants; state legislators; other health boards; and members of the general public. This draft copy indicated the Board rules that will be affected by the Board's proposed rule changes. On October 19, 2009, a Board staff member sent a broadcast e-mailing to 9,774 licensees notifying them of the posting of the Board's proposed rules on its website.
3. The Request for Comments was mailed to all persons on the Board's rulemaking mailing list on October 14, 2009, prior to the publication of the Request for Comments on October 19, 2009, in the State Register.
4. Information regarding publication of the Request for Comments in the State Register was posted on the Board of Dentistry's website on October 19, 2009. This website is accessible to the following individuals: all dentists; dental hygienists; dental assistants; state legislators; other health boards; and members of the general public. On this same date, a Board staff member sent a broadcast e-mailing to 9,774 licensees notifying them of the Board's Request for Comments.
5. The Board of Dentistry will post a draft of the Statement of Need and Reasonableness on the Board's website. The above documents can be accessed from the Board of Dentistry's website at [www.dentalboard.state.mn.us](http://www.dentalboard.state.mn.us). All future notices involving these proposed rules will also be posted on the Board of Dentistry's website.

#### Notice Plan

The Board of Dentistry's Notice Plan includes the following mandated statutory actions:

1. Copy of Dual Notice and proposed rules shall be mailed to everyone who has registered to be on the Board of Dentistry's rulemaking mailing list under Minnesota Statutes, section 14.14, subdivision 1a; and
2. Copy of Dual Notice, proposed rules, and this Statement of Need and Reasonableness shall be mailed to the Legislature according to Minnesota Statutes, section 14.116. The following is a list of these legislators: House – Housing Finance and Policy and Public Health Finance Division Committee Chair and Lead; House – Health Care and Human Services Policy and Oversight Committee Chair and Lead; Senate - Health and Human Services Budget Division Committee Chair and Ranking Minority Member; and Senate – Health, Housing and Family Security Committee Chair and Ranking Minority Member.



## **CONSULTATION WITH MMB ON LOCAL GOVERNMENT IMPACT**

As required by Minnesota Statutes, section 14.131, the Board of Dentistry will consult with the Minnesota Management and Budget (“MMB”). We will do this by sending the MMB copies of the same documents that we send to the Governor’s Office for review and approval on the same day we send them to the Governor’s Office. We will do this before the Board publishes its Dual Notice. The documents will include: the Governor’s Office Proposed Rule and SONAR Form; the proposed rules; and the SONAR. The Board will submit a copy of the cover correspondence and any response received from MMB to the OAH at the hearing or with the documents it submits for ALJ review.

On March 3, 2010, the Board sent copies of the required documents to Jim King, the Board’s Executive Budget Officer (EBO), at MMB.

## **DETERMINATION ABOUT RULES REQUIRING LOCAL IMPLEMENTATION**

As required by Minnesota Statutes, section 14.128, subdivision 1, the Board of Dentistry has considered whether these proposed rules will require a local government to adopt or amend any ordinance or other regulation in order to comply with these rules. The Board of Dentistry has determined that the local units of government would not be required to adopt or amend an ordinance or regulation because the proposed rules do not require local implementation. All of the Board’s proposed rules are intended to provide guidelines and requirements limited to the individual dental professional who must comply with these rules.

## **COST OF COMPLYING FOR SMALL BUSINESS OR CITY**

As required by Minnesota Statutes, section 14.127, the Board of Dentistry has considered whether the cost of complying with the proposed rules in the first year after the rules take effect will exceed \$25,000 for any small business or small city. The Board of Dentistry has determined that the cost of complying with the proposed rules in the first year after the rules take effect will not exceed \$25,000 for any small business or small city. The Board of Dentistry has made this determination based on the probable costs of complying with the proposed rules, as previously described in the Regulatory Analysis section of this SONAR on pages 4 through 6.

## **LIST OF WITNESSES**

If these rules go to a public hearing, the Board of Dentistry anticipates having the following witnesses testify in support of the need for and reasonableness of the proposed rules:

1. Joan Sheppard, D.D.S., Board Member - President;
2. David Linde, D.D.S., Board Member, Sedation Committee;
3. Freeman Rosenblum, D.D.S., Board Member, Sedation Committee;
4. Counsel from the Attorney General’s Office; and
5. Marshall Shragg, Executive Director.

## **RULE-BY-RULE ANALYSIS**

### **PROPOSED RULE CHANGES**

The following section includes changes that are not predominant amendments for the Board of Dentistry, but instead are editorial and technical issues. The Board has determined that all of these changes are needed to either, clarify existing requirements, or to meet compatibility issues that were errors in the existing rules. They are reasonable because the clarifying changes do not alter the sense, meaning, or effect of the rule, and the compatibility changes mirror the current statutes or rules. These changes are as follows:

**3100.0100 to 3100.8500.** Throughout these parts, changed language regarding registered dental assistants by replacing “registered” with “licensed” as well as deleting “registrant” and “registration” to instead reference “licensee” and “license” which are existing terms, to properly coordinate rule language with current statute language which became effective on August 1, 2009. [Minn. Stat chapter 150A].

**3100.0100**, subp. 14 and 16; **3100.3300**, subp. 3; **3100.6200**, item G; **3100.6400**; **3100.6500**; **3100.6700**; **3100.9100**; **3100.9200**; **3100.9300**; **3100.9400**; **3100.9500**: Throughout these parts, changed by either replacing “corporations” with “firms,” adding “firms,” or indicating the correct statute reference to properly coordinate rule language with current statute language [Minn. Stat. sections 319B.01 to 319B.12].

**3100.0100 to 3100.9600.** Throughout these parts, numerous language and format changes for clarification only and do not make the rules substantially different.

**3100.0100**, Subp. 4. Changed to add clarity to the definition by including rule reference.

**3100.1200**, Item F. Changed by replacing “professional” with “moral” to properly coordinate rule language with current statute language [Minn. Stat. section 150A.06, subd. 2].

**3100.1700**, Subp. 2. Changed to clarify the renewal application requirement of having current CPR.

**3100.5100**, Subp. 3, item A. and Subp. 3, item A, subitem (4). Changed by adding the self-assessment examination for clarification that this is a fundamental activity. This was an error in the initial rule that was identified by staff.

Subp. 3, item A, subitem (3). Changed to clarify the requirement of having current CPR for professional development and biennial renewal of licensure.

Subp. 3, item B, subitem (5). Change involved deleting certain stated elective activities since these activities have been actually considered as fundamental. This was an error in the initial rule that was identified by staff.

Subp. 4, item A. Changed to clarify that only one self-assessment examination needs to be completed for each biennial cycle. This was an error in the initial rule that was identified by staff.

**3100.6300**, Subp. 13. Change involves repealing this rule since the language is obsolete regarding CPR training under this subpart. CPR certification was previously moved to part 3100.5100. This change was identified by staff.

Subp. 15. Changed by replacing “4730” with “4732” to properly coordinate rule language with current rule reference.

**3100.7200**. Changed by replacing clause “(5)” with “(6)” to properly coordinate rule language with current statute reference.

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All of the rule parts hereafter include supportive information relative to the rule-by-rule analysis as follows:

### **3100.0100 DEFINITIONS**

Subpart 2c. [Repealed.] **Anxiolysis**. (See Subpart 13a. below for rationale.)

Subpart 5. **Auxiliary. Allied dental personnel**. This language change involves replacing the term “auxiliary” with the phrase “allied dental personnel.” The Board acknowledges the need to properly coordinate rule language with current statute heading language as used for Minn. Stat. section 150A.10. The same change of replacing “auxiliary” with “allied dental personnel” can be found in subpart 21, items A, B, and C of this part and in part 3100.6200, item G. Additional language changes have been made regarding the various dental assistants and further explanation can be found in other parts or subparts. As for the phrase “allied dental personnel,” it is commonly recognized nationally, more reflective of professionalism, and is therefore considered by the Board to be necessary and reasonable.

Subpart 8a. [Repealed.] **Conscious sedation**. (See Subpart 14a. below for rationale.)

Subpart 9b. **Deep sedation**. This is an existing definition established by the American Dental Association within its guidelines for using sedation and general anesthesia by dentists. The Board decided to adopt the definition of the term “deep sedation” to be compatible with the American Dental Association’s lexicon and reflect the currently accepted dental terminology and definitions for anesthesia and sedation. Therefore, it is considered by the Board to be necessary and reasonable.

Subpart 12a. **General anesthesia**. This is an existing definition established by the American Dental Association within its guidelines for using sedation and general anesthesia by dentists. The Board decided to amend and adopt the definition of the term “general anesthesia” to be compatible with the American Dental Association’s lexicon and reflect the currently accepted dental

terminology and definitions for anesthesia and sedation. Therefore, it is considered by the Board to be necessary and reasonable.

Subpart 12b. **Hospital.** This is a new definition to establish the meaning of a hospital to avoid any confusion with other medical or dental establishments such as treatment centers, offices, or clinics where patients may also receive dental treatment. For this reason, the Board considers this definition to be necessary and reasonable.

Subpart 12e. **Licensed dental assistant.** This is an existing definition which was formerly subpart 17 due to replacement of the term “registered” with “licensed” to properly coordinate rule language with current statute language. A new subpart was assigned for alphabetical coordination. Therefore, it is considered by the Board to be necessary and reasonable.

Subpart 13. **Licensee.** This is an existing definition that now includes a licensed dental assistant and a dental assistant with a limited-license permit. Current statute language has replaced the term “registered” with “licensed” for previously registered dental assistants. As for the dental assistant with a limited registration, the current statute language now refers to these dental assistants as a dental assistant with a permit. Hence, the Board decided to expand on the use of the term “permit” in its rules by instead referring to this same individual as a dental assistant with a limited-license permit. The reason being that this individual (a dental assistant with a limited-license permit) may now be considered a “licensee;” instead of the Board having to contemplate a different reference or category for this particular dental assistant. Therefore, the Board considers these changes to be necessary and reasonable.

Subpart 13a. **Minimal sedation.** This is an existing definition established by the American Dental Association within its guidelines for using sedation and general anesthesia by dentists. The term “minimal sedation” will be used to replace the term “anxiolysis” which has been repealed in subpart 2c. above. The Board decided to adopt the definition of the term “minimal sedation” to be compatible with the American Dental Association’s lexicon and reflect the currently accepted dental terminology and definitions for anesthesia and sedation. Therefore, it is considered by the Board to be necessary and reasonable.

Subpart 14a. **Moderate sedation.** This is an existing definition established by the American Dental Association within its guidelines for using sedation and general anesthesia by dentists. The term “moderate sedation” will be used to replace the term “conscious sedation” which has been repealed in subpart 8a. above. The Board decided to adopt the definition of the term “moderate sedation” to be compatible with the American Dental Association’s lexicon and reflect the currently accepted dental terminology and definitions for anesthesia and sedation. Therefore, it is considered by the Board to be necessary and reasonable.

Subpart 15c. **Pediatric advanced life support or PALS.** This new language is designed to bring the rule into conformity with the current practice of taking other approved advanced life support courses as noted by the Board and other dental professionals. The PALS course is an alternative advanced life support course focusing on pediatric patients which is preferred by pediatric dentists. Any other non-specified courses will have to be approved by the Board. The

cost for the PALS course is equivalent to the advanced cardiac life support course. For these reasons, it is considered by the Board to be necessary and reasonable.

Subpart 17. [Repealed.] **Registered dental assistant.** (See Subpart 12e. above for rationale.)

Subpart 18. [Repealed.] **Registrant.** (See Subpart 12e. above for rationale.)

Subpart 21. **Supervision.**

Items A, B, and C. (See Subpart 5 above for rationale.)

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### **3100.0200 [Repealed.] TENSE, GENDER, AND NUMBER.**

The Board proposes to repeal this entire part. This part strictly governs the language usage in drafting rules; however, this same wording is contained within Minnesota Statutes, section 645.08 (Canons of Construction), making this part redundant. Therefore, this part no longer serves a necessary regulatory purpose for the Board and is no longer necessary or reasonable.

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### **3100.1100 APPLICATIONS FOR LICENSE TO PRACTICE DENTISTRY.**

Subpart 1, item D and subpart 6 – The changes to both of these subparts involves deleting the phrase “Beginning January 1, 1993” because this date is obsolete and no longer relevant as a provisional requirement for the applicant. All current applicants must comply with part 3100.3600 regardless of any previous start date. Therefore, the Board considers these changes to be necessary and reasonable.

In addition, language changes were made regarding sedation - See part 3100.3600 below for rationale.

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### **3100.1300 APPLICATION FOR REGISTRATION AS A REGISTERED LICENSE TO PRACTICE DENTAL ASSISTANT ASSISTING.**

Item C – This change involves replacing “registration” with the requirement to pass both the state and national examinations to become licensed as a dental assistant. The former registration examination for dental assistants will basically remain the same regarding the examination contents, but instead will be referred to as a state licensing examination for dental assistants. As for the national examination or more specifically known as the Dental Assisting National Board (“DANB”) Dental Assistant Certification examination, this examination is a new requirement and must be successfully passed by the dental assistant desiring to become a licensed dental assistant. The Board acknowledges that passing the national or DANB examination will serve as a baseline standard to ensure a minimum competency level for dental assisting. The other current standards such as passing the state licensing examination will remain as a requirement for licensure. For this reason, the Board considers the amendments to this item necessary and reasonable.

Item F – This new language designates that a registered dental assistant who received and maintained registration in the State of Minnesota prior to January 1, 2010, will continue to practice as a licensed dental assistant without having to complete any further examinations as required by this part. After January 1, 2010, an applicant seeking to become licensed as a dental assistant must take and pass the National or DANB examination; unless the applicant already had a previous registration then applicable reinstatement procedures will be applied by the Board. The Board determined that dental assistants who are currently registered should not be subjected to the burden of passing additional examinations since that dental assistant had already complied with all existing requirements pursuant to the Board’s rules. Thus, the Board considers the new language necessary and reasonable.

Additionally, this new language requires that this licensed dental assistant must obtain and pay for an original license through the Board at a subsequent biennial renewal. Failure to do so will result in the expiration and termination of the dental assistant’s license and registration by the Board. For consistency among licensed dental assistants, the Board must adhere to strict requirements as to the document (license) that will be publicly displayed by the licensed dental assistant so the public is not confused by other previously held documents (registration). For this reason, the Board considers the new language necessary and reasonable.

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**3100.1400 APPLICATION FOR LICENSURE BY CREDENTIALS.**

Item G – This change involves deleting the reference to part 3100.2000 and instead referencing Minnesota Statutes, section 150A.91, subdivision 9. The Board was previously instructed by the Minnesota legislature to move all of the fees listed under part 3100.2000 from within the Board’s rules into the Board’s statutes. In 2005, the Board complied with the legislature by effectuating Minnesota Statutes, section 150A.91 to list all Board fees. Thus, the Board proposes the repeal of part 3100.2000 and makes any necessary reference changes like this one. For this reason, the Board considers the amendments necessary and reasonable.

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**3100.1700 TERMS AND RENEWAL OF ~~LICENSURE AND REGISTRATION~~ LICENSE OR PERMIT; GENERAL.**

Subpart 1 through subpart 5 – Along with the aforementioned clarification issue regarding CPR in subpart 2, all of the subparts include a new phrase “limited-license permit” which represents those dental assistants with a permit who were formerly known to have a limited registration hence covered by the term “registration.” Since the term “registration” is no longer being used by the Board, the phrase of limited-license permit must be added to this subpart to properly include these particular dental assistants regarding renewal requirements. Therefore, the Board considers the amendments necessary and reasonable.

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**3100.1850 REINSTATEMENT OF ~~LICENSURE OR REGISTRATION~~ LICENSE.**

Subpart 1, item B - This change involves deleting the reference to part 3100.2000 and instead referencing Minnesota Statutes, section 150A.91, subdivision 10. The Board was previously

instructed by the Minnesota legislature to move all of the fees listed under part 3100.2000 from within the Board's rules into the Board's statutes. In 2005, the Board complied with the legislature by effectuating Minnesota Statutes, section 150A.91 to list all Board fees. Thus, the Board proposes the repeal of part 3100.2000 and makes any necessary reference changes like this one.

Subpart 2a - Changed by replacing "reimbursement" with "reinstatement," which is an editorial error that was identified by staff.

Subpart 3, item B, subitem (1) - This change involves replacing "registration" with both the state licensing and national examinations which may be chosen by the applicant as an option to achieve reinstatement of licensure as a dental assistant for the expiration or voluntary termination period of 24 months or more. The former registration examination for dental assistants will instead be referred to as a state licensing examination. As for the national examination or more specifically known as the Dental Assisting National Board ("DANB") Dental Assistant Certification examination, this examination is a new requirement in the reinstatement process if this option is selected by the applicant. The passing of both state licensing and national examinations will be required for initial licensure by the dental assistant; therefore, the same examinations must be required in the reinstatement process. The amendments to this subpart are consistent with the proposed changes found elsewhere in these rules.

Subpart 3, item B, subitem (2) - This new language states that any coursework completed for reinstatement purposes cannot be used by the applicant towards their professional development requirement. The Board's intention for reinstatement was that coursework completed shall satisfy the requirement for reinstatement only and shall not serve to satisfy another requirement at the same time such as professional development. This same policy has been applied whenever coursework has been required through committees of the Board such as for credentials and complaint related disciplinary or corrective action.

Thus, the Board considers all of the amendments to each subpart necessary and reasonable.

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### **3100.2000 [Repealed.] FEES.**

The Board proposes to repeal this entire part. Previously, the Board was instructed by the Minnesota legislature to move all of the fees listed under part 3100.2000 from within the Board's rules into the Board's statutes. In 2005, the Board complied with the legislature by effectuating Minnesota Statutes, section 150A.91 listing all Board fees. Therefore, this part no longer serves a necessary regulatory purpose for the Board and is no longer necessary or reasonable.

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### **3100.3500 EXAMINATION OF REGISTERED LICENSED DENTAL ASSISTANTS.**

Subpart 2 - This change involves replacing "registration" with the requirement to pass both the state and national examinations to become licensed as a dental assistant. The former registration examination for dental assistants will basically remain the same regarding the examination contents, but instead will be referred to as a state licensing examination for dental assistants. As

for the national examination or more specifically known as the Dental Assisting National Board (“DANB”) Dental Assistant Certification examination, this examination is a new requirement and must be successfully passed by the dental assistant desiring to become a licensed dental assistant. The Board acknowledges that passing the national or DANB examination will serve as a baseline standard to ensure a minimum competency level for dental assisting as well as passing the state licensing examination. For this reason, the Board considers the amendments to this subpart necessary and reasonable.

Subpart 2a. – This language change allows the dental assisting student who has failed the clinical examination to receive remediation from an independent instructor approved by the Board. Whereas the existing rule language only allowed remediation through an accredited institution, this resulted in a hardship for the dental assisting student when the institution failed to provide any remediation services due to administrative policies. In other instances, students experienced other remediation disadvantages with institutions such as program availability, financial concerns, and academic delay which hinder re-examination.

By allowing an independent instructor to provide remediation, the instructor is able to present other remedial and educational options and services for students and other individuals such as: off-site teaching; individual assessments; private tutoring; out-of-state dental assistants; expired or voluntarily terminated registrations; and English as a second language (“ESL”) learners. The Board believes that limiting remediation to only institutions may be causing severe hardship on students and others and is willing to support the inclusion of an independent instructor into the rule language. For these reasons, the Board considers the amendments to this subpart necessary and reasonable.

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

Subparts 1 through 11 (as well as heading) of this part and including part 3100.1100, subpart 1, item D and subpart 6 – The following changes were made throughout these parts and subparts: added “deep sedation” language; replaced the term conscious sedation with the term “moderate sedation;” and replaced the term anxiolysis with the term “minimal sedation.” This is existing terminology established by the American Dental Association within its guidelines for using sedation and general anesthesia by dentists. The Board decided to adopt this particular terminology and make the appropriate changes within its own rules to be compatible with the American Dental Association’s lexicon and reflect the currently accepted dental terminology and definitions for anesthesia and sedation. Therefore, it is considered by the Board to be necessary and reasonable.

Subpart 2, item A, subitem (3) and Subpart 3, item A, subitem (2) – The changes made expanded the already existing requirement of completing an advanced emergency management course and just designated another alternative course such as the pediatric advanced life support or PALS. The PALS course is a recognized and accepted course for the pediatric health care provider who



provides services for children. For this reason, the Board considers the amendment to these subparts necessary and reasonable.

Subpart 2, item A, subitem (4) and Subpart 3, item A, subitem (3) – This change is for clarification that current CPR certification is an existing requirement for the biennial renewal of a dental license which all dentists must comply with to maintain their dental license. There are no exceptions or substitutions even if a dentist has completed an advanced emergency management course. After contacting the American Heart Association, it was learned that components of a healthcare provider CPR course are not taught as part of an advanced emergency management (advanced life support) course such as ACLS or PALS. It has been determined that proficient CPR skills are the foundation of advanced life support because without effective CPR for the victim of cardiac arrest, advanced life support interventions will fail. For this reason, the Board considers the amendment to these subparts necessary and reasonable.

Subpart 3, item A, subitem (1) – This added language change allows the dentist to perform a maximum of five cases on a patient-simulated manikin when personally administering and managing at least ten individual supervised cases of parenteral moderate sedation. After touring the University of Minnesota, the Board determined that use of the Sim Man manikin provided another alternative for dentists as follows: 1) needing hands-on experience during the training process including scenarios and emergency situations without causing patient harm; and 2) who are having difficulty locating enough patients to comply with having at least ten required sedation cases. For these reasons, the Board considers the amendment to this subpart necessary and reasonable.

Subpart 3, item A, subitem (1) and Subpart 4, items B and E – This language change allows the dentist, dental hygienist, or dental assistant to provide original documentation from the instructor to the board regarding completion of the conscious sedation course or for nitrous oxide inhalation analgesia. The purpose was to ease the submission process for the dentist, dental hygienist, or dental assistant, instead of having to rely on the instructor when having to provide certain information to the board in a timely manner. For this reason, the Board considers the amendment to these subparts necessary and reasonable.

Subpart 4, items B and E – This language change is for clarification only regarding the course for nitrous oxide having a required minimum total of 12 hours that includes the following: the didactic instruction; three supervised cases; and using proper anesthesia equipment. There has been some confusion amongst dental professionals and institutions with the existing rule language as to the board's actual intention when originally decreasing the number of required hours for nitrous oxide training and the actual wording in the rule language. Thus, the Board expects to rectify the matter with this language change considering it to be necessary and reasonable.

Subpart 5, items B, C, and D – This change involves the language regarding submission of a transcript or other official record by replacing “or” with “and” for the purpose of requiring both types of documentation from the institution. Each document reveals different information required by the Board for verification, the transcript shows proof of completion of the course from the

institution and the official record shows proof of hours or curriculum. For this reason, the Board considers the amendment to these subparts necessary and reasonable.

Subpart 5, item C – The added language change involves the initial submission of the Board’s registration form for nitrous oxide inhalation analgesia to the Board and graduating from an accredited institute in Minnesota. If the dentist graduated prior to the date of April 15, 2008, that dentist is required to file a nitrous oxide form with the Board. On the other hand, if the dentist graduated after the date of April 15, 2008, that dentist is not required to file a nitrous oxide form with the Board. The purpose was to eliminate the submission of unnecessary paperwork to the Board, since nitrous oxide training has been incorporated into the curriculum of all applicable accredited institutions in Minnesota. However, a dentist who does not meet the specified criteria must submit their nitrous oxide information to the Board, if they have not already done so. For this reason, the Board considers the proposed amendment as necessary and reasonable.

Subpart 9, item B – This language change is for clarification only regarding dentists who must obtain an anesthesia/sedation certificate. As currently required by the Board’s rules, the dentist who provides dental services to patients under general anesthesia, deep sedation, or moderate sedation must obtain a certificate from the Board. The dentist is required to complete a certificate application form, undergo an on-site inspection and/or a review of anesthesia/sedation credentials, and submit an appropriate nonrefundable fee to receive a certificate. The Board continues to uphold that the dentist who is providing dental services to patients under general anesthesia or conscious sedation must be held responsible for the safety of the patient as well as complying with practice and equipment requirements. For this reason, the Board considers the proposed amendment as necessary and reasonable.

Subpart 9, item B, subitems (1) and (2) – This added language addresses two out of the four types of general anesthesia or moderate sedation certificates that may be issued by the Board: “General Anesthesia” and “Moderate Sedation” and what authority each certificate bestows on the dentist. Each certificate allows the dentist to administer sedation and provide dental services at the same time, or to only provide dental services to patients under sedation when another licensed health care professional is the one administering the sedation. Since each dentist is required to display in their office an appropriate certificate, the Board considers the language to be necessary and reasonable.

Subpart 9, item C, subitem (5) – The language added to this subitem provides information regarding expiration and termination of a general anesthesia or moderate sedation certificate. Additionally, the language references Subpart 9a which describes options that may be pursued by the dentist following expiration or termination. The Board recognizes the occurrence of a dentist failing to timely renew their certificate and the importance of being adequately informed about being prohibited from administering upon expiration and that termination will follow by the Board. All time frames or deadlines are fair and forthcoming to the dentist providing enough time to respond to the Board. Thus, the Board supports this language as being necessary and reasonable.

Subpart 9a - This is new subpart language describing the criteria of how the Board will manage

the renewal or recertification of expired or terminated certificates. The Board considers the lapsed amount of time following the expiration or termination of certificates and based upon this requires the dentist to provide specific documentation and certain fees to the Board to regain their certificate. The Board believes that the requirements placed upon the dentist are equitable and implementation of the renewal or recertification process will ensure consistency among dentists. For this reason, the Board considers the proposed new language to be necessary and reasonable.

Subpart 9b - This new subpart language provides detailed information for the dentist providing dental services to patients under sedation at their dental facility. This requirement does not apply to dentists who provide dental services to patients under sedation within a hospital since there are licensed health care professionals administering sedation already present and accountable to hospital regulations. This language does address the other two types of certificates issued by the Board: Dentistry with Contracted Sedation Provider-General Anesthesia; and Dentistry with Contracted Sedation Provider-Moderate Sedation, and what authority is bestowed on the dentist. Each certificate allows the dentist to only provide dental services to patients under sedation at their dental facility when another licensed health care professional is the one administering the sedation. Moreover, the dentist's certificate must be displayed in their dental office. This subpart also includes other relevant information regarding an initial certificate, renewal of a certificate, practice / equipment requirements, and on-site inspections which mirrors all previous language. The Board also addressed expired or terminated certificates requiring the dentist to provide specific documentation and certain fees to the Board to regain their certificate. The Board believes that the requirements placed upon the dentist are equitable and will ensure consistency among dentists. For this reason, the Board considers the proposed new language to be necessary and reasonable.

Subpart 11, item A, subitem (2) – This language change involves replacing the year “2007” with “2010” to extend the time for proper implementation of an on-site inspection. Due to unforeseen circumstances experienced by the Board with encumbering the services of inspectors, the Board made some adaptations to the process of conducting on-site inspections. Concurrently, the Board determined that an eventual change in the year through the rulemaking process would still be an appropriate action by the Board. Thus, this amendment is considered by the Board to be necessary and reasonable.

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### **3100.5300 AUDIT PROCESS OF PORTFOLIO.**

Subpart 3, item A – This language change involves replacing “shall” with “may” to indicate that the committee is allowed to select either of the two stated options. The second change allows the committee to grant a time period of less than six months to resolve any deficiencies in professional development requirements. The committee found the existing language to be too rigid in instances where there was a very minor deficiency that could be resolved in a few weeks by the licensee. For this reason, the Board considers the proposed amendments as necessary and reasonable.

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**3100.7000 ADVERTISING DENTAL SPECIALTY PRACTICE.**

Subpart 2 – This language change involves replacing “been approved” with “successfully completed certification” regarding the specialty examining boards. The change clarifies that a dentist must successfully complete certification from the specialty examining board to announce specialty practice or advertise as a specialist, and not just be approved as it currently states which can be misleading to the public and a dentist who has not yet completed the specialty examining board. The Board had been previously contacted by the American Board of Pediatric Dentistry requesting a change in the Board’s rules to appropriately reflect successful completion to eliminate any confusion with this matter. Thus, the Board has clarified the matter with this language change considering it to be necessary and reasonable.

Moreover, a language change was made by adding the specialty board entitled the American Board of Oral and Maxillofacial Radiology to this subpart. This particular board had been previously recognized by the American Dental Association as a specialty examining board. Thus, the Board decided to include this particular board within its own rules to be compatible with the American Dental Association’s recognized organizations. For this reason, the Board considers this amendment to be necessary and reasonable.

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**AUXILIARY ALLIED DENTAL PERSONNEL**

**3100.8100 EMPLOYING, ASSISTING, OR ENABLING UNLICENSED PRACTICE.**

See part 3100.0100, subpart 5 above for rationale.

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**3100.8200 UNLAWFUL PRACTICE BY AUXILIARY ALLIED DENTAL PERSONNEL.**

See part 3100.0100, subpart 5 above for rationale.

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**3100.8400 ASSISTANTS WITHOUT A LICENSE OR PERMIT.**

Part Heading – This language change involved the adding of “Without A License Or Permit” to the heading and is strictly for technical clarification that this particular assistant is not regulated by the Board through either a license or a permit. This change does not alter the meaning of this term “assistant.” Thus, the Board considers this rule change to be necessary and reasonable.

Subpart 1. – This language change involves deleting “subpart 2 and” and adding the reference to part 3100.8500, the rule regarding dental assistants who are now licensed, to properly reflect the correct rule reference. Thus, the Board considers this rule change to be necessary and reasonable.

Subpart 1a – This new subpart language is directed towards the dentist who must be held responsible for assistants and the overall safety of patients. This new subpart indicates that the assistant under the dentist’s supervision must be in compliance with the following: complete and

maintain CPR certification; and comply with the most current infection control guidelines in the dental office. As part of the office team, the dentist's assistant must be properly trained and prepared to deal with a medical emergency while assisting the dentist during patient treatment. If the need for CPR should arise, it may be important to have two certified dental personnel who can apply effective procedures to improve the outcome, rather than having only the dentist providing CPR. Thus, proper CPR training for the assistant improves performance and may be lifesaving for the general public. For these reasons, the Board considers these changes to be necessary and reasonable.

In addition, the dentist's assistant must be in compliance with the most recent infection control guidelines. Since this assistant will be occupationally exposed to infectious materials, including body substances and contaminated supplies, equipment, environmental surfaces, water, or air, the assistant must be aware how to prevent or reduce the potential for disease transmission between all participating individuals, including patients. The recommended guidelines for infection control practices are applicable to all facilities where dental treatment is provided to patients. For these reasons, the Board considers these changes to be necessary and reasonable.

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### **3100.8500 REGISTERED LICENSED DENTAL ASSISTANTS.**

Subpart 1. - This language change involves placement of the duty "place and remove elastic orthodontic separators" for dental assistants under general supervision from its existing position under indirect supervision. The Minnesota Association of Orthodontics ("MAO") presented research information to the Board regarding this requested change in supervision for this duty. The MAO's research information contained a literature review, an MAO survey of incidents, a survey of dental assisting instructors, and a report from the claims manager of the AAO Insurance Company. From this information, the MAO indicated that from 1996 (the inception year for this delegated duty) to 2007, there have been 1.8 million separators placed with no evidence of adverse incidences that have occurred with dental assistants placing and removing elastic separators on patients. Allowing dental assistants to place/remove elastic separators under general supervision will have a positive effect towards serving the public with long distance travel concerns, scheduling matters, and access to care.

The MAO recognized the Board's concern with changing the supervision level for this duty by supporting the importance of standard of care in orthodontics through using radiographically detectable separators and proper documentation of separators. As for education, this duty is already taught within the regular dental assisting curriculum to the clinical competency level. Moreover, the MAO reminded the Board that delegation is a management function which can be determined by the dentist who establishes the criteria for allowing a duty to be performed by a dental assistant. Therefore, it would be practical and beneficial in the scheme of providing orthodontic services to perform this duty under general supervision as delegated by the dentist. After thoroughly reviewing the matter, the Board determined that dental assistants may be allowed to perform this duty under general supervision. Based upon the aforementioned information, the Board considers this rule change to be necessary and reasonable.

Subpart 1a., item I – This language change for a dental assistant is in coordination with removing

the duty “place and remove elastic orthodontic separators” from indirect supervision to general supervision as described above under the subpart for general supervision. The Board considers this change to be necessary and reasonable with the aforementioned rationale.

Subpart 1a., items N and O – These language changes for a dental assistant while under the indirect supervision of a dentist who holds a valid general anesthesia or moderate sedation certificate include the following additional duties: maintain and remove intravenous lines; and monitor a patient using noninvasive instrumentation. Before being allowed to perform these new duties, the Board requires the dental assistant to successfully complete board-approved allied dental personnel courses consisting of intravenous access and general anesthesia and moderate sedation training.

Through both the Policy Committee and Sedation Committee meetings with general dentists, dentists who are oral and maxillofacial surgeons, other dental professionals, and the general public, it was determined that dental assistants may perform the aforementioned duties in conjunction with the anesthesia/sedation certified dentist to provide safe and effective care for patients. Specifically, these new duties may: allow the dentist to provide undivided attention to the operative site as necessary; assist with maintaining a sterile procedure thereby minimizing risk to the patient and reducing material waste (i.e. gloves, drapes, etc.); assist with the management of combative or delirious patients without reducing the dentist’s attentiveness to the patient; and assist with the management of patients in recovery providing optimum patient care and decreased patient risk (e.g. an IV line “running dry”). Moreover, there is no situation where excessive monitoring, by the dental assistant in addition to the dentist, could be detrimental to the patient and only serves to increase patient safety. For these reasons, the Board considers these changes to be necessary and reasonable.

Subpart 1b., item J – This language change adds a new duty for the dental assistant while under the direct supervision of a dentist who holds a valid general anesthesia or moderate sedation certificate. The new duty is to initiate and place an intravenous infusion line in preparation for intravenous medications and sedation. Before being allowed to perform this new duty, the Board requires the dental assistant to successfully complete board-approved allied dental personnel courses consisting of intravenous access and general anesthesia and moderate sedation training.

Through both the Policy Committee and Sedation Committee meetings with general dentists, dentists who are oral and maxillofacial surgeons, other dental professionals, and the general public, it was determined that dental assistants may perform the aforementioned duty in conjunction with the anesthesia/sedation certified dentist to provide safe and effective care for patients. Specifically, this new duty is an accepted standard of care for other healthcare professionals and may prove to be life saving for a patient in an emergent situation. For these reasons, the Board considers this change to be necessary and reasonable.

Subpart 1c. – This new language creates a new subpart entitled “Duties under personal supervision” and adds new duties for the dental assistant who may concurrently perform supportive services with the dentist who is personally treating a patient and authorizes the dental assistant to aid in treatment by administering the following: medications into an existing intravenous line; an enteral agent; or emergency medications in an emergent situation. The dental assistant must be

under the personal supervision of a dentist who holds a valid general anesthesia or moderate sedation certificate to perform these new duties. Before being allowed to perform these new duties, the Board requires the dental assistant to successfully complete board-approved allied dental personnel courses consisting of general anesthesia and moderate sedation training.

The new subpart entitled “Duties under personal supervision” was created from the definition of personal supervision that currently exists under part 3100.0100, subpart 21, item A of the Board’s rules. Through both the Policy Committee and Sedation Committee meetings with general dentists, dentists who are oral and maxillofacial surgeons, other dental professionals, and the general public, it was decided to utilize this level of supervision due to the type of new duties that were being considered for delegation to the dental assistant. The dental assistant must be under the strict authority of the dentist when involved with anesthesia/sedation procedures on patients.

Through both the Policy Committee and Sedation Committee meetings with general dentists, dentists who are oral and maxillofacial surgeons, other dental professionals, and the general public, it was determined that dental assistants may perform the aforementioned duties concurrently with the anesthesia/sedation certified dentist to provide safe and effective care for patients. Dental assistants and the dentist must function as a team during dental procedures involving the administration of general anesthesia or moderate sedation. For this reason, it is imperative that dental assistants be able to respond to the dentist’s directive during anesthesia/sedation-induced procedures regarding the administration of medications when the dentist is concurrently performing dental procedures or administering emergency treatment using CPR or ACLS/PALS.

When the dentist is concurrently performing dental procedures, these new duties may: allow the dentist to provide undivided attention to the operative site as necessary; assist with maintaining a sterile procedure thereby minimizing risk to the patient and reducing material waste (i.e. gloves, drapes, etc.); and assist with the management of combative or delirious patients without reducing the dentist’s attentiveness to the patient. During emergency treatment by the dentist using CPR or ACLS/PALS, these new duties may: provide fast and effective delivery of emergency medications without undue delay while allowing the dentist to focus on airway management and coordination of the resuscitation; and allow the dentist to provide advanced life support procedures. For these reasons, the Board considers this new subpart to be necessary and reasonable.

Subpart 3 – This subpart heading is changed by replacing “Limited registration” with the phrase “Limited-license permit” for these particular dental assistants who were formerly known to have a limited registration hence covered by the terms “registration” and “registrant,” which are no longer being used by the Board. The current statute language now refers to these dental assistants as a dental assistant with a permit. Hence, the Board decided to expand on the use of the term “permit” in its rules by instead referring to this same individual as a dental assistant with a limited-license permit. The reason being that this individual (a dental assistant with a limited-license permit) may now be considered a “licensee;” instead of the Board having to contemplate a different reference or category for this particular dental assistant. Only the dental title is being changed for the dental assistant with a limited-license permit, not any other aspect regarding qualifications or duties. Therefore, the Board considers these changes to be necessary and reasonable.

## **Minn. R. 3100.8700 DENTAL HYGIENISTS**

Subpart 1, item A – This language change involves adding the phrase “items A to L.” The existing language of item A of this subpart indicates that the dental hygienist can perform all of the referenced duties under general supervision. However, the Board recognized that all of the duties referenced cannot be performed by the dental hygienist under general supervision. Thus, the Board decided to add the aforementioned phrase which will properly restrict the dental hygienist from performing certain referenced duties under general supervision. Adding this phrase does not alter any of the existing delegated duties for dental hygienists which are already specifically stated under the appropriate level of supervision within this part. Therefore, the Board considers these changes to be necessary and reasonable.

Subpart 2, item A – This language change involves the existing delegated duty regarding restorative procedures which is now being designated as an item of this subpart. Since, this is an editorial change, it is considered by the Board to be necessary and reasonable.

Subpart 2, items B and C - These language changes for a dental hygienist while under the indirect supervision of a dentist who holds a valid general anesthesia or moderate sedation certificate include the following additional duties: maintain and remove intravenous lines; and monitor a patient using noninvasive instrumentation. Before being allowed to perform these new duties, the Board requires the dental hygienist to successfully complete board-approved allied dental personnel courses consisting of intravenous access and general anesthesia and moderate sedation training.

Through both the Policy Committee and Sedation Committee meetings with general dentists, dentists who are oral and maxillofacial surgeons, other dental professionals, and the general public, it was determined that dental hygienists may perform the aforementioned duties in conjunction with the anesthesia/sedation certified dentist to provide safe and effective care for patients. Specifically, these new duties may: allow the dentist to provide undivided attention to the operative site as necessary; assist with maintaining a sterile procedure thereby minimizing risk to the patient and reducing material waste (i.e. gloves, drapes, etc.); assist with the management of combative or delirious patients without reducing the dentist’s attentiveness to the patient; and assist with the management of patients in recovery providing optimum patient care and decreased patient risk (e.g. an IV line “running dry”). Moreover, there is no situation where excessive monitoring, by the dental hygienist in addition to the dentist, could be detrimental to the patient and only serves to increase patient safety. For these reasons, the Board considers these changes to be necessary and reasonable.

Subpart 2a, item H - This language change adds a new duty for the dental hygienist while under the direct supervision of a dentist who holds a valid general anesthesia or moderate sedation certificate. The new duty is to initiate and place an intravenous infusion line in preparation for intravenous medications and sedation. Before being allowed to perform this new duty, the Board requires the dental hygienist to successfully complete board-approved allied dental personnel courses consisting of intravenous access and general anesthesia and moderate sedation training.



Through both the Policy Committee and Sedation Committee meetings with general dentists, dentists who are oral and maxillofacial surgeons, other dental professionals, and the general public, it was determined that dental hygienists may perform the aforementioned duty in conjunction with the anesthesia/sedation certified dentist to provide safe and effective care for patients. Specifically, this new duty is an accepted standard of care for other healthcare professionals and may prove to be life saving for a patient in an emergent situation. For these reasons, the Board considers this change to be necessary and reasonable.

Subpart 2b - This new language creates a new subpart entitled “Duties under personal supervision” and adds new duties for the dental hygienist who may concurrently perform supportive services with the dentist who is personally treating a patient and authorizes the dental hygienist to aid in treatment by administering the following: medications into an existing intravenous line; an enteral agent; or emergency medications in an emergent situation. The dental hygienist must be under the personal supervision of a dentist who holds a valid general anesthesia or moderate sedation certificate to perform these new duties. Before being allowed to perform these new duties, the Board requires the dental hygienist to successfully complete board-approved allied dental personnel courses consisting of general anesthesia and moderate sedation training.

The new subpart entitled “Duties under personal supervision” was created from the definition of personal supervision that currently exists under part 3100.0100, subpart 21, item A of the Board’s rules. Through both the Policy Committee and Sedation Committee meetings with general dentists, dentists who are oral and maxillofacial surgeons, other dental professionals, and the general public, it was decided to utilize this level of supervision due to the type of new duties that were being considered for delegation to the dental hygienist. The dental hygienist must be under the strict authority of the dentist when involved with anesthesia/sedation procedures on patients.

Through both the Policy Committee and Sedation Committee meetings with general dentists, dentists who are oral and maxillofacial surgeons, other dental professionals, and the general public, it was determined that dental hygienists may perform the aforementioned duties concurrently with the anesthesia/sedation certified dentist to provide safe and effective care for patients. Dental hygienists and the dentist must function as a team during dental procedures involving the administration of general anesthesia or moderate sedation. For this reason, it is imperative that dental hygienists be able to respond to the dentist’s directive during anesthesia/sedation-induced procedures regarding the administration of medications when the dentist is concurrently performing dental procedures or administering emergency treatment using CPR or ACLS/PALS.

When the dentist is concurrently performing dental procedures, these new duties may: allow the dentist to provide undivided attention to the operative site as necessary; assist with maintaining a sterile procedure thereby minimizing risk to the patient and reducing material waste (i.e. gloves, drapes, etc.); and assist with the management of combative or delirious patients without reducing the dentist’s attentiveness to the patient. During emergency treatment by the dentist using CPR or ACLS/PALS, these new duties may: provide fast and effective delivery of emergency medications without undue delay while allowing the dentist to focus on airway management and coordination of the resuscitation; and allow the dentist to provide advanced life support procedures. For these reasons, the Board considers this new subpart to be necessary and reasonable.

## CONCLUSION

Based on the foregoing, the proposed rules are both needed and reasonable.

Dated: April 2, 2010

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