



STATE OF IOWA

IOWA DENTAL BOARD

TERRY E. BRANSTAD, GOVERNOR
KIM REYNOLDS, LT. GOVERNOR

PHIL MCCOLLUM
INTERIM DIRECTOR

December 8, 2014

PETITION FOR RULEMAKING

The Iowa Dental Board has received a petition for rulemaking to amend the public health supervision rules – Iowa Administrative Code 650—10.5. The petition for rulemaking has been included below, for review by interested parties.

The Board will accept written comments on the proposal through the close of business on December 31, 2014. Comments may be forwarded by any of the following methods:

Email: IDB@iowa.gov

Fax: 515-281-7969

Mail: Iowa Dental Board
400 SW 8th St. Suite D
Des Moines, IA 50309

Please contact the Board office if should have any questions.

BEFORE THE IOWA DENTAL BOARD

Petition by Iowa Dental Association for)
amendment of 650 IAC 10.5(1) relating to)
definition of "public health settings")

**PETITION FOR
RULEMAKING**

1. Pursuant to 650 IAC section 7.1, the Iowa Dental Association ("Petitioner") hereby petitions the Iowa Dental Board (the "Board") for amendment of 650 IAC section 10.5(1) (the "Rule"), which sets forth the definition of "public health settings" for purposes of public health supervision of a dental hygienist by a dentist. Specifically, Petitioner asks the Board to amend the Rule to read as follows.

10.5(1) Public health settings defined. For the purposes of this rule, public health settings are limited to schools; Head Start programs; programs affiliated with the early childhood Iowa (ECI) initiative authorized by Iowa Code chapter 256I; child care centers (excluding home-based child care centers); federally qualified health centers; public health dental vans; free clinics; nonprofit community health centers; and nursing facilities; ~~and federal, state, or local public health programs.~~

2. Section 10.5 of the Board's rules authorizes a dentist and a dental hygienist to enter into a written agreement under which the dentist provides public health supervision over the dental hygienist when the hygienist provides services in specified public health settings. The dentist need not be physically present to supervise the services provided by the hygienist; but the dentist must be available to provide communication and consultation with the dental hygienist. The hygienist must only provide dental hygiene services pursuant to age- and procedure-specific standing orders from the dentist.

3. One of the Petitioner's top priorities is ensuring adequate access to high-quality dental care for all Iowans, regardless of their socioeconomic status. Access to dental care, however, should not be provided at the cost of compromised patient safety.


4. During its meeting on Friday, October 17, 2014, the Board took action to expand the scope of public health settings to include correctional facilities. This action, which the Board took without notice and without providing an opportunity for public comment, threatens to undermine the safety of patients. Petitioner has been advised that the legal basis upon which the Board relied for the action taken on October 17, 2014, is the provision in the Rule for "federal, state, or local public health programs." Petitioner disagrees with the Board's conclusion that the term "federal, state, or local public health programs" was intended to include dental care provided in Iowa correctional facilities. The Board's contrary interpretation highlights a significant problem with the language—the language is so vague as to render it effectively meaningless. The amendment proposed by Petitioner would strike this language from the Rule. By striking this vague catch-all language, the effect of the amendment would be to require the Board to provide notice and an opportunity for public comment any time it proposes to expand the scope of public health supervision to include additional public health settings.

5. Petitioner represents nearly ninety percent of all dentists practicing in the state of Iowa. Petitioner's member dentists have a significant interest in ensuring that dental care is provided to patients as safely as possible. The proposed amendment would ensure that future expansions of public health settings occur only after notice and an opportunity for public comment. As the professionals supervising the care provided in public health settings,

Petitioner's member dentists should have the opportunity to provide comment regarding whether dental care can be provided safely in any setting the Board proposes to add in the future.

6. Petitioner is the Iowa Dental Association, 8797 NW 54th Avenue, Suite 100, Johnston, Iowa 50131, (515) 331-2298. Petitioner's legal counsel is the undersigned, Adam J. Freed and Rebecca A. Brommel, 666 Grand Avenue, Suite 2000, Des Moines, Iowa 50309, (515) 242-2400. Official communications concerning this Petition should be directed to Petitioner's legal counsel.

Dated this 3rd day of December, 2014.



ADAM J. FREED
REBECCA A. BROMMEL

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Original hand delivered to Iowa Dental Board.