

IOWA DENTAL BOARD

POSITION STATEMENT: TOOTH WHITENING/BLEACHING SERVICES BY NON-LICENSED PERSONS

The purpose of this policy statement is to establish the Iowa Dental Board's position that persons who are not licensed to practice dentistry are engaged in the unlicensed practice of dentistry, in violation of Iowa law, when such persons offer tooth whitening services and products to the public.

Iowa Code section 153.13 (2007) provides that the following persons are deemed to be engaged in the practice of dentistry:

1. Persons publicly professing to be dentists, dental surgeons, or skilled in the science of dentistry, or publicly professing to assume the duties incident to the practice of dentistry.
2. Persons who perform examination, diagnosis, treatment, and attempted correction by any medicine, appliance, surgery, or other appropriate method of any disease, condition, disorder, lesion, injury, deformity, or defect of the oral cavity and maxillofacial area, including teeth, gums, jaws, and associated structures and tissue, which methods by education, background experience, and expertise are common to the practice of dentistry.

Any person who engages in the practice of dentistry is required to obtain a license for that purpose. See Iowa Code section 147.2. In the event a person engages in the practice of dentistry without a license issued by the Iowa Dental Board, the office of the Iowa Attorney General may file a civil action in a state district court to obtain a permanent injunction prohibiting that person from engaging in the unauthorized practice of dentistry. See Iowa Code sections 147.83 and 147.92. Further, the unlicensed practice of dentistry may subject persons to criminal prosecution, as section 147.86 provides that a violation of section 147.2 is a serious misdemeanor.

It is the Board's opinion that providing services related to the application of tooth whitening material is the practice of dentistry. This is true for a number of reasons.

When a patient sees a dentist for tooth whitening, a dentist is educated and trained to perform a complete dental examination. That education and training allows the dentist to diagnose whether tooth whitening is a safe or appropriate procedure for a particular patient. Cases in which tooth whitening may not be safe or appropriate include, but are not limited to, the following:

- cases in which tooth whitening may cause damage to existing restorations or to previous cosmetic dental work; cases in which tooth whitening may cause pain or sensitivity due to a pre-existing root exposure or undiagnosed decay;
- cases in which the patient is suffering from an undiagnosed medical condition; or
- cases in which tooth whitening will not be successful because a tooth is dark due to injury or the need for endodontic treatment.

The Board notes that in dental offices, 10-20% of patients who request tooth whitening services are not provided those services for one or more of the reasons specified above. Persons who are

not licensed to practice dentistry are not trained to make a diagnosis as to whether tooth whitening is appropriate, or to identify the existence of conditions that contraindicate tooth whitening. Unlicensed persons also do not have the professional training to know when over-bleaching can occur, which can result in tooth sensitivity and gum irritation. In addition, persons who are not licensed to practice dentistry are not educated regarding the infection control requirements that apply when providing dental care to patients. Given the extensive national standards established by the CDC for infection control in dental offices, there is little question that failure to comply with infection control requirements could pose a serious risk to the public.

The Board understands that the general public may purchase tooth whitening products over the counter. The purchase and use of these products is legal. However, when a non-dentist offers such products for sale in conjunction with services related to the tooth whitening product, that sale is transformed into the sale of services that require a dental license.¹ Such services include not only the sale of the tooth whitening product, but the offering of advice regarding the use of the product, providing a location for use of that product, and the provision of any other services to facilitate use of the product. Further, when customers purchase a tooth whitening product along with related services, such customers reasonably presume the provider of such services has greater expertise than the customer with regard to that product, a presumption which is not correct if the provider is not licensed. Finally, the scope of the services offered by non-licensed persons raise health and safety concerns, including compliance with appropriate infection control measures including hand washing and glove changing, as well as other protocols in place in dental offices, such as those for addressing potential emergencies.

It should also be noted that under the law governing the practice of dentistry in Iowa, even licensed dental hygienists or registered dental assistants in a dental office cannot legally provide tooth whitening services unless a dentist performs an examination and prescribes those services for a patient.

In conclusion, when persons who are not licensed to practice dentistry in Iowa offer tooth whitening products and services to the public, they are “publicly professing to assume the duties incident to the practice of dentistry,” in violation of section 153.13(1). These services constitute the practice of dentistry and are properly offered only by licensed dentists.

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¹ Further, the Board notes that most over the counter tooth whitening products use a 10% concentration of carbamide peroxide, a concentration that has been approved by the ADA Council of Therapeutics as safe and effective. However, the Board is aware many non-licensed persons and businesses offering tooth whitening services are offering solutions of carbamide peroxide at concentrations higher than those accepted by the ADA as safe and effective.