



STATE OF IOWA

IOWA DENTAL BOARD

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

PHIL MCCOLLUM
INTERIM DIRECTOR

IOWA DENTAL BOARD

AGENDA

July 31 - August 1, 2014

Location: Iowa Dental Board, 400 SW 8th St., Suite D, Des Moines, Iowa

Members: *Steve Bradley, D.D.S., Board Chair; Steven Fuller, D.D.S., Board Vice Chair; Matthew McCullough, D.D.S., Board Secretary; Kaaren Vargas, D.D.S.; Tom Jeneary, D.D.S.; Mary Kelly, R.D.H.; Nancy Slach, R.D.H.; Diane Meier, Public Member; Lori Elmitt, Public Member*

Thursday, July 31, 2014

COMMITTEE MEETINGS:

8:30 A.M. **EXECUTIVE COMMITTEE**

9:00 A.M. **DENTAL HYGIENE COMMITTEE**
(See separate committee agendas)

9:45 A.M. **BOARD MEETING:**

OPEN SESSION

I. CALL MEETING TO ORDER – ROLL CALL

II. 1st OPPORTUNITY FOR PUBLIC COMMENT

III. 2014-2015 COMMITTEE APPOINTMENTS

A. Elected by Vote of the Full Board:

- a. Iowa Practitioner Review Committee (IPRC)
- b. Anesthesia Credentials Committee
- c. Continuing Education Advisory Committee
- d. CRDTS:
 - i. Steering Committee
 - ii. Examination Review Committees (DDS/RDH)

B. Appointed by Board Chair:

- a. Anesthesia Credentials Committee Chair
- b. Continuing Education Advisory Committee Chair
- c. Licensure/Registration Committee (committee and chair)

- d. Dental Assistant Registration Committee (committee and chair)
- e. Skilled Care Facility Task Force (committee and chair)
- f. Educational Standards for Expanded Functions Training Committee (committee and chair)

IV. APPROVAL OF OPEN SESSION MINUTES

- a. April 10, 2014 – Quarterly Meeting
- b. May 9, 2014 – Teleconference

V. REPORTS

A. EXECUTIVE DIRECTOR’S REPORT

B. LEGAL REPORT

C. ANESTHESIA CREDENTIALS COMMITTEE REPORT

- a. Actions Taken by the Committee on General Anesthesia & Moderate Sedation Permit Applications
- b. Other Committee Recommendations, if any

D. CONTINUING EDUCATION ADVISORY COMMITTEE REPORT

- a. Recommendations: RE: Continuing Education Course Applications
- b. Recommendations: RE: Continuing Education Sponsor Applications
- c. Other Committee Recommendations, if any

E. BUDGET REVIEW COMMITTEE REPORT

- a. Review of Quarterly IDB Financial Report
- b. Other Committee Recommendations, if any

F. EXECUTIVE COMMITTEE REPORT

- a. Update on Executive Director Search
- b. Other business, as necessary

G. LICENSURE/REGISTRATION COMMITTEE REPORT

- a. Actions Taken by the Committee on Applications
- b. Pending Licensure/Registration Application, If Any, Will Be Discussed under Agenda Item IX
- c. Other Committee Recommendations, if any

H. DENTAL HYGIENE COMMITTEE REPORT

- a. Pending Dental Hygiene Applications, If Any, Will Be Discussed under Agenda Item IX
- b. Report RE: Actions Taken at the Dental Hygiene Committee Meeting
- c. Other Committee Recommendations, if any

I. DENTAL ASSISTANT REGISTRATION COMMITTEE

- J. EXAMINATIONS REPORTS**
 - a. CRDTS (CENTRAL REGIONAL DENTAL TESTING SERVICE) – Dental Steering Committee Report
 - b. CRDTS – Dental Hygiene Examination Review Committee Report
 - c. CRDTS – Dental Examination Review Committee Report

- K. IOWA PRACTITIONER REVIEW COMMITTEE REPORT**
 - a. Quarterly Update

- L. SKILLED CARE FACILITY TASK FORCE REPORT**
 - a. Committee Update
 - b. Committee Recommendations, if any

- M. EDUCATIONAL STANDARDS FOR EXPANDED FUNCTIONS TRAINING REPORT**
 - a. Committee Update
 - b. Recommendations RE: Expanded Functions Course Applications
 - c. Other Committee Recommendations, If Any

- VI. ADMINISTRATIVE RULES/ADMINISTRATIVE RULE WAIVERS**
 - a. Notice of Intended Action – Proposed Amendments to Ch. 29, “Sedation and Nitrous Oxide Inhalation Analgesia”
 - b. Draft for Discussion – Proposed Amendments to Ch. 20, “Dental Assistants”; Ch. 23 (new chapter), “Expanded Functions for Dental Auxiliaries”
 - c. For Discussion – 650—27.11, “Record keeping”
 - d. Request for Rule Waiver – Ryan Hussong, D.D.S. – IAC 650—29.5(1)
 - e. Other Recommendations, if any

- VII. LEGISLATIVE UPDATE**

- VIII. OTHER BUSINESS**
 - a. Meeting Dates
 - b. Request for Approval – Mobile Dental Business
 - c. For Discussion – Corporate Dentistry
 - d. Temporary Permits for Retired Dentists
 - e. Request for Continuing Education for Volunteer Providers
 - f. Public Health Supervision
 - g. Other Items, if any

- IX. APPLICATIONS FOR LICENSURE/REGISTRATION & OTHER REQUESTS***
 - a. Ratification of Actions Taken on Applications Since Last Meeting
 - b. Pending Licensure/Registration Applications*
 - i. Masih Safabakhsh, D.D.S. – Request for Reinstatement

X. 2nd OPPORTUNITY FOR PUBLIC COMMENT

XI. CLOSED SESSION*

XII. ACTION, IF ANY ON CLOSED SESSION ITEMS

- a. Approval of Closed Session Minutes
- b. Licensure/Registration Applications
- c. Statement(s) of Charges
- d. Combined Statement(s) of Charges, Settlement Agreement(s) and Final Order(s)
- e. Settlement Agreement(s)
- f. Final Hearing Decisions
- g. Final Action on Non-Public Cases Left Open
- h. Final Action on Non-Public Cases Closed
- i. Other Closes Session Items

FRIDAY, AUGUST 1, 2014

8:30 A.M. **BOARD RECONVENES**

XIII. DISCIPLINARY HEARING IN THE MATTER OF CYNTHIA D. ADAMS, R.D.A.**

XIV. CONTINUE WITH ANY CLOSED SESSION AGENDA ITEMS

XV. OPEN SESSION

- a. Action, If Any, On Closed Session Agenda Items
 - i. Approval of Closed Session Minutes
 - ii. Licensure/Registration Applications
 - iii. Statement(s) of Charges
 - iv. Combined Statement(s) of Charges, Settlement Agreement(s) and Final Order(s)
 - v. Settlement Agreement(s)
 - vi. Final Hearing Decisions
 - vii. Final Action on Non-Public Cases Left Open
 - viii. Final Action on Non-Public Cases Closed
 - ix. Other Closed Session Items
- b. Other Open Session Items, If Any

XVI. ADJOURN

NEXT QUARTERLY MEETING: October 16-17, 2014

If you require the assistance of auxiliary aids or services to participate in or attend the meeting because of a disability, please call the office of the Board at 515-281-5157.

*These matters may constitute a sufficient basis for the board to consider a closed session under the provisions of section 21.5(1), (a), (c), (d), (f), (g), and (h) of the 2013 Code of Iowa. These sections provide that a governmental body may hold a closed session only by affirmative public vote of either two-thirds of the members of the body or all of the members present at the meeting to review or discuss records which are required or authorized by state or federal law to be kept confidential, to discuss whether to initiate licensee disciplinary investigations or proceedings, and to discuss the decision to be rendered in a contested case conducted according to the provisions of Iowa Code Chapter 17A.

**Pursuant to Iowa Code section 272C.6(1), a licensee may request that their disciplinary hearing be held in closed session.

***Pursuant to Iowa Code section 21.5(1)(i) this follow up discussion will be in closed session, at the request of the individual.

2013-2014 IOWA DENTAL BOARD COMMITTEES

(Updated 7/15/14)

Executive Committee

1. *Steve Bradley, D.D.S., Chair* (Board Chair)
2. Steven Fuller, D.D.S. (Board Vice Chair)
3. Matthew McCullough, D.D.S. (Board Secretary)
4. Mary Kelly, R.D.H. (Board Member)

Continuing Education Advisory Committee

1. *Lori Elmitt, Chair* (Board Member)
2. Steven Fuller, D.D.S. (Board Vice Chair)
3. George North, D.D.S.
4. Eileen Cacioppo, R.D.H.
5. Marijo Beasler, R.D.H.
6. Jane Slach, R.D.A.
7. Kristee Malmberg, R.D.A.

Iowa Practitioners Review Committee*

- ~~1. *Jerome Greenfield, M.D., Chair* (Resigned from committee)~~
2. Gordon Anderson, II, IADC, *Vice Chair*
3. Richard A. Rips, D.D.S.
4. DeeAnn Decker
5. Sheila Rogers
6. Phil McCollum, IDB Interim Director

Licensure/Registration Committee

1. *Matthew McCullough, D.D.S., Chair* (Board Secretary)
2. Diane Meier (Board Member)
3. Tom Jeneary, D.D.S. (Board Member)

Educational Standards for Expanded Functions Training Task Force

1. *Nancy Slach, R.D.H. (Chair)*
2. Members of the Dental Assistant Registration Committee:
 - *George North, D.D.S., Chair* (Private Sector Member)
 - ~~Steve Bradley, D.D.S. (Board Chair)~~ (Resigned from task force)
 - Tom Jeneary, D.D.S. (Board Member)
 - Steven Fuller, D.D.S. (Board Vice Chair)
 - Diane Meier (Board Member)
 - Denise Bell, R.D.A.
3. Jane Slach, R.D.A.
4. Elaine Peterson, R.D.A.
5. Lynn Curry, D.D.S.
6. Steven Thies, D.D.S.
7. Michael Kanellis, D.D.S. (Appointed as Dr. Bradley's replacement)

Dental Hygiene Committee

1. *Mary Kelly, R.D.H, Chair* (Board Member)
2. Nancy Slach, R.D.H. (Board Member)
3. Matthew McCullough, D.D.S (Board Secretary)

Anesthesia Credentials Committee

1. *Kaaren Vargas, D.D.S., Chair* (Board Member)
2. Dr. John Frank, D.D.S.
3. Richard Burton, D.D.S.
4. Kurt Westlund, D.D.S.
5. Douglas Horton, D.D.S.
6. Steven Clark, D.D.S.
7. Gary Roth, D.D.S.

Dental Assistant Registration Committee**

1. *George North, D.D.S., Chair*
2. Steve Bradley, D.D.S. (Board Chair)
3. Tom Jeneary, D.D.S. (Board Member)
4. Steven Fuller, D.D.S. (Board Vice Chair)
5. Diane Meier (Board Member)
6. Denise Bell, R.D.A.

Budget Review Committee

1. *Steven Fuller, D.D.S., Chair* (Board Vice Chair)
2. Matthew McCullough, D.D.S. (Board Secretary)
3. Tom Jeneary, D.D.S. (Board Member)

Skilled Care Facility Task Force***

1. *Michael Kanellis, D.D.S. (Chair)*
2. Steven Bradley, D.D.S. (Board Chair)
3. Mary Kelly, R.D.H. (IDHA)
4. Eileen Cacioppo, R.D.H. (IDHA)
5. Howard Cowen, D.D.S. (UIA COD)
6. Leonardo Marchini, D.D.S. (UIA COD)
7. Lori Elmitt (Board Member)
8. Jane Slach, R.D.A. (IDAA)
9. Beth Jones (Delta Dental)
10. Lynn Curry, D.D.S.
11. Steven Thies, D.D.S. (AGD)
12. Maria Fuller, D.D.S.

2013-2014 IOWA DENTAL BOARD COMMITTEES

(Updated 7/15/14)

Central Regional Dental Testing Service, Inc. (CRDTS)

Steering Committee:

Steve Bradley, D.D.S. (Board Chair)

Central Regional Dental Testing Service, Inc. (CRDTS)

Examination Review Committees:

Dental: Kaaren Vargas, D.D.S. (Board Member)

Dental Hygiene: Mary Kelly, R.D.H. (Board Member)

Ad Hoc Examination Committee

1. *P.T. Grimes, D.D.S., Chair* (Private Sector Member)
2. David Holmes, D.D.S. (U. of I. College of Dentistry)
3. Michael Kanellis, D.D.S. (U. of I. College of Dentistry)
4. Steven Fuller, D.D.S. (Board Vice Chair)
5. Deena Kuempel, D.D.S. (Private Sector Member)

* Recommendation(s) regarding Dr. Greenfield's replacement will be made at a later date.

**The Dental Assistant Registration Committee has recommended adding another dental assistant to the committee.



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INTERIM DIRECTOR

IOWA DENTAL BOARD

MINUTES

April 10, 2014

Conference Room

400 S.W. 8th St., Suite D

Des Moines, Iowa

Board Members

Steven Bradley, D.D.S.,
Steven C. Fuller, D.D.S.
Matthew J. McCullough, D.D.S.
Thomas M. Jeneary, D.D.S.
Kaaren G. Vargas, D.D.S.
Mary C. Kelly, R.D.H.
Nancy A. Slach, R.D.H.
Diane Meier, Public Member
Lori Elmitt, Public Member

April 10, 2014

Present
Present
Present
Present
Present
Present
Present
Present
Present

Staff Members

Phil McCollum, Christel Braness, Brian Sedars, Dee Ann Argo, Janet Arjes

Attorney General's Office

Sara Scott, Assistant Attorney General

Other Attendees

Jane Slach, R.D.A., Iowa Dental Assistants Association
Carol Van Aernam, R.D.H., Iowa Dental Hygienists' Association
Tom Cope, Iowa Dental Hygienists' Association
Francisco Olalde, University of Iowa College of Dentistry, OSCEP
Jeffrey Purk, D.D.S.
Miriam Burk, R.D.H., Iowa Dental Hygienists' Association
Eileen Cacioppo, R.D.H., Iowa Dental Hygienists' Association
Jeannene Veenstra, R.D.A, Iowa Dental Assistants Association
Stephen Thies, D.D.S., Iowa Academy of General Dentistry
Larry Carl, Iowa Dental Association
Mark Markham, D.D.S.

I. CALL TO ORDER FOR APRIL 10, 2014

Dr. Bradley called the open session meeting of the Iowa Dental Board to order at 10:45 a.m. on Thursday, April 10, 2014. A quorum was established with all members present.

Roll Call:

<u>Member</u>	<u>Bradley</u>	<u>Elmitt</u>	<u>Fuller</u>	<u>Jeneary</u>	<u>Kelly</u>	<u>McCullough</u>	<u>Meier</u>	<u>Slach</u>	<u>Vargas</u>
Present	x	x	x	x	x	x	x	x	x
Absent									

II. 1st OPPORTUNITY FOR PUBLIC COMMENT

Dr. Bradley asked everyone to introduce themselves.

Dr. Bradley allowed the opportunity for public comment.

Tom Cope, IDHA, submitted some feedback to Board staff in regards to the proposed rule changes to Iowa Administrative Code 650—Chapter 10, 20, and the newly proposed Chapter 23. Mr. Cope thanked the Board and looks forward to working with the Board to best address the Board’s goals while addressing interested parties’ concerns.

Dr. Purk commented on the proposed rule changes to Iowa Administrative Code 650—Chapter 29, recommending the requirement of capnography for moderate sedation permit holders. Dr. Purk submitted information related to this issue to the Anesthesia Credentials Committee for review. This information was also distributed to the Board. Dr. Purk asked the Board to consider the use of precordial or pretracheal stethoscopes as a viable alternative in lieu of capnography should the Board pursue the proposed changes. Dr. Purk stated that precordial stethoscopes are a cheaper alternative, while still allowing a practitioner to monitor patients’ respiration. Dr. Purk posed the rhetorical question as to why the Board has proposed these changes. Dr. Purk acknowledged that the intended outcome of the proposals is to reduce adverse occurrences; however, he cited information from journals that indicated capnography does not necessarily result in better outcomes during the use of moderate sedation. Dr. Purk also referenced an editorial, which asserted that the American Society of Anesthesiologists (ASA) should not establish guidelines for dental professionals. Dr. Lucci, dental anesthesiologist at the University of Texas, San Antonio, stated there is no data that links capnography to reduced deaths with moderate sedation, and recommends precordial stethoscope as a suitable alternative.

III. APPROVAL OF OPEN SESSION MINUTES

- *January 30, 2014 Quarterly Meeting Minutes*
- ❖ MOVED by FULLER, SECONDED by VARGAS, to APPROVE the open session minutes as submitted. Motion APPROVED unanimously.

IV. REPORTS

EXECUTIVE DIRECTOR’S REPORT

Mr. McCollum reported that the office was preparing for the upcoming renewal season. Dental licenses expire August 31, 2014. Mr. McCollum strongly encouraged licensees to visit the IDB Online Services site, set up a user account, and familiarize themselves with the system prior to renewal. Mr. McCollum also encouraged new graduates to use this site as a means to expedite processing of applications and other requests.

LEGAL REPORT

Ms. Scott reported the Matter of Dr. Jay Buckley is still pending judicial review in District Court. Ms. Scott indicated that there was another matter that will be discussed in closed session.

ANESTHESIA CREDENTIALS COMMITTEE REPORT

Dr. Vargas reported that the Anesthesia Credentials Committee recently met to review applications and to discuss other committee-related matters.

Dr. Vargas reported that the committee discussed the proposed rule changes to Iowa Administrative Code 650—Chapter 29. Dr. Vargas stated that the committee recommended adoption of the proposed rule change to allow PALS certification in lieu of ACLS for moderate sedation permit holders who provide sedation to pediatric patients.

Dr. Vargas reported that the committee also discussed the other proposed rule changes, which recommended the requirement of capnography for all moderate sedation permit holders. Capnography is currently required for all general anesthesia permit holders. Dr. Vargas provided a summary of the proposed changes.

Dr. Vargas reported that American Academy of Pediatric Dentistry (AAPD) does not currently require capnography; however, they encourage its use with moderate sedation on pediatric patients in order to better monitor oxygenation levels. Dr. Vargas reported that there was a recent case in Hawaii where a three year old child died as a result of moderate sedation. Dr. Vargas stated that the use of precordial stethoscopes is an acceptable alternative in cases where there is not too much movement or noise. Dr. Vargas reported that there are nasal hoods that will monitor the expired carbon dioxide.

Dr. Vargas stated that that the Board's responsibility is to protect the public. Although, this proposal may seem burdensome to some, the proposed rules are intended, largely, to address practitioners who might not be vigilant monitoring patients while they are being sedated. Dr. Vargas stated that this is of particular concern for pediatric patients, who can go into respiratory depression before going into cardiac arrest. Monitoring expired carbon dioxide is an added measure to prevent these adverse occurrences as it allows the practitioner to more quickly react if a patient should go into respiratory depression. Dr. Vargas stated that more organizations are moving in the direction of requiring capnography. Dr. Vargas stated the American Association of Oral and Maxillofacial Surgeons (AAOMS) requires the use of capnography when sedation services are being provided. The ADA has not established a position on the use of capnography. Dr. Vargas stated that the Board needs to decide if it wants to be proactive or reactive about this issue.

Mr. McCollum reported that the committee recommended that the language be amended to require capnography, or a precordial or pretracheal stethoscope. Ms. Slach asked about the committee recommendation. Dr. Vargas stated that the committee made this recommendation; however, Dr. Vargas' personal recommendation would be to require capnography with the sedation of pediatric patients at a minimum.

Dr. Purk agreed that capnography is useful with the use of nasal hoods; however, he uses nasal cannulas in his practice. In that kind of open system, capnography could be an ineffective measure of the expired carbon dioxide if the patient breathes through his or her mouth.

Dr. Fuller asked Dr. Vargas for more information about the death in Hawaii. In particular, Dr. Fuller asked if Dr. Vargas knew what Hawaii's requirements are for sedation. Dr. Vargas stated that she was not certain, but would assume that they would follow the AAPD guidelines. Dr. Vargas stated that from what she read about the case, it appeared that the practitioner had not used monitors adequately and did not use a pulse oximeter. The practitioner appears to have used the chest rise as an attempt to measure of oxygenation; chest rise is not a recognized as a true measure of oxygenation. The child was unresponsive for 26 minutes, at which time they called another dentist over to evaluate the patient. The patient went into a coma and could not be resuscitated. Dr. Vargas indicated that cases such as this are why the AAPD is likely to move in the same direction of AAOMS and require the use of capnography when sedating pediatric patients.

Dr. Vargas stated that some of the arguments against the requirement for capnography are the same arguments one could apply to the use of blood pressure cuffs when sedating patients since there could be a problem prior to a noticeable drop in blood pressure. However, blood pressure cuffs are standard equipment. The requirement of capnography is not intended as a single safety measure, but is meant to add another level of safety.

CONTINUING EDUCATION ADVISORY COMMITTEE REPORT

- *Recommendations RE: Continuing Education Course Applications*
- *Recommendations RE: Continuing Education Sponsor Application(s)*

Ms. Elmitt provided an overview of the committee's recommendations.

❖ **MOVED** by ELMITT, **SECONDED** by FULLER, to adopt the committee's recommendations. Motion **APPROVED** unanimously.

- *Other Committee Recommendations, If Any*

BUDGET REVIEW COMMITTEE REPORT

- *Review of Quarterly IDB Financial Report*

Dr. Fuller reported that the committee had not met recently; however, the committee reviewed updated financial information. Based on the updated information, the committee recommended that fees remain unchanged for FY2015.

- *Other Committee Recommendations, If Any*

There were no other recommendations from the committee.

EXECUTIVE COMMITTEE REPORT

Dr. Bradley reported that the committee met earlier that morning.

The committee discussed submitting paperwork to seek approval to fill the vacant position of the executive director. After approval is received to fill the position, the job will be posted for approximately four weeks. The job posting will be listed on the DAS-HRE website, and with the Des Moines Register.

Dr. Bradley reported that Ms. Scott was researching some issues related to the Board's request to fill the position.

The committee expressed a desire to have the Board involved in the hiring process. To begin the process, a hiring committee will be created. The committee's recommendation will be forwarded to the Board for a final decision. Board staff involvement with the hiring process will be limited.

The position is currently classified as a Public Service Executive 2, and is a non-contract, merit position. Dr. Bradley reported that the Board will continue to pursue the legislative change related to the merit designation of the position. The candidate will be informed of the intent to change the classification of the position to non-merit.

Dr. Bradley asked Ms. Elmitt to serve on the hiring committee due to her prior human resources experience. Dr. Bradley indicated that he would also serve on the committee. Ms. Kelly asked that a dental hygienist be represented on the committee. Dr. Bradley asked Ms. Kelly to serve on the committee. Dr. Bradley extended the opportunity to Dr. Jeneary to serve on the hiring committee. However, this would require periodic travel to Des Moines. Based on the amount of travel involved, Dr. Jeneary declined to serve on the committee. Dr. McCullough agreed to serve on the committee in place of Dr. Jeneary.

Mr. McCollum reported that he would not be applying for the position, but asked to be involved in the hiring process.

Ms. Branshaw asked for confirmation that the hiring committee would be comprised of Dr. Bradley, Ms. Elmitt, Dr. McCullough, and Ms. Kelly. Dr. Bradley confirmed that was correct.

LICENSURE/REGISTRATION COMMITTEE REPORT

- *Actions Taken by Committee on Applications*

Dr. McCullough provided an overview of the applications reviewed and actions taken by the committee since the last quarterly Board meeting. Dr. McCullough noted that a copy of the list of actions taken by the committee was included in the Board members' meeting folders.

- *Pending Licensure/Registration Applications, If Any – Will be Discussed under Agenda Item VIII*
- *Other Committee Recommendations, If Any*

There were no other recommendations from the committee.

DENTAL HYGIENE COMMITTEE REPORT

- *Pending Dental Hygiene Applications, If Any – Will be Discussed Under Agenda Item VIII*
- *Report RE: Actions Taken at Dental Hygiene Committee Meeting*

Ms. Kelly reported the Dental Hygiene Committee met earlier that morning.

Ms. Kelly indicated that the Dental Hygiene Committee received a request from a dental hygienist asking to be appointed as a CRDTS examiner. The Dental Hygiene Committee recommended the appointment of Ms. Enright as a dental hygiene examiner to CRDTS, and will proceed with that nomination.

Ms. Kelly stated that there was brief discussion about the expanded functions task force. Ms. Kelly stated that this would be discussed later in the meeting.

Ms. Kelly also reported that there was a brief discussion regarding the sealant program. Ms. Kelly stated that she would address the committee's comments later in the meeting.

- *Committee Recommendations, If Any*

DENTAL ASSISTANT REGISTRATION COMMITTEE REPORT

Dr. Fuller reported that Dr. North is the chairman of the committee. The committee has not met since the last meeting. Dr. Fuller stated that the committee is still interested in the addition of another dental assistant to the committee.

EXAMINATIONS REPORT

- *CRDTS – Dental Steering Committee Report*

Dr. Bradley reported that CRDTS has appointed an interim executive director.

Dr. Bradley asked which Board members have participated in the examinations for CRDTS. Dr. Bradley encouraged all of the Board members to participate with CRDTS.

- *CRDTS – Dental Hygiene Examination Review Committee Report*

Ms. Kelly had nothing to report. The committee is scheduled to meet in late June 2014.

- *CRDTS – Dental Examinations Review Committee Report*

Dr. Vargas had nothing to report.

QUARTERLY IPRC REPORT

Mr. Sedars provided an overview of the current IPRC data.

SKILLED CARE FACILITY TASK FORCE REPORT

Mr. McCollum stated that Dr. Kanellis was unable to attend the Board meeting. Dr. Kanellis did not have anything to report currently. The task force was scheduled to meet in May 2014.

EDUCATIONAL STANDARDS FOR EXPANDED FUNCTIONS TRAINING TASK FORCE REPORT

Ms. Slach reported that the task force met in March. After reviewing, the expanded functions recommendations, the task force recommended dividing the expanded functions into two groups: level 1 and level 2. The newly proposed expanded functions would be included in level 2. There will be further discussion about this.

Ms. Slach reported that the task force also discussed the eligibility of participants to train in expanded functions. The task force proposed four criteria to be eligible for expanded functions training. Participants would need to qualify based on at least one of the proposed criterion.

1. Be a graduate of an ADA-accredited dental assisting program;
2. Have a minimum of one year of clinical practice as a registered dental assistant, or have a minimum of one year of clinical practice in a state that does not require registration;
3. Hold a current certification with DANB; or
4. Hold an active dental hygiene license in Iowa.

The task force also recommended that participants for training in level 2 expanded functions complete training in all level 1 expanded functions prior to beginning training in level 2 expanded functions. The intention is to make it easier for offices to determine which practitioners can perform certain services.

The task force recommended that the primary training in level 2 expanded functions be completed through the University of Iowa College of Dentistry. The university has stated that they will not develop the curriculum until the Board provides direction about how it intends to proceed.

Ms. Slach reported that the task force also recommended that expanded functions courses be resubmitted at least once every five years, or upon any changes of speakers or curriculum to maintain Board approval. If the course has not changed, the same information can be resubmitted; however, this gives the Board an opportunity to revisit the courses.

Ms. Slach reported that the task force reviewed a number of expanded functions courses. A list of the task force's recommendation was provided to the Board members.

Ms. Braness clarified that one request, from Dr. Scott Hansen, was not included on the list of recommendations from the committee. The request was received a few days before the task force met, and included very little information. The task force chose to table a decision on the request pending the receipt of additional information.

❖ **MOVED** by SLACH, **SECONDED** by KELLY, to approve the expanded functions courses as recommended by the task force.

Prior to the vote, Dr. Jeneary asked for clarification about what the motion covered. Ms. Braness explained that the motion was specifically limited to the task force's recommendations regarding the training requests for current expanded functions as submitted.

The vote was taken. Motion **APPROVED** unanimously.

Ms. Slach stated that the task force is tentatively scheduled to meet again on May 16, 2014. Mr. McCollum reported that the IDA has offered use of space in their facility if space is not available at the Board office.

Ms. Kelly asked about the suggested training requirements for dental hygienists. Dr. Fuller stated if the training for level 1 expanded functions is approved for dental assistants, the training should be required of dental hygienists in cases where training is not provided in dental hygiene school. Mr. McCollum stated that there will be further discussion about this.

V. ADMINISTRATIVE RULES/PETITION FOR RULE WAIVER

- *Draft for Discussion – Proposed Amendments to Ch. 15, “Fees” (RE: Proposed Fee Increase)*

Mr. McCollum reported that the Budget Review Committee, after reviewing updated budget information, determined that it is unlikely that there will be a budget shortfall for FY2015. Therefore, the previously-proposed fee increase is no longer necessary. Board staff, who are familiar with the budget, agreed with the recommendation.

Mr. McCollum reminded everyone that these drafts were put together by Board staff and may not be representative of the final language that will be used as part of the rulemaking process. Interested parties had the opportunity to weigh in on these matters to provide some direction, and will be given additional opportunity to comment as these recommendations work their way through the rulemaking process.

- *Draft for Discussion – Proposed Amendments to Ch. 10, “General Requirements”; Ch. 20, “Dental Assistants”; Ch. 23 (new chapter), “Expanded Functions for Dental Auxiliaries” (RE: Current and Newly-Proposed Expanded Functions)*

Mr. McCollum reported that the discussion regarding the drafts of Iowa Administrative Code 650—Chapter 10, 20, and the newly proposed chapter 23 will be tabled at this time pending the receipt of additional information and comments from interested parties. The intent will be to include some of the recent comments and ensure consistency throughout the rules. The proposals will be put on the agenda for the next meeting of the Board. The updated drafts will again be forwarded to the interested parties for review and comment prior to the next meeting.

Ms. Kelly stated that one of the reasons for the delay is to take into consideration the duties, which dental hygienists are allowed to currently perform as part of the scope of practice. There is also some question about what training is standard in the educational programs.

Mr. McCollum stated that the information he received to date from some of the dental hygiene programs in Iowa indicated that a number of the expanded functions duties are not currently taught in the dental hygiene programs. There may be some reluctance to include those duties for dental hygienists without requiring additional training if these services are not taught as part of the dental hygiene curriculum. For those duties, the language needs to be revisited to address training requirements.

- *Draft for Discussion – Proposed Amendments to Ch. 29, “Sedation and Nitrous Oxide Inhalation Analgesia” (RE: Capnography and PALS/ACLS Certification)*

Mr. McCollum stated that the Anesthesia Credentials Committee recommended modifying the proposed language to require the use of capnography, or a precordial or pretracheal stethoscope for all moderate sedation permit holders. The updated language before the Board is a draft put together by staff that reflects the committee’s recommendation.

The Board can choose how to proceed on this portion alone, or the Board can come back to this at a later date. The Board can also determine when to require compliance with these changes should they be adopted. Mr. McCollum stated that the earliest date for requiring compliance would likely be January 1, 2015.

- ❖ **MOVED** by KELLY, **SECONDED** by VARGAS, to direct staff to draft language to start the rulemaking process based on the Anesthesia Credentials Committee’s recommendations to require the use of capnography, precordial stethoscope or pretracheal stethoscope for moderate sedation permit holders.

Dr. Bradley asked if there would be further discussion about this. Ms. Kelly and Mr. McCollum stated there will be additional opportunity to comment on the proposals.

Mr. Carl asked for clarification as to the specific motion.

Dr. Thies stated that, in his opinion, the Board was moving forward too quickly on this issue since the ADA has not established guidelines in this area. Dr. Thies stated that the ADA goes through a specific process prior to making recommendations, which includes the establishment of committee that would include academics, researchers, among others, who weigh in on a particular matter prior to making proposed guidelines. Dr. Thies recommended waiting until the ADA makes a recommendation in this area.

Dr. Vargas stated that the ADA guidelines on moderate sedation defer to the AAPD for monitoring, and supports the academy. Therefore, Dr. Vargas thinks that is unlikely that the ADA is unlikely to be the first to change the guidelines.

Ms. Kelly reminded everyone that this only starts the process, and there will be additional time to comment on this matter.

❖ The vote was taken. Motion APPROVED unanimously.

Mr. Carl stated that, historically, it is uncommon for the Board to make any changes to language, or withdraw a proposal after the Board files a Notice of Intended Action.

As a follow-up to Mr. Carl's comment, Ms. Kelly mentioned the proposed rules regarding expanded functions have gone through several phases, including having proposals withdrawn.

Ms. Slach stated that the Anesthesia Credentials Committee is basing this on research. Dr. Thies reported that he listened to the meeting; and felt that the members are making this decision based on personal opinion, more than research. Dr. Thies did not feel that the committee members have a sufficient background to make this kind of recommendation. Dr. Thies stated again that Iowa would be better served by waiting for the ADA to issue guidelines.

Ms. Slach asked Dr. Thies to clarify his position. Ms. Slach wondered what it was about the proposals with which Dr. Thies took issue. Dr. Thies stated that the Board, in his opinion, should not take any action without direction from the ADA.

Dr. Bradley recommended that the Board move on with this issue; and that it can be discussed further at a later date.

Mr. McCollum reported that there is another proposal to allow PALS certification in lieu of ACLS for the moderate sedation permit holders who sedate pediatric practices.

❖ MOVED by VARGAS, SECONDED by JENEARY, to draft language to start the rulemaking process for the proposed change to allow PALS certification in lieu of ACLS for those permit holders who sedate pediatric patients. Motion APPROVED unanimously.

VI. LEGISLATIVE UPDATE

Dr. Bradley stated that the bill failed to move forward this year in response to the proposed changes in Iowa Code Chapter 147. The proposed bill would have changed the position of the executive

director to a non-merit, at-will position. The Board indicated that it intends to pursue this change next year.

VII. OTHER BUSINESS

AADB – GUIDELINES ON STANDARDS OF CONDUCT FOR STATE BOARDS AND BOARD MEMBERS

Mr. McCollum provided an overview of this agenda item. The mailing from the AADB was received shortly before the last meeting. At the request of two Board members, this has been forwarded for discussion.

Ms. Slach suggested that the Board look into putting something like this together as a resource for the Board members. Mr. McCollum reported that the Board already has a resource manual that is available to all Board members. Ms. Scott also stated that some of these concerns are addressed in Iowa law, and should be addressed during orientation. Ms. Scott reminded the Board members that Iowa law will supersede anything put together by the Board.

Ms. Scott recommended that if something were put together that it be not as extensive as this particular document. If the Board were to put a document like this together, Ms. Scott recommended that it be a simple code of ethics.

Ms. Slach and Ms. Elmitt stated that this kind of information can be very useful to Board members. Ms. Elmitt stated that orientation is important; however, there have been recent instances when sufficient orientation was not provided to the new Board members.

Ms. Scott stated that orientation is helpful, and might be a better way to address some of these items. Ms. Scott stated that there is a number of ways to address the issue of orientation, apart from a “full” orientation.

Dr. Bradley asked Ms. Scott about how to proceed. Ms. Scott stated that action is not required by the Board. However, it’s up to the Board members to decide how they wish to proceed. If it’s an orientation issue, Ms. Scott thinks that this could be addressed separately.

PUBLIC HEALTH SUPERVISION – SEALANT PROGRAM

Mr. McCollum reported that Sue Hyland, R.D.H., who works in a sealant program, submitted a request asking the Board to consider allowing dental assistants to provide services under public health supervision agreements to provide assistance to dental hygienists working under public health supervision agreements.

Ms. Kelly reported that the Dental Hygiene Committee discussed this matter at its meeting earlier that morning, and thinks that there is some merit to the request. Some programs are using two dental hygienists working together to provide sealants, which is not cost effective. The Dental Hygiene Committee would like to see the Board consider rule changes to allow dental assistants, while under the supervision of a licensed dentist, to provide assistance to dental hygienists in public

health programs. The idea would be to have the dental assistants help with intraoral suctioning, passing instruments, and infection control, along with other similar services.

Ms. Kelly believes that there is some language in the practice act as far as general supervision, which addresses the services a dental assistant can provide, as well as addressing restrictions in regards to their scope of practice. Ms. Kelly would like to see this language used with programs to allow dental assistants to provide assistance to dental hygienists in public health settings.

Ms. Slach clarified that the committee's recommendation would only allow registered dental assistants to participate in these kinds of programs. Dental assistant trainees would not be allowed to participate in these settings.

Dr. Fuller stated that this matter should be referred to the Dental Assistant Registration Committee for further discussion. Ms. Kelly asked that the Educational Standards for Expanded Functions Training Task Force review this request as there is a dental hygienist on the task force. Additionally, the Dental Assistant Registration Committee members also serve on the expanded functions task force. Ms. Kelly acknowledged that this issue relates to dental assistants' scope of practice, and is not under the purview of the Dental Hygiene Committee. Since this could impact the practice of dental hygienists, Ms. Kelly would like a dental hygienist to have input in the discussion.

Following further discussion by the Board members, it was determined that the expanded functions task force was not the appropriate group to facilitate the review and discussion since this request did not apply to expanded functions.

Mr. McCollum clarified that this would require a rule change before dental assistants could provide assistance under public health supervision. Ms. Scott and Mr. McCollum stated that the rules would need to be changed to allow dental assistants to enter into public health supervision agreements, similar to what is required of dental hygienists currently working in those settings. To clarify, registered dental assistants, working in these settings, would need to enter into their own public health supervision agreements with Iowa-licensed dentists.

Mr. McCollum reported that Iowa Administrative Code 650—Chapter 20 and Chapter 22 allow registered dental assistants to assist with extraoral procedures, intraoral suctioning, and dental radiography under general supervision.

Ms. Jane Slach asked for clarification about what is allowed under general supervision in dental offices. Ms. Kelly clarified that supervision levels are different in dental offices since a dentist would have already examined the patients or would have provided prescribed the services. Ms. Jane Slach expressed her opinion that if the services are allowed in a dental office under general supervision, she thinks it is not unreasonable to allow these services in public health settings.

❖ MOVED by KELLY, to bring this back for further discussion and review. The motion died for lack of a second.

Ms. Scott agreed that this is a matter best addressed and reviewed by the Dental Assistant Registration Committee since the dentists are the ones, who will need to provide supervision in these settings.

- ❖ MOVED by KELLY, SECONDED by MCCULLOUGH, to refer this matter to the Dental Assistant Registration Committee for further review and discussion. Motion APPROVED unanimously.

VIII. APPLICATIONS FOR LICENSURE/REGISTRATION & OTHER REQUESTS

RATIFICATION OF ACTIONS TAKEN ON APPLICATIONS SINCE LAST MEETING

Mr. McCollum reported that the Board was provided an updated list of actions taken in response to applications for license, registration, qualification, and permit.

- ❖ MOVED by FULLER, SECONDED by VARGAS, to approve the list as submitted. Motion APPROVED unanimously.

PENDING LICENSURE/REGISTRATION APPLICATIONS

- Amy D. Valquier, D.A. – Application for Registration/Qualification
- Ashley A. Ball, D.A. – Application for Registration
- Randi K. Larson, D.A. – Application for Registration/Qualification
- Isamar Sanchez, D.A. – Application for Registration/Qualification
- Madeline N. Kennedy, D.A. – Application for Registration/Qualification
- Catherine Reno, D.D.S. – Application for Reinstatement

These applications were discussed in closed session.

IX. 2nd OPPORTUNITY FOR PUBLIC COMMENT

Dr. Bradley allowed the opportunity for public comment.

Mr. Carl thanked the Board members and staff for allowing interested parties the opportunity to provide comment and feedback on the proposed changes prior to the rulemaking process.

Ms. Cacioppo asked about the expanded functions courses and processes. Ms. Cacioppo asked for clarification if the Board approved the requests for review of the expanded functions courses. Ms. Braness stated that the Board approved the expanded functions courses as requested.

Ms. Cacioppo asked if these courses had been taught by Dr. Hal Harris. Ms. Braness reported that the course submissions from Dr. Tesene were developed by Dr. Harris; however, the other courses were developed by other licensees. Ms. Braness reported that all of the information pertaining to the courses was forwarded to the expanded functions task force for review and recommendation to the Board.

Ms. Cacioppo indicated that some of those courses had been forwarded to the Continuing Education Advisory Committee. Ms. Braness reported that the Board had previously directed the Continuing Education Advisory Committee to review these requests. The Continuing Education Advisory Committee declined to provide that level of review. Requests for expanded functions approval will now be routed to the expanded functions task force.

Ms. Cacioppo asked if the courses will come back to the Continuing Education Advisory Committee for review. Ms. Braness and Mr. McCollum stated that was a decision for the Board to make. Ms. Braness clarified that since the Board approved the courses, the Continuing Education Advisory Committee would not review the content of the courses; they would only make a recommendation regarding continuing education hours to be awarded should the Board direct the Continuing Education Advisory Committee to review these requests.

Dr. Purk asked for clarification about Dr. Vargas' earlier statements regarding the intent of the rule changes, and asked if these proposals were intended for those who do not always comply with the law. Dr. Vargas stated that these proposals were intended as an added safeguard. For those who comply with regulations, these proposed changes should not be burdensome. For those, who may be less vigilant, this may be another way to protect patients. Mr. McCollum stated that a lot of regulations are meant to address the small group with which problems may arise.

Dr. Purk inquired about the recent death in Hawaii. Dr. Purk asked if this was a case where oral sedation was used as opposed to the use of IV sedation. Dr. Purk thinks that the Board needs to look at the way in which the sedation is provided since that also affects outcomes. Oral sedation does not allow for titration. Dr. Purk is not certain that the proposed change will fully address those concerns.

Ms. Slach asked Dr. Purk about his preference in this matter. Dr. Purk recommended that there be no regulatory change; however, if the Board pursues these proposed changes, he asks that the Board allow the use of a precordial or pretracheal stethoscope in lieu of capnography.

Ms. Slach stated that the Board is not trying to over-regulate. The regulations also help to direct the Board if an adverse event occurs.

X. PRESENTATION

- The Board took a brief recess at 11:54 a.m.
- The Board reconvened at 12:10 p.m.

Dr. Damiano thanked the Board for the opportunity to speak. Dr. Damiano is a faculty member at the University of Iowa College of Dentistry, and works with the Public Policy Center. Dr. Damiano stated that the intent of the policy center is not to advocate for certain policies; rather, the intent is to research and gather data. Dr. Damiano's presentation to the Board addressed changes related to the practice of dentistry as a result of the Affordable Care Act.

- The Board took a brief recess at 1:14 p.m.
- The Board reconvened at 1:21 p.m.

XI. CLOSED SESSION

- ❖ MOVED by MCCULLOUGH, SECONDED by JENEARY, for the Board to go into closed session at 1:21 p.m. on Thursday, April 10, 2014, pursuant to Iowa Code Sections 21.5(1)(a), (d) and (f) to discuss and review applications, complaints and investigative reports which are required by state law to be kept confidential and to discuss whether to initiate disciplinary investigations or proceedings.

<u>Member</u>	<u>Bradley</u>	<u>Elmitt</u>	<u>Fuller</u>	<u>Jeneary</u>	<u>Kelly</u>	<u>McCullough</u>	<u>Meier</u>	<u>Slach</u>	<u>Vargas</u>
Aye	x	x	x	x	x	x	x	x	x
Nay									
Absent									

Motion APPROVED by ROLL CALL.

- The Board went into closed session at 1:21 pm.

XVI. OPEN SESSION

- ❖ MOVED by KELLY, SECONDED by FULLER, to return to open session. Motion APPROVED unanimously.

- The Board reconvened in open session at 3:10 p.m. on April 10, 2014.

1. Closed Session Minutes

- ❖ MOVED by MEIER, SECONDED by VARGAS, to approve the closed session minutes for the January 30, 2014 quarterly meeting. Motion APPROVED unanimously.

2. Disciplinary Orders

- ❖ MOVED by MEIER, SECONDED by VARGAS, to approve the proposed Reinstatement Order in the Matter of Catherine P. Reno, D.D.S., file number 12-032. Motion APPROVED unanimously.

- ❖ MOVED by MEIER, SECONDED by VARGAS, to approve the proposed Notice of Hearing and Statement of Charges in the Matter of Paul R. Schultz, D.D.S., file numbers 10-087 and 13-0017. Motion APPROVED unanimously.

- ❖ MOVED by MEIER, SECONDED by VARGAS, to approve the proposed Notice of Hearing and Statement of Charges in the Matter of Cynthia D. Adams, Q.D.A., file number 13-0049. Motion APPROVED unanimously.

- ❖ MOVED by MEIER, SECONDED by VARGAS, to approve the proposed Combined Statement of Charges, Settlement Agreement and Final Order in the Matter of Misty Y. Ross, D.A., file number 13-0077. Motion APPROVED unanimously.

- ❖ MOVED by MEIER, SECONDED by VARGAS, to approve the proposed Settlement Agreement and Final Order in the Matter of Rebecca L. Westra, D.D.S., file numbers 12-144 and 12-145. Motion APPROVED unanimously.

3. *Final Action on Cases*

- ❖ MOVED by MCCULLOUGH, SECONDED by FULLER, to close file number 11-046. Motion APPROVED unanimously.
- ❖ MOVED by MCCULLOUGH, SECONDED by FULLER, to close file number 12-006. Motion APPROVED unanimously.
- ❖ MOVED by MCCULLOUGH, SECONDED by FULLER, to close file number 12-094. Motion APPROVED unanimously.
- ❖ MOVED by MCCULLOUGH, SECONDED by FULLER, to close file number 12-096. Motion APPROVED unanimously.
- ❖ MOVED by MCCULLOUGH, SECONDED by FULLER, to close file number 12-152. Motion APPROVED unanimously.
- ❖ MOVED by MCCULLOUGH, SECONDED by FULLER, to close file number 13-0005. Motion APPROVED unanimously.
- ❖ MOVED by MCCULLOUGH, SECONDED by FULLER, to keep open file number 13-0036. Motion APPROVED unanimously.
- ❖ MOVED by MCCULLOUGH, SECONDED by FULLER, to keep open file number 13-0054. Motion APPROVED unanimously.
- ❖ MOVED by MCCULLOUGH, SECONDED by FULLER, to keep open file number 13-0055. Motion APPROVED unanimously.
- ❖ MOVED by MCCULLOUGH, SECONDED by FULLER, to close file numbers 13-0063 and 13-0088. Motion APPROVED unanimously.
- ❖ MOVED by MCCULLOUGH, SECONDED by FULLER, to close file number 14-0001. Motion APPROVED unanimously.
- ❖ MOVED by MCCULLOUGH, SECONDED by FULLER, to close file number 14-0003. Motion APPROVED unanimously.
- ❖ MOVED by MCCULLOUGH, SECONDED by FULLER, to close file numbers 14-0008 and 14-0011. Motion APPROVED unanimously.
- ❖ MOVED by MCCULLOUGH, SECONDED by FULLER, to close file number 14-0030. Motion APPROVED unanimously. Mary Kelly recused.

- ❖ MOVED by MCCULLOUGH, SECONDED by FULLER, to close file number 13-0072. Motion APPROVED unanimously.
- ❖ MOVED by MCCULLOUGH, SECONDED by FULLER, to close file number 13-0011. Motion APPROVED unanimously.
- ❖ MOVED by MCCULLOUGH, SECONDED by FULLER, to keep open file number 14-0047. Motion APPROVED unanimously.
- ❖ MOVED by MCCULLOUGH, SECONDED by FULLER, to keep open file number 14-0048. Motion APPROVED unanimously.
- ❖ MOVED by ELMITT, SECONDED by JENEARY, to close file number 13-006. Motion APPROVED unanimously.
- ❖ MOVED by ELMITT, SECONDED by JENEARY, to close file number 14-0002. Motion APPROVED unanimously.
- ❖ MOVED by ELMITT, SECONDED by JENEARY, to close file number 14-0009. Motion APPROVED unanimously.
- ❖ MOVED by ELMITT, SECONDED by JENEARY, to close file number 14-0014. Motion APPROVED unanimously.
- ❖ MOVED by ELMITT, SECONDED by JENEARY, to close file number 14-0016. Motion APPROVED unanimously.
- ❖ MOVED by ELMITT, SECONDED by JENEARY, to keep open file number 14-0018. Motion APPROVED unanimously.
- ❖ MOVED by ELMITT, SECONDED by JENEARY, to close file number 14-0019. Motion APPROVED unanimously.
- ❖ MOVED by ELMITT, SECONDED by JENEARY, to close file number 14-0020. Motion APPROVED unanimously.
- ❖ MOVED by ELMITT, SECONDED by JENEARY, to close file number 14-0024. Motion APPROVED unanimously.
- ❖ MOVED by ELMITT, SECONDED by JENEARY, to close file number 14-0025. Motion APPROVED unanimously.
- ❖ MOVED by ELMITT, SECONDED by JENEARY, to close file number 14-0027. Motion APPROVED unanimously.

- ❖ MOVED by ELMITT, SECONDED by JENEARY, to close file number 14-0026. Motion APPROVED unanimously.
 - ❖ MOVED by ELMITT, SECONDED by JENEARY, to close file number 13-0083. Motion APPROVED unanimously.
 - ❖ MOVED by KELLY, SECONDED by SLACH, to close file number 12-095. Motion APPROVED unanimously.
 - ❖ MOVED by KELLY, SECONDED by SLACH, to keep open file number 13-0001. Motion APPROVED unanimously.
 - ❖ MOVED by KELLY, SECONDED by SLACH, to keep open file number 13-0085. Motion APPROVED unanimously.
 - ❖ MOVED by KELLY, SECONDED by SLACH, to keep open file number 14-0040. Motion APPROVED unanimously.
 - ❖ MOVED by KELLY, SECONDED by SLACH, to keep open file number 14-0041. Motion APPROVED unanimously.
 - ❖ MOVED by KELLY, SECONDED by SLACH, to keep open file number 14-0049. Motion APPROVED unanimously.
 - ❖ MOVED by MEIER, SECONDED by ELMITT, to close file number 14-0007. Motion APPROVED unanimously.
 - ❖ MOVED by MEIER, SECONDED by ELMITT, to close file number 13-0024. Motion APPROVED unanimously. Nancy Slach recused.
 - ❖ MOVED by MEIER, SECONDED by ELMITT, to close file number 13-0033. Motion APPROVED unanimously.
 - ❖ MOVED by MEIER, SECONDED by ELMITT, to close file number 13-0089. Motion APPROVED unanimously.
4. *Licensure/Registration Issues*
- ❖ MOVED by VARGAS, SECONDED by FULLER, to approve the issuance of a dental assistant registration and qualification to Amy D. Valquier, D.A., and to close file number 14-0042. Motion APPROVED unanimously.
 - ❖ MOVED by VARGAS, SECONDED by FULLER, to approve the issuance of a dental assistant registration and qualification to Ashley A. Ball, D.A., and to close file number 14-0043. Motion APPROVED unanimously.

- ❖ MOVED by VARGAS, SECONDED by FULLER, to approve the issuance of a dental assistant registration and qualification to Randi K. Larson, D.A., and to close file number 14-0044. Motion APPROVED unanimously.
- ❖ MOVED by VARGAS, SECONDED by FULLER, to approve the issuance of a dental assistant registration and qualification to Isamar Sanchez, D.A., and to close file number 14-0045. Motion APPROVED unanimously.
- ❖ MOVED by VARGAS, SECONDED by FULLER, to approve the issuance of a dental assistant registration and qualification to Madeline N. Kennedy, D.A., and to close file number 14-0046. Motion APPROVED unanimously.

5. *Other Closed Session Matters*

- ❖ MOVED by JENEARY, SECONDED by ELMITT, to keep open file number 10-115. Motion APPROVED unanimously.

XVII. ADJOURN

- ❖ MOVED by JENEARY, SECONDED by VARGAS, to adjourn the meeting. Motion APPROVED unanimously.

The meeting was adjourned at 3:31 p.m. on April 10, 2014.

NEXT MEETING OF THE BOARD

The next meeting of the Board is scheduled for July 31-August 1, 2014, in Des Moines, Iowa.

These minutes are respectfully submitted by Christel Braness, Program Planner 2, Iowa Dental Board.



STATE OF IOWA

IOWA DENTAL BOARD

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

PHIL MCCOLLUM
INTERIM DIRECTOR

IOWA DENTAL BOARD

MINUTES

May 9, 2014

Conference Room
400 S.W. 8th St., Suite D
Des Moines, Iowa

Board Members

Steven Bradley, D.D.S.,
Steven C. Fuller, D.D.S.
Matthew J. McCullough, D.D.S.
Thomas M. Jeneary, D.D.S.
Kaaren G. Vargas, D.D.S.
Mary C. Kelly, R.D.H.
Nancy A. Slach, R.D.H.
Diane Meier, Public Member
Lori Elmitt, Public Member

May 9, 2014

Present
Present
Present
Present
Present
Present
Present
Absent
Present

Staff Members

Phil McCollum, Christel Braness

Attorney General's Office

Sara Scott, Assistant Attorney General

Other Attendees

Larry Carl, Iowa Dental Association
Francisco Olalde, University of Iowa

I. CALL TO ORDER FOR MAY 9, 2014

Dr. Bradley called the open session meeting of the Iowa Dental Board to order at 11:02 a.m. on Thursday, May 9, 2014. The meeting was held by electronic means in compliance with Iowa Code section 21.8. The purpose of the meeting was to elect officers, appoint committee members as needed, and review a request for an administrative rule waiver. It was impractical to meet in person with such a short agenda. A quorum was established with eight members present.

Roll Call:

<u>Member</u>	<u>Bradley</u>	<u>Elmitt</u>	<u>Fuller</u>	<u>Jeneary</u>	<u>Kelly</u>	<u>McCullough</u>	<u>Meier</u>	<u>Slach</u>	<u>Vargas</u>
Present	x	x	x	x	x	x		x	x
Absent							x		

II. 1st OPPORTUNITY FOR PUBLIC COMMENT

Dr. Bradley allowed the opportunity for public comment.

No comments were received.

III. ELECTION OF OFFICERS

- *Board chair*

❖ MOVED by JENEARY, SECONDED by VARGAS, to appoint Dr. Bradley as chairman.

<u>Member</u>	<u>Bradley</u>	<u>Elmitt</u>	<u>Fuller</u>	<u>Jeneary</u>	<u>Kelly</u>	<u>McCullough</u>	<u>Meier</u>	<u>Slach</u>	<u>Vargas</u>
Yes		x	x	x	x	x		x	x
No									
Absent							x		

Motion APPROVED unanimously.

- *Board vice-chair*

❖ MOVED by MCCULLOUGH, SECONDED by JENEARY, to appoint Dr. Fuller as vice-chairman.

<u>Member</u>	<u>Bradley</u>	<u>Elmitt</u>	<u>Fuller</u>	<u>Jeneary</u>	<u>Kelly</u>	<u>McCullough</u>	<u>Meier</u>	<u>Slach</u>	<u>Vargas</u>
Yes	x	x		x	x	x		x	x
No									
Absent							x		

Motion APPROVED unanimously.

- *Board Secretary*

❖ MOVED by FULLER, SECONDED by KELLY, to appoint Dr. McCullough as secretary.
Motion APPROVED unanimously.

<u>Member</u>	<u>Bradley</u>	<u>Elmitt</u>	<u>Fuller</u>	<u>Jeneary</u>	<u>Kelly</u>	<u>McCullough</u>	<u>Meier</u>	<u>Slach</u>	<u>Vargas</u>
Yes	x	x	x	x	x			x	x
No									
Absent							x		

Motion APPROVED unanimously.

- *Other positions to the Executive Committee, as requested*

❖ MOVED by BRADLEY, SECONDED by VARGAS, to appoint Ms. Kelly to the Executive Committee.

<u>Member</u>	<u>Bradley</u>	<u>Elmitt</u>	<u>Fuller</u>	<u>Jeneary</u>	<u>Kelly</u>	<u>McCullough</u>	<u>Meier</u>	<u>Slach</u>	<u>Vargas</u>
Yes	x	x	x	x		x		x	x
No									
Absent							x		

Motion APPROVED unanimously.

IV. COMMITTEE APPOINTMENTS

DENTAL HYGIENE COMMITTEE

❖ MOVED by SLACH, SECONDED by KELLY, to appoint Dr. McCullough as the dental member of the Dental Hygiene Committee.

<u>Member</u>	<u>Bradley</u>	<u>Elmitt</u>	<u>Fuller</u>	<u>Jeneary</u>	<u>Kelly</u>	<u>McCullough</u>	<u>Meier</u>	<u>Slach</u>	<u>Vargas</u>
Yes	x	x	x	x	x			x	x
No									
Absent									

Motion APPROVED unanimously.

Mr. McCollum stated that the Board does not have to address each of the committees at this time; the Board may choose to address the remainder of the committees at a later meeting. Dr. Bradley agreed with that recommendation.

Mr. McCollum reported that Mr. Carl asked him to confirm the appointment of Dr. Maria Fuller and Dr. Steven Thies to the Skilled Care Task Force. Mr. McCollum stated that in researching Board minutes, it does not appear that they were appointed at the time the task force was created. However, there was a reference to interested parties being allowed to participate. The Board agreed to their addition to the task force. Mr. McCollum added them to the list of task force members.

Ms. Kelly noted that there are occasionally difficulties establishing quorums with the larger committees sometimes due to the members' various schedules. Ms. Slach agreed and reported that the Educational Standards for Expanded Functions Task Force has eleven members, and has faced that same issue. Ms. Slach stated that it might be a good idea to consider reducing the size of the task force.

Dr. Bradley reported that Dr. Mariani passed away, and needed to be replaced on the Skilled Care Task Force.

Ms. Slach inquired as to whether a dental hygienist could be appointed to the Dental Assistant Registration Committee. Ms. Slach stated that since dentists also serve on the committee that it might be good to have a dental hygienist serve on the Dental Assistant Registration Committee as well. Dr. Fuller inquired as to whether this would be a violation of the statute.

Ms. Slach stated that she mentioned this now so that it could be considered as committees are reviewed for composition and appointment.

V. ADMINISTRATIVE RULES/PETITION FOR RULE WAIVER

- *Request from Dr. Amr Habib – RE: Iowa Administrative Code 650—11.4*

Ms. Braness provided an overview of the request. Dr. Habib is a foreign-trained dentist, who has completed residency training at ADA-accredited programs. The request was submitted prior to application to ensure the Board’s acceptance of his education in lieu of the requirements as established in Iowa Administrative Code 650—11.4.

- ❖ MOVED by BRADLEY, SECONDED by MCCULLOUGH, to APPROVE the waiver request as submitted.

<u>Member</u>	<u>Bradley</u>	<u>Elmitt</u>	<u>Fuller</u>	<u>Jeneary</u>	<u>Kelly</u>	<u>McCullough</u>	<u>Meier</u>	<u>Slach</u>	<u>Vargas</u>
Yes	x	x		x	x	x		x	x
No									
Absent			x				x		

- ❖ Motion APPROVED unanimously.

VI. 2nd OPPORTUNITY FOR PUBLIC COMMENT

Dr. Bradley offered the opportunity for public comment.

No comments were received.

VII. ADJOURN

- ❖ MOVED by ELMITT, SECONDED by VARGAS, to adjourn the meeting. Motion APPROVED unanimously.

The meeting was adjourned at 11:17 a.m. on May 9, 2014.

NEXT MEETING OF THE BOARD

The next meeting of the Board is scheduled for July 31 – August 1, 2014, in Des Moines, Iowa.

These minutes are respectfully submitted by Christel Braness, Program Planner 2, Iowa Dental Board.

Report ID: FMR331C
 Source: I/3 Finance
 Budget FY: 2014
 Fiscal Month: 13 (JULY H/O)
 Department: 588

STATE OF IOWA
 FINANCIAL STATUS REPORT

Page: 129 of 384
 Run Date: 07/18/2014
 Run Time: 10:12:09 AM

Fund: 0001 General Fund
 Unit: 2062 BDE Retained Fees

Obj/Rev Class	Obj/Rev Class Name	Prior Months (A)	Current Month (B)	Total Year To Date (C=A+B)	Annual Budget (D)	Percent of Budget (E=C/D)
Revenue Collected						
234	Gov Transfer In Other Agencies	39,635.85	0.00	39,635.85	39,676.00	99.90
401	Fees, Licenses & Permits	1,257,765.63	2,553.23	1,260,318.86	1,260,278.00	100.00
Total Revenue Collected:		1,297,401.48	2,553.23	1,299,954.71	1,299,954.00	100.00
Expenditures						
101	Personal Services	600,299.91	18,660.66	618,960.57	663,730.00	93.25
202	In State Travel	4,799.84	0.00	4,799.84	9,500.00	50.52
203	State Vehicle Operation	3,699.96	354.41	4,054.37	5,000.00	81.09
204	State Vehicle Depreciation	216.00	0.00	216.00	4,320.00	5.00
205	Out Of State Travel	1,126.58	0.00	1,126.58	6,000.00	18.78
301	Office Supplies	8,758.56	104.48	8,863.04	9,500.00	93.30
309	Printing & Binding	8,952.98	384.39	9,337.37	12,000.00	77.81
313	Postage	12,555.49	1,626.15	14,181.64	17,000.00	83.42
401	Communications	8,153.24	835.44	8,988.68	12,250.00	73.38
402	Rentals	50,559.78	0.00	50,559.78	51,200.00	98.75
405	Prof & Scientific Services	275.00	0.00	275.00	4,000.00	6.88
406	Outside Services	14,354.16	9.50	14,363.66	16,500.00	87.05
407	Intra-State Transfers	822.78	173.58	996.36	2,600.00	38.32
408	Advertising & Publicity	0.00	945.06	945.06	1,000.00	94.51

Report ID: FMR331C
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STATE OF IOWA
 FINANCIAL STATUS REPORT

Page: 130 of 384
 Run Date: 07/18/2014
 Run Time: 10:12:09 AM

Fund: 0001 General Fund
 Unit: 2062 BDE Retained Fees

Obj/Rev Class	Obj/Rev Class Name	Prior Months (A)	Current Month (B)	Total Year To Date (C=A+B)	Annual Budget (D)	Percent of Budget (E=C/D)
409	Outside Repairs/Service	0.00	0.00	0.00	1,000.00	0.00
414	Reimbursements To Other Agency	14,309.25	1,378.05	15,687.30	21,000.00	74.70
416	ITD Reimbursements	29,626.83	2,695.82	32,322.65	33,310.00	97.04
418	IT Outside Services	541.56	39.16	580.72	3,000.00	19.36
432	Gov Transfer Attorney General	20,947.27	4,239.26	25,186.53	27,000.00	93.28
433	Gov Transfer Auditor of State	3,237.78	0.00	3,237.78	4,000.00	80.94
434	Gov Transfer Other Agencies	1,054.25	0.00	1,054.25	3,100.00	34.01
501	Equipment	0.00	0.00	0.00	600.00	0.00
502	Office Equipment	3,179.56	0.00	3,179.56	4,500.00	70.66
503	Equipment-Non Inventory	0.00	0.00	0.00	50.00	0.00
510	IT Equipment & Software	75,062.16	0.00	75,062.16	135,000.00	55.60
601	Claims	0.00	0.00	0.00	71,000.00	0.00
602	Other Expenses & Obligations	12,857.89	365.83	13,223.72	181,794.00	7.27
Total Expenditures:		875,390.83	31,811.79	907,202.62	1,299,954.00	69.79
Total Obligations (Exp+Enc):		875,390.83	31,811.79	907,202.62	1,299,954.00	69.79
Total Commitments (Exp+Enc+Pre):		875,390.83	31,811.79	907,202.62		
Remaining Authority (Rev-Obl):		422,010.65	(29,258.56)	392,752.09	0.00	0.00

Report ID: FMR331C
 Source: I/3 Finance
 Budget FY: 2015
 Fiscal Month: 1 (JULY)
 Department: 588

STATE OF IOWA
 FINANCIAL STATUS REPORT

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 Run Date: 07/18/2014
 Run Time: 10:26:49 AM

Fund: 0001 General Fund
 Unit: 2062 BDE Retained Fees

Obj/Rev Class	Obj/Rev Class Name	Prior Months (A)	Current Month (B)	Total Year To Date (C=A+B)	Annual Budget (D)	Percent of Budget (E=C/D)
Revenue Collected						
401	Fees, Licenses & Permits	0.00	136,262.96	136,262.96	1,175,141.00	11.60
Total Revenue Collected:		0.00	136,262.96	136,262.96	1,175,141.00	11.60
Expenditures						
101	Personal Services	0.00	7,791.70	7,791.70	654,593.00	1.19
202	In State Travel	0.00	0.00	0.00	10,500.00	0.00
203	State Vehicle Operation	0.00	0.00	0.00	4,500.00	0.00
204	State Vehicle Depreciation	0.00	0.00	0.00	10,000.00	0.00
205	Out Of State Travel	0.00	0.00	0.00	6,000.00	0.00
301	Office Supplies	0.00	0.00	0.00	10,000.00	0.00
309	Printing & Binding	0.00	0.00	0.00	10,000.00	0.00
313	Postage	0.00	0.00	0.00	15,000.00	0.00
401	Communications	0.00	0.00	0.00	10,500.00	0.00
402	Rentals	0.00	4,166.47	4,166.47	50,200.00	8.30
405	Prof & Scientific Services	0.00	0.00	0.00	5,000.00	0.00
406	Outside Services	0.00	0.00	0.00	2,500.00	0.00
407	Intra-State Transfers	0.00	0.00	0.00	2,600.00	0.00
409	Outside Repairs/Service	0.00	0.00	0.00	1,000.00	0.00
414	Reimbursements To Other Agency	0.00	0.00	0.00	21,000.00	0.00

Report ID: FMR331C
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STATE OF IOWA
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Fund: 0001 General Fund
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Obj/Rev Class	Obj/Rev Class Name	Prior Months (A)	Current Month (B)	Total Year To Date (C=A+B)	Annual Budget (D)	Percent of Budget (E=C/D)
416	ITD Reimbursements	0.00	0.00	0.00	32,000.00	0.00
418	IT Outside Services	0.00	0.00	0.00	1,000.00	0.00
432	Gov Transfer Attorney General	0.00	0.00	0.00	27,000.00	0.00
433	Gov Transfer Auditor of State	0.00	0.00	0.00	3,500.00	0.00
434	Gov Transfer Other Agencies	0.00	0.00	0.00	3,100.00	0.00
501	Equipment	0.00	0.00	0.00	600.00	0.00
502	Office Equipment	0.00	0.00	0.00	4,500.00	0.00
503	Equipment-Non Inventory	0.00	0.00	0.00	50.00	0.00
510	IT Equipment & Software	0.00	0.00	0.00	55,000.00	0.00
601	Claims	0.00	0.00	0.00	71,000.00	0.00
602	Other Expenses & Obligations	0.00	0.00	0.00	163,998.00	0.00
Total Expenditures:		0.00	11,958.17	11,958.17	1,175,141.00	1.02
Total Obligations (Exp+Enc):		0.00	11,958.17	11,958.17	1,175,141.00	1.02
Total Commitments (Exp+Enc+Pre):		0.00	11,958.17	11,958.17		
Remaining Authority (Rev-Obl):		0.00	124,304.79	124,304.79	0.00	0.00

REPORT TO THE IOWA DENTAL BOARD

FYI ONLY

DATE OF MEETING: July 31- August 1, 2014
RE: **Quarterly Report on IPRC Activities**
SUBMITTED BY: Brian Sedars, Health Professions Investigator
ACTION REQUESTED: None.

The Iowa Practitioner Review Committee evaluates, assists, and monitors the recovery, rehabilitation, or maintenance of dentists, hygienists, or assistants who self-report impairments. As necessary, the Committee notifies the Board in the event of noncompliance with contract provisions.

The IPRC is both an advocate for the health of a practitioner and a means to protect the health and safety of the public.

The Board's administrative rules require the Committee to submit a quarterly report to the Board on the activities of the IPRC. Below is the quarterly report.

Iowa Dental Board Iowa Practitioner Review Committee

Current Numbers (as of 7/17/14)	2014 Totals
Self Reports	1
Current Participants	9
Contracts under Review	2
Discharged Participants	0



STATE OF IOWA

IOWA DENTAL BOARD

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

PHIL MCCOLLUM
INTERIM DIRECTOR

July 17th, 2014

During the October 31st, 2013, Iowa Dental Board meeting the Board directed staff to proceed with drafting rule amendments for discussion in the areas of:

- ***Fees – Iowa Administrative Code 650—Chapter 15.*** Amend the rules to increase fees to cover projected costs for FY 2015 by increasing dental renewal fees from \$315 to \$365, an increase of \$25 per year for dentists only.
- ***EFDA Task Force Recommendations -- Iowa Administrative Code 650—Chapters 10, 20, and newly proposed 23.*** Amend the rules to implement the proposed expanded functions for dental auxiliary as recommended by the Expanded Function Dental Auxiliary (EFDA) Task Force.
- ***Allow dental hygienists to perform current expanded functions -- Iowa Administrative Code 650 — Chapters 10 and newly proposed 23.*** Amend the rules to authorize dental hygienists to perform the expanded function duties listed in chapter 20, provided they receive the same expanded function training required of a registered dental assistant.
- ***Allow PALS certification in lieu of ACLS -- Iowa Administrative Code 650—Chapter 29.*** Amend the rules to accept PALS certification in lieu of ACLS for moderate sedation permit holders who sedate children.
- ***Require capnography for Moderate Sedation permit holders -- Iowa Administrative Code 650—Chapter 29.*** Amend the rules to require capnography for all moderate sedation permit holders.

During the April 10th, 2014, Iowa Dental Board meeting, the members of the Board reviewed the proposed rule drafts and determined:

- ***Fees – Iowa Administrative Code 650—Chapter 15***
Not to start the rulemaking process for chapter 15, as new fiscal estimates do not indicate a budget shortfall.
- ***EFDA Task Force Recommendations -- Iowa Administrative Code 650—Chapters 10, 20, and newly proposed 23.***
To table those drafts to ensure that the proposed drafts align with what is being taught at the dental hygiene programs in the state, and to ensure that the draft language doesn't conflict with other rules or statutes.

- ***Allow dental hygienists to perform current expanded functions -- Iowa Administrative Code 650 — Chapters 10 and newly proposed 23.***

To table those drafts to ensure that the proposed drafts align with what is being taught at the dental hygiene programs in the state, and to ensure that the draft language doesn't conflict with other rules or statutes.

- ***Allow PALS certification in lieu of ACLS -- Iowa Administrative Code 650—Chapter 29.*** To approve those drafts to IAC 650—29.4 and to start the rulemaking process by filing a Notice of Intended Action at the July 31st, 2014, meeting, with public comment period to follow.

- ***Require capnography for Moderate Sedation permit holders -- Iowa Administrative Code 650—Chapter 29.*** To amend the rule drafts to IAC 650—29.4 and 29.5 to include the recommendations from the Anesthesia Credentials Committee to allow the use of a pretracheal/precordial stethoscope in lieu of capnography. Moderate sedation permits holders will be required to use either capnography OR a pretracheal/precordial stethoscope while administering moderate sedation to patients. The members then voted to approve the draft with those changes and to start the rulemaking process by filing a Notice of Intended Action at the July 31st, 2014, meeting, with public comment period to follow.

Attached are the rule drafts for discussion for Chapters 20.3, 20.15, and newly proposed Chapter 23. These drafts are being provided in advance of the upcoming July 31st, 2014, Board meeting in order to seek input from stakeholders that can be presented during that meeting to assist the members in determining if they should initiate the formal rulemaking process. These rule drafts should be considered 'staff drafts' and are to serve as a basis for discussion and are not a Notice of Intended Action.

The attached rule proposals for Chapters 29.4 and 29.5, are officially being noticed as a Notice of Intended Action.

Phil McCollum
Interim Director
Iowa Dental Board

Attachments

DRAFT proposed rule amendments to Chapter 20.3
DRAFT proposed rule amendments to Chapter 20.15
DRAFT Proposed NEW CHAPTER 23 Expanded Functions for Dental Auxiliaries
Notice of Intended Action Chapter 29.4
Notice of Intended Action Chapter 29.5
Final EFDA Task Force report to the Board

650—20.3 (153) Scope of practice.

20.3(1) In all instances, a dentist assumes responsibility for determining, on the basis of diagnosis, the specific treatment patients will receive and which aspects of treatment may be delegated to qualified personnel as authorized in these rules.

20.3(2) A licensed dentist may delegate to a dental assistant those procedures for which the dental assistant has received training. This delegation shall be based on the best interests of the patient. The dentist shall exercise supervision and shall be fully responsible for all acts performed by a dental assistant. A dentist may not delegate to a dental assistant any of the following:

- a.* Diagnosis, examination, treatment planning, or prescription, including prescription for drugs and medicaments or authorization for restorative, prosthodontic, orthodontic, or removable appliances.
- b.* Surgical procedures on hard and soft tissues within the oral cavity and any other intraoral procedure that contributes to or results in an irreversible alteration to the oral anatomy.
- c.* Administration of local anesthesia.
- d.* Placement of sealants.
- e.* Removal of any plaque, stain, or hard natural or synthetic material except by toothbrush, floss, or rubber cup coronal polish, or removal of any calculus.
- f.* Dental radiography, unless the assistant is qualified pursuant to 650—Chapter 22.
- g.* Those procedures that require the professional judgment and skill of a dentist.

~~**20.3(3)** A dentist may delegate an expanded function duty to a registered dental assistant if the assistant has completed board approved training pursuant to rule 650—20.16(153) in the specific expanded function that will be delegated. The supervising dentist and registered dental assistant shall be responsible for maintaining in the office of practice documentation of board approved training. In addition to the other duties authorized under this rule, a dentist may delegate any of the following expanded function duties:~~

- ~~*a.* Taking occlusal registrations;~~
- ~~*b.* Placement and removal of gingival retraction;~~
- ~~*c.* Taking final impressions;~~
- ~~*d.* Fabrication and removal of provisional restorations;~~
- ~~*e.* Applying cavity liners and bases, desensitizing agents, and bonding systems;~~
- ~~*f.* Placement and removal of dry socket medication;~~
- ~~*g.* Placement of periodontal dressings;~~
- ~~*h.* Testing pulp vitality; and~~
- ~~*i.* Monitoring of nitrous oxide inhalation analgesia.~~

20.3(4) 20.3(3) A dental assistant may perform duties consistent with these rules under the supervision of a licensed dentist. The specific duties dental assistants may perform are based upon:

- a.* The education of the dental assistant.
- b.* The experience of the dental assistant.

650—20.15 (153) Expanded function training approval. Expanded function training shall be eligible for board approval if the training is offered through a program accredited by the Commission on Dental Accreditation of the American Dental Association or another program prior approved by the board, which may include on-the-job training offered by a dentist licensed in Iowa. Training must consist of the following:

1. An initial assessment to determine the base entry level of all participants in the program. At a minimum, participants must meet one of the following:
 - Be currently certified by the Dental Assisting National Board, or
 - Have two years of clinical dental assisting experience as a registered dental assistant, or
 - Have two years of clinical dental assisting experience as a dental assistant in a state that does not require registration;
2. A didactic component;
3. A laboratory component, if necessary;
4. A clinical component, which may be obtained under the personal supervision of the participant's supervising dentist while the participant is concurrently enrolled in the training program; and
5. A postcourse competency assessment at the conclusion of the training program.

[ARC 0265C, IAB 8/8/12, effective 9/12/12; ARC 0985C, IAB 9/4/13, effective 10/9/13]

Proposed NEW Chapter

Chapter 23 Expanded Functions for Dental Auxiliaries

650—23.1 Expanded Function training required.

23.1(1) A registered dental assistant shall not perform any procedures listed in this chapter unless the dental assistant has successfully met the educational and training requirements of 650—23.5, and is in compliance with the requirements of 650—23.4.

23.1(2) A licensed dental hygienist shall not perform any procedures listed in this chapter unless the hygienist has successfully met the educational and training requirements of 650—23.5, and is in compliance with the requirements of 650—23.4.

650—23.2 (153) Definitions.

“Dental Auxiliaries” as used in this chapter include persons licensed as a dental hygienist or persons registered as a dental assistant in the state of Iowa. Dental assistant trainees are not eligible to perform procedures listed in this chapter.

650—23.3 (153) Scope of practice.

23.3(1) In all instances, a dentist assumes responsibility for determining, on the basis of diagnosis, the specific treatment patients will receive and which aspects of treatment may be delegated to qualified dental auxiliary personnel as authorized by this chapter.

23.3(2) A licensed dentist may delegate to dental auxiliary only those procedures for which the dental auxiliary has received the required expanded function training pursuant to this chapter. This delegation shall be based on the best interests of the patient. The dentist shall exercise direct supervision for all procedures and shall be fully responsible for all acts performed by dental auxiliary. A dentist may not delegate to dental auxiliary any of the following:

- a. Diagnosis, examination, treatment planning, or prescription, including prescription for drugs and medicaments or authorization for restorative, prosthodontic, orthodontic, or removable appliances.
- b. Those procedures that require the professional judgment and skill of a dentist.

650—23.4 (153) Expanded function procedures.

23.4(1) Basic Expanded Function Provider. Dental auxiliary who do not wish to become certified as a Level 1 or Level 2 provider may perform select Level 1 expanded function procedures provided they have met the educational and training requirements for those procedures pursuant to 650—23.5. A dentist may delegate to dental auxiliary

only those Level 1 procedures for which the dental auxiliary has received the required expanded function training.

23.4(2) Level 1 Provider. Dental auxiliary must successfully complete training for all Level 1 expanded function procedures before becoming certified as a Level 1 expanded functions provider. A dentist may delegate any of the following Level 1 expanded function procedures to auxiliary certified as a Level 1 expanded functions provider:

1. Taking occlusal registrations;
2. Placement and removal of gingival retraction;
3. Fabrication and removal of provisional restorations;
4. Applying cavity liners and bases, desensitizing agents, and bonding systems;
5. Placement and removal of dry socket medication;
6. Placement of periodontal dressings;
7. Testing pulp vitality;
8. Monitoring of nitrous oxide inhalation analgesia;
9. Taking final impressions;
10. Removal of adhesives (hand instrumentation only);*
11. Preliminary charting of existing dental restorations and teeth

23.4(3) Level 2 Provider. Dental auxiliary must be certified as a Level 1 expanded functions provider and successfully pass a Board-approved entrance exam before beginning training as a Level 2 expanded functions provider. A dentist may delegate any of the Level 1 or any of the following Level 2 expanded function duties to an auxiliary certified as a Level 2 expanded functions provider:

1. Placement and shaping of amalgam following preparation of a tooth by a dentist;
2. Placement and shaping of composite following preparation of a tooth by a dentist;
3. Forming and placement of stainless steel crowns;
4. Taking records for the fabrication of dentures and partial dentures;
5. Denture reline (soft reline only, where denture is not relieved or modified);

These procedures refer to both primary and permanent teeth.

* Notwithstanding rules 10.3(1)e and 20.3(2)(e), for the purposes of this chapter, the removal of adhesives by hand instrumentation does not constitute the removal of “hard natural or synthetic material.”

650—23.5 (153) Educational and training requirements.

All expanded function procedure training must be prior-approved by the Board. Expanded function procedure training shall be eligible for board approval if the training is offered through a program accredited by the Commission on Dental Accreditation of the American Dental Association or another program, which may include on-the-job training offered by a dentist licensed in Iowa. The supervising dentist and the dental auxiliary

shall be responsible for maintaining in each office of practice, documentation of the board approved training. Training must consist of the following:

1. An initial assessment to determine the base entry level of all participants in the program. At a minimum, all participants must meet at least one of the following before beginning expanded function procedure training:
 - a. Be a graduate of an ADA-accredited dental assistant program; or
 - b. Be currently certified by the Dental Assisting National Board (DANB); or
 - c. Have at least one (1) year of clinical practice as a registered dental assistant; or
 - d. Have at least one year of clinical practice as a dental assistant in a state that does not require registration; or
 - e. Have an active Iowa dental hygiene license.
2. A didactic component;
3. A laboratory component, if necessary;
4. A clinical component, which may be obtained under the personal supervision of the participant's supervising dentist while the participant is concurrently enrolled in the training program; and
5. A postcourse competency assessment at the conclusion of the training program.

DENTAL BOARD [650]

Notice of Intended Action

Pursuant to the authority of Iowa Code section 147.76, the Dental Board hereby gives Notice of Intended Action to amend Chapter 29, "Sedation and Nitrous Oxide Inhalation Analgesia," Iowa Administrative Code.

The proposed amendments include:

- Requiring all moderate sedation permit holders to use capnography or a pretracheal/precordial stethoscope at all facilities where they provide sedation beginning January 1, 2015.
- Allow moderate sedation permit holders who sedate pediatric patients to maintain Pediatric Advanced Life Support (PALS) certification in lieu of Advanced Cardiac Life Support (ACLS) certification.

Written comments about the proposed amendments will be accepted through October 1, 2014. Comments should be directed to: Phil McCollum Interim-Director, Iowa Dental Board, 400 S.W. 8th Street, Des Moines, Iowa 50309-4687 or by email to IDB@iowa.gov.

A public hearing will be held on October 1, 2014 at 2:00 p.m. at the office of the Iowa Dental Board located at 400 SW 8th Street, Suite D, Des Moines, Iowa 50309-4687. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments. Any person who plans to attend the public hearing and who may have special requirements, such as those related to hearing or mobility impairments should contact the Board office and advise of specific needs.

After analysis and review of this rule making, no impact on jobs has been found.

These proposed amendments were approved at the July 31, 2014 quarterly meeting of the Iowa Dental Board.

These proposed amendments are intended to implement Iowa Code section 153.33 and 153.34.

The following amendments are proposed.

ITEM 1. Amend rule 650—29.4 (153) as follows:

650—29.4 (153) Requirements for the issuance of moderate sedation permits.

29.4(1) A permit may be issued to a licensed dentist to use moderate sedation for dental patients provided the dentist meets the following requirements:

- a.* Has successfully completed a training program approved by the board that meets the American Dental Association Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students and that consists of a minimum of 60 hours of instruction and management of at least 20 patients; and
- b.* Has formal training in airway management; or
- c.* Has submitted evidence of successful completion of an accredited residency program that includes formal training and clinical experience in moderate sedation, which is approved by the board; and
- d.* Has completed a peer review evaluation, as may be required by the board, prior to issuance of a permit.

29.4(2) A dentist utilizing moderate sedation shall maintain a properly equipped facility. The dentist shall maintain and be trained on the following equipment at each facility where sedation is provided: capnography or pretracheal/precordial stethoscope, EKG monitor, positive pressure oxygen, suction, laryngoscope and blades, endotracheal tubes, magill forceps, oral airways, stethoscope, blood pressure monitoring device, pulse oximeter, emergency drugs, defibrillator. A licensee may submit a request to the board for an exemption from any of the provisions of this subrule. Exemption requests will be considered by the board on an individual basis and shall be granted only if the board determines that there is a reasonable basis for the exemption.

29.4(3) The dentist shall ensure that each facility where sedation services are provided is permanently equipped pursuant to subrule 29.4(2) and staffed with trained auxiliary personnel capable of reasonably handling procedures, problems and emergencies incident to the administration of moderate sedation. Auxiliary personnel shall maintain current certification in basic life support and be capable of administering basic life support.

29.4(4) A dentist administering moderate sedation must document and maintain current, successful completion of an Advanced Cardiac Life Support (ACLS) course. A dentist administering moderate sedation to pediatric patients may maintain current certification in Pediatric Advanced Life Support (PALS) in lieu of ACLS.

29.4(5) A dentist who is performing a procedure for which moderate sedation is being employed shall not administer the pharmacologic agents and monitor the patient without the presence and assistance of at least one qualified auxiliary personnel in the room who is qualified under subrule 29.4(3).

29.4(6) Dentists qualified to administer moderate sedation may administer nitrous oxide inhalation analgesia provided they meet the requirement of rule 650—29.6(153).

29.4(7) If moderate sedation results in a general anesthetic state, the rules for deep sedation/general anesthesia apply.

29.4(8) A dentist utilizing moderate sedation on pediatric or ASA category 3 or 4 patients must have completed an accredited residency program that includes formal training in anesthesia and clinical experience in managing pediatric or ASA category 3 or 4 patients. A dentist who does not meet the requirements of this subrule is prohibited from utilizing moderate sedation on pediatric or ASA category 3 or 4 patients.

[ARC 8614B, IAB 3/10/10, effective 4/14/10; ARC 1194C, IAB 11/27/13, effective 11/4/13]

ITEM 2. Amend rule 650—29.4 (153) to add NEW section 29.5(12):

650—29.5 (153) Permit holders.

29.5(1) No dentist shall use or permit the use of deep sedation/general anesthesia or moderate sedation for dental patients, unless the dentist possesses a current permit issued by the board. No dentist shall use or permit the use of deep sedation/general anesthesia or moderate sedation for dental patients in a facility that has not successfully passed an equipment inspection pursuant to the requirements of subrule 29.3(2). A dentist holding a permit shall be subject to review and facility inspection at a frequency described in subrule 29.5(10).

29.5(2) An application for a deep sedation/general anesthesia permit must include the appropriate fee as specified in 650—Chapter 15, as well as evidence indicating compliance with rule 650—29.3(153).

29.5(3) An application for a moderate sedation permit must include the appropriate fee as specified in 650—Chapter 15, as well as evidence indicating compliance with rule 650—29.4(153).

29.5(4) If a facility has not been previously inspected, no permit shall be issued until the facility has been inspected and successfully passed.

29.5(5) Permits shall be renewed biennially at the time of license renewal following submission of proper application and may involve board reevaluation of credentials, facilities, equipment, personnel, and procedures of a previously qualified dentist to determine if the dentist is still qualified. The appropriate fee for renewal as specified in 650—Chapter 15 of these rules must accompany the application.

29.5(6) Upon the recommendation of the anesthesia credentials committee that is based on the evaluation of credentials, facilities, equipment, personnel and procedures of a dentist, the board may determine that restrictions may be placed on a permit.

29.5(7) The actual costs associated with the on-site evaluation of the facility shall be the primary responsibility of the licensee. The cost to the licensee shall not exceed the fee as specified in 650—Chapter 15.

29.5(8) Permit holders shall follow the American Dental Association’s guidelines for the use of sedation and general anesthesia for dentists, except as otherwise specified in these rules.

29.5(9) A dentist utilizing moderate sedation on pediatric or ASA category 3 or 4 patients must have completed an accredited residency program that includes formal training in anesthesia and clinical experience in managing pediatric or ASA category 3 or 4 patients. A dentist who does not meet the requirements of this subrule is prohibited from utilizing moderate sedation on pediatric or ASA category 3 or 4 patients.

29.5(10) Frequency of facility inspections.

a. The board office will conduct ongoing facility inspections of each facility every five years, with the exception of the University of Iowa College of Dentistry.

b. The University of Iowa College of Dentistry shall submit written verification to the board office every five years indicating that it is properly equipped pursuant to this chapter.

29.5(11) Use of capnography required beginning January 1, 2014. Consistent with the practices of the American Association of Oral and Maxillofacial Surgeons (AAOMS), all general anesthesia/deep sedation permit holders shall use capnography at all facilities where they provide sedation beginning January 1, 2014.

29.5(12) Use of capnography or pretracheal/precordial stethoscope required for moderate sedation permit holders. Beginning January 1, 2015, all moderate sedation permit holders shall use capnography or a pretracheal/precordial stethoscope at all facilities where they provide sedation.

Expanded Function Dental Auxiliary Taskforce
Report to Iowa Dental Board
July 18, 2013

Background

In 2012, the Iowa Dental Association leadership proposed that the Iowa Dental Board consider increasing the number of expanded functions that appropriately trained and certified dental auxiliaries are allowed to perform. Specifically, they requested that the following procedures be considered:

1. Forming, placing, or shaping amalgam and composite materials following the preparation of a tooth by a dentist
2. Forming and placement of stainless steel crowns
3. Taking final impressions
4. Taking records for the fabrication of dentures and partial dentures
5. Cementation of final restorations along with removal of adhesives

The Iowa Dental Board appointed a task force (EFDA Task Force) to consider this recommendation and to make recommendations to the Board. Task force members included:

Michael Kanellis, DDS – Chair
Steve Bradley, DDS
Eileen Cacioppo, RDH
Lori Elmitt
Mary Kelly, RDH
Mary Mariani, DDS
George North, DDS
Jane Slach, RDA

The EFDA task force met in Iowa City on five separate occasions to discuss the merits and logistics of creating a new level of expanded function auxiliary. Meeting dates for the task force were: 11/16/12, 1/4/13, 2/8/13, 4/5/13, 6/28/13.

Discussions among EFDA Taskforce members was broad-based and included conversations on the following topics:

1. Potential merits of increasing the number of expanded functions that dental auxiliaries can perform.
2. Background of EFDA's in Iowa (Historical perspective by Dr. North)
3. Quality of care provided by EFDA's
4. Procedures considered for inclusion

5. Would Iowa dentists utilize restorative expanded function dental auxiliaries?
6. What other states are doing
7. Mechanism for training and competency-based evaluation/certification

Members of the EFDA Taskforce requested a survey of Iowa Dentists to find out how many dentists might utilize Expanded Function Dental Auxiliaries to perform additional procedures. To obtain this information, several questions were added to Dr. Peter Damiano’s “Medicaid Survey of Iowa Dentists”, conducted as part of the Dental Safety Net in Iowa Project (DSNI). Detailed information about the DSNI Project can be found at: <http://ppc.uiowa.edu/health/study/dental-safety-net-iowa-dsni-project>.

The “Medicaid Survey of Iowa Dentists” was mailed to all private practice dentists in Iowa, including specialists. Dentists from the University of Iowa College of Dentistry were not surveyed. A brief statement describing EFDA’s was included in the survey, as follows:

The Iowa Dental Board has convened a task force to look at the possibility of increasing the number of procedures that EFDAs (Dental Assistants and Dental Hygienists) can perform under the supervision of a dentist. Auxiliaries would be required to receive additional education and demonstrate competency in order to provide each procedure. The following questions are intended to explore Iowa dentists’ attitudes about additional expanded functions.

The survey response rate was 58% (n=776/1389).

The first EFDA related question included in the survey was intended to determine how many dentists in Iowa were utilizing EFDAs to provide currently allowed expanded functions. 55% of respondents indicated they were utilizing an EFDA to provide at least one of the currently allowed expanded functions. Responses broken down by specific functions follows:

Do you ever delegate these duties to an EFDA in your practice?	
Remove temporary crowns	42%
Take final impressions	22%
Fabricate temporary crowns	44%
Apply cavity liners, bonding systems, etc.	18%
Test pulp vitality	15%
Take occlusal registrations	42%
Place/remove gingival retraction	26%

The second EFDA related question was intended to determine how many dentists would consider utilizing an EFDA to provide the additional recommended procedures. 68% of respondents indicated

they would consider utilizing an EFDA to provide at least one of the proposed additional expanded functions. Responses broken down by specific functions follows:

If the practice act was changed, would you consider using an EFDA to provide the following services?	
Remove cement following permanent cementation of crowns/bridges	61%
Place/shape amalgam restorations following tooth prep by a dentist	21%
Place/shape composite restorations following tooth prep by a dentist	17%
Fit/cement stainless steel crowns on primary teeth	31%
Take final impressions/records for dentures	32%
Cement final restorations	21%

The final EFDA related question on the survey was intended to determine if dentists would be willing to cover the costs to send one of their auxiliaries to a course where they could become certified to provide additional EFDA procedures. 43% indicated they would either moderately or extremely consider covering this cost:

How seriously would you consider covering the costs to send one of your own auxiliaries to a course where they could become certified to provide the services listed in the previous question?	
Not at all	38%
Slightly	19%
Moderately	22%
Extremely	21%

Task Force members were charged with investigating and reporting on restorative expanded functions allowed in other states. States were selected based on data from the Dental Assisting National Board (DANB) website: <http://www.danb.org> The DANB website has a comprehensive list on a state by state basis describing titles for dental assistants who are allowed to provide expanded functions, and many different groupings of what expanded functions are allowed. Examples of states that allow EFDA's to place and contour amalgam and composites and to place stainless steel crowns includes Kentucky, Maine, Massachusetts, Michigan, Minnesota, Missouri, Ohio, Pennsylvania, Virginia and Washington.

At the final meeting of the EFDA task force, a list of consensus statements was agreed upon that guide the task force's final recommendations to the Iowa Dental Board:

Consensus Statements Regarding Expanded Function Dental Auxiliaries

Members of the Expanded Function Dental Auxiliary Task Force appointed by the Iowa Dental Board are in agreement with the following statements related to Expanded Function Dental Auxiliaries. These background consensus statements are presented in support of the Task Force's final recommendations to the Board.

1. The EFDA Task Force is confident that the recommended additional expanded functions can be performed by appropriately trained dental auxiliaries under the direct supervision of a dentist.
2. The EFDA Task Force believes that if the recommended additional expanded functions are approved, a significant number of Iowa Dentists will be willing to employ auxiliaries who have received the appropriate training to provide these procedures.
3. The EFDA Task Force believes that employing EFDAs will improve the efficiency and increase the capacity of dental practices to treat patients, and as a result, more patients in Iowa will be able to access dental care.
4. The EFDA Task Force believes that increasing the number of expanded functions dental auxiliaries can perform will provide career advancement opportunities for dental auxiliaries in Iowa.
5. The EFDA Task Force believes that a training program for EFDAs can be established at no additional cost to the State of Iowa.

List of Recommended Procedures

Following review of the IDA recommendations, and consideration of multiple other procedures, members of the Expanded Function Dental Auxiliary Task Force recommend the following procedures be added to what appropriately trained and certified EFDA's can perform in Iowa. These procedures refer to both primary and permanent teeth.

1. Removal of adhesives (hand instrumentation only)
2. Placement and shaping of amalgam following preparation of a tooth by a dentist
3. Placement and shaping of composite following preparation of a tooth by a dentist
4. Forming and placement of stainless steel crowns
5. Taking final impressions and records for the fabrication of dentures and partial dentures ("records" component is a new function)
6. Denture tissue conditioning reline (soft reline only, where denture is not relieved or modified)
7. Preliminary charting of existing dental restorations and teeth

Additional Recommendation

Considerable discussion took place among EFDA Task Force members related to including procedures that could be done by hygienists in nursing home settings. These additional procedures were not included in the list of final recommendations because some of them were not reversible, and most/all of them would be performed under indirect supervision. However, due to the opportunities presented through these discussions, the EFDA Task Force makes the following recommendation to the Iowa Dental Board:

1. The Iowa Dental Board is encouraged to appoint a separate task force to look at “best practices in oral health care delivery in nursing homes” in Iowa.

If the Iowa Dental Board decides to move forward with the recommendations of the EFDA Task Force, the following “next steps” are recommended:

Next Steps

1. Approval by the Iowa Dental Board to proceed
2. The Iowa Dental Board should charge the College of Dentistry with proposing a final curriculum for the additional EFDA procedures
3. The University of Iowa College of Dentistry would assign faculty to create/finalize a curriculum for training (estimate 6 months to have curriculum finalized)
4. EFDA task force, working with the Dental Board and the College of Dentistry would propose a method for competency-based assessment and certification
5. Final approval by Iowa Dental Board and Implementation of training
6. Announcement in IDA Journal

Respectfully submitted on behalf of the EFDA Task Force,

Michael Kanellis, DDS, MS
Chair, Expanded Function Task Force
7/23/13

works in a hospital setting, the licensee or registrant may elect either the expert review panel established by the hospital or the expert review panel established by the Iowa department of public health for the purpose of making a determination of the circumstances under which the licensee or registrant may perform exposure-prone procedures. The licensee or registrant shall comply with the recommendations of the expert review panel. Failure to do so shall constitute unethical and unprofessional conduct and is grounds for disciplinary action by the board.

27.9(4) Knowingly providing false or misleading information to the board or an agent of the board is considered unethical and unprofessional conduct.

27.9(5) Prohibiting a person from filing or interfering with a person's filing a complaint with the board is considered unethical and unprofessional conduct.

27.9(6) A licensee shall not enter into any agreement with a patient that the patient will not file a complaint with the board.

[ARC 9218B, IAB 11/3/10, effective 12/8/10]

650—27.10(153) Retirement or discontinuance of practice.

27.10(1) A licensee, upon retirement, or upon discontinuation of the practice of dentistry, or upon leaving or moving from a community, shall notify all active patients in writing, or by publication once a week for three consecutive weeks in a newspaper of general circulation in the community, that the licensee intends to discontinue the practice of dentistry in the community, and shall encourage patients to seek the services of another licensee. The licensee shall make reasonable arrangements with active patients for the transfer of patient records, or copies thereof, to the succeeding licensee. "Active patient" means a person whom the licensee has examined, treated, cared for, or otherwise consulted with during the two-year period prior to retirement, discontinuation of the practice of dentistry, or leaving or moving from a community.

27.10(2) Nothing herein provided shall prohibit a licensee from conveying or transferring the licensee's patient records to another licensed dentist who is assuming a practice, provided that written notice is furnished to all patients as hereinbefore specified.

650—27.11(153,272C) Record keeping. Dentists shall maintain patient records in a manner consistent with the protection of the welfare of the patient. Records shall be permanent, timely, accurate, legible, and easily understandable.

27.11(1) Dental records. Dentists shall maintain dental records for each patient. The records shall contain all of the following:

a. Personal data.

- (1) Name, date of birth, address and, if a minor, name of parent or guardian.
- (2) Name and telephone number of person to contact in case of emergency.

b. Dental and medical history. Dental records shall include information from the patient or the patient's parent or guardian regarding the patient's dental and medical history. The information shall include sufficient data to support the recommended treatment plan.

c. Patient's reason for visit. When a patient presents with a chief complaint, dental records shall include the patient's stated oral health care reasons for visiting the dentist.

d. Clinical examination progress notes. Dental records shall include chronological dates and descriptions of the following:

- (1) Clinical examination findings, tests conducted, and a summary of all pertinent diagnoses;
- (2) Plan of intended treatment and treatment sequence;
- (3) Services rendered and any treatment complications;
- (4) All radiographs, study models, and periodontal charting, if applicable;
- (5) Name, quantity, and strength of all drugs dispensed, administered, or prescribed; and
- (6) Name of dentist, dental hygienist, or any other auxiliary, who performs any treatment or service or who may have contact with a patient regarding the patient's dental health.

e. Informed consent. Dental records shall include, at a minimum, documentation of informed consent that includes discussion of procedure(s), treatment options, potential complications and known risks, and patient's consent to proceed with treatment.

27.11(2) Retention of records. A dentist shall maintain a patient's dental record for a minimum of six years after the date of last examination, prescription, or treatment. Records for minors shall be maintained for a minimum of either (a) one year after the patient reaches the age of majority (18), or (b) six years, whichever is longer. Proper safeguards shall be maintained to ensure safety of records from destructive elements.

27.11(3) Electronic record keeping. The requirements of this rule apply to electronic records as well as to records kept by any other means. When electronic records are kept, a dentist shall keep either a duplicate hard copy record or use an unalterable electronic record.

27.11(4) Correction of records. Notations shall be legible, written in ink, and contain no erasures or white-outs. If incorrect information is placed in the record, it must be crossed out with a single nondeleting line and be initialed by a dental health care worker.

27.11(5) Confidentiality and transfer of records. Dentists shall preserve the confidentiality of patient records in a manner consistent with the protection of the welfare of the patient. Upon request of the patient or patient's legal guardian, the dentist shall furnish the dental records or copies or summaries of the records, including dental radiographs or copies of the radiographs that are of diagnostic quality, as will be beneficial for the future treatment of that patient. The dentist may charge a nominal fee for duplication of records, but may not refuse to transfer records for nonpayment of any fees.

[ARC 8369B, IAB 12/16/09, effective 1/20/10]

650—27.12(17A,147,153,272C) Waiver prohibited. Rules in this chapter are not subject to waiver pursuant to 650—Chapter 7 or any other provision of law.

These rules are intended to implement Iowa Code sections 153.34(7), 153.34(9), 272C.3, 272C.4(1f) and 272C.4(6).

[Filed 9/1/88, Notice 7/27/88—published 9/21/88, effective 10/26/88]

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[Filed 7/28/94, Notice 3/30/94—published 8/17/94, effective 9/21/94]

[Filed 1/27/95, Notice 12/7/94—published 2/15/95, effective 3/22/95]

[Filed 1/22/99, Notice 11/18/98—published 2/10/99, effective 3/17/99]

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[Filed 4/25/03, Notice 12/11/02—published 5/14/03, effective 6/18/03]

[Filed 7/1/04, Notice 5/12/04—published 7/21/04, effective 8/25/04]

[Filed 2/5/07, Notice 11/22/06—published 2/28/07, effective 4/4/07]

[Filed ARC 8369B (Notice ARC 8044B, IAB 8/12/09), IAB 12/16/09, effective 1/20/10]

[Filed ARC 9218B (Notice ARC 8846B, IAB 6/16/10), IAB 11/3/10, effective 12/8/10]

BEFORE THE IOWA DENTAL BOARD

Petition by Ryan D Hussong, DDS for the	}	
waiver of 650 IAC subrule 29.5(1)	}	
relating to conscious sedation permit	}	PETITION FOR
	}	WAIVER
	}	

1. Petitioner's name, address, and telephone number. All communications concerning the petition can be directed to the address, phone, and e-mail address listed below.

Ryan D Hussong, DDS
1010 S 3rd St, Ste 2A
Polk City, IA 50226

Work Telephone: 515.984.6001
Cell Phone: 319.321.8399
Email: ryanhussong@gmail.com

2. I am requesting a waiver of 650 Iowa Administrative Code subrule 29.5(1)

3. Describe the specific waiver requested, including the precise scope and time period for which the waiver will extend: I am requesting a waiver of 650 Iowa Administrative Code subrule 29.5(1), which requires a dentist to possess a current deep sedation permit issued by the board to allow the use of deep or moderate sedation in the office. In lieu of 29.5(1), I would like the board to accept the following: the administration of moderate or deep sedation to dental patients in my practices by an American Board of Anesthesiology certified anesthesiologist with a valid license to practice.

4. Explain the relevant facts and reasons that the petitioner believes justify a waiver. Include in your answer all of the following:

a. Undue Hardship. Compliance with the rule would impose an undue hardship caused by the need for me and my associate dentists to obtain advanced training in the administration of sedation at a significant expense of both time away from patient care and finances, especially when the use of a licensed anesthesiologist to administer sedation provides a more advanced level of skill and care for the dental patient.

b. Why Waiving the Rule Would Not Prejudice the Substantial Legal Rights of Any Person. Waiver of the rule would not prejudice the substantial legal rights of any person because waiver of the rule only enhances patient comfort and welfare. This ensures and protects public health, safety, and welfare.

c. The Provisions of the Rule Subject to the Waiver are NOT Specifically Mandated by Statute or Another Provision of Law. Iowa Code Chapter 153 does not mandate the requirements of rule 650—29.5(1).

d. Substantially Equal Protection of the Public Health, Safety, and Welfare has been Afforded. The utilization of a licensed anesthesiologist to administer sedation to the dental patient ensures a higher level of public protection, health, and safety, as anesthesiologists have the specific training to provide such care at an advanced level. Additionally, the anesthesiologist we have currently selected to provide these services has extensive experience with sedation on dental patients.

5. A history of prior contacts between the board and petitioner related to the regulated activity is as follows: Phone calls by my office personnel to board staff to obtain general information, including a series of phone calls on or around April 9th, 2014, as well as email correspondence of the same nature and time frame.

6. Information related to the board's action in similar cases: As noted on the Iowa Dental Board Rule Waiver Index (Updated 8/16/2013), Gregory Ceraso was granted the same rule waiver on 5/8/2009. Dr. Ceraso utilizes the same anesthesiologist that we have selected to assist our patients to provide sedation to his dental patients.

7. There is no other public agency or political subdivision that regulates dentistry in Iowa.

8. I am not aware of any person or entity that would be adversely affected by the granting of a waiver in this case.

9. Provide the name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver:

Scott Yegge, DDS, 2207 SW Ridgeway Ct, Ankeny, IA 50023, 515.360.5668
Jeff Nichols, MD 515.229.9110, Anesthesiologist

10. I hereby authorize the Board to obtain any information relating to this waiver request from the individuals named herein. I will provide signed releases of information if necessary.

I hereby attest to the accuracy and truthfulness of the above information.



Petitioner's signature

5-2-14

Date

REPORT TO THE IOWA DENTAL BOARD

DATE OF MEETING: July 31-August 1, 2014

RE: Meeting Dates

ACTION REQUESTED: Schedule Future Meeting Dates

The following are proposed meeting dates for upcoming meetings:

Exec. Director – Review/Approval:

- August 22, 2014 (Friday)
- September 5, 2014 (Friday)
- September 26, 2014 (Friday)

**Labor Day is September 1, 2014

1st Quarterly Meeting:

- January 22-23, 2014 (Thursday-Friday)
- January 29-30, 2014 (Thursday-Friday)

2nd Quarterly Meeting:

- April 9-10, 2014 (Thursday-Friday)
- April 23-24, 2014 (Thursday-Friday)

Election of Officers/Committee Appointments: (Teleconference)

- May 14, 2014 (Thursday)
- May 15, 2014 (Friday)
- May 22, 2014 (Friday)

3rd Quarterly Meeting:

- July 23-24, 2014 (Thursday-Friday)
- August 6-7, 2014 (Thursday-Friday)

4th Quarterly Meeting:

- October 22-23, 2014 (Thursday-Friday)
- October 29-30, 2014 (Thursday-Friday)

July 2, 2014

Dear Sirs,

I am writing to obtain permission by the Iowa Dental Board to be allowed to own and operate a Mobile Dental Business with the intention of facilitating dentists in the care of their home bound patients.

According to US Bureau of Census July 2012, 15.3% of Iowa's population is over the age of 65 and some of these people have become incapacitated enough to find a trip to the dental office difficult or even impossible. It is well known that the majority of geriatric patients are no longer edentulous, especially those who have lived a life with quality oral care, yet as their health declines quite often oral needs increase. Medications, poor dexterity and dementia are just some of the causes for increased oral care needs yet this population is severely underserved. It is my desire to create a bridge of care between Dentists and their home bound patients.

I am a dental hygienist who has been in practice for 29 years but before this I worked as a Certified Nurses Aid in long term care centers and I have always had a heart for these poor underserved people. Through the years I have been able to visit a few care centers to educate the staff and provide very limited hygiene care of the patients that can no longer come to our office, yet without proper equipment the service is far from ideal. At my visits to care centers, I am often approached by other residents or even staff concerning availability of dental care. The demand for care is great yet the people able or willing to serve are few.

The proposed business plan for this mobile Dental business would be this:

Dentists with elderly or medically compromised patients could hire me /my business to provide the Hygiene services he deems necessary for the patient. The services we could provide for the dentist are: communication with Care center staff, prophylaxis, and oral education to both dental patient and care giver. We would also gather and transmit information to the dentist through intra oral images, extra oral images, x-rays, periodontal measurements and continued conversations with family and care givers.

If restorative needs are determined by the Dentist, my business could offer the use of our mobile equipment and assistance to the Dentist if he or she chooses to treat the patient bedside or if the patient is able to be transported to the dental office, my business would provide trained personnel in the proper transferring of patient to dental chair.

In this business endeavor, I will abide by the Hygiene code of ethics and limits of the dental hygiene licensure and will only provide services to patients according to the treatment plan prescribed by a licensed dentist.

Thank you for considering my request to own a business that provides dentists a way to care for home bound people. I hope to be a tool Dentists in Iowa will use so that the dentally underserved population in Iowa will have better access to the care they desperately need.

Please contact me as soon as you make your decision.

Sincerely,

Anita M. Siddall

Anita3marie@gmail.com

319-310-6335

**Survey of State Laws
Governing the Corporate Practice of Dentistry**

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Introduction

For almost a century, virtually all states have prohibited corporations from practicing health care professions that require state licensure, such as medicine and dentistry. This has been termed the “corporate practice of medicine doctrine.” Specifically, state laws preclude business corporations from owning and operating dental offices and employing practitioners while the corporation collects some or all fees paid by patients. More generally, all states, even the few permitting corporate practice, outlaw any interference by unlicensed people or entities with dentists’ independent clinical judgment and patient care. This paper examines current law regarding the corporate practice of dentistry in the fifty states and the District of Columbia.

The prohibition of corporate practice arose from efforts by the American Medical Association to professionalize medicine and reached fruition in state licensing regimes enacted in the early twentieth century. See Michele Gustavson and Nick Taylor, *At Death’s Door – Idaho’s Corporate Practice of Medicine Doctrine*, 47 IDAHO L. REV. 479, 482-95 (2011) (reviewing history of doctrine). Courts then repeatedly upheld the state laws. See, e.g., *Semler v. Oregon State Bd. of Dental Examiners*, 294 U.S. 608, 611 (1935) (“That the state may regulate the practice of dentistry, prescribing the qualifications that are reasonably necessary, and to that end may require licenses and establish supervision by an administrative board, is not open to dispute... We have held that the state may deny to corporations the right to practice, insisting upon the personal obligation of individuals”); *U.S. v. American Med. Ass’n*, 110 F.2d 703, 714 (D.C. Cir. 1940) (“And so it has been held under varying conditions, speaking generally, that where a corporation operates a clinic or hospital, employs licensed physicians and surgeons to

treat patients, and itself receives the fee, the corporation is unlawfully engaged in the practice of medicine. This is true because it has been universally held that a corporation as such lacks the qualifications necessary for a license, and without a license, its activities become illegal”), *cert. denied*, 310 U.S. 644 (1940).

Courts and commentators have articulated two primary reasons for preventing business corporations from practicing medicine. First, only people can obtain the medical licenses needed to practice:

The rationale behind the doctrine is that a corporation cannot be licensed to practice medicine because only a human being can sustain the education, training, and character-screening which are prerequisites to receiving a professional license. Since a corporation cannot receive a medical license, it follows that a corporation cannot legally practice the profession.

Berlin v. Sarah Bush Lincoln Health Ctr., 688 N.E.2d 106, 110 (Ill. 1997). “The statutes could be completely avoided and rendered nugatory, if one or more persons, who failed to have the requisite learning to pass the examination, might nevertheless incorporate themselves formally into a corporation in whose name they could practice lawfully the profession which was forbidden to them as individuals. A corporation, as such, has neither education, nor skill, nor ethics. These are *sine qua non* to a learned profession.”

Isles Wellness Inc. v. Progressive Northern Ins. Co., 703 N.W.2d 513, 517-18 (Minn. 2005) (quoting *State v. Bailey Dental Co.*, 234 N.W. 260, 262 (Iowa 1931)).

Second, permitting business corporations to own and administer medical practices and employ doctors would threaten physicians’ bonds with patients and risk care motivated by profit rather than purely medical decision-making:

[T]he ban on corporate practice is intended to prevent interference with the physician-patient relationship by a corporation or other unlicensed person and to ensure that medical decisions are made by a licensed

physician... [T]he physician should not be forced to choose between the dictates of his or her “employer” and the best interests of the physician's patients. It is this potential for divided loyalties... that the bar against corporate practice is intended to prevent.

Steinsmith v. Med. Bd., 85 Cal. App. 4th 458, 462 (Cal. App. 2000) (ellipses in original, quoting 1996 Medical Board of California report).

As medical practice has evolved, states have approved certain exceptions to the corporate practice of medicine doctrine. Most notably, all states now permit professionals to form and practice in professional corporations:

Professionals traditionally practiced either as solo practitioners or in partnerships, but not as corporations because of ethical standards inconsistent with a corporate form of doing business. As a consequence, professionals were denied a wide variety of federal and state tax benefits available to others who could incorporate... [P]rofessional practitioners lobbied state legislatures nationwide to enact statutes that would permit professionals to organize in a modified corporate form that would be recognized as a corporation for tax purposes while leaving professional ethical standards intact.

Berrett v. Purser & Edwards, 876 P.2d 367, 372 (Utah 1994). Professional corporations differ from business corporations, however, because states restrict share ownership in professional corporations to licensed professionals or their entities, such as partnerships and limited liability companies. States also require some or all officers and directors to be licensed professionals and specify that only licensees can actually provide care. Courts have therefore “distinguished between professional corporations and traditional corporations. The role of a shareholder in a professional corporation is far more analogous to a partner in a partnership than it is to the shareholder of a general corporation.” *Trainor v. Apollo Metal Specialties, Inc.*, 318 F.3d 976, 986 (10th Cir. 2002) (quotation omitted). This paper includes an addendum listing every state’s professional corporation laws requiring shareholders, directors and officers to be licensed

and restricting professional practice to licensees rather than their entities.

Other recent and widely adopted exceptions to the prohibition on corporate practice include permitting employment of doctors and dentists by hospitals, HMOs, insurers, nonprofit and charitable entities, government providers, educational institutions, and companies and unions where doctors and dentists treat only employees or members and their families. This paper does not examine corporate practice by these entities.

Despite these exceptions and criticism from some commentators that the doctrine is now out of date, *see* Gustavson and Taylor, *supra*, the ban on corporate dental practice remains in force and is routinely applied to ordinary business corporations and for-profit clinics. For example, courts have recently voided contracts between dental management companies and dentists under the laws of several states because the arrangements gave the companies broad control over how the dentists cared for patients and effectively allowed the companies to practice dentistry without a license. *See, e.g., In re OCA, Inc.*, 552 F.3d 413, 422-423 (5th Cir. 2008) (Texas law); *OrthAlliance, Inc. v. McConnell*, 2010 WL 1344988 at ** 3-4 (D.S.C. 2010) (South Carolina law); *OCA, Inc. v. Hodges*, 615 F. Supp. 2d 477, 481 (E.D. La. 2009) (Pennsylvania law); *Amason v. OCA, Inc.*, 2009 WL 361070 at * 4 (E.D. La. 2009) (Alabama law); *Mason v. Orthodontic Ctrs. of Colorado, Inc.*, 516 F. Supp. 2d 1205, 1216-17 (D. Colo. 2007) (Colorado law); *Orthodontic Ctrs. of Illinois, Inc. v. Michaels*, 403 F. Supp. 2d 690, 695 (N.D. Ill. 2005) (Illinois law).

States accomplish the prohibition of dental practice by business corporations in different ways. Some have statutes expressly banning corporate practice. Some state laws specifically prohibit non-dentists from employing dentists. Some disallow fee-

sharing with unlicensed parties. Many states' dental codes define the practice of dentistry to include owning and operating a dental office, and since dentistry can only be practiced by licensees, the rule necessarily precludes corporations from ownership and operation. Some states have effectuated the prohibition through the common law or regulations promulgated by licensing authorities. Many states have various combinations of these different forms of prohibition. And many criminalize corporate practice specifically or as part of the larger criminal proscription of dental practice by anyone without a license. This paper does not address the civil liability, if any, of business corporations to patients or others for unlicensed practice.

Six states – Arizona, Mississippi, New Mexico, North Dakota, Ohio and Utah – permit practice by business corporations, some form of ownership by non-licensees, or corporate employment of dentists. Two states – Michigan and Nebraska – have no statutes or recent case law directly addressing corporate practice. Two others – Kentucky and Wisconsin – have conflicting or unclear statutory or common law regimes, making it difficult to determine their current limits on corporate practice. Iowa forbids corporate practice but may permit business corporations to employ dentists if they do not influence care or more generally practice dentistry. All of these states, however, prohibit corporate and non-licensee interference with dentists' independent performance and clinical judgment. As a result, a business corporation or unlicensed corporate manager who, for example, dictated use or avoidance of particular procedures or limited the length of time dentists can spend with individual patients would be violating these and every state's laws. All other states and the District of Columbia clearly prohibit corporate practice.

**The Corporate Practice of Dentistry in
Individual States and the District of Columbia**

Alabama

Corporations and other unlicensed persons and entities cannot employ dentists or own their offices or equipment in Alabama. ALA. CODE § 34-9-9(a). Alabama law expressly seeks to “prevent a non-dentist from influencing or otherwise interfering with the exercise of a dentist's independent professional judgment... [N]o person, other than a [licensed] dentist... shall enter into a relationship with a person licensed under this chapter pursuant to which the unlicensed person exercises control over the selection of a course of treatment for a patient, the procedures or materials to be used as a part of such course of treatment, or the manner in which such course of treatment is carried out by the licensee.” *Id.* § 34-9-9(c); *see also Amason v. OCA, Inc.*, 2009 WL 361070 at * 4 (E.D. La. 2009) (finding illegal partnership between dentist and management company under Alabama law based on company’s extensive control over dentist’s operation and sharing of profits). Dentists who enter into prohibited arrangements with corporations may be sanctioned. *Id.*, §§ 34-9-9(d), 34-9-18.

Alabama courts recognize that the corporate practice of dentistry is prohibited. “Obviously, no corporate entity, whether a professional corporation or otherwise, can presume to practice medicine or interfere with the relationship between caregiver and patient” in Alabama. *Ware v. Timmons*, 954 So.2d 545, 576 (Ala. 2006) (Harwood, dissenting); *accord Southeast Cancer Network, P.C. v. DCH Healthcare Auth., Inc.*, 869 So.2d 452, 457 n. 9 (Ala. 2003) (“Southeast, as a corporate person, may not receive staff privileges or practice medicine”).

Alaska

Alaska dentists may “practice in an association, partnership, corporation, or other lawful entity,” but only “with other dentists.” ALASKA STAT. § 08.36.365(1). Moreover, “exercis[ing] control over professional dental matters” constitutes the practice of dentistry and requires licensure, which is only open to “persons” with qualifications unobtainable by corporations. *Id.* §§ 08.36.100, 08.36.110, 08.36.360(7). Alaska’s Board of Dental Examiners has determined that such control occurs when one “determines, interprets, specifies, limits, prescribes, regulates, or otherwise controls by policy, lease, or other arrangement... the use of dental equipment or material” or “the selection of a course of treatment for the patient, the procedures, or materials to be used as part of the course of treatment and the manner in which the course of treatment is carried out by the dentist.” ALASKA ADMIN. CODE tit. 12, § 28.730. Lacking licensure, corporations are precluded from such activities.

Arizona

Arizona allows corporations to provide dental services as long as they register with the state board of dental examiners and services are provided by licensed dentists. ARIZ. REV. STAT. ANN. § 32-1213; *see also Midtown Med. Grp., Inc. v. State Farm Mut. Auto Ins. Co.*, 206 P.3d 790, 792-94 (Ariz. App. 2008, rev. denied) (state law permits operation of corporate-owned health care facilities where approved by state regulatory authorities). But only licensed professionals can actually practice dentistry; corporations are “merely organizational mechanism[s] that provide[] a recognized business form for those so licensed to practice their specified healing art.” *Midtown Med. Grp.*, 206 P.3d at 794-95. Non-professionals and corporations may not legally dictate or interfere with

patient care. *See id.* at 796-97 (“Our examination of Arizona licensing statutes for physicians and chiropractors also reveals nothing that specifically prohibits a doctor from being *employed* by (as contrasted with having the doctor's medical decisions being *influenced* by) a layperson or general corporation” (emphasis in original)); *see also State ex. rel. Bd. of Optometry v. Sears Roebuck & Co.*, 427 P.2d 126, 128 (Ariz. 1967) (corporation cannot “practice optometry through employing a licensed optometrist, or through entering into any type of arrangement with a licensed optometrist which subjects the optometrist to the corporation's direction and control”). Practices operating as professional corporations must feature 51% ownership by licensed dentists. ARIZ. REV. STAT. ANN. § 10-2220.

Arkansas

“It is unlawful for any corporation to practice dentistry or dental hygiene or to hold itself out as entitled to engage therein” in Arkansas. ARK. CODE ANN. § 17-82-104(c); *see also, e.g., Junkin v. N.E. Ark. Internal Med. Clinic, P.A.*, 42 S.W.3d 432, 438 (Ark. 2001) (citing medical corporation provisions, ARK CODE ANN. § 4-29-301 *et seq.*, as embodying corporate practice of medicine doctrine). It is also “unlawful for a dentist, whether in practice as owner, proprietor, manager, employee, or partner, to allow any person other than a dentist licensed by the board to: (A) Direct the dentist's practice; or (B) Direct, participate in, or affect the diagnosis or treatment of patients under the dentist's care.” *Id.* § 17-82-104(b). Violation of these provisions is a crime. *Id.* § 17-82-104(e).

California

Business corporations may not employ dentists in California. CAL BUS. & PROF.

CODE § 1625.1(a) (enumerating entities permitted to “employ licensees and dental assistants and charge for the professional services they render [that] shall not be deemed to be practicing dentistry”). Moreover, in California, “a person practices dentistry... who... [m]anages or conducts as manager, proprietor, conductor, lessor, or otherwise, a place where dental operations are performed.” *Id.* § 1625(e). Because licensure can only be obtained by appropriately qualified natural persons, *see id.* §§ 1629 – 1630, corporations may not own or manage a dental practice or for-profit clinic. Unlicensed practice is, in some circumstances, a criminal offense. *Id.* § 1701.1.

California courts likewise recognize that “[i]t is an established doctrine that a corporation may not engage in the practice of such professions as law, medicine or dentistry.” *Cal. Physicians Serv. v. Aoki Diabetes Research Inst.* 163 Cal. App. 4th 1506, 1514 (Cal. App. 2008, rev. denied) (quotation omitted). “Medicine may be practiced in a partnership or group of physicians, but corporations and other artificial legal entities have no professional rights, privileges, or powers, and a fictitious-name permit to operate a facility called a medical clinic can be issued only if the clinic is wholly owned by licensed physicians.” *Steinsmith v. Medical Board*, 85 Cal. App. 4th 458, 460-61 (Cal. App. 2000) (citations, quotations and ellipses deleted) (upholding sanction against physician employed by clinic owned by non-licensee for violating “requirement that medical practices be solely owned by California-licensed physicians”); *accord* CAL BUS. & PROF. CODE § 2400 (“Corporations and other artificial legal entities shall have no professional rights, privileges, or powers”). The California Medical Board has disciplined physicians for violations of the ban on the corporate practice of medicine:

The Action Report continued: “In the last several years, the board has initiated disciplinary action against physicians who allowed their licenses

to be ‘used’ by lay individuals or corporations. A physician can be disciplined for aiding and abetting unlicensed persons to practice medicine. This constitutes unprofessional conduct, which may result in the ultimate sanction: license revocation. In one particular case which resulted in discipline against a physician's license, the lay corporation (which was ostensibly a management company) owned and operated clinics. The physician contracted with the management company and obtained the fictitious name permits for the clinics. The physician saw patients and performed surgery at one of the clinics about once a week. The medical records were the property of the management company and not the physician. The management company paid the physician a set percentage of the patient fees. In other words, the management company was really practicing medicine without a license and the physician had aided and abetted that unlicensed practice of medicine.”

SteinSmith, 85 Cal. App. 4th at 462.

Colorado

In Colorado, “the practice of dentistry or dental hygiene in a corporate capacity is prohibited,” except for practice in professional corporations. COLO. REV. STAT. § 12-35-116(1). Nor may dentists practice “as a partner, agent, or employee of or in joint venture with any person who does not hold a license to practice dentistry... or... as an employee of or in joint venture with any partnership, association, or corporation.” *Id.* § 12-35-129(1)(h). Fee-sharing with non-dentists is also prohibited. *Id.* § 12-25-129(1)(v); *see also, e.g., Mason v. Orthodontic Ctrs. of Colorado, Inc.*, 516 F. Supp. 2d 1205, 1216-17 (D. Colo. 2007) (invalidating dentist’s contract with management company due to impermissible fee-sharing). Additionally, “[a] person shall be deemed to be practicing dentistry if such person... [i]s a proprietor of a place where dental operation, oral surgery, or dental diagnostic or therapeutic services are performed.” *Id.* § 12-35-113(1)(b). Because practice requires licensure – a credential unavailable to corporations – corporate ownership of a dental practice or lease of equipment to one constitutes unlicensed practice and is therefore criminal. *Id.* §§ 12-35-112, 12-35-117, 12-35-135(1); *see, e.g.,*

Mason, 516 F. Supp. 2d at 1217 (management company's proprietorship of dental practice constitutes illegal unlicensed practice).

Courts have also noted the applicability of the corporate practice of medicine doctrine in Colorado. As the court observed in one recent decision: "The public policy considerations underlying the prohibition of the corporate practice of medicine are (1) lay control over professional judgment; (2) commercial exploitation of the medical practice; and (3) division of the physician's loyalty between patient and employer." *Hall v. Frankel* 190 P.3d 852, 861 (Colo. App. 2008) (quotation omitted).

Connecticut

Connecticut law states: "No person, except a licensed and registered dentist, and no corporation, except a professional service corporation organized and existing under chapter 594a for the purpose of rendering professional dental services, and no institution shall own or operate a dental office, or an office, laboratory or operation or consultation room in which dental medicine, dental surgery or dental hygiene is carried on as a portion of its regular business." CONN. GEN. STAT. § 20-122(a); *see also id* § 20-123(a). Only dentists can practice dentistry and advertise dental services. *Id.* § 20-123(b)(8). The bar on corporations practicing dentistry in Connecticut exists "to ensure that dentists retain ownership and control over the professional aspects of the practice in order to maintain a high standard of care." *OCA v. Christie*, 415 F. Supp. 2d 115, 121 (D. Conn. 2006). As a spokesman for the state's dental association explained:

If the current restrictions on ownership were removed, then non-dentists would be permitted to become owners of dental practices... They could, therefore, insist upon a voice in professional as well as managerial aspects of the practice. Since the non-dentist entrepreneur's prime concern would be the profit making interests of his shareholders, public assurances of a single standard of care could not be guaranteed. At times the interest of

non-dentist owners might conflict with professional standards of care.

Id. (quoting Conn. Joint Standing Comm. Hrgs., Gov't Admin. and Elections, Pt II, 1980 Sess., at 492).

Delaware

“A person shall be regarded as practicing dentistry who is a manager, proprietor, operator or conductor of a place for performing dental operations or who for a fee, salary or other reward paid, or to be paid either to himself or herself or to another person, performs or advertises to perform dental operations of any kind.” DEL. CODE. ANN. tit. 24, § 1101(11). Unable to attain licensure, *see id.* §§ 1122 – 1123 (qualifications for licensure and exam), corporations are therefore bared from owning or operating a dental operation. Unlicensed practice is a misdemeanor. *Id.* § 1134. Dentists are also prohibited from practicing in any entity “which actually limits or restricts the exercise and application of professional judgment... to the detriment of the dentist's or dental hygienist's patients.” *Id.* § 1128(2).

District of Columbia

“To be a manager, proprietor, operator, or conductor of a business or place where dental or dental-hygiene services are performed” is to practice dentistry in the District of Columbia. D.C. CODE § 3-1201.02(5)(J). Because a license is required to practice and corporations cannot obtain one, *id.* §§ 3-1205.01(a), 1205.03(a), they may not legally own, manage or operate a dental practice. Moreover, dentists can only practice under the legal name appearing on their licenses. *Id.* § 3-1205.13(a)(3).

Florida

Florida regulations governing dentists provide: “No corporation, lay body,

organization, or individual other than a licensed dentist or a professional corporation or limited liability company composed of dentists shall engage in the practice of dentistry through the means of engaging the services, upon a salary, commission, or other means of inducement, of any person licensed to practice dentistry in this state.” FLA. ADMIN.

CODE ANN. r. 64B5-17.013(1). The regulations also state:

No dentist shall enter into any agreement with a nondentist which directs, controls, or interferes with the dentist's clinical judgment, or which controls the use of any dental equipment or material while such is being used for the provision of dental services. Nor shall any dentist enter into an agreement which permits any entity which itself is not a licensed dentist to practice dentistry, or to offer dentistry services to the public through the licensed dentist. The clinical judgment of the licensed dentist must be exercised solely for the benefit of his/her patients, and shall be free from any compromising control, influences, obligations, or loyalties

Id., r. 64B5-17.013(2). Dentists may contract with non-dentists for “practice management services,” including assistance with staffing, administrative tasks, marketing, and “methods to increase productivity,” but these services cannot include the exercise of clinical judgment or other aspects of dental practice or amount to “*de facto* employment of a dentist by nondentist.” *Id.*, r. 64B5-17.013(4) – (6).

Florida’s statutes governing dental practice similarly proscribe the delegating of dental care to unauthorized persons or entities. FLA. STAT. §§ 466.001, 466.024. Nondentists may not “[d]irect, control, or interfere with a dentist's clinical judgment.” *Id.*, § 466.0285(1)(c) – (2); *see also, e.g., Rush v. City of St. Petersburg*, 205 So.2d 11, 14-15 (Fla. App. 1967) (upholding contract between city hospital and radiologist as compliant with ban on corporate practice of medicine because “[t]he record here contains no showing that either the hospital or the City directs Dr. Price as to methods used in diagnosing or treating patients”). Violation of this section is a felony, and contracts that

violate it are void. *Id.* §§ 466.0285(3) – (4).

Georgia

“Georgia has formally prohibited corporations from employing such licensed practitioners as orthodontists under a corporate practice of medicine, or dentistry, doctrine.” *Clower v. Orthalliance, Inc.*, 337 F. Supp.2d 1322, 1330 (N.D. Ga. 2004) (upholding management agreement because “the terms of the contract governing the relationship between the parties make it very clear that Defendant did not intend, and in fact did not, employ Plaintiffs to carry out its own corporate practice of orthodontics”); *see also In re OCA, Inc.*, 378 B.R. 493, 500-02 (Bankr. E.D. La. 2007) (finding no corporate practice because dentist maintained authority over treatment and control over business and funds). “[I]t is against the public policy for a business corporation to perform acts which constitute the practice of medicine.” *Sherrer v. Hale*, 285 S.E.2d 714, 717 (Ga. 1982); *accord Pearle Optical of Monroeville, Inc. v. Georgia State Bd. of Examiners*, 133 S.E.2d 374, 381 (Ga. 1963). It is a felony for a corporation to practice dentistry “under the protection of” the license of a dentist, and dentists can be disciplined for practicing as corporate employees. GA. CODE ANN. §§ 43-11-51, 43-11-47(a)(7)(a).

Hawaii

Hawaii has a sweeping rule barring dental practice by business corporations:

No corporation shall practice dentistry or engage therein, or hold itself out as being entitled to practice dentistry, or furnish dental services or dentists, or advertise under or assume the title of dentist or dental surgeon or equivalent title, or furnish dental advice for any compensation, or advertise or hold itself out with any other person or alone, that it has or owns a dental office or can furnish dental service, dentists, or dental surgeons, or solicit through itself, or its agents, officers, employees, directors, or trustees, dental patronage for any dentist or dental surgeon employed by any corporation.

HAW. REV. STAT. § 448.15. The bar does not apply to corporations “furnishing information or clerical services” to dentists who “assume[] full responsibility for the information and services.” *Id.* Corporations that violate the prohibition can be fined \$200-500 for each offense, with each day's violation considered a separate offense. *Id.* Moreover, dentists cannot “permit [an unlicensed] person or entity... to directly or indirectly own, direct, control, or interfere with the licensee's practice of dentistry.” *Id.* § 448.14.5(a). A non-dentist cannot interfere with a dentist’s clinical judgment; direct his practice; or select a course of treatment, the procedures or materials to be used, or the manner of treatment. *Id.* § 448-14.5(b). Violation of these provisions can result in criminal penalties and, for dentists, professional discipline. *Id.*, §§ 448-17, 448-21.

Idaho

Idaho dentists may not practice “in or under the name of, or as a member, representative, agent or employee of, or in connection with, any company, association, or corporation” other than a professional corporation. IDAHO CODE ANN. § 54-924(3). Violating this rule subjects dentists to penalties up to \$10,000 per violation and other sanctions, *id.*, and any “resident citizen” can seek to permanently enjoin violations. *Id.* § 54-933. Courts may void contracts transgressing these disciplinary rules. *See, e.g., Miller v. Haller*, 924 P.2d 607, 613-14 (Idaho 1996) (examining doctors’ referral arrangement for voidness, though finding contract legal).

Illinois

Illinois seeks “to ensure that each dentist... meets minimum requirements for safe practice without clinical interference by persons not licensed under this Act. It is the legislative intent that dental services be provided only in accordance with the provisions

of this Act and not be delegated to unlicensed persons.” 25 ILL. COMP. STAT. § 38.1. Dentists therefore may not be employed by non-dentists or permit “any person other than another dentist to direct, control, or interfere with [their] clinical judgment.” *Id.*; *see also id.* § 37. Illinois law also specifically proscribes the corporate practice of dentistry outside the setting of professional corporations:

No corporation shall practice dentistry or engage therein, or hold itself out as being entitled to practice dentistry, or furnish dental services or dentists, or advertise under or assume the title of dentist or dental surgeon or equivalent title, or furnish dental advice for any compensation, or advertise or hold itself out with any other person or alone, that it has or owns a dental office or can furnish dental service or dentists, or solicit through itself, or its agents, officers, employees, directors or trustees, dental patronage for any dentist employed by any corporation.

Id. § 44. Corporations may furnish “information or clerical services” and “non-clinical business services” to dentists. *Id.* Corporate employment of or interference with dentists is considered unlicensed practice and may be enjoined by any person who brings an action. *Id.* § 37. Violation of these provisions can result in fines and disciplinary proceedings. *Id.* § 23.

The state’s bar on the corporate practice of medicine, “firmly grounded in the public interest, has been upheld repeatedly by Illinois courts.” *Orthodontic Centers of Illinois, Inc. v. Michaels*, 403 F. Supp. 2d 690, 695 (N.D. Ill. 2005). In *Michaels*, the court voided an agreement between a corporation and orthodontists because the company shared the orthodontists’ revenue in exchange for management and other services and called itself “a partner in nationwide orthodontic practices and considered [its] revenues to be derived from direct service to patients.” *Id.* at 696-700.

Indiana

Indiana law “seeks to insulate dental practitioners from obtrusive influences so as

to preserve the traditional ethical precepts of the profession.” *Orthodontic Affiliates, P.C. v. OrthAlliance, Inc.*, 210 F. Supp. 2d 1054, 1059 (N.D. Ind. 2002). A person or entity commits the prohibited, unlicensed practice of dentistry in Indiana if he or it:

- (2) Directs and controls the treatment of patients within a place where dental services are performed...
- (10) Is the employer of a dentist who is hired to provide dental services.
- (11) Directs or controls the use of dental equipment or dental material while the equipment or material is being used to provide dental services...
- (12) Directs, controls, or interferes with a dentist's clinical judgment.
- (13) Exercises direction or control over a dentist through a written contract concerning the following areas of dental practice:
 - (A) The selection of a patient's course of treatment.
 - (B) Referrals of patients, except for requiring referrals to be within a specified provider network, subject to the exceptions under IC 27-13-36-5...
 - (E) The clinical content of advertising.
 - (F) Final decisions relating to the employment of dental office personnel.

IND. CODE § 25-14-1-23; *see also id.* § 25-14-1-1 (licensing requirement); *State ex rel. Indiana State Bd. of Dental Exam'rs v. Boston Sys. Dentists*, 19 N.E.2d 949, 950 (Ind. 1939) (company's employment of dentists, ownership of equipment and payment of operating expenses constituted illegal corporate practice of dentistry); 828 IND. ADMIN. CODE 1-1-15(8) – (9) (defining “dental incompetence or improper conduct of a dentist” to include “practicing or offering to practice beyond the scope permitted by law” and “permitting or delegating the performance of a procedure to one not qualified by education, training, or licensure to undertake [it]”). Anyone can sue to enjoin the

unlicensed practice of dentistry, which is a felony. IND. CODE §§ 25-14-1-14, 25-14-1-25(a)(1), 25-14-1-30. But providing business and management services and personnel to dentists is not unlicensed practice. See *Orthodontic Affiliates*, 210 F. Supp. 2d at 1059-60.

Iowa

Corporations may not practice dentistry in Iowa. See *State v. Bailey Dental Co.*, 234 N.W. 260, 262 (Iowa 1931) (corporation's employment of dentists, ownership of equipment and overall control constituted unlicensed practice; "Its unlicensed officials necessarily determine all its policies whether they be deemed professional or commercial"); accord *State v. Plymouth Optical Co.*, 211 N.W.2d 278, 282 (Iowa 1973). As an Iowa Attorney General's opinion summarized, "the common thread underlying the corporate practice prohibition is the vesting of improper dominion and control over the practice of a profession in a corporate entity. Where the corporation exerts undue dominion and control over the licensed professional, the corporation in essence becomes the 'practitioner,' which is not permitted under statute." 91-7-1 Op. Iowa Atty. Gen. 5 (July 12, 1991), available at <http://government.westlaw.com/iaag/>. Dentists in Iowa can be fined and disciplined for "[k]nowingly aiding, assisting, procuring, or advising a person to unlawfully practice dentistry." IOWA CODE § 153.34(12); see also *id.* §§ 153.17 (only licensed dentists may practice).

However, there is some Iowa authority for the proposition that a corporation may employ dentists as long as it refrains from dictating how they practice. See, e.g., *State v. Winnesheik Co-op Burial Ass'n*, 22 N.W.2d 800, 802 (Iowa 1946) ("There is no general rule that a corporation cannot own a business, the conduct of which requires licensed

operators. The rule is that a corporation cannot in general practice one of the learned professions”). “[T]he mere denomination as an ‘employee’ would be only [an] element[] of the entire picture which would be examined” to determine if a corporation broke the rule against professional practice by dictating dental care. 1992 Op. Iowa Atty. Gen. at 28.

Kansas

Kansas law declares that “no corporation shall practice, offer, or undertake to practice or hold itself out as practicing dentistry.” KAN. STAT. ANN. § 65-1425. A dentist may be sanctioned for “complicity in association with or allow[ing] the use of [his] name in conjunction with any person who is engaged in the illegal practice of dentistry.” *Id.* § 65-1436(a)(8).

Kansas’ common law acknowledges the prohibition of corporate medical practice. *See, e.g., Early Detection Ctr., Inc. v. Wilson*, 811 P.2d 860, 868 (Kan. 1991) (refusing to enforce contract providing for corporate practice: “Here, EDC, a general corporation, agreed to provide medical services to third parties by hiring licensed medical practitioners. A general corporation is prohibited from providing medical services or acting through licensed practitioners; therefore, there could be no contract between the general corporation and the third parties to perform the services”); *Braun v. Promise Regional Med. Ctr.-Hutchinson, Inc.*, 2011 WL 6304119 (D. Kan. 2011) (“Under Kansas law, professional corporations can provide medical services, general corporations cannot”).

Kentucky

Kentucky’s statute governing dental practice would seem to allow non-dentists to

employ dentists. KY. REV. STAT. ANN. § 313.080(1)(b) (“No person shall... [o]perate, offer to operate, or represent or advertise the operation of a dental practice of any type unless licensed by *or employing individuals licensed by* the board” (emphasis added)). At the same time, well-established Kentucky case law disallows the corporate practice of professions. *See Am. Ins. Ass’n v. Ky. Bar Ass’n*, 917 S.W.2d 568, 570 (Ky. 1996) (referring to “long-standing Kentucky case law which proscribes a corporation from being licensed to practice a learned profession”). As an early Kentucky decision explained:

Thus, there is scarcely any judicial dissent from the proposition that a corporation cannot lawfully engage in the practice of law or of medicine. And the great weight of authority is that neither a corporation nor any other unlicensed person or entity may engage, through licensed employees, in the practice of medicine or surgery, dentistry, or any of the limited healing arts... Dentists are deemed to be within the terms of a statute authorizing suspension or revocation of their licenses for unprofessional conduct by accepting employment and practicing under the direction of corporations.

Kendall v. Beiling, 175 S.W.2d 489, 493, 495 (Ky. App. 1943) (quotations and citations omitted) (upholding suspension of optometrist for abetting corporate practice).

It is therefore difficult to discern the limits on corporate dental practice in Kentucky. At a minimum, corporations are likely prohibited from attempting to dictate or influence dentists’ clinical practice. KY. REV. STAT. ANN. § 313.010(11) (defining “dentistry”). Unlicensed practice is a misdemeanor. *Id.* § 313.070(1) – (2).

Louisiana

Louisiana has several provisions effectively precluding the corporate practice of dentistry. Dentists are barred from “procuring, inducing, aiding, or abetting a person not licensed or registered as a dentist to engage in the practice of dentistry or to possess an

ownership interest of any kind in a dental practice,” though they may contract with companies to manage their practices. LA. REV. STAT. ANN. § 37:776(10). A dentist may not form “[p]rofessional connection or association with, or lend[] his name to, another for the illegal practice of dentistry by another.” *Id.*, § 37:776(13); *c.f. Prater v. Porter*, 737 So.2d 102, 105-06 (La. App. 1999) (company did not employ doctors in malpractice case where it lacked control “over how the physicians performed their professional medical services”). Louisiana law also prohibits “[d]ivision of fees or other remuneration or consideration with any person not licensed to practice dentistry in Louisiana.” *Id.* § 37:776(9)(a); *see also In re Shiplov*, 945 So.2d 52, 58-60 (La. App. 2006) (upholding discipline of dentist for sharing fees with non-licensee who, in exchange for fees, granted use of facility and equipment and covered expenses).

Louisiana case law endorses the principle that corporations cannot practice licensed professions. *See, e.g., W. Baton Rouge Parish School Bd., Inc. v. T.R. Ray, Inc.*, 367 S.W.2d 332, 334 (La. 1979) (“it was legally impossible for [architecture company to have become licensed] because a licensee must pass an examination and possess certain moral, legal and educational qualifications. Consequently, the agreement between the corporation and the board was a contract to perform architectural services unlawfully without a certificate of registration and license”).

Maine

“A corporation may not practice, offer or undertake to practice or hold itself out as practicing dentistry” in Maine. ME REV. STAT. ANN. tit. 32, § 1081(4). Because the statute expressly permits dentists to work as employees of other dentists and governmental and nonprofit entities, employment by business corporations is presumably

excluded as unlawful corporate practice. *Id.* Maine also prohibits “[p]ractic[ing] dentistry under the name of a corporation, company, association, parlor or trade name,” *id.* § 1092(1)(D), and precludes dentists from “enter[ing] into arrangements with a person who is not licensed to practice dentistry” regarding “dental equipment or material or a dental office.” *Id.* § 1081(3)(c). The unlicensed practice of dentistry is a crime in Maine, and only individuals may become licensed. *Id.* §§ 1062-A, 1082, 1092(1)(A); *see also, e.g., In re Longworth*, 222 A.2d 561, 563 (Me. 1966) (referring to “the improper practice of the profession of law by a corporation”). Likewise, Maine dental regulations proscribe the delegation of dental practice to others. 02-313 ME. CODE R. § 9II(N).

Maryland

Maryland squarely prohibits the corporate practice of dentistry: “Except as otherwise provided by [Maryland] law, a licensed dentist may not practice dentistry: (1) Under a name other than the name of the licensee; (2) As a business entity; or (3) Under the name of a business entity.” MD. CODE ANN., HEALTH OCCUPATIONS § 4-603(a); *see also Backus v. Cty. Bd. of Appeals for Montgomery Cty.*, 166 A.2d 241, 242-43 (Md. 1960) (Maryland statute prohibits dentists from practicing as entity; “state laws generally forbid the practice of medicine or dentistry by a corporation or other entity through licensed employees”).

Massachusetts

Massachusetts expressly prohibits business corporations from operating dental practices:

No corporation hereinafter formed or organized shall conduct a dental office and no person shall conduct a dental office under any name other than that of the dentist actually owning the practice. The provisions of statute shall not apply to a professional corporation organized to practice

dentistry under chapter one hundred and fifty-six A.

MASS. GEN LAWS Ch. 112, § 49; *see also* *McMurdo v. Getter*, 10 N.E.2d 139, 368 (Mass. 1937) (upholding prohibition on corporate practice of optometry). Violation of this provision is a misdemeanor. *Id.* § 52.

Michigan

Michigan has no provision expressly prohibiting the corporate practice of dentistry, though a previous law barring dentists from sharing fees with non-dentists was construed to effect the prohibition. *See Toole v. Michigan State Bd. of Dentistry*, 11 N.W.2d 229, 231 (Mich. 1943). Michigan does preclude a dentist from negligently delegating and permitting a license to be used by any unauthorized person. MICH. COMP. LAWS § 333.16221(a), (c)(ii). Unlicensed practice is a felony in Michigan. *Id.* § 333.16294. Case law has suggested a corporation is legally unable to practice medicine. *See Craig ex rel. Craig v. Oakwood Hosp.*, 684 N.W.2d 296, 313-20 (Mich. 2004) (business corporation precluded from buying into medical practice because shareholders of business corporation were not physicians); *Blue Cross and Blue Shield of Mich. v. Demlow*, 270 N.W.2d 845, 867 (Mich. 1978) (noting laws enabling managed health care plans “were intended to resolve legal challenges that prepaid health care corporations engage in the illegal practice of medicine”).

Minnesota

“[W]ith limited exceptions, the corporate practice of medicine doctrine exists in Minnesota.” *Isles Wellness Inc. v. Progressive Northern Ins. Co.*, 703 N.W.2d 513, 524 (Minn. 2005). The state has outlawed the corporate practice of dentistry by statute:

It is unlawful for any person to: enable an unlicensed person to practice dentistry; to practice or attempt to practice dentistry without a license; [or]

to practice dentistry under the name of a corporation or company... No corporation shall practice dentistry or engage in it, or hold itself out as being entitled to practice dentistry, or furnish dental services or dentists, or advertise under or assume the title of dentists or dental surgeons or equivalent title. No corporation shall furnish dental advice, or advertise or hold itself out with any other person or alone, that it has or owns a dental office or can furnish dental service, dentists, or dental surgeons, or solicit, through itself, or its agents, officers, employees, directors or trustees, dental patronage for any dentist or dental surgeon.

MINN. STAT. § 150A.11(1). Violation of this provision is a misdemeanor. *Id.* § 150A.12.

Furthermore, “[n]o decision entailing the exercise of professional judgment may be delegated or assigned to anyone who is not a professional licensed to practice the professional services involved in the decision.” *Id.*, § 319B.09(2)(c).

Mississippi

Mississippi conditionally permits dentists to practice in or as employees of business corporations:

After due consideration, it is the policy of [the Mississippi State Board of Dental Examiners] not to concern itself with the form or type of business arrangements entered into by a licensee, provided certain prerequisites are met, to-wit...

2. The method and manner of patient treatment and the means by which patients are treated are left to the sole and absolute discretion of the licensed dentist. The provision of dental services and the exercise of sound dental judgment at all times shall be exercised solely at the discretion of the licensed dentist, and he/she shall not be subject to any influence, direct or indirect, to the contrary.
3. The manner of billing and the amount of fees and expenses charged a patient for dental services rendered shall be left solely to the discretion of the licensed dentist.

Miss. State Bd. of Dental Exam’rs R. No. 55 (March 8, 1996), *available at* www.dentalboard.ms.gov/msbde.nsf/webpages/laws_regsadopted.

The Mississippi Dental Practice Act also makes it unlawful to “practice dentistry

under, or use the name of any company, association or corporation or business name or any name except [the licensee's] own in a manner which is in violation of section 73-9-61, or to operate, manage or be employed in any room, rooms or office where dental work is done or contracted for, and that is operated under the name of any company, association, trade name or corporation in a manner which is in violation of section 73-9-61.” MISS. CODE ANN. § 73-9-39. Section 73-9-61, in turn, prohibits “[d]elegating professional responsibilities to a person who is not qualified by training, experience or licensure to perform them,” as well as “[p]racticing deceit or other fraud upon the public,” “[p]racticing dentistry or dental hygiene under a false or assumed name,” and deceptive advertising. *Id.* § 73-9-61(1)(i), (l). These provisions therefore bar corporate employment of dentists if it is deceptively concealed and if dentists do not exercise independent professional judgment but instead delegate it to, *e.g.*, unlicensed corporate management. The illegal practice of dentistry is a misdemeanor. *Id.*, § 73-9-57.

Missouri

Missouri’s code specifically outlaws the practice of dentistry by business corporations. MO. REV. STAT. § 332.081(2); *see also* 79-79 Op. Mo. Atty. Gen. (July 31, 1979), *available at* <http://ago.mo.gov/opinions/1979/79-79.htm> (non-licensee cannot own interest in corporation organized to engage in dental practice and business corporation cannot lawfully be established to practice dentistry). In addition, the law states: “A dentist shall not enter into a contract that allows a person who is not a dentist to influence or interfere with the exercise of the dentist's independent professional judgment.” *Id.* § 332.081(4).

Montana

A person practices dentistry in Montana if she “is a manager, proprietor, operator, or conductor of a place where dental operations, oral surgery, or dental services are performed.” MONT. CODE ANN. § 37-4-101(2)(b). Thus, since licenses may not be obtained by corporations, *id.* § 37-4-301 (license qualifications), it is unlicensed dental practice for a corporation to own, manage or operate a dental clinic. Practicing dentistry without a license is a misdemeanor. *Id.* § 37-4-327(1).

Nebraska

Nebraska statutes do not address the corporate practice of dentistry but do provide that “[n]o person shall coerce or attempt to coerce a licensed dentist to practice dentistry in any manner contrary to the standards of acceptable and prevailing practice of the dental profession.” NEB. REV. STAT. § 38-1128(2). Dentists must practice and advertise under their own names. *Id.* § 38-1129. “Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a credential by a person not credentialed to do so” is unlawful. *Id.* § 38-178(10). An early decision predating some aspects of the current licensing regime suggests that corporations may employ licensed professionals. *See Tarry v. Johnston*, 208 N.W. 615, 618 (Neb. 1926) (“The owners of hospitals and sanitariums may legally employ physicians and surgeons to perform professional services therein”).

Nevada

Business corporations cannot own or operate dental practices in Nevada; only certain nonprofit or federally affiliated entities can. NEV. REV. STAT. §§ 631.215(f), 631.3454(1). A licensed dentist must remain responsible for treatment even when these

nonprofits provide care. *Id.*, § 631.3452. An unlicensed person “is guilty of the illegal practice of dentistry” and commits a crime if he or she “owns or controls a dental practice, shares in the fees received by a dentist or controls or attempts to control the services offered by a dentist.” *Id.* §§ 631.395(10), 631.400(1) – (2). Furthermore, the following constitutes “unprofessional conduct” for a dentist in Nevada:

2. Associating with or lending his or her name to any person engaged in the illegal practice of dentistry or associating with any person, firm or corporation holding himself, herself or itself out in any manner contrary to the provisions of this chapter.
3. Associating with or being employed by a person not licensed pursuant to this chapter if that person exercises control over the services offered by the dentist, owns all or part of the dentist's practice or receives or shares the fees received by the dentist [except in case of family ownership after a dentist's death].

Id., § 631.3465. Violation of these provisions is a misdemeanor or, if repeated, a felony.

Id. § 631.400(3).

New Hampshire

New Hampshire law defines owning, maintaining, operating or managing a “dental business” as the practice of dentistry. N.H. REV. STAT. ANN. §§ 317-A:20(I)(b). In New Hampshire, as everywhere, practicing dentistry requires a license. *Id.* § 317-A:7. Dental practice by unlicensed “person[s],” apparently including corporations as persons other than “natural persons,” constitutes a felony. *Id.* § 317-A:33 (“Except as otherwise provided, any person who shall practice or attempt to practice dentistry or dental hygiene in this state without a license... shall be guilty of a misdemeanor if a natural person *or guilty of a felony if any other person*” (emphasis added)). Hence, corporate ownership or operation of a dental business is criminal in New Hampshire. *See also, e.g., In re New Hampshire Disabilities Rights Ctr., Inc.*, 541 A.2d 208, 212 (N.H. 1988) (“when a

corporation's employees, acting within the scope of their authority, provide legal services to the corporation's clients or customers, the corporation practices law. This is a crime unless the corporation is a professional legal corporation conforming both to RSA chapter 294-A and to the rules of this court, *see* RSA 294-A:20, or unless it is a non-profit corporation conforming to RSA 292:1-a”).

New Jersey

New Jersey law directly prohibits the corporate practice of dentistry:

No corporation shall practice or continue to practice, offer or undertake to practice, or hold itself out as practicing dentistry. No person shall practice or continue to practice dentistry as an officer, agent or employee of any corporation, or under the name of any corporation... Every person or corporation, violating any of the foregoing provisions of this section shall be subject to a penalty of three hundred dollars for the first offense and six hundred dollars for the second and each subsequent offense.

N.J. STAT. ANN. § 45:6-12. New Jersey does permit “industrial or corporate” dental clinics, but New Jersey Board of Dentistry rules limit these to nonprofit entities administered by corporations and unions for the benefit of their employees and members and their families. *Id.*, §§ 45:6-15.1 – 15.12; N.J. ADMIN. CODE § 13:30-4.1. As the New Jersey Supreme Court observed: “N.J.S.A. 45:6-12 prohibits the corporate practice of dentistry. Presumably, the Professional Service Corporation Act, when read in conjunction with N.J.S.A. 45:6-12, which was passed prior to the Professional Service Corporation Act, means that only professional corporations, not regular business corporations, can perform professional dental services.” *Limongelli v. N.J. State Bd. of Dentistry*, 645 A.2d 677, 684 (N.J. 1993). However dentists configure their practices, “they retain responsibility for the quality of care and the appropriateness of their professional judgments.” N.J. ADMIN. CODE § 13:30-8.13(b).

New Mexico

New Mexico permits non-dentist individuals and corporations to employ dentists and provide dental services if they “apply to the [New Mexico Board of Dental Health Care] for the proper license and [] adhere to the requirements, re-licensure criteria and fees as established by the rules of the board.” N.M. STAT. ANN. § 61-5A-5.1. Corporations lacking this licensure cannot employ dentists. *Id.* § 61-5A-5(G). Moreover, the Board’s rules setting forth “responsibilit[ies] of non-dentist owner[s]” provide: “no person other than a New Mexico licensed dentist shall have direct control or interfere with the dentist’s or dental hygienist’s clinical judgment.” N.M. CODE R. § N 16.5.9.8(L). The rules also limit non-dentist owners who applied for licenses after March 6, 2005 to the ownership or operation of two facilities. *Id.* § 16.5.9.8(H).

New York

The unauthorized practice of dentistry is a felony in New York, NY EDUC. LAW §§ 6512(1), 6602, and state courts have held that business corporations commit unlicensed practice by employing dentists or doctors or sharing their fees. *See Empire Magnetic Imaging, Inc. v. Comprehensive Care of N.Y., P.C.*, 705 N.Y.S.2d 652, 655-56 (N.Y. App. Div. 2000) (Krausman, J., concurring and dissenting) (fee-sharing prohibited); *Accident Claims Determination Corp. v. Durst*, 638 N.Y.S.2d 69 (N.Y. App. Div. 1996) (plaintiff corporation and principals “engaged in the illegal practice of medicine, in contravention of Education Law § 6512(1), by brokering medical services, in that they selected and hired doctors to conduct medical examinations without obtaining the appropriate agency licenses, and then split the fees with those physicians. Plaintiffs’ performance of the medical examinations was therefore illegal, and their claims arising

from those actions are not enforceable”); *United Calendar Mfg. Corp. v. Huang*, 463 N.Y.S.2d 497, 499-500 (2 Dept. 1983) (corporation acted illegally by employing dentists and doctors and providing medical services). One federal court noted last year: “Indeed, New York’s licensing requirements were enacted to prohibit the ‘corporate practice of medicine’ that could result in the conduct alleged here, *i.e.*, fraudulent practices such as billing for treatments that were not provided or were medically unnecessary.” *Allstate Ins. Co. v. Rozenberg*, 771 F. Supp. 2d 254, 264 (E.D.N.Y. 2011) (quotation omitted).

North Carolina

In North Carolina, a person or entity that “[o]wns, manages, supervises, controls or conducts, either himself or by and through another person or other persons, any enterprise wherein” dental procedures are performed is practicing dentistry, which requires licensure. N.C. GEN. STAT. § 90-29(a), (b)(11). Because only statutorily qualified “person[s]” may become licensed, *id.*, this provision effectively precludes the corporate practice of dentistry. *See* Op. N.C. Atty. Gen. (September 3, 1999), *available at* [www.ncdoj.gov/about-DOJ/legal-services/legal-opinions/opinions/dental-care-and-business-services-\(1\).aspx](http://www.ncdoj.gov/about-DOJ/legal-services/legal-opinions/opinions/dental-care-and-business-services-(1).aspx) (“It is unlawful for a non-dentist to own, manage, supervise, control or conduct an enterprise which is engaged in the practice of dentistry. N.C. Gen. Stat. 90-29(b)(11)”). Fee-sharing is also prohibited. *See id.* (“when the business entity shares in the dentist’s profits... [it] becomes a participant in the practice rather than a provider of services to the practice and runs afoul of the prohibition against non-dentists engaging in the practice of dentistry”). “[C]ontrol over or input into the clinical practice of the dental practice or its dentists” and hiring or firing personnel evince impermissible corporate practice; “[a]ny clauses which... affect the professional decision-making of a

dental practice are problematic.” *Id.* Unlicensed practice is a misdemeanor and may be enjoined on any citizen’s complaint. N.C. GEN. STAT. § 90-40, 90-40.1(a). One North Carolina court recently upheld rules precluding corporate dental practice. *See Affordable Care Inc. v. N.C. St. Bd. of Dental Exam’rs*, 571 S.E.2d 52, 537-38 (N.C. App. 2002).

North Dakota

Non-dentists in North Dakota may own up to 49% of a dental practice. N.D. CENT. CODE § 43-28-25(3). While § 43-28-25(3) provides that “any person” without a dental license may acquire such ownership, the allowance presumably also extends to corporations. “Board-approved medical clinics,” along with hospitals and public health facilities, may own more than 49% of a dental practice, but neither the statute nor dental board regulations defines the term “Board-approved medical clinics” or “medical clinics.” Nonetheless, the “practice of dentistry” requires licensure, *id.* § 43-28-01, 43-28-10, and since only licensed individuals may provide patient care, non-dentist interference with or control over clinical decision-making would constitute unlicensed practice. *See, e.g., Hsu v. Marian Manor Apartments, Inc.*, 2006 WL 6240108 (N.D. Dist. Ct. 2006) (employment of doctors by unlicensed person constitutes unlicensed medical practice); *aff’d*, 743 N.W.2d 672 (N.D. 2007); *State Bd. of Architecture v. Kirkham, Michael & Assoc., Inc.*, 179 N.W.2d 409, 412 (N.D. 1970) (corporation lacked statutory qualifications and qualities necessary for architecture license and so could not practice).

Ohio

Ohio permits dentists and other professionals to practice through and be employed by business corporations. OHIO REV. CODE ANN. § 1701.03(B); *see also id.* § 4715.18

(dentists may practice under name of corporation for profit that includes his name). While corporations may employ dentists, the entities cannot themselves practice dentistry. *See Natl. Union Fire Ins. Co. of Pittsburgh, PA v. Wuerth*, 913 N.E.2d 939, 943 (Ohio 2009). Rather, as in all states, eligibility for dental licensure requires personal characteristics not possessed by corporations. OHIO REV. CODE ANN. § 4715.10.

Oklahoma

Oklahoma's State Dental Act considers "[o]wning, maintaining, or operating an office or offices by holding a financial interest in same for the practice of dentistry" to be the practice of dentistry itself. OKLA. STAT. tit. 59, § 328.19(A)(18). Unable to achieve licensure, *see id.* §§ 328.21 (license requirements), corporations therefore may not practice dentistry by owning, maintaining or operating a for-profit dental clinic. Unlicensed practice is a crime. *Id.* § 328.49(B)(1)(a). Moreover, "[a]llowing any corporation, organization, group, person, or other legal entity, except another dentist or a professional entity... to direct, control, or interfere with the dentist's clinical judgment" can be the basis for professional discipline. *Id.* § 328.32(34).

Oregon

"Only a person licensed as a dentist by the Oregon Board of Dentistry may own, operate, conduct or maintain a dental practice, office or clinic in this state." OR. REV. STAT. § 679.020(2). There are exceptions for nonprofit, educational and other entities, but not business corporations. *Id.* § 679.020(3). The prohibition does not cover ownership of assets such as "real property, furnishings, equipment and inventory;" "[e]mploying or contracting for the services of personnel other than licensed dentists;" or [m]anagement of the business aspects of a dental office or clinic that do not include the

clinical practice of dentistry.” *Id.* § 679.020(6). Violation of § 679.020 is a felony. *Id.*, § 679.991(1). Thus, “a dentist cannot be an employee of a lay person, including a lay corporation.” 2001-1 Op. Or. Atty. Gen. 2 (September 21, 2001), *available at* <http://www.doj.state.or.us/agoffice/agopinions/op2001-1.pdf>. “Only a natural person licensed by the board may engage in the clinical practice of dentistry.” *Id.* at 5. As the Oregon Supreme Court held decades ago:

Where the right to practice a profession is conditioned upon pursuit of a course of specialized training, the acquiring of a diploma, the passing of an examination, and the furnishing of a certificate of good moral character, it is obvious that a corporation cannot comply with such requirements...

The prohibition of the practice of optometry by unlicensed persons would be rendered ineffective if corporations were permitted to furnish optometrical services through salaried employees who are licensed optometrists.

State ex rel Sisemore v. Standard Optical Co. of Ore. 188 P.2d 309, 310-11 (Or. 1947).

While the court has loosened the rule discussed in *Sisemore* as to some professions, it remains with regard to dentistry. *See* 2001-1 Op. Or. Atty. Gen. at 9-10; *see also* OR. REV. STAT. § 58.375(1) (permitting non-licensee minority ownership of medical corporation). Atypically, Oregon has no provision expressly requiring shareholders of professional corporations (other than medical corporations) to be licensees, *see id.*, Ch. 58 *et seq.*, a specific provision dictates that the dentistry licensing laws supersede professional corporation laws. *Id.* § 58.369.

Pennsylvania

“Pennsylvania common law generally prohibits the corporate practice of medical professions.” *OCA, Inc. v. Hodges*, 615 F. Supp. 2d 477, 481 (E.D. La. 2009) (citing *Neill v. Gimbel Bros.*, 199 A. 178 (Pa.1938)); *see also* *Schoffstall v. Nationwide Mut. Ins.*

Co., 2002 WL 31951309 at * 33 (Pa. Comm. Pleas 2002) (“Thus, it is clear that the [Pennsylvania] Supreme Court believed that when a corporation employed a professional, the professional's allegiance would always favor their employer's interests to the detriment of the interests of the client of the professional;” but distinguishing lawyer employees of insurance company), *aff'd*, 844 A.2d 1297 (Pa. Super. 2003, app. denied). Non-dentists therefore may not own interests in professional corporations or partnerships composed of dentists. *See Hodges*, 615 F. Supp. 2d at 482-87; *see also Apollon v. OCA, Inc.*, 592 F. Supp. 2d 906, 911-14 (E.D. La. 2008); *Healthguard of Lancaster, Inc. v. Gartenberg*, 2002 WL 32107627 at * 2 n. 1 (E.D. Pa. 2002) (“Under Pennsylvania law, only a person licensed to practice medicine can own a corporation which practices medicine”). Unlicensed practice and aiding and abetting it are more generally prohibited and in some cases criminal. 63 PA. CONS. STAT. §§ 123.1(a)(7), 129; *see also State Dental Council and Examining Bd. v. Pollock*, 318 A.2d 910, 916 and n. 6 (Pa. 1974). “[A]ll procedures involving professional judgment and skill... are nondelegable” to non-dentists. *Pollock*, 318 A.2d. at 917.

Rhode Island

“Any person is practicing dentistry” in Rhode Island if she “[o]wns, leases, maintains, operates a dental business in any office or other room or rooms where dental operations are performed, or directly or indirectly is manager, proprietor or conductor of this business.” R.I. GEN LAWS § 5-31.1-1(16)(i)(A)(II). Because only requisitely qualified individuals are eligible for licensure, *id.*, § 5-31.1-6, corporations may not own or operate for-profit dental businesses. *See, e.g., In re Rhode Island Bar Ass'n*, 263 A.2d 692, 694-95 (R.I. 1970) (“Absent express statutory authority, the so-called ‘learned

professions' have not been permitted to practice in the corporate form. Prior to the enactment of the professional service corporation law, the practice of law by a corporation was expressly prohibited in Rhode Island"). Rhode Island punishes unlicensed practice as a felony. R.I. GEN LAWS § 5-31.1-35. It also prohibits non-dentists in "management service organization[s] [from] to interfer[ing] with the professional judgment of the dentist in the practice." *Id.* § 5-31.1-10(29).

South Carolina

"South Carolina has a common law prohibition against the corporate practice of medicine." *Baird v. Charleston Cty.*, 511 S.E.2d 69, 78 (S.C. 1999); *see also Brown v. OCA, Inc.*, 2008 WL 4758622 at * 3 (E.D. La. 2008). In an early decision on the subject, the South Carolina Supreme Court explained:

If such a course were sanctioned the logical result would be that corporations and business partnerships might practice law, medicine, dentistry or any other profession by the simple expedient of employing licensed agents. And if this were permitted professional standards would be practically destroyed, and professions requiring special training would be commercialized, to the public detriment.

Ezell v. Ritholz, 198 S.E. 419, 424 (S.C. 1938). The prohibition has been held to apply to dentistry and to preclude corporate practice. *See OrthAlliance, Inc. v. McConnell*, 2010 WL 1344988 at ** 3-4 (D.S.C. 2010) (rejecting arguments that dentistry exempt from prohibition); *Brown*, 2008 WL 4758622 at * 3. "If the corporation and professional have an employer/employee relationship, the corporation is unlawfully engaged in the practice of that profession." *Brown*, 2008 WL 4758622 at * 3 (citing South Carolina Attorney General's Opinion). Other factors include fee-sharing and whether the corporation determines the practice's policies. *Id.* South Carolina regulations disallow splitting fees with non-dentists. *See McConnell*, 2010 WL 1344988 at * 4. Statutory law also dictates

that only dentists “may exercise control over: (1) the selection of a course of treatment of a patient, the procedures or materials to be used as part of the course of treatment, or the manner in which the course of treatment is carried out by the licensee.” S.C. CODE ANN. § 40-15-135(B).

South Dakota

A “manager, proprietor, operator, or conductor of a place where dental operations are performed” is deemed to be practicing dentistry in South Dakota. S.D. CODIFIED LAWS § 36-6A-32(A)(2). Unlicensed practice is a misdemeanor. *Id.*, § 36-6A-28. As a result, corporations that wish to own or operate dental practices require licensure – credentialing off limits to entities. *Id.*, 36-6A-48; *see also Kelley v. Duling Enter., Inc.*, 172 N.W.2d 727, 737 (S.D. 1969) (“A corporation cannot engage in the practice of a learned profession in South Dakota”). In addition:

Only a dentist licensed or otherwise permitted to practice under this chapter may carry on the profession of dentistry in [South Dakota].
Dentists have the exclusive responsibility for:

- (1) The diagnosis of conditions within the human oral cavity and its adjacent tissues and structures;
- (2) The treatment plan of a dental patient;
- (3) The prescribing of drugs which are administered to patients in the practice of dentistry; [and]
- (4) The overall quality of patient care which is rendered or performed in the practice of dentistry, regardless of whether the care is rendered personally by a dentist or dental auxiliary;

S.D. CODIFIED LAWS § 36-6A-31.

Tennessee

Tennessee’s statute governing the practice of dentistry provides:

- (a) Except where dental services are regularly made available to employees by their employer or where dental services are being provided by an official agency of the state government or any subdivision, any nonprofit organization or hospital, it is unlawful:
 - (1) For any licensed dentist to practice dentistry as an employee of any person or other entity not engaged primarily in the practice of dentistry; or
 - (2) For an owner of an active dental practice to be other than a dentist duly licensed to practice in this state.

TENN. CODE ANN. § 63-5-121; *see also LensCrafters, Inc. v. Sundquist*, 33 S.W.3d 772, 776-77 (Tenn. 2000) (corporate practice of medicine doctrine applies in Tennessee); 94-009 Op. Tenn. Atty. Gen. 4 (Jan. 28, 1994) (business corporations may not employ physicians). Further, operating “a place where dental operations or dental services are performed” is defined as the practice of dentistry, which requires licensure. *Id.* §§ 63-5-107(a), 63-5-108(b)(15). Unlicensed practice is a misdemeanor, *id.*, § 63-5-128(a), while violating § 63-5-121 can result in civil penalties. *Id.*, § 63-5-124(a)(2).

Texas

A person practices dentistry under the Texas Dental Practices Act if he “owns, maintains, or operates an office or place of business in which the person employs or engages under any type of contract another person to practice dentistry,” or “controls, influences, attempts to control or influence, or otherwise interferes” with a dentist’s independent professional judgment. TEX. OCC. CODE ANN. § 251.003(a)(4), (9); *see also id.* § 258.001 (dentists may not delegate dental care to unlicensed persons). Because licensure may only be secured by qualified individuals and is required for practice, *see id.* §§ 256.001 – 256.002, corporate ownership or operation of, or control over or interference with, a dental practice is prohibited. Unlicensed practice is a felony, *id.* §

264.151(a), and a dentist must not permit himself or his practice “to be used or made use of, directly or indirectly, or in any manner whatsoever, so as to create or tend to create the opportunity for the unauthorized or unlawful practice of dentistry by any person, firm, or corporation.” 22 TEX. ADMIN. CODE § 108.1(4).

Improper control or influence over or interference with a dentist’s practice includes placing time or other limits on procedures or treatment, prescribing supplies or equipment, interfering with diagnosis, encouraging improper overtreatment or undertreatment, and other steps. *Id.* § 108.70(b). Agreements covering non-clinical matters such as leases of space or equipment, the provision of advertising, collection services, and others are permitted. *Id.* § 108.70(c). “Employment agreements which specify that the dentist shall continue to have the right to use [his] independent professional judgment” are also permitted, *see id.*, but given the bar on unlicensed entities employing dentists, this subsection presumably permits employment by other dentists only.

“Texas courts have held that when a corporation employs a licensed physician to treat patients and itself receives the fee, the corporation is unlawfully engaged in the practice of medicine.” *Garcia v. Texas St. Bd. of Med. Exam’rs*, 384 F. Supp. 434, 437, 438-39 (W.D. Tex. 1974) (three-judge court) (upholding bar on corporate employment of physicians: “The Texas legislature seeks to preserve the vitally important doctor-patient relationship, and prevent possible abuses resulting from lay person control of a corporation employing licensed physicians on a salaried basis”), *aff’d*, 421 U.S. 995 (1975). This “longstanding tradition in Texas preventing unlicensed individuals or corporations (other than professional corporations in the relevant profession) from in

substance owning a controlling equity interest in the practice of a licensed learned health professional” was recently reaffirmed by the Fifth Circuit, which invalidated a management company’s contract with dentists because it amounted to the illegal corporate practice of dentistry. *In re OCA, Inc.*, 552 F.3d 413, 422-423 (5th Cir. 2008).

Utah

Utah permits dental practice through the mechanism of a business corporation. UTAH CODE ANN. § 58-69-804(1). However, “[r]egardless of the form in which a licensee engages in the practice of dentistry, the licensee may not permit another person who is not licensed in Utah as a dentist and is not otherwise competent to engage in the practice of dentistry to direct, or in any other way participate in, or interfere in the licensee's practice of dentistry.” *Id.*, § 58-69-804(2). “[D]irecting or interfering with a licensed dentist's judgment and competent practice of dentistry” is a felony. *Id.*, § 58-69-501(3), § 58-69-503(1).

Vermont

Vermont law precludes dental practice by business corporations and other unlicensed people or entities. A person is “practicing dentistry” in Vermont if he “owns, leases, maintains, or operates a dental business in any office or other room or rooms where dental operations are performed, or directly or indirectly is manager, proprietor, or conductor of the same.” VT. STAT. ANN. tit. 26, §§ 721(a)(2), 723(c). Thus, as in other states, corporate ownership or operation of a dental business is prohibited in Vermont in light of the entities’ inability to obtain licenses. *Id.* § 801 (qualifications for license). Unlicensed practice is a crime. *Id.*, § 723(c), tit. 3, § 127(c).

Virginia

“No corporation shall be formed or foreign corporation domesticated in the Commonwealth [of Virginia] for the purpose of practicing dentistry other than a professional corporation.” VA. CODE ANN. § 54.1-2717(A). It is also “unlawful for any dentist to practice his profession in a commercial or mercantile establishment” – a term defined to mean “a business enterprise engaged in the selling of commodities or services unrelated to the practice of dentistry or the other healing arts.” *Id.* § 54.1-2716. The Virginia Supreme Court has also recently confirmed that business corporations may not legally practice medicine or obtain licensure, which is only open to individuals. *See Parikh v. Family Care Ctr., Inc.*, 641 S.E.2d 98, 101 and n. 3 (Va. 2007).

Washington

“Washington law prohibits the corporate practice of dentistry and other learned professions that affect the public health and welfare, such as law, medicine, and optometry.” *OCA, Inc. v. Hassel*, 389 BR 469, 474 (E.D. La. 2008) (citing Washington cases). “No corporation shall practice dentistry or shall solicit through itself, or its agents, officers or employees, directors or trustees, dental patronage for any dentists or dental surgeons employed by any corporation.” WASH. REV. CODE § 18.32.675(1). Violation of this section is a misdemeanor. *Id.* § 18.32.675(2). One who “owns, maintains or operates an office for the practice of dentistry” also practices. *Id.* § 18.32.020. Consequently, “a corporation that owns a business that provides dental or other professional services outright and employs licensed professionals is clearly engaged in the unlawful corporate practice of dentistry.” *Hassel*, 389 BR at 476. Furthermore:

In situations in which a corporation does not own a dental practice outright or does not formally employ dentists, courts look past the nominal

characterization of the relationship to the purpose and effect of the agreement to determine whether the corporation engages in the *de facto* practice of dentistry as defined by the statute. They consider whether the relationship between a licensed professional and a corporate entity is, in effect, a partnership or arrangement in which the corporation is so entangled with the affairs of the practice that it effectively maintains or operates a dental practice...

In cases in which the non-dentist or corporation had the power to influence the operation of the practice even though it did not own the practice or employ the dentist, Washington courts have found that the non-dentist entity effectively operated or maintained the practice.

Id. (citing Washington cases). In *Hassel*, a management company's "business relationships with the orthodontists were ones in which [it] controlled significant aspects of the orthodontic practices, shared in their profits, and played an active role in their operations," therefore violating Washington law. *Id.* at 478-79.

West Virginia

With the exception of the state, hospitals, and certain nonprofit entities, "only a dentist may own a dental practice in the state [of West Virginia]." W.Va. Bd. of Dental Exam. R. § 5-6-6, *available at* www.wvdentalboard.org/5-06%202009.pdf. Dentists may form and practice in "dental corporations," but shareholders must be dentists and the Board of Dental Examiners must issue a certificate of authorization to the corporation. W.VA. CODE § 30-4-28(b) – (c); W. Va. Bd. of Dental Exam. R. § 5-6-3. In addition, "[t]he practice of dentistry includes... [c]oordinating dental services to meet the oral health needs of the patient," and practice is limited to licensees. *Id.* §§ 30-4-15(1), 30-4-24. As a result, an unlicensed business corporation could not legally coordinate dental services offered to patients.

Wisconsin

Wisconsin law may permit non-dentists to employ dentists as long as patient care is unaffected:

No contract of employment entered into between a dentist and any other party under which the dentist renders dental services may require the dentist to act in a manner which violates the professional standards for dentistry set forth in this chapter. Nothing in this subsection limits the ability of the other party to control the operation of the dental practice in a manner in accordance with the professional standards for dentistry set forth in this chapter.

WIS. STAT. § 447.06(1). Whether “any other party” refers only to licensed dentists, who unquestionably can employ other dentists in professional corporations or other arrangements, or also includes non-licensees is unclear. No other statute, regulation or case law otherwise addresses corporate dental practice. Unlicensed dental practice is prohibited. *Id.* § 447.03(1).

Wyoming

“[A]ny person is deemed to be practicing dentistry [in Wyoming]... [w]ho is a manager, proprietor, operator or a conductor of a place where dental operations, oral surgery or dental services are performed.” WYO. STAT. ANN. § 33-15-114(a)(ii). A “proprietor,” in turn, is one who employs dentists or provides material or equipment needed to manage a practice. *Id.* § 33-15-128. Because practicing dentistry requires licensure, which is available only to certain natural persons, *id.* §§ 33-15-108, 33-15-124, a corporation may not serve as manager, proprietor, operator or conductor of a dental practice. However, Wyoming’s general corporate law may conflict with its dentistry laws. *See id.* § 17-3-102 (corporations may “offer professional services or practice a profession... by and through the person or persons of its... licensed employees”). In that

event, presumably the more specific laws governing dentistry would control. Unlicensed practice is a crime. *Id.* § 33-15-124.

Wyoming courts have also recognized that unlicensed corporations may not interfere with the provision of medical care. *See, e.g., Wyo. St. Bd. of Exam'rs of Optometry v. Pearle Vision Ctr.*, 767 P.2d 969, 979 (Wyo. 1989) (corporation not deemed to be practicing optometry given lack of evidence “the arrangement permitted the corporation to exercise control over the optometrist in his optometric practice”).

Addendum:

Professional Corporation Laws Limiting Ownership to Licensed Professionals and Requiring Services to be Provided by Licensees*

Alabama:	ALA. CODE §§ 10A-4-1.03, 10A-4-3.01, 10A-4-3.06, 10A-4-2.04.
Alaska:	ALASKA ADMIN. CODE tit. 12, §§ 10-45-030, 10.45.050, 10.45.060.
Arkansas:	ARK. CODE ANN. § 4-29-406.
California:	CAL. BUS. & PROF. CODE § 1805; CAL. CORP. CODE §§ 13401.5, 13405(a), 13406(a).
Colorado:	COLO. REV. STAT. § 12-36-134.
Connecticut:	CONN. GEN. STAT. § 33-182d, 33-182g.
Delaware:	DEL. CODE ANN. tit. 8, §§ 605 – 607.
DC:	D.C. CODE §§ 29-505(a), 29-508(b).
Florida:	FLA. STAT. §§ 621.006, 621.009.
Georgia:	GA. CODE ANN. §§ 14-7-4, 14-7-5(a).
Hawaii:	HAW. REV. STAT. §§ 415A-9, 415A-6, 415A-14.
Idaho:	IDAHO CODE ANN. §§ 30-1308, 30-1315.
Illinois:	10 ILL. COMP. STAT. 7, 11, 15.
Indiana:	IND. CODE §§ 23-1.5-2-4, 23-1.5-2-5, 23-1.5-3-1(a).
Iowa:	IOWA CODE § 496C.7, 496C.10, 496C.16.
Kansas:	KAN. STAT. ANN §§ 17-2712, 17-2713.
Kentucky:	KY. REV. STAT. ANN. §§ 274.017(1), 274.027(1), 274.045.
Louisiana:	LA. REV. STAT. ANN. §§ 12.982, 12:985.
Maine:	ME. REV. STAT. ANN. tit. 13, §§ 734(1), 741(1) (shareholders may include non-licensees approved by licensing authority as qualified), 751.
Maryland:	MD. CODE ANN., CORP. AND ASS'N §§ 5-105, 5-109(a), 5-117(a).
Massachusetts:	MASS. GEN LAWS Ch. 156A, §§ 5, 9, 10.
Michigan:	MICH. COMP. LAWS §§ 450.4904, 450.4905.
Minnesota:	MINN. STAT. §§ 319B.02(19), 319B.07, 319B.09.
Missouri:	MO. REV. STAT. §§ 356.081, 356.091, 356.111.
Montana:	MONT. CODE ANN. §§ 35-4-207, 35-4-301.
Nebraska:	NEB. REV. STAT. § 21-2208.
Nevada:	NEV. REV. STAT. § 89.070(1), 89.230.
New Hampshire:	N.H. REV. STAT. ANN. §§ 294-A:5, 294-A:8, 294-A:20.
New Jersey:	N.J. STAT. ANN. §§ 14A:17-6, 14A:17-7, 14A:17-10(a).
New York:	NY BUS. CORP. LAW §§ 1504, 1507(a), 1508(a).
North Carolina:	N.C. GEN. STAT. §§ 55B-4(2) – (3), 55B-6., 55B-8.

* Because Arizona, Mississippi, New Mexico, North Dakota, Ohio, and Utah permit full or partial ownership of dental practices by business corporations, their professional corporation laws are not considered.

Oklahoma:	OKLA. STAT. tit. 18, §§ 809, 810, 811, 814.
Oregon:	OR. REV. STAT. § 58.156(1).
Pennsylvania:	15 PA. CONS. STAT. §§ 2923(a), 2924(a).
Rhode Island:	R.I. GEN LAWS §§ 7-5.1-3(a), 7-5.1-6A.
South Carolina:	S.C. CODE ANN. §§ 33-19-130, 33-19-200, 33-19-300.
South Dakota:	S.D. CODIFIED LAWS § 47-12-3.
Tennessee:	TENN. CODE ANN §§ 48-101-607, 48-101-610(a)(2), 48-101-618.
Texas:	TEX. BUS. ORGS. CODE ANN. §§ 301.006(b), 301.007(b).
Vermont:	VT. STAT. ANN., tit. 11, §§ 823, 830(a), 840.
Virginia:	VA. CODE ANN. §§ 13.1-544, 13.1-546, 13.1-553(B).
Washington:	WASH. REV. CODE §§ 18.100.060(1), 18.100.060(2), 18.100.065, 18.100.090.
West Virginia:	W.VA. CODE §§ 30-4-28(b), (c); W.Va. Bd. of Dental Exam. R. § 5-6-3.
Wisconsin:	WIS. STAT. §§ 180.1903(1), 180.1911(1).
Wyoming:	WYO. STAT. ANN. §§ 17-3-101, 17-3-102.

Moriarty Leyendecker presents this paper as a public service.

This paper may be found in electronic form at moriarty.com/cpmd

Research was contributed by Jim Moriarty, Nicole Quintana, Steve Hackerman and Amanda Forsythe. The final paper was fully researched and written by Martin Siegel.

For further information on the Corporate Practice of Dentistry, see additional stories and information at moriarty.com

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HOLY CROSS ANGLICAN SCHOOL

Serving God, Serving His Children

Mrs. Deborah Domingo
General Manager, Anglican School in Belize
Anglican Diocese of Belize
P O Box 535
Belize City, Belize

Mrs. Grace Williams
Principal, Holy Cross Anglican School
P.O. Box 59
San Pedro Town, Belize
011-501-226-3456

RECEIVED
JUN 17 2014
IOWA DENTAL BOARD

May 20, 2014

Iowa Dental Association
P.O. Box 31088
Johnston, IA 50131
USA

Dear Sirs:

We are a thriving primary school of over 400 students in one of the poorest areas in San Pedro, Belize and have many times been blessed by visiting dentists who volunteer their time in our small dental clinic. As these volunteers are so valuable to our school and students, I am writing in support of suggested changes that encourage dentists to volunteer. Ambergris Caye has only one dentist on the island and for our students (and their families) is very expensive.

Being a poor country with many barriers to success, our students and parents tend to have simple aspirations for their teeth – as long as they don't hurt and chew food they are generally happy. Yet on our island, which has a tourist economy, good teeth are essential for success as no one wants to hire a waitress, tour guide, construction worker, office staff or housekeeper who cannot offer a beautiful smile.

The work our dentists do are the day to day essentials of removing plaque, filling cavities, removing teeth and occasional root canals and the restoring of badly decayed front teeth.

Yet despite our beautiful tropical location, friendly people and great facilities, we struggle to get the volunteer support we need to adequately care for our student's teeth.

I am writing to support several suggestions that would make it more attractive for dentists from Iowa to volunteer in schools such as ours.

The first suggestion is that Iowa follow the lead of many other US states and **offer dentists in active practice 10 hours of continuing education credit** for volunteering overseas.

The second and more important suggestion is to **make it easier for retired dentists to volunteer overseas**. A long time retired dentist, Dr James Snyder, has suggested a new type of license for retired dentists who no longer practice, but find the cost of acquiring 30 hours of continuing education to maintain their license so they can volunteer difficult. Especially when the courses offered in implants, orthodontics, periodontal and endodontic surgery have little to do with the treatment provided to the students in Holy Cross. He has suggested a **special new license for**

www.holycrossbelize.org
www.hcefoundation.org

retired dentists that would still require state approval and oversight but would credit time spent overseas.

Third, I'd like to ask for any support or suggestions you can give in promoting Belize in general, and our school in particular, as a volunteer option to dentists in Iowa. I have included more information at the end of this letter.

Thank you very much for taking the time to consider this letter. Should you wish to contact me I can be reached easily at volunteerbelize@gmail.com.

Kind regards,



Lydia Brown
Volunteer Coordinator
Holy Cross Anglican School

Information for Volunteers:

The Smile Center Too is a fully equipped, air conditioned dental clinic located on the tropical island of Ambergris Caye, Belize. We are looking for Dentists willing to volunteer their time treating the students at the Holy Cross Anglican Primary School where the clinic is located.

We have support staff who will help give you all the information you need to plan your trip, facilitate paperwork and run the clinic.

The clinic runs during regular school hours, leaving plenty of time for volunteers to enjoy the beaches, dive the reef or just soak up the sun. Ambergris Caye was recently voted the number 1 island destination by Trip Advisor and has great hotels and restaurants.

For more information contact me at volunteerbelize@gmail.com or visit <http://holycrossbelize.org/about-us/dental-clinic/>



HOLY CROSS ANGLICAN SCHOOL

Serving God, Serving His Children

May 20, 2014

Dear Students, Teachers and Staff of Holy Cross School,

Please sign this petition to allow dentists in Iowa to receive credit for their volunteer work here at Holy Cross Anglican School!!!

G. Williams Principal	V. Jasher V. Principal
Estrella Trachez Librarian	Daniel Jones - Teacher
Brandon Bond Tr. Tr.	Jamira Tillet Jallet Teacher
Ayami Esquivias Jr.	Rushelly Smith R. Smith Teacher
Ray Willy Tr.	Romelia Trejo Kitchen
D. Lopez Tr.	Rosa Trechez Kitchen
Crystal Castro Teacher	Rosalia Trejo Kitchen
S. Ferguson Tr. Teacher	Cristina Gutierrez Kitchen
Diana Martinez Teacher	Darla Veyrano
Zulma Raul Teacher	EBA WITZIL
Cesa Nicholson Asst. Teacher	Eliza Chavez
L. Williams Teacher	MAYYA CRUZ
Tr. Teacher	Catharina Chub
Virginia Elk Teacher	Alexia Melendez
Tr.	Roy Tun
Evelyn Pagnada Student	Estrellalisa Martinez
Carla Chacon	Jasmin Geronimo
Keyla Gonzalez	Victoria Ramos
Ernis Morales	Luis Hernandez
Nicole Paguacha	Angel Diaz
Suceli Lopez	Ahnie August
Rangel putz	Crystal Gonzalez
Jack Anderson	Yubeidi Chellana
Estela Melendez	Vanessa Gonzalez
Danni Aric Airis	Clary Chan
Mari Ali Humes	Brandon Brown
Mirna Pagnada	Tr. Joshua Morales

Michael cobs Student	Renata Acil of Student
Jhovan Hernandez Student	Camila Vasquez
Damaris caner student	Ariany Pine lo
Alfred Pascual Student	Santiago Valdez student
Cliffon Coimi Student	Ashanti Vejerario student.
Aaliyah Thompson Student	Steven Arceo Student
Sandra Alvarado Student	Reynaldo Campos student
Roger Rivera Student	Nylon Vega Student
Jessica Saki Student	Gilberto Santos
Christian Orellana Student	Anty Barreto Student
Zeniah Dixon Student	Ameiliv Student
Alhussan martin Student	Ingrid Morales Student
Kevin Flores student	Kenya Moreira Student
Noe Sosa Student	Lucita Guerrero Student
Myrka Villanueva Student	Melissa Eiley Student
Zian Buhetz Student	Evelyn Castillo student
Junior Medina Student	Stephanie Garcia student
Dilia Vejerano Student	Zoren Chan student
Yeimi Lara Student	Jordin Amaya Student.
David Humes Student	Yesenia Duke student
Nayeli Lara Student	Martin Gonzalez Student
Karina Molina Student	Blanca Velasquez
Midiam Torres Student	Rodell Mendez student
Yanelly Martinez Student	Samantha Velasquez Student
Melvin Garcia Student	Alex Dominguez student
Lindy Dominguez Student	Dayri Novelo student
Kevin Valle Student	Derison Rangel
Carlos Govez student	Ethan Bardalez Student
Jennifer Ramos student	Ren-e-rtiz student
Robert Palacio student	Darwin Santos Student
Brady Jimenez Student	Breanna Amaya Student
Johanna Aries Student	Gueslin Garcia Student
David Diaz Student	Isiene Garcia Student.
Almar Martinez student	Evelin Mencia Student
Delroy Zuniga	Alcair Castillo Student.
Kevin Velasquez	Valerie Gday Student
Jennifer Neal Student.	Juan Dafen Student
Michael Brown Student	Lester Xi's Student
Jeffery Coc Student	Andrew Chac Student
Naideline Meza - Student	Kylie Gomez student
Janice Hernandez - Student	Jose Vasquez Student

Raul Arqueta	Luis Gomez
Charity Palocio	Linelson Mendez
Edward Campos - Student	Nelly Gutierrez
Ruben Guerra - Student	Princess Zetina
Yubella Canton - Student	Isla Garcia
Josue Hernandez - Student	Beberly Chavez
Alisa Salki - Student	Jamal Martinez
Chris Lisbey - Student	Alexander Fitzgibbon
Jocelyn Vasquez - Student	Star Klaidi Cardenas
Zuleidy Gomez - Student	Jonathan Miranda
Jolge Reina - Student	Crystal Flowers
John Saldivar - Student	Ingrid Gonzalez
Maritza Mercado	Kristiani Gomez
Elin Lemus	Lennisha Gonzalez
Diana Melendez	Kimberly Molina
Royal Sanchez	Ericka Lopez
Briany Vasquez	Nicole Quinn
Zenisha Dixon	Rosario Vargas
Armandy Hernandez	Amanda Einfeld
Ronald Muñoz	Olga Meza
Arcenia Ach	Mary Hodnes
James Soderlan	Jessica Mejia
Anie Vejerano	Tanya Audinett
Rodul Laurino Mogn	
Joshua Melendez	
Walter Pott	
Terisa Saki	
Rosie Martinez	
Wannie Melendez	
Zenon Anderson	
Jordin Castillo	
Adran Cobo	
Reina Larin	
Gizel Flowers	
Fernando Gregorio	
Oscar Lopez	
Joey Erete	
Ryan Ryan Saldivar	
Der Derwayne Meighan	
Luis Choc	
Jael Martinez	



Calendar Year 2013 Services Report
Public Health Supervision of Dental Hygienists

Total Number of Dental Hygienists with Supervision Agreement: 108 (*90 provided services*)
Total Number of Dentists with Supervision Agreement: 74

Service	Total Provided	Total Clients Age 0-20	Total Clients ≥ Age 21
Sealant	33,905	7,282	0
Prophylaxis	801	324	477
Open Mouth Screening	78,522	73,356	5,166
Fluoride Application	50,408	48,382	2,026
Individual Counseling	42,303	38,719	3,375
Group Education	1,196	20,001	1,781
Other (x-rays)	202	21	248

Referrals to Dentist(s)			
Clients Age 0-20		Clients ≥ Age 21	
Regular Care	Urgent Care	Regular Care	Urgent Care
39,695	6,759	1,306	411

Service	Total Services Per Public Health Setting										
	Child Care	Federal Public Health Program (WIC)	Federally Qualified Health Center	Free Clinic	Head Start	Local Public Health Program	Nonprofit Community Health Center	Nursing Facility	Public Health Dental Van	School	State Public Health Program
Sealant	0	6	48	0	0	311	0	0	537	33,003	0
Prophylaxis	0	20	239	4	0	147	136	189	0	66	0
Open Mouth Screening	650	28,119	113	22	8,719	619	62	292	541	39,347	38
Fluoride Application	557	21,874	57	15	8,471	497	28	186	475	18,210	38
Individual Counseling	0	26,608	131	17	3,660	376	135	51	152	11,173	0
Group Education	57	60	0	0	339	34	0	4	31	657	14
Other (x-rays)	0	0	89	5	0	46	58	4	0	0	0



RECEIVED

MAY 14 2014

APPLICATION FOR REINSTATEMENT OF A Lapsed DENTAL OR DENTAL HYGIENE LICENSE

IOWA DENTAL BOARD

IOWA DENTAL BOARD

400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687

Ph. (515) 281-5157 <http://www.dentalboard.iowa.gov>

Dentist **Dental Hygienist**

- ✓ Contact the Board office for information regarding the total fees and continuing education hours due.
- ✓ Include the non-refundable application fees as indicated on the worksheet provided by the Board office. Do not submit payment in cash.
- ✓ Complete each question on the application. **If a question is not applicable, answer "N/A."**

Full Legal Name: (Last, First, Middle) <i>Safabakhsh, Masih</i>			
Other Names Used: (e.g. Maiden Name) <i>N/A</i>			
Gender: <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	U.S. citizen: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	If no, visa type or alien registration number: <input type="checkbox"/> Student Visa <input type="checkbox"/> Work Visa <input type="checkbox"/> Alien Registration	
	Provide visa/alien registration number: _____	Expiration date of current visa: _____	
Date of Birth: <i>4-9-1964</i>	City of Birth: <i>Esfahan</i>	State of Birth: <i>N/A</i>	Country of Birth: <i>Iran</i>
Home Address: <i>6210 Lakeside Road</i>			
City: <i>Marion</i>	County: <i>Linn</i>	State: <i>Iowa</i>	Zip: <i>52302</i>
Home Phone: <i>(319) 331-4910</i>		Home E-mail: <i>N/A</i>	
Work Address: <i>1515 Blairs Ferry Rd NE.</i>			
City: <i>Cedar Rapids</i>	County: <i>Linn</i>	State: <i>Iowa</i>	Zip: <i>52402</i>
Work Phone: <i>(319) 393-7000</i>	Work Fax: <i>(319) 294-5813</i>	Work E-mail: <i>masih@gentledentalcr.com</i>	

For office use only:	License #:	Date Issued:	Fee:
----------------------	------------	--------------	------

#29130 \$150

REINSTATEMENT INFORMATION

1. Were out of practice? If yes, please provide a signed statement including dates and reason(s): Yes No

2. Reason for seeking reinstatement: To reinstate my license after suspension. I
have completed all remediation requirements as stated by the
Iowa Dental Board and wish to return to practicing dentistry

3. If you are granted reinstatement, where do you intend to practice? Gentle Dental, PC,
1515 Blairs Ferry Rd NE, Cedar Rapids, IA 52402

LICENSE INFORMATION

List all state/countries in which you are or have ever been licensed. All licenses must be verified. Contact the Board with any questions.				
State/Country	License No.	Date Issued	License Type (e.g. Resident, Faculty, Permanent)	How Obtained (e.g. Credentials, Exam)
Iowa/US	07660	6-18-1993	Doctor of Dental Surgery General Dentistry	Graduate of U of I Dental College

CONFIDENTIAL PERSONAL DATA

Privacy Act Notice: Disclosure of your Social Security Number on this license application is required by 42 U.S.C. § 666(a)(13), Iowa Code §§ 272J.8(1) and 261.126(1), and Iowa Code § 272D.8(1). The number will be used in connection with the collection of child support obligations, college student loan obligations, and debts owed to the state of Iowa, and as an internal means to accurately identify licensees, and may also be shared with taxing authorities as allowed by law including Iowa Code § 421.18.

Social Security Number: _____

CONFIDENTIAL MEDICAL INFORMATION

Questions 1-5

Important! Read these definitions before completing Questions 1-5.

DEFINITIONS

“Ability to practice dentistry with reasonable skill and safety” means ALL of the following:

1. The cognitive capacity to make appropriate clinical diagnosis, exercise reasoned clinical judgments, and to learn and keep abreast of clinical developments;
2. The ability to communicate clinical judgments and information to patients and other health care providers; and
3. The capability to perform clinical tasks such as dental examinations and dental surgical procedures.

“Medical condition” means any physiological, mental, or psychological condition, impairment, or disorder, including drug addiction and alcoholism.

“Chemical substances” means alcohol, legal and illegal drugs, or medications, including those taken pursuant to a valid prescription for legitimate medical purposes and in accordance with the prescriber’s direction, as well as those used illegally.

“Currently” does not mean on the day of, or even in weeks or months preceding the completion of this application. Rather, it means recently enough so that the use of chemical substances or medical conditions may have an ongoing impact on the ability to function and practice, or has adversely affected the ability to function and practice within the past two (2) years.

“Improper use of drugs or other chemical substances” means ANY of the following:

1. The use of any controlled drug, legend drug, or other chemical substance for any purpose other than as directed by a licensed health care practitioner; and
2. The use of any substance, including but not limited to, petroleum products, adhesive products, nitrous oxide, and other chemical substances for mood enhancement.

“Illegal use of drugs or other chemical substances” means the manufacture, possession, distribution, or use of any drug or chemical substance prohibited by law.

CRIMINAL HISTORY AND OTHER INFORMATION

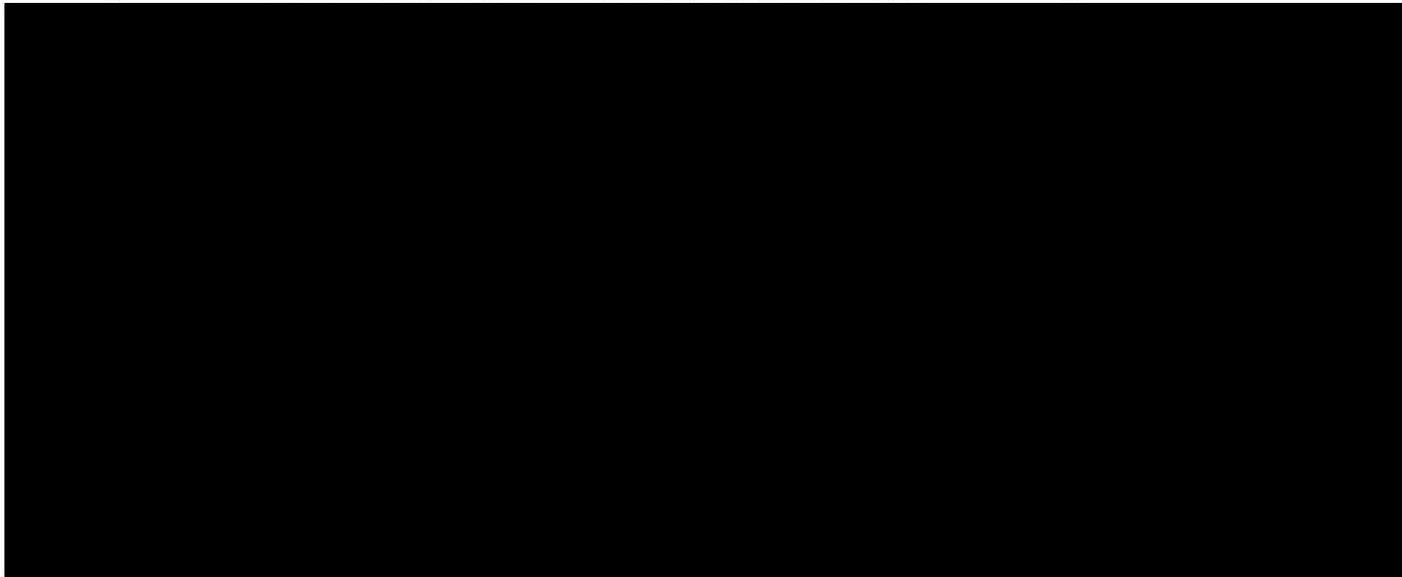
Questions 6-22

In answering each of the following questions, please check the appropriate box next to each question. **FOR EACH "YES" ANSWER TO QUESTIONS 6 THROUGH 22, YOU MUST PROVIDE A SIGNED STATEMENT GIVING FULL DETAILS, INCLUDING DATE(S), LOCATION(S), ACTION(S), ORGANIZATION(S) OR PARTIES INVOLVED, AND SPECIFIC REASON(S).**

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	6. Except for minor speeding or parking offenses, have you ever been arrested, charged, convicted, found guilty of, or entered a plea of guilty or no contest to a felony or misdemeanor crime or offense, including actions that resulted in a deferred or expunged judgment?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	7. Have you ever been terminated or requested to withdraw from any dental school or training program?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	8. Have you ever been requested to repeat a portion of any professional training program/school?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	9. Have you ever received a warning, reprimand, or been placed on probation during a professional training program/school?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	10. Have you ever been denied a license to practice dentistry?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	11. Have you ever voluntarily surrendered a license issued to you by any professional licensing agency?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	11a. If yes, was a license disciplinary action pending against you, or were you under investigation by a licensing agency at that time the voluntary surrender of license was tendered?
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	12. Have you ever been denied a Drug Enforcement Administration (DEA) or state controlled substance registration certificate? <i>Due to DDS license suspension</i>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	13. Have you ever surrendered your state or federal controlled substance registration or had it restricted in any way?
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	14. Aside from ordinary initial requirements of proctorship, have your clinical activities ever been limited, suspended, revoked, not renewed, voluntarily relinquished, or subject to other disciplinary or probationary conditions?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	15. Have you ever been terminated, sanctioned, penalized, had to repay monies to, or been denied provider participation in any state Medicaid, federal Medicare, or other publicly funded health care program?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	16. Are any malpractice claims or complaints in process/pending against you?
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	17. Have any settlement agreements been rendered or any judgments entered against you resulting from your practice of dentistry?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	18. Are charges or an investigation currently pending relative to your dental license in any other state?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	19. Has any jurisdiction of the United States or other nation ever limited, restricted, warned, censured, placed on probation, suspended, or revoked a license you held?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	20. Have you ever been notified of any charges filed against you by a licensing or disciplinary agency of any jurisdiction of the U.S. or other nation?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	21. Do you have professional liability suits in process or pending?
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	22. Have any judgments or settlements been paid on your behalf as a result of a professional liability case(s)?

CRIMINAL HISTORY AND OTHER INFORMATION (continued)

If you answered "yes" to any of the questions above, please provide a statement below providing the details as requested in the instructions above. Please add a separate sheet of paper if necessary.



Masih Safabakhsh

PRINT NAME

Masih Safabakhsh

SIGNATURE

5-13-2014

DATE

ACKNOWLEDGEMENT

Question 23

Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	23. Do you understand that if a license is granted by this Board, it will be based in part on the truth of the statements contained herein, which, if false, may subject you to criminal prosecution and revocation of the license?
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AFFIDAVIT OF APPLICANT

I, Masih Safabakhsh, hereby declare under penalty of perjury that I am the person described and identified in this application. I also declare, under penalty of perjury, that if I did not personally complete the foregoing application that I have fully read and confirmed each question and accompanying answer, and take full responsibility for all answers contained in this application.

If reinstatement is issued to me, I understand that if I violate rules or regulations, my license may be revoked as provided by law. I declare under penalty of perjury that my answers and all statements made by me on this application are true and correct. Should I furnish any false information in this application, I hereby agree that such act shall constitute cause for denial, suspension, or revocation of my license.

I hereby authorize the Iowa Dental Board and/or its agents to verify any information including, but not limited to, criminal history and motor vehicle driving records. I authorize all colleges or universities, employers and law enforcement agencies to release any information concerning my background to the Iowa Dental Board for licensure purposes. I do hereby release said person(s) from any and all liability that may be incurred as a result of furnishing such information. A photocopy of this release form will be valid as an original thereof, even though the said photocopy does not contain an original writing of my signature.

Masih Safabakhsh

PRINT NAME

Masih

SIGNATURE

5-13-2014

DATE

REQUIRED FORMS

Complete and return the following required forms in accordance with the instructions provided on the form:

1. Chronology of Activities form
2. Authorization to Release Information form
3. Certification of Education form
4. Certification of Licensure form
5. Continuing Education Record form

Return Completed Forms to:

IOWA DENTAL BOARD
400 SW 8TH ST, SUITE D
DES MOINES, IA 50309
Phone: (515) 281-5157

CHRONOLOGY OF ACTIVITIES

Provide a chronological listing of all employment for the last five (5) years. Include months, years, location (city & state), and type of activity.

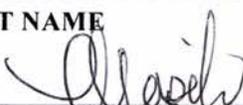
Location:	Type of Work/Activity:	From: (Mo, Yr)	To: (Mo, Yr)
Gentle Dental 1515 Blairs Ferry Rd NE. Cedar Rapids, IA 52402	General Dentistry	7-2009	7-2012
Gentle Dental 1515 Blairs Ferry Rd NE. Cedar Rapids, IA 52402	Management	7-2012	5-2014

If you have been out of practice, please provide a detailed explanation including dates and reasons for your time out of practice. Please attach additional sheets if necessary.

On July 13, 2012 my license to practice dentistry was suspended by the Iowa Dental after being presented with an Emergency Adjunctive Order. In August 2012 Settlement Agreement and Final Order was received from the Iowa Board stating my license could not be reinstated until completing all requirements listed in the agreement. During the time between Aug, 2012 and the present, I have completed all remediation and assessments.

Masih Safabakhsh

PRINT NAME



SIGNATURE

5-13-2014

DATE

AUTHORIZATION TO RELEASE INFORMATION

I, Masih Safabakhsh, do hereby authorize a disclosure of records concerning myself to the Iowa Dental Board (IDB). This release includes records of a public, private or confidential nature.

I acknowledge that the information released to the IDB may include material that is protected by federal and/or state laws applicable to substance abuse and mental health information. If applicable, I specifically authorize the release of confidential information to and from the IDB relating to substance abuse or dependence and/or mental health.

I further agree that the IDB may receive confidential information and records, including but not limited to the following records:

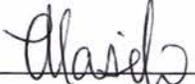
- Medical records
- Education records
- Personnel or employment records, including records of any remedial, probationary, disciplinary, or any other adverse information contained in those records.
- Residency or fellowship training records, including records of any remedial, probationary, disciplinary, or any other adverse information contained in those records.
- Any information the IDB deems reasonably necessary for the purposes set forth in this release.

Release of Liability. I do hereby irrevocably and unconditionally release, covenant not to sue, and forever discharge any person or entity, including but not limited to any dental school, residency or fellowship training program, hospital, health care provider, health care facility, licensing board, impaired practitioner program, agency, or organization, which releases information to the IDB pursuant to this release from any liability, claim, or cause of action arising out of the release of such information. I further irrevocably and unconditionally release, covenant not to sue, and forever discharge the IDB, the State of Iowa, and its employees and agents from any liability, claim, or cause of action arising out of the collection or release of information pursuant to this release.

A photocopy of this release form will be valid as an original thereof, even though the photocopy does not contain an original writing of my signature.

This authorization is effective through the completion of the licensure process. I understand I have the right to revoke this authorization in writing, except to the extent that the IDB has already taken action in reliance upon this consent.

I have read and fully understand the contents of this "Authorization to Release Information."

Signature of Applicant  Date 5-13-2014

PROHIBITION ON REDISCLOSURE

This form does not authorize redisclosure of medical information beyond the limits of this consent. Where information has been disclosed from records protected by federal law for alcohol/drug abuse records or by state law for mental health records, federal requirements (42 C.F.R. Part 2) and state requirements (Iowa Code Ch. 228) prohibit further disclosure without the specific written consent of the patient except as provided in IAC 12.16(6)"b"2, or as otherwise permitted by such law and/or regulations. A general authorization for the release of medical or other information is not sufficient for these purposes. Civil and/or criminal penalties may attach for unauthorized disclosure of alcohol/drug abuse or mental health information.

CERTIFICATION OF LICENSURE

As part of the license application process, the Iowa Dental Board requires that this form be completed by every board that has ever issued any license to the applicant, even if the license is not current. The completed form must be mailed directly from the state licensing board to the **IOWA DENTAL BOARD**. Any processing fees are the applicant's responsibility. The applicant's signature authorizes release of information, favorable or otherwise, directly to the Board.

Print Name: Masih Safabakhsh

License #: 07660

Signature: *Masih*

Date: 5-13-2014

This portion of the form should be completed by the state licensing board.

IT IS HEREBY CERTIFIED THAT _____
(Name of Applicant)

WAS GRANTED LICENSE NUMBER _____ **DATE ISSUED** _____

TO PRACTICE _____ **IN THE STATE OF** _____

DATE OF EXPIRATION _____ **LICENSE STATUS** _____

BASIS FOR LICENSURE:

- NATIONAL BOARD EXAM
- LICENSURE BY CREDENTIALS
- STATE BOARD PREPARED WRITTEN AND/OR PRACTICAL EXAM
- REGIONAL CLINICAL EXAM, NAME OF TESTING AGENCY _____

SCORES ARE RECORDED AS FOLLOWS:

SUBJECT	PERCENT	SUBJECT	PERCENT
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

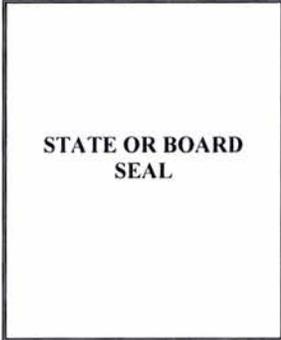
Scores are no longer available, however, I certify that it is apparent the applicant received a score sufficient to meet the licensure requirements of this state at that time; and these requirements were substantially equivalent to the requirements for licensure in Iowa.

YES NO **Disciplinary action ever been initiated, pending, or taken?**

Print Name _____ **Title** _____

Signature _____ **Date** _____

Phone # _____ **Fax #** _____



Return Completed Form to:
 IOWA DENTAL BOARD
 400 SW 8TH ST, SUITE D
 DES MOINES, IA 50309
 Phone: (515) 281-5157

Reinstatement Calculation Worksheet Continuing Education and Fees

Dentists/Dental Hygienists

Name: Masih Safabakhsh, DDS License #: DDS-07660

Date Completed: 5/9/14 Con Ed/Fee information valid until: 8/1/14*

Continuing Education:

0 years (or part thereof) lapsed/inactive X 15 hours = 0 total hours due (Max. 75 hrs.)

0 Total hours due X 40% = 0 Total hours of home-study hours allowed

Fees:

Total Fees Due – Application fee + background check fee + back renewal fees (max \$750)

Dentists: Mark those fees, which apply.

Dental Hygienists: Mark those fees, which apply.

\$150 Reinstatement application Fee
 \$46 Background check fee
 \$315 Back Renewal Fee 2012
 \$315 Back Renewal Fee 2010
 \$120 (owed) Back Renewal Fee 2008
\$ 150 Total Fees Due

\$150 Reinstatement application Fee
 \$46 Background check fee
 \$150 Back Renewal Fee 2013
 \$150 Back Renewal Fee 2011
 \$150 Back Renewal Fee 2009
 \$150 Back Renewal Fee 2007
 \$60 Back Renewal Fee 2006
 \$120 Back Renewal Fee 2004
\$ Total Fees Due