Jurisprudence for Dental Professionals

Iowa Code Chapter 153
Iowa Code Chapter 147
Iowa Code Chapter 272C
Iowa Administrative Code 650

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CHAPTER 153

DENTISTRY

Referred to in §135.24, §135.61, §135B.7, §147.76, §147.139, §514.17, §514J.102, §714H.4

Penalty, §147.86
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153.1 through 153.11 Reserved.

153.12 Board defined.
As used in this chapter, *"board"* means the dental board created under chapter 147.
2007 Acts, ch 10, §132; 2007 Acts, ch 218, §204

153.13 "Practice of dentistry" defined.
For the purpose of this subtitle the following classes of persons shall be deemed to be engaged in the practice of dentistry:
1. Persons publicly professing to be dentists, dental surgeons, or skilled in the science of dentistry, or publicly professing to assume the duties incident to the practice of dentistry.
2. Persons who perform examination, diagnosis, treatment, and attempted correction by any medicine, appliance, surgery, or other appropriate method of any disease, condition, disorder, lesion, injury, deformity, or defect of the oral cavity and maxillofacial area, including teeth, gums, jaws, and associated structures and tissue, which methods by education, background experience, and expertise are common to the practice of dentistry.
3. Persons who offer to perform, perform, or assist with any phase of any operation incident to tooth whitening, including the instruction or application of tooth whitening materials or procedures at any geographic location. For purposes of this subsection, *"tooth whitening"* means any process to whiten or lighten the appearance of human teeth by the application of chemicals, whether or not in conjunction with a light source.
[S13, §2600-o; C24, 27, 31, 35, 39, §**2565;** C46, 50, 54, 58, 62, 66, §153.1; C71, 73, 75, 77, 79, 81, §153.13]
96 Acts, ch 1147, §1; 2009 Acts, ch 56, §5, 13
Referred to in §153.14

153.14 Persons not included.
Section 153.13 shall not be construed to include the following classes:
1. Students of dentistry who practice dentistry upon patients at clinics in connection with their regular course of instruction at an accredited dental college, students of dental hygiene who practice upon patients at clinics in connection with their regular course of instruction at state-approved schools, and students of dental assisting who practice upon patients at clinics

in connection with a regular course of instruction determined by the board pursuant to section 153.39.

2. Licensed "physicians and surgeons" or licensed "osteopathic physicians and surgeons" who extract teeth or treat diseases of the oral cavity, gums, teeth, or maxillary bones as an incident to the general practice of their profession.

3. Persons licensed to practice dental hygiene who are exclusively engaged in the practice of said profession.

4. Dentists and dental hygienists who are licensed in another state and who are active or reserve members of the United States military service when acting in the line of duty in this state.

5. Persons registered to practice as a dental assistant.

1, 2. [S13, §2600-l, -o; C24, 27, 31, 35, 39, §**2566;** C46, 50, 54, 58, 62, 66, §153.2; C71, 73, 75, 77, 79, 81, §153.14]

3. [C24, 27, 31, 35, 39, §**2566;** C46, 50, 54, 58, 62, 66, §153.2; C71, 73, 75, 77, 79, 81, §153.14]

89 Acts, ch 63, §1; 95 Acts, ch 16, §1; 2000 Acts, ch 1002, §3, 4; 2007 Acts, ch 10, §133; 2009 Acts, ch 133, §57; 2011 Acts, ch 129, §86, 156

153.15 Dental hygienists — scope of term.

A licensed dental hygienist may perform those services which are educational, therapeutic, and preventive in nature which attain or maintain optimal oral health as determined by the board and may include but are not necessarily limited to complete oral prophylaxis, application of preventive agents to oral structures, exposure and processing of radiographs, administration of medicaments prescribed by a licensed dentist, obtaining and preparing nonsurgical, clinical and oral diagnostic tests for interpretation by the dentist, and preparation of preliminary written records of oral conditions for interpretation by the dentist. Such services shall be performed under supervision of a licensed dentist and in a dental office, a public or private school, public health agencies, hospitals, and the armed forces, but nothing herein shall be construed to authorize a dental hygienist to practice dentistry.

[C24, 27, 31, 35, 39, §**2571;** C46, 50, 54, 58, 62, 66, §153.7; C71, 73, 75, 77, 79, 81, §153.15]

2007 Acts, ch 10, §134

Referred to in **§153.23**

153.15A Dental hygienists — license requirements, renewal.

1. In addition to requirements adopted by rule by the board, in order to obtain a license as a dental hygienist, an applicant shall present evidence to the board of both of the following:

a. That the applicant possesses a degree or certificate of graduation from a college, university, or institution of higher education, accredited by a national agency recognized by the council on higher education accreditation or the United States department of education, in a program of dental hygiene with a minimum of two academic years of curriculum.

b. That the applicant possesses a valid certificate in a nationally recognized course in cardiopulmonary resuscitation.

2. In order to renew a license as a dental hygienist, a licensee shall furnish evidence of valid annual certification for cardiopulmonary resuscitation which shall be credited toward the licensee's continuing education requirement.

92 Acts, ch 1121, §1; 2016 Acts, ch 1011, §37

Subsection 1, paragraph a amended

153.16 Dental office where dentist is employed.

Every person who owns, operates, or controls a dental office in which anyone other than that person is practicing dentistry shall display the name of the other person in a conspicuous manner at the public entrance to said office.

[S13, §2600-o1; C24, 27, 31, 35, 39, §**2568;** C46, 50, 54, 58, 62, 66, §153.4; C71, 73, 75, 77, 79, 81, §153.16]

153.17 Unlawful practice.

Except as herein otherwise provided, it shall be unlawful for any person to practice dentistry or dental surgery or dental hygiene in this state, other than:

1. Those who are now duly licensed dentists, under the laws of this state in force at the time of their licensure; and

2. Those who are now duly licensed dental hygienists under the laws of this state in force at the time of their licensure; and

3. Those who may hereafter be duly licensed as dentists or dental hygienists pursuant to the provisions of this chapter.

[C71, 73, 75, 77, 79, 81, §153.17]

153.18 Employment of unlicensed dentist.

No person owning or conducting any place where dental work of any kind is done or contracted for, shall employ or permit any unlicensed dentist to practice dentistry in said place.

[S13, §2600-o2; C24, 27, 31, 35, 39, §**2569;** C46, 50, 54, 58, 62, 66, §153.5; C71, 73, 75, 77, 79, 81, §153.18]

153.19 Temporary permit — fees.

1. The board may, in its discretion, issue a temporary permit authorizing the permit holder to practice dentistry or dental hygiene in a specific location or locations and for a specified period of time if, in the opinion of the board, a need exists and the person possesses the qualifications prescribed by the board for the permit, which shall be substantially equivalent to those required for licensure under this chapter. The board shall determine in each instance those eligible for this permit, whether or not examinations shall be given, and the type of examinations. None of the requirements for regular licensure under this chapter are mandatory for a temporary permit except as specifically designated by the board. The issuance of a temporary permit shall not in any way indicate that the permit holder is necessarily eligible for regular licensure, nor is the board in any way obligated to so license the person.

2. A temporary permit shall be issued for a period determined by the board and may be renewed at the discretion of the board. The fee for a temporary permit and the fee for renewal shall be set by the board. The fees shall be based on the administrative costs of issuing and renewing the permits.

2002 Acts, ch 1108, §15; 2004 Acts, ch 1167, §7, 8

153.20 Drugs, medicine, and surgery.

A dentist shall have the right to prescribe and administer drugs or medicine, perform such surgical operations, administer general or local anesthetics and use such appliances as may be necessary to the proper practice of dentistry.

[C71, 73, 75, 77, 79, 81, §153.20]

153.21 License by credentials.

The board may issue a license under this chapter without examination to an applicant who furnishes satisfactory proof that the applicant meets all of the following requirements:

1. Holds a license from a similar dental board of another state, territory, or district of the United States under requirements equivalent or substantially equivalent to those of this state.

2. Has satisfied at least one of the following:

a. Passed an examination administered by a regional or national testing service, which examination has been approved by the dental board in accordance with section 147.34, subsection 1.

b. Has for three consecutive years immediately prior to the filing of the application in this state been in a legal practice of dentistry or dental hygiene in such other state, territory, or district of the United States.

3. Furnishes such other evidence as to the applicant's qualifications and lawful practice as the board may require.

[C71, 73, 75, 77, 79, 81, §153.21]

2002 Acts, ch 1108, §16; 2011 Acts, ch 80, §1

153.22 Resident license.

A dentist or dental hygienist who is serving only as a resident, intern, or graduate student and who is not licensed to practice in this state is required to obtain from the board a temporary or special license to practice as a resident, intern, or graduate student. The license shall be designated "Resident License" and shall authorize the licensee to serve as a resident, intern, or graduate student only, under the supervision of a licensed practitioner, in an institution approved for this purpose by the board. Such license shall be renewed at the discretion of the board. The fee for a resident license and the renewal fee shall be set by the board based upon the cost of issuance of the license. The board shall determine in each instance those eligible for a resident license, whether or not examinations shall be given, and the type of examination. None of the requirements for regular permanent licensure are mandatory for resident licensure except as specifically designated by the board. The issuance of a resident license shall not in any way indicate that the person so licensed is necessarily eligible for regular licensure or that the board is obligated to so license the person. The board may revoke a resident license at any time it shall determine either that the caliber of work done by a licensee or the type of supervision being given such licensee does not conform to reasonable standards established by the board.

[C71, 73, 75, 77, 79, 81, §153.22]

2002 Acts, ch 1108, §17; 2007 Acts, ch 10, §135

153.23 Retired volunteer license.

1. Upon application and qualification, the board may issue a retired volunteer license to a dentist or dental hygienist who has held an active license to practice dentistry or dental hygiene within the past five years, and who has retired from the practice of dentistry or dental hygiene, to enable the retired dentist or dental hygienist to provide volunteer dental or dental hygiene services. The board shall adopt rules to administer this section, including but not limited to rules providing eligibility requirements and services that may be performed pursuant to the license.

2. The board shall not charge an application or licensing fee for issuing or renewing a retired volunteer license. A retired volunteer license shall not be converted to a regular license with active or inactive status. A retired volunteer license shall not be considered to be an active license to practice dentistry or dental hygiene.

3. A person holding a retired volunteer license shall not charge a fee or receive compensation or remuneration in any form from any person or third-party payor including but not limited to an insurance company, health plan, or state or federal benefit program.

4. A person holding a retired volunteer license is subject to all rules and regulations governing the practice of dentistry or dental hygiene except those relating to the payment of fees, license renewal, and continuing education requirements.

5. A dental hygienist holding a retired volunteer license shall abide by the permitted scope of practice of actively licensed dental hygienists described in section 153.15. However, a dental hygienist holding a retired volunteer license may perform screenings or educational programs without an actively licensed dentist present.

6. An applicant for a retired volunteer license who has surrendered, resigned, converted, or allowed a license to lapse or expire as the result of or in lieu of disciplinary action shall not be eligible for a retired volunteer license.

7. The board may waive the five-year requirement in subsection 1 if the applicant demonstrates that the applicant possesses sufficient knowledge and skills to practice safely and competently.

2015 Acts, ch 18, §1

153.24 through 153.30 Reserved.

153.31 Falsification in application for renewal.

A license to practice either dentistry or dental hygiene, or registration as a dental assistant, shall be revoked or suspended in the manner and upon the grounds elsewhere provided in this chapter, and also when the certificate accompanying the application of such licensee or registrant for renewal of license or registration filed with the board is not in all material respects true.

[C35, §2573-g15; C39, §**2573.15;** C46, 50, 54, 58, 62, 66, §153.24; C71, 73, 75, 77, 79, 81, §153.31]

2002 Acts, ch 1108, §18

153.32 Unprofessional conduct.

As to dentists and dental hygienists "*unprofessional conduct*" shall consist of any of the acts denominated as such elsewhere in this chapter, and also any other of the following acts:

1. Receiving any rebate, or other thing of value, directly or indirectly from any dental laboratory or dental technician.

2. Solicitation of professional patronage by agents or persons popularly known as "cappers" or "steerers", or profiting by the acts of those representing themselves to be agents of the licensee.

3. Receipt of fees on the assurance that a manifestly incurable disease can be permanently cured.

4. Division of fees or agreeing to split or divide the fees received for professional services with any person for bringing or referring a patient or assisting in the care or treatment of a patient without the consent of said patient or the patient's legal representative.

5. Willful neglect of a patient in a critical condition.

[C35, §2573-g16; C39, §**2573.16;** C46, 50, 54, 58, 62, 66, §153.25; C71, 73, 75, 77, 79, 81, §153.32]

153.33 Powers of board.

1. Subject to the provisions of this chapter, any provision of this subtitle to the contrary notwithstanding, the board shall exercise the following powers:

a. (1) To initiate investigations of and conduct hearings on all matters or complaints relating to the practice of dentistry, dental hygiene, or dental assisting or pertaining to the enforcement of any provision of this chapter, to provide for mediation of disputes between licensees or registrants and their patients when specifically recommended by the board, to revoke or suspend licenses or registrations, or the renewal thereof, issued under this or any prior chapter, to provide for restitution to patients, and to otherwise discipline licensees and registrants.

(2) Subsequent to an investigation by the board, the board may appoint a disinterested third party to mediate disputes between licensees or registrants and patients. Referral of a matter to mediation shall not preclude the board from taking disciplinary action against the affected licensee or registrant.

b. To appoint investigators, who shall not be members of the board, to administer and aid in the enforcement of the provisions of law relating to those persons licensed to practice dentistry and dental hygiene, and persons registered as dental assistants. The amount of compensation for the investigators shall be determined pursuant to chapter 8A, subchapter IV. Investigators authorized by the board have the powers and status of peace officers when enforcing this chapter and chapters 147 and 272C.

c. To initiate in its own name or cause to be initiated in a proper court appropriate civil proceedings against any person to enforce the provisions of this chapter or this subtitle relating to the practice of dentistry, and the board may have the benefit of counsel in connection therewith. Any such judicial proceeding as may be initiated by the board shall be commenced and prosecuted in the same manner as any other civil action and injunctive relief may be granted therein without proof of actual damage sustained by any person but such injunctive relief shall not relieve the person so enjoined from criminal prosecution by the attorney general or county attorney for violation of any provision of this chapter or this subtitle relating to the practice of dentistry.

d. To adopt rules regarding infection control in dental practice which are consistent with standards of the federal Occupational Safety and Health Act of 1970, 29 U.S.C. §651 – 678, and recommendations of the centers for disease control.

e. To promulgate rules as may be necessary to implement the provisions of this chapter.

2. All employees needed to administer this chapter except the executive director shall be appointed pursuant to the merit system. The executive director shall serve at the pleasure of the board and shall be exempt from the merit system provisions of chapter 8A, subchapter IV.

3. In any investigation made or hearing conducted by the board on its own motion, or upon written complaint filed with the board by any person, pertaining to any alleged violation of this chapter or the accusation against any licensee or registrant, the following procedure and rules so far as material to such investigation or hearing shall obtain:

a. The accusation of such person against any licensee or registrant shall be reduced to writing, verified by some person familiar with the facts therein stated, and three copies thereof filed with the board.

b. If the board shall deem the charges sufficient, if true, to warrant suspension or revocation of license or registration, it shall make an order fixing the time and place for hearing thereon and requiring the licensee or registrant to appear and answer thereto, such order, together with a copy of the charges so made to be served upon the accused at least twenty days before the date fixed for hearing, either personally or by certified or registered mail, sent to the licensee's or registrant's last known post office address as shown by the records of the board.

c. At the time and place fixed in said notice for said hearing, or at any time and place to which the said hearing shall be adjourned, the board shall hear the matter and may take evidence, administer oaths, take the deposition of witnesses, including the person accused, in the manner provided by law in civil cases, compel the appearance of witnesses before it in person the same as in civil cases by subpoena issued over the signature of the chairperson of the board and in the name of the state of Iowa, require answers to interrogatories, and compel the production of books, papers, accounts, documents and testimony pertaining to the matter under investigation or relating to the hearing.

d. In all such investigations and hearings pertaining to the suspension or revocation of licenses or registrations, the board and any person affected thereby may have the benefit of counsel, and upon the request of the licensee or registrant or the licensee's or registrant's counsel the board shall issue subpoenas for the attendance of such witnesses in behalf of the licensee or registrant, which subpoenas when issued shall be delivered to the licensee or registrant or the licensee's or registrant's counsel. Such subpoenas for the attendance of witnesses shall be effective if served upon the person named therein anywhere within this state, provided that at the time of such service the fees now or hereafter provided by law for witnesses in civil cases in district court shall be paid or tendered to such person.

e. In case of disobedience of a subpoena lawfully served hereunder, the board or any party to such hearing aggrieved thereby may invoke the aid of the district court in the county where such hearing is being conducted to require the attendance and testimony of such witnesses. Such district court of the county within which the hearing is being conducted may, in case of contumacy or refusal to obey such subpoena, issue an order requiring such person to appear before said board, and if so ordered give evidence touching the matter involved in the hearing. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

f. If the licensee or registrant pleads guilty, or after hearing shall be found guilty by the board of any of the charges made, it may suspend for a limited period or revoke the license or registration, and the last renewal thereof, and shall enter the order on its records and notify the accused of the revocation or suspension of the person's license or registration, as the case may be, who shall thereupon forthwith surrender that license or registration to the board. Any such person whose license or registration has been so revoked or suspended shall not thereafter and while such revocation or suspension is in force and effect practice dentistry, dental hygiene, or dental assisting within this state.

g. The findings of fact made by the board acting within its power shall, in the absence of fraud, be conclusive, but the district court shall have power to review questions of law

involved in any final decision or determination of the board; provided, that application is made by the aggrieved party within thirty days after such determination by certiorari, mandamus or such other method of review or appeal permitted under the laws of this state, and to make such further orders in respect thereto as justice may require.

h. Pending the review and final disposition thereof by the district court, the action of the board suspending or revoking such license or registration shall not be stayed.

4. An inspector may be appointed by the dental board pursuant to the provisions of chapter 8A, subchapter IV.

[C71, 73, 75, 77, 79, 81, §153.33]

90 Acts, ch 1112, §1; 92 Acts, ch 1121, §2; 93 Acts, ch 41, §2; 2002 Acts, ch 1108, §19, 20; 2003 Acts, ch 44, §38, 39; 2003 Acts, ch 145, §200; 2007 Acts, ch 10, §136; 2009 Acts, ch 41, §263; 2009 Acts, ch 133, §192; 2015 Acts, ch 36, §1; 2016 Acts, ch 1073, §61

Referred to in **§272C.5**

Section amended

153.33A Dental hygiene committee.

1. A three-member dental hygiene committee of the board is created, consisting of the two dental hygienist members of the board and one dentist member of the board. The dentist member of the committee must have supervised and worked in collaboration with a dental hygienist for a period of at least three years immediately preceding election to the committee. The dentist member shall be elected to the committee annually by a majority vote of board members.

2. The committee shall have the authority to adopt recommendations regarding the practice, discipline, education, examination, and licensure of dental hygienists, subject to subsection 3, and shall carry out duties as assigned by the board. The committee shall have no regulatory or disciplinary authority with regard to dentists, dental assistants, dental lab technicians, or any other auxiliary dental personnel.

3. The board shall ratify recommendations of the committee at the first meeting of the board following adoption of the recommendations by the committee, or at a meeting of the board specifically called for the purpose of board review and ratification of committee recommendations. The board shall decline to ratify committee recommendations only if the board makes a specific finding that a recommendation exceeds the jurisdiction or expands the scope of the committee beyond the authority granted in subsection 2, creates an undue financial impact on the board, or is not supported by the record. The board shall pay the necessary expenses of the committee and of the board in implementing committee recommendations ratified by the board.

4. This section shall not be construed as impacting or changing the scope of practice of the profession of dental hygiene or authorizing the independent practice of dental hygiene.

98 Acts, ch 1010, §2; 2007 Acts, ch 10, §137

Referred to in **§147.14**

153.33B Executive director — duties.

The board shall appoint a full-time executive director. The executive director shall not be a member of the board. The duties of the executive director shall be the following:

1. To receive all applications for the following:

a. Licensure as a dentist or dental hygienist.

b. Registration as a dental assistant.

c. Permission to administer sedation or anesthesia.

d. Any other activity for which an application to the board is required.

2. To collect and receive all fees.

3. To keep all records pertaining to licensure, registration, enforcement, and other board actions, including a record of all board proceedings.

4. To perform such other duties as may be prescribed by the board.

5. To appoint assistants to the director and other persons necessary to administer this chapter.

2015 Acts, ch 36, §2

153.34 Discipline.

The board may issue an order to discipline a licensed dentist or dental hygienist, or registered dental assistant, for any of the grounds set forth in this chapter, chapter 272C, or Title IV. Notwithstanding section 272C.3, licensee or registrant discipline may include a civil penalty not to exceed ten thousand dollars. Pursuant to this section, the board may discipline a licensee or registrant for any of the following reasons:

1. For fraud or deceit in procuring the license or registration or the renewal thereof to practice dentistry, dental hygiene, or dental assisting.
2. For being guilty of willful and gross malpractice or willful and gross neglect in the practice of dentistry, dental hygiene, or dental assisting.
3. For fraud in representation as to skill or ability.
4. For willful or repeated violations of this chapter, this subtitle, or the rules of the board.
5. For obtaining any fee by fraud or misrepresentation.
6. For having failed to pay license or registration fees as provided herein.
7. For gross immorality or dishonorable or unprofessional conduct in the practice of dentistry, dental hygiene, or dental assisting.
8. For failure to maintain a reasonably satisfactory standard of competency in the practice of dentistry, dental hygiene, or dental assisting.
9. For the conviction of a felony in the courts of this state or another state, territory, or country. Conviction as used in this subsection includes a conviction of an offense which if committed in this state would be a felony without regard to its designation elsewhere, and includes a finding or verdict of guilt made or returned in a criminal proceeding even if the adjudication of guilt is withheld or not entered. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another state constitutes conclusive evidence of the conviction.
10. For a violation of a law of this state, another state, or the United States, without regard to its designation as either a felony or misdemeanor, which law relates to the practice of dentistry, dental hygiene, or dental assisting. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another state constitutes conclusive evidence of the conviction.
11. The revocation or suspension of a license or registration to practice dentistry, dental hygiene, or dental assisting or other disciplinary action taken by a licensing authority of another state, territory, or country. A certified copy of the record or order of suspension, revocation, or disciplinary action is conclusive or prima facie evidence.
12. Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice dentistry, dental hygiene, or dental assisting.
13. For an adjudication of mental incompetence by a court of competent jurisdiction. Such adjudication shall automatically suspend a license or registration for the duration of the license or registration unless the board orders otherwise.
14. Inability to practice dentistry, dental hygiene, or dental assisting with reasonable skill and safety by reason of illness, drunkenness, or habitual or excessive use of drugs, intoxicants, narcotics, chemicals, or other types of materials or as a result of a mental or physical condition. At reasonable intervals following suspension or revocation under this subsection, a dentist, dental hygienist, or dental assistant shall be afforded an opportunity to demonstrate that the dentist, dental hygienist, or dental assistant can resume the competent practice of dentistry, dental hygiene, or dental assisting with reasonable skill and safety to patients.
15. For being a party to or assisting in any violation of any provision of this chapter.
16. For a dental hygienist, the practice of dentistry by the dental hygienist; and for a dentist, permitting the practice of dentistry by a dental hygienist by the dentist under whose supervision the dental hygienist is operating.

[C71, 73, 75, 77, 79, 81, §153.34]

88 Acts, ch 1124, §1 – 4; 93 Acts, ch 41, §3; 2002 Acts, ch 1108, §21; 2007 Acts, ch 10, §138; 2009 Acts, ch 133, §192; 2010 Acts, ch 1069, §20

Referred to in **§272C.3**, **§272C.4**

153.35 Construction rule.

This chapter shall be deemed to be passed in the interest of the public health, safety and welfare of the people of this state, and its provisions shall be liberally construed to carry out its object and purposes.

[C71, 73, 75, 77, 79, 81, §153.35]

153.36 Exceptions to other statutes.

1. Sections 147.44, 147.48, 147.49, 147.53, and 147.55, and sections 147.87 through 147.92 shall not apply to the practice of dentistry.

2. In addition to the provisions of section 272C.2, subsection 4, a person licensed by the board shall also be deemed to have complied with continuing education requirements of this state if, during periods that the person practiced the profession in another state or district, the person met all of the continuing education and other requirements of that state or district for the practice of the occupation or profession.

3. Notwithstanding the panel composition provisions in section 272C.6, subsection 1, the board's disciplinary hearing panels shall be comprised of three board members, at least two of which are licensed in the profession.

[C71, 73, 75, 77, 79, 81, §153.36]

97 Acts, ch 159, §23; 2007 Acts, ch 10, §139; 2009 Acts, ch 41, §56

153.37 Dental college and dental hygiene program faculty permits.

The board may issue a faculty permit entitling the holder to practice dentistry or dental hygiene within a college of dentistry or a dental hygiene program and affiliated teaching facilities as an adjunct to the faculty member's teaching position, associated responsibilities, and functions. The dean of the college of dentistry or chairperson of a dental hygiene program shall certify to the board those bona fide members of the college's or a dental hygiene program's faculty who are not licensed and registered to practice dentistry or dental hygiene in Iowa. Any faculty member so certified shall, prior to commencing the member's duties in the college of dentistry or a dental hygiene program, make written application to the board for a permit. The permit shall be for a period determined by the board and may be renewed at the discretion of the board. The fee for the faculty permit and the renewal shall be set by the board based upon the administrative cost of issuance of the permit. The fee shall be deposited in the same manner as fees provided for in section 147.82. The faculty permit shall be valid during the time the holder remains a member of the faculty and shall subject the holder to all provisions of this chapter.

[C79, 81, §153.37]

93 Acts, ch 41, §4; 2002 Acts, ch 1108, §22; 2007 Acts, ch 10, §140

153.38 Dental assistants — scope of practice.

A registered dental assistant may perform those services of assistance to a licensed dentist as determined by the board by rule. Such services shall be performed under supervision of a licensed dentist in a dental office, a public or private school, public health agencies, hospitals, and the armed forces, but shall not be construed to authorize a dental assistant to practice dentistry or dental hygiene. Every licensed dentist who utilizes the services of a registered dental assistant for the purpose of assistance in the practice of dentistry shall be responsible for acts delegated to the registered dental assistant. A dentist shall delegate to a registered dental assistant only those acts which are authorized to be delegated to registered dental assistants by the board.

2000 Acts, ch 1002, §5; 2007 Acts, ch 10, §141

153.39 Dental assistants — registration requirements, renewal, revocation, or suspension.

1. A person shall not practice on or after July 1, 2001, as a dental assistant unless the person has registered with the board and received a certificate of registration pursuant to this chapter.

2. Education requirements shall be determined by the board by rule, according to

standards to be determined by the board. A person shall be registered upon the successful completion of either of the education and examination requirements established in paragraph *"a"* or *"b"*:

a. Successful completion of a course of study and examination approved by the board and sponsored by a board-approved postsecondary school.

b. Successful completion of on-the-job training and examination consisting of all of the following:

(1) Completion of on-the-job training as specified in rule.

(2) Successful completion of an examination process approved by the board. A written examination may be waived by the board pursuant to section 17A.9A, in practice situations where the written examination is deemed to be unnecessary or detrimental to the dentist's practice.

3. The education requirements in subsection 2, paragraphs *"a"* and *"b"* may include possession of a valid certificate in a nationally recognized course in cardiopulmonary resuscitation. Successful passage of an examination administered by the board under subsection 2, paragraph *"a"* or *"b"*, which shall include sections regarding infection control, hazardous materials, and jurisprudence, shall also be required.

4. The board shall establish continuing education requirements as a condition of renewing registration as a registered dental assistant, as well as standards for the suspension or revocation of registration.

5. A person employed as a dental assistant after July 1, 2005, shall have a twelve-month period following the person's first date of employment after July 1, 2005, to comply with the provisions of subsection 1.

2000 Acts, ch 1002, §6; 2002 Acts, ch 1108, §23; 2005 Acts, ch 28, §1, 2; 2007 Acts, ch 22, §39; 2009 Acts, ch 133, §201

Referred to in **§153.14**

153.40 Reserved.

For future text of this section effective upon receipt by the Iowa department of public health of federal funding to establish a mobile dental delivery system, see 2004 Acts, ch 1175, §227, 287

CHAPTER 147

GENERAL PROVISIONS, HEALTH-RELATED PROFESSIONS

Referred to in §135.11A, §135.61, §135G.1, §148.2A, §148.14, §148A.1, §148B.2, §148C.1, §148C.10, §148C.13, §148E.1, §148E.7, §148E.8, §148F.3, §148G.1, §148G.5, §148G.8, §149.1, §151.1A, §152.1, §152.4, §152.11, §152A.1, §152B.1, §152B.11, §152C.1, §152D.1, §152D.5, §153.12, §153.33, §154.1, §154B.1, §154B.6, §154C.1, §154C.4, §154C.7, §154D.1, §154D.3, §154D.4, §154E.1, §154E.2, §154E.3, §155.1, §155.4, §155.9, §155A.6, §155A.6A, §155A.6B, §155A.12, §155A.23, §155A.40, §225C.6, §235A.15, §235B.6, §272C.1, §272C.2A, §272C.2B, §272C.6, §280.16, §489.1101, §514C.28, §519A.2, §614.1, §707A.1

Continuing education and regulation; see chapter 272C

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DEFINITIONS

147.1 Definitions.

For the purpose of this subtitle:

1. *"Board"* means one of the boards enumerated in section 147.13 or any other board established in this subtitle whose members are appointed by the governor to license applicants and impose licensee discipline as authorized by law.

2. *"Department"* means the department of public health.

3. *"Licensed"* or *"certified"*, when applied to a physician and surgeon, podiatric physician, osteopathic physician and surgeon, physician assistant, psychologist, chiropractor, nurse, dentist, dental hygienist, dental assistant, optometrist, speech pathologist, audiologist,

pharmacist, physical therapist, physical therapist assistant, occupational therapist, occupational therapy assistant, orthotist, prosthetist, pedorthist, respiratory care practitioner, practitioner of cosmetology arts and sciences, practitioner of barbering, funeral director, dietitian, marital and family therapist, mental health counselor, respiratory care and polysomnography practitioner, polysomnographic technologist, social worker, massage therapist, athletic trainer, acupuncturist, nursing home administrator, hearing aid specialist, or sign language interpreter or transliterator means a person licensed under this subtitle.

4. *"Peer review"* means evaluation of professional services rendered by a person licensed to practice a profession.

5. *"Peer review committee"* means one or more persons acting in a peer review capacity who also serve as an officer, director, trustee, agent, or member of any of the following:

a. A state or local professional society of a profession for which there is peer review.

b. Any organization approved to conduct peer review by a society as designated in paragraph *"a"* of this subsection.

c. The medical staff of any licensed hospital.

d. A board enumerated in section 147.13 or any other board established in this subtitle which is appointed by the governor to license applicants and impose licensee discipline as authorized by law.

e. The board of trustees of a licensed hospital when performing a function relating to the reporting required by section 147.135, subsection 3.

f. A health care entity, including but not limited to a group medical practice, that provides health care services and follows a formal peer review process for the purpose of furthering quality health care.

6. *"Profession"* means medicine and surgery, podiatry, osteopathic medicine and surgery, practice as a physician assistant, psychology, chiropractic, nursing, dentistry, dental hygiene, dental assisting, optometry, speech pathology, audiology, pharmacy, physical therapy, physical therapist assisting, occupational therapy, occupational therapy assisting, respiratory care, cosmetology arts and sciences, barbering, mortuary science, marital and family therapy, mental health counseling, polysomnography, social work, dietetics, massage therapy, athletic training, acupuncture, nursing home administration, practice as a hearing aid specialist, sign language interpreting or transliterating, orthotics, prosthetics, or pedorthics.

[C24, 27, 31, 35, 39, §**2438;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.1]

84 Acts, ch 1075, §6; 85 Acts, ch 168, §1; 86 Acts, ch 1211, §13; 87 Acts, ch 91, §6; 88 Acts, ch 1225, §2; 89 Acts, ch 89, §4, 5; 91 Acts, ch 229, §1; 92 Acts, ch 1205, §13; 94 Acts, ch 1132, §10; 95 Acts, ch 41, §8; 95 Acts, ch 108, §3; 96 Acts, ch 1036, §3, 4; 96 Acts, ch 1109, §1; 96 Acts, ch 1219, §20; 98 Acts, ch 1053, §2, 3; 2000 Acts, ch 1053, §1; 2000 Acts, ch 1148, §1; 2004 Acts, ch 1175, §419, 420, 433; 2007 Acts, ch 10, §26, 27; 2008 Acts, ch 1088, §1; 2012 Acts, ch 1101, §1; 2015 Acts, ch 30, §60; 2015 Acts, ch 57, §1; 2015 Acts, ch 70, §2

Referred to in **§148E.4**

LICENSES

147.2 License required.

1. A person shall not engage in the practice of medicine and surgery, podiatry, osteopathic medicine and surgery, psychology, chiropractic, physical therapy, physical therapist assisting, nursing, dentistry, dental hygiene, dental assisting, optometry, speech pathology, audiology, occupational therapy, occupational therapy assisting, orthotics, prosthetics, pedorthics, respiratory care, pharmacy, cosmetology arts and sciences, barbering, social work, dietetics, marital and family therapy or mental health counseling, massage therapy, mortuary science, polysomnography, athletic training, acupuncture, nursing home administration, or sign language interpreting or transliterating, or shall not practice as a physician assistant or a hearing aid specialist, unless the person has obtained a license for that purpose from the board for the profession.

2. For purposes of this section, a person who is licensed in another state and recognized for licensure in this state pursuant to the nurse licensure compact contained in section 152E.1

or pursuant to the advanced practice registered nurse compact contained in section 152E.3 shall be considered to have obtained a license to practice nursing.

[C97, §2582, 2588; S13, §2575-a28, -a31, -a36, 2582, 2583-a, -d, -r, 2600-o4; SS15, §2588; C24, 27, 31, 35, 39, §**2439;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.2]

85 Acts, ch 168, §2; 88 Acts, ch 1225, §3; 96 Acts, ch 1035, §1; 96 Acts, ch 1036, §5; 98 Acts, ch 1050, §1, 5; 2000 Acts, ch 1008, §1; 2000 Acts, ch 1053, §2; 2000 Acts, ch 1185, §1; 2004 Acts, ch 1045, §1; 2004 Acts, ch 1175, §421, 433; 2005 Acts, ch 53, §1; 2007 Acts, ch 10, §28; 2008 Acts, ch 1009, §1, 5; 2008 Acts, ch 1088, §2; 2012 Acts, ch 1101, §2; 2015 Acts, ch 57, §2

2015 Acts, ch 70, §3, 18

Referred to in **§148.6**, **§148G.1**, **§148G.6**

2015 amendment to subsection 1 by 2015 Acts, ch 70, §3, takes effect January 1, 2017; 2015 Acts, ch 70, §18

Subsection 1 amended

147.3 Qualifications.

An applicant for a license to practice a profession under this subtitle is not ineligible because of age, citizenship, sex, race, religion, marital status, or national origin, although the application form may require citizenship information. A board may consider the past criminal record of an applicant only if the conviction relates to the practice of the profession for which the applicant requests to be licensed.

[S13, §2575-a29, -a37, 2583-a, -1, 2600-d; C24, 27, 31, 35, 39, §**2440, 2567;** C46, 50, 54, 58, 62, 66, §147.3, 153.3; C71, 73, §147.3, 153.5; C75, 77, 79, 81, §147.3]

84 Acts, ch 1075, §7; 85 Acts, ch 168, §3; 88 Acts, ch 1225, §4; 94 Acts, ch 1132, §11; 96 Acts, ch 1036, §6; 98 Acts, ch 1053, §4; 2008 Acts, ch 1088, §3

Referred to in **§152.7**

147.4 Grounds for refusing.

A board may refuse to grant a license to practice a profession to any person otherwise qualified upon any of the grounds for which a license may be revoked or suspended.

[C97, §2578; S13, §2575-a33, -a41, 2578, 2583-c; C24, 27, 31, 35, 39, §**2441;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.4]

90 Acts, ch 1086, §1; 2008 Acts, ch 1088, §4

Grounds for revocation, see §147.55

147.5 Certificate of license.

1. Every license to practice a profession shall be in the form of a certificate under the seal of the board. Such license shall be issued in the name of the board.

2. This section shall not apply to a person who is licensed in another state and recognized for licensure in this state pursuant to the nurse licensure compact contained in section 152E.1 or pursuant to the advanced practice registered nurse compact contained in section 152E.3.

[C97, §2576, 2577, 2591; S13, §2575-a30, -a38, 2576, 2583-k, 2600-d; C24, 27, 31, 35, 39, §**2442;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.5]

2000 Acts, ch 1008, §2; 2000 Acts, ch 1140, §30; 2005 Acts, ch 53, §2; 2007 Acts, ch 10, §29; 2008 Acts, ch 1088, §5

147.6 Certificate presumptive evidence.

Every license issued under this subtitle shall be presumptive evidence of the right of the holder to practice in this state the profession therein specified.

[C97, §2576; S13, §2575-a30, -a38, 2576, 2583-k, 2600-d; C24, 27, 31, 35, 39, §**2443;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.6]

94 Acts, ch 1132, §12; 96 Acts, ch 1036, §7; 98 Acts, ch 1053, §5

147.7 Display of license.

1. A board may require every person licensed by the board to display the license and evidence of current renewal publicly in a manner prescribed by the board.

2. This section shall not apply to a person who is licensed in another state and recognized for licensure in this state pursuant to the nurse licensure compact contained in section 152E.1 or pursuant to the advanced practice registered nurse compact contained in section 152E.3. A person licensed in another state and recognized for licensure in this state pursuant to

either compact shall, however, maintain a copy of a license issued by the person's home state available for inspection when engaged in the practice of nursing in this state.

[C97, §2591; S13, §2600-o1; C24, 27, 31, 35, 39, §**2444;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.7]

90 Acts, ch 1086, §2; 94 Acts, ch 1132, §13; 96 Acts, ch 1036, §8; 98 Acts, ch 1053, §6; 2000 Acts, ch 1008, §3; 2005 Acts, ch 53, §3; 2006 Acts, ch 1010, §54; 2008 Acts, ch 1088, §6

147.8 Record of licenses.

A board shall keep the following information available for public inspection for each person licensed by the board:

1. Name.
2. Address of record.
3. The number of the license.
4. The date of issuance of the license.

[C97, §2591; S13, §2575-a40, 2583-a, -k, 2600-d; C24, 27, 31, 35, 39, §**2445;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.8]

96 Acts, ch 1128, §5; 2008 Acts, ch 1088, §7; 2009 Acts, ch 41, §50

147.9 Change of address.

Every person licensed pursuant to this chapter shall notify the board which issued the license of a change in the person's address of record within a time period established by board rule.

[C97, §2591; C24, 27, 31, 35, 39, §**2446;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.9]

90 Acts, ch 1086, §3; 94 Acts, ch 1132, §14; 96 Acts, ch 1036, §9; 98 Acts, ch 1053, §7; 2008 Acts, ch 1088, §8

147.10 Renewal.

1. Every license to practice a profession shall expire in multiyear intervals and be renewed as determined by the board upon application by the licensee. Each board shall establish rules for license renewal and concomitant fees. Application for renewal shall be made to the board accompanied by the required fee at least thirty days prior to the expiration of such license.

2. Each board may by rule establish a grace period following expiration of a license in which the license is not invalidated. Each board may assess a reasonable penalty for renewal of a license during the grace period. Failure of a licensee to renew a license within the grace period shall cause the license to become inactive or lapsed. A licensee whose license is inactive or lapsed shall not engage in the practice of the profession until the license is reactivated or reinstated.

[C97, §2590; S13, §2575-a39, 2589-d; C24, 27, 31, §2447; C35, §2447, 2573-g2 – 2573-g4; C39, §**2447, 2573.02 – 2573.04;** C46, 50, 54, 58, 62, 66, §147.10, 153.11 – 153.12; C71, 73, §147.10, 153.9, 153.10; C75, 77, 79, 81, §147.10]

2002 Acts, ch 1108, §12; 2008 Acts, ch 1088, §9

Referred to in **§147.11**, **§148.6**

147.11 Reactivation and reinstatement.

1. A licensee who allows the license to become inactive or lapsed by failing to renew the license, as provided in section 147.10, may reactivate the license upon payment of a reactivation fee and compliance with other terms established by board rule.

2. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with board rule and must apply for and be granted reactivation of the license in accordance with board rule prior to practicing the profession.

[C24, 27, 31, 35, 39, §**2448;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.11]

2007 Acts, ch 10, §30; 2008 Acts, ch 1088, §10; 2009 Acts, ch 41, §51

HEALTH PROFESSION BOARDS

147.12 Health profession boards.

1. The governor shall appoint, subject to confirmation by the senate, a board for each of the professions. The board members shall not be required to be members of professional societies or associations composed of members of their professions.

2. If a person who has been appointed by the governor to serve on a board has ever been disciplined in a contested case by the board to which the person has been appointed, all board statements of charges, settlement agreements, findings of fact, and orders pertaining to the disciplinary action shall be made available to the senate committee to which the appointment is referred at the committee's request before the full senate votes on the person's appointment.

[C97, §2576, 2584; S13, §2575-a29, -a37, 2576, 2583-a, -h, 2600-b; SS15, §2584; C24, 27, 31, 35, 39, §**2449;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.12]

88 Acts, ch 1128, §2; 94 Acts, ch 1132, §15; 96 Acts, ch 1036, §10; 98 Acts, ch 1053, §8; 2007 Acts, ch 10, §31; 2008 Acts, ch 1088, §11

Referred to in **§147.13**, **§148.2A**

Confirmation, see §2.32

Board of medicine alternate members, see §148.2A

147.13 Designation of boards.

The boards provided in section 147.12 shall be designated as follows:

1. For medicine and surgery, osteopathic medicine and surgery, and acupuncture, the board of medicine.
2. For physician assistants, the board of physician assistants.
3. For psychology, the board of psychology.
4. For podiatry, the board of podiatry.
5. For chiropractic, the board of chiropractic.
6. For physical therapy and occupational therapy, the board of physical and occupational therapy.
7. For nursing, the board of nursing.
8. For dentistry, dental hygiene, and dental assisting, the dental board.
9. For optometry, the board of optometry.
10. For speech pathology and audiology, the board of speech pathology and audiology.
11. For cosmetology arts and sciences, the board of cosmetology arts and sciences.
12. For barbering, the board of barbering.
13. For pharmacy, the board of pharmacy.
14. For mortuary science, the board of mortuary science.
15. For social work, the board of social work.
16. For marital and family therapy and mental health counseling, the board of behavioral science.
17. For dietetics, the board of dietetics.
18. For respiratory care and polysomnography, the board of respiratory care and polysomnography.
19. For massage therapy, the board of massage therapy.
20. For athletic training, the board of athletic training.
21. For interpreting, the board of sign language interpreters and transliterators.
22. For hearing aid specialists, the board of hearing aid specialists.
23. For nursing home administration, the board of nursing home administrators.
24. For orthotics, prosthetics, and pedorthics, the board of podiatry.

[C24, 27, 31, 35, 39, §**2450;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.13]

84 Acts, ch 1075, §8; 85 Acts, ch 168, §4; 88 Acts, ch 1225, §5; 91 Acts, ch 229, §2; 92 Acts, ch 1205, §14; 93 Acts, ch 86, §12; 96 Acts, ch 1036, §11; 98 Acts, ch 1053, §9; 2000 Acts, ch 1002, §1; 2004 Acts, ch 1175, §422, 433; 2006 Acts, ch 1155, §3, 15; 2007 Acts, ch 10, §32; 2007 Acts, ch 218, §197; 2008 Acts, ch 1088, §12, 141; 2009 Acts, ch 41, §52; 2012 Acts, ch 1101, §3; 2015 Acts, ch 57, §3; 2015 Acts, ch 70, §4

Referred to in **§147.1**, **§147.82**, **§232.69**, **§235B.16**, **§280.13C**, **§422.7**

147.14 Composition of boards — quorum.

1. The board members shall consist of the following:

a. For barbering, three members licensed to practice barbering, and two members who are not licensed to practice barbering and who shall represent the general public.

b. For medicine, five members licensed to practice medicine and surgery, two members licensed to practice osteopathic medicine and surgery, and three members not licensed to practice either medicine and surgery or osteopathic medicine and surgery, and who shall represent the general public.*

c. For nursing, four registered nurses, two of whom shall be actively engaged in practice, two of whom shall be nurse educators from nursing education programs; of these, one in higher education and one in area community and vocational-technical registered nurse education; one licensed practical nurse actively engaged in practice; and two members not registered nurses or licensed practical nurses and who shall represent the general public. The representatives of the general public shall not be members of health care delivery systems.

d. For dentistry, five members licensed to practice dentistry, two members licensed to practice dental hygiene, and two members not licensed to practice dentistry or dental hygiene and who shall represent the general public. The two dental hygienist board members and one dentist board member shall constitute a dental hygiene committee of the board as provided in section 153.33A.

e. For pharmacy, five members licensed to practice pharmacy and two members who are not licensed to practice pharmacy and who shall represent the general public.

f. For optometry, five members licensed to practice optometry and two members who are not licensed to practice optometry and who shall represent the general public.

g. For psychology, five members who are licensed to practice psychology and two members not licensed to practice psychology and who shall represent the general public. Of the five members who are licensed to practice psychology, one member shall be primarily engaged in graduate teaching in psychology or primarily engaged in research psychology, three members shall be persons who render services in psychology, and one member shall represent areas of applied psychology and may be affiliated with training institutions and shall devote a major part of the member's time to rendering service in psychology.

h. For chiropractic, five members licensed to practice chiropractic and two members who are not licensed to practice chiropractic and who shall represent the general public.

i. For speech pathology and audiology, five members licensed to practice speech pathology or audiology at least two of whom shall be licensed to practice speech pathology and at least two of whom shall be licensed to practice audiology, and two members who are not licensed to practice speech pathology or audiology and who shall represent the general public.

j. For physical therapy and occupational therapy, three members licensed to practice physical therapy, two members licensed to practice occupational therapy, and two members who are not licensed to practice physical therapy or occupational therapy and who shall represent the general public.

k. For dietetics, one licensed dietitian representing the approved or accredited dietetic education programs, one licensed dietitian representing clinical dietetics, one licensed dietitian representing community nutrition services, and two members who are not licensed dietitians and who shall represent the general public.

l. For the board of physician assistants, five members licensed to practice as physician assistants, at least two of whom practice in counties with a population of less than fifty thousand, one member licensed to practice medicine and surgery who supervises a physician assistant, one member licensed to practice osteopathic medicine and surgery who supervises a physician assistant, and two members who are not licensed to practice either medicine and surgery or osteopathic medicine and surgery or licensed as a physician assistant and who shall represent the general public. At least one of the physician or osteopathic physician members shall be in practice in a county with a population of less than fifty thousand.

m. For behavioral science, three members licensed to practice marital and family therapy, all of whom shall be practicing marital and family therapists; three members licensed to practice mental health counseling, one of whom shall be employed in graduate teaching, training, or research in mental health counseling and two of whom shall be practicing mental

health counselors; and three members who are not licensed to practice marital and family therapy or mental health counseling and who shall represent the general public.

n. For cosmetology arts and sciences, a total of seven members, three who are licensed cosmetologists, one who is a licensed electrologist, esthetician, or nail technologist, one who is a licensed instructor of cosmetology arts and sciences at a public or private school and who does not own a school of cosmetology arts and sciences, and two who are not licensed in a practice of cosmetology arts and sciences and who shall represent the general public.

o. For respiratory care and polysomnography, one licensed physician with training in respiratory care, two respiratory care practitioners who have practiced respiratory care for a minimum of six years immediately preceding their appointment to the board and who are recommended by the society for respiratory care, one polysomnographic technologist who has practiced polysomnography for a minimum of six years immediately preceding appointment to the board and who is recommended by the Iowa sleep society, and one member not licensed to practice medicine, osteopathic medicine, polysomnography, or respiratory care who shall represent the general public.

p. For mortuary science, four members licensed to practice mortuary science, one member owning, operating, or employed by a crematory, and two members not licensed to practice mortuary science and not a crematory owner, operator, or employee who shall represent the general public.

q. For massage therapists, four members licensed to practice massage therapy and three members who are not licensed to practice massage therapy and who shall represent the general public.

r. For athletic trainers, three members licensed to practice athletic training, three members licensed to practice medicine and surgery, and one member not licensed to practice athletic training or medicine and surgery and who shall represent the general public.

s. For podiatry, five members licensed to practice podiatry, two members licensed to practice orthotics, prosthetics, or pedorthics, and two members who are not so licensed and who shall represent the general public.

t. For social work, a total of seven members, five who are licensed to practice social work, with at least one from each of three levels of licensure described in section 154C.3, subsection 1, and one employed in the area of children's social work, and two who are not licensed social workers and who shall represent the general public.

u. For sign language interpreting and transliterating, four members licensed to practice interpreting and transliterating, three of whom shall be practicing interpreters and transliterators at the time of appointment to the board and at least one of whom is employed in an educational setting; and three members who are consumers of interpreting or transliterating services as defined in section 154E.1, each of whom shall be deaf.

v. For hearing aid specialists, three licensed hearing aid specialists and two members who are not licensed hearing aid specialists who shall represent the general public. No more than two members of the board shall be employees of, or specialists principally for, the same hearing aid manufacturer.

w. For nursing home administrators, a total of nine members, four who are licensed nursing home administrators, one of whom is the administrator of a nonproprietary nursing home; three licensed members of any profession concerned with the care and treatment of chronically ill or elderly patients who are not nursing home administrators or nursing home owners; and two members of the general public who are not licensed under chapter 155, have no financial interest in any nursing home, and who shall represent the general public.

2. A majority of the members of a board constitutes a quorum.

[C97, §2564, 2576, 2584; S13, §2564, 2575-a29, -a30, -a37, -a38, 2576, 2583-a, -h, -i, 2600-b, -c; SS15, §2584; C24, 27, 31, 35, 39, §**2451, 2452, 2475;** C46, 50, 54, 58, 62, 66, §147.14, 147.15, 147.38; C71, 73, §147.14, 147.15, 147.38, 153.1; C75, 77, 79, 81, §147.14]

84 Acts, ch 1075, §9; 85 Acts, ch 168, §5; 86 Acts, ch 1003, §1; 86 Acts, ch 1022, §1; 88 Acts, ch 1134, §29; 88 Acts, ch 1225, §6, 7; 91 Acts, ch 229, §3; 92 Acts, ch 1183, §2; 92 Acts, ch 1205, §15, 16; 96 Acts, ch 1035, §2, 3, 13; 96 Acts, ch 1036, §12; 96 Acts, ch 1148, §1, 2; 98 Acts, ch 1002, §1, 2; 98 Acts, ch 1010, §1; 98 Acts, ch 1053, §10; 99 Acts, ch 19, §1; 99 Acts, ch 96, §14; 2004 Acts, ch 1175, §423, 433; 2005 Acts, ch 3, §36; 2007 Acts, ch 10, §33; 2007 Acts, ch 218,

§188; 2008 Acts, ch 1032, §26; 2008 Acts, ch 1088, §13; 2009 Acts, ch 56, §2; 2009 Acts, ch 133, §47; 2010 Acts, ch 1069, §18; 2012 Acts, ch 1101, §4; 2015 Acts, ch 57, §4; 2015 Acts, ch 70, §5
Referred to in **§148.2A**, **§154F.1**
*Board of medicine alternate members, see §148.2A
For initial appointment of polysomnographic technologist to board of respiratory care and polysomnography, see 2015 Acts, ch 70, §17

147.15 Reserved.

147.16 Board members.

1. Each licensed board member shall be actively engaged in the practice or the instruction of the board member's profession and shall have been so engaged for a period of five years just preceding the board member's appointment, the last two of which shall be in this state.

2. However, each licensed physician assistant member of the board of physician assistants shall be actively engaged in practice as a physician assistant and shall have been so engaged for a period of three years just preceding the member's appointment, the last year of which shall be in this state.

[C97, §2584; S13, §2583-a, -h, 2600-b; SS15, §2584; C24, 27, 31, 35, 39, §**2453;** C46, 50, 54, 58, 62, 66, §147.16; C71, 73, §147.16, 153.1; C75, 77, 79, 81, §147.16; 81 Acts, ch 65, §1]
88 Acts, ch 1225, §8; 2007 Acts, ch 10, §34

147.17 Reserved.

147.18 Disqualifications. Repealed by 2008 Acts, ch 1088, §79.

147.19 Terms of office.

The board members shall serve three-year terms, which shall commence and end as provided by section 69.19. Any vacancy in the membership of a board shall be filled by appointment of the governor subject to senate confirmation. A member shall serve no more than nine years in total on the same board.

[C97, §2564, 2576, 2584; S13, §2564, 2575-a29, -a37, 2576, 2583-a, -h, 2600-b; SS15, §2584; C24, 27, 31, 35, 39, §**2456, 2458**; C46, 50, 54, 58, 62, 66, §147.19, 147.21; C71, 73, §147.19, 147.21, 153.1; C75, 77, 79, 81, §147.19]
2007 Acts, ch 10, §36; 2008 Acts, ch 1088, §14
Referred to in **§148.2A**
Confirmation, see §2.32
Board of medicine alternate members, see §148.2A

147.20 Nomination of board members.

The regular state association or society for each profession may recommend the names of potential board members to the governor, but the governor shall not be bound by the recommendations.

[S13, §2583-a, -h, 2600-b; C24, 27, 31, 35, 39, §**2457;** C46, 50, 54, 58, 62, 66, §147.20; C71, 73, §147.20, 153.1; C75, 77, 79, 81, §147.20]
2007 Acts, ch 10, §37

147.21 Examination information.

1. The public members of a board shall be allowed to participate in administrative, clerical, or ministerial functions incident to giving the examination, but shall not determine the content of the examination or determine the correctness of the answers.

2. A member of the board shall not disclose information relating to any of the following:

a. The contents of the examination.

b. The examination results other than final score except for information about the results of an examination which is given to the person who took the examination.

3. A member of the board who willfully communicates or seeks to communicate such information, and any person who willfully requests, obtains, or seeks to obtain such information, is guilty of a simple misdemeanor.

[C75, 77, 79, 81, §147.21]
83 Acts, ch 101, §26; 2008 Acts, ch 1088, §15
Referred to in **§152.12**, **§157.3B**

147.22 Officers.

Each board shall annually select a chairperson and a vice chairperson from its own membership.

[C97, §2576, 2585; S13, §2576, 2583-i, 2585, 2600-c; C24, 27, 31, 35, 39, §**2459;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.22]

2007 Acts, ch 10, §38; 2008 Acts, ch 1088, §16

147.23 Reserved.

147.24 Compensation.

Members of a board shall receive actual expenses for their duties as a member of the board. Each member of each board shall also be eligible to receive compensation as provided in section 7E.6, within the limits of funds available.

[C97, §2574; S13, §2574, 2575-a34, -a44, 2583-a, -p, 2600-g; C24, 27, 31, 35, 39, §**2461;** C46, 50, 54, 58, 62, 66, §147.24; C71, 73, §147.24, 153.3; C75, 77, 79, 81, §147.24]

86 Acts, ch 1245, §1141; 2007 Acts, ch 10, §39; 2008 Acts, ch 1088, §17

147.25 System of health personnel statistics — fee.

1. A board may establish a system to collect, maintain, and disseminate health personnel statistical data regarding board licensees, including but not limited to number of licensees, employment status, location of practice or place of employment, areas of professional specialization and ages of licensees, and other pertinent information bearing on the availability of trained and licensed personnel to provide services in this state.

2. In addition to any other fee provided by law, a fee may be set by the respective boards for each license and renewal of a license to practice a profession, which fee shall be based on the annual cost of collecting information for use by the board in the administration of the system of health personnel statistics established by this section. The fee shall be retained by the respective board in the manner in which license and renewal fees are retained in section 147.82.

[C75, 77, 79, 81, §147.25]

84 Acts, ch 1075, §10; 85 Acts, ch 168, §6; 88 Acts, ch 1225, §9; 2006 Acts, ch 1155, §4, 15; 2007 Acts, ch 10, §40, 184; 2008 Acts, ch 1088, §18

147.26 Supplies and examination quarters. Repealed by 2008 Acts, ch 1088, §79.

147.27 Reserved.

147.28 National organization.

Each board may maintain a membership in the national organization of the regulatory boards of its profession to be paid from board funds.

[C27, 31, 35, §2465-b1; C39, §**2465.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.28]

2007 Acts, ch 10, §42; 2008 Acts, ch 1088, §19

147.28A Scope of practice review committees — future repeal. Repealed by its own terms; 2005 Acts, ch 175, §84.

EXAMINATIONS

147.29 Applications. Repealed by 2008 Acts, ch 1088, §78.

147.30 Time and place of examinations. Repealed by 2008 Acts, ch 1088, §78. See §147.34.

147.31 Reserved.

147.32 Repealed by 89 Acts, ch 3, §3.

147.33 Professional schools.

A dean of a college or university which provides instruction or training in a profession shall supply information or data related to the college or university upon request of a board.

[C24, 27, 31, 35, 39, §**2470;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.33]

2007 Acts, ch 10, §44; 2008 Acts, ch 1088, §20

147.34 Examinations.

1. Each board shall by rule prescribe the examination or examinations required for licensure for the profession and the manner in which an applicant shall complete the examination process. A board may develop and administer the examination, may designate a national, uniform, or other examination as the prescribed examination, or may contract for such services. Dentists shall pass an examination approved by a majority of the dentist members of the dental board.

2. When a board administers an examination, the board shall provide adequate public notice of the time and place of the examination to allow candidates to comply with the provisions of this subtitle. Administration of examinations, including location, frequency, and reexamination, may be determined by the board.

3. Applicants who fail the examination once shall be allowed to take the examination at the next authorized time. Thereafter, applicants shall be allowed to take the examination at the discretion of the board. An applicant who has failed an examination may request in writing information from the board concerning the examination grade and subject areas or questions which the applicant failed to answer correctly, except that if the board prescribes a national or uniform examination, the board shall only be required to provide the examination grade and such other information concerning the applicant's examination results which are available to the board.

[C97, §2576, 2582, 2589, 2597; S13, §2575-a29, -a37, 2576, 2582, 2583-a, -i, -k, 2589-a, 2600-c, -d; SS15, §2589-a; C24, 27, 31, 35, 39, §**2471, 2567, 2572, 2573;** C46, 50, 54, 58, 62, 66, §147.34, 153.3, 153.8, 153.9; C71, 73, §147.34, 153.2, 153.6, 153.8; C75, 77, 79, 81, §147.34]

94 Acts, ch 1132, §17; 96 Acts, ch 1036, §14; 98 Acts, ch 1053, §12; 2007 Acts, ch 10, §45; 2008 Acts, ch 1088, §21

Referred to in **§153.21**, **§155.3**, **§156.4**

147.35 Names of eligible candidates. Repealed by 2008 Acts, ch 1088, §79.

147.36 Rules.

Each board may establish rules for any of the following:

1. The qualifications required for applicants seeking to take examinations.
2. The denial of applicants seeking to take examinations.
3. The conducting of examinations.
4. The grading of examinations and passing upon the technical qualifications of applicants, as shown by such examinations.
5. The minimum scores required for passing standardized examinations.

[C97, §2584; S13, §2575-a38, 2583-a, -i, 2600-e; SS15, §2584; C24, 27, 31, 35, 39, §**2473;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.36]

92 Acts, ch 1183, §3; 2007 Acts, ch 10, §47; 2008 Acts, ch 1088, §22

147.37 Identity of candidate concealed.

The identity of the person taking an examination shall not be disclosed during the examination process and in practice the identity of the candidate shall be concealed to the extent possible.

[C97, §2576; S13, §2576, 2583-a; C24, 27, 31, 35, 39, §**2474;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.37]

2007 Acts, ch 10, §48; 2008 Acts, ch 1088, §23

147.38 Reserved.

147.39 through 147.42 Repealed by 2008 Acts, ch 1088, §79.

147.43 Preservation of records. Repealed by 2008 Acts, ch 1088, §78.

RECIPROCAL LICENSES

147.44 Reciprocal agreements.

A board may enter into a reciprocal agreement with a licensing authority of another state for the purpose of recognizing licenses issued by the other state, provided that such licensing authority imposes licensure requirements substantially equivalent to those imposed in this state. The board may establish by rule the conditions for the recognition of such licenses and the process for licensing such individuals to practice in this state.

[C97, §2582; S13, §2582; C24, 27, 31, 35, 39, §**2481;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.44]

94 Acts, ch 1132, §19; 96 Acts, ch 1036, §16; 98 Acts, ch 1053, §14; 2007 Acts, ch 10, §53; 2008 Acts, ch 1088, §24

Referred to in **§148.3**, **§152.8**, **§153.36**, **§155.11**, **§157.3**, **§158.3**

147.45 through 147.47 Repealed by 2008 Acts, ch 1088, §79.

147.48 Termination of reciprocal agreements.

If the requirements for a license in any state with which this state has a reciprocal agreement are changed by any law or rule of the authorities in that state so that such requirements are no longer substantially equivalent to those existing in this state, the agreement shall be deemed terminated and licenses issued in that state shall not be recognized as a basis of granting a license in this state until a new agreement has been negotiated.

[C24, 27, 31, 35, 39, §**2485;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.48]

2007 Acts, ch 10, §57; 2008 Acts, ch 1088, §25

Referred to in **§152.8**, **§153.36**, **§155.11**, **§157.3**, **§158.3**

147.49 License of another state.

A board shall, upon presentation of a license to practice a profession issued by the duly constituted authority of another state with which this state has established reciprocal relations, and subject to the rules of the board for such profession, license the applicant to practice in this state, unless under the rules of the board a practical or jurisprudence examination is required. The board of medicine may accept in lieu of the examination prescribed in section 148.3 a license to practice medicine and surgery or osteopathic medicine and surgery, issued by the duly constituted authority of another state, territory, or foreign country. Endorsement may be accepted in lieu of further written examination without regard to the existence or nonexistence of a reciprocal agreement, but shall not be in lieu of the standards and qualifications prescribed by section 148.3.

[C97, §2582; S13, §2575-a30, -a39, 2582, 2583-l, 2589-b, 2600-m; C24, 27, 31, 35, 39, §**2486;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.49]

2007 Acts, ch 10, §58; 2008 Acts, ch 1088, §26

Referred to in **§152.8**, **§153.36**, **§155.11**, **§157.3**, **§158.3**

147.50 Practical examinations. Repealed by 2008 Acts, ch 1088, §79.

147.51 and 147.52 Repealed by 2008 Acts, ch 1088, §78.

147.53 Power to adopt rules.

Each board entering into a reciprocal agreement shall adopt necessary rules, not inconsistent with law, for carrying out the reciprocal relations with other states which are authorized by this chapter.

[C24, 27, 31, 35, 39, §**2490;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.53]

2007 Acts, ch 10, §60; 2008 Acts, ch 1088, §27

Referred to in **§152.8**, **§153.36**, **§155.11**

147.54 Change of residence. Repealed by 2008 Acts, ch 1088, §78.

LICENSEE DISCIPLINE

147.55 Grounds.

A licensee's license to practice a profession shall be revoked or suspended, or the licensee otherwise disciplined by the board for that profession, when the licensee is guilty of any of the following acts or offenses:

1. Fraud in procuring a license.
2. Professional incompetence.
3. Knowingly making misleading, deceptive, untrue, or fraudulent representations in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.
4. Habitual intoxication or addiction to the use of drugs.
5. Conviction of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee's ability to practice within a profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.
6. Fraud in representations as to skill or ability.
7. Use of untruthful or improbable statements in advertisements.
8. Willful or repeated violations of the provisions of this chapter, chapter 272C, or a board's enabling statute.
9. Other acts or offenses as specified by board rule.

1. [C97, §2578; S13, §2575-a33, -a41, 2578, 2583-c, 2600-o5; C24, 27, 31, 35, 39, §**2492;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.55(1)]

2. [C97, §2578; S13, §2578, 2583-c, -m; C24, 27, 31, 35, 39, §**2492;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.55(2)]

3. [C97, §2578; S13, §2575-a33, -a41, 2578, 2583-m, 2600-o5; C24, 27, 31, 35, 39, §**2492;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.55(3)]

4. [C97, §2578; S13, §2575-a41, 2578, 2583-c, -m, 2600-o5; C24, 27, 31, 35, 39, §**2492;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.55(4)]

5. [C97, §2578; S13, §2578, 2583-c, 2600-o5; C24, 27, 31, 35, 39, §**2492;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.55(5)]

6. [C97, §2578; S13, §2578, 2583-c; C24, 27, 31, 35, 39, §**2492;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.55(6)]

7. [C97, §2578; S13, §2578, 2583-c, 2600-o5; C24, 27, 31, 35, 39, §**2492;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.55(7)]

8. [C97, §2596; S13, §2575-a33, -a41; C24, 27, 31, 35, 39, §**2492;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §147.55(9); C79, 81, §147.55(8)]

2008 Acts, ch 1088, §28; 2009 Acts, ch 133, §48

Referred to in **§148.6**, **§148.7**, **§148A.7**, **§148E.8**, **§152.10**, **§152D.6**, **§153.36**, **§155.4**, **§155A.12**, **§156.9**, **§272C.3**, **§272C.4**

147.56 Reserved.

147.57 Dental hygienist and dentist. Transferred to §153.34, subsection 16; 2009 Acts, ch 133, §192.

147.58 through 147.71 Repealed by 2008 Acts, ch 1088, §78.

USE OF TITLES AND DEGREES

147.72 Professional titles and abbreviations.

Any person licensed to practice a profession under this subtitle may append to the person's name any recognized title or abbreviation, which the person is entitled to use, to designate the person's particular profession, but no other person shall assume or use such title or abbreviation, and no licensee shall advertise in such a manner as to lead the public to believe that the licensee is engaged in the practice of any other profession than the one which the licensee is licensed to practice.

[S13, §2575-a28, -a31, 2583-q; C24, 27, 31, 35, 39, §**2509;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.72]

94 Acts, ch 1132, §22; 96 Acts, ch 1036, §19; 98 Acts, ch 1053, §17

Referred to in **§147.73**

147.73 Titles used by holder of degree.

Nothing in section 147.72 shall be construed:

1. As authorizing any person licensed to practice a profession under this subtitle to use or assume any degree or abbreviation of the degree unless such degree has been conferred upon the person by an institution of learning accredited by the appropriate board, or by some recognized state or national accredited agency.

2. As prohibiting any holder of a degree conferred by an institution of learning accredited by the appropriate board created in this chapter, or by some recognized state or national accrediting agency, from using the title which such degree authorizes the holder to use, but the holder shall not use such degree or abbreviation in any manner which might mislead the public as to the holder's qualifications to treat human ailments.

[C24, 27, 31, 35, 39, §**2510;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.73]

94 Acts, ch 1132, §23; 96 Acts, ch 1036, §20; 98 Acts, ch 1053, §18; 2008 Acts, ch 1088, §30

147.74 Professional titles or abbreviations — false use prohibited.

1. Any person who falsely claims by the use of any professional title or abbreviation, either in writing, cards, signs, circulars, advertisements, the internet, or other written or electronic means, to be a practitioner of a profession other than the one under which the person holds a license or who fails to use the designations provided in this section shall be guilty of a simple misdemeanor.

2. A physician or surgeon may use the prefix "Dr." or "Doctor", and shall add after the person's name the letters, "M. D."

3. An osteopathic physician and surgeon may use the prefix "Dr." or "Doctor", and shall add after the person's name the letters, "D. O.", or the words "osteopathic physician and surgeon".

4. A chiropractor may use the prefix "Dr." or "Doctor", but shall add after the person's name the letters, "D. C." or the word, "chiropractor".

5. A dentist may use the prefix "Dr." or "Doctor", but shall add after the person's name the letters "D. D. S.", or "D. M. D.", or the word "dentist" or "dental surgeon". A dental hygienist may use the words "registered dental hygienist" or the letters "R. D. H." after the person's name. A dental assistant may use the words "registered dental assistant" or the letters "R. D. A." after the person's name.

6. A podiatric physician may use the prefix "Dr." or "Doctor", but shall add after the person's name the letters "D. P. M." or the words "podiatric physician".

7. A graduate of a school accredited by the board of optometry may use the prefix "Dr." or "Doctor", but shall add after the person's name the letters "O. D."

8. A physical therapist registered or licensed under chapter 148A may use the words "physical therapist" after the person's name or signify the same by the use of the letters "P. T." after the person's name. A physical therapist with an earned doctoral degree from an accredited school, college, or university may use the suffix designating the degree, or the prefix "Doctor" or "Dr." and add after the person's name the words "physical therapist".

An occupational therapist registered or licensed under chapter 148B may use the words "occupational therapist" after the person's name or signify the same by the use of the letters "O. T." after the person's name. An occupational therapist with an earned doctoral degree from an accredited school, college, or university may use the suffix designating the degree, or the prefix "Doctor" or "Dr." and add after the person's name the words "occupational therapist".

9. A physical therapist assistant licensed under chapter 148A may use the words "physical therapist assistant" after the person's name or signify the same by use of the letters "P. T. A." after the person's name. An occupational therapy assistant licensed under chapter 148B may use the words "occupational therapy assistant" after the person's name or signify the same by use of the letters "O. T. A." after the person's name.

10. A psychologist who possesses a doctoral degree may use the prefix "Dr." or "Doctor" but shall add after the person's name the word "psychologist".

11. A speech pathologist with an earned doctoral degree in speech pathology obtained beyond a bachelor's degree from an accredited school, college, or university, may use the suffix designating the degree, or the prefix "Doctor" or "Dr." and add after the person's name the words "speech pathologist". An audiologist with an earned doctoral degree in audiology obtained beyond a bachelor's degree from an accredited school, college, or university, may use the suffix designating the degree, or the prefix "Doctor" or "Dr." and add after the person's name the word "audiologist".

12. A bachelor social worker licensed under chapter 154C may use the words "licensed bachelor social worker" or the letters "L. B. S. W." after the person's name. A master social worker licensed under chapter 154C may use the words "licensed master social worker" or the letters "L. M. S. W." after the person's name. An independent social worker licensed under chapter 154C may use the words "licensed independent social worker", or the letters "L. I. S. W." after the person's name.

13. A marital and family therapist licensed under chapter 154D and this chapter may use the words "licensed marital and family therapist" after the person's name or signify the same by the use of the letters "L. M. F. T." after the person's name. A marital and family therapist licensed under chapter 154D and this chapter who possesses a doctoral degree may use the prefix "Doctor" or "Dr." in conjunction with the person's name, but shall add after the person's name the words "licensed marital and family therapist".

14. A mental health counselor licensed under chapter 154D and this chapter may use the words "licensed mental health counselor" after the person's name. A mental health counselor licensed under chapter 154D and this chapter who possesses a doctoral degree may use the prefix "Doctor" or "Dr." in conjunction with the person's name, but shall add after the person's name the words "licensed mental health counselor".

15. A pharmacist who possesses a doctoral degree recognized by the accreditation council for pharmacy education from a college of pharmacy approved by the board of pharmacy or a doctor of philosophy degree in an area related to pharmacy may use the prefix "Doctor" or "Dr." but shall add after the person's name the word "pharmacist" or "Pharm. D."

16. A physician assistant licensed under chapter 148C may use the words "physician assistant" after the person's name or signify the same by the use of the letters "P. A." after the person's name.

17. A massage therapist licensed under chapter 152C may use the words "licensed massage therapist" or the initials "L. M. T." after the person's name.

18. An acupuncturist licensed under chapter 148E may use the words "licensed acupuncturist" or the abbreviation "L. Ac." after the person's name.

19. A respiratory care practitioner licensed under chapter 152B and this chapter may use the title "respiratory care practitioner" or the letters "R. C. P." after the person's name.

20. An athletic trainer licensed under chapter 152D and this chapter may use the words "licensed athletic trainer" or the letters "LAT" after the person's name.

21. A registered nurse licensed under chapter 152 may use the words "registered nurse" or the letters "R. N." after the person's name. A licensed practical nurse licensed under chapter 152 may use the words "licensed practical nurse" or the letters "L. P. N." after the person's name. An advanced registered nurse practitioner licensed under chapter 152 or 152E may use

the words "advanced registered nurse practitioner" or the letters "A.R.N.P." after the person's name.

22. A sign language interpreter or transliterator licensed under chapter 154E and this chapter may use the title "licensed sign language interpreter" or the letters "L. I." after the person's name.

23. *a.* An orthotist licensed under chapter 148F may use the words "licensed orthotist" after the person's name or signify the same by the use of the letters "L.O." after the person's name.

b. A pedorthist licensed under chapter 148F may use the words "licensed pedorthist" after the person's name or signify the same by the use of the letters "L.ped." after the person's name.

c. A prosthetist licensed under chapter 148F may use the words "licensed prosthetist" after the person's name or signify the same by the use of the letters "L.P." after the person's name.

24. A person who is licensed to engage in the practice of polysomnography shall have the right to use the title "polysomnographic technologist" or the letters "P.S.G.T." after the person's name. No other person may use that title or letters or any other words or letters indicating that the person is a polysomnographic technologist.

25. No other practitioner licensed to practice a profession under any of the provisions of this subtitle shall be entitled to use the prefix "Dr." or "Doctor" unless the licensed practitioner possesses an earned doctoral degree. Such a practitioner shall reference the degree held after the person's name.

[C31, 35, §2510-d1; C39, §**2510.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.74; 81 Acts, ch 66, §1]

84 Acts, ch 1075, §11; 87 Acts, ch 215, §40; 88 Acts, ch 1225, §10; 90 Acts, ch 1168, §27; 91 Acts, ch 228, §1; 91 Acts, ch 229, §4; 92 Acts, ch 1137, §7; 92 Acts, ch 1183, §4; 93 Acts, ch 86, §13; 95 Acts, ch 108, §4; 96 Acts, ch 1035, §4; 96 Acts, ch 1036, §21; 98 Acts, ch 1053, §19; 99 Acts, ch 101, §1; 2000 Acts, ch 1053, §3; 2001 Acts, ch 58, §7; 2003 Acts, ch 93, §1, 14; 2004 Acts, ch 1045, §2; 2004 Acts, ch 1175, §424, 433; 2007 Acts, ch 10, §61; 2007 Acts, ch 215, §246; 2008 Acts, ch 1088, §31; 2012 Acts, ch 1101, §5; 2014 Acts, ch 1019, §1; 2015 Acts, ch 70, §6

Referred to in **§148A.7**

147.75 Itinerants. Repealed by 2008 Acts, ch 1088, §78.

147.76 Rules.

The boards for the various professions shall adopt all necessary and proper rules to administer and interpret this chapter and chapters 148 through 158, except chapter 148D.

[C77, 79, 81, §147.76]

89 Acts, ch 83, §28; 92 Acts, ch 1097, §4; 2007 Acts, ch 10, §62; 2008 Acts, ch 1088, §32

147.77 through 147.79 Reserved.

FEES

147.80 Establishment of fees — administrative costs.

1. Each board may by rule establish fees for the following based on the costs of sustaining the board and the actual costs of the service:

a. Examinations.

b. Licensure, certification, or registration.

c. Renewal of licensure, certification, or registration.

d. Renewal of licensure, certification, or registration during the grace period.

e. Reinstatement or reactivation of licensure, certification, or registration.

f. Issuance of a certified statement that a person is licensed, registered, or has been issued a certificate to practice in this state.

g. Issuance of a duplicate license, registration, or certificate, which shall be so designated

on its face. A board may require satisfactory proof that the original license, registration, or certificate issued by the board has been lost or destroyed.

h. Issuance of a renewal card.

i. Verification of licensure, registration, or certification.

j. Returned checks.

k. Inspections.

2. Each board shall annually prepare estimates of projected revenues to be generated by the fees received by the board as well as a projection of the fairly apportioned administrative costs and rental expenses attributable to the board. Each board shall annually review and adjust its schedule of fees to cover projected expenses.

3. The board of medicine, the board of pharmacy, the dental board, and the board of nursing shall retain individual executive officers, but shall make every effort to share administrative, clerical, and investigative staff to the greatest extent possible.

[C97, §2576, 2597, 2590; S13, §2575-a30, -a38, -a39, 2582, 2583-a, -l, 2589-d, 2600-d; C24, 27, 31, 35, 39, §**2516;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.80; 81 Acts, ch 2, §10(5), ch 5, §4(5)]

1. [C97, §2597; S13, §2600-d, -m; C24, 27, 31, 35, 39, §**2516;** C46, 50, 54, 58, 62, §147.80(1, 2, 7); C66, 71, 73, §147.80(1, 7); C75, 77, 79, 81, §147.80(1)]

2. [C97, §2590; S13, §2589-b, -d; C24, 27, 31, 35, 39, §**2516;** C46, 50, 54, 58, 62, §147.80(5 – 7); C66, 71, 73, §147.80(1, 7); C75, 77, 79, 81, §147.80(2)]

3. [C97, §2576; S13, §2576, 2582, 2583-a; C24, 27, 31, 35, 39, §**2516;** C46, 50, 54, 58, 62, §147.80(1 – 4); C66, 71, 73, §147.80(2, 7); C75, 77, 79, 81, §147.80(3)]

4. [C75, 77, 79, 81, §147.80(4)]

6. [C24, 27, 31, 35, 39, §**2516;** C46, 50, 54, 58, 62, 66, 71, 73, §147.80(3, 4, 7); C75, 77, 79, 81, §147.80(5)]

7. [C24, 27, 31, 35, 39, §**2516;** C46, 50, 54, 58, 62, 66, 71, 73, §147.80(3, 4, 7); C75, 77, 79, 81, §147.80(6)]

8. [C66, 71, 73, §147.80(3, 4, 7); C75, 77, 79, 81, §147.80(7)]

10. [S13, §2583-l, -n; C24, 27, 31, 35, 39, §**2516;** C46, 50, 54, 58, 62, 66, 71, 73, §147.80(3, 4, 7); C75, 77, 79, 81, §147.80(8)]

11. [C24, 27, 31, 35, 39, §**2516;** C46, 50, 54, 58, 62, 66, 71, 73, §147.80(5 – 7); C75, 77, 79, 81, §147.80(9)]

12. [S13, §2575-a38, -a39; C24, 27, 31, 35, 39, §**2516;** C46, 50, 54, 58, 62, 66, 71, 73, §147.80(5 – 7); C75, 77, 79, 81, §147.80(10)]

13. [S13, §2575-a30; C24, 27, 31, 35, 39, §**2516;** C46, 50, 54, 58, 62, §147.80(5 – 7); C66, §147.80(6, 7, 16, 17); C71, 73, §147.80(6, 7, 19, 20); C75, 77, 79, 81, §147.80(11)]

14. [C66, §147.80(19); C71, 73, §147.80(22); C75, 77, 79, 81, §147.80(12)]

15. [C27, §2516(5 – 7); C31, 35, 39, §**2516(5 – 7, 11, 13);** C46, 50, 54, 58, 62, §147.80(5 – 7, 11, 13); C66, 71, 73, §147.80(5 – 7, 10, 11); C75, 77, 79, 81, §147.80(13)]

16. [C27, 31, 35, 39, §**2516;** C46, 50, 54, §147.80(5 – 7, 12, 13); C58, 62, 66, §147.80(5 – 7, 12 – 14); C71, 73, §147.80(5 – 7, 12 – 17); C75, 77, 79, 81, §147.80(14)]

17. [C77, 79, 81, §147.80(15)]

18. [C81, §147.80(16)]

19. [C81, §147.80(17)]

24. [S13, §2600-n; C24, 27, 31, 35, 39, §**2516;** C46, 50, 54, 58, 62, 66, 71, 73, §147.80(8); C75, §147.80(15); C77, 79, §147.80(16); C81, §147.80(18)]

25. [C66, 71, 73, §147.80(18); C75, §147.80(16); C77, 79, §147.80(17); C81, §147.80(19)]

84 Acts, ch 1075, §12; 85 Acts, ch 168, §7; 85 Acts, ch 246, §1; 88 Acts, ch 1225, §11; 89 Acts, ch 240, §1; 91 Acts, ch 228, §2; 91 Acts, ch 229, §5; 92 Acts, ch 1183, §5; 92 Acts, ch 1205, §17; 93 Acts, ch 86, §14; 96 Acts, ch 1036, §22; 98 Acts, ch 1053, §20; 2000 Acts, ch 1002, §2; 2000 Acts, ch 1053, §4; 2001 Acts, ch 24, §31; 2001 Acts, ch 58, §8; 2003 Acts, ch 93, §2, 14; 2004 Acts, ch 1175, §425, 433; 2005 Acts, ch 175, §85; 2006 Acts, ch 1155, §5, 15; 2007 Acts, ch 10, §63; 2007 Acts, ch 218, §199, 200; 2008 Acts, ch 1088, §33; 2009 Acts, ch 133, §49

Referred to in **§147.82**, **§148F.3**, **§154A.13**, **§155A.43**, **§157.4**, **§157.8**, **§157.11**, **§158.4**, **§158.7**, **§158.9**

147.81 Reserved.

147.82 Fee retention.

All fees collected by a board listed in section 147.13 or by the department for the bureau of professional licensure, and fees collected pursuant to sections 124.301 and 147.80 and chapter 155A by the board of pharmacy, shall be retained by each board or by the department for the bureau of professional licensure. The moneys retained by a board shall be used for any of the board's duties, including but not limited to the addition of full-time equivalent positions for program services and investigations. Revenues retained by a board pursuant to this section shall be considered repayment receipts as defined in section 8.2. Notwithstanding section 8.33, moneys retained by a board pursuant to this section are not subject to reversion to the general fund of the state.

[C97, §2583; S13, §2575-a44, 2583-a, -s; C24, 27, 31, 35, 39, §**2518;** C46, 50, 54, 58, 62, 66, §147.82; C71, 73, §147.82, 153.4; C75, 77, 79, 81, §147.82]

2005 Acts, ch 175, §86; 2006 Acts, ch 1155, §6, 15; 2006 Acts, ch 1184, §86; 2007 Acts, ch 10, §184; 2008 Acts, ch 1088, §34

Referred to in **§147.25**, **§153.37**, **§155A.43**

VIOLATIONS — CRIMES — PUNISHMENT

147.83 Injunction.

Any person engaging in any business or in the practice of any profession for which a license is required by this subtitle without such license may be restrained by permanent injunction.

[C24, 27, 31, 35, 39, §**2519;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.83]

94 Acts, ch 1132, §24; 96 Acts, ch 1036, §23; 98 Acts, ch 1053, §21

Referred to in **§154C.2**, **§156.16**

Injunctions, R.C.P. 1.1501 – 1.1511

147.84 Forgeries.

Any person who files or attempts to file with a board any false or forged diploma, certificate or affidavit of identification or qualification, or other document shall be guilty of a fraudulent practice.

[C97, §2580, 2595; S13, §2583-d; C24, 27, 31, 35, 39, §**2520;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.84]

2008 Acts, ch 1088, §35

Referred to in **§148.6**

See also §714.8, chapter 715A

147.85 Fraud.

Any person who presents to a board a diploma or certificate of which the person is not the rightful owner, for the purpose of procuring a license, or who falsely impersonates anyone to whom a license has been issued by the board shall be guilty of a serious misdemeanor.

[C97, §2580, 2581, 2595; S13, §2575-a45, 2581, 2583-c, -d; C24, 27, 31, 35, 39, §**2521;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.85]

2008 Acts, ch 1088, §36; 2009 Acts, ch 133, §50

Referred to in **§148.6**

147.86 Penalties.

Any person violating any provision of this subtitle, except insofar as the provisions apply or relate to or affect the practice of pharmacy, or where a specific penalty is otherwise provided, shall be guilty of a serious misdemeanor.

[C97, §2580, 2581, 2588, 2590, 2591, 2595; S13, §2575-a35, -a45, 2581, 2583-d, -r, 2589-d, 2600-o4; SS15, §2588; C24, 27, 31, 35, 39, §**2522;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.86]

92 Acts, ch 1183, §6; 94 Acts, ch 1023, §12; 94 Acts, ch 1132, §25; 96 Acts, ch 1036, §24; 98 Acts, ch 1053, §22; 2015 Acts, ch 30, §61

Referred to in **§147.107**, **§147.108**, **§147.109**

ENFORCEMENT PROVISIONS

147.87 Enforcement.

A board shall enforce the provisions of this chapter and the board's enabling statute and for that purpose may request the department of inspections and appeals to make necessary investigations. Every licensee and member of a board shall furnish the board or the department of inspections and appeals such evidence as the member or licensee may have relative to any alleged violation which is being investigated.

[C24, 27, 31, 35, 39, §**2523;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.87]

90 Acts, ch 1204, §19; 94 Acts, ch 1132, §26; 96 Acts, ch 1036, §25; 98 Acts, ch 1053, §23; 2007 Acts, ch 10, §64; 2008 Acts, ch 1088, §37; 2009 Acts, ch 41, §53

Referred to in **§152.10**, **§153.36**, **§156.9**

Continuing education and regulation, chapter 272C

147.88 Inspections and investigations.

The department of inspections and appeals may perform inspections and investigations as required by this subtitle, except inspections and investigations for the board of medicine, board of pharmacy, board of nursing, and the dental board. The department of inspections and appeals shall employ personnel related to the inspection and investigative functions.

[C31, 35, §2523-c1; C39, §**2523.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.88]

90 Acts, ch 1204, §20; 94 Acts, ch 1132, §27; 96 Acts, ch 1036, §26; 98 Acts, ch 1053, §24; 2007 Acts, ch 10, §65; 2007 Acts, ch 218, §201; 2008 Acts, ch 1088, §38

Referred to in **§152.10**, **§153.36**

147.89 Report of violators.

Every licensee and member of a board shall report to the board the name of any person without the required license if the licensee or member of the board has reason to believe the person is practicing the profession without a license.

[C24, 27, 31, 35, 39, §**2524;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.89]

2007 Acts, ch 10, §66; 2008 Acts, ch 1088, §39; 2009 Acts, ch 41, §54

Referred to in **§152.10**, **§153.36**

147.90 Rules and forms. Repealed by 2008 Acts, ch 1088, §78.

147.91 Publications.

Each board shall provide access to the laws and rules regulating the board to the public upon request and shall make this information available through the internet.

[C24, 27, 31, 35, 39, §**2526;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.91]

90 Acts, ch 1204, §22; 2001 Acts, ch 58, §9; 2007 Acts, ch 10, §67; 2008 Acts, ch 1088, §40

Referred to in **§153.36**

147.92 Attorney general.

Upon request of a board the attorney general shall institute in the name of the state the proper proceedings against any person charged by the board with violating any provision of this or the following chapters of this subtitle.

[S13, §2600-o7; C24, 27, 31, 35, 39, §**2527;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.92]

94 Acts, ch 1132, §29; 94 Acts, ch 1173, §8; 96 Acts, ch 1036, §28; 98 Acts, ch 1053, §26; 2008 Acts, ch 1088, §41

Referred to in **§153.36**

147.93 Prima facie evidence.

The opening of an office or place of business for the practice of any profession for which a license is required by this subtitle, the announcing to the public in any way the intention to practice any such profession, the use of any professional degree or designation, or of any sign, card, circular, device, internet site, or advertisement, as a practitioner of any such profession,

or as a person skilled in the same, shall be prima facie evidence of engaging in the practice of such profession.

[S13, §2575-a28, -a31, 2600-o; C24, 27, 31, 35, 39, §**2528;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.93]

94 Acts, ch 1132, §30; 96 Acts, ch 1036, §29; 98 Acts, ch 1053, §27; 2008 Acts, ch 1088, §42; 2013 Acts, ch 90, §257

147.94 through 147.96 Repealed by 2008 Acts, ch 1088, §79.

147.97 Reserved.

147.98 through 147.100 Repealed by 2008 Acts, ch 1088, §79.

147.101 Reserved.

147.102 through 147.103A Repealed by 2008 Acts, ch 1088, §79.

147.104 Records. Repealed by 2008 Acts, ch 1088, §78.

147.105 Reserved.

ANATOMIC PATHOLOGY
SERVICES BILLING

147.106 Anatomic pathology services — billing.

1. A physician or a clinical laboratory located in this state or in another state that provides anatomic pathology services to a patient in this state shall present or cause to be presented a claim, bill, or demand for payment for such services only to the following persons:

a. The patient who is the recipient of the services.

b. The insurer or other third-party payor responsible for payment of the services.

c. The hospital that ordered the services.

d. The public health clinic or nonprofit clinic that ordered the services.

e. The referring clinical laboratory, other than the laboratory of a physician's office or group practice, that ordered the services. A laboratory of a physician's office or group practice that ordered the services may be presented a claim, bill, or demand for payment if a physician in the physician's office or group practice is performing the professional component of the anatomic pathology services.

f. A governmental agency or a specified public or private agent, agency, or organization that is responsible for payment of the services on behalf of the recipient of the services.

2. Except as provided under subsections 5 and 6, a clinical laboratory or a physician providing anatomic pathology services to patients in this state shall not, directly or indirectly, charge, bill, or otherwise solicit payment for such services unless the services were personally rendered by the clinical laboratory or the physician or under the direct supervision of the clinical laboratory or the physician in accordance with section 353 of the federal Public Health Service Act, 42 U.S.C. §263a.

3. A person to whom a claim, bill, or demand for payment for anatomic pathology services is submitted is not required to pay the claim, bill, or demand for payment if the claim, bill, or demand for payment is submitted in violation of this section.

4. This section shall not be construed to mandate the assignment of benefits for anatomic pathology services as defined in this section.

5. This section does not prohibit claims or charges presented to a referring clinical laboratory, other than a laboratory of a physician's office or group practice unless in accordance with subsection 1, paragraph "*e*", by another clinical laboratory when samples are transferred between laboratories for the provision of anatomic pathology services.

6. This section does not prohibit claims or charges for anatomic pathology services presented on behalf of a public health clinic or nonprofit clinic that ordered the services provided that the clinic is identified on the claim or charge presented.

7. A violation of this section by a physician shall subject the physician to the disciplinary provisions of section 272C.3, subsection 2.

8. As used in this section:

a. *"Anatomic pathology services"* includes all of the following:

(1) Histopathology or surgical pathology, meaning the gross and microscopic examination and histologic processing of organ tissue performed by a physician or under the supervision of a physician.

(2) Cytopathology, meaning the examination of cells from fluids, aspirates, washings, brushings, or smears, including the Pap test examination, performed by a physician or under the supervision of a physician.

(3) Hematology, meaning the microscopic evaluation of bone marrow aspirates and biopsies performed by a physician or under the supervision of a physician, and the examination of peripheral blood smears performed by a physician or under the supervision of a physician upon the request of an attending or treating physician or technologist that a blood smear be reviewed by a physician.

(4) Subcellular pathology and molecular pathology services performed by a physician or under the supervision of a physician.

(5) Bloodbanking services performed by a physician or under the supervision of a physician.

b. *"Physician"* means any person licensed to practice medicine and surgery or osteopathic medicine and surgery in this state or in another state.

2005 Acts, ch 10, §1; 2005 Acts, ch 179, §120; 2006 Acts, ch 1185, §73, 74; 2008 Acts, ch 1088, §95

DRUG AND LENS DISPENSING, SUPPLYING, AND PRESCRIBING

147.107 Drug dispensing, supplying, and prescribing — limitations.

1. A person, other than a pharmacist, physician, dentist, podiatric physician, prescribing psychologist, or veterinarian who dispenses as an incident to the practice of the practitioner's profession, shall not dispense prescription drugs or controlled substances.

2. *a.* A pharmacist, physician, dentist, podiatric physician, or prescribing psychologist who dispenses prescription drugs, including but not limited to controlled substances, for human use, may delegate nonjudgmental dispensing functions to staff assistants only when verification of the accuracy and completeness of the dispensing is determined by the pharmacist or practitioner in the pharmacist's or practitioner's physical presence. However, the physical presence requirement does not apply when a pharmacist or practitioner is utilizing an automated dispensing system; when a pharmacist is utilizing a tech-check-tech program, as defined in section 155A.3; or when a pharmacist is remotely supervising a certified pharmacy technician practicing at a telepharmacy site approved by the board of pharmacy. When using an automated dispensing system the pharmacist or practitioner shall utilize an internal quality control assurance plan that ensures accuracy for dispensing. When using a tech-check-tech program or when remotely supervising a certified pharmacy technician practicing at an approved telepharmacy site, the pharmacist shall utilize an internal quality control assurance plan, in accordance with rules adopted by the board of pharmacy, that ensures accuracy for dispensing. Verification of automated dispensing, tech-check-tech, and telepharmacy practice accuracy and completeness remains the responsibility of the pharmacist or practitioner and shall be determined in accordance with rules adopted by the board of pharmacy, the board of medicine, the dental board, the board of podiatry, and the board of psychology for their respective licensees.

b. A dentist, physician, podiatric physician, or prescribing psychologist who dispenses

prescription drugs, other than drug samples, pursuant to this subsection, shall report the fact that they dispense prescription drugs with the practitioner's respective board at least biennially.

c. A physician, dentist, podiatric physician, or prescribing psychologist who dispenses prescription drugs, other than drug samples, pursuant to this subsection, shall offer to provide the patient with a written prescription that may be dispensed from a pharmacy of the patient's choice or offer to transmit the prescription orally, electronically, or by facsimile in accordance with section 155A.27 to a pharmacy of the patient's choice.

3. A physician assistant or registered nurse may supply, when pharmacist services are not reasonably available or when it is in the best interests of the patient, on the direct order of the supervising physician, a quantity of properly packaged and labeled prescription drugs, controlled substances, or contraceptive devices necessary to complete a course of therapy. However, a remote clinic, staffed by a physician assistant or registered nurse, where pharmacy services are not reasonably available, shall secure the regular advice and consultation of a pharmacist regarding the distribution, storage, and appropriate use of such drugs, substances, and devices.

4. Notwithstanding subsection 3, a physician assistant shall not dispense prescription drugs as an incident to the practice of the supervising physician or the physician assistant, but may supply, when pharmacist services are not reasonably available, or when it is in the best interests of the patient, a quantity of properly packaged and labeled prescription drugs, controlled substances, or medical devices necessary to complete a course of therapy. However, a remote clinic, staffed by a physician assistant, where pharmacy services are not reasonably available, shall secure the regular advice and consultation of a pharmacist regarding the distribution, storage, and appropriate use of such drugs, substances, and devices. Prescription drugs supplied under the provisions of this subsection shall be supplied for the purpose of accommodating the patient and shall not be sold for more than the cost of the drug and reasonable overhead costs, as they relate to supplying prescription drugs to the patient, and not at a profit to the physician or the physician assistant. If prescription drug supplying authority is delegated by a supervising physician to a physician assistant, a nurse or staff assistant may assist the physician assistant in providing that service. Rules shall be adopted by the board of physician assistants, after consultation with the board of pharmacy, to implement this subsection.

5. Notwithstanding subsection 1 and any other provision of this section to the contrary, a physician may delegate the function of prescribing drugs, controlled substances, and medical devices to a physician assistant licensed pursuant to chapter 148C. When delegated prescribing occurs, the supervising physician's name shall be used, recorded, or otherwise indicated in connection with each individual prescription so that the individual who dispenses or administers the prescription knows under whose delegated authority the physician assistant is prescribing. Rules relating to the authority of physician assistants to prescribe drugs, controlled substances, and medical devices pursuant to this subsection shall be adopted by the board of physician assistants, after consultation with the board of medicine and the board of pharmacy. However, the rules shall prohibit the prescribing of schedule II controlled substances which are listed as depressants pursuant to chapter 124.

6. Health care providers shall consider the instructions of the physician assistant to be instructions of the supervising physician if the instructions concern duties delegated to the physician assistant by a supervising physician.

7. Notwithstanding subsection 1, a family planning clinic may dispense birth control drugs and devices upon the order of a physician. Subsections 2 and 3 do not apply to a family planning clinic under this subsection.

8. Notwithstanding subsection 1, but subject to the limitations contained in subsections 2 and 3, a registered nurse who is licensed as an advanced registered nurse practitioner may prescribe substances or devices, including controlled substances or devices, if the nurse is engaged in the practice of a nursing specialty regulated under rules adopted by the board of nursing in consultation with the board of medicine and the board of pharmacy.

9. Notwithstanding section 147.86, a person, including a pharmacist, who violates this section is guilty of a simple misdemeanor.

84 Acts, ch 1006, §1; 88 Acts, ch 1232, §1; 91 Acts, ch 238, §1; 91 Acts, ch 239, §1; 92 Acts, ch 1163, §37; 92 Acts, ch 1183, §10; 94 Acts, ch 1134, §1; 95 Acts, ch 108, §5; 2002 Acts, ch 1108, §13; 2003 Acts, ch 93, §3, 14; 2003 Acts, ch 108, §39; 2004 Acts, ch 1036, §8; 2004 Acts, ch 1101, §22; 2006 Acts, ch 1094, §1; 2007 Acts, ch 10, §78; 2007 Acts, ch 218, §202; 2008 Acts, ch 1016, §1; 2008 Acts, ch 1088, §43; 2015 Acts, ch 56, §3; 2016 Acts, ch 1093, §1; 2016 Acts, ch 1112, §3

Referred to in **§148G.1**, **§152B.1**, **§154.1**, **§155A.2**, **§155A.4**

Additional persons authorized, see §154.1, 155A.4

Notwithstanding subsection 2 or section 155A.33, board of pharmacy authorized to approve a pilot or demonstration research project relating to authority of prescription validation and pharmacist ability to provide enhanced patient care; see 2011 Acts, ch 63, §36; 2012 Acts, ch 1113, §31; 2013 Acts, ch 138, §128

See Code editor's note on simple harmonization at the end of Vol VI

Subsections 1 and 2 amended

147.108 Contact lens prescribing and dispensing.

1. A person shall not dispense or adapt contact lenses without first receiving authorization to do so by a written, electronic, or facsimile prescription, except when authorized orally under subsection 2, from a person licensed under chapter 148 or 154. The board of optometry shall adopt rules relating to electronic or facsimile transmission of a prescription under this section.

2. After contact lenses have been adequately adapted and the patient released from initial follow-up care by a person licensed under chapter 148 or 154, the patient may request a copy, at no cost, of the contact lens prescription from that licensed person. A person licensed under chapter 148 or 154 shall not withhold a contact lens prescription after the requirements of this section have been met. The prescription, at the option of the prescriber, may be given orally only to a person who is actively practicing and licensed under chapter 148, 154, or 155A. The contact lens prescription shall contain an expiration date, at the discretion of the prescriber, but not to exceed eighteen months. The contact lens prescription shall contain the necessary requirements of the ophthalmic lens, and the prescription validation requirements as defined by rules adopted pursuant to this section. The prescription may contain adapting and material guidelines and may also contain specific instructions for use by the patient. For the purpose of this section, *"ophthalmic lens"* means one which has been fabricated to fill the requirements of a particular contact lens prescription, including pharmaceutical-delivering contact lenses as defined in section 154.1, subsection 3.

3. A person who fills a contact lens prescription shall maintain a file of a valid prescription for a period of two years.

4. Notwithstanding section 147.86, a person who violates this section is guilty of a simple misdemeanor for a first violation. Subsequent violations are governed by section 147.86.

94 Acts, ch 1098, §1; 2004 Acts, ch 1036, §9; 2007 Acts, ch 10, §79; 2008 Acts, ch 1088, §96; 2010 Acts, ch 1010, §1; 2012 Acts, ch 1004, §1

147.109 Ophthalmic spectacle lens prescribing and dispensing.

1. A person shall not dispense or adapt an ophthalmic spectacle lens or lenses without first receiving authorization to do so by a written, electronic, or facsimile prescription from a person licensed under chapter 148 or 154. For the purpose of this section, *"ophthalmic spectacle lens"* means one which has been fabricated to fill the requirements of a particular spectacle lens prescription. The board of optometry shall adopt rules relating to electronic or facsimile transmission of a prescription under this section.

2. Upon completion of an eye examination, a person licensed under chapter 148 or 154 shall furnish the patient a copy of their ophthalmic spectacle lens prescription at no cost. The ophthalmic spectacle lens prescription shall contain an expiration date. The ophthalmic spectacle lens prescription shall contain the requirements of the ophthalmic spectacle lens and the prescription validation requirements as defined by rules adopted pursuant to this section. The prescription, at the option of the prescriber, may contain adapting and material guidelines and may also contain specific instructions for use by the patient.

3. Upon request of a patient, a person licensed under chapter 148 or 154 shall provide the

prescription of the patient, if the prescription has not expired, at no cost to another person licensed under chapter 148 or 154. The person licensed under chapter 148 or 154 shall accept the prescription and shall not require the patient to undergo an eye examination unless, due to observation or patient history, the licensee has reason to require an examination.

4. A dispenser shall maintain a file of a valid prescription for a period of two years.

5. Notwithstanding section 147.86, a person who violates this section is guilty of a simple misdemeanor for a first violation. Subsequent violations are governed by section 147.86.

94 Acts, ch 1098, §2; 2004 Acts, ch 1036, §10; 2007 Acts, ch 10, §80; 2008 Acts, ch 1088, §97

147.110 Reserved.

WOUNDS BY CRIMINAL VIOLENCE OR MOTOR VEHICLE

147.111 Report of treatment of wounds and other injuries.

1. A person licensed under the provisions of this subtitle who administers any treatment to any person suffering a gunshot or stab wound or other serious injury, as defined in section 702.18, which appears to have been received in connection with the commission of a criminal offense, or a motor vehicle accident or crash, or to whom an application is made for treatment of any nature because of any such gunshot or stab wound or other serious injury, as defined in section 702.18, shall at once but not later than twelve hours thereafter, report that fact to the law enforcement agency within whose jurisdiction the treatment was administered or an application for treatment was made, or if ascertainable, to the law enforcement agency in whose jurisdiction the gunshot or stab wound or other serious injury occurred, stating the name of such person, the person's residence if ascertainable, and giving a brief description of the gunshot or stab wound or other serious injury.

2. A person certified under the provisions of chapter 147A who administers any treatment to any person suffering a gunshot or stab wound or other serious injury, as defined in section 702.18, which appears to have been received in connection with the commission of a criminal offense, or a motor vehicle accident or crash, or to whom an application is made for treatment of any nature because of any such gunshot or stab wound or other serious injury, may report that fact to the law enforcement agency within whose jurisdiction the treatment was administered or application for treatment was made, or if ascertainable, to the law enforcement agency in whose jurisdiction the gunshot or stab wound or other serious injury occurred, stating the name of the person, the person's residence if ascertainable, and giving a brief description of the gunshot or stab wound or other serious injury.

3. Any provision of law or rule of evidence relating to a confidential communication is suspended for communications under this section.

[C31, 35, §2537-d1; C39, §**2537.7;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.111]

93 Acts, ch 100, §2; 94 Acts, ch 1132, §31; 96 Acts, ch 1036, §30; 98 Acts, ch 1053, §28; 99 Acts, ch 114, §8; 2010 Acts, ch 1127, §1

Referred to in **§147.112, §331.653**

147.112 Investigation and report by law enforcement agency.

The law enforcement agency who has received any report required by this chapter and who has any reason to believe that the person injured was involved in the commission of any crime, either as perpetrator or victim, shall at once commence an investigation into the circumstances of the gunshot or stab wound or other serious injury and make a report of the investigation to the county attorney in whose jurisdiction the gunshot or stab wound or other serious injury occurred. Law enforcement personnel shall not divulge any information received under the provisions of this section and section 147.111 to any person other than

a law enforcing officer, and then only in connection with the investigation of the alleged commission of a crime.

[C31, 35, §2537-d2; C39, §**2537.8;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.112]

93 Acts, ch 100, §3; 99 Acts, ch 114, §9

Referred to in **§331.653**

"Serious injury" definition, see §702.18

147.113 Violations.

Any person failing to make the report required herein shall be guilty of a simple misdemeanor.

[C31, 35, §2537-d3; C39, §**2537.9;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.113]

BURN INJURIES

147.113A Report of burn injuries.

Any person licensed under the provisions of this subtitle who administers any treatment to a person suffering a burn which appears to be of a suspicious nature on the body, a burn to the upper respiratory tract, a laryngeal edema due to the inhalation of super-heated air, or a burn injury that is likely to result in death, which appears to have been received in connection with the commission of a criminal offense, or to whom an application is made for treatment of any nature because of any such burn or burn injury shall at once but not later than twelve hours after treatment was administered or application was made report the fact to law enforcement. The report shall be made to the law enforcement agency within whose jurisdiction the treatment was administered or application was made, or if ascertainable, to the law enforcement agency in whose jurisdiction the burn or burn injury occurred, stating the name of such person, the person's residence if ascertainable, and giving a brief description of the burn or burn injury. Any provision of law or rule of evidence relative to confidential communications is suspended insofar as the provisions of this section are concerned.

2003 Acts, ch 134, §1

INSPECTOR FOR DENTAL BOARD

147.114 Inspector. Transferred to §153.33, subsection 7; 2009 Acts, ch 133, §192.

147.115 through 147.134 Reserved.

MALPRACTICE

147.135 Peer review committees — nonliability — records and reports privileged and confidential.

1. A person shall not be civilly liable as a result of acts, omissions, or decisions made in connection with the person's service on a peer review committee. However, such immunity from civil liability shall not apply if an act, omission, or decision is made with malice.

2. As used in this subsection, *"peer review records"* means all complaint files, investigation files, reports, and other investigative information relating to licensee discipline or professional competence in the possession of a peer review committee or an employee of a peer review committee. As used in this subsection, *"peer review committee"* does not include licensing boards. Peer review records are privileged and confidential, are not subject to discovery, subpoena, or other means of legal compulsion for release to a person other than an affected licensee or a peer review committee, and are not admissible in evidence in a judicial or administrative proceeding other than a proceeding involving licensee discipline or a proceeding brought by a licensee who is the subject of a peer review record and whose

competence is at issue. A person shall not be liable as a result of filing a report or complaint with a peer review committee or providing information to such a committee, or for disclosure of privileged matter to a peer review committee. A person present at a meeting of a peer review committee shall not be permitted to testify as to the findings, recommendations, evaluations, or opinions of the peer review committee in any judicial or administrative proceeding other than a proceeding involving licensee discipline or a proceeding brought by a licensee who is the subject of a peer review committee meeting and whose competence is at issue. Information or documents discoverable from sources other than the peer review committee do not become nondiscoverable from the other sources merely because they are made available to or are in the possession of a peer review committee. However, such information relating to licensee discipline may be disclosed to an appropriate licensing authority in any jurisdiction in which the licensee is licensed or has applied for a license. If such information indicates a crime has been committed, the information shall be reported to the proper law enforcement agency. This subsection shall not preclude the discovery of the identification of witnesses or documents known to a peer review committee. Any final written decision and finding of fact by a licensing board in a disciplinary proceeding is a public record. Upon appeal by a licensee of a decision of a board, the entire case record shall be submitted to the reviewing court. In all cases where privileged and confidential information under this subsection becomes discoverable, admissible, or part of a court record the identity of an individual whose privilege has been involuntarily waived shall be withheld.

3. *a.* A full and confidential report concerning any final hospital disciplinary action approved by a hospital board of trustees that results in a limitation, suspension, or revocation of a physician's privilege to practice for reasons relating to the physician's professional competence or concerning any voluntary surrender or limitation of privileges for reasons relating to professional competence shall be made to the board of medicine by the hospital administrator or chief of medical staff within ten days of such action. The board of medicine shall investigate the report and take appropriate action. These reports shall be privileged and confidential as though included in and subject to the requirements for peer review committee information in subsection 2. Persons making these reports and persons participating in resulting proceedings related to these reports shall be immune from civil liability with respect to the making of the report or participation in resulting proceedings. As used in this subsection, "*physician*" means a person licensed pursuant to chapter 148.

b. Notwithstanding subsection 2, if the board of medicine conducts an investigation based on a complaint received or upon its own motion, a hospital pursuant to subpoena shall make available information and documents requested by the board, specifically including reports or descriptions of any complaints or incidents concerning an individual who is the subject of the board's investigation, even though the information and documents are also kept for, are the subject of, or are being used in peer review by the hospital. However, the deliberations, testimony, decisions, conclusions, findings, recommendations, evaluations, work product, or opinions of a peer review committee or its members and those portions of any documents or records containing or revealing information relating thereto shall not be subject to the board's request for information, subpoena, or other legal compulsion. All information and documents received by the board from a hospital under this section shall be confidential pursuant to section 272C.6, subsection 4.

[C77, 79, 81, §147.135]

86 Acts, ch 1211, §14; 90 Acts, ch 1086, §7; 2007 Acts, ch 10, §82; 2009 Acts, ch 133, §51

Referred to in **§139A.22**, **§147.1**, **§147A.24**

147.136 Scope of recovery.

1. Except as otherwise provided in subsection 2, in an action for damages for personal injury against a physician and surgeon, osteopathic physician and surgeon, dentist, podiatric physician, optometrist, pharmacist, chiropractor, or nurse licensed to practice that profession in this state, or against a hospital licensed for operation in this state, based on the alleged negligence of the practitioner in the practice of the profession or occupation, or upon the alleged negligence of the hospital in patient care, in which liability is admitted or established, the damages awarded shall not include actual economic losses incurred or to be incurred in

the future by the claimant by reason of the personal injury, including but not limited to the cost of reasonable and necessary medical care, rehabilitation services, and custodial care, and the loss of services and loss of earned income, to the extent that those losses are replaced or are indemnified by insurance, or by governmental, employment, or service benefit programs or from any other source.

2. This section shall not bar recovery of economic losses replaced or indemnified by any of the following:

a. Benefits received under the medical assistance program under chapter 249A.

b. The assets of the claimant or of the members of the claimant's immediate family.

[C77, 79, 81, §147.136]

95 Acts, ch 108, §6; 2008 Acts, ch 1088, §141; 2011 Acts, ch 129, §85, 156

Referred to in §668.14

147.137 Consent in writing.

A consent in writing to any medical or surgical procedure or course of procedures in patient care which meets the requirements of this section shall create a presumption that informed consent was given. A consent in writing meets the requirements of this section if it:

1. Sets forth in general terms the nature and purpose of the procedure or procedures, together with the known risks, if any, of death, brain damage, quadriplegia, paraplegia, the loss or loss of function of any organ or limb, or disfiguring scars associated with such procedure or procedures, with the probability of each such risk if reasonably determinable.

2. Acknowledges that the disclosure of that information has been made and that all questions asked about the procedure or procedures have been answered in a satisfactory manner.

3. Is signed by the patient for whom the procedure is to be performed, or if the patient for any reason lacks legal capacity to consent, is signed by a person who has legal authority to consent on behalf of that patient in those circumstances.

[C77, 79, 81, §147.137]

147.138 Contingent fee of attorney reviewed by court.

In any action for personal injury or wrongful death against any physician and surgeon, osteopathic physician and surgeon, dentist, podiatric physician, optometrist, pharmacist, chiropractor or nurse licensed under this chapter or against any hospital licensed under chapter 135B, based upon the alleged negligence of the licensee in the practice of that profession or occupation, or upon the alleged negligence of the hospital in patient care, the court shall determine the reasonableness of any contingent fee arrangement between the plaintiff and the plaintiff's attorney.

[C77, 79, 81, §147.138]

95 Acts, ch 108, §7; 2008 Acts, ch 1088, §141

147.139 Expert witness standards.

If the standard of care given by a physician and surgeon or an osteopathic physician and surgeon licensed pursuant to chapter 148, or a dentist licensed pursuant to chapter 153, is at issue, the court shall only allow a person to qualify as an expert witness and to testify on the issue of the appropriate standard of care if the person's medical or dental qualifications relate directly to the medical problem or problems at issue and the type of treatment administered in the case.

86 Acts, ch 1211, §16; 2008 Acts, ch 1088, §98

147.140 through 147.150 Reserved.

SPEECH PATHOLOGISTS AND AUDIOLOGISTS

147.151 and 147.152 Repealed by 2008 Acts, ch 1088, §79. See §154F.1, 154F.2.

147.153 through 147.156 Repealed by 2008 Acts, ch 1088, §78. See §154F.3 through 154F.6.

147.157 through 147.160 Reserved.

BASIC EMERGENCY MEDICAL CARE PROVIDERS

147.161 Repealed by 95 Acts, ch 41, §27. See chapter 147A.

CHAPTER 272C

REGULATION OF LICENSED PROFESSIONS AND OCCUPATIONS

Referred to in §105.22, §105.23, §147.55, §147A.7, §148.6, §148.14, §148C.13, §148F.3, §148G.5, §148G.8, §151.9, §152.4, §152.11, §153.33, §153.34, §154C.4, §154D.3, §154E.3, §155.9, §155A.6A, §155A.6B, §155A.42, §203.16, §203C.24, §232.69, §235B.16, §542.3, §542.17, §543D.5, §543D.12, §543D.17

Identifying and reporting of dependent adult abuse
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272C.1 Definitions.

1. *"Continuing education"* means that education which is obtained by a professional or occupational licensee in order to maintain, improve, or expand skills and knowledge obtained prior to initial licensure or to develop new and relevant skills and knowledge. This education may be obtained through formal or informal education practices, self-study, research, and participation in professional, technical, and occupational societies, and by other similar means as authorized by the board.

2. *"Disciplinary proceeding"* means any proceeding under the authority of a licensing board pursuant to which licensee discipline may be imposed.

3. *"Inactive licensee re-entry"* means that process a former or inactive professional or occupational licensee pursues to again be capable of actively and competently practicing as a professional or occupational licensee.

4. *"Licensee discipline"* means any sanction a licensing board may impose upon its licensees for conduct which threatens or denies citizens of this state a high standard of professional or occupational care.

5. The term *"licensing"* and its derivations include the terms *"registration"* and *"certification"* and their derivations.

6. *"Licensing board"* or *"board"* includes the following boards:

a. The state board of engineering and land surveying examiners, created pursuant to chapter 542B.

b. The board of examiners of shorthand reporters created pursuant to article 3 of chapter 602.

c. The Iowa accountancy examining board, created pursuant to chapter 542.

d. The Iowa real estate commission, created pursuant to chapter 543B.

e. The board of architectural examiners, created pursuant to chapter 544A.

f. The Iowa board of landscape architectural examiners, created pursuant to chapter 544B.

g. The board of barbering, created pursuant to chapter 147.

h. The board of chiropractic, created pursuant to chapter 147.

i. The board of cosmetology arts and sciences, created pursuant to chapter 147.

j. The dental board, created pursuant to chapter 147.

k. The board of mortuary science, created pursuant to chapter 147.

l. The board of medicine, created pursuant to chapter 147.

m. The board of physician assistants, created pursuant to chapter 148C.

n. The board of nursing, created pursuant to chapter 147.

o. The board of nursing home administrators, created pursuant to chapter 155.

p. The board of optometry, created pursuant to chapter 147.

q. The board of pharmacy, created pursuant to chapter 147.

r. The board of physical and occupational therapy, created pursuant to chapter 147.

s. The board of podiatry, created pursuant to chapter 147.

t. The board of psychology, created pursuant to chapter 147.

u. The board of speech pathology and audiology, created pursuant to chapter 147.

v. The board of hearing aid specialists, created pursuant to chapter 154A.

w. The board of veterinary medicine, created pursuant to chapter 169.

x. The director of the department of natural resources in certifying water treatment operators as provided in sections 455B.211 through 455B.224.

y. Any professional or occupational licensing board created after January 1, 1978.

z. The board of respiratory care and polysomnography in licensing respiratory care practitioners pursuant to chapter 152B, respiratory care and polysomnography practitioners pursuant to chapter 152B, and polysomnographic technologists pursuant to chapter 148G.

aa. The board of athletic training in licensing athletic trainers pursuant to chapter 152D.

ab. The board of massage therapy in licensing massage therapists pursuant to chapter 152C.

ac. The board of sign language interpreters and transliterators, created pursuant to chapter 154E.

ad. The director of public health in certifying emergency medical care providers and emergency medical care services pursuant to chapter 147A.

ae. The plumbing and mechanical systems board, created pursuant to chapter 105.

af. The department of public safety, in licensing fire protection system installers and maintenance workers pursuant to chapter 100D.

ag. The superintendent of the division of banking of the department of commerce in registering and supervising appraisal management companies pursuant to chapter 543E.

7. *"Malpractice"* means any error or omission, unreasonable lack of skill, or failure to maintain a reasonable standard of care by a licensee in the course of practice of the licensee's occupation or profession, pursuant to this chapter.

8. *"Peer review"* means evaluation of professional services rendered by a professional practitioner.

9. *"Peer review committee"* means one or more persons acting in a peer review capacity pursuant to this chapter.

[C79, 81, §258A.1]

83 Acts, ch 186, §10063, 10201; 84 Acts, ch 1067, §26; 87 Acts, ch 165, §3; 88 Acts, ch 1134, §61; 88 Acts, ch 1225, §25; 89 Acts, ch 83, §36; 90 Acts, ch 1193, §8; 92 Acts, ch 1205, §23

C93, §272C.1

94 Acts, ch 1132, §32; 96 Acts, ch 1036, §40; 98 Acts, ch 1053, §41, 42; 2001 Acts, ch 16, §1, 37; 2001 Acts, ch 55, §25, 38; 2004 Acts, ch 1110, §1; 2004 Acts, ch 1175, §430, 433; 2005 Acts, ch 3, §57; 2006 Acts, ch 1184, §119; 2007 Acts, ch 10, §171; 2007 Acts, ch 218, §205; 2007 Acts, ch 198, §31; 2008 Acts, ch 1089, §10, 12; 2008 Acts, ch 1094, §14, 18; 2009 Acts, ch 151, §31; 2010 Acts, ch 1037, §15; 2015 Acts, ch 57, §17; 2015 Acts, ch 70, §16; 2016 Acts, ch 1124, §21, 32

Referred to in **§232.69**, **§235B.16**, **§272C.4**, **§622.31**

Subsection 6, paragraph ag takes effect January 1, 2017; 2016 Acts, ch 1124, §32

Subsection 6, NEW paragraph ag

272C.2 Continuing education required.

1. Each licensing board shall require and issue rules for continuing education requirements as a condition to license renewal.

2. The rules shall create continuing education requirements at a minimum level prescribed by each licensing board. These boards may also establish continuing education programs to assist a licensee in meeting such continuing education requirements. Such rules shall also:

a. Give due attention to the effect of continuing education requirements on interstate and international practice.

b. Place the responsibility for arrangement of financing of continuing education on the licensee, while allowing the board to receive any other available funds or resources that aid in supporting a continuing education program.

c. Attempt to express continuing education requirements in terms of uniform and widely recognized measurement units.

d. Establish guidelines, including guidelines in regard to the monitoring of licensee participation, for the approval of continuing education programs that qualify under the continuing education requirements prescribed.

e. Not be implemented for the purpose of limiting the size of the profession or occupation.

f. Define the status of active and inactive licensure and establish appropriate guidelines for inactive licensee reentry.

g. Be promulgated solely for the purpose of assuring a continued maintenance of skills and knowledge by a professional or occupational licensee directly related and commensurate with the current level of competency of the licensee's profession or occupation.

3. The state board of engineering and land surveyors, the board of architectural examiners, the board of landscape architectural examiners, and the economic development authority shall cooperate with each other and with persons who typically offer continuing education courses for design professionals to make available energy efficiency related continuing education courses, and to encourage interdisciplinary cooperation and education concerning available energy efficiency strategies for employment in the state's construction industry.

4. A person licensed to practice an occupation or profession in this state shall be deemed to have complied with the continuing education requirements of this state during periods that the person serves honorably on active duty in the military services, or for periods that the person is a resident of another state or district having a continuing education requirement for the occupation or profession and meets all requirements of that state or district for practice therein, or for periods that the person is a government employee working in the person's licensed specialty and assigned to duty outside of the United States, or for other periods of active practice and absence from the state approved by the appropriate licensing board.

5. A person licensed to sell real estate in this state shall be deemed to have complied with the continuing education requirements of this state during periods that the person serves honorably on active duty in the military services, or for periods that the person is a resident of another state or district having a continuing education requirement for the occupation or profession and meets all requirements of that state or district for practice therein, if the state or district accords the same privilege to Iowa residents, or for periods that the person is a government employee working in the person's licensed specialty and assigned to duty outside of the United States, or for other periods of active practice and absence from the state approved by the appropriate licensing board.

[C79, 81, §258A.2]

89 Acts, ch 292, §5; 90 Acts, ch 1252, §16

C93, §272C.2

2007 Acts, ch 10, §172; 2009 Acts, ch 108, §13, 41; 2011 Acts, ch 118, §50, 89

Referred to in **§105.20**, **§153.36**, **§155A.6A**, **§155A.6B**, **§543D.16**

272C.2A Continuing education minimum requirements — cosmetology arts and sciences.

The board of cosmetology arts and sciences created pursuant to chapter 147 shall require as a condition of license renewal a minimum of six hours of continuing education in the two years immediately prior to a licensee's license renewal. The board of cosmetology arts and sciences may notify cosmetology arts and sciences licensees on a quarterly basis regarding continuing education opportunities.

88 Acts, ch 1274, §40

C89, §258A.2A

92 Acts, ch 1205, §24

C93, §272C.2A

2007 Acts, ch 10, §173; 2015 Acts, ch 63, §2

272C.2B Continuing education minimum requirements — mortuary science.

1. The board of mortuary science, created pursuant to chapter 147, shall require, as a

condition of license renewal, a minimum number of hours of continuing education in the two years immediately prior to a licensee's license renewal as prescribed by rule.

2. A person licensed to practice mortuary science in this state shall be deemed to have complied with the continuing education requirements of this state during periods that the person serves honorably on active duty in the military services, or for periods that the person is a government employee working in the person's licensed specialty and assigned to duty outside of the United States, or for other periods of active practice and absence from the state approved by the board of mortuary science.

2010 Acts, ch 1067, §1

272C.3 Authority of licensing boards.

1. Notwithstanding any other provision of this chapter, each licensing board shall have the powers to:

a. Administer and enforce the laws and administrative rules provided for in this chapter and any other statute to which the licensing board is subject.

b. Adopt and enforce administrative rules which provide for the partial reexamination of the professional licensing examinations given by each licensing board.

c. Review or investigate, or both, upon written complaint or upon its own motion pursuant to other evidence received by the board, alleged acts or omissions which the board reasonably believes constitute cause under applicable law or administrative rule for licensee discipline.

d. Determine in any case whether an investigation, or further investigation, or a disciplinary proceeding is warranted. Notwithstanding the provisions of chapter 17A, a determination by a licensing board that an investigation is not warranted or that an investigation should be closed without initiating a disciplinary proceeding is not subject to judicial review pursuant to section 17A.19.

e. Initiate and prosecute disciplinary proceedings.

f. Impose licensee discipline.

g. Petition the district court for enforcement of its authority with respect to licensees or with respect to other persons violating the laws which the board is charged with administering.

h. Register or establish and register peer review committees.

i. Refer to a registered peer review committee for investigation, review, and report to the board, any complaint or other evidence of an act or omission which the board reasonably believes to constitute cause for licensee discipline. However, the referral of any matter shall not relieve the board of any of its duties and shall not divest the board of any authority or jurisdiction.

j. Determine and administer the renewal of licenses for periods not exceeding three years.

k. Establish a licensee review committee for the purpose of evaluating and monitoring licensees who are impaired as a result of alcohol or drug abuse, dependency, or addiction, or by any mental or physical disorder or disability, and who self-report the impairment to the committee, or who are referred by the board to the committee. Members of the committee shall receive actual expenses for the performance of their duties and shall be eligible to receive per diem compensation pursuant to section 7E.6. The board shall adopt rules for the establishment and administration of the committee, including but not limited to establishment of the criteria for eligibility for referral to the committee and the grounds for disciplinary action for noncompliance with committee decisions. Information in the possession of the board or the licensee review committee, under this paragraph, shall be subject to the confidentiality requirements of section 272C.6. Referral of a licensee by the board to a licensee review committee shall not relieve the board of any duties of the board and shall not divest the board of any authority or jurisdiction otherwise provided. A licensee who violates section 272C.10 or the rules of the board while under review by the licensee review committee shall be referred to the board for appropriate action.

2. Each licensing board may impose one or more of the following as licensee discipline:

a. Revoke a license, or suspend a license either until further order of the board or for a specified period, upon any of the grounds specified in section 100D.5, 105.22, 147.55, 148.6, 148B.7, 152.10, 153.34, 154A.24, 169.13, 455B.219, 542.10, 542B.21, 543B.29, 544A.13,

544B.15, or 602.3203 or chapter 151 or 155, as applicable, or upon any other grounds specifically provided for in this chapter for revocation of the license of a licensee subject to the jurisdiction of that board, or upon failure of the licensee to comply with a decision of the board imposing licensee discipline.

b. Revoke, or suspend either until further order of the board or for a specified period, the privilege of a licensee to engage in one or more specified procedures, methods, or acts incident to the practice of the profession, if pursuant to hearing or stipulated or agreed settlement the board finds that because of a lack of education or experience, or because of negligence, or careless acts or omissions, or because of one or more intentional acts or omissions, the licensee has demonstrated a lack of qualifications which are necessary to assure the residents of this state a high standard of professional and occupational care.

c. Impose a period of probation under specified conditions, whether or not in conjunction with other sanctions.

d. Require additional professional education or training, or reexamination, or any combination, as a condition precedent to the reinstatement of a license or of any privilege incident thereto, or as a condition precedent to the termination of any suspension.

e. Impose civil penalties by rule, if the rule specifies which offenses or acts are subject to civil penalties. The amount of civil penalty shall be in the discretion of the board, but shall not exceed one thousand dollars. Failure to comply with the imposition of a civil penalty may be grounds for further license discipline.

f. Issue a citation and warning respecting licensee behavior which is subject to the imposition of other sanctions by the board.

3. The powers conferred by this section upon a licensing board shall be in addition to powers specified elsewhere in the Code. The powers of any other person specified elsewhere in the Code shall not limit the powers of a licensing board conferred by this section, nor shall the powers of such other person be deemed limited by the provisions of this section.

4. *a.* Nothing contained in this section shall be construed to prohibit informal stipulation and settlement by a board and a licensee of any matter involving licensee discipline. However, licensee discipline shall not be agreed to or imposed except pursuant to a written decision which specifies the sanction and which is entered by the board and filed.

b. All health care boards shall file written decisions which specify the sanction entered by the board with the Iowa department of public health which shall be available to the public upon request. All non-health care boards shall have on file the written and specified decisions and sanctions entered by the board and shall be available to the public upon request.

[C79, 81, §258A.3]

83 Acts, ch 186, §10064, 10201; 84 Acts, ch 1056, §1; 84 Acts, ch 1067, §27; 86 Acts, ch 1245, §1880; 90 Acts, ch 1086, §16

C93, §272C.3

95 Acts, ch 72, §1; 2000 Acts, ch 1008, §10; 2001 Acts, ch 16, §2, 37; 2001 Acts, ch 55, §26, 38; 2002 Acts, ch 1108, §26; 2002 Acts, ch 1119, §149; 2003 Acts, ch 78, §6; 2004 Acts, ch 1110, §2; 2004 Acts, ch 1176, §13; 2007 Acts, ch 198, §32; 2008 Acts, ch 1089, §10, 12; 2008 Acts, ch 1094, §15, 18; 2009 Acts, ch 41, §263

Referred to in **§147.106**, **§148.6**, **§153.34**, **§155A.18**, **§169.20**, **§272C.4**, **§272C.6**, **§543B.48**, **§543D.17**

Civil penalty for real estate brokers and salespersons, see §543B.48

272C.4 Duties of board.

Each licensing board shall have the following duties in addition to other duties specified by this chapter or elsewhere in the Code:

1. Establish procedures by which complaints which relate to licensure or to licensee discipline shall be received and reviewed by the board.

2. Establish procedures by which disputes between licensees and clients which result in judgments or settlements in or of malpractice claims or actions shall be investigated by the board.

3. Establish procedures by which any recommendation taken by a peer review committee shall be reported to and reviewed by the board if a peer review committee is established.

4. Establish procedures for registration with the board of peer review committees if a peer review committee is established.

5. Define by rule those recommendations of peer review committees which shall constitute disciplinary recommendations which must be reported to the board if a peer review committee is established.

6. Define by rule acts or omissions that are grounds for revocation or suspension of a license under section 100D.5, 105.22, 147.55, 148.6, 148B.7, 152.10, 153.34, 154A.24, 169.13, 455B.219, 542.10, 542B.21, 543B.29, 544A.13, 544B.15, or 602.3203 or chapter 151 or 155, as applicable, and to define by rule acts or omissions that constitute negligence, careless acts, or omissions within the meaning of section 272C.3, subsection 2, paragraph "*b*", which licensees are required to report to the board pursuant to section 272C.9, subsection 2.

7. Establish the procedures by which licensees shall report those acts or omissions specified by the board pursuant to subsection 6.

8. Give written notice to another licensing board or to a hospital licensing agency if evidence received by the board either alleges or constitutes reasonable cause to believe the existence of an act or omission which is subject to discipline by that other board or agency.

9. Require each health care licensing board to file with the Iowa department of public health a copy of each decision of the board imposing licensee discipline. Each non-health care board shall have on file a copy of each decision of the board imposing licensee discipline which copy shall be properly dated and shall be in simple language and in the most concise form consistent with clearness and comprehensiveness of subject matter.

10. Establish procedures consistent with the provisions of section 261.121, subsection 2, and sections 261.122 through 261.127 by which, in the board's discretion, a license shall be suspended, denied, or revoked, or other disciplinary action imposed, with regard to a licensee subject to the board's jurisdiction who has defaulted on a repayment or service obligation under any federal or state educational loan or service-conditional scholarship program. Notwithstanding any other provision to the contrary, each board shall defer to the federal or state program's determination of default upon certification by the program of such a default on the part of a licensee, and shall remove the suspension, grant the license, or stay the revocation or other disciplinary action taken if the federal or state program certifies that the defaulting licensee has agreed to fulfill the licensee's obligation, or is complying with an approved repayment plan. Licensure sanctions shall be reinstated upon certification that a defaulting licensee has failed to comply with the repayment or service requirements, as determined by the federal or state program. The provisions of this subsection relating to board authority to act in response to notification of default shall apply not only to a licensing board, as defined in section 272C.1, but also to any other licensing board or authority regulating a license authorized by the laws of this state.

11. Adopt rules by January 1, 2015, to provide credit towards qualifications for licensure to practice an occupation or profession in this state for education, training, and service obtained or completed by an individual while serving honorably on federal active duty, state active duty, or national guard duty, as defined in section 29A.1, to the extent consistent with the qualifications required by the appropriate licensing board. The rules shall also provide credit towards qualifications for initial licensure for education, training, or service obtained or completed by an individual while serving honorably in the military forces of another state or the organized reserves of the armed forces of the United States, to the extent consistent with the qualifications required by the appropriate licensing board.

12. *a.* Establish procedures by January 1, 2015, to expedite the licensing of an individual who is licensed in a similar profession or occupation in another state and who is a veteran, as defined in section 35.1.

b. If the board determines that the professional or occupational licensing requirements of the state where the veteran is licensed are substantially equivalent to the licensing requirements of this state, the procedures shall require the licensing of the veteran in this state.

c. If the board determines that the professional or occupational licensing requirements of the state where the veteran is licensed are not substantially equivalent to the professional or occupational licensing requirements of this state, the procedures shall allow the provisional

licensing of the veteran for a period of time deemed necessary by the board to obtain a substantial equivalent to the licensing requirements of this state. The board shall advise the veteran of required education or training necessary to obtain a substantial equivalent to the professional or occupational licensing requirements of this state, and the procedures shall provide for licensing of an individual who has, pursuant to this paragraph, obtained a substantial equivalent to the professional or occupational licensing requirements of this state.

13. Beginning December 15, 2016, annually file a report with the governor and the general assembly providing information and statistics on credit received by individuals for education, training, and service pursuant to subsection 11 and information and statistics on licenses and provisional licenses issued pursuant to subsection 12.

[C79, 81, §258A.4]

83 Acts, ch 186, §10065, 10201; 84 Acts, ch 1067, §28; 90 Acts, ch 1086, §17

C93, §272C.4

97 Acts, ch 203, §16; 98 Acts, ch 1119, §8; 2000 Acts, ch 1008, §11; 2001 Acts, ch 16, §3, 37; 2001 Acts, ch 55, §27, 38; 2002 Acts, ch 1057, §1; 2002 Acts, ch 1111, §1; 2002 Acts, ch 1119, §150; 2004 Acts, ch 1110, §3; 2005 Acts, ch 89, §35; 2007 Acts, ch 198, §33; 2008 Acts, ch 1089, §10, 12; 2008 Acts, ch 1094, §16, 18; 2010 Acts, ch 1069, §37; 2014 Acts, ch 1116, §34

Referred to in **§272C.9**

272C.5 Licensee disciplinary procedure — rulemaking delegation.

1. Each licensing board may establish by rule licensee disciplinary procedures. Each licensing board may impose licensee discipline under these procedures.

2. Rules promulgated under subsection 1 of this section:

a. Shall comply with the provisions of chapter 17A.

b. Shall designate who may or shall initiate a licensee disciplinary investigation and a licensee disciplinary proceeding, and who shall prosecute a disciplinary proceeding and under what conditions, and shall state the procedures for review by the licensing board of findings of fact if a majority of the licensing board does not hear the disciplinary proceeding.

c. Shall state whether the procedures are an alternative to or an addition to the procedures stated in sections 100D.5, 105.23, 105.24, 148.6 through 148.9, 152.10, 152.11, 153.33, 154A.23, 542.11, 542B.22, 543B.35, 543B.36, and 544B.16.

d. Shall specify methods by which the final decisions of the board relating to disciplinary proceedings shall be published.

[C79, 81, §258A.5]

87 Acts, ch 215, §45

C93, §272C.5

2000 Acts, ch 1008, §12; 2001 Acts, ch 55, §28, 38; 2002 Acts, ch 1108, §27; 2007 Acts, ch 198, §34; 2008 Acts, ch 1088, §116; 2008 Acts, ch 1089, §10, 12; 2008 Acts, ch 1094, §17, 18

272C.6 Hearings — power of subpoena — decisions.

1. Disciplinary hearings held pursuant to this chapter shall be heard by the board sitting as the hearing panel, or by a panel of not less than three board members who are licensed in the profession, or by a panel of not less than three members appointed pursuant to subsection 2. Notwithstanding chapters 17A and 21 a disciplinary hearing shall be open to the public at the discretion of the licensee.

2. When, in the opinion of a majority of the board, it is desirable to obtain specialists within an area of practice of a profession when holding disciplinary hearings, a licensing board may appoint licensees not having a conflict of interest to make findings of fact and to report to the board. Such findings shall not include any recommendation for or against licensee discipline.

3. *a.* The presiding officer of a hearing panel may issue subpoenas pursuant to rules of the board on behalf of the board or on behalf of the licensee. A licensee may have subpoenas issued on the licensee's behalf.

(1) A subpoena issued under the authority of a licensing board may compel the attendance of witnesses and the production of professional records, books, papers,

correspondence and other records, whether or not privileged or confidential under law, which are deemed necessary as evidence in connection with a disciplinary proceeding.

(2) Nothing in this subsection shall be deemed to enable a licensing board to compel an attorney of the licensee, or stenographer or confidential clerk of the attorney, to disclose any information when privileged against disclosure by section 622.10.

(3) In the event of a refusal to obey a subpoena, the licensing board may petition the district court for its enforcement. Upon proper showing, the district court shall order the person to obey the subpoena, and if the person fails to obey the order of the court the person may be found guilty of contempt of court.

b. The presiding officer of a hearing panel may also administer oaths and affirmations, take or order that depositions be taken, and pursuant to rules of the board, grant immunity to a witness from disciplinary proceedings initiated either by the board or by other state agencies which might otherwise result from the testimony to be given by the witness to the panel.

4. *a.* In order to assure a free flow of information for accomplishing the purposes of this section, and notwithstanding section 622.10, all complaint files, investigation files, other investigation reports, and other investigative information in the possession of a licensing board or peer review committee acting under the authority of a licensing board or its employees or agents which relates to licensee discipline are privileged and confidential, and are not subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the licensee and the boards, their employees and agents involved in licensee discipline, and are not admissible in evidence in a judicial or administrative proceeding other than the proceeding involving licensee discipline. However, investigative information in the possession of a licensing board or its employees or agents which relates to licensee discipline may be disclosed to appropriate licensing authorities within this state, the appropriate licensing authority in another state, the coordinated licensure information system provided for in the nurse licensure compact contained in section 152E.1 or the advanced practice registered nurse compact contained in section 152E.3, the District of Columbia, or a territory or country in which the licensee is licensed or has applied for a license. If the investigative information in the possession of a licensing board or its employees or agents indicates a crime has been committed, the information shall be reported to the proper law enforcement agency. However, a final written decision and finding of fact of a licensing board in a disciplinary proceeding, including a decision referred to in section 272C.3, subsection 4, is a public record.

b. Pursuant to the provisions of section 17A.19, subsection 6, a licensing board upon an appeal by the licensee of the decision by the licensing board, shall transmit the entire record of the contested case to the reviewing court.

c. Notwithstanding the provisions of section 17A.19, subsection 6, if a waiver of privilege has been involuntary and evidence has been received at a disciplinary hearing, the court shall order withheld the identity of the individual whose privilege was waived.

5. Licensee discipline shall not be imposed except upon the affirmative vote of a majority of the licensing board.

6. *a.* A board created pursuant to chapter 147, 154A, 155, 169, 542, 542B, 543B, 543D, 544A, or 544B may charge a fee not to exceed seventy-five dollars for conducting a disciplinary hearing pursuant to this chapter which results in disciplinary action taken against the licensee by the board, and in addition to the fee, may recover from a licensee the costs for the following procedures and associated personnel:

(1) Transcript.

(2) Witness fees and expenses.

(3) Depositions.

(4) Medical examination fees incurred relating to a person licensed under chapter 147, 154A, 155, or 169.

b. The department of agriculture and land stewardship, the department of commerce, and the Iowa department of public health shall each adopt rules pursuant to chapter 17A which provide for the allocation of fees and costs collected pursuant to this section to the board

under its jurisdiction collecting the fees and costs. The fees and costs shall be considered repayment receipts as defined in section 8.2.

[C79, 81, §258A.6; 82 Acts, ch 1005, §8]

86 Acts, ch 1211, §15; 92 Acts, ch 1125, §1

C93, §272C.6

2000 Acts, ch 1008, §13; 2001 Acts, ch 55, §29, 38; 2005 Acts, ch 53, §10; 2010 Acts, ch 1061, §94

Referred to in **§105.23**, **§139A.22**, **§147.135**, **§147A.24**, **§148.2A**, **§148.7**, **§153.36**, **§155A.40**, **§155A.45**, **§156.16**, **§203.16**, **§203C.24**, **§272C.3**, **§272C.7**, **§542.11**, **§543D.21**, **§543E.18**, **§543E.20**, **§546.10**, **§602.3205**

Board of medicine, see §148.2A, 148.7

272C.7 Executive secretary and personnel.

1. As an alternative to authority contained elsewhere in this chapter, a licensing board may employ within the limits of available funds an executive secretary, one or more inspectors, and such clerical personnel as may be necessary for the administration of the duties of the board. Employees of the board shall be employed subject to chapter 8A, subchapter IV. The qualifications of the executive secretary shall be determined by the board.

2. All employees of a licensing board shall be reimbursed subject to the rules of the director of the department of administrative services for their expenses incurred in the performance of official duties. All reimbursements shall constitute costs of sustaining the board.

3. Licensees appointed to serve on a hearing panel pursuant to section 272C.6, subsection 2, shall be compensated at the rate specified in section 7E.6 for each day of actual duty, and shall be reimbursed for actual expenses reasonably incurred in the performance of duties.

4. Salaries, per diem, and expenses incurred in the performance of official duties of the board or its employees shall be paid from funds appropriated by the general assembly.

[C79, 81, §258A.7]

90 Acts, ch 1256, §43

C93, §272C.7

2003 Acts, ch 145, §233, 286

272C.8 Immunities.

1. *a.* A person shall not be civilly liable as a result of the person's acts, omissions, or decisions in good faith as a member of a licensing board or as an employee or agent in connection with the person's duties.

b. A person shall not be civilly liable as a result of filing a report or complaint with a licensing board or peer review committee, or for the disclosure to a licensing board or its agents or employees, whether or not pursuant to a subpoena of records, documents, testimony, or other forms of information which constitute privileged matter concerning a recipient of health care services or some other person, in connection with proceedings of a peer review committee, or in connection with duties of a health care board. However, such immunity from civil liability shall not apply if such act is done with malice.

c. A person shall not be dismissed from employment, and shall not be discriminated against by an employer because the person filed a complaint with a licensing board or peer review committee, or because the person participated as a member, agent, or employee of a licensing board or peer review committee, or presented testimony or other evidence to a licensing board or peer review committee.

2. Any employer who violates the terms of this section shall be liable to any person aggrieved for actual and punitive damages plus reasonable attorney fees.

[C79, 81, §258A.8]

C93, §272C.8

2010 Acts, ch 1069, §74

272C.9 Duties of licensees.

1. Each licensee of a licensing board, as a condition of licensure, is under a duty to submit to a physical, mental, or clinical competency examination when directed in writing by the board for cause. All objections shall be waived as to the admissibility of the examining

physician's testimony or reports on the grounds of privileged communications. The medical testimony or report shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board, or one commenced in district court for revocation of the licensee's privileges. The licensing board, upon probable cause, shall have the authority to order a physical, mental, or clinical competency examination, and upon refusal of the licensee to submit to the examination the licensing board may order that the allegations pursuant to which the order of physical, mental, or clinical competency examination was made shall be taken to be established.

2. A licensee has a continuing duty to report to the licensing board by whom the person is licensed those acts or omissions specified by rule of the board pursuant to section 272C.4, subsection 6, when committed by another person licensed by the same licensing board. This subsection does not apply to licensees under chapter 542 when the observations are a result of participation in programs of practice review, peer review and quality review conducted by professional organizations of certified public accountants, for educational purposes and approved by the accountancy examining board.

3. A licensee shall have a continuing duty and obligation, as a condition of licensure, to report to the licensing board by which the licensee is licensed every adverse judgment in a professional or occupational malpractice action to which the licensee is a party, and every settlement of a claim against the licensee alleging malpractice.

4. A licensee who willfully fails to comply with subsection 2 or 3 of this section commits a violation of this chapter for which licensee discipline may be imposed.

[C79, 81, §258A.9; 81 Acts, ch 84, §1]

C93, §272C.9

2001 Acts, ch 55, §30, 38; 2005 Acts, ch 89, §36

Referred to in **§135P.4**, **§272C.4**, **§543E.12**

272C.10 Rules for revocation or suspension of license.

A licensing board established after January 1, 1978 and pursuant to the provisions of this chapter shall by rule include provisions for the revocation or suspension of a license which shall include but is not limited to the following:

1. Fraud in procuring a license.
2. Professional incompetency.
3. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the licensee's profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.
4. Habitual intoxication or addiction to the use of drugs.
5. Conviction of a felony related to the profession or occupation of the licensee. A copy of the record of conviction or plea of guilty shall be conclusive evidence.
6. Fraud in representations as to skill or ability.
7. Use of untruthful or improbable statements in advertisements.
8. Willful or repeated violations of the provisions of this chapter.

[C79, 81, §258A.10]

C93, §272C.10

Referred to in **§152D.6**, **§156.9**, **§272C.3**, **§542.10**, **§543E.17**

272C.11 Insurers of professional and occupational licensees — reports.

Insurance carriers which insure professional and occupational licensees for acts or omissions that constitute negligence, careless acts, or omissions in the practice of a profession or occupation shall file reports with the appropriate licensing board. The reports shall include information pertaining to any lawsuit filed against a licensee which may affect the licensee as defined by rule, involving an insured of the insurer.

2010 Acts, ch 1069, §38

DENTAL BOARD[650]

[Prior to 5/18/88, Dental Examiners, Board of[320]]

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TITLE I
GENERAL PROVISIONS

CHAPTER 1
ADMINISTRATION

[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—1.1(153) Definitions. As used in these rules:

"Accredited school" means a dental, dental hygiene, or dental assisting education program accredited by the American Dental Association Commission on Dental Accreditation.

"Board" means the board of dental examiners.

"Chapter" means Iowa Code chapter 153.

"Coronal polish" means an adjunctive procedure that must also include removal of any calculus, if present, by a dentist or dental hygienist. Coronal polishing of teeth using only a rotary instrument and a rubber cup or brush for such purpose, when performed at the direction of and under the supervision of a licensed dentist, is deemed not to be the giving of prophylactic treatment.

"Dental hygiene committee," as defined in Iowa Code section 153.33A, means the dental hygiene committee of the board of dental examiners.

"Department" means the department of public health.

"Direct supervision" means that the dentist is present in the treatment facility, but it is not required that the dentist be physically present in the treatment room.

"General supervision of a dental assistant" means that a dentist has examined the patient and has delegated the services to be provided by a registered dental assistant, which are limited to all extraoral duties, dental radiography, intraoral suctioning, and use of a curing light and intraoral camera. The dentist need not be present in the facility while these services are being provided.

"General supervision of a dental hygienist" means that a dentist has examined the patient and has prescribed authorized services to be provided by a dental hygienist. The dentist need not be present in the facility while these services are being provided. If a dentist will not be present, the following requirements shall be met:

1. Patients or their legal guardians must be informed prior to the appointment that no dentist will be present and therefore no examination will be conducted at that appointment.
2. The hygienist must consent to the arrangement.
3. Basic emergency procedures must be established and in place and the hygienist must be capable of implementing these procedures.
4. The treatment to be provided must be prior prescribed by a licensed dentist and must be entered in writing in the patient record.

"Inactive status" means the status of a practitioner licensed or registered pursuant to Iowa Code chapter 153 who is not currently engaged in the practice of dentistry, dental hygiene, or dental assisting in the state of Iowa and who has paid the required renewal fee but who has not met the requirements for continuing education.

"Lapsed license," "permit," or *"registration"* means a license, permit, or registration that a person has failed to renew as required or the license, permit, or registration of a person who failed to meet stated obligations for renewal within a stated time. A person whose license, permit, or registration has lapsed continues to hold the privilege of licensure or registration in Iowa, but may not practice dentistry, dental hygiene, or dental assisting until the license, permit, or registration is reinstated.

"License" means a certificate issued to a person to practice as a dentist or dental hygienist under the laws of this state.

"Licensee" means a person who has been issued a certificate to practice as a dentist or dental hygienist under the laws of this state.

"Overpayment" means payment in excess of the required fee. Overpayment of less than $10 received by the board shall not be refunded.

"Peer review" as defined in Iowa Code section 272C.1(7) means evaluation of professional services rendered by a licensee or registrant.

"Peer review committee" as defined in Iowa Code section 272C.1(8) means one or more persons acting in a peer review capacity pursuant to these rules.

"Personal supervision" means the dentist is physically present in the treatment room to oversee and direct all intraoral or chairside services of the dental assistant trainee and a licensee or registrant is physically present to oversee and direct all extraoral services of the dental assistant.

"Practice of dentistry" as defined in Iowa Code section 153.13 includes the rendering of professional services in this state as an employee or independent contractor or the rendering of any dental decisions, including diagnosing, treatment planning, determining the appropriateness of proposed dental care, or engaging in acts that constitute the practice of dentistry.

The following classes of persons shall also be deemed to be engaged in the practice of dentistry:

1. Persons publicly professing to be dentists, dental surgeons, or skilled in the science of dentistry, or publicly professing to assume the duties incident to the practice of dentistry.

2. Persons who perform examinations, diagnosis, treatment, and attempted correction by any medicine, appliance, surgery, or other appropriate method of any disease, condition, disorder, lesion, injury, deformity, or defect of the oral cavity and maxillofacial area, including teeth, gums, jaws, and associated structures and tissue, which methods by education, background, experience, and expertise are common to the practice of dentistry.

3. Persons who offer to perform, perform, or assist with any phase of any operation incident to tooth whitening, including the instruction or application of tooth whitening materials or procedures at any geographic location. For purposes of this paragraph, "tooth whitening" means any process to whiten or lighten the appearance of human teeth by the application of chemicals, whether or not in conjunction with a light source.

"Registrant" means a person who has been issued a certificate to practice as a dental assistant under the laws of this state.

"Registration" means a certificate issued to a person to practice as a dental assistant under the laws of this state.

This rule is intended to implement Iowa Code sections 147.1(2), 147.13, 147.30, 147.76, 147.80, 153.13 and 153.15, and chapter 272C.

[**ARC 8369B**, IAB 12/16/09, effective 1/20/10; **ARC 2030C**, IAB 6/10/15, effective 7/15/15]

650—1.2(17A,147,153,272C) Purpose of the board. The purpose of the board is to protect public health, safety, and welfare by administering, interpreting, and enforcing the provisions of law that relate to the practice of dentistry, dental hygiene, and dental assisting. In pursuit of this mission, the board performs these primary functions:

1.2(1) Administers examinations for the testing of dentists, dental hygienists, and dental assistants;

1.2(2) Issues licenses, registrations, certificates, and permits to qualified practitioners;

1.2(3) Sets standards for license, registration, and permit renewal and continuing education;

1.2(4) Enforces Iowa laws regulating the practice of dentistry, dental hygiene, and dental assisting;

1.2(5) Investigates complaints concerning violations of the dental practice Act and rules;

1.2(6) Conducts disciplinary hearings and monitors the compliance of licensees or registrants with board orders; and

1.2(7) Adopts rules and establishes standards for practitioners pursuant to its authority under the Iowa Code and administrative rules.

650—1.3(17A,147,153) Organization of the board.

1.3(1) The board shall be composed of five members licensed to practice dentistry, two members licensed to practice dental hygiene and two members not licensed to practice dentistry or dental hygiene and who shall represent the general public. All members are appointed by the governor, subject to confirmation by the senate.

1.3(2) Five members of the board shall constitute a quorum for the purpose of conducting business.

1.3(3) The dental hygiene committee of the board shall be composed of the two dental hygiene members of the board and one dentist member of the board. The dentist member will be elected annually

to serve on the committee by a majority vote of the board. The dentist member of the committee must have supervised and worked in collaboration with a dental hygienist for a period of at least three years immediately preceding election to the committee.

1.3(4) Two members of the dental hygiene committee shall constitute a quorum for the purpose of conducting business.

1.3(5) Committees of the board may be appointed by the board chairperson and shall not constitute a quorum of the board. The board chairperson shall appoint committee chairpersons. Committees of the board may include the executive committee, licensure committee, grievance committee, continuing education advisory committee, and dental assistant committee.

650—1.4(153) Organization of the dental hygiene committee.

1.4(1) All matters regarding the practice, discipline, education, examination, and licensure of dental hygienists will be initially directed to the dental hygiene committee. The committee shall have the authority to adopt recommendations regarding the practice, discipline, education, examination, and licensure of dental hygienists and shall carry out duties as assigned by the board. Recommendations by the committee shall include a statement and documentation supporting its recommendation to the board. The board shall review all committee recommendations. The recommendations shall be ratified by the board unless the board makes a specific written finding that the recommendation exceeds the jurisdiction or expands the scope of the committee beyond the authority granted in subrule 1.4(2), creates an undue financial impact on the board, or is not supported by the record. The board may not amend a committee recommendation without the concurrence of the majority of the members of the dental hygiene committee.

1.4(2) This rule shall not be construed as impacting or changing the scope of practice of the profession of dental hygiene or authorizing the independent practice of dental hygiene.

1.4(3) The committee shall not have regulatory or disciplinary authority with regard to dentists, dental assistants, dental lab technicians, or other auxiliary dental personnel.

This rule is intended to implement Iowa Code section 153.33A.

650—1.5(17A,153) Information. Members of the public may obtain information from or submit requests relating to the practice of dentistry, dental hygiene, or dental assisting, continuing education, or any other matter to the Executive Director, Iowa Board of Dental Examiners, 400 SW 8th Street, Suite D, Des Moines, Iowa 50309-4687.

650—1.6(17A,147,153) Meetings.

1.6(1) The board shall hold an annual meeting each year in Des Moines to elect officers and conduct other business. Officers of the board shall consist of a chairperson, vice chairperson, and secretary. Officers shall assume their duties immediately following their election at the annual meeting.

1.6(2) The board may hold additional meetings as the chairperson, vice chairperson, or majority of the board deems necessary. Written notices stating the time and place of the meetings shall be provided consistent with the open meetings law.

1.6(3) The dental hygiene committee shall hold an annual meeting each year in Des Moines, Iowa, to elect officers and conduct other business. Officers of the committee shall consist of a chairperson, vice chairperson, and secretary. Officers shall assume their duties immediately following their election at the annual meeting.

1.6(4) The dental hygiene committee may hold additional meetings as the chairperson, vice chairperson, or majority of the committee deems necessary.

1.6(5) Dates and location of board meetings may be obtained from the board's office. Except as otherwise provided by statute, all board meetings shall be open and the public shall be permitted to attend.

These rules are intended to implement Iowa Code sections 17A.3, 147.14(4), 147.22, and 153.33A(1).

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CHAPTERS 2 to 4
Reserved

TITLE II
ADMINISTRATION

CHAPTER 5
ORGANIZATION
[Ch 5, IAC 7/1/75 renumbered as Ch 50, IAC 9/20/78]
[Prior to 5/18/88, Dental Examiners, Board of[320]]
Rescinded IAB 7/10/02, effective 8/14/02

CHAPTER 6
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The Iowa board of dental examiners hereby adopts, with the following exceptions and amendments, rules of the Governor's Task Force on Uniform Rules of Agency Procedure relating to public records and fair information practices which are printed in the first volume of the Iowa Administrative Code.

650—6.1(153,147,22) Definitions. As used in this chapter:

"Agency." In lieu of the words "agency issuing these rules", insert "Iowa Board of Dental Examiners".

650—6.3(153,147,22) Requests for access to records.

6.3(1) *Location of record.* In lieu of the words "Insert agency name and address", insert "Iowa Board of Dental Examiners, 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687".

6.3(2) *Office hours.* In lieu of the words "Insert customary office hours and, if agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4", insert "8 a.m. to 4:30 p.m. daily excluding Saturdays, Sundays, and legal holidays".

6.3(7) *Fees.*

c. *Supervisory fee.* In lieu of the words "(specify time period)", insert "one-half hour".

650—6.6(153,147,22) Procedure by which additions, dissents, or objections may be entered into certain records. In lieu of the words "designate office", insert "the executive director".

650—6.9(153,147,22) Disclosures without the consent of the subject.

6.9(1) Open records are routinely disclosed without the consent of the subject.

6.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 6.10(153,147,22) or in any notice for a particular record system.

b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record; provided, that, the record is transferred in a form that does not identify the subject.

c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.

e. To the legislative services agency.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

h. Notwithstanding any statutory confidentiality provision, the board may share information with the child support recovery unit through manual or automated means for the sole purpose of identifying licensees or applicants subject to enforcement under Iowa Code chapter 252J or 598.

i. Notwithstanding any statutory confidentiality provision, the board may share information with the college student aid commission for the sole purpose of identifying applicants or licensees subject to enforcement under Iowa Code sections 261.121 to 261.127.

650—6.10(153,147,22) Routine use.

6.10(1) Defined. "Routine use" means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

6.10(2) To the extent allowed by law, the following uses are considered routine uses of all agency records:

a. Disclosure to those officers, employees, investigators, members or agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may upon request of any officer or employee, investigator, or member, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

c. Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.

d. Transfers of information within the agency and among board members; to other state agencies, boards and departments; federal agencies; to agencies in other states; national associations; or to local units of government as appropriate to administer the agency's statutory authority.

e. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

f. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

g. Disclosure to the attorney general's office for use in performing its official functions.

h. Disclosure to the public and news media of pleadings, motions, orders, final decisions, and informal settlements filed in licensee disciplinary proceedings.

i. Transmittal to the district court of the record in a disciplinary hearing, pursuant to Iowa Code section 17A.19(6), regardless of whether the hearing was opened or closed.

650—6.11(153,147,22) Consensual disclosure of confidential records.

6.11(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 6.7(153,147,22).

6.11(2) *Complaints to public officials.* A letter from the subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the agency may to the extent permitted by law be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

6.11(3) *Obtaining information from a third party.* The agency is required to obtain information to verify and investigate applications for licensure or permit, complaints concerning licensees, and alleged violations of law and statute. Requests to third parties for this information may involve the release of records requiring special procedures.

a. Where necessary, the agency shall obtain from the subject individual an authorization for the release of specially protected information on a form that meets the requirements of the law.

b. To obtain alcohol and drug abuse patient information, the agency shall obtain special authorization from the subject individual on a "Consent to Release Alcohol and Drug Abuse Patient Information" form or other appropriate form.

c. The agency is authorized by law to subpoena books, papers, records, and any other real evidence, whether or not privileged or confidential under law, to help it determine whether it should institute an administrative hearing.

650—6.12(153,147,22) Release to subject.

6.12(1) The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 6.6(153,147,22). However, the agency need not release the following records to the subject:

a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provisions of law.

b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

c. Peace officers' investigative reports may be withheld from the subject, except as required by the provisions of Iowa Code section 22.7(5).

d. All information in licensee complaint and investigation files maintained by the board for purposes of licensee discipline are required to be withheld from the subject prior to the filing of formal charges and the notice of hearing in a licensee disciplinary proceeding.

e. As otherwise authorized by state or federal law or rule.

6.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

650—6.13(153,147,22) Availability of records.

6.13(1) *General.* Agency records are open for public inspection and copying unless otherwise provided by rule or law.

6.13(2) *Confidential records.* The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. Tax records made available to the agency. (Iowa Code sections 422.20 and 422.72)

b. Prior to initiation of a contested case, all complaint files, investigation files, other investigation reports, and other investigative information in the possession of the board or its employees or agents which relates to licensee or registrant discipline. (Iowa Code section 272C.6(4))

c. Criminal history, prior misconduct or investigative information relating to an applicant for licensure or registration. (Iowa Code section 147.21(1))

d. Information relating to results of an examination for licensure, registration, or certification other than final score except for information about results of an examination which is given to the person who took the examination. (Iowa Code section 147.21(3))

e. Information relating to the contents of an examination for licensure, registration, or certification. (Iowa Code section 147.21(2))

f. Information contained in professional substance abuse reports or other investigative reports relating to the abuse of controlled substances. (Iowa Code section 124.504)

g. Minutes of closed meetings of the board. (Iowa Code section 21.5(4))

h. Records of closed session board disciplinary hearings. (Iowa Code sections 272C.6(1) and 21.5(4))

i. Information or records received from a restricted source and any other information or records made confidential by law.

j. Identifying details in final orders, decisions, and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1)*"d."*

k. Those portions of agency staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by agency staff in conducting audits, in making inspections, in negotiating settlements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of these statements would:

(1) Enable law violators to avoid detection;

(2) Facilitate disregard of requirements imposed by law; or

(3) Give a clearly improper advantage to persons who are in an adverse position to the agency. (See Iowa Code sections 17A.2 and 17A.3)

l. Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10, and 622.11, Iowa R.C.P. 122(c), Fed. R. Civ. P. 26 (b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.

m. Any other records made confidential by law.

n. Records which are exempt from disclosure under Iowa Code section 22.7.

o. Information in nonlicensee investigation files maintained by the board which are otherwise exempt from disclosure under Iowa Code section 22.7 or other provisions of law.

6.13(3) *Authority to release confidential records.* The agency may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule 6.4(153,147,22). If the agency initially determines that it will release such records, the agency may, where appropriate, notify interested parties and withhold the records from inspections as provided in subrule 6.4(3).

650—6.14(153,147,22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 6.1(153,147,22). For each record system, this rule describes the legal authority for the collection of that information, the means of storage of that information and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system. The record systems maintained by the agency are:

6.14(1) *Information on nonlicensee investigation files maintained by the board.* This information is collected by the board pursuant to the authority granted in Iowa Code sections 147.2, 147.83, 147.84, 147.85, and 147.93. This information is stored on paper only. This information is a public record except to the extent that certain information may be exempt from disclosure under Iowa Code section 22.7 or other provisions of law.

6.14(2) *Information in complaint, compliance, and investigative files maintained by the board for the purposes of discipline.* This information is collected pursuant to Iowa Code sections 153.33, 272C.3, and 272C.9. This information is stored electronically and on paper. This information is required to be kept confidential pursuant to Iowa Code section 272C.6(4). However, information may be released to the licensee or registrant once a disciplinary proceeding is commenced by the filing of a formal statement of charges and the notice of hearing.

6.14(3) *Records of board disciplinary hearings.* These records contain information about licensees and persons under the board's jurisdiction who are subject of a board disciplinary proceeding or other action. This information is collected by the board pursuant to the authority granted in Iowa Code sections 153.23 and 153.33, and chapter 272C. This information is stored electronically and on paper. These records may also contain the following:

a. Formal charges and notices of hearings and final written decisions imposing sanctions, including informal stipulations and settlements. This information is collected by the board pursuant to the authority granted in Iowa Code sections 153.23 and 153.33 and chapter 272C. This information is stored electronically and on paper. This information is a public record pursuant to Iowa Code sections 272C.5 and 272C.6.

b. Court reporter notes, tape recordings, exhibits, pleadings, motions, orders, and other documents that constitute the record in a disciplinary hearing. If a hearing is closed pursuant to Iowa Code section 272C.6(1), the record is confidential under Iowa Code section 21.5(4). This information is collected by the board pursuant to the authority granted in Iowa Code sections 153.23 and 153.33, and chapter 272C. This information is stored on recorder tape or paper only.

6.14(4) *Continuing education records.* These records contain educational information about persons registered or licensed by the board. This information is collected pursuant to the authority granted in Iowa Code section 272C.2. This information is stored on paper only.

6.14(5) *Sponsors of continuing education.* These records contain information concerning continuing education sponsors, annual reports, recertification forms, courses, and attendance sheets. This information is collected pursuant to Iowa Code section 272C.2. This information is stored on paper only.

6.14(6) *Application records.* These records contain information about applicants which may include name, address, telephone number, social security number, place of birth, date of birth, education, certifications, examinations with scores, character references, fingerprints, diplomas and any additional information the board may request. This information is collected by the board pursuant to Iowa Code sections 147.2, 153.21, 153.22, and 153.37 to 153.39. This information is stored electronically and on paper. The personal information contained in these records may be confidential in whole or in part pursuant to Iowa Code sections 147.21(1) to 147.21(3), 22.7(1), and 22.7(19) or other provisions of law.

6.14(7) *Examination records.* These records contain examination information and scores for any of the following examinations: Joint Commission on National Dental Examinations; Joint Commission on National Dental Hygiene Examinations; Central Regional Dental Testing Service, Inc. examinations; Iowa jurisprudence examinations; state radiography examinations; state dental examinations; state dental hygiene examinations; and state dental assistant registration examinations. This information is collected by the board pursuant to Iowa Code sections 147.21 and 147.34. This information is stored electronically and on paper. The information contained in these records is confidential in part pursuant to Iowa Code sections 147.21(2), 147.21(3), 22.7(1), and 22.7(19).

6.14(8) *Licensure, registration, permit or certification records.* These records contain information about currently, previously, or reinstated licensed dentists, dental hygienists, and dental assistants. This information includes name of license, registration, permit or certificate holder, license, registration, permit or certificate number, date issued, current renewal status and current address. This information is collected by the board pursuant to the authority granted in Iowa Code sections 136C.2, 147.2, 147.10, 153.22, 153.23, and 153.30. This information is stored electronically and on paper.

6.14(9) *Personnel files.* The agency maintains files containing information about employees, families and dependents, and applicants for positions with the agency. The files include payroll records, biographical information, medical information relating to disability, performance reviews and evaluations, disciplinary information, information required for tax withholding, information concerning employee benefits, affirmative action reports, and other information concerning the employer-employee relationship. Some of this information is confidential under Iowa Code section 22.7(11).

6.14(10) *Compliance reports.* These records contain information about dentists and their dental facilities which are inspected to determine compliance with board regulations including the use of parenteral sedation, general anesthesia, or nitrous oxide by dentists in dental facilities. This information is collected by the board pursuant to the authority granted in Iowa Code section 153.20. The information contained in these reports is confidential in whole or in part pursuant to Iowa Code sections 22.7(5), 272C.3, and 272C.6(4). This information is stored electronically and on paper.

6.14(11) *Litigation files.* These files or records contain information regarding litigation or anticipated litigation, which includes judicial and administrative proceedings. The records include briefs, depositions, docket sheets, documents, correspondence, attorney notes, memoranda, research materials, witness information, investigation materials, information compiled under the direction of the attorney, and case management records. The files contain materials which are confidential as attorney work product and attorney-client communications. Some materials are confidential under other applicable provisions of law or because of a court order. Persons wishing copies of pleadings and other documents filed in litigation should obtain these from the clerk of the appropriate court which maintains the official copy.

650—6.15(153,147,22) Other groups of records. This rule describes groups of records maintained by the agency other than record systems as defined in rule 6.1(153,147,22). These records are routinely available to the public. However, the agency's files of these records may contain confidential information as discussed in rule 6.13(153,147,22). This information is stored electronically and on paper. The records listed may contain information about individuals.

6.15(1) Board agendas, minutes, news releases, statistical reports and compilations, newsletters, publications, correspondence, opinions, rulings, and other information intended for the public except those records concerning closed sessions which are exempt from disclosure under Iowa Code section 21.5 or which are otherwise confidential by law. These records may contain information about individuals, including board members and staff. This information is collected pursuant to Iowa Code section 21.3. This information is stored electronically and on paper.

6.15(2) Records of board rule-making proceedings. These records may contain information about individuals making written or oral comments on rules proposed by the board. This information is collected pursuant to Iowa Code section 17A.4. This information is stored electronically and on paper.

6.15(3) Board decisions, findings of fact, final orders, declaratory rulings, declaratory orders, and other statements of law or policy issued by the board in the performance of its function. This information is stored electronically or on paper.

6.15(4) Administrative records. This includes documents concerning budget, property inventory, purchasing, yearly reports, office policies for employees, time sheets, printing and supply requisitions.

6.15(5) Office manuals. Information in office manuals such as the procedures manual may be confidential under Iowa Code section 17A.2(7)*"f"* or other applicable provision of law.

650—6.16(153,147,22) Data processing system. The board does not currently have a data processing system which matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information on another record system.

650—6.17(153,147,22) Purpose and scope. This chapter implements Iowa Code section 22.11 by establishing board policies and procedures for the maintenance of records.

This chapter does not:

1. Require the board to index or retrieve records which contain information about individuals by that person's name or other personal identifier.
2. Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22.
3. Govern the maintenance or disclosure of, notification of or access to, records in the possession of the board which are governed by rules of another board or agency.
4. Apply to grantees, including local governments or subdivisions, administering state-funded programs, unless otherwise provided by law or agreement.
5. Make available records compiled by the board in reasonable anticipation of court litigation or formal administrative proceedings. The availability of the records to the general public or to any subject individual or party to litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable rules of the board.

These rules are intended to implement Iowa Code section 22.11 and chapters 147, 153, and 272C and Iowa Code chapter 252J.

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CHAPTER 7
RULES
[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—7.1(17A,147,153) Petition for rule making.

7.1(1) An interested person may petition the board for the adoption, amendment or repeal of administrative rules.

7.1(2) The petition shall be in writing, signed by or on behalf of the petitioner, and contain the following information:

a. A general statement of the rule the petitioner is requesting the board to adopt, amend, or repeal. Where amendment or repeal of an existing rule is sought, the rule number should be included but is not required. The petitioner is not required to enclose a draft of the proposed rule or proposed amendment being requested.

b. A statement of sufficient detail setting forth reasons for adoption, amendment, or repeal.

c. A statement showing how the petitioner would be affected by the requested action.

d. Name and address of petitioner.

7.1(3) The petition is filed when it is received by the board.

7.1(4) Upon receipt of the petition, the board shall take the petition under advisement. The board may request additional information from the petitioner or the board office.

7.1(5) If the petition raises an issue regarding the practice of dental hygiene, the petition shall be referred to the dental hygiene committee for review. The dental hygiene committee shall review the petition and timely submit its recommendations to the board. The board's review of the dental hygiene committee recommendation is subject to 650—Chapter 1.

7.1(6) The board shall deny the petition or initiate rule-making procedures within 60 days after filing of the petition. In the case of a denial, the board shall state in writing its reasons for the denial. The petitioner shall be notified by mail of the board action taken.

This rule is intended to implement Iowa Code sections 17A.3(1) and 17A.7.

650—7.2(17A,147,153) Oral presentations for rule making.

7.2(1) Oral presentations may be made to the board when requested in writing not later than 20 days after notice of intended action is published in the Iowa Administrative Bulletin, by five interested persons, a governmental subdivision, the administrative rules review committee, an agency, or an association having not less than 25 members or upon discretion of the board.

7.2(2) The board shall give the public not less than 20 days' notice of the time and place where oral presentations may be made.

7.2(3) Persons wishing to speak shall notify the board prior to start of the oral presentations.

7.2(4) Oral presentations may be limited to ten minutes at the discretion of the board.

This rule is intended to implement Iowa Code sections 17A.3(1) and 17A.4(1).

650—7.3(153) Declaratory rulings. Rescinded IAB 5/19/99, effective 6/23/99. See 650—Chapter 9.

650—7.4(17A,147,153) Waivers.

7.4(1) *Definition.* For purposes of this rule, "a waiver or variance" means action by the board that suspends, in whole or in part, the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. For simplicity, the term "waiver" shall include both a "waiver" and a "variance."

7.4(2) *Scope of rule.* This rule outlines generally applicable standards and a uniform process for the granting of an individual waiver from a rule adopted by the board in situations where no other more specifically applicable law provides for a waiver. To the extent another more specific provision of law governs the issuance of a waiver from a particular rule, the more specific provision shall supersede this rule with respect to any waiver from that rule.

7.4(3) *Applicability of rule.* The board may grant a waiver from a rule only if the board has jurisdiction over the rule and the requested waiver is consistent with applicable statutes, constitutional

provisions, or other provisions of law. The board may not waive requirements created or duties imposed by statute.

7.4(4) *Criteria for waiver.* In response to a petition completed pursuant to subrule 7.4(6), the board may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the board finds, based on clear and convincing evidence, all of the following:

a. The application of the rule would impose an undue hardship on the person for whom the waiver is requested;

b. The waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person;

c. The provisions of the rule subject to the petition for a waiver are not specifically mandated by statute or another provision of law; and

d. Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

7.4(5) *Filing of petition.* A petition for a waiver must be submitted in writing to the board as follows:

a. Application for license, registration, certification, or permit. If the petition relates to an application for license, registration, certification, or permit, the petition shall be made in accordance with the filing requirements for the application in question.

b. Contested cases. If the petition relates to a pending contested case, the petition shall be filed in the contested case proceeding, using the caption of the contested case.

c. Other. If the petition does not relate to an application or a pending contested case, the petition may be submitted to the board's executive director.

d. A petition is deemed filed when it is received at the board's office. A petition should be sent to the Board of Dental Examiners, 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687. The petition must be typewritten or legibly handwritten in ink and substantially conform to the form specified in 650—7.5(17A,147,153).

7.4(6) *Content of petition.* A petition for waiver shall include the following information where applicable and known to the requester:

a. The name, address, and telephone number of the person for whom a waiver is being requested and a reference to any related contested case. Also, the name, address, and telephone number of the petitioner's legal representative, if applicable, and a statement indicating the person to whom communications concerning the petition should be directed.

b. A description and citation of the specific rule from which a waiver is requested.

c. The specific waiver requested, including the precise scope and duration.

d. The relevant facts that the petitioner believes would justify a waiver under each of the four criteria described in subrule 7.4(4). This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition and a statement of reasons that the petitioner believes will justify a waiver.

e. A history of any prior contacts between the board and the petitioner relating to the regulated activity, license, registration, certification, or permit affected by the proposed waiver, including a description of each affected license, registration, certification, or permit held by the requester, any formal charges filed, any notices of violation, contested case hearings, or investigations relating to the regulated activity, license, registration, certification or permit.

f. Any information known to the requester regarding the board's action in similar circumstances.

g. The name, address, and telephone number of any public agency or political subdivision that also regulates the activity in question or that might be affected by the grant of a waiver.

h. The name, address, and telephone number of any person who would be adversely affected by the grant of the petition.

i. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.

j. Signed releases of information authorizing persons with knowledge regarding the request to furnish the board with information relevant to the waiver.

7.4(7) *Additional information.* Prior to issuing an order granting or denying a waiver, the board may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the board may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the board's executive director, a committee of the board, or a quorum of the board.

7.4(8) *Notice.* The board shall acknowledge a petition upon receipt. Except where otherwise provided by law, every petition shall be served by the petitioner upon each of the parties of record of the proceeding, and on all other persons identified in the petition for waiver as affected by the petition, simultaneously with the filing. The petitioner shall serve the notice on all persons to whom notice is required by any provision of law and provide a written statement to the board attesting that notice has been provided. In addition, the board may give notice to other persons.

7.4(9) *Hearing procedures.* The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case hearings shall apply to any petition for a waiver filed within a contested case. A person who objects to a denial of a waiver in proceedings other than a contested case hearing may make an informal appearance before the board to request reconsideration.

7.4(10) *Ruling.* An order granting or denying a waiver shall be in writing and shall contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and duration of the waiver if one is issued.

a. Board discretion. The final decision on whether the circumstances justify the granting of a waiver shall be made at the sole discretion of the board, upon consideration of all relevant factors. Each petition for a waiver shall be evaluated by the board based on the unique, individual circumstances set out in the petition.

b. Burden of persuasion. The burden of persuasion rests with the petitioner to demonstrate by clear and convincing evidence that the board should exercise its discretion to grant a waiver from a board rule.

c. Narrowly tailored. A waiver, if granted, shall provide the narrowest exception possible to the provisions of a rule.

d. Administrative deadlines. When the rule from which a waiver is sought establishes administrative deadlines, the board shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

e. Conditions. The board may place any condition on a waiver that the board finds desirable to protect the public health, safety, and welfare.

f. Time period of waiver. A waiver shall not be permanent unless the petitioner can show that a temporary waiver would be impracticable. If a temporary waiver is granted, there is no automatic right to renewal. At the sole discretion of the board, a waiver may be renewed if the board finds that grounds for a waiver continue to exist.

g. Time for ruling. The board shall grant or deny a petition for a waiver as soon as practicable but, in any event, shall do so within 120 days of its receipt, unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the board shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

h. When deemed denied. Failure of the board to grant or deny a petition within the required time period shall be deemed a denial of that petition by the board. However, the board shall remain responsible for issuing an order denying a waiver.

i. Service of order. Within seven days of its issuance, any order issued under this rule shall be transmitted to the petitioner or the person to whom the order pertains, and to any other person entitled to such notice by any provision of law.

7.4(11) *Public availability.* All orders granting or denying a waiver petition shall be indexed, filed, and available for public inspection as provided in Iowa Code section 17A.3. Petitions for a waiver and orders granting or denying a waiver petition are public records under Iowa Code chapter 22. Some petitions or orders may contain information the board is authorized or required to keep confidential. The board may accordingly redact confidential information from petitions or orders prior to public inspection.

7.4(12) *Summary reports.* Semiannually, the board shall prepare a summary report identifying the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the board's actions on waiver requests. If practicable, the report shall detail the extent to which the granting of a waiver has affected the general applicability of the rule itself. Copies of this report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.

7.4(13) *Cancellation of a waiver.* A waiver issued by the board pursuant to this rule may be withdrawn, canceled, or modified if, after appropriate notice and hearing, the board issues an order finding any of the following:

a. The petitioner or the person who was the subject of the waiver order withheld or misrepresented material facts relevant to the propriety or desirability of the waiver; or

b. The alternative means for ensuring that the public health, safety and welfare will be adequately protected after issuance of the waiver order have been insufficient; or

c. The subject of the waiver order has failed to comply with all conditions contained in the order.

7.4(14) *Violations.* A violation of a condition in a waiver order shall be treated as a violation of the particular rule for which the waiver was granted. As a result, the recipient of a waiver under this rule who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the rule at issue.

7.4(15) *Defense.* After the board issues an order granting a waiver, the order is a defense within its terms and the specific facts indicated therein only for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

7.4(16) *Judicial review.* Judicial review of a board's decision to grant or deny a waiver petition may be taken in accordance with Iowa Code chapter 17A.

This rule is intended to implement Iowa Code chapters 17A, 147, and 153.

650—7.5(17A,147,153) Sample petition for waiver. A petition for waiver filed in accordance with 650—7.4(17A,147,153) must meet the requirements specified therein and must substantially conform to the following form:

BEFORE THE BOARD OF DENTAL EXAMINERS

Petition by (Name of Petitioner) for the waiver/variance of (insert rule citation) relating to (insert the subject matter). }	PETITION FOR WAIVER/VARIANCE

1. Specify petitioner's (person asking for a waiver or variance) name, address, and telephone number. Also, the name, address, and telephone number of the petitioner's legal representative, if applicable, and a statement indicating the person to whom communications concerning the petition should be directed.

2. Describe and cite the specific rule from which a waiver is requested.

3. Describe the specific waiver requested, including the precise scope and time period for which the waiver will extend.

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

a. Why applying the rule would result in undue hardship to the petitioner;

b. Why waiving the rule would not prejudice the substantial legal rights of any person;

c. Whether the provisions of the rule subject to the waiver are specifically mandated by statute or another provision of law; and

d. How substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

5. Provide a history of any prior contacts between the board and petitioner relating to the regulated activity, license, registration, certification or permit that would be affected by the waiver. Include a

description of each affected license, registration, certification, or permit held by the petitioner, any formal charges filed, any notices of violation, any contested case hearings held, or any investigations related to the regulated activity, license, registration, certification, or permit.

6. Provide information known to the petitioner regarding the board's action in similar circumstances.

7. Provide the name, address, and telephone number of any public agency or political subdivision that also regulates the activity in question or that might be affected by the grant of the petition.

8. Provide the name, address, and telephone number of any person or entity that would be adversely affected by the grant of the waiver.

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

10. Provide signed releases of information authorizing persons with knowledge regarding the request to furnish the board with information relevant to the waiver.

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

_____ _____

Petitioner's signature Date

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CHAPTER 8
SALE OF GOODS AND SERVICES

650—8.1(68B) Selling of goods or services by members of the board. The board members shall not sell, either directly or indirectly, any goods or services to individuals, associations, or corporations that are subject to the regulatory authority of the department of public health except as authorized by this chapter.

650—8.2(68B) Conditions of consent for members.

8.2(1) *Consent shall be given by a majority of the members of the board.* Consent shall not be given to an official to sell goods or services to an individual, association, or corporation regulated by the department of public health unless all of the following conditions are met:

a. The official requesting consent does not have authority to determine whether consent should be given.

b. The official's duties or functions are not related to the department's regulatory authority over the individual, association or corporation to whom the goods and services are being sold, or the selling of the good or service does not affect the official's duties or functions.

c. The selling of the good or service does not include acting as an advocate on behalf of the individual, association, or corporation to the department of public health.

d. The selling of the good or service does not result in the official selling a good or service to the department on behalf of the individual, association, or corporation.

8.2(2) *Authorized sales.*

a. A member of the board may sell goods or services to any individual, association, or corporation regulated by any division within the department of public health, other than the board on which that official serves. This consent is granted because the sale of such goods or services does not affect the board member's duties or functions on the board.

b. A member of the board may sell goods or services to any individual, association, or corporation regulated by the board if those goods or services are routinely provided to the public as part of that person's regular professional practice. This consent is granted because the sale of such goods or services does not affect the board member's duties or functions on the board. In the event an individual, association, or corporation regulated by the board, to whom a board member sells goods or services is directly involved in any matter pending before the board, including a disciplinary matter, that board member shall not participate in any deliberation or decision concerning that matter. In the event a complaint is filed with the board concerning the services provided by the board member to a member of the public, that board member is otherwise prohibited by law from participating in any discussion or decision by the licensing board in that case.

c. Individual application and approval are not required for the sales authorized by this rule unless there are unique facts surrounding a particular sale which would cause the sale to affect the seller's duties or functions, would give the buyer an advantage in dealing with the board, or would otherwise present a conflict of interest.

8.2(3) *Application for consent.* Prior to selling a good or service to an individual, association, or corporation subject to the regulatory authority of the department of public health, an official must obtain prior written consent unless the sale is specifically allowed in subrule 8.2(2). The request for consent must be in writing signed by the official requesting consent. The application must provide a clear statement of all relevant facts concerning the sale. The application should identify the parties to the sale and the amount of compensation. The application should also explain why the sale should be allowed.

8.2(4) *Limitation of consent.* Consent shall be in writing and shall be valid only for the activities and the time period specifically described in the consent. Consent can be revoked at any time by a majority vote of the members of the board upon written notice to the board. A consent provided under this chapter does not constitute authorization for any activity which is a conflict of interest under common law or which would violate any other statute or rule.

It is the responsibility of the official requesting consent to ensure compliance with all other applicable laws and rules.

These rules are intended to implement Iowa Code section 68B.4.

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CHAPTER 9
DECLARATORY ORDERS

650—9.1(17A) Petition for declaratory order. Any person may file a petition with the board (which for purposes of this chapter means the board of dental examiners or as to matters exclusively involving dental hygiene or dental hygienists means the dental hygiene committee of the board of dental examiners) for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the Board of Dental Examiners, 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687. A petition is deemed filed when it is received by that office. The board of dental examiners shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the board an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

BOARD OF DENTAL EXAMINERS

Petition by (Name of Petitioner) for a Declaratory Order on (Cite provisions of law involved).	PETITION FOR DECLARATORY ORDER

The petition must provide the following information:

1. A clear and concise statement of all relevant facts on which the order is requested.
2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, whose applicability is questioned, and any other relevant law.
3. The questions petitioner wants answered, stated clearly and concisely.
4. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
5. The reasons for requesting the declaratory order and disclosure of the petitioner's interest in the outcome.
6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
7. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the questions presented in the petition.
8. Any request by petitioner for a meeting provided for by 650—9.7(17A).

The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.

650—9.2(17A) Notice of petition. Within 15 days after receipt of a petition for a declaratory order, the board of dental examiners shall give notice of the petition to all persons not served by the petitioner pursuant to 650—9.6(17A) to whom notice is required by any provision of law. The board of dental examiners may also give notice to any other persons.

650—9.3(17A) Intervention.

9.3(1) Persons who qualify under any applicable provision of law as an intervenor and who file a petition for intervention within 15 days of the filing of a petition for declaratory order shall be allowed to intervene in a proceeding for a declaratory order.

9.3(2) Any person who files a petition for intervention at any time prior to the issuance of an order may be allowed to intervene in a proceeding for a declaratory order at the discretion of the board of dental examiners.

9.3(3) A petition for intervention shall be filed with the board at 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687. Such a petition is deemed filed when it is received by that office. The board

of dental examiners will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose. A petition for intervention must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

BOARD OF DENTAL EXAMINERS

Petition by (Name of Original Petitioner) for a Declaratory Order on (Cite provisions of law cited in original petition).	PETITION FOR INTERVENTION

The petition for intervention must provide the following information:

1. Facts supporting the intervenor's standing and qualifications for intervention.
2. The answers urged by the intervenor to the question or questions presented and a summary of the reasons urged in support of those answers.
3. Reasons for requesting intervention and disclosure of the intervenor's interest in the outcome.
4. A statement indicating whether the intervenor is currently a party to any proceeding involving the questions at issue and whether, to the intervenor's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
5. The names and addresses of any additional persons, or a description of any additional class of persons, known by the intervenor to be affected by, or interested in, the questions presented.
6. Whether the intervenor consents to be bound by the determination of the matters presented in the declaratory order proceeding.

The petition must be dated and signed by the intervenor or the intervenor's representative. It must also include the name, mailing address, and telephone number of the intervenor and intervenor's representative, and a statement indicating the person to whom communications should be directed.

650—9.4(17A) Briefs. The petitioner or any intervenor may file a brief in support of the position urged. The board of dental examiners may request a brief from the petitioner, any intervenor, or any other person concerning the questions raised.

650—9.5(17A) Inquiries. Inquiries concerning the status of a declaratory order proceeding may be made to the Executive Director, Board of Dental Examiners, 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687.

650—9.6(17A) Service and filing of petitions and other papers.

9.6(1) *When service required.* Except where otherwise provided by law, every petition for declaratory order, petition for intervention, brief, or other paper filed in a proceeding for a declaratory order shall be served upon each of the parties of record to the proceeding, and on all other persons identified in the petition for declaratory order or petition for intervention as affected by or interested in the questions presented, simultaneously with their filing. The party filing a document is responsible for service on all parties and other affected or interested persons.

9.6(2) *Filing—when required.* All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the Board of Dental Examiners, 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687. All petitions, briefs, or other papers that are required to be served upon a party shall be filed simultaneously with the board of dental examiners.

9.6(3) *Method of service, time of filing, and proof of mailing.* Method of service, time of filing, and proof of mailing shall be as provided by 650—Chapter 51.

650—9.7(17A) Consideration. Upon request by petitioner, the board of dental examiners must schedule a brief and informal meeting between the original petitioner, all intervenors, and the board of dental examiners, a member of the board of dental examiners, or a member of the staff of the board of dental examiners, to discuss the questions raised. The board of dental examiners may solicit comments from

any person on the questions raised. Also, comments on the questions raised may be submitted to the board of dental examiners by any person.

650—9.8(17A) Action on petition.

9.8(1) Within the time allowed by 1998 Iowa Acts, chapter 1202, section 13(5), after receipt of a petition for a declaratory order, the board of dental examiners or designee shall take action on the petition as required by 1998 Iowa Acts, chapter 1202, section 13(5).

9.8(2) The date of issuance of an order or of a refusal to issue an order is as defined in 650—Chapter 51.

650—9.9(17A) Refusal to issue order.

9.9(1) The board of dental examiners shall not issue a declaratory order where prohibited by 1998 Iowa Acts, chapter 1202, section 13(1), and may refuse to issue a declaratory order on some or all questions raised for the following reasons:

1. The petition does not substantially comply with the required form.
2. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the board of dental examiners to issue an order.
3. The board of dental examiners does not have jurisdiction over the questions presented in the petition.
4. The questions presented by the petition are also presented in a current rule making, contested case, or other agency or judicial proceeding, that may definitively resolve them.
5. The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.
6. The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue an order.
7. There is no need to issue an order because the questions raised in the petition have been settled due to a change in circumstances.
8. The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge an agency decision already made.
9. The petition requests a declaratory order that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition, intervened separately, or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that of petitioner.
10. The petitioner requests the board of dental examiners to determine whether a statute is unconstitutional on its face.

9.9(2) A refusal to issue a declaratory order must indicate the specific grounds for the refusal and constitutes final agency action on the petition.

9.9(3) Refusal to issue a declaratory order pursuant to this provision does not preclude the filing of a new petition that seeks to eliminate the grounds for the refusal to issue an order.

650—9.10(17A) Contents of declaratory order—effective date. In addition to the order itself, a declaratory order must contain the date of its issuance, the name of petitioner and all intervenors, the specific statutes, rules, policies, decisions, or orders involved, the particular facts upon which it is based, and the reasons for its conclusion.

A declaratory order is effective on the date of issuance.

650—9.11(17A) Copies of orders. A copy of all orders issued in response to a petition for a declaratory order shall be mailed promptly to the original petitioner and all intervenors.

650—9.12(17A) Effect of a declaratory order. A declaratory order has the same status and binding effect as a final order issued in a contested case proceeding. It is binding on the board of dental examiners, the petitioner, and any intervenors (who consent to be bound) and is applicable only in circumstances

where the relevant facts and the law involved are indistinguishable from those on which the order was based. As to all other persons, a declaratory order serves only as precedent and is not binding on the board of dental examiners. The issuance of a declaratory order constitutes final agency action on the petition.

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202.

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TITLE III
LICENSING

CHAPTER 10
GENERAL REQUIREMENTS

[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—10.1(153) Licensed or registered personnel. Persons engaged in the practice of dentistry in Iowa must be licensed by the board as a dentist, and persons performing services under Iowa Code section 153.15 must be licensed by the board as a dental hygienist. Persons engaged in the practice of dental assisting must be registered by the board pursuant to 650—Chapter 20.

This rule is intended to implement Iowa Code sections 147.2 and 153.17.

650—10.2(147,153) Display of license, registration, permit, and renewal. The license to practice dentistry or dental hygiene or the registration as a dental assistant and the current renewal must be prominently displayed by the licensee or registrant at each permanent practice location. A dentist who holds a permit to administer deep sedation/general anesthesia or conscious sedation, or a dental hygienist who holds a permit to administer local anesthesia, shall also prominently display the permit and the current renewal at each permanent practice location.

10.2(1) Additional certificates shall be obtained from the board whenever a licensee or registrant practices at more than one address.

10.2(2) Duplicate licenses, certificates of registration, or permits shall be issued by the board upon satisfactory proof of loss or destruction of the original license, certificate of registration, or permit.

This rule is intended to implement Iowa Code sections 147.7, 147.10 and 147.80(17).

650—10.3(153) Authorized practice of a dental hygienist.

10.3(1) "Practice of dental hygiene" as defined in Iowa Code section 153.15 as amended by 2017 Iowa Acts, Senate File 479, means the performance of the following educational, therapeutic, preventive and diagnostic dental hygiene services. Such services, except educational services, shall be delegated by and performed under the supervision of a dentist licensed pursuant to Iowa Code chapter 153.

a. Educational. Assessing the need for, planning, implementing, and evaluating oral health education programs for individual patients and community groups; conducting workshops and in-service training sessions on dental health for nurses, school personnel, institutional staff, community groups and other agencies providing consultation and technical assistance for promotional, preventive and educational services.

b. Therapeutic. Identifying and evaluating factors which indicate the need for and performing (1) oral prophylaxis, which includes supragingival and subgingival debridement of plaque, and detection and removal of calculus with instruments or any other devices; (2) periodontal scaling and root planing; (3) removing and polishing hardened excess restorative material; (4) administering local anesthesia with the proper permit; (5) administering nitrous oxide inhalation analgesia in accordance with 650—subrules 29.6(4) and 29.6(5); (6) applying or administering medicaments prescribed by a dentist, including chemotherapeutic agents and medicaments or therapies for the treatment of periodontal disease and caries; (7) removal of adhesives.

c. Preventive. Applying pit and fissure sealants and other medications or methods for caries and periodontal disease control; organizing and administering fluoride rinse or sealant programs.

d. Diagnostic. Reviewing medical and dental health histories; performing oral inspection; indexing dental and periodontal disease; preliminary charting of existing dental restorations and teeth; making occlusal registrations for mounting study casts; testing pulp vitality; analyzing dietary surveys.

e. The following services may only be delegated by a dentist to a dental hygienist: administration of local anesthesia, placement of sealants, and the removal of any plaque, stain, calculus, or hard natural or synthetic material except by toothbrush, floss, or rubber cup coronal polish.

10.3(2) All authorized services provided by a dental hygienist, except educational services, shall be performed under the general, direct, or public health supervision of a dentist currently licensed in the state of Iowa in accordance with 650—1.1(153) and 650—10.5(153).

10.3(3) Under the general or public health supervision of a dentist, a dental hygienist may provide educational services, assessment, screening, or data collection for the preparation of preliminary written records for evaluation by a licensed dentist. A dentist is not required to examine a patient prior to the provision of these dental hygiene services.

10.3(4) The administration of local anesthesia or nitrous oxide inhalation analgesia shall only be provided under the direct supervision of a dentist.

10.3(5) All other authorized services provided by a dental hygienist to a new patient shall be provided under the direct or public health supervision of a dentist. An examination by the dentist must take place during an initial visit by a new patient, except when hygiene services are provided under public health supervision.

10.3(6) Subsequent examination and monitoring of the patient, including definitive diagnosis and treatment planning, is the responsibility of the dentist and shall be carried out in a reasonable period of time in accordance with the professional judgment of the dentist based upon the individual needs of the patient.

10.3(7) General supervision shall not preclude the use of direct supervision when in the professional judgment of the dentist such supervision is necessary to meet the individual needs of the patient.

10.3(8) Expanded function requirements.

a. Supervision requirements. A dental hygienist may only perform expanded function procedures which are delegated by and performed under the supervision of a dentist licensed pursuant to Iowa Code chapter 153. The taking of occlusal registrations for purposes other than mounting study casts may be performed under general supervision; all other expanded function procedures shall be performed under direct supervision.

b. Expanded function training required. A dental hygienist shall not perform any expanded function procedures listed in this chapter unless the dental hygienist has successfully met the education and training requirements and is in compliance with the requirements of this chapter.

c. Education and training requirements. All expanded function training must be prior-approved by the board. The supervising dentist and the dental hygienist shall be responsible for maintaining in each office of practice documentation of successful completion of the board-approved training.

(1) Expanded function training for Level 1 procedures 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 (ADA) or another program, 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;
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.

(2) Expanded function training for Level 2 procedures shall be eligible for board approval if the training is offered through the University of Iowa College of Dentistry or a program accredited by the Commission on Dental Accreditation of the American Dental Association.

10.3(9) Expanded function providers.

a. Basic expanded function provider. Dental hygienists 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 education and training requirements for those procedures and are in compliance with the requirements of this chapter. A dentist may delegate to a dental hygienist only those Level 1 procedures for which the dental hygienist has received the required expanded function training.

b. Certified Level 1 provider. A dental hygienist must successfully complete training for all Level 1 expanded function procedures before becoming a certified Level 1 provider.

(1) A dentist may delegate any of the Level 1 expanded function procedures to a dental hygienist who is a certified Level 1 provider.

(2) Level 1 procedures include:

1. Taking occlusal registrations for purposes other than mounting study casts;
2. Placement and removal of gingival retraction;
3. Fabrication and removal of provisional restorations;
4. Applying cavity liners and bases and bonding systems for restorative purposes; and
5. Taking final impressions.

c. *Certified Level 2 provider.* A dental hygienist must become a certified Level 1 provider and successfully pass a board-approved entrance examination with a score of at least 75 percent before beginning training to become a certified Level 2 provider. A dental hygienist must successfully complete training for all Level 2 expanded function procedures before becoming a certified Level 2 provider.

(1) A dentist may delegate any of the Level 1 or Level 2 expanded function procedures to a dental hygienist who is a certified Level 2 provider.

(2) Level 2 procedures include:

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; and
5. Tissue conditioning (soft reline only).

These procedures refer to both primary and permanent teeth.

This rule is intended to implement Iowa Code section 153.15.

[**ARC 2141C**, IAB 9/16/15, effective 10/21/15; **ARC 3487C**, IAB 12/6/17, effective 1/10/18]

650—10.4(153) Unauthorized practice of a dental hygienist. A dental hygienist who assists a dentist in practicing dentistry in any capacity other than as an employee or independent contractor supervised by a licensed dentist or who directly or indirectly procures a licensed dentist to act as nominal owner, proprietor, director, or supervisor of a practice as a guise or subterfuge to enable such dental hygienist to engage in the practice of dentistry or dental hygiene or who renders dental services, except educational services, directly or indirectly on or for members of the public other than as an employee or independent contractor supervised by a licensed dentist shall be deemed to be practicing illegally.

10.4(1) The unauthorized practice of dental hygiene means allowing a person not licensed in dentistry or dental hygiene to perform dental hygiene services authorized in Iowa Code section 153.15 and rule 650—10.3(153).

10.4(2) The unauthorized practice of dental hygiene also means the performance of services by a dental hygienist that exceeds the scope of practice granted in Iowa Code section 153.15.

10.4(3) A dental hygienist shall not provide services, except for educational services, independent from the supervision of a dentist nor shall a dental hygienist establish or maintain an office or other workplace separate or independent from the office or other workplace in which the supervision of a dentist is provided.

10.4(4) Students enrolled in dental hygiene programs. Students enrolled in an accredited dental hygiene program are not considered to be engaged in the unlawful practice of dental hygiene provided that such practice is in connection with their regular course of instruction and meets the following:

a. The practice of clinical skills on peers enrolled in the same program must be under the direct supervision of a program instructor with an active Iowa dental hygiene license, Iowa faculty permit, or Iowa dental license;

b. The practice of clinical skills on members of the public must be under the general supervision of a dentist with an active Iowa dental license;

c. The practice of clinical skills involving the administration or monitoring of nitrous oxide or the administration of local anesthesia must be under the direct supervision of a dentist with an active Iowa dental license.

This rule is intended to implement Iowa Code sections 147.10, 147.57 and 153.15.

[**ARC 2592C**, IAB 6/22/16, effective 7/27/16; **ARC 3487C**, IAB 12/6/17, effective 1/10/18]

650—10.5(153) Public health supervision allowed. A dentist who meets the requirements of this rule may provide public health supervision to a dental hygienist if the dentist has an active Iowa license and the services are provided in public health settings.

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

10.5(2) *Public health supervision defined.* "Public health supervision" means all of the following:

a. The dentist authorizes and delegates the services provided by a dental hygienist to a patient in a public health setting, with the exception that hygiene services may be rendered without the patient's first being examined by a licensed dentist;

b. The dentist is not required to provide future dental treatment to patients served under public health supervision;

c. The dentist and the dental hygienist have entered into a written supervision agreement that details the responsibilities of each licensee, as specified in subrule 10.5(3); and

d. The dental hygienist has an active Iowa license with a minimum of three years of clinical practice experience.

10.5(3) *Licensee responsibilities.* When working together in a public health supervision relationship, a dentist and dental hygienist shall enter into a written agreement that specifies the following responsibilities.

a. The dentist providing public health supervision must:

(1) Be available to provide communication and consultation with the dental hygienist;

(2) Have age- and procedure-specific standing orders for the performance of dental hygiene services. Those standing orders must include consideration for medically compromised patients and medical conditions for which a dental evaluation must occur prior to the provision of dental hygiene services;

(3) Specify a period of time in which an examination by a dentist must occur prior to providing further hygiene services. However, this examination requirement does not apply to educational services, assessments, screenings, and fluoride if specified in the supervision agreement; and

(4) Specify the location or locations where the hygiene services will be provided under public health supervision.

b. A dental hygienist providing services under public health supervision may provide assessments; screenings; data collection; and educational, therapeutic, preventive, and diagnostic services as defined in rule 10.3(153), except for the administration of local anesthesia or nitrous oxide inhalation analgesia, and must:

(1) Maintain contact and communication with the dentist providing public health supervision;

(2) Practice according to age- and procedure-specific standing orders as directed by the supervising dentist, unless otherwise directed by the dentist for a specific patient;

(3) Provide to the patient, parent, or guardian a written plan for referral to a dentist and assessment of further dental treatment needs;

(4) Have each patient sign a consent form that notifies the patient that the services that will be received do not take the place of regular dental checkups at a dental office and are meant for people who otherwise would not have access to services; and

(5) Specify a procedure for creating and maintaining dental records for the patients that are treated by the dental hygienist, including where these records are to be located.

c. The written agreement for public health supervision must be maintained by the dentist and the dental hygienist and must be made available to the board upon request. The dentist and dental hygienist must review the agreement at least biennially.

d. A copy of the written agreement for public health supervision shall be filed with the Bureau of Oral and Health Delivery Systems, Iowa Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319.

10.5(4) *Reporting requirements.* Each dental hygienist who has rendered services under public health supervision must complete a summary report at the completion of a program or, in the case of an ongoing program, at least annually. The report shall be filed with the bureau of oral and health delivery systems of the Iowa department of public health on forms provided by the department and shall include information related to the number of patients seen and services provided so that the department may assess the impact of the program. The department will provide summary reports to the board on an annual basis.

This rule is intended to implement Iowa Code section 153.15.

[**ARC 7767B**, IAB 5/20/09, effective 6/24/09; **ARC 0629C**, IAB 3/6/13, effective 4/10/13; **ARC 2141C**, IAB 9/16/15, effective 10/21/15]

650—10.6(147,153,272C) Other requirements.

10.6(1) *Change of address or name.* Each person licensed or registered by the board must notify the board, by written correspondence or through the board's online system, of a change of legal name or address within 60 days of such change. Proof of a legal name change, such as a notarized copy of a marriage certificate, must accompany the request for a name change.

10.6(2) *Child and dependent adult abuse training.* Licensees or registrants who regularly examine, attend, counsel or treat children or adults in Iowa must obtain mandatory training in child and dependent adult abuse identification and reporting within six months of initial employment and subsequently every five years in accordance with 650—subrule 25.2(9).

10.6(3) *Reporting requirements.* Each licensee and registrant shall be responsible for reporting to the board, within 30 days, any of the following:

a. Every adverse judgment in a professional malpractice action to which the licensee or registrant was a party.

b. Every settlement of a claim against the licensee or registrant alleging malpractice.

c. Any license or registration revocation, suspension or other disciplinary action taken by a licensing authority of another state, territory or country within 30 days of the final action by the licensing authority.

This rule is intended to implement Iowa Code sections 147.9, 232.69, 235B.16 and 272C.9.

[**ARC 0265C**, IAB 8/8/12, effective 9/12/12]

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†See HJR 2006 of 2006 Session of the Eighty-first General Assembly regarding nullification of subrule 10.6(4).

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[1] Effective date of 10.3(1) delayed until the end of the 2000 Session of the General Assembly by the Administrative Rules Review Committee at its meeting held September 15, 1999.

CHAPTER 11
LICENSURE TO PRACTICE DENTISTRY OR DENTAL HYGIENE

[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—11.1(147,153) Applicant responsibilities. An applicant for dental or dental hygiene licensure bears full responsibility for each of the following:

1. Paying all fees charged by regulatory authorities, national testing or credentialing organizations, health facilities, and educational institutions providing the information required to complete a license or permit application; and

2. Providing accurate, up-to-date, and truthful information on the application form including, but not limited to, prior professional experience, education, training, examination scores, and disciplinary history.

3. Submitting complete application materials. An application for a license, permit, or registration or reinstatement of a license or registration will be considered active for 180 days from the date the application is received. For purposes of establishing timely filing, the postmark on a paper submittal will be used, and for applications submitted online, the electronic timestamp will be deemed the date of filing. If the applicant does not submit all materials, including a completed fingerprint packet, within this time period or if the applicant does not meet the requirements for the license, permit, registration or reinstatement, the application shall be considered incomplete. An applicant whose application is filed incomplete must submit a new application and application fee.

[**ARC 9218B**, IAB 11/3/10, effective 12/8/10; **ARC 0265C**, IAB 8/8/12, effective 9/12/12]

650—11.2(147,153) Dental licensure by examination.

11.2(1) Applications for licensure by examination to practice dentistry in this state shall be made on the form provided by the board and must be completely answered, including required credentials and documents. An applicant who has held a dental license issued in another state for one year or longer must apply for licensure by credentials pursuant to rule 650—11.3(153).

11.2(2) Applications for licensure must be filed with the board along with:

a. Documentation of graduation from dental college. Satisfactory evidence of graduation with a DDS or DMD from an accredited dental college approved by the board or satisfactory evidence of meeting the requirements specified in rule 650—11.4(153).

b. Certification of good standing from dean or designee. Certification by the dean or other authorized representative of the dental school that the applicant has been a student in good standing while attending that dental school.

c. Documentation of passage of national dental examination. Evidence of attaining a grade of at least 75 percent on the examination administered by the Joint Commission on National Dental Examinations.

d. Documentation of passage of a clinical examination.

(1) Successful passage of a board-approved clinical examination within the previous five-year period with a grade of at least 75 percent.

(2) The following regional clinical examinations are approved by the board for purposes of licensure by examination: the Central Regional Dental Testing Service, Inc. examination as administered by the Central Regional Dental Testing Service, Inc. (CRDTS), the Western Regional Examining Board examination as administered by the Western Regional Examining Board (WREB), the Southern Regional Testing Agency, Inc. examination as administered by the Southern Regional Testing Agency, Inc. (SRTA), and the American Board of Dental Examiners, Inc. examination as administered by the Commission on Dental Competency Assessments (CDCA) and the Council of Interstate Testing Agencies, Inc. (CITA).

(3) Beginning January 1, 2018, the 2014 California portfolio examination is approved by the board for the purposes of licensure by examination. To be eligible for licensure on the basis of portfolio examination, an applicant must be a student at the University of Iowa College of Dentistry or have graduated from the University of Iowa College of Dentistry within one year of the date of application.

e. Explanation of any legal or administrative actions. A statement disclosing and explaining any disciplinary actions, investigations, complaints, malpractice claims, judgments, settlements, or criminal charges.

f. Payment of application, fingerprint and background check fees. The nonrefundable application fee, plus the fee for the evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI), as specified in 650—Chapter 15.

g. Documentation of passage of jurisprudence examination. Evidence of successful completion of a board-approved jurisprudence examination with a grade of at least 75 percent.

h. Current CPR certification. A statement:

(1) Confirming that the applicant possesses a valid certificate from a nationally recognized course in cardiopulmonary resuscitation (CPR) that included a "hands-on" clinical component;

(2) Providing the expiration date of the CPR certificate; and

(3) Acknowledging that the CPR certificate will be retained and made available to board office staff as part of routine auditing and monitoring.

i. Completed fingerprint packet. A completed fingerprint packet to facilitate a criminal history background check by the DCI and FBI.

11.2(3) The board may require a personal appearance or any additional information relating to the character, education and experience of the applicant.

11.2(4) Applications must be signed and verified as to the truth of the statements contained therein.

This rule is intended to implement Iowa Code sections 147.3, 147.29, and 147.34.

[**ARC 9218B**, IAB 11/3/10, effective 12/8/10; **ARC 9510B**, IAB 5/18/11, effective 6/22/11; **ARC 0265C**, IAB 8/8/12, effective 9/12/12; **ARC 2870C**, IAB 12/21/16, effective 1/25/17; **ARC 3488C**, IAB 12/6/17, effective 1/10/18]

650—11.3(153) Dental licensure by credentials.

11.3(1) Applications for licensure by credentials to practice dentistry in this state shall be made on the form provided by the board and must be completely answered, including required credentials and documents.

11.3(2) Applications must be filed with the board along with:

a. Satisfactory evidence of graduation with a DDS or DMD from an accredited dental college approved by the board or satisfactory evidence of meeting the requirements specified in rule 650—11.4(153).

b. Evidence of attaining a grade of at least 75 percent on the examination of the Joint Commission on National Dental Examinations or evidence of attaining a grade of at least 75 percent on a written examination during the last ten years that is comparable to the examination given by the Joint Commission on National Dental Examinations. Any dentist who has lawfully practiced dentistry in another state or territory for five years may be exempted from presenting this evidence.

c. A statement of any dental examinations taken by the applicant, with indication of pass/fail for each examination taken. Any dentist who has lawfully practiced dentistry in another state or territory for five or more years may be exempted from presenting this evidence.

d. Evidence of a current, valid license to practice dentistry in another state, territory or district of the United States issued under requirements equivalent or substantially equivalent to those of this state.

e. Evidence that the applicant has met at least one of the following:

(1) Has less than three consecutive years of practice immediately prior to the filing of the application and evidence of attaining a grade of at least 75 percent on a board-approved clinical examination within the previous five-year period. The following regional examinations are approved by the board for purposes of licensure by credentials: the Central Regional Dental Testing Service, Inc. examination as administered by the Central Regional Dental Testing Service, Inc. (CRDTS), the Western Regional Examining Board examination as administered by the Western Regional Examining Board (WREB), the Southern Regional Testing Agency, Inc. examination as administered by the Southern Regional Testing Agency, Inc. (SRTA), the American Board of Dental Examiners, Inc. examination as administered by the Commission on Dental Competency Assessments (CDCA) and

the Council of Interstate Testing Agencies, Inc. (CITA), and the 2014 California portfolio examination; or

(2) Has for three consecutive years immediately prior to the filing of the application been in the lawful practice of dentistry in such other state, territory or district of the United States.

f. Evidence from the state board of dentistry, or equivalent authority, from each state in which applicant has been licensed to practice dentistry, that the applicant has not been the subject of final or pending disciplinary action.

g. A statement disclosing and explaining any disciplinary actions, investigations, malpractice claims, complaints, judgments, settlements, or criminal charges, including the results of a self-query of the National Practitioner Data Bank (NPDB).

h. The nonrefundable application fee for licensure by credentials, plus the fee for the evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI), as specified in 650—Chapter 15.

i. Current CPR certification. A statement:

(1) Confirming that the applicant possesses a valid certificate from a nationally recognized course in cardiopulmonary resuscitation (CPR) that included a "hands-on" clinical component;

(2) Providing the expiration date of the CPR certificate; and

(3) Acknowledging that the CPR certificate will be retained and made available to board office staff as part of routine auditing and monitoring.

j. Evidence of successful completion of a board-approved jurisprudence examination with a grade of at least 75 percent.

k. A completed fingerprint packet to facilitate a criminal history background check by the DCI and FBI.

11.3(3) The board may require a personal appearance or may require any additional information relating to the character, education, and experience of the applicant.

11.3(4) The board may also require such examinations as may be necessary to evaluate the applicant for licensure by credentials.

11.3(5) Applications must be signed and verified attesting to the truth of the statements contained therein.

This rule is intended to implement Iowa Code chapters 147 and 153.

[**ARC 9218B**, IAB 11/3/10, effective 12/8/10; **ARC 0265C**, IAB 8/8/12, effective 9/12/12; **ARC 2870C**, IAB 12/21/16, effective 1/25/17; **ARC 3488C**, IAB 12/6/17, effective 1/10/18]

650—11.4(153) Graduates of foreign dental schools. In addition to meeting the other requirements for licensure specified in rule 650—11.2(147,153) or 650—11.3(153), an applicant for dental licensure who did not graduate with a DDS or DMD from an accredited dental college approved by the board must provide satisfactory evidence of meeting the following requirements.

11.4(1) The applicant must complete a full-time, undergraduate supplemental dental education program of at least two academic years at an accredited dental college. The undergraduate supplemental dental education program must provide didactic and clinical education to the level of a DDS or DMD graduate of the dental college.

11.4(2) The applicant must receive a dental diploma, degree or certificate from the accredited dental college upon successful completion of the program.

11.4(3) The applicant must present to the board the following documents:

a. An official transcript issued by the accredited dental college that verifies completion of all coursework requirements of the undergraduate supplemental dental education program;

b. A dental diploma, degree or certificate issued by the accredited dental college or a certified copy thereof;

c. A letter addressed to the board from the dean of the accredited dental college verifying that the applicant has successfully completed the requirements set forth in 11.4(1);

d. A final, official transcript verifying graduation from the foreign dental school at which the applicant originally obtained a dental degree. If the transcript is written in a language other than English, an original, official translation shall also be submitted; and

e. Verification from the appropriate governmental authority that the applicant was licensed or otherwise authorized by law to practice dentistry in the country in which the applicant received foreign dental school training and that no adverse action was taken against the license.

11.4(4) The applicant must demonstrate to the satisfaction of the board an ability to read, write, speak, understand, and be understood in the English language. The applicant may demonstrate English proficiency by submitting to the board proof of a passing score on one of the following examinations:

a. Test of English as a Foreign Language (TOEFL) administered by the Educational Testing Service. A passing score on TOEFL is a minimum overall score of 550 on the paper-based TOEFL or a minimum overall score of 213 on the computer-administered TOEFL.

b. Test of Spoken English (TSE) administered by the Educational Testing Service. A passing score on TSE is a minimum of 50.

This rule is intended to implement Iowa Code chapter 153.

650—11.5(147,153) Dental hygiene licensure by examination.

11.5(1) Applications for licensure to practice dental hygiene in this state shall be made on the form provided by the dental hygiene committee and must be completely answered, including required credentials and documents. An applicant who has held a dental hygiene license issued in another state for one year or longer must apply for licensure by credentials pursuant to rule 650—11.6(153).

11.5(2) Applications for licensure must be filed with the dental hygiene committee along with:

a. Documentation of graduation from dental hygiene school. Satisfactory evidence of graduation from an accredited school of dental hygiene approved by the dental hygiene committee.

b. Certification of good standing from dean or designee. Certification by the dean or other authorized representative of the school of dental hygiene that the applicant has been a student in good standing while attending that dental hygiene school.

c. Documentation of passage of national dental hygiene examination. Evidence of attaining a grade of at least 75 percent on the examination administered by the Joint Commission on National Dental Examinations.

d. Documentation of passage of a regional clinical examination.

(1) Successful passage of a regional clinical examination within the previous five-year period with a grade of at least 75 percent.

(2) The following regional examinations are approved by the board for purposes of licensure by examination: the Central Regional Dental Testing Service, Inc. examination as administered by the Central Regional Dental Testing Service, Inc. (CRDTS), the Western Regional Examining Board examination as administered by the Western Regional Examining Board (WREB), the Southern Regional Testing Agency, Inc. examination as administered by the Southern Regional Testing Agency, Inc. (SRTA), and the American Board of Dental Examiners, Inc. examination as administered by the Commission on Dental Competency Assessments (CDCA) and the Council of Interstate Testing Agencies, Inc. (CITA).

e. Payment of application, fingerprint and background check fees. The nonrefundable application fee, plus the fee for the evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI), as specified in 650—Chapter 15.

f. Documentation of passage of jurisprudence examination. Evidence of successful completion of a board-approved jurisprudence examination with a grade of at least 75 percent.

g. Current CPR certification. A statement:

(1) Confirming that the applicant possesses a valid certificate from a nationally recognized course in cardiopulmonary resuscitation (CPR) that included a “hands-on” clinical component;

(2) Providing the expiration date of the CPR certificate; and

(3) Acknowledging that the CPR certificate will be retained and made available to board office staff as part of routine auditing and monitoring.

h. *Explanation of any legal or administrative actions.* A statement disclosing and explaining any disciplinary actions, investigations, complaints, malpractice claims, judgments, settlements, or criminal charges.

i. *Completed fingerprint packet.* A completed fingerprint packet to facilitate a criminal history background check by the DCI and FBI.

11.5(3) The dental hygiene committee may require a personal appearance or any additional information relating to the character, education and experience of the applicant.

11.5(4) Applications must be signed and verified as to the truth of the statements contained therein.

11.5(5) Following review by the dental hygiene committee, the committee shall make recommendation to the board regarding the issuance or denial of any license to practice dental hygiene. The board's review of the dental hygiene committee recommendation is subject to 650—Chapter 1.

This rule is intended to implement Iowa Code chapters 147 and 153.

[**ARC 7790B**, IAB 5/20/09, effective 6/24/09; **ARC 9218B**, IAB 11/3/10, effective 12/8/10; **ARC 9510B**, IAB 5/18/11, effective 6/22/11; **ARC 0265C**, IAB 8/8/12, effective 9/12/12; **ARC 2870C**, IAB 12/21/16, effective 1/25/17]

650—11.6(153) Dental hygiene licensure by credentials. To be issued a license to practice dental hygiene in Iowa on the basis of credentials, an applicant shall meet the following requirements.

11.6(1) Applications for licensure by credentials to practice dental hygiene in this state shall be made on the form provided by the dental hygiene committee and must be completely answered, including required credentials and documents.

11.6(2) Applications must be filed with the dental hygiene committee along with:

a. Satisfactory evidence of graduation from an accredited school of dental hygiene approved by the dental hygiene committee.

b. Evidence of attaining a grade of at least 75 percent on the examination of the Joint Commission on National Dental Examinations or evidence of attaining a grade of at least 75 percent on a written examination that is comparable to the examination given by the Joint Commission on National Dental Examinations. Any dental hygienist who has lawfully practiced dental hygiene in another state or territory for five or more years may be exempted from presenting this evidence.

c. A statement of any dental hygiene examinations taken by the applicant, with indication of pass/fail for each examination taken. Any dental hygienist who has lawfully practiced dental hygiene in another state or territory for five or more years may be exempted from presenting this evidence.

d. Evidence of a current, valid license to practice dental hygiene in another state, territory or district of the United States issued under requirements equivalent or substantially equivalent to those of this state.

e. Evidence that the applicant has met at least one of the following:

(1) Has less than three consecutive years of practice immediately prior to the filing of the application and evidence of attaining a grade of at least 75 percent on a regional clinical examination within the previous five-year period. The following regional examinations are approved by the board for purposes of licensure by examination: the Central Regional Dental Testing Service, Inc. examination as administered by the Central Regional Dental Testing Service, Inc. (CRDTS), the Western Regional Examining Board examination as administered by the Western Regional Examining Board (WREB), the Southern Regional Testing Agency, Inc. examination as administered by the Southern Regional Testing Agency, Inc. (SRTA), and the American Board of Dental Examiners, Inc. examination as administered by the Commission on Dental Competency Assessments (CDCA) and the Council of Interstate Testing Agencies, Inc. (CITA); or

(2) Has for three consecutive years immediately prior to the filing of the application been in the lawful practice of dental hygiene in such other state, territory or district of the United States.

f. Evidence from the state board of dentistry, or equivalent authority, in each state in which applicant has been licensed to practice dental hygiene, that the applicant has not been the subject of final or pending disciplinary action.

g. A statement disclosing and explaining any disciplinary actions, investigations, complaints, malpractice claims, judgments, settlements, or criminal charges, including the results of a self-query of the National Practitioner Data Bank (NPDB).

h. The nonrefundable application fee for licensure by credentials, the initial licensure fee and the fee for the evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI), as specified in 650—Chapter 15.

i. A statement:

(1) Confirming that the applicant possesses a valid certificate from a nationally recognized course in cardiopulmonary resuscitation (CPR) that included a "hands-on" clinical component;

(2) Providing the expiration date of the CPR certificate; and

(3) Acknowledging that the CPR certificate will be retained and made available to board office staff as part of routine auditing and monitoring.

j. Successful completion of a board-approved jurisprudence examination with a grade of at least 75 percent.

k. A completed fingerprint packet to facilitate a criminal history background check by the DCI and FBI.

11.6(3) Applicant shall appear for a personal interview conducted by the dental hygiene committee or the board by request only.

11.6(4) The dental hygiene committee may also require such examinations as may be necessary to evaluate the applicant for licensure by credentials.

11.6(5) Applications must be signed and verified attesting to the truth of the statements contained therein.

11.6(6) Following review by the dental hygiene committee, the committee shall make a recommendation to the board regarding issuance or denial of a dental hygiene license. The board's review of the dental hygiene committee recommendation is subject to 650—Chapter 1.

This rule is intended to implement Iowa Code section 147.80 and chapter 153.

[**ARC 9218B**, IAB 11/3/10, effective 12/8/10; **ARC 0265C**, IAB 8/8/12, effective 9/12/12; **ARC 0618C**, IAB 3/6/13, effective 4/10/13; **ARC 2870C**, IAB 12/21/16, effective 1/25/17]

650—11.7(147,153) Dental hygiene application for local anesthesia permit. A licensed dental hygienist may administer local anesthesia provided the following requirements are met:

1. The dental hygienist holds a current local anesthesia permit issued by the board of dental examiners.

2. The local anesthesia is prescribed by a licensed dentist.

3. The local anesthesia is administered under the direct supervision of a licensed dentist.

11.7(1) Application for permit. A dental hygienist shall make application for a permit to administer local anesthesia on the form approved by the dental hygiene committee and provide the following:

a. The fee for a permit to administer local anesthesia as specified in 650—Chapter 15; and

b. Evidence that formal training in the administration of local anesthesia has been completed within 12 months of the date of application. The formal training shall be approved by the dental hygiene committee and conducted by a school accredited by the American Dental Association Commission on Dental Education; or

c. Evidence of completion of formal training in the administration of local anesthesia approved by the dental hygiene committee and documented evidence of ongoing practice in the administration of local anesthesia in another state or jurisdiction that authorizes a dental hygienist to administer local anesthesia.

11.7(2) Permit renewal. The permit shall expire on August 31 of every odd-numbered year. To renew the permit, the dental hygienist must:

a. At the time of renewal, document evidence of holding an active Iowa dental hygiene license.

b. Submit the application fee for renewal of the permit as specified in 650—Chapter 15.

11.7(3) Failure to meet the requirements for renewal shall cause the permit to lapse and become invalid.

11.7(4) A permit that has been lapsed for two years or less may be reinstated upon the permit holder's application for reinstatement and payment of the reinstatement fee as specified in 650—Chapter 15. A permit that has been lapsed for more than two years may be reinstated upon application for reinstatement, documentation of meeting the requirements of 11.7(1)*"b"* or *"c,"* and payment of the reinstatement fee as specified in 650—Chapter 15.

This rule is intended to implement Iowa Code sections 147.10 and 147.80 and chapter 153.

[**ARC 0265C**, IAB 8/8/12, effective 9/12/12]

650—11.8(147,153) Review of applications. Upon receipt of a completed application, the executive director as authorized by the board has discretion to:

1. Authorize the issuance of the license, permit, or registration.

2. Refer the license, permit, or registration application to the license committee for review and consideration when the executive director determines that matters including, but not limited to, prior criminal history, chemical dependence, competency, physical or psychological illness, malpractice claims or settlements, or professional disciplinary history are relevant in determining the applicants' qualifications for license, permit, or registration.

11.8(1) Following review and consideration of a license, permit, or registration application referred by the executive director, the license committee may at its discretion:

a. Recommend to the board issuance of the license, permit, or registration.

b. Recommend to the board denial of the license, permit, or registration.

c. Recommend to the board issuance of the license, permit, or registration under certain terms and conditions or with certain restrictions.

d. Refer the license, permit, or registration application to the board for review and consideration without recommendation.

11.8(2) Following review and consideration of a license, permit, or registration application referred by the license committee the board shall:

a. Authorize the issuance of the license, permit, or registration,

b. Deny the issuance of the license, permit, or registration, or

c. Authorize the issuance of the license, permit, or registration under certain terms and conditions or with certain restrictions.

11.8(3) The license committee or board may require an applicant to appear for an interview before the committee or the full board as part of the application process.

11.8(4) The license committee or board may defer final action on an application if there is an investigation or disciplinary action pending against an applicant, who may otherwise meet the requirements for license, permit, or registration, until such time as the committee or board is satisfied that licensure or registration of the applicant poses no risk to the health and safety of Iowans.

11.8(5) The dental hygiene committee shall be responsible for reviewing any applications submitted by a dental hygienist that require review in accordance with this rule. Following review by the dental hygiene committee, the committee shall make a recommendation to the board regarding issuance of the license or permit. The board's review of the dental hygiene committee's recommendation is subject to 650—Chapter 1.

11.8(6) An application for a license, permit, or reinstatement of a license will be considered complete prior to receipt of the criminal history background check on the applicant by the FBI for purposes of review and consideration by the executive director, the license committee, or the board. However, an applicant is required to submit an additional completed fingerprint packet and fee within 30 days of a request by the board if an earlier fingerprint submission has been determined to be unacceptable by the DCI or FBI.

650—11.9(147,153) Grounds for denial of application. The board may deny an application for license or permit for any of the following reasons:

1. Failure to meet the requirements for license or permit as specified in these rules.
2. Failure to provide accurate and truthful information, or the omission of material information.
3. Pursuant to Iowa Code section 147.4, upon any of the grounds for which licensure may be revoked or suspended.

This rule is intended to implement Iowa Code section 147.4.

650—11.10(147) Denial of licensure—appeal procedure.

11.10(1) *Preliminary notice of denial.* Prior to the denial of licensure to an applicant, the board shall issue a preliminary notice of denial that shall be sent to the applicant by regular, first-class mail. The preliminary notice of denial is a public record and shall cite the factual and legal basis for denying the application, notify the applicant of the appeal process, and specify the date upon which the denial will become final if it is not appealed.

11.10(2) *Appeal procedure.* An applicant who has received a preliminary notice of denial may appeal the notice and request a hearing on the issues related to the preliminary notice of denial by serving a request for hearing upon the executive director not more than 30 calendar days following the date when the preliminary notice of denial was mailed. The request is deemed filed on the date it is received in the board office. The request shall provide the applicant's current address, specify the factual or legal errors in the preliminary notice of denial, indicate if the applicant wants an evidentiary hearing, and provide any additional written information or documents in support of licensure.

11.10(3) *Hearing.* If an applicant appeals the preliminary notice of denial and requests a hearing, the hearing shall be a contested case and subsequent proceedings shall be conducted in accordance with 650—51.20(17A). License denial hearings are open to the public. Either party may request issuance of a protective order in the event privileged or confidential information is submitted into evidence.

a. The applicant shall have the ultimate burden of persuasion as to the applicant's qualification for licensure.

b. The board, after a hearing on license denial, may grant the license, grant the license with restrictions, or deny the license. The board shall state the reasons for its final decision, which is a public record.

c. Judicial review of a final order of the board to deny a license, or to issue a license with restrictions, may be sought in accordance with the provisions of Iowa Code section 17A.19.

11.10(4) *Finality.* If an applicant does not appeal a preliminary notice of denial, the preliminary notice of denial automatically becomes final and a notice of denial will be issued. The final notice of denial is a public record.

11.10(5) *Failure to pursue appeal.* If an applicant appeals a preliminary notice of denial in accordance with 11.10(2), but the applicant fails to pursue that appeal to a final decision within six months from the date of the preliminary notice of denial, the board may dismiss the appeal. The appeal may be dismissed after the board sends a written notice by first-class mail to the applicant at the applicant's last-known address. The notice shall state that the appeal will be dismissed and the preliminary notice of denial will become final if the applicant does not contact the board to schedule the appeal hearing within 14 days after the written notice is sent. Upon dismissal of an appeal, the preliminary notice of denial becomes final.

This rule is intended to implement Iowa Code sections 147.3, 147.4 and 147.29.

[**ARC 7789B**, IAB 5/20/09, effective 6/24/09]

650—11.11(252J,261) Receipt of certificate of noncompliance. The board shall consider the receipt of a certificate of noncompliance from the college student aid commission pursuant to Iowa Code sections 261.121 to 261.127 and 650—Chapter 34 of these rules or receipt of a certificate of noncompliance of a support order from the child support recovery unit pursuant to Iowa Code chapter 252J and 650—Chapter 33 of these rules. License denial shall follow the procedures in the statutes and board rules as set forth in this rule.

This rule is intended to implement Iowa Code chapter 252J and sections 261.121 to 261.127.

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CHAPTER 12
DENTAL AND DENTAL HYGIENE EXAMINATIONS
[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—12.1(147,153) Clinical examination procedure for dentistry.

12.1(1) *Compliance with regional clinical examination testing requirements and procedures.* Examinees shall meet the requirements for testing and follow procedures established by each respective testing agency. Examinees must take all parts offered by the respective testing agency.

12.1(2) *Scoring requirements.* The examinee must attain a grade of not less than 75 percent on each clinical portion of the examination and on the written portion of the examination.

12.1(3) *Compliance with performance clinical operations requirements.* Each examinee shall be required to perform such clinical operations as may be required by each respective testing agency, for the purpose of sufficiently evaluating and testing the fitness of the examinee to practice dentistry.

[**ARC 9510B**, IAB 5/18/11, effective 6/22/11; **ARC 0265C**, IAB 8/8/12, effective 9/12/12; **ARC 2871C**, IAB 12/21/16, effective 1/25/17]

650—12.2(147,153) System of retaking dental examinations.

12.2(1) *Method of counting failures.* For the purposes of counting examination failures, the board shall utilize policies adopted by each respective testing agency.

12.2(2) *Remedial education required prior to third examination.*

a. Prior to the third examination attempt, a dental examinee must submit proof of additional formal education or clinical experience approved in advance by the board.

b. A dental examinee shall be required to retake only those parts of the examination that the examinee failed. However, a dental examinee who has not passed all parts of the examination within the time frame specified shall be required to retake the entire examination. The dental examinee shall refer to the policies of each respective testing agency to determine applicable time frames.

12.2(3) *Remedial education required prior to fourth examination.*

a. Prior to the fourth examination attempt, a dental examinee must submit proof of satisfactory completion of the equivalent of an additional senior year of an approved curriculum in dentistry at a university or school with an approved curriculum.

b. At the fourth examination, the dental examinee shall be required to retake only those parts of the examination that the examinee failed. However, a dental examinee who has not passed all parts of the examination within the time frame specified shall be required to retake the entire examination. The dental examinee shall refer to the policies of each respective testing agency to determine applicable time frames.

12.2(4) *Subsequent failures.* For the purposes of additional study prior to retakes, the fifth examination will be considered the same as the third.

12.2(5) *Failures of other examinations.* If a dental examinee applies for an examination after having failed any other state or regional examinations, the failure shall be counted for the purposes of retakes.

[**ARC 9510B**, IAB 5/18/11, effective 6/22/11; **ARC 2871C**, IAB 12/21/16, effective 1/25/17]

650—12.3(147,153) Portfolio examination procedure for dentistry.

12.3(1) *Completion of a portfolio examination.* The 2014 California portfolio examination is accepted for licensure by examination for University of Iowa graduates. To meet the requirements for dental licensure and portfolio examination, applicants shall complete the portfolio examination as administered at the University of Iowa College of Dentistry (College of Dentistry).

12.3(2) *Compliance with testing requirements and procedures.*

a. The board shall oversee all aspects of the portfolio examination process but shall not interfere with the College of Dentistry's authority to establish and deliver an accredited curriculum. The board shall determine an end-of-year deadline, in consultation with the College of Dentistry, to determine when the portfolio examinations shall be completed and submitted to the board for review by the board's examiners.

b. The portfolio examination shall be conducted while the applicant is actively enrolled as a student at the College of Dentistry. This examination shall utilize uniform standards of clinical experiences and competencies as outlined in the 2014 California portfolio examination. The applicant shall pass a final assessment of the submitted portfolio at the end of the applicant's dental school education at the College of Dentistry.

c. Before any portfolio examination may be submitted to the board, the applicant shall remit to the board the required portfolio examination fee as specified in 650—Chapter 15 and a letter of good standing signed by the dean of the College of Dentistry stating that the applicant has graduated or will graduate with no pending ethical issues.

12.3(3) *Scoring requirements.*

a. Final clinical competencies performed by the applicant must be evaluated by two examiners who have participated in standardization, calibration and training. The examiners shall be approved by the board and may include faculty, board members or board member designees. Board members or board member designees shall have priority as examiners at all times. The College of Dentistry shall submit to the board the names of the portfolio examiners for consideration by January 1 of each calendar year.

b. The College of Dentistry shall provide a minimum of a seven-day notice for all final competencies. In the event that a seven-day notice cannot be provided, the College of Dentistry must notify the board immediately. In the event that no board members or designees are available to participate in an evaluation, the College of Dentistry may use two board-approved portfolio examiners.

c. Successful completion of each competency shall result in a score that meets minimum competence-level performance. Scoring criteria for each competency is outlined in the 2014/2015 California Examiner Training Manual.

d. The board shall monitor and audit the standardization and calibration of examiners at least biennially to ensure standardization and an acceptable level of calibration in the grading of the examination. The College of Dentistry's competency examinations with regard to the portfolio examination shall be audited annually by the board.

12.3(4) *Compliance with clinical operation requirements.*

a. The board shall require and verify the successful completion of a minimum number of clinical experiences for the portfolio examination.

b. The board shall require and verify the successful completion of a set number of competency examinations performed on a patient of record. The clinical experiences include, but are not limited to, the following:

(1) Comprehensive oral diagnosis and treatment planning;
(2) Periodontics;
(3) Direct restorations;
(4) Indirect restorations;
(5) Removable prosthodontics; and
(6) Endodontics.

[**ARC 3488C**, IAB 12/6/17, effective 1/10/18]

650—12.4(147,153) Clinical examination procedure for dental hygiene.

12.4(1) *Compliance with regional clinical examination testing requirements and procedures.* Examinees shall meet the requirements for testing and follow the procedures established by each respective testing agency. Examinees must take all parts offered by the respective testing agency.

12.4(2) *Scoring requirements.* The examinee must attain a grade of not less than 75 percent on each clinical portion of the examination and on the written portion of the examination.

12.4(3) *Practical demonstrations.* Each examinee shall be required to perform such practical demonstrations as may be required by each respective testing agency for the purpose of sufficiently evaluating and testing the fitness of the examinee to practice dental hygiene.

[**ARC 7790B**, IAB 5/20/09, effective 6/24/09; **ARC 9510B**, IAB 5/18/11, effective 6/22/11; **ARC 0265C**, IAB 8/8/12, effective 9/12/12; **ARC 2871C**, IAB 12/21/16, effective 1/25/17; **ARC 3488C**, IAB 12/6/17, effective 1/10/18]

650—12.5(147,153) System of retaking dental hygiene examinations.

12.5(1) *Method of counting failures.*

a. For the purposes of counting examination failures, the board shall utilize the policies adopted by each respective testing agency.

b. A dental hygiene examinee who has two examination failures will be required to complete the remedial education requirements set forth in subrule 12.5(2).

12.5(2) *Remedial education required prior to third examination.* Prior to the third examination attempt, a dental hygiene examinee must submit proof of a minimum of 40 hours of additional formal education or a minimum of 40 hours of clinical experience that is approved in advance by the dental hygiene committee.

12.5(3) *Remedial education required prior to fourth examination.* Prior to the fourth examination attempt, a dental hygiene examinee must submit proof of satisfactory completion of the equivalent of an additional semester of dental hygiene at a university or school approved by the dental hygiene committee.

12.5(4) *Subsequent failures.* For purposes of additional study prior to retakes, the fifth examination will be considered the same as the third.

12.5(5) *Failures of other examinations.* If a dental hygiene examinee applies for an examination after having failed any other state or regional examinations, the failure shall be counted for the purposes of retakes.

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This chapter is intended to implement Iowa Code section 147.36.

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CHAPTER 13
SPECIAL LICENSES
[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—13.1(153) Resident license.

13.1(1) A dentist or dental hygienist seeking permission to practice as a resident, intern or graduate student in a board-approved teaching or educational institution offering specialty oriented courses shall be required to make application to the board on official board forms and furnish to the board the following:

a. A signed written statement from the dean or designated administrative officer of the institution in which the applicant seeks to enroll.

b. A signed written statement of a dentist who holds an active Iowa license or faculty permit and who proposes to exercise supervision and direction over said applicant, specifying in general terms the time and manner thereof.

c. Satisfactory evidence of graduation from an accredited school of dentistry or other school approved by the board.

d. Such additional information as the board may deem necessary to enable it to determine the proficiency, character, education or experience of such applicant.

e. Applications must be signed and verified as to the truth of the statements contained therein, and all questions must be completely answered.

f. The appropriate fee as specified in 650—Chapter 15 of these rules.

13.1(2) If approved by the board, a resident license shall allow the licensee to serve as a resident, intern, or graduate student dentist or dental hygienist, under the supervision of a practitioner who holds an active Iowa license or faculty permit, at the University of Iowa College of Dentistry or at an institution approved by the board.

13.1(3) If a resident licensee leaves the service of such institution during the tenure of residency, internship or graduate study, the license shall be considered null and void and the authority granted by the board to the licensee shall be automatically canceled. The director of the resident training program shall notify the board within 30 days of the licensee's terminating from the program.

13.1(4) The resident license shall be valid for one year and may be renewed annually during such period of time as the dental resident is continuously enrolled in a graduate dental education program. A resident license issued or renewed on or after January 1, 2006, shall expire on the expected date of completion of the resident training program as indicated on the licensure or renewal application.

13.1(5) A resident license may be extended past the original expected completion date of the training program at the discretion of the board. A licensee who wishes to extend the expiration date of the license shall submit to the board office an extension application that includes a letter explaining the need for an extension, an extension fee in the amount specified in 650—Chapter 15, and a statement from the director of the resident training program attesting to the progress of the resident in the training program, the new expected date of completion of the program, and whether any warnings have been issued, investigations conducted or disciplinary actions taken, whether by voluntary agreement or formal action.

13.1(6) The director of the resident training program shall report annually on July 1 the progress of residents under the director's supervision and whether any warnings have been issued, investigations conducted or disciplinary actions taken, whether by voluntary agreement or formal action. The board shall notify the program directors of the reporting requirement at least 30 days prior to the deadline.

13.1(7) A resident licensee who changes resident training programs shall apply for a new resident license and also include a statement from the director of the applicant's most recent residency program documenting the applicant's progress in the program.

13.1(8) No examination or continuing education shall be required for this license.

13.1(9) The resident licensee shall be subject to all applicable provisions of the law and the rules of the board. Any violations of these laws or rules or the failure of the licensee to perform and progress

satisfactorily or receive effective supervision as determined by the board shall be grounds for revocation of the license after proper notice and hearing.

This rule is intended to implement Iowa Code section 153.22.

[**ARC 0265C**, IAB 8/8/12, effective 9/12/12]

650—13.2(153) Dental college and dental hygiene program faculty permits.

13.2(1) The board may issue a faculty permit entitling the holder to practice dentistry or dental hygiene as a faculty member within the University of Iowa College of Dentistry or a dental hygiene program and affiliated teaching facilities.

13.2(2) The dean of the college of dentistry or chairperson of a dental hygiene program shall certify to the board or the dental hygiene committee those bona fide members of the college's or a dental hygiene program's faculty who are not licensed to practice dentistry or dental hygiene in Iowa. Any faculty member so certified shall, prior to commencing duties in the college of dentistry or a dental hygiene program, make on official board forms written application to the board or the dental hygiene committee for a permit and shall provide the following:

a. The nonrefundable application fee, plus the fee for the evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI), as specified in 650—Chapter 15.

b. Information regarding the professional qualifications and background of the applicant.

c. A completed fingerprint packet to facilitate the criminal history background checks by the DCI and FBI.

d. If the applicant is licensed by another jurisdiction, the applicant shall furnish evidence from the board of dental examiners of that jurisdiction that the applicant is licensed in good standing and has not been the subject of final or pending disciplinary action.

e. A statement disclosing and explaining any disciplinary actions, investigations, complaints, malpractice claims, judgments, settlements, or criminal charges, including the results of a self-query of the National Practitioners Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB).

f. A statement:

(1) Confirming that the applicant possesses a valid certificate from a nationally recognized course in cardiopulmonary resuscitation (CPR) that included a "hands-on" clinical component;

(2) Providing the expiration date of the CPR certificate; and

(3) Acknowledging that the CPR certificate will be retained and made available to board office staff as part of routine auditing and monitoring.

g. Such additional information as the board may deem necessary to enable it to determine the character, education or experience of such applicant.

h. Applications must be signed and verified as to the truth of the statements contained therein and include required credentials and documents, and all questions must be completely answered.

i. Evidence of successful completion of the jurisprudence examination administered by the Iowa dental board.

13.2(3) A faculty permit shall expire on August 31 of every even-numbered year and may, at the sole discretion of the board, be renewed on a biennial basis.

13.2(4) The appropriate fee as specified in 650—Chapter 15 of these rules shall be paid for renewal of the faculty permit. A faculty permit holder who fails to renew by the expiration date of the permit shall be assessed a late fee in accordance with 650—14.4(147,153,272C).

13.2(5) The faculty permit shall be valid only so long as the holder remains a member of the faculty of the college of dentistry or member of the faculty of a dental hygiene program in Iowa and shall subject the holder to all provisions of the law regulating the practice of dentistry and dental hygiene in this state.

13.2(6) Faculty permit holders are required to obtain 30 hours of continuing education in accordance with the guidelines in 650—Chapter 25 for renewal of the faculty permit.

13.2(7) To renew the permit, faculty permit holders shall submit a statement:

a. Confirming that the applicant possesses a valid certificate from a nationally recognized course in cardiopulmonary resuscitation (CPR) that included a "hands-on" clinical component;

b. Providing the expiration date of the CPR certificate; and

c. Acknowledging that the CPR certificate will be retained and made available to board office staff as part of routine auditing and monitoring.

13.2(8) Application for issuance of a dental hygiene program faculty permit shall be made to the dental hygiene committee for consideration and recommendation to the board pursuant to 650—Chapter 1.

This rule is intended to implement Iowa Code section 153.37.

[**ARC 9218B**, IAB 11/3/10, effective 12/8/10; **ARC 0265C**, IAB 8/8/12, effective 9/12/12]

650—13.3(153) Temporary permit. The board may issue a temporary permit authorizing the permit holder to practice dentistry or dental hygiene on a short-term basis in Iowa at a specific location or locations to fulfill an urgent need, to serve an educational purpose, or to provide volunteer services. A temporary permit may be granted on a case-by-case basis.

13.3(1) General provisions.

a. The temporary permit is intended for dentists and dental hygienists with short-term assignments in Iowa that fulfill an urgent need, serve an educational purpose, or provide volunteer services, and clearly have no long-term implications for licensure. If the need changes or if the permit holder wishes to continue in short-term assignments in other Iowa locations, the permit holder is expected to seek permanent licensure. A temporary permit is not meant as a way to practice before a permanent license is granted or as a means to practice because the applicant does not fulfill the requirements for permanent licensure.

b. The board may issue a temporary permit authorizing the permit holder to practice at a specific location or locations in Iowa for a specified period up to three months.

c. Following expiration of the permit, a permit holder shall be required to obtain a new temporary permit or a permanent license in order to practice dentistry or dental hygiene in Iowa.

d. A person may be issued not more than three temporary permits to fulfill an urgent need or serve an educational purpose.

e. The board may cancel a temporary permit if the permit holder has practiced outside the scope of the permit or for any of the grounds for which licensure may be revoked or suspended as specified in Iowa Code chapters 147, 153, and 272C and 650—30.4(147,153,272C). When cancellation of a permit is proposed, the board shall promptly notify the permit holder by sending a statement of charges and notice of hearing by certified mail to the last-known address of the permit holder. The provisions of 650—Chapter 51 shall govern a contested case proceeding following notice of intent to cancel the permit.

f. A temporary permit shall be displayed in the primary location of practice.

g. A temporary permit holder shall notify the board by written correspondence or through the board's online system of any change in name or mailing address within seven days of the change. A certified copy of a marriage license or a certified copy of court documents is required for proof of a name change.

13.3(2) Eligibility for a temporary permit to fulfill an urgent need or serve an educational purpose. An application for a temporary permit shall be filed on the form provided by the board and must be completely answered, including required credentials and documents. An applicant for a temporary permit may submit an application online or on a paper form. To be eligible for a temporary permit to fulfill an urgent need or serve an educational purpose, an applicant shall provide all of the following:

a. Satisfactory evidence of graduation with a DDS or DMD degree for applicants seeking a temporary permit to practice dentistry or satisfactory evidence of graduation from a dental hygiene school for applicants seeking a temporary permit to practice dental hygiene.

b. The nonrefundable application fee for a temporary permit to fulfill an urgent need or serve an educational purpose as specified in 650—Chapter 15.

c. A statement:

(1) Confirming that the applicant possesses a valid certificate from a nationally recognized course in cardiopulmonary resuscitation (CPR) that included a "hands-on" clinical component;

(2) Providing the expiration date of the CPR certificate; and

(3) Acknowledging that the CPR certificate will be retained and made available to board office staff as part of routine auditing and monitoring.

d. A statement disclosing and explaining any disciplinary actions, investigations, complaints, malpractice claims, judgments, settlements, or criminal charges against the applicant.

e. Certification from the state board of dentistry, or equivalent authority, from a state in which the applicant has been licensed for at least three years immediately preceding the date of application and evidence of having engaged in the practice of dentistry in that state for three years immediately preceding the date of application or evidence of three years of practice satisfactory to the board. The applicant must also provide evidence that the applicant has not been the subject of final or pending disciplinary action.

f. Evidence from the appropriate examining board from each jurisdiction in which the applicant has ever held a license. At least one license must be issued on the basis of clinical examination.

g. A request for the temporary permit from those individuals or organizations seeking the applicant's services that establishes, to the board's satisfaction, the justification for the temporary permit, the dates the applicant's services are needed, and the location or locations where those services will be delivered.

13.3(3) Eligibility for a temporary permit to provide volunteer services.

a. A temporary permit to provide volunteer services is intended for dentists and dental hygienists who will provide volunteer services at a free or nonprofit dental clinic and who will not receive compensation for dental services provided. A temporary permit issued under this subrule shall be valid only at the location specified on the permit, which shall be a free clinic or a dental clinic for a nonprofit organization, as described under Section 501(c)(3) of the Internal Revenue Code.

b. An application for a temporary permit shall be filed on the paper form provided by the board. The application form will collect the name, address, and telephone number of the applicant, the location of the free clinic or dental clinic for a nonprofit organization, and the dates on which the volunteer services will be provided. The application form must be accompanied by each of the following:

(1) A verification of license (or substantially similar document) from the appropriate licensing board of the applicant's home jurisdiction.

(2) A statement:

1. Confirming that the applicant possesses a valid certificate from a nationally recognized course in cardiopulmonary resuscitation (CPR) that included a "hands-on" clinical component;

2. Providing the expiration date of the CPR certificate; and

3. Acknowledging that the CPR certificate will be retained and made available to board office staff as part of routine auditing and monitoring.

(3) A statement disclosing and explaining any pending disciplinary actions or criminal charges against the applicant.

(4) A statement from the applicant seeking the temporary permit that the applicant shall practice only in a free dental clinic or dental clinic for a nonprofit organization and that the applicant shall not receive compensation directly or indirectly for providing dental services.

13.3(4) Dental hygiene committee review. The dental hygiene committee shall make recommendations to the board regarding the issuance or denial of any temporary permit to practice dental hygiene. The board's review of the dental hygiene committee's recommendation is subject to 650—Chapter 1.

13.3(5) Denial of temporary permit. The board may deny a temporary permit in accordance with 650—11.9(147,153) or, at the sole discretion of the board, for failure to justify the need for a temporary permit. The procedure for appealing the denial of a permit is set forth in 650—11.10(147).

13.3(6) A temporary permit holder shall be subject to and follow all rules and state laws pertaining to the practice of dentistry and dental hygiene in this state.

This rule is intended to implement Iowa Code section 153.19.

[**ARC 0265C**, IAB 8/8/12, effective 9/12/12; **ARC 0984C**, IAB 9/4/13, effective 10/9/13]

650—13.4(153) Retired volunteer license. Upon application and qualification, the board may issue a retired volunteer license to a dentist or dental hygienist who has retired from the practice of dentistry or dental hygiene to enable the dentist or dental hygienist to provide volunteer dental or dental hygiene services without remuneration.

13.4(1) Applications for a retired volunteer license shall be made on forms provided by the board, which may include online applications, and must be complete. Incomplete applications will not be accepted.

13.4(2) Applications shall be filed with the board and must include:

a. Satisfactory evidence that the applicant has retired from practice; and

b. A statement disclosing and explaining any disciplinary actions or criminal charges, or both; and

c. Satisfactory evidence demonstrating that:

(1) The applicant has held an active dental or dental hygiene license within the previous five years; or

(2) The applicant possesses sufficient knowledge and skill to practice safely and competently if the applicant has not held an active dental or dental hygiene license within the previous five years.

13.4(3) A person holding a retired volunteer license shall not practice unless an Iowa-licensed dentist with an active license is present at the location of practice at all times. Screenings and educational programs may be performed without the presence of an Iowa-licensed dentist with an active license, provided that all other board rules governing the respective practice in regards to supervision requirements and permitted scope of practice are met.

13.4(4) A person holding a retired volunteer license shall not charge a fee or receive compensation or remuneration in any form from any person or third-party payer, including but not limited to an insurance company, health plan, or state or federal benefit program.

13.4(5) An applicant who has surrendered, resigned, converted, or allowed a license to lapse or expire as the result of or in lieu of disciplinary action shall not be eligible for a retired volunteer license.

13.4(6) A retired volunteer license shall not be considered to be an active license to practice dentistry or dental hygiene and cannot be converted to any regular license type with active or inactive status.

13.4(7) A person holding a retired volunteer license is prohibited from delegating duties to other licensees or registrants and is prohibited from providing any level of supervision to other licensees or registrants. Licensees and registrants assisting persons with a retired volunteer license do so only under the delegation and supervision of the Iowa-licensed dentist with an active license who is required to be present at all times.

13.4(8) A person holding a retired volunteer license is prohibited from prescribing, administering, or dispensing prescription drugs and all controlled substances.

13.4(9) A person holding a retired volunteer license is subject to all rules and regulations governing the practice of dentistry or dental hygiene except those related to the payment of fees, license renewal, and continuing education.

13.4(10) The board shall not charge an application or licensing fee for issuance of a retired volunteer license.

13.4(11) A retired volunteer license is valid for 12 months from the date of issuance, at which time it expires and becomes invalid. A retired volunteer license holder whose license has become invalid is prohibited from the practice of dentistry or dental hygiene until a new retired volunteer license is issued.

13.4(12) The board may cancel a retired volunteer license if the holder has practiced outside the scope of the license or for any of the grounds for which licensure may be revoked or suspended as specified in Iowa Code chapters 147, 153, and 272C and 650—30.4(147,153,272C). When cancellation of a retired volunteer license is proposed, the board shall promptly notify the license holder by sending a statement of charges and notice of hearing by certified mail to the last-known address of the license holder or by personal service. The provisions of 650—Chapter 51 shall govern a contested case proceeding following notice of intent to cancel the license.

13.4(13) A person holding a retired volunteer license shall notify the board by written correspondence or through the board's online system of any change in name or home address within

seven days of the change. A copy of a certified marriage license or copy of certified court documents is required for proof of a name change.

13.4(14) The dental hygiene committee shall make recommendations to the board regarding the issuance or denial of any retired volunteer license to practice dental hygiene. The board's review of the dental hygiene committee's recommendation is subject to 650—Chapter 1.

13.4(15) The board may deny a retired volunteer license in accordance with 650—11.9(147,153). The procedure for appealing the denial is set forth in 650—11.10(147).

13.4(16) A person holding an inactive Iowa dental or dental hygiene license may also hold a retired volunteer license.

This rule is intended to implement Iowa Code section 153.23.

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CHAPTER 14
RENEWAL AND REINSTATEMENT
[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—14.1(147,153,272C) Renewal of license to practice dentistry or dental hygiene. A license to practice dentistry or a license to practice dental hygiene must be renewed prior to the expiration date of the license. Dental hygiene licenses expire on August 31 of every odd-numbered year. Dental licenses expire August 31 of every even-numbered year. A licensee who is not engaged in practice in the state of Iowa may place the license on inactive status by submitting a renewal form and paying the required renewal fee. No continuing education hours are required to renew a license on inactive status until application for reactivation is made. A request to place a license on inactive status shall also contain a statement that the applicant will not engage in the practice of the applicant's profession in Iowa without first complying with all rules governing reactivation of inactive licenses.

14.1(1) *Application renewal procedures.*

a. *Renewal notice.* The board office will send a renewal notice by email to each licensee at the licensee's last-known email address.

b. *Licensee and permit holder obligation.* The licensee or permit holder is responsible for renewing the license or permit prior to its expiration. Failure of the licensee or permit holder to receive the notice does not relieve the licensee or permit holder of the responsibility for renewing that license or permit in order to continue practicing in the state of Iowa.

c. *Renewal application form.* Application for renewal must be made on forms provided by the board office. Licensees and permit holders may renew their licenses and permits online or via paper application.

d. *Complete and timely filed application.* No renewal application shall be considered timely and sufficient until received by the board office and accompanied by all material required for renewal and all applicable renewal and late fees. Incomplete applications will not be accepted. For purposes of establishing timely filing, the postmark on a paper submittal will be used, and for renewals submitted online, the electronic timestamp will be deemed the date of filing.

14.1(2) *Application fee.* The appropriate fee as specified in 650—Chapter 15 of these rules must accompany the application for renewal. A penalty shall be assessed by the board for late renewal, as specified in 650—Chapter 15.

14.1(3) *Continuing education requirements.* Completion of continuing education in accordance with 650—Chapter 25 is required for renewal of an active license. However, licensees are exempt from the continuing education requirement for the current biennium in which the license is first issued.

14.1(4) *CPR certification.* In order to renew a license, an applicant must submit a statement:

a. Confirming that the applicant possesses a valid certificate from a nationally recognized course in cardiopulmonary resuscitation (CPR) that included a "hands-on" clinical component;

b. Providing the expiration date of the CPR certificate; and

c. Acknowledging that the CPR certificate will be retained and made available to board office staff as part of routine auditing and monitoring.

14.1(5) *Dental hygiene committee review.* The dental hygiene committee may, in its discretion, review any applications for renewal of a dental hygiene license and make recommendations to the board. The board's review is subject to 650—Chapter 1.

This rule is intended to implement Iowa Code section 147.10 and chapters 153 and 272C.

[**ARC 0265C**, IAB 8/8/12, effective 9/12/12; **ARC 3489C**, IAB 12/6/17, effective 1/10/18]

650—14.2(153) Renewal of registration as a dental assistant. A certificate of registration as a registered dental assistant must be renewed biennially. Registration certificates shall expire on August 31 of every odd-numbered year. A registrant who is not engaged in practice in the state of Iowa may place the registration on inactive status by submitting a renewal form and paying the required renewal fee. No continuing education hours are required to renew a registration on inactive status until application for reactivation is made. A request to place a registration on inactive status shall also

contain a statement that the applicant will not engage in the practice of the applicant's profession in Iowa without first complying with all rules governing reactivation of inactive registrations.

14.2(1) *Renewal procedures.*

a. *Renewal notice.* The board office will send a renewal notice by email to each registrant at the registrant's last-known email address.

b. *Registrant obligation.* The registrant is responsible for renewing the registration prior to its expiration. Failure of the registrant to receive the notice does not relieve the registrant of the responsibility for renewing that registration in order to continue practicing in the state of Iowa.

c. *Renewal application form.* Registrants may renew their registration online or via paper application. Paper application for renewal must be made in writing on forms provided by the board office before the current registration expires.

d. *Complete and timely filed application.* No renewal application shall be considered timely and sufficient until received by the board office and accompanied by all material required for renewal and all applicable renewal and late fees. Incomplete applications will not be accepted. For purposes of establishing timely filing, the postmark on a paper submittal will be used, and for renewals submitted online, the electronic timestamp will be deemed the date of filing.

14.2(2) *Application fee.* The appropriate fee as specified in 650—Chapter 15 must accompany the application for renewal. A penalty shall be assessed by the board for late renewal, as specified in 650—Chapter 15.

14.2(3) *Continuing education requirements.* Completion of continuing education as specified in 650—Chapter 25 is required for renewal of an active registration. Failure to meet the requirements of renewal in the time specified by rule will automatically result in a lapsed registration.

14.2(4) *CPR certification.* In order to renew a registration, an applicant must submit a statement:

a. Confirming that the applicant possesses a valid certificate from a nationally recognized course in cardiopulmonary resuscitation (CPR) that included a "hands-on" clinical component;

b. Providing the expiration date of the CPR certificate; and

c. Acknowledging that the CPR certificate will be retained and made available to board office staff as part of routine auditing and monitoring.

This rule is intended to implement Iowa Code sections 147.10 and 153.39.

[**ARC 0265C**, IAB 8/8/12, effective 9/12/12; **ARC 3489C**, IAB 12/6/17, effective 1/10/18]

650—14.3(136C,153) Renewal of dental assistant radiography qualification. A certificate of radiography qualification must be renewed biennially. Radiography qualification certificates shall expire on August 31 of every odd-numbered year.

14.3(1) *Renewal procedures.*

a. *Renewal notice.* The board office will send a renewal notice by regular mail or email to each registrant at the registrant's last-known mailing address or email address. The board will notify each registrant by mail or email of the expiration of the radiography qualification.

b. *Registrant obligation.* The registrant is responsible for renewing the radiography qualification prior to its expiration. Failure of the registrant to receive the notice does not relieve the registrant of the responsibility for renewing that radiography qualification if the registrant wants to continue taking dental radiographs in the state of Iowa.

c. *Renewal application form.* Application for renewal must be made in writing on forms provided by the board office before the current radiography qualification expires. Registrants may renew their radiography qualification online or via paper application.

d. *Complete and timely filed application.* No renewal application shall be considered timely and sufficient until received by the board office and accompanied by all material required for renewal and all applicable renewal and late fees. Incomplete applications will not be accepted. For purposes of

establishing timely filing, the postmark on a paper submittal will be used, and for renewals submitted online, the electronic timestamp will be deemed the date of filing.

14.3(2) *Application fee.* The appropriate fee as specified in 650—Chapter 15 must accompany the application for renewal. A penalty shall be assessed by the board for late renewal, as specified in 650—Chapter 15.

14.3(3) *Continuing education requirements.* In order to renew a radiography qualification, the dental assistant shall obtain at least two hours of continuing education in the subject area of dental radiography. Proof of attendance shall be retained by the dental assistant and must be submitted to the board office upon request.

14.3(4) *CPR certification.* In order to renew a radiography qualification, an applicant must submit a statement:

a. Confirming that the applicant possesses a valid certificate from a nationally recognized course in cardiopulmonary resuscitation (CPR) that included a "hands-on" clinical component;

b. Providing the expiration date of the CPR certificate; and

c. Acknowledging that the CPR certificate will be retained and made available to board office staff as part of routine auditing and monitoring.

This rule is intended to implement Iowa Code chapters 136C and 153.

[**ARC 0265C**, IAB 8/8/12, effective 9/12/12]

650—14.4(147,153,272C) Grounds for nonrenewal. The board may refuse to renew a license, registration or radiography qualification on the following grounds:

14.4(1) After proper notice and hearing, for a violation of these rules or Iowa Code chapter 147, 153, or 272C during the term of the last license, registration or radiography qualification or renewal of license, registration or radiography qualification.

14.4(2) Failure to pay required fees.

14.4(3) Failure to obtain required continuing education.

14.4(4) Failure to provide a statement of current certification in cardiopulmonary resuscitation in a course that includes a clinical component.

14.4(5) Receipt of a certificate of noncompliance from the college student aid commission or the child support recovery unit of the department of human services in accordance with 650—Chapter 33 and 650—Chapter 34.

This rule is intended to implement Iowa Code section 153.23 and chapters 147, 252J, 261, and 272C.

[**ARC 0265C**, IAB 8/8/12, effective 9/12/12]

650—14.5(147,153,272C) Late renewal.

14.5(1) *Failure to renew license or permit.*

a. Failure to renew a dental or dental hygiene license or permit prior to September 1 following expiration shall result in a late fee in the amount specified in 650—Chapter 15 being assessed by the board in addition to the renewal fee.

b. Failure to renew prior to October 1 following expiration shall result in assessment of a late fee in the amount specified in 650—Chapter 15.

c. Failure of a license or permit holder to renew a license or permit prior to November 1 following expiration shall cause the license or permit to lapse and become invalid. A licensee or permit holder whose license or permit has lapsed and become invalid is prohibited from the practice of dentistry or dental hygiene until the license or permit is reinstated in accordance with rule 650—14.6(147,153,272C).

14.5(2) *Failure to renew registration.*

a. Failure to renew a dental assistant registration prior to September 1 following expiration shall result in a late fee in the amount specified in 650—Chapter 15 assessed by the board in addition to the renewal fee.

b. Failure to renew prior to October 1 following expiration shall result in assessment of a late fee in the amount specified in 650—Chapter 15.

c. Failure to renew a registration prior to November 1 following expiration shall cause the registration to lapse and become invalid. A registrant whose registration has lapsed and become invalid

is prohibited from practicing as a dental assistant until the registration is reinstated in accordance with rule 650—14.6(147,153,272C).

14.5(3) *Failure to renew radiography qualification.* Failure to renew a radiography qualification prior to November 1 following expiration shall cause the radiography qualification to lapse and become invalid. A dental assistant whose radiography qualification is lapsed is prohibited from engaging in dental radiography until the qualification is reinstated in accordance with rule 650—14.7(136C,153).

This rule is intended to implement Iowa Code sections 147.10, 147.11, and 272C.2.

[**ARC 0265C**, IAB 8/8/12, effective 9/12/12]

650—14.6(147,153,272C) Reinstatement of a lapsed license or registration.

14.6(1) A licensee or a registrant who allows a license or registration to lapse by failing to renew may have the license or registration reinstated at the discretion of the board by submitting the following:

a. A completed application for reinstatement of a lapsed license or registration to practice dentistry, dental hygiene or dental assisting, on forms provided by the board, in addition to the required fee or application for reinstatement of a lapsed registration on the form provided by the board.

b. Dates and places of practice.

c. A list of other states in which licensed or registered and the identifying number of each license or registration.

d. Reasons for seeking reinstatement and why the license or registration was not maintained.

e. Payment of all renewal fees past due, as specified in 650—Chapter 15, plus the reinstatement fee as specified in 650—Chapter 15.

f. Evidence of completion of a total of 15 hours of continuing education for each lapsed year or part thereof in accordance with 650—Chapter 25, up to a maximum of 75 hours. Dental assistants shall be required to submit evidence of completion of a total of 10 hours of continuing education for each lapsed year or part thereof in accordance with 650—Chapter 25, up to a maximum of 30 hours, or evidence of the full-time or part-time practice of the profession in another state of the United States or the District of Columbia, for a minimum of two years within the previous five-year period, and a statement verifying that continuing education requirements in that state of practice have been met.

g. If licensed or registered in another state, the licensee or registrant shall provide certification by the state board of dentistry or equivalent authority of such state that the licensee or registrant has not been the subject of final or pending disciplinary action.

h. A statement disclosing and explaining any disciplinary actions, investigations, claims, complaints, judgments, settlements, or criminal charges.

i. Evidence that the applicant possesses a current certificate in a nationally recognized course in cardiopulmonary resuscitation. The course must include a clinical component.

j. For reinstatement of a lapsed license, a completed fingerprint packet to facilitate a criminal history background check by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI), including the fee for the evaluation of the fingerprint packet and the criminal history background checks by the DCI and FBI, as specified in 650—Chapter 15.

14.6(2) The board may require a licensee or registrant who is applying for reinstatement, and has not actively practiced clinically within the previous five years, to successfully complete a regional clinical examination, or other board-approved examination or assessment, for the purpose of ensuring that the applicant possesses sufficient knowledge and skill to practice safely.

14.6(3) When the board finds that a practitioner applying for reinstatement is or has been subject to disciplinary action taken against a license or registration held by the applicant in another state of the United States, District of Columbia, or territory, and the violations which resulted in such actions would also be grounds for discipline in Iowa in accordance with rule 650—30.4(153), the board may deny reinstatement of a license or registration to practice dentistry, dental hygiene, or dental assisting in Iowa or may impose any applicable disciplinary sanctions as specified in rule 650—30.2(153) as a condition of reinstatement.

14.6(4) The dental hygiene committee may, in its discretion, review any applications for reinstatement of a lapsed dental hygiene license and make recommendations to the board. The board's review of the dental hygiene committee recommendation is subject to 650—Chapter 1.

This rule is intended to implement Iowa Code sections 147.10, 147.11, and 272C.2.

[**ARC 0265C**, IAB 8/8/12, effective 9/12/12; **ARC 3489C**, IAB 12/6/17, effective 1/10/18]

650—14.7(136C,153) Reinstatement of lapsed radiography qualification. A dental assistant who allows a radiography qualification to lapse by failing to renew may have the radiography qualification reinstated at the discretion of the board by submitting the following:

14.7(1) A completed application for reinstatement of the dental assistant radiography qualification.

14.7(2) Payment of the radiography reinstatement application fee and the current renewal fee, both as specified in 650—Chapter 15.

14.7(3) Proof of current registration as a dental assistant or proof of an active Iowa nursing license.

14.7(4) If the radiography qualification has been lapsed for less than four years, proof of two hours of continuing education in the subject area of dental radiography, taken within the previous two-year period.

14.7(5) If the radiography qualification has been lapsed for more than four years, the dental assistant shall be required to retake and successfully complete an examination in dental radiography. A dental assistant who presents proof of a current radiography qualification issued by another state and who has engaged in dental radiography in that state is exempt from the examination requirement.

This rule is intended to implement Iowa Code section 136C.3 and chapter 153.

[**ARC 0265C**, IAB 8/8/12, effective 9/12/12]

650—14.8(153) Reactivation of an inactive license or registration.

14.8(1) Inactive practitioners shall, prior to engaging in the practice of dentistry, dental hygiene, or dental assisting in the state of Iowa, satisfy all of the following requirements for reactivation:

a. Submit application for reactivation to the board upon forms provided by the board, in addition to the required fee.

b. Provide evidence of one of the following:

(1) The full-time or part-time practice of the profession in another state of the United States or the District of Columbia for a minimum of two years within the previous five-year period; or

(2) Completion of a total number of hours of approved continuing education computed by multiplying 15 by the number of years the license has been on inactive status for a dentist or dental hygienist, up to a maximum of 75 hours for a dentist or dental hygienist, or by multiplying 10 by the number of years the registration has been on inactive status for a dental assistant, up to a maximum of 30 hours for a dental assistant.

c. Submit evidence that the applicant possesses a current certificate in a nationally recognized course in cardiopulmonary resuscitation (CPR). The course must include a clinical component.

14.8(2) The board may require a licensee or registrant who is applying for reactivation and has not actively practiced clinically in the previous five years to successfully complete a regional clinical examination, or other board-approved examination or assessment, to ensure the licensee or registrant is able to practice with reasonable skill and safety.

14.8(3) Applications must be filed with the board along with the following:

a. Certification by the state board of dentistry or equivalent authority of the state in which the applicant has been licensed or has engaged in the practice of the applicant's profession that the applicant has not been the subject of final or pending disciplinary action.

b. Statement as to any claims, complaints, judgments or settlements made with respect to the applicant arising out of the alleged negligence or malpractice in rendering professional services as a dentist, dental hygienist, or dental assistant.

[**ARC 3489C**, IAB 12/6/17, effective 1/10/18]

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CHAPTER 15
FEES

650—15.1(147,153) Establishment of fees. The board is self-supporting through the collection of fees and does not receive an appropriation from the general fund. Pursuant to Iowa Code section 147.80, the board is to establish fees by rule based on the costs of sustaining the board and the actual costs of the services performed by the board. Under Iowa law, the board is required to annually prepare an estimate of projected revenues generated by the fees received and review projected expenses to ensure that there are sufficient funds to cover projected expenses.
[**ARC 0164C**, IAB 6/13/12, effective 5/21/12; **ARC 0265C**, IAB 8/8/12, effective 9/12/12]

650—15.2(147,153) Definitions. The following definitions apply to this chapter:

"Fee" means the amount charged for the services described in this chapter. All fees are nonrefundable. Overpayment of the fee will result in return of the original request and payment, prior to processing, with a clarification of the total amount due.

"Service charge" means the amount charged for making a service available online and is in addition to the actual fee for a service itself. For example, a licensee who renews a license online will pay the license renewal fee and a service charge.
[**ARC 0265C**, IAB 8/8/12, effective 9/12/12; **ARC 3490C**, IAB 12/6/17, effective 1/10/18]

650—15.3(153) Examination fees. All fees are nonrefundable. In addition to the fees specified in this rule, an applicant will pay a service charge for filing online.

15.3(1) *Portfolio dental examination fee.* The fee for dental examination on the basis of portfolio is $1500.

15.3(2) Reserved.
[**ARC 3488C**, IAB 12/6/17, effective 1/10/18]

650—15.4(153) Application fees. All fees are nonrefundable. In addition to the fees specified in this rule, an applicant will pay a service charge for filing online.

15.4(1) *Dental licensure on the basis of examination.* The fees for a dental license issued on the basis of examination include an application fee, a fee for evaluation of a fingerprint packet and criminal background check and, if the applicant is applying within three months or less of a biennial renewal due date, the renewal fee.

a. *Application fee.* The application fee for a license to practice dentistry is $200.

b. *Initial licensure period and renewal period.* If an applicant applies within three months or less of a biennial renewal due date, the applicant shall pay the renewal fee along with the licensure application fee. A license shall not be issued for a period less than three months or longer than two years and three months. Thereafter, a licensee shall pay the renewal fee as specified in rule 650—15.5(153).

c. *Fingerprint packet and criminal history check.* The fee for evaluation of a fingerprint packet and criminal background check is as specified in subrule 15.8(4).

15.4(2) *Dental hygiene licensure on the basis of examination.* The fees for a dental hygiene license issued on the basis of examination include an application fee, an initial licensure fee, and a fee for evaluation of a fingerprint packet and criminal background check.

a. *Application fee.* The application fee for a license to practice dental hygiene is $100.

b. *Initial licensure period and renewal period.* If an applicant applies within three months or less of a biennial renewal due date, the applicant shall pay the renewal fee along with the licensure application fee. A license shall not be issued for a period less than three months or longer than two years and three months. Thereafter, a licensee shall pay the renewal fee as specified in rule 650—15.5(153).

c. *Fingerprint packet and criminal history check.* The fee for evaluation of a fingerprint packet and criminal background check is as specified in subrule 15.8(4).

15.4(3) *Resident dental license.* The application fee for a resident dental license is $120.

15.4(4) *Faculty permit.* The application fee for a faculty permit is $200.

15.4(5) *Dental licensure on the basis of credentials.* The fees for a dental license issued on the basis of credentials include an application fee, an initial licensure fee, and a fee for evaluation of a fingerprint packet and criminal background check.

a. *Application fee.* The application fee for a license to practice dentistry issued on the basis of credentials is $550.

b. *Initial licensure period and renewal period.* If an applicant applies within three months or less of a biennial renewal due date, the applicant shall pay the renewal fee along with the licensure application fee. A license shall not be issued for a period less than three months or longer than two years and three months. Thereafter, a licensee shall pay the renewal fee as specified in rule 650—15.5(153).

c. *Fingerprint packet and criminal history check.* The fee for evaluation of a fingerprint packet and criminal background check is as specified in subrule 15.8(4).

15.4(6) *Dental hygiene licensure on the basis of credentials.* The fees for a dental hygiene license issued on the basis of credentials include an application fee, an initial licensure fee, and a fee for evaluation of a fingerprint packet and criminal background check.

a. *Application fee.* The application fee for a license to practice dental hygiene issued on the basis of credentials is $200.

b. *Initial licensure period and renewal period.* If an applicant applies within three months or less of a biennial renewal due date, the applicant shall pay the renewal fee along with the licensure application fee. A license shall not be issued for a period less than three months or longer than two years and three months. Thereafter, a licensee shall pay the renewal fee as specified in rule 650—15.5(153).

c. *Fingerprint packet and criminal history check.* The fee for evaluation of a fingerprint packet and criminal background check is as specified in subrule 15.8(4).

15.4(7) *Reactivation of an inactive license or registration.* The fee for a reactivation application for inactive practitioners is $50.

15.4(8) *Reinstatement of an inactive license or registration.* The fee for a reinstatement application for a lapsed license or registration is $150.

15.4(9) *General anesthesia permit application.* The application fee for a general anesthesia permit is $500.

15.4(10) *Moderate sedation permit application.* The application fee for a moderate sedation permit is $500.

15.4(11) *Local anesthesia permit—initial application and reinstatement.* The application or reinstatement fee for a permit to authorize a dental hygienist to administer local anesthesia is $70.

15.4(12) *Dental assistant trainee application.* The fee for an application for registration as a dental assistant trainee is $25.

15.4(13) *Dental assistant registration only application.*

a. *Application fee.* The application fee for dental assistant registration is $40.

b. *Initial registration period and renewal period.* If an applicant applies within three months or less of a biennial renewal due date, the applicant shall pay the renewal fee along with the registration application fee. A dental assistant registration shall not be issued for a period less than three months or longer than two years and three months. Thereafter, a registrant shall pay the renewal fee as specified in rule 650—15.5(153).

15.4(14) *Combined application—dental assistant registration and qualification in radiography.*

a. *Application fee.* The application fee for a combined application for both registration as a registered dental assistant and radiography qualification is $60.

b. *Initial combined registration and radiography qualification period and renewal period.* If an applicant applies within three months or less of a biennial renewal due date, the applicant shall pay the renewal fee along with the combined registration/radiography qualification application fee. A dental assistant registration and radiography qualification shall not be issued for a period less than three months or longer than two years and three months. Thereafter, the applicant shall pay the renewal fee as specified in rule 650—15.5(153).

15.4(15) *Dental assistant radiography qualification application fee.* The fee for an application for dental assistant radiography qualification is $40.

15.4(16) *Temporary permit—urgent need or educational services.* The fee for an application for a temporary permit to serve an urgent need or provide educational services is $100 if an application is submitted online or $150 if submitted via paper application.

15.4(17) *Temporary permit—volunteer services.* Rescinded ARC 0984C, IAB 9/4/13, effective 10/9/13.

[**ARC 0265C**, IAB 8/8/12, effective 9/12/12; **ARC 0618C**, IAB 3/6/13, effective 4/10/13; **ARC 0984C**, IAB 9/4/13, effective 10/9/13; **ARC 3490C**, IAB 12/6/17, effective 1/10/18; **ARC 3488C**, IAB 12/6/17, effective 1/10/18]

650—15.5(153) Renewal fees. All fees are nonrefundable. Each two-year renewal period begins on September 1 and runs through August 31. Dental licenses, moderate sedation permits, and general anesthesia permits expire in even-numbered years. Dental hygiene licenses, local anesthesia permits, dental assistant registration and qualification in dental radiography expire in odd-numbered years. To avoid late fees, paper renewal applications must be postmarked on or received in the board office by August 31. To avoid late fees, online renewal applications must be time-stamped no later than 11:59 p.m. (CST) on August 31.

15.5(1) *Dental license renewal.* The fee for renewal of a license to practice dentistry for a biennial period is $315 for an active practitioner and $315 for an inactive practitioner.

15.5(2) *Dental hygiene license renewal.* The fee for renewal of a license to practice dental hygiene for a biennial period is $150 for an active practitioner and $150 for an inactive practitioner.

15.5(3) *General anesthesia permit renewal.* The fee for renewal of a general anesthesia permit is $125.

15.5(4) *Moderate sedation permit renewal.* The fee for renewal of a moderate sedation permit is $125.

15.5(5) *Local anesthesia permit renewal.* The fee for renewal of a permit to authorize a dental hygienist to administer local anesthesia is $25.

15.5(6) *Dental assistant registration renewal.* The fee for renewal of registration as a registered dental assistant is $75.

15.5(7) *Combined renewal application—dental assistant registration and qualification in radiography.* The fee for a combined application to renew both a registration as a registered dental assistant and a radiography qualification is $115.

15.5(8) *Dental assistant qualification in radiography renewal.* The fee for renewal of a certificate of qualification in dental radiography is $40.

15.5(9) *Faculty permit renewal.* The fee for renewal of a faculty permit is $315.

15.5(10) *Resident license renewal.* The fee for renewal or extension of a resident license is $40.

[**ARC 0265C**, IAB 8/8/12, effective 9/12/12; **ARC 3488C**, IAB 12/6/17, effective 1/10/18]

650—15.6(153) Late renewal fees. All fees are nonrefundable. A licensee, registrant or permit holder who fails to renew a license, registration or permit following expiration is subject to late renewal fees as described in this rule.

15.6(1) *Failure to renew a license, registration or permit prior to September 1.* Failure by a licensee, registrant or permit holder to renew the license, registration or permit prior to September 1 following expiration shall result in the following late fees:

a. *Dental license or permit.* A late fee of $100 shall be assessed, in addition to the renewal fee.

b. *Dental hygiene license.* A late fee of $100 shall be assessed, in addition to the renewal fee.

c. *Dental assistant registration.* A late fee of $20 shall be assessed, in addition to the renewal fee.

15.6(2) *Failure to renew a license, registration or permit prior to October 1.* Failure by a licensee, registrant or permit holder to renew the license, registration or permit prior to October 1 following expiration shall result in the following late fees:

a. *Dental license or permit.* A late fee of $150 shall be assessed, in addition to the renewal fee.

b. *Dental hygiene license.* A late fee of $150 shall be assessed, in addition to the renewal fee.

c. *Dental assistant registration.* A late fee of $40 shall be assessed, in addition to the renewal fee.

15.6(3) *Failure to renew a license, registration or permit prior to November 1.* Failure by a licensee, registrant or permit holder to renew a license, registration or permit prior to November 1

following expiration shall cause the license, registration or permit to lapse and become invalid. A licensee, registrant or permit holder whose license, registration or permit has lapsed and become invalid is prohibited from the practice of dentistry, dental hygiene, or dental assisting until the license, registration or permit is reinstated.
[**ARC 0265C**, IAB 8/8/12, effective 9/12/12; **ARC 3488C**, IAB 12/6/17, effective 1/10/18]

650—15.7(147,153) Reinstatement fees. If a license, registration or permit lapses or is inactive, a licensee, registrant or permit holder may submit an application for reinstatement. Licensees, registrants or permit holders are subject to reinstatement fees as described in this rule.

15.7(1) *Reinstatement of a dental license.* In addition to the reinstatement application fee specified in subrule 15.4(8), the applicant must pay all back renewal fees (not to exceed $750) and the fee for evaluation of a fingerprint packet and criminal background check as specified in subrule 15.8(4).

15.7(2) *Reinstatement of a dental hygiene license.* In addition to the reinstatement application fee specified in subrule 15.4(8), the applicant must pay all back renewal fees (not to exceed $750) and the fee for evaluation of a fingerprint packet and criminal background check as specified in subrule 15.8(4).

15.7(3) *Reinstatement of a dental assistant registration.* In addition to the reinstatement application fee specified in subrule 15.4(8), the applicant must pay all back renewal fees (not to exceed $115) to reinstate a registration as a registered dental assistant.

15.7(4) *Combined reinstatement application—dental assistant registration and qualification in radiography.* In addition to the reinstatement application fee specified in subrule 15.4(8), the applicant must pay all back renewal fees (not to exceed $175) for a combined application to reinstate both a registration as a registered dental assistant and a radiography qualification.

15.7(5) *Reinstatement of qualification in radiography.* In addition to the reinstatement application fee of $40, the applicant must pay all back renewal fees (not to exceed $60) to reinstate a qualification in dental radiography without registration as a dental assistant.
[**ARC 0265C**, IAB 8/8/12, effective 9/12/12; **ARC 3490C**, IAB 12/6/17, effective 1/10/18; **ARC 3488C**, IAB 12/6/17, effective 1/10/18]

650—15.8(153) Miscellaneous fees. Payments made to the Iowa Dental Board, which shall be considered a repayment receipt as defined in Iowa Code section 8.2, shall be received in the board office prior to release of the requested document.

15.8(1) *Duplicates.* The fee for issuance of a duplicate license, permit or registration certificate or current renewal is $25.

15.8(2) *Certification or verification.* The fee for a written certification or written verification of an Iowa license, permit or registration is $25.

15.8(3) *Trainee manual.* The fee for the dental assistant trainee manual is $70.

15.8(4) *Fingerprint packet and criminal history background check.* The fee for evaluation of a fingerprint packet and the criminal history background checks is $46.

15.8(5) *IPRC monitoring.* The fee for monitoring for compliance with an IPRC agreement is $100 per quarter, unless otherwise stated in the Iowa practitioner program contract entered into pursuant to 650—Chapter 35.

15.8(6) *Monitoring for compliance with settlement agreements.* The fee for monitoring a licensee's, registrant's or permit holder's compliance with a settlement agreement entered into pursuant to 650—subrule 51.19(9) is $300 per quarter, unless otherwise stated in the settlement agreement.

15.8(7) *Disciplinary hearings—fees and costs.*

a. Definitions. As used in this subrule in relation to fees related to a formal disciplinary action filed by the board against a licensee, registrant or permit holder:

"Deposition" means the testimony of a person pursuant to subpoena or at the request of the state of Iowa taken in a setting other than a hearing.

"Expenses" means costs incurred by persons appearing pursuant to subpoena or at the request of the state of Iowa for purposes of providing testimony on the part of the state of Iowa in a hearing or other official proceeding and shall include mileage reimbursement at the rate specified in Iowa Code section

70A.9 or, if commercial air or ground transportation is used, the actual cost of transportation to and from the proceeding. Also included are actual costs incurred for meals and necessary lodging.

"Medical examination fees" means actual costs incurred by the board in a physical, mental, chemical abuse, or other impairment-related examination or evaluation of a licensee when the examination or evaluation is conducted pursuant to an order of the board.

"Transcript" means a printed verbatim reproduction of everything said on the record during a hearing or other official proceeding.

"Witness fees" means compensation paid by the board to persons appearing pursuant to subpoena or at the request of the state of Iowa for purposes of providing testimony on the part of the state of Iowa. For the purposes of this rule, compensation shall be the same as outlined in Iowa Code section 622.69 or 622.72 as the case may be.

b. The board may charge a fee not to exceed $75 for conducting a disciplinary hearing which results in disciplinary action taken against the licensee by the board. In addition to the fee, the board may recover from the licensee costs for the following procedures and personnel:

(1) Court reporter and transcript.

(2) Witness fees and expenses. The parties in a contested case shall be responsible for any witness fees and expenses incurred by witnesses appearing at the contested case hearing. In addition, the board may assess a licensee the witness fees and expenses incurred by witnesses called to testify on behalf of the state of Iowa.

(3) Depositions. Deposition costs for the purposes of allocating costs against a licensee include only those deposition costs incurred by the state of Iowa. The licensee is directly responsible for the payment of deposition costs incurred by the licensee.

(4) Medical examination fees incurred relating to a person licensed under Iowa Code chapter 147. All costs of physical or mental examinations or substance abuse evaluations or drug screening or clinical competency evaluations ordered by the board pursuant to Iowa Code section 272C.9(1) as part of an investigation or pending complaint or as a sanction following a contested case shall be paid directly by the licensee.

15.8(8) *Certification of reimbursable costs.* The executive director or designee shall certify any reimbursable costs incurred by the board. The executive director shall calculate the specific costs, certify the cost calculated, and file the certification as part of the record in the contested case. A copy of the certification shall be served on the party responsible for payment of the certified costs at the time of the filing.

15.8(9) *Assessment of fees and costs.* A final decision of the board imposing disciplinary action against a licensee shall include the amount of any disciplinary hearing fee assessed, which shall not exceed $75. If the board also assesses reimbursable costs against the licensee, the board shall file a certification of reimbursable costs which includes a statement of costs delineating each category of costs and the amount assessed. Fees and costs that cannot be calculated at the time of the issuance of the board's final disciplinary order may be invoiced to the licensee at a later time, provided the board's final disciplinary order states that the fees and costs will be invoiced at a later date. The board shall specify the time period in which the fees and costs must be paid by the licensee.

15.8(10) *Board treatment of collected fees, costs.* Fees and costs collected by the board shall be considered repayment receipts as defined in Iowa Code section 8.2.

15.8(11) *Failure to pay assessed fees, costs.* Failure of a licensee to pay the fees and costs assessed herein within the time period specified in the board's final disciplinary order shall constitute a violation of an order of the board and shall be grounds for disciplinary action.

[**ARC 0265C**, IAB 8/8/12, effective 9/12/12; **ARC 3490C**, IAB 12/6/17, effective 1/10/18; **ARC 3488C**, IAB 12/6/17, effective 1/10/18]

650—15.9(153) Continuing education fees.

15.9(1) *Application for prior approval of activities.* The fee for an application for prior approval of a continuing education activity is $10.

15.9(2) *Application for postapproval of activities.* The fee for an application for postapproval of a continuing education activity is $10.

15.9(3) *Application for approved sponsor status.* The fee for an application to become an approved sponsor for a continuing education activity is $100. The biennial renewal fee is $100.
[**ARC 0265C**, IAB 8/8/12, effective 9/12/12; **ARC 3488C**, IAB 12/6/17, effective 1/10/18]

650—15.10(153) Facility inspection fee. The actual costs for an on-site evaluation of a facility at which deep sedation/general anesthesia or moderate sedation is authorized pursuant to 650—Chapter 29 shall not exceed $500 per facility per inspection.
[**ARC 0265C**, IAB 12/6/17, effective 9/12/12; **ARC 3488C**, IAB 12/6/17, effective 1/10/18]

650—15.11(22,147,153) Public records. Public records are available according to 650—Chapter 6, "Public Records and Fair Information Practices." Payment made to the Iowa Dental Board, which shall be considered a repayment receipt as defined in Iowa Code section 8.2, shall be received in the board office prior to the release of the records.

15.11(1) Copies of public records shall be calculated at $.25 per page plus labor. A $16 per-hour fee shall be charged for labor in excess of one-half hour for searching and copying documents or retrieving and copying information stored electronically. No additional fee shall be charged for delivery of the records by mail or fax. A fax is an option if the requested records are fewer than 30 pages. The board office shall not require payment when the fees for the request would be less than $5 total.

15.11(2) Electronic copies of public records delivered by e-mail shall be calculated at $.10 per page; the minimum charge shall be $5. A $16 per-hour fee shall be charged for labor in excess of one-half hour for searching and copying documents or retrieving and copying information stored electronically. The board office shall not require payment when the fee for the request would be less than $5 total.

15.11(3) Electronic files of statements of charges, final orders and consent agreements from each board meeting may be delivered via email, upon written request, at no cost.

15.11(4) Printed copies of statements of charges, final orders and consent agreements from each board meeting shall be available for an annual subscription fee of $120.
[**ARC 0265C**, IAB 8/8/12, effective 9/12/12; **ARC 3490C**, IAB 12/6/17, effective 1/10/18; **ARC 3488C**, IAB 12/6/17, effective 1/10/18]

650—15.12(22,147,153) Purchase of a mailing list or data list. Payment made to the Iowa Dental Board, which shall be considered a repayment receipt as defined in Iowa Code section 8.2, shall be received in the board office prior to the release of a list.

15.12(1) *Mailing list for dentists, hygienists or assistants.* The standard mailing list for all active licensees and registrants includes the full name, address, city, state, ZIP code, and Iowa county. The standard mailing list of dentists or dental hygienists includes resident licensees and faculty permit holders.

a. Printed mailing list, $65 per profession requested.

b. Mailing list on disc or DVD, $45 per profession requested.

c. Mailing list in an electronic file, $35 per profession requested.

15.12(2) *Data list for dentists, hygienists, or assistants.* The standard data list for active licensees or registrants includes full name, address, Iowa county (if applicable), original issue date, expiration date, license or registration number, license or registration status, specialty (if applicable), and whether public disciplinary action has been taken. The standard data list includes resident licensees and faculty permit holders. Additional data elements, programming or sorting increases the following fees by $25.

a. Printed standard data list, $75 per profession requested.

b. Standard data list on disc or DVD, $55 per profession requested.

c. Standard data list in an electronic file, $45 per profession requested.
[**ARC 0265C**, IAB 8/8/12, effective 9/12/12; **ARC 3490C**, IAB 12/6/17, effective 1/10/18; **ARC 3488C**, IAB 12/6/17, effective 1/10/18]

650—15.13(147,153) Returned checks. The board shall charge a fee of $39 for a check returned for any reason. If a license or registration had been issued by the board office based on a check that is later

returned by the bank, the board shall request payment by certified check or money order. If the fees are not paid within two weeks of notification of the returned check by certified mail, the licensee or registrant shall be subject to disciplinary action for noncompliance with board rules.
[**ARC 0265C**, IAB 8/8/12, effective 9/12/12; **ARC 3488C**, IAB 12/6/17, effective 1/10/18]

650—15.14(147,153,272C) Copies of the laws and rules. Copies of laws and rules pertaining to the practice of dentistry, dental hygiene, or dental assisting are available from the board office for the following fees.

1. Iowa Code and Iowa Administrative Code access, no fee, available at www.state.ia.us/dentalboard.
2. Printed copies of the Iowa Code chapters that pertain to the practice of dentistry, $10.
3. Printed copies of dental board rules in the Iowa Administrative Code, $15.

[**ARC 0265C**, IAB 8/8/12, effective 9/12/12; **ARC 3488C**, IAB 12/6/17, effective 1/10/18]

650—15.15(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.
[**ARC 0265C**, IAB 8/8/12, effective 9/12/12; **ARC 3488C**, IAB 12/6/17, effective 1/10/18]

These rules are intended to implement Iowa Code sections 147.10, 147.80 and 153.22.

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◊ Two or more ARCs

CHAPTER 16
PRESCRIBING, ADMINISTERING, AND DISPENSING DRUGS
[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—16.1(124,153,155A) Definitions.

"Controlled substance" means a drug or other substance listed in division II of Iowa Code chapter 124.

"Electronic signature" means a confidential personalized digital key, code, or number used for secure electronic data transmissions which identifies and authenticates the signatory.

"Electronic transmission" means the transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment. Electronic transmission includes but is not limited to transmission by facsimile machine and transmission by computer link, modem, or other computer communication device.

"Prescription drug" means any of the following: (a) a substance for which federal or state law requires a prescription before it may be legally dispensed to the public; (b) a drug or device that under federal law is required, prior to being dispensed or delivered, to be labeled with either of the following statements: (1) Caution: Federal law prohibits dispensing without a prescription or (2) Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian; or (c) a drug or device that is required by any applicable federal or state law or regulation to be dispensed on prescription only, or is restricted to use by a practitioner only.

650—16.2(153) Scope of authority.

16.2(1) A license to practice dentistry issued by this board permits the licensee to prescribe, administer, or dispense prescription drugs if the use is directly related to the practice of dentistry within the scope of the dentist-patient relationship. Registration with the Federal Drug Enforcement Administration and the Iowa board of pharmacy examiners further extends this privilege to controlled substances.

16.2(2) A dental examination must be conducted and a medical history taken before a dentist initially prescribes, administers, or dispenses medication to a patient, except for patients who receive fluoride dispensed under protocols approved by the dental health bureau of the department of public health. The examination must focus on the patient's dental problems, and the resulting diagnosis must relate to the patient's specific complaint. The patient's dental record must contain written evidence of the examination and medical history.

16.2(3) On each occasion when a medication is prescribed, administered, or dispensed to a patient an entry must be made in the patient's dental record containing the following information: the name, quantity, and strength of the medication; the directions for its use; the date of issuance; and the condition for which the medication was used.

16.2(4) A patient's dental record that contains an entry pertaining to the issuance of medications must be retained in accordance with 650—27.11(153,272C).

16.2(5) The prescribing, administering, and dispensing of prescription drugs shall be done in accordance with all applicable state and federal laws.

650—16.3(153) Purchasing, administering, and dispensing of controlled substances.

16.3(1) When controlled substances are purchased, records must be maintained showing the date of receipt, the name and address of the supplier, the name and quantity of drugs received.

16.3(2) When controlled substances are administered or dispensed, including samples, records that are readily retrievable and separate and apart from the patient records must be maintained showing date of dispensing, name and address of person to whom the drugs were administered or dispensed, and the name, quantity, and strength of drugs administered or dispensed.

16.3(3) All controlled substance records must be retained for a period of two years from the date of the last entry. All records must be readily available for inspection by state or federal agents.

16.3(4) Every two years the dentist is required to perform a complete inventory of all controlled substances in stock.

16.3(5) Security of controlled substances must be maintained by storage in a securely locked, substantially constructed cabinet.

16.3(6) The dentist shall notify the board of pharmacy examiners of the loss or theft of controlled substances within two weeks of the discovery of the loss or theft.

16.3(7) A dentist shall not self-prescribe, self-administer, or self-dispense controlled substances or tramadol.

16.3(8) Prescribing, administering, or dispensing controlled substances or tramadol to members of the licensee's immediate family is not allowed except for an acute dental condition or on an emergency basis for a dental condition when the licensee conducts an examination, establishes a patient record, and maintains proper documentation.

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

650—16.4(153) Dispensing—requirements for containers and labeling.

16.4(1) Containers. A prescription drug shall be dispensed in a container which meets the requirements of the Poison Prevention Packaging Act of 1970, 15 U.S.C. §§ 1471-1476 which relates to childproof closure, unless otherwise required by the patient. Containers must also meet the requirements of Section 502G of the Federal Food Drug and Cosmetic Act, 21 U.S.C. §301 et seq. which pertains to light resistance and moisture-resistance needs of the drug being dispensed.

16.4(2) Labeling. A label shall be affixed to the container in which a prescription drug is dispensed bearing the following information:

1. Name and address of the dentist.
2. Name of the patient.
3. Date dispensed.
4. Directions for use.
5. Name, quantity, and strength of medication.
6. If it is Schedule II, III, or IV controlled substance, the federal transfer warning statement must appear on the label as follows: "Caution: Federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed."
7. Cautionary statements, if any.

16.4(3) Prescription sample drugs dispensed in the original container or package and provided without charge shall be deemed to conform to labeling and packaging requirements.

650—16.5(153) Identifying information on prescriptions.

16.5(1) Prescriptions for Schedule II, III, IV, and V controlled substances must include the name and address of the prescribing dentist and the dentist's federal DEA number. The name and address of the prescribing dentist may be preprinted. Proper security shall be maintained if prescription forms are preprinted.

16.5(2) The dentist's signature on a prescription must be original or an electronic signature, not a copy or stamp, except as the use of electronic signatures may be limited by federal or state law.

16.5(3) On each occasion when medication is prescribed to a patient, the prescription issued to the patient shall contain the following information: the name of the patient for whom the prescription is intended; the name, quantity, and strength of the medication; the directions for its use; the date of issuance; and the name, address, and signature of the dentist issuing the prescription.

650—16.6(153) Transmission of prescriptions. A prescription drug order may be transmitted to a pharmacy in written form, orally including telephone voice communication, or by electronic transmission in accordance with applicable federal and state laws and rules. A dentist shall take adequate measures to guard against the diversion of prescription drugs and controlled substances through prescription forgeries. The dentist may authorize an employee to transmit to the pharmacy a

prescription drug order orally or by electronic transmission provided that the identity of the transmitting employee is included in the order.

16.6(1) *Computer-to-computer transmission of a prescription.* Prescription drug orders, excluding orders for controlled substances, may be communicated directly from a dentist's computer to a pharmacy's computer by electronic transmission.

a. Orders shall be sent only to the pharmacy of the patient's choice with no unauthorized intervening person or other entity controlling, screening, or otherwise manipulating the prescription drug order or having access to it.

b. The electronically transmitted order shall identify the dentist's telephone number for verbal confirmation, the time and date of transmission, and the pharmacy intended to receive the transmission as well as any other information required by federal or state law or rules.

c. Orders shall be transmitted only by the dentist or the dentist's employee and shall include the dentist's electronic signature.

d. The electronic transmission shall be deemed the original prescription drug order provided it meets the requirements of this rule.

16.6(2) *Facsimile transmission of a prescription.* A dentist may request that a pharmacist dispense noncontrolled and controlled drugs, excluding Schedule II controlled substances, pursuant to a prescription transmitted to the pharmacy by the dentist or the dentist's employee. A dentist shall maintain the original prescription, if printed, in the patient's record.

650—16.7(153) Emergency prescriptions. If an emergency requires the issuance of a prescription, an appropriate prescription may be telephoned to a pharmacist. An emergency prescription for a Schedule II controlled substance must be covered by a written prescription within 72 hours. A dentist may not order a renewal or a refill of an emergency prescription unless the order is in writing and the dentist has given the patient a dental examination and has taken a medical history.

16.7(1) For the purpose of authorizing an oral prescription of a controlled substance listed in Schedule II of the uniform controlled substances Act, Iowa Code chapter 124, the term "emergency situation" means those situations in which the prescribing dentist determines:

a. That immediate administration of the controlled substance is necessary for proper treatment of the intended ultimate user;

b. That no appropriate alternative treatment is available, including administration of a drug which is not a controlled substance under Schedule II of Iowa Code chapter 124;

c. That it is not reasonably possible for the prescribing dentist to provide a written prescription to be presented to the person dispensing the substance prior to dispensing.

16.7(2) Reserved.

These rules are intended to implement Iowa Code section 153.20.

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CHAPTERS 17 to 19
Reserved

TITLE IV
AUXILIARY PERSONNEL

CHAPTER 20
DENTAL ASSISTANTS

[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—20.1(153) Registration required. A person shall not practice on or after July 1, 2001, as a dental assistant unless the person has registered with the board and received a certificate of registration pursuant to this chapter.

650—20.2(153) Definitions. As used in this chapter:

"Dental assistant" means any person who, under the supervision of a dentist, performs any extraoral services including infection control or the use of hazardous materials or performs any intraoral services on patients. The term "dental assistant" does not include persons otherwise actively licensed in Iowa to practice dental hygiene or nursing who are engaged in the practice of said profession.

"Dental assistant trainee" means any person who is engaging in on-the-job training to meet the requirements for registration and who is learning the necessary skills under the personal supervision of a licensed dentist. Trainees may also engage in on-the-job training in dental radiography pursuant to 650—22.3(136C,153).

"Direct supervision" means that the dentist is present in the treatment facility, but it is not required that the dentist be physically present in the treatment room while the registered dental assistant is performing acts assigned by the dentist.

"General supervision" means that a dentist has examined the patient and has delegated the services to be provided by a registered dental assistant, which are limited to all extraoral duties, dental radiography, intraoral suctioning, and use of a curing light, intraoral digital imaging and intraoral camera. The dentist need not be present in the facility while these services are being provided.

"Personal supervision" for intraoral procedures means the dentist is physically present in the treatment room to oversee and direct all intraoral or chairside services of the dental assistant trainee. "Personal supervision" for extraoral procedures means a licensee or registrant is physically present in the treatment room to oversee and direct all extraoral services of the dental assistant trainee.

"Public health supervision" means all of the following:

1. The dentist authorizes and delegates the services provided by a registered dental assistant to a patient in a public health setting, with the exception that services may be rendered without the patient's first being examined by a licensed dentist;
2. The dentist is not required to provide future dental treatment to patients served under public health supervision;
3. The dentist and the registered dental assistant have entered into a written supervision agreement that details the responsibilities of each licensee/registrant, as specified in subrule 20.16(2); and
4. The registered dental assistant has an active Iowa registration and a minimum of one year of clinical practice experience.

"Registered dental assistant" means any person who has met the requirements for registration and has been issued a certificate of registration.

"Trainee status expiration date" means 12 months from the date of issuance.

[**ARC 8369B**, IAB 12/16/09, effective 1/20/10; **ARC 0465C**, IAB 11/28/12, effective 1/2/13; **ARC 2028C**, IAB 6/10/15, effective 7/15/15; **ARC 3489C**, IAB 12/6/17, effective 1/10/18]

650—20.3(153) Applicant responsibilities. An applicant for dental assistant trainee status or dental assistant registration bears full responsibility for each of the following:

20.3(1) Providing accurate, up-to-date, and truthful information on the application including, but not limited to, prior professional experiences, education, training, examination scores, and disciplinary history.

20.3(2) Submitting complete application materials. An application for trainee status will be considered active for 90 days from the date the application is received. An application for dental

assistant registration, reactivation, or reinstatement will be considered valid for 180 days from the date the application is received. If the applicant does not submit all materials within this time period, or if the applicant does not meet the requirements for trainee status, dental assistant registration, or reinstatement, the application shall be considered incomplete and the applicant must submit a new application and application fee.
[**ARC 3489C**, IAB 12/6/17, effective 1/10/18]

650—20.4(153) Scope of practice.

20.4(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.

20.4(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 or orthodontic 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.

20.4(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.
[**ARC 2028C**, IAB 6/10/15, effective 7/15/15; **ARC 3489C**, IAB 12/6/17, effective 1/10/18]

650—20.5(153) Expanded function requirements.

20.5(1) *Supervision requirements.* Registered dental assistants may only perform expanded function procedures which are delegated by and performed under the direct supervision of a dentist licensed pursuant to Iowa Code chapter 153. Dental assistant trainees are not eligible to perform expanded function procedures.

20.5(2) *Expanded function training required.* A registered dental assistant shall not perform any expanded function procedures listed in this chapter unless the assistant has successfully met the education and training requirements and is in compliance with the requirements of this chapter.

20.5(3) *Education and training requirements.* All expanded function training must be prior-approved by the board. The supervising dentist and the registered dental assistant shall be responsible for maintaining in each office of practice documentation of successful completion of the board-approved training.

a. Expanded function training for Level 1 procedures 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 (ADA) or another program, 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, all participants must meet at least one of the following requirements before beginning expanded function training:

1. Be a graduate of an ADA-accredited dental assistant program; or
2. Be currently certified by the Dental Assisting National Board (DANB); or
3. Have at least one year of clinical practice as a registered dental assistant; or

4. Have at least one year of clinical practice 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.

b. Expanded function training for Level 2 procedures shall be eligible for board approval if the training is offered through the University of Iowa College of Dentistry or a program accredited by the Commission on Dental Accreditation of the American Dental Association.

20.5(4) *Expanded function providers.*

a. *Basic expanded function provider.* Registered dental assistants 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 education and training requirements for those procedures. A dentist may delegate to a registered dental assistant only those Level 1 procedures for which the assistant has received the required expanded function training.

b. *Certified Level 1 provider.* Registered dental assistants must successfully complete training for all Level 1 expanded function procedures before becoming a certified Level 1 provider.

(1) A dentist may delegate any of the Level 1 expanded function procedures to dental assistants who are certified Level 1 providers.

(2) Level 1 procedures include:

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); and
11. Preliminary charting of existing dental restorations and teeth.

c. *Certified Level 2 provider.* A registered dental assistant must become a certified Level 1 provider and successfully pass a board-approved entrance examination with a score of at least 75 percent before beginning training as a certified Level 2 provider. Registered dental assistants must successfully complete training for all Level 2 expanded function procedures before becoming certified Level 2 providers.

(1) A dentist may delegate any of the Level 1 or Level 2 expanded function procedures to a registered dental assistant who is a certified Level 2 provider.

(2) Level 2 procedures include:

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; and
5. Tissue conditioning (soft reline only).

These procedures refer to both primary and permanent teeth.

(3) Notwithstanding 650—paragraph 10.3(1)*"e"* and paragraph 20.4(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."

[**ARC 2028C**, IAB 6/10/15, effective 7/15/15; **ARC 2028C**, IAB 6/10/15, effective 7/15/15; **ARC 3489C**, IAB 12/6/17, effective 1/10/18]

650—20.6(153) Categories of dental assistants: dental assistant trainee, registered dental assistant. There are two categories of dental assistants. Both the supervising dentist and the registered dental assistant or dental assistant trainee are responsible for maintaining documentation of training. Such documentation must be maintained in the office of practice and shall be provided to the board upon request.

20.6(1) *Registered dental assistant.* Registered dental assistants are individuals who have met the requirements for registration and have been issued a certificate of registration. A registered dental assistant may, under general supervision, perform dental radiography, intraoral suctioning, use of a curing light and intraoral camera, and all extraoral duties that are assigned by the dentist and are consistent with these rules. During intraoral procedures, the registered dental assistant may, under direct supervision, assist the dentist in performing duties assigned by the dentist that are consistent with these rules. The registered dental assistant may take radiographs if qualified pursuant to 650—Chapter 22.

20.6(2) *Dental assistant trainee.* Dental assistant trainees are all individuals who are engaging in on-the-job training to meet the requirements for registration and who are learning the necessary skills under the personal supervision of a licensed dentist. Trainees may also engage in on-the-job training in dental radiography pursuant to 650—22.3(136C,153).

a. *General requirements.* The dental assistant trainee shall meet the following requirements:

(1) Successfully complete a course of study and examination in the areas of infection control, hazardous materials, and jurisprudence. The course of study shall be prior approved by the board and sponsored by a board-approved postsecondary school.

(2) If a trainee fails to become registered by the trainee status expiration date, the trainee must stop work as a dental assistant trainee. If the trainee has not yet met the requirements for registration, the trainee may reapply for trainee status but may not work until a new dental assistant trainee status certificate has been issued by the board.

b. *Trainee restart.*

(1) Reapplying for trainee status. A trainee may "start over" as a dental assistant trainee provided the trainee submits an application in compliance with subrule 20.7(1).

(2) Examination scores valid for three years. A "repeat" trainee is not required to retake an examination (jurisprudence, infection control/hazardous materials, radiography) if the trainee has successfully passed the examination within three years of the date of application. If a trainee has failed two or more examinations, the trainee must satisfy the remedial education requirements in subrule 20.11(1). The trainee status application will not be approved until the trainee successfully completes any required remedial education.

(3) New trainee status expiration date issued. If the repeat trainee application is approved, the board office will establish a new trainee status expiration date by which registration must be completed.

(4) Maximum of two "start over" periods allowed. In addition to the initial 12-month trainee status period, a dental assistant is permitted up to two start over periods as a trainee. If a trainee seeks an additional start over period beyond two, the trainee shall submit a petition for rule waiver under 650—Chapter 7.

c. *Trainees enrolled in cooperative education or work study programs.* The requirements stated in this subrule apply to all dental assistant trainees, including a person enrolled in a cooperative education or work-study program through an Iowa high school. In addition, a trainee under 18 years of age shall not participate in dental radiography.

[**ARC 0465C**, IAB 11/28/12, effective 1/2/13; **ARC 2028C**, IAB 6/10/15, effective 7/15/15; **ARC 3489C**, IAB 12/6/17, effective 1/10/18]

650—20.7(153) Registration requirements after July 1, 2001. Effective July 2, 2001, dental assistants must meet the following requirements for registration:

20.7(1) Dental assistant trainee.

a. On or after May 1, 2013, a dentist supervising a person performing dental assistant duties must ensure that the person has been issued a trainee status certificate from the board office prior to the person's first date of employment as a dental assistant. A dentist who has been granted a temporary permit to

provide volunteer services for a qualifying event of limited duration pursuant to 650—subrule 13.3(3), or an Iowa-licensed dentist who is volunteering at such qualifying event, is exempt from this requirement for a dental assistant who is working under the dentist's supervision at the qualifying event.

b. Applications for registration as a dental assistant trainee must be filed on official board forms and include the following:

(1) The fee as specified in 650—Chapter 15.

(2) Evidence of high school graduation or equivalent.

(3) Evidence the applicant is 17 years of age or older.

(4) Any additional information required by the board relating to the character and experience of the applicant as may be necessary to evaluate the applicant's qualifications.

(5) If the applicant does not meet the requirements of (2) and (3) above, evidence that the applicant is enrolled in a cooperative education or work-study program through an Iowa high school.

c. Prior to the trainee status expiration date, the dental assistant trainee is required to successfully complete a board-approved course of study and examination in the areas of infection control, hazardous materials, and jurisprudence. The course of study may be taken at a board-approved postsecondary school or on the job using curriculum approved by the board for such purpose. Evidence of meeting this requirement prior to the trainee status expiration date shall be submitted by the employer dentist.

d. Prior to the trainee status expiration date, the dental assistant trainee's supervising dentist must ensure that the trainee has received a certificate of registration or has been issued start-over trainee status in accordance with rule 650—20.6(153) before performing any further dental assisting duties.

20.7(2) Registered dental assistant.

a. To meet this qualification, a person must:

(1) Work in a dental office for six months as a dental assistant trainee; or

(2) If licensed out of state, have had at least six months of prior dental assisting experience under a licensed dentist within the past two years; or

(3) Be a graduate of an accredited dental assisting program approved by the board; and

(4) Be a high school graduate or equivalent; and

(5) Be 17 years of age or older.

b. Applications for registration as a registered dental assistant must be filed on official board forms and include the following:

(1) The fee as specified in 650—Chapter 15.

(2) Evidence of meeting the requirements specified in 20.7(2)*"a."*

(3) Evidence of successful completion of a course of study approved by the board and sponsored by a board-approved, accredited dental assisting program in the areas of infection control, hazardous materials, and jurisprudence. The course of study may be taken at a board-approved, accredited dental assisting program or on the job using curriculum approved by the board for such purpose.

(4) Evidence of successful completion of a board-approved examination in the areas of infection control, hazardous materials, and jurisprudence.

(5) Evidence of high school graduation or the equivalent.

(6) Evidence the applicant is 17 years of age or older.

(7) Evidence of meeting the qualifications of 650—Chapter 22 if engaging in dental radiography.

(8) A statement:

1. Confirming that the applicant possesses a valid certificate from a nationally recognized course in cardiopulmonary resuscitation (CPR) that included a "hands-on" clinical component;

2. Providing the expiration date of the CPR certificate; and

3. Acknowledging that the CPR certificate will be retained and made available to board office staff as part of routine auditing and monitoring.

(9) Any additional information required by the board relating to the character, education and experience of the applicant as may be necessary to evaluate the applicant's qualifications.

20.7(3) Rescinded IAB 9/17/03, effective 10/22/03.

20.7(4) All applications must be signed and verified by the applicant as to the truth of the documents and statements contained therein.
[**ARC 8369B**, IAB 12/16/09, effective 1/20/10; **ARC 0265C**, IAB 8/8/12, effective 9/12/12; **ARC 0465C**, IAB 11/28/12, effective 1/2/13; **ARC 2028C**, IAB 6/10/15, effective 7/15/15; **ARC 3489C**, IAB 12/6/17, effective 1/10/18]

650—20.8(153) Registration denial. The board may deny an application for registration as a dental assistant for any of the following reasons:

1. Failure to meet the requirements for registration as specified in these rules.
2. Pursuant to Iowa Code section 147.4, upon any of the grounds for which registration may be revoked or suspended as specified in 650—Chapter 30.

[**ARC 2028C**, IAB 6/10/15, effective 7/15/15]

650—20.9(147,153) Denial of registration—appeal procedure. The board shall follow the procedures specified in 650—11.10(147) if the board proposes to deny registration to a dental assistant applicant.

This rule is intended to implement Iowa Code sections 147.3, 147.4 and 147.29.
[**ARC 7789B**, IAB 5/20/09, effective 6/24/09; **ARC 2028C**, IAB 6/10/15, effective 7/15/15]

650—20.10(153) Examination requirements. Beginning July 2, 2001, applicants for registration must successfully pass an examination approved by the board on infection control, hazardous waste, and jurisprudence.

20.10(1) Examinations approved by the board are those administered by the board or board's approved testing centers or the Dental Assisting National Board Infection Control Examination, if taken after June 1, 1991, in conjunction with the board-approved jurisprudence examination. In lieu of the board's infection control examination, the board may approve an infection control examination given by another state licensing board if the board determines that the examination is substantially equivalent to the examination administered by the board.

20.10(2) Information on taking the examination may be obtained by contacting the board office at 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687.

20.10(3) An examinee must meet such other requirements as may be imposed by the board's approved dental assistant testing centers.

20.10(4) A dental assistant trainee must successfully pass the examination within 12 months of the first date of employment. A dental assistant trainee who does not successfully pass the examination within 12 months shall be prohibited from working as a dental assistant until the dental assistant trainee passes the examination in accordance with these rules.

20.10(5) A score of 75 or better on the board infection control/hazardous material exam and a score of 75 or better on the board jurisprudence exam shall be considered successful completion of the examination. The board accepts the passing standard established by the Dental Assisting National Board for applicants who take the Dental Assisting National Board Infection Control Examination.

20.10(6) The written examination may be waived by the board, in accordance with the board's waiver rules at 650—Chapter 7, in practice situations where the written examination is deemed to be unnecessary or detrimental to the dentist's practice.
[**ARC 2028C**, IAB 6/10/15, effective 7/15/15]

650—20.11(153) System of retaking dental assistant examinations.

20.11(1) *Second examination.*

a. On the second examination attempt, a dental assistant shall be required to obtain a score of 75 percent or better on each section of the examination.

b. A dental assistant who fails the second examination will be required to complete the remedial education requirements set forth in subrule 20.11(2).

20.11(2) *Third and subsequent examinations.*

a. Prior to the third examination attempt, a dental assistant must submit proof of additional formal education in the area of the examination failure in a program approved by the board or sponsored by a school accredited by the Commission on Dental Accreditation of the American Dental Association.

b. A dental assistant who fails the examination on the third attempt may not practice as a dental assistant in a dental office or clinic until additional remedial education approved by the board has been obtained.

c. For the purposes of additional study prior to retakes, the fourth or subsequent examination failure shall be considered the same as the third.

[**ARC 2028C**, IAB 6/10/15, effective 7/15/15]

650—20.12(153) Continuing education. Each person registered as a dental assistant shall complete continuing education requirements as specified in 650—Chapter 25.

[**ARC 0265C**, IAB 8/8/12, effective 9/12/12; **ARC 2028C**, IAB 6/10/15, effective 7/15/15; **ARC 3489C**, IAB 12/6/17, effective 1/10/18]

650—20.13(252J,261) Receipt of certificate of noncompliance. The board shall consider the receipt of a certificate of noncompliance from the college student aid commission pursuant to Iowa Code sections 261.121 to 261.127and 650—Chapter 34 or receipt of a certificate of noncompliance of a support order from the child support recovery unit pursuant to Iowa Code chapter 252J and 650—Chapter 33. Registration denial or denial of renewal of registration shall follow the procedures in the statutes and board rules as set forth in this rule.

This rule is intended to implement Iowa Code chapter 252J and sections 261.121 to 261.127.

[**ARC 0265C**, IAB 8/8/12, effective 9/12/12; **ARC 2028C**, IAB 6/10/15, effective 7/15/15]

650—20.14(153) Unlawful practice. A dental assistant who assists a dentist in practicing dentistry in any capacity other than as a person supervised by a dentist in a dental office, or who directly or indirectly procures a licensed dentist to act as nominal owner, proprietor or director of a dental office as a guise or subterfuge to enable such dental assistant to engage directly or indirectly in the practice of dentistry, or who performs dental service directly or indirectly on or for members of the public other than as a person working for a dentist shall be deemed to be practicing dentistry without a license.

[**ARC 0265C**, IAB 8/8/12, effective 9/12/12; **ARC 2028C**, IAB 6/10/15, effective 7/15/15]

650—20.15(153) Advertising and soliciting of dental services prohibited. Dental assistants shall not advertise, solicit, represent or hold themselves out in any manner to the general public that they will furnish, construct, repair or alter prosthetic, orthodontic or other appliances, with or without consideration, to be used as substitutes for or as part of natural teeth or associated structures or for the correction of malocclusions or deformities, or that they will perform any other dental service.

[**ARC 0265C**, IAB 8/8/12, effective 9/12/12; **ARC 2028C**, IAB 6/10/15, effective 7/15/15]

650—20.16(153) Public health supervision allowed. A dentist may provide public health supervision to a registered dental assistant if the dentist has an active Iowa license and the services are provided in a public or private school, public health agencies, hospitals, or the armed forces.

20.16(1) *Public health agencies defined.* For the purposes of this rule, public health agencies include programs operated by federal, state, or local public health departments.

20.16(2) *Responsibilities.* When working together in a public health supervision relationship, a dentist and registered dental assistant shall enter into a written agreement that specifies the following responsibilities.

a. The dentist providing public health supervision must:

(1) Be available to provide communication and consultation with the registered dental assistant;

(2) Have age- and procedure-specific standing orders for the performance of services. Those standing orders must include consideration for medically compromised patients and medical conditions for which a dental evaluation must occur prior to the provision of services;

(3) Specify a period of time in which an examination by a dentist must occur prior to providing further services;

(4) Specify the location or locations where the services will be provided under public health supervision.

b. A registered dental assistant providing services under public health supervision may only provide services which are limited to all extraoral duties, dental radiography, intraoral suctioning, and use of a curing light and intraoral camera and must:

(1) Maintain contact and communication with the dentist providing public health supervision;

(2) Practice according to age- and procedure-specific standing orders as directed by the supervising dentist, unless otherwise directed by the dentist for a specific patient;

(3) Ensure that the patient, parent, or guardian receives a written plan for referral to a dentist;

(4) Ensure that each patient, parent, or guardian signs a consent form that notifies the patient that the services that will be received do not take the place of regular dental checkups at a dental office and are meant for people who otherwise would not have access to services; and

(5) Ensure that a procedure is in place for creating and maintaining dental records for the patients who are treated, including where these records are to be located.

c. The written agreement for public health supervision must be maintained by the dentist and the registered dental assistant and a copy filed with the board office within 30 days of the date on which the dentist and the registered dental assistant entered into the agreement. The dentist and registered dental assistant must review the agreement at least biennially.

d. The registered dental assistant shall file annually with the supervising dentist and the bureau of oral and health delivery systems a report detailing the number of patients seen, the services provided to patients and the infection control protocols followed at each practice location.

e. A copy of the written agreement for public health supervision shall be filed with the Bureau of Oral and Health Delivery Systems, Iowa Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319.

20.16(3) *Reporting requirements.* Each registered dental assistant who has rendered services under public health supervision must complete a summary report at the completion of a program or, in the case of an ongoing program, at least annually. The report shall be filed with the bureau of oral and health delivery systems of the Iowa department of public health on forms provided by the department and shall include information related to the number of patients seen and services provided so that the department may assess the impact of the program. The department will provide summary reports to the board on an annual basis.

[**ARC 2028C**, IAB 6/10/15, effective 7/15/15]

650—20.17(153) Students enrolled in dental assisting programs. Students enrolled in an accredited dental assisting program are not considered to be engaged in the unlawful practice of dental assisting provided that such practice is in connection with their regular course of instruction and meets the following:

1. The practice of clinical skills on peers enrolled in the same program must be under the direct supervision of a program instructor with an active Iowa dental assistant registration, Iowa dental hygiene license, Iowa faculty permit, or Iowa dental license;

2. The practice of clinical skills on members of the public must be under the direct supervision of a dentist with an active Iowa dental license.

[**ARC 2593C**, IAB 6/22/16, effective 7/27/16]

These rules are intended to implement Iowa Code chapter 153.

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[1] The Administrative Rules Review Committee at their May 21, 1979, meeting delayed the effective date of Chapters 20 and 21 70 days.

CHAPTER 21
DENTAL LABORATORY TECHNICIAN
[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—21.1(153) Definition. "Dental laboratory technician" as used in these rules shall include a person other than a licensed dentist who fabricates, constructs, makes, or repairs oral prosthetic appliances solely and exclusively for a licensed dentist and under the dentist's supervision or direction. A dental laboratory technician who performs any of the duties of a dental assistant, as defined in 650—20.2(153), must be registered with the board as a dental assistant.

650—21.2(153) Unlawful practice by dental laboratory technician. Any dental laboratory technician who assists a dentist in practicing dentistry in any capacity other than as an employee or independent contractor, or who directly or indirectly procures a licensed dentist to act as nominal owner, proprietor or director of a dental office as a guise or subterfuge to enable such dental laboratory technician to engage directly or indirectly in the practice of dentistry, or who renders dental service directly or indirectly on or for members of the public other than as an employee or independent contractor for an employing dentist shall be deemed to be practicing dentistry without a license.

650—21.3(153) Advertising and soliciting dental services prohibited. No dental laboratory or dental laboratory technician shall advertise, solicit, represent or hold themselves, or itself out in any manner to the general public that they or it will furnish, construct, repair or alter prosthetic, orthodontic or other appliances, with or without consideration, to be used as substitutes for or as part of natural teeth or associated structures or for the correction of malocclusions or deformities, or that they or it will render any other dental service.

This chapter is intended to implement Iowa Code sections 153.17, 153.32(5) and 153.33.

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[1] At their meeting held May 21, 1979, the Administrative Rules Review Committee delayed the effective date of Chapter 21 for 70 days.

CHAPTER 22
DENTAL ASSISTANT RADIOGRAPHY QUALIFICATION
[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—22.1(136C,153) Qualification required. A person who is not otherwise actively licensed by the board shall not participate in dental radiography unless the person holds a current registration certificate or active nursing license and holds an active radiography qualification issued by the board, and a dentist provides general supervision.
[**ARC 8369B**, IAB 12/16/09, effective 1/20/10]

650—22.2(136C,153) Definitions. As used in this chapter:

"Dental radiography" means the application of X-radiation to human teeth and supporting structures for diagnostic purposes only.

"Radiography qualification" means authorization to engage in dental radiography issued by the board.

650—22.3(136C,153) Exemptions. The following individuals are exempt from the requirements of this chapter.

22.3(1) A student enrolled in an accredited dental, dental hygiene, or dental assisting program, who, as part of the student's course of study, applies ionizing radiation.

22.3(2) A person registered as a dental assistant trainee pursuant to 650—Chapter 20, who is engaging in on-the-job training in dental radiography and who is using curriculum approved by the board for such purpose.

650—22.4(136C,153) Application requirements for dental radiography qualification. Applications for dental radiography qualification must be filed on official board forms and include the following:

22.4(1) Evidence of one of the following requirements:

a. The applicant is a dental assistant trainee or registered dental assistant with an active registration status;

b. The applicant is a graduate of an accredited dental assisting program; or

c. The applicant is a nurse who holds an active Iowa license issued by the board of nursing.

22.4(2) The fee as specified in 650—Chapter 15.

22.4(3) Evidence of successful completion, within the previous two years, of a board-approved course of study in the area of dental radiography. The course of study must include application of radiation to humans pursuant to Iowa Code section 136C.3 and may be taken by the applicant:

a. On the job while under trainee status pursuant to 650—Chapter 20, using board-approved curriculum;

b. At a board-approved postsecondary school; or

c. From another program prior-approved by the board.

22.4(4) Evidence of successful completion of a board-approved examination in the area of dental radiography.

22.4(5) Any additional information required by the board relating to the character, education, and experience of the applicant as may be necessary to evaluate the applicant's qualifications.

650—22.5(136C,153) Examination requirements. An applicant for dental assistant radiography qualification shall successfully pass a board-approved examination in dental radiography.

22.5(1) Examinations must be prior approved by the board and must be administered in a proctored setting. All board-approved examinations must have a minimum of 50 questions. The Dental Assisting National Board Radiation Health and Safety Examination is an approved examination.

22.5(2) A score of 75 percent or better on a board-approved examination shall be considered successful completion of the examination. The board accepts the passing standard established by the Dental Assisting National Board for applicants who take the Dental Assisting National Board Radiation Health and Safety Examination.

22.5(3) Information on taking a board-approved examination may be obtained by contacting the board office at 400 SW 8th Street, Suite D, Des Moines, Iowa 50309-4687.

22.5(4) A dental assistant must meet such other requirements as may be imposed by the board's approved dental assistant testing centers.

22.5(5) A dental assistant who fails to successfully complete a board-approved examination after two attempts will be required to submit, prior to each subsequent examination attempt, proof of additional formal education in dental radiography in a program approved by the board or sponsored by a school accredited by the Commission on Dental Accreditation of the American Dental Association.

[**ARC 3143C**, IAB 6/21/17, effective 7/26/17]

650—22.6(136C,153) Penalties.

22.6(1) Any individual except a licensed dentist or a licensed dental hygienist who participates in dental radiography in violation of this chapter or Iowa Code chapter 136C shall be subject to the criminal and civil penalties set forth in Iowa Code sections 136C.4 and 136C.5.

22.6(2) Any licensee who permits a person to engage in dental radiography or a registrant who engages in dental radiography contrary to this chapter or Iowa Code chapter 136C shall be subject to discipline by the board pursuant to 650—Chapter 30.

[**ARC 0265C**, IAB 8/8/12, effective 9/12/12]

These rules are intended to implement Iowa Code section 136C.3 and chapter 153.

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CHAPTERS 23 and 24
Reserved

CHAPTER 25
CONTINUING EDUCATION
[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—25.1(153) Definitions. For the purpose of this chapter, these definitions shall apply:

"Advisory committee" means a committee on continuing education formed to review and advise the board with respect to applications for approval of sponsors or activities. The committee's members shall be appointed by the board and consist of at least one member of the board, two licensed dentists with expertise in the area of professional continuing education, two licensed dental hygienists with expertise in the area of professional continuing education, and two registered dental assistants with expertise in the area of professional continuing education. The advisory committee on continuing education may recommend approval or denial of applications or requests submitted to it pending final approval or disapproval of the board at its next meeting.

"Board" means the dental board.

"Continuing dental education" consists of education activities designed to review existing concepts and techniques and to update knowledge on advances in dental and medical sciences. The objective of continuing dental education is to improve the knowledge, skills, and ability of the individual to deliver the highest quality of service to the public and professions.

Continuing dental education should favorably enrich past dental education experiences. Programs should make it possible for practitioners to attune dental practice to new knowledge as it becomes available. All continuing dental education should strengthen the skills of critical inquiry, balanced judgment and professional technique.

"Dental public health" is the science and art of preventing and controlling dental diseases and promoting dental health through organized community efforts. It is that form of dental practice in which the community serves as the patient rather than the individual. It is concerned with the dental health education of the public, with applied dental research, with the administration of group dental care programs, and with the prevention and control of dental diseases on a community basis.

"Hour of continuing education" means one unit of credit which shall be granted for each hour of contact instruction and shall be designated as a "clock hour." This credit shall apply to either academic or clinical instruction.

"Licensee" means any person who has been issued a certificate to practice dentistry or dental hygiene in the state of Iowa.

"Registrant" means any person registered to practice as a dental assistant in the state of Iowa.

"Self-study activities" means the study of something by oneself, without direct supervision or attendance in a class. "Self-study activities" may include Internet-based coursework, television viewing, video programs, correspondence work or research, or computer programs that are interactive and require branching, navigation, participation and decision making on the part of the viewer. Internet-based webinars which include the involvement of an instructor and participants in real time and which allow for communication with the instructor through messaging, telephone or other means shall not be construed to be self-study activities.

"Sponsor" means a person, educational institution, or organization sponsoring continuing education activities which has been approved by the board as a sponsor pursuant to these rules. During the time a person, educational institution, or organization is an approved sponsor, all continuing education activities of such person or organization may be deemed automatically approved provided the continuing education activities meet the continuing education guidelines of the board.

[**ARC 3489C**, IAB 12/6/17, effective 1/10/18]

650—25.2(153) Continuing education administrative requirements.

25.2(1) Each person licensed to practice dentistry or dental hygiene in this state shall complete during the biennium renewal period a minimum of 30 hours of continuing education approved by the board.

25.2(2) Each person registered to practice dental assisting in this state shall complete during the biennium renewal period a minimum of 20 hours of continuing education approved by the board.

25.2(3) Each person who holds a qualification in dental radiography in this state shall complete during the biennium renewal period a minimum of two hours of continuing education in the area of dental radiography.

25.2(4) The continuing education compliance period shall be the 24-month period commencing September 1 and ending on August 31 of the renewal cycle.

25.2(5) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity either previously approved by the board or which otherwise meets the requirements herein and is approved by the board pursuant to rule 650—25.5(153).

25.2(6) It is the responsibility of each licensee or registrant to finance the costs of continuing education.

[**ARC 3489C**, IAB 12/6/17, effective 1/10/18]

650—25.3(153) Documentation of continuing education hours.

25.3(1) Every licensee or registrant shall maintain a record of all courses attended by keeping the certificates of attendance for four years. The board reserves the right to require any licensee or registrant to submit the certificates of attendance for the continuing education courses attended. If selected for continuing education audit, the licensee or registrant shall file a signed continuing education form and submit certificates or other evidence of attendance.

25.3(2) Licensees and registrants are responsible for obtaining proof of attendance forms when attending courses. Clock hours must be verified by the sponsor with the issuance of proof of attendance forms to the licensee or registrant.

25.3(3) Each licensee or registrant shall report the number of continuing education credit hours completed during the current renewal cycle in compliance with this chapter. Such report shall be filed with the board at the time of application for renewal of a dental or dental hygiene license or renewal of dental assistant registration.

25.3(4) No carryover of credits from one biennial period to the next will be allowed.

[**ARC 3489C**, IAB 12/6/17, effective 1/10/18]

650—25.4(153) Required continuing education courses.

25.4(1) The following courses are required for licensees and registrants:

a. Mandatory reporter training for child abuse and dependent adult abuse.

b. Cardiopulmonary resuscitation.

c. Infection control.

d. Jurisprudence.

25.4(2) Mandatory reporter training for child abuse and dependent adult abuse.

a. Licensees or registrants who regularly examine, attend, counsel or treat children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or conditions for exemptions as identified in paragraph *"f"* of this subrule, pursuant to Iowa Code chapter 232. Completion of training in this course shall result in two hours of continuing education credit.

b. Licensees or registrants who regularly examine, attend, counsel or treat adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or conditions for exemptions as identified in paragraph *"f"* of this subrule, pursuant to Iowa Code chapter 235B.

c. Licensees or registrants who regularly examine, attend, counsel or treat both children and adults in Iowa shall indicate on the renewal application completion of at least two hours of training on the identification and reporting of abuse in children and dependent adults in the previous five years or conditions for exemptions as identified in paragraph *"f"* of this subrule, pursuant to Iowa Code chapters 232 and 235B. Training may be completed through separate courses or in one combined course that includes curricula for identifying and reporting child abuse and dependent adult abuse. Completion of training in this combined course shall result in three hours of continuing education credit.

d. The licensee or registrant shall maintain written documentation for five years after completion of the mandatory training, including program date(s), content, duration, and proof of participation. The board may audit this information at any time within the five-year period.

e. Training programs in child and dependent adult abuse identification and reporting that are approved by the board are those that use a curriculum approved by the abuse education review panel of the department of public health or a training program offered by the department of human services, the department of education, an area education agency, a school district, the Iowa law enforcement academy, an Iowa college or university, or a similar state agency.

f. Exemptions. Licensees and registrants shall be exempt from the requirement for mandatory training for identifying and reporting child and dependent adult abuse if the board determines that it is in the public interest or that at the time of the renewal the licensee or registrant is issued an extension or exemption pursuant to rule 650—25.10(153).

25.4(3) Cardiopulmonary resuscitation (CPR). Licensees and registrants shall furnish evidence of valid certification for CPR, which shall be credited toward the continuing education requirement for renewal of the license, faculty permit or registration. Such evidence shall be filed at the time of renewal of the license, faculty permit or registration. Valid certification means certification by an organization on an annual basis or, if that certifying organization requires certification on a less frequent basis, evidence that the licensee or registrant has been properly certified for each year covered by the renewal period. In addition, the course must include a clinical component. Credit hours awarded for certification in CPR shall not exceed three hours of required continuing education hours per biennium.

25.4(4) Infection control. Beginning September 1, 2018, licensees and registrants shall complete continuing education in the area of infection control. Licensees and registrants shall furnish evidence of continuing education completed within the previous biennium in the area of infection control standards, as required by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services. Completion of continuing education in the area of infection control shall be credited toward the required continuing education requirement in the renewal period during which it was completed. A minimum of one hour shall be submitted.

25.4(5) Jurisprudence. Beginning September 1, 2018, licensees and registrants shall complete continuing education in the area of Iowa jurisprudence related to the practice of dentistry, dental hygiene and dental assisting. Licensees and registrants shall furnish evidence of continuing education completed within the previous biennium in the area of Iowa jurisprudence. Completion of continuing education in the area of Iowa jurisprudence shall be credited toward the required continuing education requirement in the renewal period during which it was completed. A minimum of one hour shall be submitted.

[**ARC 3489C**, IAB 12/6/17, effective 1/10/18]

650—25.5(153) Acceptable programs and activities.

25.5(1) A continuing education activity shall be acceptable and not require board approval if it meets the following criteria:

a. It constitutes an organized program of learning (including a workshop or symposium) which contributes directly to the professional competency of the licensee or registrant and is of value to dentistry and applicable to oral health care; and

b. It pertains to common subjects or other subject matters which relate to the practice of dentistry, dental hygiene, or dental assisting which are intended to refresh and review, or update knowledge of new or existing concepts and techniques, and enhance the dental health of the public; and

c. It is conducted by individuals who have sufficient special education, training and experience to be considered experts concerning the subject matter of the program. The program must include a written outline or manual that substantively pertains to the subject matter of the program.

25.5(2) Types of activities acceptable for continuing dental education credit may include:

a. A dental science course that includes topics which address the clinical practice of dentistry, dental hygiene, dental assisting and dental public health.

b. Courses in record keeping, medical conditions which may have an effect on oral health, ergonomics related to clinical practice, HIPAA, risk management, sexual boundaries, communication

with patients, OSHA regulations, and the discontinuation of practice related to the transition of patient care and patient records.

c. Sessions attended at a multiday convention-type meeting. A multiday convention-type meeting is held at a national, state, or regional level and involves a variety of concurrent educational experiences directly related to the practice of dentistry.

d. Postgraduate study relating to health sciences.

e. Successful completion of a recognized specialty examination or the Dental Assisting National Board (DANB) examination.

f. Self-study activities.

g. Original presentation of continuing dental education courses.

h. Publication of scientific articles in professional journals related to dentistry, dental hygiene, or dental assisting.

25.5(3) Credit may be given for other continuing education activities upon request and approval by the board.

[**ARC 3489C**, IAB 12/6/17, effective 1/10/18]

650—25.6(153) Unacceptable programs and activities.

25.6(1) Unacceptable subject matter and activity types include, but are not limited to, personal development, business aspects of practice, business strategy, financial management, marketing, sales, practice growth, personnel management, insurance, collective bargaining, and events where volunteer services are provided. While desirable, those subjects and activities are not applicable to dental skills, knowledge, and competence. Therefore, such courses will receive no credit toward renewal. The board may deny credit for any course.

25.6(2) Inquiries relating to acceptability of continuing dental education activities, approval of sponsors, or exemptions should be directed to Advisory Committee on Continuing Dental Education, Iowa Dental Board, 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687.

[**ARC 3489C**, IAB 12/6/17, effective 1/10/18]

650—25.7(153) Prior approval of activities. A person or organization, other than an approved sponsor, that desires prior approval for a course, program or other continuing education activity or that desires to establish approval of the activity prior to attendance may apply for approval to the board, using board-approved forms, at least 90 days in advance of the commencement of the activity. Within 90 days after receipt of such application, the board shall advise the licensee or registrant in writing whether the activity is approved and the number of hours allowed. All requests may be reviewed by the advisory committee on continuing education prior to final approval or denial by the board. An application fee as specified in 650—Chapter 15 is required. Continuing education course approval shall be valid for a period of five years following the date of board approval. Thereafter, courses may be resubmitted for approval. Courses which clearly meet the criteria listed under acceptable programs and activities are not required to be submitted for approval.

[**ARC 3489C**, IAB 12/6/17, effective 1/10/18]

650—25.8(153) Postapproval of activities. A licensee or registrant seeking credit for attendance and participation in an educational activity which was not conducted by an approved sponsor or otherwise approved and which does not clearly meet the acceptable programs and activities listed in rule 650—25.5(153) may apply for approval to the board using board-approved forms. Within 90 days after receipt of such application, the board shall advise the licensee or registrant in writing whether the activity is approved and the number of hours allowed. All requests may be reviewed by the advisory committee on continuing education prior to final approval or denial by the board. An application fee as specified in 650—Chapter 15 is required.

[**ARC 3489C**, IAB 12/6/17, effective 1/10/18]

650—25.9(153) Designation of continuing education hours. Continuing education hours shall be determined by the length of a continuing education course in clock hours. For the purpose of calculating continuing education hours for renewal of a license or registration, the following rules shall apply:

25.9(1) Attendance at a multiday convention.

a. Attendees at a multiday convention may receive a maximum of 1.5 hours of credit per day with the maximum of six hours of credit allowed per biennium.

b. Sponsors of multiday conventions shall submit to the board for review and prior approval guidelines for awarding credit for convention attendance.

25.9(2) Presenters or attendees of table clinics at a meeting.

a. Four hours of credit shall be allowed for presentation of an original table clinic at a meeting as verified by the sponsor when the subject matter conforms with rule 650—25.5(153).

b. Attendees at the table clinic session of a dental, dental hygiene, or dental assisting meeting shall receive two hours of credit as verified by the sponsor when the subject matter conforms with rule 650—25.5(153).

25.9(3) Postgraduate study relating to health sciences shall receive 15 credits per semester.

25.9(4) Successful completion of a specialty examination or the Dental Assisting National Board (DANB) shall result in 15 hours of credit.

25.9(5) Self-study activities shall result in a maximum of 12 hours of continuing education credit per biennium.

25.9(6) An original presentation of continuing dental education shall result in credit double that which the participants receive. Additional credit will not be granted for the repeating of presentations within the biennium. Credit is not given for teaching that represents part of the licensee's or registrant's normal academic duties as a full-time or part-time faculty member or consultant.

25.9(7) Publication of scientific articles in professional journals related to dentistry, dental hygiene, or dental assisting shall result in 5 hours of credit per article with the maximum of 20 hours allowed per biennium.

[**ARC 3489C**, IAB 12/6/17, effective 1/10/18]

650—25.10(153) Extensions and exemptions.

25.10(1) *Illness or disability.* The board may, in individual cases involving physical disability or illness, grant an exemption of the continuing education requirements or an extension of time within which to fulfill the same or make the required reports. No exemption or extension of time shall be granted unless written application is made on forms provided by the board and signed by the licensee or registrant and a licensed health care professional. Extensions or exemptions of the continuing education requirements may be granted by the board for any period of time not to exceed one calendar year. In the event that the physical disability or illness upon which an exemption has been granted continues beyond the period granted, the licensee or registrant must apply for an extension of the exemption. The board may, as a condition of the exemption, require the applicant to make up a certain portion or all of the continuing education requirements.

25.10(2) *Other extensions or exemptions.* Extensions or exemptions of continuing education requirements will be considered by the board on an individual basis. Licensees or registrants will be exempt from the continuing education requirements for:

a. Periods that the person serves honorably on active duty in the military services;

b. Periods that the person practices the person's profession in another state or district having a continuing education requirement and the licensee or registrant meets all requirements of that state or district for practice therein;

c. Periods that the person is a government employee working in the person's licensed or registered specialty and assigned to duty outside the United States;

d. Other periods of active practice and absence from the state approved by the board;

e. The current biennium renewal period, or portion thereof, following original issuance of the license;

f. For dental assistants registered pursuant to rule 650—20.7(153), the current biennium renewal period, or portion thereof, following original issuance of the registration.
[**ARC 3489C**, IAB 12/6/17, effective 1/10/18]

650—25.11(153) Exemptions for inactive practitioners. No continuing education hours are required to renew a license or registration on inactive status until application for reactivation is made. A licensee or registrant with a license or registration on inactive status is prohibited from practicing unless and until the license or registration is restored to active status.
[**ARC 3489C**, IAB 12/6/17, effective 1/10/18]

650—25.12(153) Approval of sponsors.

25.12(1) An organization or person which desires approval as a sponsor of courses, programs, or other continuing education activities shall apply for approval to the board stating its education history, including approximate dates, subjects offered, total hours of instruction presented, and names and qualifications of instructors. All applications shall be reviewed by the advisory committee on continuing education prior to final approval or denial by the board.

25.12(2) Prospective sponsors must apply to the board using approved forms in order to obtain approved sponsor status. An application fee as specified in 650—Chapter 15 is required. Sponsors must pay the biennial renewal fee as specified in 650—Chapter 15 and file a sponsor recertification record report biennially.

25.12(3) The person or organization sponsoring continuing education activities shall make a written record of the Iowa licensees or registrants in attendance, maintain the written record for a minimum of five years, and submit the record upon the request of the board. The sponsor of the continuing education activity shall also provide proof of attendance and the number of credit hours awarded to the licensee or registrant who participates in the continuing education activity.

25.12(4) Sponsors must be formally organized and adhere to board rules for planning and providing continuing dental education activities. Programs sponsored by individuals or institutions for commercial or proprietary purposes, especially programs in which the speaker advertises or urges the use of any particular dental product or appliance, may be recognized for credit on a prior-approval basis only. When courses are promoted as approved continuing education courses which do not meet the requirements as defined by the board, the sponsor will be required to refund the registration fee to the participants. Approved sponsors may offer noncredit courses provided the participants have been informed that no credit will be given. Failure to meet this requirement may result in loss of approved sponsor status.
[**ARC 3489C**, IAB 12/6/17, effective 1/10/18]

650—25.13(153) Review of programs or sponsors. The board on its own motion or at the recommendation of the advisory committee on continuing education may monitor or review any continuing education program or sponsors already approved by the board. Upon evidence of a failure to meet the requirements of rule 650—25.12(153), the board may revoke the approval status of the sponsor. Upon evidence of significant variation in the program presented from the program approved, the board may deny all or any part of the approved hours granted to the program. A provider that wishes to appeal the board's decision regarding revocation of approval status or denial of continuing education credit shall file an appeal within 30 days of the board's decision. A timely appeal shall initiate a contested case proceeding. The contested case shall be conducted pursuant to Iowa Code chapter 17A and 650—Chapter 51. The written decision issued at the conclusion of a contested case hearing shall be considered final agency action.
[**ARC 3489C**, IAB 12/6/17, effective 1/10/18]

650—25.14(153) Noncompliance with continuing dental education requirements. It is the licensee's or registrant's personal responsibility to comply with these rules. The license or registration of individuals not complying with the continuing dental education rules may be subject to disciplinary action by the board or nonrenewal of the license or registration.
[**ARC 3489C**, IAB 12/6/17, effective 1/10/18]

650—25.15(153) Dental hygiene continuing education. The dental hygiene committee, in its discretion, shall make recommendations to the board for approval or denial of requests pertaining to dental hygiene education. The dental hygiene committee may utilize the continuing education advisory committee as needed. The board's review of the dental hygiene committee recommendation is subject to 650—Chapter 1. The following items pertaining to dental hygiene shall be forwarded to the dental hygiene committee for review.

1. Dental hygiene continuing education requirements and requests for approval of programs, activities and sponsors.
2. Requests by dental hygienists for waivers, extensions and exemptions of the continuing education requirements.
3. Requests for exemptions from inactive dental hygiene practitioners.
4. Requests for reinstatement from inactive dental hygiene practitioners.
5. Appeals of denial of dental hygiene continuing education and conduct of hearings as necessary.

[**ARC 3489C**, IAB 12/6/17, effective 1/10/18]

These rules are intended to implement Iowa Code sections 147.10, 153.15A, and 153.39 and chapter 272C.

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CHAPTER 26
ADVERTISING

[Prior to 5/18/88, Dental Examiners, Board of [320]]

650—26.1(153) General. Communications by inclusion or omission to the public must be accurate. They must not convey false, untrue, deceptive, or misleading information through statements, testimonials, photographs, graphics or other means. Communications must not appeal to an individual's anxiety in an excessive or unfair way; and they must not create unjustified expectations of results. If communications refer to benefits or other attributes of dental procedures or products that involve significant risks, realistic assessments of the safety and efficacy of those procedures or products must also be included, as well as the availability of alternatives and, where necessary to avoid deception, descriptions or assessments of the benefits or other attributes of those alternatives. Communications must not misrepresent a dentist's credentials, training, experience or ability, and must not contain material claims of superiority that cannot be substantiated.

There are several areas that the board believes to be susceptible to deceptive or misleading statements. While the board does not intend to discourage dentists from engaging in any form of truthful, nondeceptive advertising, dentists engaging in the type of advertising listed below shall take special care to ensure that their ads are consistent with these rules.

26.1(1) Claims that the service performed or the materials used are professionally superior to that which is ordinarily performed or used or that convey the message that one licensee is better than another when superiority of service or materials cannot be substantiated.

26.1(2) The use of an unearned or nonhealth degree in general announcements to the public.

26.1(3) The use of attainment of an honorary fellowship in an advertisement. An honorary fellowship does not include an award based on merit, study or research. However, the attainment of the fellowship status may be indicated in scientific papers, curriculum vitae, third party payment forms, and letterhead and stationery which is not used for the direct solicitation of patients.

26.1(4) Promotion of a professional service which the dentist knows or should know is beyond the dentist's ability to perform.

26.1(5) Techniques of communication which intimidate, exert undue pressure or undue influence over a prospective patient.

26.1(6) The use of any personal testimonial attesting to a quality of competence of a service or treatment offered by a licensee that is not reasonably verifiable.

26.1(7) Utilizing any statistical data or other information based on past performance or predication of future success, which creates an unjustified expectation about results that the dentist can achieve.

26.1(8) The communication of personally identifiable facts, data, or information about a patient without first obtaining patient consent.

26.1(9) Any misrepresentation of a material fact.

26.1(10) The knowing suppression, omission or concealment of any material fact or law without which the communication would be deceptive.

26.1(11) Any communication which creates an unjustified expectation concerning the potential result of any dental treatment.

26.1(12) Where the circumstances indicate "bait and switch" advertising, the board may require the advertiser to furnish to the board data or other evidence pertaining to those sales at the advertised price as well as other sales. Where the circumstances indicate deceptive advertising, the board will initiate an investigation or disciplinary action as warranted.

650—26.2(153) Requirements. The board of dental examiners may require a dentist to substantiate the truthfulness of any assertion or representation of material fact set forth in an advertisement.

26.2(1) At the time an advertisement is placed, the dentist must possess and rely upon information which, when produced, would substantiate the truthfulness of any assertion, omission, or representation of material fact set forth in the advertisement.

26.2(2) The failure to possess and rely upon the information required in subrule 26.2(1) at the time the advertisement is placed shall be deemed professional misconduct.

26.2(3) The failure or refusal to provide the factual substantiation to support a representation or assertion when requested by the board shall be deemed professional misconduct.

650—26.3(153) Fees. Advertising that states a fee must clearly define the professional service being offered in the advertisement. Advertised offers shall be presumed to include everything ordinarily required for such a service.

650—26.4(153) Public representation. All advertisement and public representations shall contain the name and address or telephone number of the practitioner who placed the ad.

26.4(1) If one's practice is referred to in the advertisement, the ad may state either "general/family practice" or the American Dental Association recognized specialty that the practitioner practices.

26.4(2) No dentist may state or imply that the dentist is certified as a specialist when that is not the case. Use of the terms "specialist," "specializing in" or other similar terms in connection with areas that are not recognized as specialties pursuant to 650—Chapter 28 is not permitted.

26.4(3) Dentists may advertise the areas in which they practice using other descriptive terms such as "emphasis on _____" or other similar terms.

650—26.5(153) Responsibility. Each professional who is a principal partner, officer, or licensed professional employee, acting as an agent of the firm or entity identified in the advertisement, is jointly and severally responsible for the form and content of any advertisement offering services or materials.

650—26.6(153) Advertisement records. A recording of every advertisement communicated by electronic media, and a copy of every advertisement communicated by print media indicating the date and place of the advertisement shall be retained by the dentist for a period of two years and be made available for review upon request by the board or its designee.

These rules are intended to implement Iowa Code sections 153.33 and 153.34.

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CHAPTER 27
STANDARDS OF PRACTICE AND PRINCIPLES OF PROFESSIONAL ETHICS

650—27.1(153) General.

27.1(1) *Dental ethics.* The following principles relating to dental ethics are compatible with the Code of Professional Ethics and advisory opinions published in August 1998 by the American Dental Association. These principles are not intended to provide a limitation on the ability of the board to address problems in the area of ethics but rather to provide a basis for board review of questions concerning professional ethics. The dentist's primary professional obligation shall be service to the public with the most important aspect of that obligation being the competent delivery of appropriate care within the bounds of the clinical circumstances presented by the patient, with due consideration being given to the needs and desires of the patient. Unprofessional conduct includes, but is not limited, to any violation of these rules.

27.1(2) *Dental hygiene ethics.* The following principles relating to dental hygiene ethics are compatible with the Code of Ethics of the American Dental Hygienists' Association published in 1995. Standards of practice for dental hygienists are compatible with the Iowa dental hygienists' association dental hygiene standards of practice adopted in May 1993. These principles and standards are not intended to provide a limitation on the ability of the dental hygiene committee to address problems in the area of ethics and professional standards for dental hygienists but rather to provide a basis for committee review of questions regarding the same. The dental hygienist's primary responsibility is to provide quality care and service to the public according to the clinical circumstances presented by the patient, with due consideration of responsibilities to the patient and the supervising dentist according to the laws and rules governing the practice of dental hygiene.

27.1(3) *Dental assistant ethics.* Dental assistants shall utilize the principles of professional dental and dental hygiene ethics for guidance, and the laws and rules governing the practice of dental assisting.

650—27.2(153,272C) Patient acceptance. Dentists, in serving the public, may exercise reasonable discretion in accepting patients in their practices; however, dentists shall not refuse to accept patients into their practice or deny dental service to patients because of the patient's race, creed, sex or national origin.

650—27.3(153) Emergency service. Emergency services in dentistry are deemed to be those services necessary for the relief of pain or to thwart infection and prevent its spread.

27.3(1) Dentists shall make reasonable arrangements for the emergency care of their patients of record.

27.3(2) Dentists shall, when consulted in an emergency by patients not of record, make reasonable arrangements for emergency care.

650—27.4(153) Consultation and referral.

27.4(1) Dentists shall seek consultation, if possible, whenever the welfare of patients will be safeguarded or advanced by utilizing those practitioners who have special skills, knowledge and experience.

27.4(2) The specialist or consulting dentist upon completion of their care shall return the patient, unless the patient expressly states a different preference, to the referring dentist or, if none, to the dentist of record for future care.

27.4(3) The specialist shall be obliged, when there is no referring dentist and upon completion of the treatment, to inform the patient when there is a need for further dental care.

27.4(4) A dentist who has a patient referred for a second opinion regarding a diagnosis or treatment plan recommended by the patient's treating dentist, should render the requested second opinion in accordance with these rules. In the interest of the patient being afforded quality care, the dentist rendering the second opinion should not have a vested interest in the ensuing recommendation.

650—27.5(153) Use of personnel. Dentists shall protect the health of their patients by assigning to qualified personnel only those duties that can be legally delegated. Dentists shall supervise the work of all personnel working under their direction and control.

650—27.6(153) Evidence of incompetent treatment.

27.6(1) Licensees or registrants shall report to the board instances of gross or continually faulty treatment by other licensees or registrants.

27.6(2) Licensees or registrants may provide expert testimony when that testimony is essential to a just and fair disposition of a judicial or administrative action.

650—27.7(153) Representation of care and fees.

27.7(1) Dentists shall not represent the care being rendered to their patients or the fees being charged for providing the care in a false or misleading manner.

27.7(2) A dentist who accepts a third-party payment under a copayment plan as payment in full without disclosing to the third-party payer that the patient's payment portion will not be collected is engaging in deception and misrepresentation by this overbilling practice.

27.7(3) A dentist shall not increase a fee to a patient solely because the patient has insurance.

27.7(4) Payments accepted by a dentist under a governmentally funded program, a component or constituent dental society sponsored access program, or a participating agreement entered into under a program of a third party shall not be considered as evidence of overbilling in determining whether a charge to a patient or to another third party on behalf of a patient not covered under any of these programs, constitutes overbilling under this rule.

27.7(5) A dentist who submits a claim form to a third party reporting incorrect treatment dates is engaged in making unethical, false or misleading representations.

27.7(6) A dentist who incorrectly describes a dental procedure on a third party claim form in order to receive a greater payment or incorrectly makes a noncovered procedure appear to be a covered procedure is engaged in making an unethical, false or misleading representation to the third party.

27.7(7) A dentist who recommends or performs unnecessary dental services or procedures is engaged in unprofessional conduct.

27.7(8) A dentist shall not bill for services not rendered. A dentist shall not be prohibited from billing for those services which have been rendered, for actual costs incurred in the treatment of the patient, or for charges for missed appointments.

27.7(9) A dentist shall not bill or draw on a patient's line of credit prior to services being rendered. A dentist may bill or draw on a patient's line of credit for those services which have been rendered or for actual costs incurred in the treatment of the patient.

27.7(10) A dentist shall not be prohibited from permitting patients to prepay for services, in whole or in part, on a voluntary basis.

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

650—27.8(153) General practitioner announcement of services. General dentists who wish to announce the services available in their practices are permitted to announce the availability of those services so long as they avoid any communications that express or imply specialization. General dentists shall also state that the services are being provided by a general dentist.

650—27.9(153) Unethical and unprofessional conduct.

27.9(1) Licensee or registrant actions determined by the board to be abusive, coercive, intimidating, harassing, untruthful or threatening in connection with the practice of dentistry shall constitute unethical or unprofessional conduct.

27.9(2) A treatment regimen shall be fully explained and patient authorization obtained before treatment is begun.

27.9(3) A licensee or registrant determined to be infected with HIV or HBV shall not perform an exposure-prone procedure except as approved by the expert review panel as specified in Iowa Code section 139A.22, established by the Iowa department of public health, or if the licensee or registrant

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. Study models and casts shall be maintained for six years after the date of completion of treatment. Alternatively, one year after completion of treatment, study models and casts may be provided to the patient for retention. 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; **ARC 1995C**, IAB 5/27/15, effective 7/1/15]

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).

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CHAPTER 28
DESIGNATION OF SPECIALTY
[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—28.1(153) General review. A dentist may represent that the dentist is a specialist in the specialties of dental public health, endodontics, oral and maxillofacial pathology, oral and maxillofacial surgery, orthodontics, pediatric dentistry, periodontics, prosthodontics, or oral and maxillofacial radiology provided the requirements of that area of specialty have been met. The board recognizes there are overlapping responsibilities among the recognized areas of dental practice. However, as a matter of principle, a specialist shall not routinely provide procedures that are beyond the scope of the specialty as defined below.

650—28.2(153) Dental public health.

28.2(1) *Definition.* Dental public health is the science and art of preventing and controlling dental diseases and promoting dental health through organized community efforts. It is that form of dental practice in which the community serves as the patient rather than the individual. It is concerned with the dental health education of the public, with applied dental research, and with the administration of group dental care programs as well as the prevention and control of dental diseases on a community basis.

28.2(2) *Requirements.*

a. Be a diplomate of the American Board of Dental Public Health; or

b. Have successfully completed a formal graduate or residency training program in dental public health accredited by the Commission on Dental Accreditation of the American Dental Association; or

c. Have limited practice to this area prior to January 1, 1965, and have been permitted to continue to do so pursuant to resolution of the ADA House of Delegates.

650—28.3(153) Endodontics.

28.3(1) *Definition.* Endodontics is the branch of dentistry which is concerned with the morphology, physiology and pathology of the human dental pulp and periradicular tissues. Its study and practice encompass the basic and clinical sciences including biology of the normal pulp, the etiology, diagnosis, prevention and treatment of diseases and injuries of the pulp and associated periradicular conditions.

28.3(2) *Requirements.*

a. Be a diplomate of the American Board of Endodontics; or

b. Have successfully completed a formal graduate or residency training program in endodontics accredited by the Commission on Dental Accreditation of the American Dental Association; or

c. Have limited practice to this area prior to January 1, 1965, and have been permitted to continue to do so pursuant to resolution of the ADA House of Delegates.

650—28.4(153) Oral and maxillofacial pathology.

28.4(1) *Definition.* Oral and maxillofacial pathology is the specialty of dentistry and discipline of pathology that deals with the nature, identification, and management of diseases affecting the oral and maxillofacial regions. It is a science that investigates the causes, processes, and effects of these diseases. The practice of oral and maxillofacial pathology includes research and diagnosis of diseases using clinical, radiographic, microscopic, biochemical, or other examinations.

28.4(2) *Requirements.*

a. Be a diplomate of the American Board of Oral and Maxillofacial Pathology; or

b. Be a fellow in the American Academy of Oral and Maxillofacial Pathology; or

c. Have successfully completed a formal graduate or residency training program in oral and maxillofacial pathology accredited by the Commission on Dental Accreditation of the American Dental Association; or

d. Have limited practice to this area prior to January 1, 1965, and have been permitted to continue to do so pursuant to resolution of the ADA House of Delegates.

650—28.5(153) Oral and maxillofacial surgery.

28.5(1) *Definition.* Oral and maxillofacial surgery is the specialty of dentistry which includes the diagnosis, surgical and adjunctive treatment of diseases, injuries and defects involving both the functional and esthetic aspects of the hard and soft tissues of the oral and maxillofacial region.

28.5(2) *Requirements.*

a. Be a diplomate of the American Board of Oral and Maxillofacial Surgery; or

b. Be a member of the American Association of Oral and Maxillofacial Surgeons; or

c. Have successfully completed a formal graduate or residency training program in oral surgery accredited by the Commission on Dental Accreditation of the American Dental Association; or

d. Have limited practice to this area prior to January 1, 1965, and have been permitted to continue to do so pursuant to resolution of the ADA House of Delegates.

650—28.6(153) Orthodontics and dentofacial orthopedics.

28.6(1) *Definition.* Orthodontics and dentofacial orthopedics is that area of dentistry concerned with the supervision, guidance and correction of the growing or mature dentofacial structures, including those conditions that require movement of teeth or correction of malrelationships and malformations of their related structures and the adjustment of relationships between and among teeth and facial bones by the application of forces or the stimulation and redirection of functional forces within the craniofacial complex, or both. Major responsibilities of orthodontic practice include the diagnosis, prevention, interception and treatment of all forms of malocclusion of the teeth and associated alterations in their surrounding structures; the design, application and control of functional and corrective appliances; and the guidance of the dentition and its supporting structures to attain and maintain optimum occlusal relations in physiologic and esthetic harmony among facial and cranial structures.

28.6(2) *Requirements.*

a. Be a diplomate of the American Board of Orthodontics; or

b. Have successfully completed a formal graduate or residency training program in orthodontics accredited by the Commission on Dental Accreditation of the American Dental Association; or

c. Have limited practice to this area prior to January 1, 1965, and have been permitted to continue to do so pursuant to resolution of the ADA House of Delegates.

650—28.7(153) Pediatric dentistry.

28.7(1) *Definition.* The specialty of pediatric dentistry is the practice and teaching of comprehensive preventive and therapeutic oral health care of children from birth through adolescence. It shall be construed to include care for special patients beyond the age of adolescence who demonstrate mental, physical or emotional problems.

28.7(2) *Requirements.*

a. Be a diplomate of the American Board of Pediatric Dentistry; or

b. Have successfully completed a formal graduate or residency training program in pediatric dentistry accredited by the Commission on Dental Accreditation of the American Dental Association; or

c. Have limited practice to this area prior to January 1, 1965, and have been permitted to continue to do so pursuant to resolution of the ADA House of Delegates.

650—28.8(153) Periodontics.

28.8(1) *Definition.* Periodontics is that specialty of dentistry which encompasses the prevention, diagnosis and treatment of diseases of the supporting and surrounding tissues of the teeth or their substitutes; and the maintenance of the health, function, and esthetics of these structures and tissues.

28.8(2) *Requirements.*

a. Be a diplomate of the American Board of Periodontology; or

b. Have successfully completed a formal graduate or residency training program in periodontics accredited by the Commission on Dental Accreditation of the American Dental Association; or

c. Have limited practice to this area prior to January 1, 1965, and have been permitted to continue to do so pursuant to resolution of the ADA House of Delegates.

650—28.9(153) Prosthodontics.

28.9(1) *Definition.* Prosthodontics is the dental specialty pertaining to the diagnosis, treatment planning, rehabilitation and maintenance of the oral function, comfort, appearance and health of patients with clinical conditions associated with missing or deficient teeth or maxillofacial tissues using biocompatible substitutes.

28.9(2) *Requirements.*

a. Have fulfilled those requirements prescribed by the American Board of Prosthodontics to be eligible to be examined therein for certification; or

b. Have successfully completed a formal graduate or residency training program in prosthodontics accredited by the Commission on Dental Accreditation of the American Dental Association; or

c. Have limited practice to this area prior to January 1, 1965, and have been permitted to continue to do so pursuant to resolution of the ADA House of Delegates.

650—28.10(153) Oral and maxillofacial radiology.

28.10(1) *Definition.* Oral and maxillofacial radiology is the specialty of dentistry and discipline of radiology concerned with the production and interpretation of images and data produced by all modalities of radiant energy that are used for the diagnosis and management of diseases, disorders, and conditions of the oral and maxillofacial region.

28.10(2) *Requirements.*

a. Be a diplomate of the American Board of Oral and Maxillofacial Radiology; or

b. Have successfully completed a formal graduate or residency training program in oral and maxillofacial radiology accredited by the Commission on Dental Accreditation of the American Dental Association.

These rules are intended to implement Iowa Code section 153.13.

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CHAPTER 29
SEDATION AND NITROUS OXIDE INHALATION ANALGESIA
[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—29.1(153) Definitions. For the purpose of these rules, relative to the administration of deep sedation/general anesthesia, moderate sedation, minimal sedation, and nitrous oxide inhalation analgesia by licensed dentists, the following definitions shall apply:

"Antianxiety premedication" means minimal sedation. A dentist providing minimal sedation must meet the requirements of rule 650—29.7(153).

"ASA" refers to the American Society of Anesthesiologists Patient Physical Status Classification System. Category 1 means normal healthy patients, and category 2 means patients with mild systemic disease. Category 3 means patients with moderate systemic disease, and category 4 means patients with severe systemic disease that is a constant threat to life.

"Board" means the Iowa dental board established in Iowa Code section 147.14(1)*"d."*

"Capnography" means the monitoring of the concentration of exhaled carbon dioxide in order to assess physiologic status or determine the adequacy of ventilation during anesthesia.

"Committee" or *"ACC"* means the anesthesia credentials committee of the board.

"Conscious sedation" means moderate sedation.

"Deep sedation/general anesthesia" is a controlled state of unconsciousness, produced by a pharmacologic agent, accompanied by a partial or complete loss of protective reflexes, including inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command.

"Facility" means a dental office, clinic, dental school, or other location where sedation is used.

"Hospitalization" means in-patient treatment at a hospital or clinic. Out-patient treatment at an emergency room or clinic is not considered to be hospitalization for the purposes of reporting adverse occurrences.

"Maximum recommended dose (MRD)" means the maximum FDA-recommended dose of a drug as printed in FDA-approved labeling for unmonitored home use.

"Minimal sedation" means a minimally depressed level of consciousness, produced by a pharmacological method, that retains the patient's ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command. Although cognitive function and coordination may be modestly impaired, ventilatory and cardiovascular functions are unaffected. The term "minimal sedation" also means "antianxiety premedication" or "anxiolysis." A dentist providing minimal sedation shall meet the requirements of rule 650—29.7(153).

"Moderate sedation" means a drug-induced depression of consciousness, either by enteral or parenteral means, during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway and spontaneous ventilation is adequate. Cardiovascular function is usually maintained. Prior to January 1, 2010, moderate sedation was referred to as conscious sedation.

"Monitoring nitrous oxide inhalation analgesia" means continually observing the patient receiving nitrous oxide and recognizing and notifying the dentist of any adverse reactions or complications.

"Nitrous oxide inhalation analgesia" refers to the administration by inhalation of a combination of nitrous oxide and oxygen producing an altered level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command.

"Pediatric" means patients aged 12 or under.

[**ARC 8614B**, IAB 3/10/10, effective 4/14/10; **ARC 1194C**, IAB 11/27/13, effective 11/4/13; **ARC 3491C**, IAB 12/6/17, effective 1/10/18]

650—29.2(153) Prohibitions.

29.2(1) *Deep sedation/general anesthesia.* Dentists licensed in this state shall not administer deep sedation/general anesthesia in the practice of dentistry until they have obtained a permit. Dentists shall

only administer deep sedation/general anesthesia in a facility that has successfully passed inspection as required by the provisions of this chapter.

29.2(2) *Moderate sedation.* Dentists licensed in this state shall not administer moderate sedation in the practice of dentistry until they have obtained a permit. Dentists shall only administer moderate sedation in a facility that has successfully passed inspection as required by the provisions of this chapter.

29.2(3) *Nitrous oxide inhalation analgesia.* Dentists licensed in this state shall not administer nitrous oxide inhalation analgesia in the practice of dentistry until they have complied with the provisions of rule 650—29.6(153).

29.2(4) *Antianxiety premedication.* Dentists licensed in this state shall not administer antianxiety premedication in the practice of dentistry until they have complied with the provisions of rule 650—29.7(153).

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

650—29.3(153) Requirements for the issuance of deep sedation/general anesthesia permits.

29.3(1) A permit may be issued to a licensed dentist to use deep sedation/general anesthesia on an outpatient basis for dental patients provided the dentist meets the following requirements:

a. Has successfully completed an advanced education program accredited by the Commission on Dental Accreditation that provides training in deep sedation and general anesthesia; and

b. Has formal training in airway management; and

c. Has completed a minimum of one year of advanced training in anesthesiology and related academic subjects beyond the undergraduate dental school level in a training program 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.

29.3(2) A dentist using deep sedation/general anesthesia shall maintain a properly equipped facility at each facility where sedation is administered. The dentist shall maintain and be trained on the following equipment at each facility where sedation is provided: capnography to monitor end-tidal CO_2, pretracheal or precordial stethoscope to continually monitor auscultation of breath sounds, 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.

29.3(3) The dentist shall ensure that each facility where sedation services are provided is permanently equipped pursuant to subrule 29.3(2) and staffed with trained auxiliary personnel capable of reasonably handling procedures, problems and emergencies incident to the administration of general anesthesia. Auxiliary personnel shall maintain current certification in basic life support and be capable of administering basic life support.

29.3(4) A dentist administering deep sedation/general anesthesia must document and maintain current certification in Advanced Cardiac Life Support (ACLS). Current certification means certification by an organization on an annual basis or, if that certifying organization requires certification on a less frequent basis, evidence that the permit holder has been properly certified for each year covered by the renewal period. In addition, the course must include a clinical component.

29.3(5) A dentist who is performing a procedure for which deep sedation/general anesthesia was induced shall not administer the general anesthetic and monitor the patient without the presence and assistance of at least two qualified auxiliary personnel in the room who are qualified under subrule 29.3(3).

29.3(6) A dentist qualified to administer deep sedation/general anesthesia under this rule may administer moderate sedation and nitrous oxide inhalation analgesia provided the dentist meets the requirements of rule 650—29.6(153).

29.3(7) A licensed dentist who has been utilizing deep sedation/general anesthesia in a competent manner for the five-year period preceding July 9, 1986, but has not had the benefit of formal training

as outlined in this rule, may apply for a permit provided the dentist fulfills the provisions set forth in 29.3(2), 29.3(3), 29.3(4), and 29.3(5).

[**ARC 8614B**, IAB 3/10/10, effective 4/14/10; **ARC 1194C**, IAB 11/27/13, effective 11/4/13; **ARC 3491C**, IAB 12/6/17, effective 1/10/18]

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 successfully completed a training program that includes rescuing patients from a deeper level of sedation than intended, including managing the airway, intravascular or intraosseous access, and reversal medications; 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 to monitor end-tidal CO_2 unless precluded or invalidated by the nature of the patient, procedure or equipment, pretracheal or 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 certification in Advanced Cardiac Life Support (ACLS). A dentist administering moderate sedation to pediatric patients may maintain current certification in Pediatric Advanced Life Support (PALS) in lieu of ACLS. Current certification means certification by an organization on an annual basis or, if that certifying organization requires certification on a less frequent basis, evidence that the permit holder has been properly certified for each year covered by the renewal period. In addition, the course must include a clinical component.

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; **ARC 1810C**, IAB 1/7/15, effective 2/11/15; **ARC 3491C**, IAB 12/6/17, effective 1/10/18]

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 and pretracheal or precordial stethoscope.

a. 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.

b. All general anesthesia/deep sedation permit holders shall use a pretracheal or precordial stethoscope to continually monitor auscultation of breath sounds beginning January 1, 2018.

29.5(12) Use of capnography or pretracheal/precordial stethoscope required for moderate sedation permit holders. Beginning January 1, 2018, all moderate sedation permit holders shall use capnography to monitor end-tidal CO_2 unless precluded or invalidated by the nature of the patient, procedure or equipment. In cases where the use of capnography is precluded or invalidated for the reasons listed

previously, a pretracheal or precordial stethoscope must be used to continually monitor the auscultation of breath sounds at all facilities where permit holders provide sedation.
[**ARC 8614B**, IAB 3/10/10, effective 4/14/10; **ARC 0265C**, IAB 8/8/12, effective 9/12/12; **ARC 1194C**, IAB 11/27/13, effective 11/4/13; **ARC 1810C**, IAB 1/7/15, effective 2/11/15; **ARC 3491C**, IAB 12/6/17, effective 1/10/18]

650—29.6(153) Nitrous oxide inhalation analgesia.

29.6(1) A dentist may use nitrous oxide inhalation analgesia sedation on an outpatient basis for dental patients provided the dentist:

a. Has completed a board approved course of training; or

b. Has training equivalent to that required in 29.6(1)*"a"* while a student in an accredited school of dentistry, and

c. Has adequate equipment with fail-safe features and minimum oxygen flow which meets FDA standards.

d. Has routine inspection, calibration, and maintenance on equipment performed every two years and maintains documentation of such, and provides documentation to the board upon request.

e. Ensures the patient is continually monitored by qualified personnel while receiving nitrous oxide inhalation analgesia.

29.6(2) A dentist utilizing nitrous oxide inhalation analgesia shall be trained and capable of administering basic life support, as demonstrated by current certification in a nationally recognized course in cardiopulmonary resuscitation.

29.6(3) A licensed dentist who has been utilizing nitrous oxide inhalation analgesia in a dental office in a competent manner for the 12-month period preceding July 9, 1986, but has not had the benefit of formal training outlined in paragraph 29.6(1)*"a"* or 29.6(1)*"b,"* may continue the use provided the dentist fulfills the requirements of paragraphs 29.6(1)*"c"* and *"d"* and subrule 29.6(2).

29.6(4) A dental hygienist may administer nitrous oxide inhalation analgesia provided the administration of nitrous oxide inhalation analgesia has been delegated by a dentist and the hygienist meets the following qualifications:

a. Has completed a board-approved course of training; or

b. Has training equivalent to that required in 29.6(4)*"a"* while a student in an accredited school of dental hygiene.

29.6(5) A dental hygienist or registered dental assistant may monitor a patient under nitrous oxide inhalation analgesia provided all of the following requirements are met:

a. The hygienist or registered dental assistant has completed a board-approved course of training or has received equivalent training while a student in an accredited school of dental hygiene or dental assisting;

b. The task has been delegated by a dentist and is performed under the direct supervision of a dentist;

c. Any adverse reactions are reported to the supervising dentist immediately; and

d. The dentist dismisses the patient following completion of the procedure.

29.6(6) A dentist who delegates the administration of nitrous oxide inhalation analgesia in accordance with 29.6(4) shall provide direct supervision and establish a written office protocol for taking vital signs, adjusting anesthetic concentrations, and addressing emergency situations that may arise.

29.6(7) If the dentist intends to achieve a state of moderate sedation from the administration of nitrous oxide inhalation analgesia, the rules for moderate sedation apply.
[**ARC 8369B**, IAB 12/16/09, effective 1/20/10; **ARC 8614B**, IAB 3/10/10, effective 4/14/10]

650—29.7(153) Minimal sedation.

29.7(1) The term "minimal sedation" also means "antianxiety premedication" or "anxiolysis."

29.7(2) If a dentist intends to achieve a state of moderate sedation from the administration of minimal sedation, the rules for moderate sedation shall apply.

29.7(3) A dentist utilizing minimal sedation and the dentist's auxiliary personnel shall be trained in and capable of administering basic life support.

29.7(4) Minimal sedation for adults.

a. Minimal sedation for adults is limited to a dentist's prescribing or administering a single enteral drug that is no more than 1.0 times the maximum recommended dose (MRD) of a drug that can be prescribed for unmonitored home use. A single supplemental dose of the same drug may be administered, provided the supplemental dose is no more than one-half of the initial dose and the dentist does not administer the supplemental dose until the dentist has determined the clinical half-life of the initial dose has passed.

b. The total aggregate dose shall not exceed 1.5 times the MRD on the day of treatment.

c. For adult patients, a dentist may also utilize nitrous oxide inhalation analgesia in combination with a single enteral drug.

d. Combining two or more enteral drugs, excluding nitrous oxide, prescribing or administering drugs that are not recommended for unmonitored home use, or administering any intravenous drug constitutes moderate sedation and requires that the dentist must hold a moderate sedation permit.

29.7(5) Minimal sedation for ASA category 3 or 4 patients or pediatric patients.

a. Minimal sedation for ASA category 3 or 4 patients or pediatric patients is limited to a dentist's prescribing or administering a single dose of a single enteral drug that can be prescribed for unmonitored home use and that is no more than 1.0 times the maximum recommended dose.

b. A dentist may administer nitrous oxide inhalation analgesia for minimal sedation of ASA category 3 or 4 patients or pediatric patients provided the concentration does not exceed 50 percent and is not used in combination with any other drug.

c. The use of one or more enteral drugs in combination with nitrous oxide, the use of more than a single enteral drug, or the administration of any intravenous drug in ASA category 3 or 4 patients or pediatric patients constitutes moderate sedation and requires that the dentist must hold a moderate sedation permit.

29.7(6) A dentist providing minimal sedation shall not bill for non-IV conscious or moderate sedation.

29.7(7) A dentist shall ensure that any advertisements related to the availability of antianxiety premedication, anxiolysis, or minimal sedation clearly reflect the level of sedation provided and are not misleading.

[**ARC 8614B**, IAB 3/10/10, effective 4/14/10]

650—29.8(153) Noncompliance. Violations of the provisions of this chapter may result in revocation or suspension of the dentist's permit or other disciplinary measures as deemed appropriate by the board.

650—29.9(153) Reporting of adverse occurrences related to sedation, nitrous oxide inhalation analgesia, and antianxiety premedication.

29.9(1) *Reporting.* All licensed dentists in the practice of dentistry in this state must submit a report within a period of seven days to the board office of any mortality or other incident which results in temporary or permanent physical or mental injury requiring hospitalization of the patient during, or as a result of, antianxiety premedication, nitrous oxide inhalation analgesia, or sedation. The report shall include responses to at least the following:

a. Description of dental procedure.

b. Description of preoperative physical condition of patient.

c. List of drugs and dosage administered.

d. Description, in detail, of techniques utilized in administering the drugs utilized.

e. Description of adverse occurrence:

1. Description, in detail, of symptoms of any complications, to include but not be limited to onset, and type of symptoms in patient.
2. Treatment instituted on the patient.
3. Response of the patient to the treatment.

f. Description of the patient's condition on termination of any procedures undertaken.

29.9(2) *Failure to report.* Failure to comply with subrule 29.9(1), when the occurrence is related to the use of sedation, nitrous oxide inhalation analgesia, or antianxiety premedication, may result in the dentist's loss of authorization to administer sedation, nitrous oxide inhalation analgesia, or antianxiety premedication or in any other sanction provided by law.
[**ARC 8614B**, IAB 3/10/10, effective 4/14/10; **ARC 1194C**, IAB 11/27/13, effective 11/4/13]

650—29.10(153) Anesthesia credentials committee.

29.10(1) The anesthesia credentials committee is a peer review committee appointed by the board to assist the board in the administration of this chapter. This committee shall be chaired by a member of the board and shall include at least six additional members who are licensed to practice dentistry in Iowa. At least four members of the committee shall hold deep sedation/general anesthesia or moderate sedation permits issued under this chapter.

29.10(2) The anesthesia credentials committee shall perform the following duties at the request of the board:

a. Review all permit applications and make recommendations to the board regarding those applications.

b. Conduct site visits at facilities under rule 650—29.5(153) and report the results of those site visits to the board. The anesthesia credentials committee may submit recommendations to the board regarding the appropriate nature and frequency of site visits.

c. Perform professional evaluations and report the results of those evaluations to the board.

d. Other duties as delegated by the board or board chairperson.
[**ARC 1194C**, IAB 11/27/13, effective 11/4/13]

650—29.11(153) Review of permit applications.

29.11(1) *Review by board staff.* Upon receipt of a completed application, board staff will review the application for eligibility. Following staff review, a public meeting of the ACC will be scheduled.

29.11(2) *Review by the anesthesia credentials committee (ACC).* Following review and consideration of an application, the ACC may at its discretion:

a. Request additional information;

b. Request an investigation;

c. Request that the applicant appear for an interview;

d. Recommend issuance of the permit;

e. Recommend issuance of the permit under certain terms and conditions or with certain restrictions;

f. Recommend denial of the permit;

g. Refer the permit application to the board for review and consideration without recommendation; or

h. Request a peer review evaluation.

29.11(3) *Review by executive director.* If, following review and consideration of an application, the ACC recommends issuance of the permit with no restrictions or conditions, the executive director as authorized by the board has discretion to authorize the issuance of the permit.

29.11(4) *Review by board.* The board shall consider applications and recommendations from the ACC. The board may take any of the following actions:

a. Request additional information;

b. Request an investigation;

c. Request that the applicant appear for an interview;

d. Grant the permit;

e. Grant the permit under certain terms and conditions or with certain restrictions; or

f. Deny the permit.

29.11(5) *Right to defer final action.* The ACC or board may defer final action on an application if there is an investigation or disciplinary action pending against an applicant who may otherwise meet the requirements for permit until such time as the ACC or board is satisfied that issuance of a permit to the applicant poses no risk to the health and safety of Iowans.

29.11(6) *Appeal process for denials.* If a permit application is denied, an applicant may file an appeal of the final decision using the process described in rule 650—11.10(147).
[**ARC 1194C**, IAB 11/27/13, effective 11/4/13]

650—29.12(153) Renewal. A permit to administer deep sedation/general anesthesia or moderate sedation shall be renewed biennially at the time of license renewal. Permits expire August 31 of every even-numbered year.

29.12(1) To renew a permit, a licensee must submit the following:

a. Evidence of renewal of ACLS certification.

b. A minimum of six hours of continuing education in the area of sedation. These hours may also be submitted as part of license renewal requirements.

c. The appropriate fee for renewal as specified in 650—Chapter 15.

29.12(2) Failure to renew the permit prior to November 1 following its expiration shall cause the permit to lapse and become invalid for practice.

29.12(3) A permit that has been lapsed may be reinstated upon submission of a new application for a permit in compliance with rule 650—29.5(153) and payment of the application fee as specified in 650—Chapter 15.
[**ARC 8614B**, IAB 3/10/10, effective 4/14/10; **ARC 1194C**, IAB 11/27/13, effective 11/4/13]

650—29.13(147,153,272C) Grounds for nonrenewal. A request to renew a permit may be denied on any of the following grounds:

29.13(1) After proper notice and hearing, for a violation of these rules or Iowa Code chapter 147, 153, or 272C during the term of the last permit renewal.

29.13(2) Failure to pay required fees.

29.13(3) Failure to obtain required continuing education.

29.13(4) Failure to provide documentation of current ACLS certification.

29.13(5) Failure to provide documentation of maintaining a properly equipped facility.

29.13(6) Receipt of a certificate of noncompliance from the college student aid commission or the child support recovery unit of the department of human services in accordance with 650—Chapter 33 or 650—Chapter 34.
[**ARC 1194C**, IAB 11/27/13, effective 11/4/13]

650—29.14(153) Record keeping.

29.14(1) *Minimal sedation.* An appropriate sedative record must be maintained and must contain the names of all drugs administered, including local anesthetics and nitrous oxide, dosages, time administered, and monitored physiological parameters, including oxygenation, ventilation, and circulation.

29.14(2) *Moderate or deep sedation.* The patient chart must include preoperative and postoperative vital signs, drugs administered, dosage administered, anesthesia time in minutes, and monitors used. Pulse oximetry, heart rate, respiratory rate, and blood pressure must be recorded continually until the patient is fully ambulatory. The chart should contain the name of the person to whom the patient was discharged.

29.14(3) *Nitrous oxide inhalation analgesia.* The patient chart must include the concentration administered and duration of administration, as well as any vital signs taken.
[**ARC 8369B**, IAB 12/16/09, effective 1/20/10; **ARC 8614B**, IAB 3/10/10, effective 4/14/10; **ARC 1194C**, IAB 11/27/13, effective 11/4/13]

These rules are intended to implement Iowa Code sections 153.33 and 153.34.

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◊ Two or more ARCs

1 Effective date of 29.6(4) to 29.6(6) delayed 70 days by the Administrative Rules Review Committee at its meeting held June 9, 1998.

2 Effective date of 29.6(4) to 29.6(6) delayed until the end of the 2000 Session of the General Assembly by the Administrative Rules Review Committee at its meeting held September 15, 1999. Subrules 29.6(4) and 29.6(5) were rescinded IAB 2/9/00, effective 3/15/00; delay on subrule 29.6(6) lifted by the Administrative Rules Review Committee at its meeting held January 4, 2000, effective January 5, 2000.

TITLE VI
PROFESSIONAL REGULATION

CHAPTER 30
DISCIPLINE

[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—30.1(153) General. The board has authority to impose discipline for any violation of Iowa Code title IV, chapter 272C, or the rules promulgated thereunder.

650—30.2(153) Methods of discipline. The board has authority to impose one or more of the following disciplinary sanctions:

1. Revocation of license or registration.
2. Suspension of license or registration until further order of the board or for a specified period.
3. Nonrenewal of license or registration.
4. Prohibit permanently, until further order of the board or for a specified period, the engaging in specified procedures, methods or acts.
5. Probation.
6. Require additional education or training.
7. Require clinical or written examination.
8. Order a physical, mental, or clinical evaluation.
9. Impose civil penalties not to exceed $10,000 where specifically provided by rules.
10. Issue citation and warning.
11. Such other sanctions allowed by law as may be appropriate.

650—30.3(153) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative seriousness of the violation as it relates to assuring the citizens of this state a high standard of professional care.
2. The facts of the particular violation.
3. Any extenuating circumstances or other countervailing considerations.
4. Number of prior violations or complaints.
5. Seriousness of prior violations or complaints.
6. Whether remedial action has been taken.
7. Such other factors as may reflect upon the competency, ethical standards and professional conduct of the licensee or registrant.

650—30.4(147,153,272C) Grounds for discipline. The following shall constitute grounds for the imposition by the board of one or more of the disciplinary sanctions set forth in rule 650—30.2(153) specifically including the imposition of civil penalties not to exceed $10,000. This rule is not subject to waiver pursuant to 650—Chapter 7 or any other provision of law.

1. Fraud or deceit in procuring a resident dentist license, faculty permit, or license to practice dentistry or dental hygiene, or registration as a dental assistant, whether by examination or credentials. Fraud or deceit shall mean any false or misleading statement of a material fact or omission of information required to be disclosed.
2. Fraud or deceit in renewing a resident dentist license, faculty permit, or other license to practice dentistry or dental hygiene, or registration as a dental assistant, including but not limited to false or misleading statements concerning continuing education required for renewal.
3. Fraud in representation as to skill or ability whether by words or conduct, false or misleading allegations, or concealment of that which should have been disclosed, including but not limited to false or misleading statements contained in advertising allowed by these rules.
4. Conviction of a felony crime or conviction of a misdemeanor crime if the misdemeanor conviction relates to the practice of the profession.
5. Habitual use of drugs or intoxicants rendering unfit for practice.

6. Practicing dentistry, dental hygiene, or dental assisting while in a state of advanced physical or mental disability where such disability renders the licensee or registrant incapable of performing professional services or impairs functions of judgment necessary to the practice.

7. Improper sexual contact with, or making suggestive, lewd, lascivious or improper remarks or advances to a patient or a coworker.

8. Willful and gross malpractice.

9. Willful and gross neglect.

10. Obtaining any fee by fraud or misrepresentation.

11. Receiving or paying any fees for referral of patients.

12. Failure to pay fees required by these rules.

13. Unprofessional conduct including, but not limited to, those acts defined by Iowa Code section 153.32 or any violation of 650—Chapter 27.

14. Failure to preserve the confidentiality of patient information by using or attempting to use any patient records from the office of a current or prior employer.

15. Engaging in the practice of dentistry, dental hygiene, or dental assisting in Iowa after failing to renew a license or registration to practice in Iowa within 60 days of expiration of the license or registration.

16. Failure to maintain a satisfactory standard of competency

17. Failure to maintain adequate safety and sanitary conditions for a dental office.

18. Indiscriminately or promiscuously prescribing, administering, or dispensing any drug or prescribing or dispensing any drug for other than lawful purposes including, but not limited to, self-prescribing, self-administering or self-dispensing controlled substances or tramadol, or prescribing, dispensing, or administering controlled substances or tramadol to members of the licensee's immediate family, except for an acute dental condition or on an emergency basis for a dental condition when the licensee conducts an examination, establishes a patient record, and maintains proper documentation. Immediate family includes the licensee's spouse or domestic partner and either of the licensee's, spouse's, or domestic partner's parents, stepparents or grandparents; the licensee's children or stepchildren and any child's spouse, domestic partner, or children; the siblings of the licensee or the licensee's spouse or domestic partner and the sibling's spouse or domestic partner; or anyone else living with the licensee.

19. Encouraging, assisting or enabling the unauthorized practice of dentistry, dental hygiene, or dental assisting in any manner.

20. Associating with a dental laboratory or technician where the dentist delegates or permits the assumption by the dental laboratory or dental laboratory technician of any service constituting the practice of dentistry or where the laboratory or technician holds itself out to the public in any way as selling, supplying, furnishing, constructing, repairing or altering prosthetic dentures, bridges, ortho dontic or other appliances or devices to be used as substitutes for or as part of natural teeth or associated structures, or for correction of malocclusions or deformities.

21. Failure to prominently display the names of all persons who are practicing dentistry, dental hygiene, or dental assisting within an office.

22. Employment of or permitting an unlicensed or unregistered person or a person with a lapsed license or registration to practice dentistry, dental hygiene, or dental assisting.

23. Failure to comply with the decision of the board imposing discipline.

24. Failure to report any of the following:

Every adverse judgment in a professional malpractice action to which the licensee or registrant was a party.

Every settlement of a claim against the licensee or registrant alleging malpractice.

Every conviction or violation of law or statute of this or another state as set forth in paragraph 30.4"4."

25. Rescinded IAB 2/6/02, effective 3/13/02.

26. Knowingly providing false information to the board or an agent of the board during the course of an inspection or investigation or interfering with an inspection or investigation.

27. In a case that has been referred by the Iowa practitioner review committee (IPRC) to the board, violating the terms of an initial agreement with the IPRC or a recovery contract entered into with the IPRC.

28. Violating any provision of Iowa law, or being a party to or assisting in any violation of any provision of Iowa law.

29. Any willful or repeated violations of Iowa law, or being a party to or assisting in any violation of any provision of Iowa law.

30. Knowingly submitting a false continuing education reporting form or failure to meet the continuing education requirements for renewal of an active license or registration.

31. Failure to notify the board of change of address within 60 days.

32. Failure to report a license or registration revocation, suspension or other disciplinary action taken by a licensing authority of another state, territory or country within 30 days of the final action by the licensing authority. A stay by an appellate court shall not negate this requirement; however, if the disciplinary action is overturned or reversed by a court of last resort, the report shall be expunged from the records of the board when the board is so notified.

33. Failure to comply with a subpoena issued by the board.

34. Engaging in the practice of dentistry, dental hygiene, or dental assisting with a lapsed or inactive license, permit, or registration, or engaging in dental radiography with a lapsed or inactive dental radiography qualification.

35. Failure to comply with standard precautions for preventing and controlling infectious diseases and managing personnel health and safety concerns related to infection control, as required or recommended for dentistry by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

36. Failure to comply with the recommendations of the expert review panel established pursuant to Iowa Code subsection 139C.2(3) and applicable hospital protocols established pursuant to subsection 139C.2(1).

37. Failure to comply with the infection control standards which are consistent with the standards set forth in 875—Chapters 10 and 26.

38. Failure to fully and promptly comply with office inspections conducted at the request of the board to determine compliance with sanitation and infection control standards.

39. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the licensee's or registrant's profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

40. Habitual intoxication or addiction to the use of drugs.

41. Noncompliance with a support order or with a written agreement for payment of support as evidenced by a certificate of noncompliance issued pursuant to Iowa Code chapter 252J. Disciplinary proceedings initiated under this subrule shall follow the procedures set forth in Iowa Code chapter 252J and Iowa Administrative Code 650—Chapter 33.

42. Receipt of a certificate of noncompliance issued by the college student aid commission pursuant to Iowa Code sections 261.121 to 261.127. Disciplinary proceedings initiated under this subrule shall follow the procedures set forth in Iowa Code sections 261.121 to 261.127 and Iowa Administrative Code 650—Chapter 34.

43. Practicing beyond training.

44. Delegating any acts to any licensee or registrant that are beyond the training or education of the licensee or registrant, or that are otherwise prohibited by rule.

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

650—30.5(153) Impaired practitioner review committee. Transferred IAB 2/6/02, effective 3/13/02. See 650—Chapter 35.

These rules are intended to implement Iowa Code sections 261.121 to 261.127 and Iowa Code chapters 147, 153, 252J, 272C, and 598.

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†See HJR 2006 of 2006 Session of the Eighty-first General Assembly.

CHAPTER 31
COMPLAINTS AND INVESTIGATIONS
[Prior to 5/18/88, Dental Examiners, Board of [320]]

650—31.1(272C) Complaint review. The board shall, upon receipt of a complaint, or may upon its own motion, pursuant to other evidence received by the board, review and investigate alleged acts or omissions which the board reasonably believes constitute cause under applicable law or administrative rule for licensee or registrant discipline. All complaints regarding the practice of dental hygiene will be initially directed to the dental hygiene committee. The committee shall review the complaint and make a recommendation to the board.

650—31.2(153) Form and content. A written complaint should include the following facts:

1. The full name, address, and telephone number of the complainant.
2. The full name, address, and telephone number of the licensee or registrant.
3. A statement of the facts concerning the alleged acts or omissions.

650—31.3(153) Address. The written complaint may be delivered personally, electronically or by mail to the executive director of the board. The current office address is 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687.

650—31.4(153) Investigation. In order for the board to determine if probable cause exists for a hearing on the complaint, the executive director or authorized designee shall cause an investigation to be made into the allegations of the complaint.

650—31.5(153) Issuance of investigatory subpoenas. Pursuant to Iowa Code sections 17A.13(1) and 272C.6(3), the board has the authority to issue an investigatory subpoena to compel the production of evidence deemed necessary in connection with a licensee disciplinary investigation. A subpoena issued by the board in connection with a licensee disciplinary investigation may seek evidence whether or not it is privileged or confidential under law.

31.5(1) The executive director or designee may, upon the written request of a board investigator or on the director's own initiative, subpoena books, correspondence, papers, records, and other real evidence which is necessary for the board to decide whether to institute a contested case proceeding. In the case of a subpoena for mental health records, each of the following conditions shall be satisfied prior to the issuance of the subpoena:

a. The nature of the complaint reasonably justifies the issuance of a subpoena;

b. Adequate safeguards have been established to prevent unauthorized disclosure;

c. An express statutory mandate, articulated public policy, or other recognizable public interest favors access; and

d. An attempt was made to notify the patient and to secure an authorization from the patient for release of the records at issue.

31.5(2) A written request for a subpoena or the director's written memorandum in support of the issuance of a subpoena shall contain the following:

a. The name and address of the person to whom the subpoena will be directed;

b. A specific description of the books, papers, records or other real evidence requested;

c. An explanation of why the documents sought to be subpoenaed are necessary for the board to determine whether it should institute a contested case proceeding; and

d. In the case of a subpoena request for mental health records, confirmation that the conditions described in 31.5(1) have been satisfied.

31.5(3) Each subpoena shall contain:

a. The name and address of the person to whom the subpoena is directed;

b. A description of the books, papers, records or other real evidence requested;

c. The date, time and location for production or inspection and copying;

d. The time within which a motion to quash or modify the subpoena must be filed;

e. The signature, address and telephone number of the executive director or designee;

f. The date of issuance; and

g. A return of service attached to the subpoena.

31.5(4) Any person who is aggrieved or adversely affected by compliance with the subpoena must, within 14 days after service of the subpoena, or before the time specified for compliance if such time is less than 14 days, file with the board a motion to quash or modify the subpoena. The motion shall describe the legal reasons why the subpoena should be quashed or modified, and may be accompanied by legal briefs or factual affidavits.

31.5(5) Upon receipt of a timely motion to quash or modify a subpoena, the board may request an administrative law judge to hold a hearing and issue a decision, or the board may conduct a hearing and issue a decision. Oral argument may be scheduled at the discretion of the board or the administrative law judge. The administrative law judge or the board may quash or modify the subpoena, deny the motion, or issue an appropriate protective order.

31.5(6) A person aggrieved by a ruling of an administrative law judge who desires to challenge that ruling must appeal the ruling to the board by serving on the executive director, either in person or by certified mail, a notice of appeal within ten days after service of the decision of the administrative law judge.

31.5(7) If the person contesting the subpoena is not the person under investigation, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is the person under investigation, the board's decision is not final for purposes of judicial review until either the person is notified the investigation has been concluded with no formal action, or there is a final decision in the contested case.

650—31.6(153) Board appearances. The board may request a licensee or registrant to appear before the board to discuss a pending investigation. By electing to participate in the board appearance, the licensee or registrant waives any objection to a board member's both participating in the appearance and later participating as a decision maker in a contested case proceeding on the grounds of a personal investigation and a combination of investigative and adjudicative functions. If the executive director participates in the appearance, the licensee or registrant further waives any objection to having the executive director assist the board in the contested case proceeding.

650—31.7(153) Peer review. A complaint may be assigned to a peer review committee for review, investigation and report.

31.7(1) The board shall determine which peer review committee will review a case involving a dentist or dental assistant and what complaints or other matters shall be referred to a peer review committee for investigation, review, and report to the board. The board may use the peer review committee system organized under the dental care programs council of the Iowa dental association, a peer review committee system organized by the Iowa dental assistants association, or a specifically constituted peer review committee designated by the board for matters involving dentists or dental assistants.

31.7(2) The dental hygiene committee shall determine which peer review committee will review a case involving a dental hygienist and what complaints or other matters shall be referred to a peer review committee for investigation, review, and report to the dental hygiene committee. The dental hygiene committee may use the peer review system organized under the ethics committee of the Iowa dental hygienists' association or a specifically constituted peer review committee designated by the dental hygiene committee for matters involving dental hygienists.

31.7(3) The Iowa dental association, the Iowa dental hygienists' association and the Iowa dental assistants association shall register yearly and keep current their peer review systems with the board. Peer review committee members shall be registered with the board when appointed.

31.7(4) Members of the peer review committees shall not be liable for acts, omissions or decisions made in connection with service on the peer review committee. However, immunity from civil liability shall not apply if the act is done with malice.

650—31.8(272C) Duties of peer review committees.

31.8(1) The peer review committees shall observe the requirements of confidentiality imposed by Iowa Code section 272C.6.

31.8(2) The board may provide investigative and related services to peer review committees.

31.8(3) A peer review committee shall thoroughly investigate a complaint as assigned and provide a written report to the board in accordance with the board's direction.

31.8(4) The peer review report shall contain a statement of facts and a recommendation as to whether a violation of the standard of care occurred. The peer review committee should consider relevant statutes, board rules, ethical standards and standards of care in making its recommendations.

31.8(5) The peer review report shall be signed by the members of the peer review committee concurring in the report.

31.8(6) Upon completion, the peer review report and all investigative information shall be submitted to the board.

650—31.9(272C) Board review. The board shall review all investigative reports and proceed pursuant to 650—Chapter 51.

650—31.10(272C) Confidentiality of investigative files. Complaint files, investigation files, all other investigation reports, and other investigative information in the possession of the board or peer review committee acting under the authority of the board or its employees or agents which relate to licensee or registrant discipline shall be privileged and confidential, and shall not be subject to discovery, subpoena, or other means of legal compulsion for their release to any person other than the licensee or registrant and the board, its employees and agents involved in licensee or registrant discipline, or be admissible in evidence in any judicial or administrative proceeding other than the proceeding involving licensee or registrant discipline. However, a final written decision and finding of fact of the board in a disciplinary proceeding shall be public record.

650—31.11(272C) Reporting of judgments or settlements. Each licensee or registrant shall report to the board every adverse judgment in a malpractice action to which the licensee or registrant is a party and every settlement of a claim against the licensee or registrant alleging malpractice. The report together with a copy of the judgment or settlement must be filed with the board within 30 days from the date of said judgment or settlement.

650—31.12(272C) Investigation of reports of judgments and settlements. Reports received by the board from the commissioner of insurance, insurance carriers and licensees or registrants involving adverse judgments in a professional malpractice action, and settlement of claims alleging malpractice, shall be reviewed and investigated by the board in the same manner as is prescribed in these rules for the review and investigation of complaints.

650—31.13(272C) Mandatory reporting.

31.13(1) *Definitions.* For the purposes of this rule, the following definitions apply:

"Knowledge" means any information or evidence acquired from personal observation, from a reliable or authoritative source, or under circumstances that cause the licensee or registrant to believe that there exists a substantial likelihood that an act or omission may have occurred.

"Reportable act or omission" means any conduct that may constitute a basis for disciplinary action under the rules or statutory provisions governing the practice of dentistry, dental hygiene, or dental assisting in Iowa.

31.13(2) *Reporting requirement.* A report shall be filed with the board when a licensee or registrant has knowledge that another person licensed or registered by the board may have committed a reportable act or omission.

a. The report shall be filed with the board within 30 days from the date the licensee or registrant acquires knowledge of the reportable act or omission. However, in the event such reportable act or

omission poses an immediate threat to patient safety, the report shall be filed within 24 hours from the date the licensee or registrant acquires knowledge of the reportable act or omission.

b. The report shall contain the name and the address of the licensee or registrant who may have committed the reportable act or omission, the date, time, place and circumstances in which the reportable act or omission may have occurred, and a statement indicating how the knowledge was acquired.

c. The requirement to report takes effect when a licensee or registrant has knowledge that another licensee or registrant may have committed a reportable act or omission. The final determination of whether or not such act or omission has occurred is the responsibility of the board.

31.13(3) *Failure to report.* Failure to report knowledge of a reportable act or omission within the required time period shall constitute a basis for the initiation of a board disciplinary action against the licensee or registrant who failed to report.

650—31.14(272C) Failure to report licensee or registrant. Rescinded IAB 5/11/05, effective 6/15/05.

650—31.15(272C) Immunities. A person shall not be civilly liable as a result of filing a report or complaint with the board, or for the disclosure to the board or its agents or employees, whether or not pursuant to a subpoena of records, documents, testimony or other forms of information which constitute privileged matter concerning a recipient of health care services or some other person, in connection with proceedings of a peer review committee, or in connection with duties of the board. However, immunity from civil liability shall not apply if the act is done with malice.

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and Iowa Code sections 153.33, 272C.3, and 272C.4.

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[1] Effective date of **ARC 3520B**, Items 17 and 20, delayed 70 days by the Administrative Rules Review Committee at its meeting held August 11, 2004.

CHAPTER 32
MEDIATION OF DISPUTES

650—32.1(153) Definitions.

"Board" means the Iowa board of dental examiners.

"Center" or *"mediation center"* means an approved dispute resolution center that has applied for and received approval from the executive director of the prosecuting attorneys training coordination council provided for in Iowa Code section 679.3.

"Mediation" means an informal dispute resolution process by which the parties involved in a dispute voluntarily agree to enter into informal discussion and negotiation with the assistance of a mediator.

650—32.2(153) Mediation authorized. The board has the authority to provide for mediation of disputes between licensees or registrants and their patients when requested by either party or recommended by the board and agreed to by the parties.

32.2(1) The board may recommend for mediation those cases that are appropriate, which could include, but are not limited to, cases involving fee disputes.

32.2(2) The board's referral of a matter to mediation shall not preclude the board from taking disciplinary action against the affected licensee or registrant. There is no obligation that the licensee or registrant participate in mediation and the licensee or registrant shall not be subject to disciplinary action for failure to participate in a board recommended mediation.

650—32.3(153) Mediation process.

32.3(1) Subsequent to an investigation by the board, the board may recommend mediation to address a dispute between a licensee or registrant and a patient.

32.3(2) If mediation is recommended by the board, the board shall notify the licensee or registrant, the patient and a mediation center of the recommendation within 30 days.

32.3(3) Upon receipt of a mediation request from the board, the mediation center shall provide the parties with a written statement setting forth the center's established procedures and the cost, if any, prior to each mediation session.

32.3(4) If mediation is agreed upon by the parties involved, the mediation center shall schedule a mediation at a time and place convenient and neutral to the parties and the mediator.

650—32.4(153) Assignment of mediator. The assignment of a mediator shall be made by the mediation center. At the request of either party, and upon a showing of good cause, the director of the mediation center shall review the assignment of the mediator and shall, upon a showing of good cause, remove a mediator and assign another mediator to the case. Good cause includes partiality, bias, or the existence of a personal or professional relationship with any of the parties.

650—32.5(153) Cancellation. If mediation is scheduled, either party may contact the mediation center to cancel the mediation meeting or reschedule the mediation meeting.

650—32.6(153) Mediation meetings. In addition to any duties imposed by statute or rule, each mediator shall:

32.6(1) Clarify the names of all participating parties present and facilitate agreement on the attendance of assisting parties at the mediation meeting, as well as the extent to which such persons may participate in the proceedings.

32.6(2) Ensure that the parties understand that the mediator does not legally represent any of the parties and is neutral in the proceedings.

32.6(3) Help the parties review any proposed solution to determine if it can be effectively implemented and to help the parties understand the consequences of the proposed solution.

650—32.7(153) Mediation report. The mediation center shall report to the board whether or not the parties agreed to participate in mediation and whether or not the mediation was successful. The mediation

center shall not, however, disclose the terms of the mediation to the board. The mediation center shall make such report within 15 days of the conclusion of the mediation.

650—32.8(679) Mediation agreement. If the parties involved in the dispute reach agreement, the agreement may be reduced to writing setting forth the settlement of the issues and the future responsibilities of each party.

650—32.9(679) Mediation confidential. All verbal or written information relating to the subject matter of mediation or a mediation agreement transmitted between any party to a dispute and a mediator or the staff of an approved center or any other person present during any stage of mediation, whether reflected in notes, memoranda, or other work products in the case files, is confidential communications except as otherwise expressly provided for in Iowa Code chapter 679. Mediators and center staff members shall not be examined in any judicial or administrative proceeding regarding confidential communications and are not subject to judicial or administrative process requiring the disclosures of confidential communications. This rule does not apply when a mediator or center staff member has reason to believe that a party to a dispute has given perjured evidence.

650—32.10(679) Mediator immunity. No mediator, employee or agent of a center, or member of a center's board may be held liable for civil damages for any statement or decision made in the process of mediation unless the mediator, employee, agent or member acted in bad faith, with malicious purpose or in a manner exhibiting willful and wanton disregard of human rights, safety or property.

These rules are intended to implement Iowa Code section 153.33 and Iowa Code chapter 679.

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TITLES VII TO X

CHAPTER 33
CHILD SUPPORT NONCOMPLIANCE

650—33.1(252J,598) Definitions. For the purpose of this chapter the following definitions shall apply:

"Act" means Iowa Code sections 252J.1 to 252J.9.

"Board" means the Iowa board of dental examiners.

"Certificate" means a document known as a certificate of noncompliance which is provided by the child support unit certifying that the named licensee or registrant is not in compliance with a support order or with a written agreement for payment of support entered into by the child support unit and the licensee or registrant.

"Child support unit" means the child support recovery unit of the Iowa department of human services.

"Denial notice" means a board notification denying an application for the issuance or renewal of a license or registration as required by the Act.

"License" means a license to practice dentistry or dental hygiene.

"Registration" means registration to practice as a dental assistant trainee or registered dental assistant.

"Revocation or suspension notice" means a board notification suspending a license or registration for an indefinite or specified period of time or a notification revoking a license or registration as required by the Act.

"Withdrawal certificate" means a document known as a withdrawal of a certificate of noncompliance provided by the child support unit certifying that the certificate is withdrawn and that the board may proceed with issuance, reinstatement, or renewal of a license or registration.

650—33.2(252J,598) Issuance or renewal of a license or registration—denial. The board shall deny the issuance or renewal of a license or registration upon the receipt of a certificate from the child support unit. This rule shall apply in addition to the procedures set forth in the Act.

33.2(1) *Service of denial notice.* Notice shall be served upon the licensee, registrant, or applicant by certified mail, return receipt requested; by personal service; or through authorized counsel.

33.2(2) *Effective date of denial.* The effective date of the denial of issuance or renewal of a license or registration, as specified in the denial notice, shall be 60 days following service of the denial notice upon the licensee, registrant, or applicant.

33.2(3) *Preparation and service of denial notice.* The executive director of the board is authorized to prepare and serve the denial notice upon the licensee, registrant, or applicant.

33.2(4) *Licensee, registrant, or applicant responsible to inform board.* Licensees, registrants, and applicants shall keep the board informed of all court actions, and all child support unit actions taken under or in connection with the Act and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to the Act, all court orders entered in such actions, and any withdrawal of certificates issued by the child support unit.

33.2(5) *Reinstatement following license or registration denial.* All board fees required for application, license or registration renewal, or license or registration reinstatement shall be paid by licensees, registrants, or applicants before a license or registration will be issued, renewed, or reinstated after the board has denied the issuance or renewal of a license or registration pursuant to the Act.

33.2(6) *Effect of filing in district court.* In the event a licensee, registrant, or applicant files a timely district court action following service of a board notice, the board shall continue with the intended action described in the denial notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a license or registration, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

33.2(7) *Final notification.* The board shall notify the licensee, registrant, or applicant in writing through regular first-class mail, or such other means as the board determines appropriate in the

circumstances, within ten days of the effective date of the denial of the issuance or renewal of a license or registration, and shall similarly notify the licensee, registrant, or applicant if the license or registration is issued or renewed following the board's receipt of a withdrawal certificate.

650—33.3(252J,598) Suspension or revocation of a license or registration. The board shall suspend or revoke a license or registration upon the receipt of a certificate from the child support unit according to the procedures set forth in the Act. This rule shall apply in addition to the procedures set forth in the Act.

33.3(1) *Service of revocation or suspension notice.* Revocation or suspension notice shall be served upon the licensee or registrant by certified mail, return receipt requested; by personal service; or through authorized counsel.

33.3(2) *Effective date of revocation or suspension.* The effective date of the suspension or revocation of a license or registration, as specified in the revocation or suspension notice, shall be 60 days following service of the revocation or suspension notice upon the licensee or registrant.

33.3(3) *Preparation and service of revocation or suspension notice.* The executive director of the board is authorized to prepare and serve the revocation or suspension notice upon the licensee or registrant and is directed to notify the licensee or registrant that the license or registration will be suspended unless the license or registration is already suspended on other grounds. In the event that the license or registration is on suspension, the executive director shall notify the licensee or registrant of the board's intention to revoke the license or registration.

33.3(4) *Licensee or registrant responsible to inform board.* The licensee or registrant shall keep the board informed of all court actions, and all child support unit action taken under or in connection with the Act, and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to the Act, all court orders entered in such actions, and any withdrawal certificates issued by the child support unit.

33.3(5) *Reinstatement following license or registration suspension or revocation.* A licensee or registrant shall pay all board fees required for license or registration renewal or reinstatement before a license or registration will be reinstated after the board has suspended a license or registration pursuant to the Act.

33.3(6) *Effect of filing in district court.* In the event a licensee or registrant files a timely district court action pursuant to the Act and following service of a revocation or suspension notice, the board shall continue with the intended action described in the revocation or suspension notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the suspension or revocation, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

33.3(7) *Final notification.* The board shall notify the licensee or registrant in writing through regular first-class mail, or such other means as the board determines appropriate in the circumstances, within ten days of the effective date of the suspension or revocation of a license or registration, and shall similarly notify the licensee or registrant if the license or registration is reinstated following the board's receipt of a withdrawal certificate.

These rules are intended to implement Iowa Code sections 252J.1 to 252J.9 and chapter 598.

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CHAPTER 34
STUDENT LOAN DEFAULT/NONCOMPLIANCE WITH AGREEMENT FOR PAYMENT OF OBLIGATION

650—34.1(261) Definitions. For the purpose of this chapter, the following definitions shall apply:

"Board" means the board of dental examiners.

"Certificate of noncompliance" means written certification from the college student aid commission to the licensing authority certifying that the licensee or registrant has defaulted on an obligation owed to or collected by the commission.

"Commission" means the college student aid commission.

650—34.2(261) Issuance or renewal of a license or registration—denial. The board shall deny the issuance or renewal of a license or registration upon receipt of a certificate of noncompliance from the college student aid commission according to the procedures set forth in Iowa Code sections 261.121 to 261.127. In addition to those procedures, this rule shall apply.

34.2(1) The notice required by Iowa Code section 261.126 shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure. Alternatively, the applicant, registrant, or licensee may accept service personally or through authorized counsel.

34.2(2) The effective date of the denial of the issuance or renewal of a license or registration, as specified in the notice required by Iowa Code section 261.126, shall be 60 days following service of the notice upon the applicant, registrant, or licensee.

34.2(3) The board's executive director is authorized to prepare and serve the notice required by Iowa Code section 261.126 upon the applicant, registrant, or licensee.

34.2(4) Applicants, registrants, and licensees shall keep the board informed of all court actions and all college student aid commission actions taken under or in connection with Iowa Code chapter 261 and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 261.127, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the college student aid commission.

34.2(5) All board fees required for application, license or registration renewal or license or registration reinstatement must be paid by applicants, registrants, or licensees, and all continuing education requirements must be met before a license or registration will be issued, renewed, or reinstated after the board has denied the issuance or renewal of a license or registration pursuant to Iowa Code chapter 261.

34.2(6) In the event an applicant, registrant, or licensee timely files a district court action following service of a board notice pursuant to Iowa Code sections 261.126 and 261.127, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a license or registration, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

34.2(7) The board shall notify the applicant, registrant, or licensee in writing through regular first-class mail, or such other means as the board deems appropriate in the circumstances, within ten days of the effective date of the denial of the issuance or renewal of a license or registration, and shall similarly notify the applicant, registrant, or licensee when the license or registration is issued or renewed following the board's receipt of a withdrawal of the certificate of noncompliance.

650—34.3(261) Suspension or revocation of a license or registration. The board shall suspend or revoke a license or registration upon receipt of a certificate of noncompliance from the college student aid commission according to the procedures set forth in Iowa Code sections 261.121 to 261.127. In addition to those procedures, the following shall apply:

34.3(1) The notice required by Iowa Code section 261.126 shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure. Alternatively, the licensee or registrant may accept service personally or through authorized counsel.

34.3(2) The effective date of revocation or suspension of a license or registration, as specified in the notice required by Iowa Code section 261.126, shall be 60 days following service of the notice upon the licensee or registrant.

34.3(3) The executive director is authorized to prepare and serve the notice required by Iowa Code section 261.126 and is directed to notify the licensee or registrant that the license or registration will be suspended, unless the license or registration is already suspended on other grounds. In the event a license or registration is on suspension, the executive director shall notify the licensee or registrant of the board's intention to revoke the license or registration.

34.3(4) Licensees and registrants shall keep the board informed of all court actions and all college student aid commission actions taken under or in connection with Iowa Code chapter 261 and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 261.127, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the college student aid commission.

34.3(5) All board fees required for license or registration renewal or reinstatement must be paid by licensees and registrants, and all continuing education requirements must be met before a license or registration will be renewed or reinstated after the board has suspended or revoked a license or registration pursuant to Iowa Code chapter 261.

34.3(6) In the event a licensee or registrant timely files a district court action following service of a board notice pursuant to Iowa Code sections 261.126 and 261.127, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a license or registration, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

34.3(7) The board shall notify the licensee or registrant in writing through regular first-class mail, or such other means as the board deems appropriate in the circumstances, within ten days of the effective date of the suspension or revocation of a license or registration, and shall similarly notify the licensee or registrant when the license or registration is reinstated following the board's receipt of a withdrawal of the certificate of noncompliance.

These rules are intended to implement Iowa Code sections 261.121 to 261.127.

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CHAPTER 35
IOWA PRACTITIONER REVIEW COMMITTEE

650—35.1(153,272C) Iowa practitioner review committee. Pursuant to the authority of Iowa Code section 272C.3(1)*"k,"* the board establishes the Iowa practitioner review committee.

35.1(1) *Definitions.*

"Impairment" means an inability, or significant potential for inability, to practice dentistry, dental hygiene, or dental assisting with reasonable safety and skill as a result of alcohol or drug abuse, dependency, or addiction, or any mental or physical disorder or disability. For the purposes of this program, "impairment" does not include sexual dysfunction, sexual addiction, sexual compulsivity, paraphilia, or other sexual disorder.

"Initial agreement" means the written document establishing the initial terms for participation in the program.

"Iowa practitioner program contract" or *"contract"* means the written document executed by a practitioner and the IPRC that establishes the terms for participation in the program.

"IPP" or *"program"* means the Iowa practitioner program.

"IPRC" or *"committee"* means the Iowa practitioner review committee.

"Practitioner" means a licensed dentist or dental hygienist or a registered dental assistant or a person applying for a license or registration.

"Self-report" means the practitioner providing written or oral notification to the IPRC that the practitioner has been, is or may be diagnosed as having an impairment prior to the board's receiving a complaint or report alleging an impairment prior to the date of self-report. Information related to an impairment or a potential impairment that is provided on a license or registration application or renewal form may be considered a self-report upon the request of the practitioner, authorization from the license committee, and agreement by the IPRC.

35.1(2) *Purpose.* The IPRC 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. Reports on the activities of the IPRC shall be made to the board on a quarterly basis.

35.1(3) *Composition of the committee.* The chairperson of the board shall appoint the members of the IPRC. Committee members, except the executive director, shall be appointed for three-year terms which begin on May 1 and terminate on April 30. The committee shall elect a chairperson and vice chairperson annually at the last meeting closest to April 30. The chairperson and vice chairperson will serve one-year terms beginning on May 1. The membership of the IPRC may include, but is not limited to:

a. Executive director of the board or the director's designee from the board's staff;

b. One practitioner who has remained free of addiction for a period of no less than two years following successful completion of a board-approved recovery program, a board-ordered probation for drug or alcohol dependency, addiction, or abuse, or an IPRC contract;

c. One physician/counselor with expertise in substance abuse/addiction treatment programs;

d. One psychiatrist or one psychologist; and

e. One public member.

35.1(4) *Eligibility.* To be eligible for participation in the IPP, a practitioner must self-report an impairment or suspected impairment directly to the office of the board or be referred by the board pursuant to rule 650—35.2(272C). A practitioner is deemed ineligible to participate in the program if the license committee or IPRC finds sufficient evidence of any of the following:

a. The practitioner is engaged in the unlawful diversion or distribution of controlled substances or illegal substances to a third person or for personal profit or gain;

b. At the time of the self-report, the practitioner is already under board order for an impairment or any other violation of the laws and rules governing the practice of the profession;

c. The practitioner has caused harm or injury to a patient;

d. There is currently a board investigation of the practitioner that concerns serious matters related to the ability to practice with reasonable safety and skill or in accordance with the accepted standards of care;

e. The practitioner has been subject to a civil administrative or criminal sanction, or ordered to make reparations or remuneration by a government or regulatory authority of the United States, this or any other state or territory or a foreign nation for actions that the committee determines to be serious infractions of the laws, administrative rules, or professional ethics related to the practice of dentistry, dental hygiene, or dental assisting;

f. The practitioner provided inaccurate, misleading, or fraudulent information or failed to fully cooperate with the board or committee; or

g. There is currently a complaint before the board related to an impairment.

35.1(5) *Type of program.* The IPP is an individualized recovery, rehabilitation, or maintenance program designed to meet the specific needs of the impaired practitioner. The committee, in consultation with an IPRC-approved evaluator, shall determine the type of recovery, rehabilitation, or maintenance program required to treat the practitioner's impairment. The committee shall prepare a contract, to be signed by the practitioner, that shall provide a detailed description of the goals of the program, the requirements for successful participation, and the practitioner's obligations therein.

35.1(6) *Terms of participation.* A practitioner shall agree to comply with the terms for participation in the IPP established in the initial agreement and contract. Terms of participation specified in the contract shall include, but are not limited to:

a. *Duration.* The length of time a practitioner shall participate in the program shall be determined by the committee. Length of participation in the program will vary depending upon the recommendations provided by an approved evaluator and the determination of the IPRC following review of all relevant information.

b. *Noncompliance.* A practitioner participating in the program is responsible for notifying the committee of any instance of noncompliance including, but not limited to, a relapse. Notification of noncompliance made to the IPRC by the practitioner, any person responsible for providing or monitoring treatment, or another party shall result in full review by the board for the filing of formal charges or other action the board deems appropriate.

c. *Practice restrictions.* The IPRC may impose restrictions on the license to practice dentistry or dental hygiene or registration to practice dental assisting as a term of the initial agreement or contract until such time as it receives a report from an approved evaluator and the IPRC determines, based on all relevant information, that the practitioner is capable of practicing with reasonable safety and skill. As a condition of participating in the program, a practitioner is required to agree to restrict practice in accordance with the terms specified in the initial agreement or contract. In the event that the practitioner refuses to agree to or comply with the restrictions established in the initial agreement or contract, the committee shall refer the practitioner to the board for appropriate action.

d. *Monitoring costs.* A provision for payment of the actual costs or a $100 quarterly fee to cover the board's expenses associated with monitoring a practitioner's compliance with the terms of the IPRC initial agreement or contract may be included in the initial agreement and contract. Actual costs include mileage, meals, travel expenses, hourly investigative time, and all incidental expenses associated with monitoring compliance. Monitoring costs shall be considered repayment receipts as defined in Iowa Code section 8.2.

35.1(7) *Limitations.* The IPRC establishes the terms and monitors a participant's compliance with the program specified in the initial agreement and contract. The IPRC is not responsible for participants who fail to comply with the terms of or successfully complete the IPP. Participation in the program under the auspices of the IPRC shall not relieve the board of any duties and shall not divest the board of any authority or jurisdiction otherwise provided. Any violation of the statutes or rules governing the practice of dentistry, dental hygiene, or dental assisting by a participant shall be referred to the board for appropriate action.

35.1(8) *Confidentiality.* Information in the possession of the board or the committee shall be subject to the confidentiality requirements of Iowa Code section 272C.6. Accordingly, information in

the possession of the board or the committee about practitioners in the program shall not be disclosed to the public. Participation in the IPP under the auspices of the IPRC is not a matter of public record. Information about participants may only be shared in the following circumstances:

a. Upon authorization or prior to successful completion of a contract, the IPRC may communicate information about an IPP participant to dental regulatory authorities or the impaired practitioner program of any jurisdiction of the United States in which the participant is currently licensed to practice dentistry, dental hygiene, or dental assisting, or in which the practitioner is seeking licensure.

b. The IPRC may communicate information about an IPP participant to any person assisting in the participant's treatment, recovery, rehabilitation, monitoring, or maintenance.

c. The IPRC may communicate information about an IPP participant to the board in the event that a participant does not comply with the terms of the initial agreement or contract. The IPRC may provide the board with a participant's IPRC file in the event that the participant does not comply with the terms of the initial agreement or contract and the IPRC refers the case to the board for appropriate action.

d. The IPRC shall report to the board any knowledge of violations of administrative rules or statutes unrelated to the impairment.

e. If the board initiates disciplinary action against a practitioner for noncompliance with the terms of the contract, the board may include information about the practitioner's participation in the IPP in the statement of charges, settlement agreement and final order, or order following hearing.

[**ARC 0617C**, IAB 3/6/13, effective 4/10/13]

650—35.2(272C) Board referrals to the Iowa practitioner review committee.

35.2(1) *Eligibility for board referral to IPRC.* The board may refer a practitioner who is the subject of a board order to the IPRC for monitoring in the following circumstances:

a. The practitioner has an impairment as defined in rule 650—35.1(272C).

b. The board determines that the practitioner is an appropriate candidate for participation in the IPRC.

c. The IPRC determines that the practitioner is an appropriate candidate for participation in the IPRC.

35.2(2) *Referral process.*

a. Determination of whether a practitioner is appropriate for referral to the IPRC is in the sole discretion of the board. Upon the board's approval, a referral shall be made to the IPRC and the committee shall be provided with relevant information about the practitioner.

b. The IPRC shall make a determination whether the practitioner is an appropriate candidate for participation in the program. Upon this determination, the IPRC shall offer the referred practitioner a contract that specifies terms of participation in the program. See 650—35.1(272C).

c. If the IPRC finds that the practitioner is not an appropriate candidate for participation in the IPP or if the practitioner fails to sign the contract in the time period specified by the IPRC, the IPRC shall notify the board promptly.

d. When the practitioner signs the contract, the IPRC shall notify the board that the referral has been finalized. The practitioner's failure to sign a contract within the time period specified by the IPRC may be grounds for disciplinary action.

e. Referral of a practitioner by the board to the IPP shall not relieve the board of any duties of the board and shall not divest the board of any authority or jurisdiction otherwise provided. Upon referral, the practitioner shall be subject to the provisions of 650—Chapter 35. Specifically, the practitioner shall be subject to board review and potential formal disciplinary action for noncompliance with the provisions of the IPP contract.

These rules are intended to implement Iowa Code section 272C.3(1)*"k."*

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CHAPTER 36
NONPAYMENT OF STATE DEBT

650—36.1(272D) Definitions. For the purpose of this chapter, the following definitions shall apply.

"Act" means Iowa Code chapter 272D.

"Applicant" means an individual who is seeking the issuance of a license.

"Board" means the Iowa dental board.

"Centralized collection unit" means the centralized collection unit of the Iowa department of revenue.

"Certificate of noncompliance" means a document provided by the centralized collection unit of the department of revenue certifying that the named applicant, licensee, permit holder, or registrant has an outstanding liability placed with the unit and has not entered into an approved payment plan to pay the liability.

"Denial notice" means a board notification denying an application for the issuance or renewal of a license, permit, or registration as required by the Act.

"Revocation or suspension notice" means a board notification suspending a license, registration, or permit for an indefinite or specified period of time or a notification revoking a license, permit, or registration as required by the Act.

"Withdrawal certificate" means a document provided by the centralized collection unit certifying that the certificate of noncompliance is withdrawn and that the board may proceed with issuance, reinstatement, or renewal of a license, permit, or registration.

[**ARC 8329B**, IAB 12/2/09, effective 1/6/10]

650—36.2(272D) Issuance or renewal of a license—denial. The board shall deny the issuance or renewal of a license, permit, or registration upon the receipt of a certificate of noncompliance from the centralized collection unit. This rule shall apply in addition to the procedures set forth in the Act.

36.2(1) *Service of denial notice.* Notice shall be served upon the applicant, licensee, permit holder, or registrant by certified mail, return receipt requested; by personal service; or through authorized counsel.

36.2(2) *Effective date of denial.* The effective date of the denial of the issuance or renewal of a license, permit, or registration, as specified in the denial notice, shall be 60 days following service of the denial notice upon the applicant, licensee, permit holder, or registrant.

36.2(3) *Preparation and service of denial notice.* The executive director of the board is authorized to prepare and serve the denial notice upon the applicant, licensee, permit holder, or registrant.

36.2(4) *Licensees, permit holders, registrants, and applicants responsible to inform board.* Licensees, permit holders, registrants, and applicants shall keep the board informed of all court actions and all centralized collection unit actions taken under or in connection with the Act. Licensees, permit holders, registrants, and applicants shall also provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to the Act, all court orders entered in such actions, and any withdrawals of certificates issued by the centralized collection unit.

36.2(5) *Reinstatement following denial.* All board fees required for application, renewal, or reinstatement must be paid by applicants, licensees, permit holders, or registrants before a license, permit, or registration will be issued, renewed, or reinstated after the board has denied the issuance or renewal of a license, permit, or registration pursuant to the Act.

36.2(6) *Effect of filing in district court.* In the event an applicant, licensee, permit holder, or registrant files a timely district court action following service of a board denial notice, the board shall continue with the intended action described in the denial notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a license, permit, or registration, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

36.2(7) *Final notification.* The board shall notify the applicant, licensee, permit holder, or registrant in writing through regular first-class mail, or such other means as the board determines appropriate in the

circumstances, within ten days of the effective date of the denial of the issuance or renewal of a license, permit, or registration and shall similarly notify the applicant, licensee, permit holder, or registrant if the license, permit, or registration is issued or renewed following the board's receipt of a withdrawal certificate.
[**ARC 8329B**, IAB 12/2/09, effective 1/6/10]

650—36.3(272D) Suspension or revocation of a license. The board shall suspend or revoke a license, permit, or registration upon the receipt of a certificate of noncompliance from the centralized collection unit according to the procedures set forth in the Act. This rule shall apply in addition to the procedures set forth in the Act.

36.3(1) *Service of revocation or suspension notice.* A revocation or suspension notice shall be served upon the licensee, permit holder, or registrant by certified mail, return receipt requested; by personal service; or through authorized counsel.

36.3(2) *Effective date of revocation or suspension.* The effective date of the suspension or revocation of a license, permit, or registration, as specified in the revocation or suspension notice, shall be 60 days following service of the notice upon the licensee, permit holder, or registrant.

36.3(3) *Preparation and service of revocation or suspension notice.* The executive director of the board is authorized to prepare and serve the revocation or suspension notice upon the licensee, permit holder, or registrant and is directed to notify the licensee, permit holder, or registrant that the license, permit, or registration will be suspended, unless the license, permit, or registration is already suspended on other grounds. In the event that the license, permit, or registration is on suspension, the executive director shall notify the licensee, permit holder, or registrant of the board's intention to revoke the license, permit, or registration.

36.3(4) *Responsibility to inform board.* The licensee, permit holder, or registrant shall keep the board informed of all court actions and all centralized collection unit actions taken under or in connection with the Act. Licensees, permit holders, or registrants shall also provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to the Act, all court orders entered in such actions, and any withdrawal certificates issued by the centralized collection unit.

36.3(5) *Reinstatement following suspension or revocation.* A licensee, permit holder, or registrant shall pay all board fees required for renewal or reinstatement before a license, permit, or registration will be reinstated after the board has suspended or revoked a license, permit, or registration pursuant to the Act.

36.3(6) *Effect of filing in district court.* In the event a licensee, permit holder, or registrant files a timely district court action pursuant to the Act, and following service of a revocation or suspension notice, the board shall continue with the intended action described in the revocation or suspension notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the suspension or revocation, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

36.3(7) *Final notification.* The board shall notify the licensee, permit holder, or registrant in writing through regular first-class mail, or by such other means as the board determines appropriate in the circumstances, within ten days of the effective date of the suspension or revocation, and shall similarly notify the licensee, permit holder, or registrant if the license, permit, or registration is reinstated following the board's receipt of a withdrawal certificate.
[**ARC 8329B**, IAB 12/2/09, effective 1/6/10]

650—36.4(272D) Sharing of information. Notwithstanding any statutory confidentiality provision, the board may share information with the centralized collection unit of the department of revenue through automated means for the sole purpose of identifying applicants, licensees, permit holders, or registrants subject to enforcement under Iowa Code chapter 272D.
[**ARC 8329B**, IAB 12/2/09, effective 1/6/10]

These rules are intended to implement Iowa Code chapter 272D.

[Filed ARC 8329B (Notice ARC 8042B, IAB 8/12/09), IAB 12/2/09, effective 1/6/10]

CHAPTERS 37 to 50
Reserved

CHAPTER 51
CONTESTED CASES

[Ch 6 renumbered as Ch 51, IAC 9/20/78]
[Prior to 5/18/88, Dental Examiners, Board of[320]]

650—51.1(17A) Scope and applicability. This chapter applies to contested case proceedings conducted by the board of dental examiners.

650—51.2(17A) Definitions. Except where otherwise specifically defined by law:

"Contested case" means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case under 1998 Iowa Acts, chapter 1202, section 14.

"Issuance" means the date of mailing of a decision or order or date of delivery if service is by other means unless another date is specified in the order.

"Party" means the state or the respondent.

"Presiding officer" means the board of dental examiners or a panel of the board. In a disciplinary contested case proceeding, the board may request that an administrative law judge make initial rulings on prehearing matters, and assist and advise the board in presiding at the disciplinary contested case hearing.

"Proposed decision" means the hearing panel's recommended findings of fact, conclusions of law, decision, and order in a contested case in which the full board did not preside.

650—51.3(17A) Probable cause. In the event the board finds there is probable cause for taking disciplinary action against a licensee following investigation of a complaint, the board shall order a contested case hearing be commenced by the filing of a statement of charges and notice of hearing.

650—51.4(17A) Legal review. Every statement of charges and notice of hearing prepared by the board shall be reviewed by the office of the attorney general before they are filed.

650—51.5(17A) Time requirements.

51.5(1) Time shall be computed as provided in Iowa Code subsection 4.1(34).

51.5(2) For good cause, the presiding officer may extend or shorten the time to take any action, except as precluded by statute or by rule. Except for good cause stated in the record, before extending or shortening the time to take any action, the presiding officer shall afford all parties an opportunity to be heard or to file written arguments.

650—51.6(17A) Statement of charges and notice of hearing.

51.6(1) *Delivery.* Delivery of the statement of charges and notice of hearing constitutes the commencement of the contested case proceeding. Delivery may be executed by:

a. Personal service as provided in the Iowa Rules of Civil Procedure; or

b. Restricted certified mail, return receipt requested; or

c. Publication, as provided in the Iowa Rules of Civil Procedure.

51.6(2) *Contents.* The statement of charges and notice of hearing shall contain the following information:

a. A statement of the time, place, and nature of the hearing;

b. A statement of the legal authority and jurisdiction under which the hearing is to be held;

c. A reference to the particular sections of the statutes and rules involved;

d. A short and plain statement of the matters asserted. This statement shall contain sufficient detail to give the respondent fair notice of the allegations so the respondent may adequately respond to the charges, and to give the public notice of the matters at issue;

e. Identification of all parties including the name, address and telephone number of the person who will act as advocate for the board or the state and of parties' counsel where known;

f. Reference to the procedural rules governing conduct of the contested case proceeding;

g. Reference to the procedural rules governing informal settlement;

h. Identification of the board as the presiding officer; and

i. Notification of the time period in which a party may request pursuant to 1998 Iowa Acts, chapter 1202, section 15(1), and rule 51.9(17A) that the presiding officer be an administrative law judge.

650—51.7(17A) Legal representation. Following the filing of the statement of charges and notice of hearing, the office of the attorney general shall be responsible for the legal representation of the public interest in all proceedings before the board.

650—51.8(17A) Presiding officer in a disciplinary contested case. The presiding officer in a disciplinary contested case shall be the board or a panel of the board. However, the board may request that an administrative law judge assist the board with initial rulings on prehearing matters. Decisions of the administrative law judge serving in this capacity are subject to the interlocutory appeal provisions of rule 650—51.25(17A). In addition, an administrative law judge may assist and advise the board in presiding at the contested case hearing.

650—51.9(17A) Presiding officer in a nondisciplinary contested case.

51.9(1) Any party in a nondisciplinary contested case who wishes to request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the department of inspections and appeals must file a written request within 20 days after service of a notice of hearing which identifies or describes the presiding officer as the board.

51.9(2) The board may deny the request only upon a finding that one or more of the following apply:

a. There is compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare.

b. An administrative law judge with the qualifications identified in subrule 51.9(4) is unavailable to hear the case within a reasonable time.

c. The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented.

d. The demeanor of the witnesses is likely to be dispositive in resolving the disputed factual issues.

e. Funds are unavailable to pay the costs of an administrative law judge and an interagency appeal.

f. The request was not timely filed.

g. The request is not consistent with a specified statute.

51.9(3) The board shall issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed. If the ruling is contingent upon the availability of an administrative law judge with the qualifications identified in subrule 51.9(4), the parties shall be notified at least 10 days prior to hearing if a qualified administrative law judge will not be available.

51.9(4) An administrative law judge assigned to act as presiding officer in a nondisciplinary contested case shall have a J.D. degree unless waived by the board.

51.9(5) Except as provided otherwise by another provision of law, all rulings by an administrative law judge acting as presiding officer in a nondisciplinary contested case are subject to appeal to the board. A party must seek any available intra-agency appeal in order to exhaust adequate administrative remedies. Such appeals must be filed within 10 days of the date of the issuance of the challenged ruling, but no later than the time for compliance with the order or the date of hearing, whichever is first.

650—51.10(17A) Disqualification.

51.10(1) A presiding officer or other person shall withdraw from participation in the making of any proposed or final decision in a contested case if that person:

a. Has a personal bias or prejudice concerning a party or a representative of a party;

b. Has personally investigated, prosecuted or advocated, in connection with that case, the specific controversy underlying that case, another pending factually related contested case, or a pending factually related controversy that may culminate in a contested case involving the same parties;

c. Is subject to the authority, direction or discretion of any person who has personally investigated, prosecuted or advocated in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy involving the same parties;

d. Has acted as counsel to any person who is a private party to that proceeding within the past two years;

e. Has a personal financial interest in the outcome of the case or any other significant personal interest that could be substantially affected by the outcome of the case;

f. Has a spouse or relative within the third degree of relationship that (1) is a party to the case, or an officer, director or trustee of a party; (2) is a lawyer in the case; (3) is known to have an interest that could be substantially affected by the outcome of the case; or (4) is likely to be a material witness in the case; or

g. Has any other legally sufficient cause to withdraw from participation in the decision making in that case.

51.10(2) The term "personally investigated" means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term "personally investigated" does not include:

a. General direction and supervision of assigned investigators;

b. Unsolicited receipt of information which is relayed to assigned investigators;

c. Review of another person's investigative work product in the course of determining whether there is probable cause to initiate a proceeding; or

d. Exposure to factual information while performing other board functions, including fact gathering for purposes other than investigation of the matter which culminates in a contested case.

Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case shall be disclosed if required by Iowa Code section 17A.17 as amended by 1998 Iowa Acts, chapter 1202, section 19, and subrules 51.10(3) and 51.23(9).

51.10(3) In a situation where a presiding officer or other person knows of information which might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person shall submit the relevant information for the record by affidavit and shall provide for the record a statement of the reasons for the determination that withdrawal is unnecessary.

51.10(4) If a party asserts disqualification on any appropriate ground, including those listed in subrule 51.10(1), the party shall file a motion supported by an affidavit pursuant to 1998 Iowa Acts, chapter 1202, section 19(7). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party. The board shall determine the matter as part of the record in this case.

650—51.11(17A) Consolidation—severance.

51.11(1) *Consolidation.* The presiding officer may consolidate any or all matters at issue in two or more contested case proceedings where:

a. The matters at issue involve common parties or common questions of fact or law;

b. Consolidation would expedite and simplify consideration of the issues involved; and

c. Consolidation would not adversely affect the rights of any of the parties to those proceedings.

51.11(2) *Severance.* The presiding officer may, for good cause shown, order any contested case proceedings or portions thereof severed.

650—51.12(17A) Pleadings.

51.12(1) *Pleadings.* Pleadings may be required by rule, by the notice of hearing, or by order of the presiding officer.

51.12(2) *Answer.* An answer shall be filed within 20 days of service of the statement of charges and notice of hearing.

a. An answer shall show on whose behalf it is filed and specifically admit, deny, or otherwise answer all material allegations of the statement of charges. It shall state any facts deemed to show an affirmative defense and contain as many additional defenses as the pleader may claim.

b. An answer shall state the name, address and telephone number of the person filing the answer, the person or entity on whose behalf it is filed, and the attorney representing that person, if any.

c. Any allegation in the statement of charges not denied in the answer is considered admitted.

51.12(3) *Amendment.* Amendments to the statement of charges and to an answer may be allowed with the consent of the parties or in the discretion of the presiding officer who may impose terms or grant a continuance.

650—51.13(17A) Service and filing.

51.13(1) *Service—when required.* Except where otherwise provided by law, every document filed in a contested case proceeding shall be served upon each of the parties of record to the proceeding, including the assistant attorney general designated as prosecutor for the state or the board, simultaneously with their filing. Except for the original notice of hearing and an application for rehearing as provided in Iowa Code section 17A.16(2), the party filing a document is responsible for service on all parties.

51.13(2) *Service—how made.* Service upon a party represented by an attorney shall be made upon the attorney unless otherwise ordered. Service is made by delivery or by mailing a copy to the person's last-known address. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order.

51.13(3) *Filing—when required.* After the notice of hearing, all documents in a contested case proceeding shall be filed with the board. All documents that are required to be served upon a party shall be filed simultaneously with the board.

51.13(4) *Filing—when made.* Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the Board of Dental Examiners, 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687, delivered to an established courier service for immediate delivery to that office, or mailed by first-class mail or state interoffice mail to that office, so long as there is proof of mailing.

51.13(5) *Proof of mailing.* Proof of mailing includes either: a legible United States Postal Service postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form:

> I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Board of Dental Examiners, 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687, and to the names and addresses of the parties listed below by depositing the same in (a United States post office mailbox with correct postage properly affixed or state interoffice mail).
>
> (Date) (Signature)

650—51.14(17A) Discovery.

51.14(1) Discovery procedures applicable in civil actions are applicable in contested cases. Unless lengthened or shortened by these rules or by order of the presiding officer, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure.

51.14(2) Any motion relating to discovery shall allege that the moving party has previously made a good-faith attempt to resolve the discovery issues involved with the opposing party. Motions in regard to discovery shall be ruled upon by the presiding officer. Opposing parties shall be afforded the opportunity to respond within ten days of the filing of the motion unless the time is shortened as provided in subrule 51.14(1). The presiding officer may rule on the basis of the written motion and any response, or may order argument on the motion.

650—51.15(17A,272C) Issuance of subpoenas in a contested case. Pursuant to Iowa Code sections 17A.13(1) and 272C.6(3), the board has the authority to issue subpoenas to compel the attendance of witnesses at depositions or hearing and to compel the production of evidence deemed necessary in connection with a contested case. A subpoena issued by the board in a contested case may seek evidence whether or not it is privileged or confidential under law.

51.15(1) The executive director or designee may, upon the written request of the licensee or the state, issue a subpoena to compel the attendance of witnesses at depositions or hearing, and to compel the production of books, correspondence, papers, records, and other real evidence deemed necessary in connection with a contested case. A subpoena to produce evidence or to permit inspection may be joined with a subpoena to testify at a deposition or hearing, or may be issued separately. A request for a subpoena of mental health records must confirm that the conditions described in 650—subrule 31.5(1) have been satisfied prior to the issuance of the subpoena.

51.15(2) A request for a subpoena shall include the following information, as applicable, unless the subpoena is requested to compel testimony or documents for rebuttal or impeachment purposes:

a. The name, address and telephone number of the person requesting the subpoena;

b. The name and address of the person to whom the subpoena shall be directed;

c. The date, time, and location at which the person shall be commanded to attend and give testimony;

d. Whether the testimony is requested in connection with a deposition or hearing;

e. A description of the books, papers, records or other real evidence requested;

f. The date, time and location for production, or inspection and copying; and

g. In the case of a subpoena request for mental health records, confirmation that the conditions described in 650—subrule 31.5(1) have been satisfied.

51.15(3) Each subpoena shall contain, as applicable:

a. The caption of the case;

b. The name, address and telephone number of the person who requested the subpoena;

c. The name and address of the person to whom the subpoena is directed;

d. The date, time, and location at which the person is commanded to appear;

e. Whether the testimony is commanded in connection with a deposition or hearing;

f. A description of the books, papers, records or other real evidence the person is commanded to produce;

g. The date, time and location for production, or inspection and copying;

h. The time within which a motion to quash or modify the subpoena must be filed;

i. The signature, address and telephone number of the executive director or designee;

j. The date of issuance;

k. A return of service which shall be attached to the subpoena.

51.15(4) Unless a subpoena is requested to compel testimony or documents for rebuttal or impeachment purposes, the executive director or designee shall mail copies of all subpoenas to the parties to the contested case. The person who requested the subpoena is responsible for serving the subpoena upon the subject of the subpoena.

51.15(5) Any person who is aggrieved or adversely affected by compliance with the subpoena, or any party to the contested case who desires to challenge the subpoena must, within 14 days after service of the subpoena, or before the time specified for compliance if such time is less than 14 days, file with the board a motion to quash or modify the subpoena. The motion shall describe the legal reasons why the subpoena should be quashed or modified, and may be accompanied by legal briefs or factual affidavits.

51.15(6) Upon receipt of a timely motion to quash or modify a subpoena, the board may request an administrative law judge to hold a hearing and issue a decision, or the board may conduct the hearing and issue a decision. Oral argument may be scheduled at the discretion of the board or administrative law judge. The administrative law judge or the board may quash or modify the subpoena, deny the motion, or issue an appropriate protective order.

51.15(7) A person aggrieved by a ruling of an administrative law judge who desires to challenge that ruling must appeal the ruling to the board by serving on the board's executive director, either in person or by certified mail, a notice of appeal within ten days after service of the decision of the administrative law judge.

51.15(8) If the person contesting the subpoena is not the person under investigation, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is the person

under investigation, the board's decision is not final for purposes of judicial review until there is a final decision in the contested case.

650—51.16(17A) Motions.

51.16(1) No technical form for motions is required. However, prehearing motions must be in writing, state the grounds for relief, and state the relief sought.

51.16(2) Any party may file a written response to a motion within ten days after the motion is served, unless the time period is extended or shortened by the presiding officer. The presiding officer may consider a failure to respond within the required time period in ruling on a motion.

51.16(3) The presiding officer may schedule oral argument on any motion.

51.16(4) Motions pertaining to the hearing must be filed and served at least ten days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by rule of the board or an order of the presiding officer.

650—51.17(17A) Prehearing conference.

51.17(1) Any party may request a prehearing conference. Prehearing conferences shall be conducted by the executive director, who may request the assistance of an administrative law judge. A written request for prehearing conference or an order for prehearing conference on the executive director's own motion shall be filed prior to the contested case hearing, but no later than 20 days prior to the hearing date.

51.17(2) The parties at a prehearing conference shall be prepared to discuss the following subjects, and the executive director or administrative law judge may issue appropriate orders concerning:

a. The possibility of settlement.

b. The entry of a scheduling order to include deadlines for completion of discovery.

c. Stipulations of law or fact.

d. Stipulations on the admissibility of exhibits.

e. Submission of expert and other witness lists. Witness lists may be amended subsequent to the prehearing conference within the time limits established by the executive director or administrative law judge at the hearing conference. Any such amendments must be served on all parties. Witnesses not listed on the final witness list may be excluded from testifying unless there was good cause for the failure to include their names.

f. Submission of exhibit lists. Exhibit lists may be amended subsequent to the prehearing conference within the time limits established by the executive director or administrative law judge at the prehearing conference. Exhibits, other than rebuttal exhibits, that are not listed on the final exhibit list may be excluded from admission into evidence unless there was good cause for the failure to include them.

g. Stipulations for waiver of any provision of law.

h. Identification of matters which the parties intend to request be officially noticed.

i. Consideration of any additional matters which will expedite the hearing.

51.17(3) Prehearing conferences may be conducted by telephone unless otherwise ordered.

650—51.18(17A) Continuances. Unless otherwise provided, applications for continuances shall be filed with the board. In the event the application for continuance is not contested, the executive director shall serve as presiding officer and issue the appropriate order. In the event the application for continuance is contested, the matter shall be heard by the board as presiding officer or may be delegated by the board to an administrative law judge.

51.18(1) A written application for a continuance shall:

a. Be made at the earliest possible time and no less than five working days before the hearing except in case of unanticipated emergencies;

b. State the specific reasons for the request; and

c. Be signed by the requesting party or the party's representative.

An oral application for a continuance may be made if the presiding officer waives the requirement for a written motion. However, a party making such an oral application for a continuance must confirm that request by written application within two days after the oral request unless that requirement is waived by the presiding officer. No application for continuance shall be made or granted without notice to all parties except in an emergency where notice is not feasible.

51.18(2) In determining whether to grant a continuance, the presiding officer may consider:

a. Prior continuances;
b. The interests of all parties;
c. The public interest;
d. The likelihood of informal settlement;
e. The existence of an emergency;
f. Any objection;
g. Any applicable time requirements;
h. The existence of a conflict in the schedules of counsel, parties, or witnesses;
i. The timeliness of the request; and
j. Other relevant factors.

The presiding officer may require documentation of any grounds for continuance.

650—51.19(17A) Settlements.

51.19(1) A contested case may be resolved by informal settlement. Settlement negotiations may be initiated at any stage of a contested case by the executive director, prosecuting attorney, the respondent, the board or its designee. Neither the board nor the respondent is required to participate in the informal settlement process. The executive director and chairperson of the board, or the chairperson's designee(s), shall have authority to negotiate on behalf of the board.

51.19(2) The full board shall not be involved in negotiation until a written proposed settlement is submitted to the full board for approval, unless both parties waive this prohibition.

51.19(3) Consent to negotiation by the respondent during informal settlement negotiation constitutes a waiver of notice and opportunity to be heard pursuant to Iowa Code section 17A.17. Thereafter, the prosecuting attorney is authorized to discuss informal settlement with the board chairperson or designee(s).

51.19(4) Negotiations for a proposed settlement shall be completed at least ten days prior to the hearing date set by the order for hearing. However, after consultation with the board chairperson or designee, the executive director shall have the power to grant additional time for continued negotiations in instances where additional time will likely lead to a satisfactory settlement prior to the hearing date.

51.19(5) No proposed settlement shall be presented to the board for approval until it is in final, written form signed by the respondent.

51.19(6) All proposed settlements are subject to approval of a majority of the full board. If the board fails to approve a proposed settlement, it shall be of no force or effect to either party. The proposed settlement shall be binding if approved by the board and signed by both the chairperson or the chairperson's designee and the respondent.

51.19(7) A board member who participates in the negotiation of a proposed settlement is not disqualified from participating in the adjudication of the contested case.

51.19(8) Consent to settlement negotiations by the respondent constitutes a waiver of any objection to the participation in the adjudication of the contested case of any board member who participated in the review of a settlement agreement which was not approved by the board.

51.19(9) A provision for payment of a quarterly fee as stated in 650—Chapter 15 or such other fees as specified by the board may be included in the settlement agreement.

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650—51.20(17A) Hearing procedures.

51.20(1) A hearing may be conducted before the board or a panel of not less than three members of the board at least two of whom are licensed by the board.

51.20(2) Hearings by the dental hygiene committee. In the event the licensee who is the subject of the contested case is a dental hygienist, the hearing shall be held before the dental hygiene committee, which shall constitute a panel of the board. The dental hygiene committee may in its discretion recommend to the board that the hearing be held instead before a panel of the board or full board.

51.20(3) When, in the opinion of a majority of the board, it is desirable to obtain specialists within an area of practice when holding disciplinary hearings, the board may appoint a panel of three specialists who are not board members to make findings of fact and to report to the board. Such findings shall not include any recommendation for or against licensee discipline.

51.20(4) The presiding officer shall have the authority to administer oaths, to admit or exclude testimony or other evidence, and to rule on all motions and objections. The presiding officer may request that an administrative law judge perform any of these functions, and may be assisted and advised by an administrative law judge.

51.20(5) All objections shall be timely made and stated on the record.

51.20(6) Parties have the right to participate or to be represented in all hearings or prehearing conferences related to their case. Any party may be represented by an attorney at their own expense.

51.20(7) Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument.

51.20(8) The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

51.20(9) Witnesses may be sequestered during the hearing.

51.20(10) The presiding officer shall have authority to grant immunity from disciplinary action to a witness as provided by Iowa Code section 272C.6(3).

51.20(11) The presiding officer shall conduct the hearing in the following manner:

a. The presiding officer shall give an opening statement briefly describing the nature of the proceedings;

b. The parties shall be given an opportunity to present opening statements;

c. Parties shall present their cases in the sequence determined by the presiding officer;

d. Each witness shall be sworn or affirmed by the presiding officer or the court reporter, and be subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law;

e. When all parties and witnesses have been heard, parties may be given the opportunity to present final arguments.

51.20(12) The board members and administrative law judge have the right to question a witness. Examination of witnesses by board members is subject to properly raised objections.

51.20(13) The hearing shall be open to the public unless the licensee requests that the hearing be closed.

650—51.21(17A) Evidence.

51.21(1) The presiding officer shall rule on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with all applicable requirements of law.

51.21(2) Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

51.21(3) Evidence in the proceeding shall be confined to the issues as to which the parties received notice prior to the hearing unless the parties waive their right to such notice or the presiding officer determines that good cause justifies expansion of the issues. If the presiding officer decides to admit evidence on issues outside the scope of the notice over the objection of a party who did not have actual notice of those issues, that party, upon timely request, shall receive a continuance sufficient to amend pleadings and to prepare on the additional issue.

51.21(4) The party seeking admission of an exhibit must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents should normally be provided to opposing parties.

All exhibits admitted into evidence shall be appropriately marked and be made part of the record.

51.21(5) Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. Such an objection shall be accompanied by a brief statement of the grounds upon which it is based. The objection, the ruling on the objection, and the reasons for the ruling shall be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

51.21(6) Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record.

650—51.22(17A) Default.

51.22(1) If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

51.22(2) Where appropriate and not contrary to law, any party may move for default against a party who has failed to appear after proper service.

51.22(3) Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final board action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated within the time provided by rule 650—51.26(17A). A motion to vacate must state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion.

51.22(4) The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

51.22(5) Properly substantiated and timely filed motions to vacate shall be granted only for good cause shown. The burden of proof as to good cause is on the moving party. Adverse parties shall have ten days to respond to a motion to vacate. Adverse parties shall be allowed to conduct discovery as to the issue of good cause and to present evidence on the issue prior to a decision on the motion, if a request to do so is included in that party's response.

51.22(6) "Good cause" for purposes of this rule shall have the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure 236.

51.22(7) A decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case proceeding. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party pursuant to rule 650—51.25(17A).

51.22(8) If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer shall issue another notice of hearing and the contested case shall proceed accordingly.

51.22(9) A default decision may provide either that the default decision is to be stayed pending a timely motion to vacate or that the default decision is to take effective immediately, subject to a request for stay under rule 650—51.28(17A).

650—51.23(17A) Ex parte communication.

51.23(1) Prohibited communications. Unless required for the disposition of ex parte matters specifically authorized by statute, following issuance of the notice of hearing there shall be no communication, directly or indirectly, between the presiding officer and any party or representative

of any party or any other person with a direct or indirect interest in such case in connection with any issue of fact or law in the case except upon notice and opportunity for all parties to participate. Nothing in this provision is intended to preclude board members from communicating with other board members or members of the board staff, other than those with a personal interest in, or those engaged in personally investigating as defined in subrule 51.10(2), prosecuting, or advocating in, either the case under consideration or a pending factually related case involving the same parties, as long as those persons do not directly or indirectly communicate to the presiding officer any ex parte communications they have received of a type that the presiding officer would be prohibited from receiving or that furnish, augment, diminish, or modify the evidence in the record.

51.23(2) Prohibitions on ex parte communications commence with the issuance of the notice of hearing in a contested case and continue for as long as the case is pending before the board.

51.23(3) Written, oral or other forms of communication are "ex parte" if made without notice and opportunity for all parties to participate.

51.23(4) To avoid prohibited ex parte communications, notice must be given in a manner reasonably calculated to give all parties a fair opportunity to participate. Notice of written communications shall be provided in compliance with rule 650—51.13(17A) and may be supplemented by telephone, facsimile, electronic mail or other means of notification. Where permitted, oral communications may be initiated through conference telephone call including all parties or their representatives.

51.23(5) Persons who jointly act as presiding officer in a pending contested case may communicate with each other without notice or opportunity for parties to participate.

51.23(6) The executive director may be present in deliberations or otherwise advise the presiding officer without notice or opportunity for parties to participate as long as they are not disqualified from participating under rule 650—51.10(17A).

51.23(7) Communications with the presiding officer involving uncontested scheduling or procedural matters do not require notice or opportunity for parties to participate. Parties should notify other parties prior to initiating such contact with the presiding officer when feasible, and shall notify other parties when seeking to continue hearings or other deadlines pursuant to rule 650—51.18(17A).

51.23(8) Disclosure of prohibited communications. A presiding officer who receives a prohibited ex parte communication during the pendency of a contested case must initially determine if the effect of the communication is so prejudicial that the presiding officer should be disqualified.

If the presiding officer determines that disqualification is warranted, a copy of any prohibited written communication, all written responses to the communication, a written summary stating the substance of any prohibited oral or other communication not available in written form for disclosure, all responses made, and the identity of each person from whom the presiding officer received a prohibited ex parte communication shall be submitted for inclusion in the record under seal by protective order.

If the presiding officer determines that disqualification is not warranted, such documents shall be submitted for inclusion in the record and served on all parties. Any party desiring to rebut the prohibited communication must be allowed the opportunity to do so upon written request filed within ten days after notice of the communication.

51.23(9) Promptly after being assigned to serve as presiding officer at any stage in a contested case proceeding, a presiding officer shall disclose to all parties material factual information received through ex parte communication prior to such assignment, unless the factual information has already been or shortly will be disclosed pursuant to Iowa Code section 17A.13(2) or through discovery. Factual information contained in an investigative report or similar document need not be separately disclosed by the presiding officer as long as such documents have been or will shortly be provided to the parties.

51.23(10) The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule including default, a decision against the offending party, censure, suspension or revocation of the privilege to practice before the board. Violation of ex parte communication prohibitions by board personnel shall be reported to the board and its executive director for possible sanctions including censure, suspension, dismissal, or other disciplinary action.

650—51.24(17A) Recording costs. Upon request, the board shall provide a copy of the whole or any portion of the record at cost. The cost of preparing a copy of the record or of transcribing the hearing record shall be paid by the requesting party.

650—51.25(17A) Interlocutory appeals. Upon written request of a party or on its own motion, the board may review an interlocutory order of the executive director, administrative law judge, or hearing panel. In determining whether to do so, the board shall consider:

1. The extent to which its granting the interlocutory appeal would expedite final resolution of the case; and
2. The extent to which review of that interlocutory order by the board at the time it reviews the proposed decision of the presiding officer would provide an adequate remedy.

Any request for interlocutory review must be filed within 14 days of issuance of the challenged order, but no later than the time for compliance with the order or the date of hearing, whichever is first.

650—51.26(17A) Proposed and final decision.

51.26(1) When a quorum of the board presides over the reception of the evidence at the hearing, the decision is a final decision.

51.26(2) When a panel of three specialists presides over the hearing, the panel shall issue a proposed decision which shall include proposed findings of fact but shall not include conclusions of law. A proposed decision of a hearing panel of specialists, together with a transcript of the proceedings and exhibits presented, shall be reviewed by the board within 30 days of the date the proposed decision was issued. The parties shall have the opportunity to submit briefs and arguments to the board. The decision of the board is a final decision.

51.26(3) When a panel of three board members or the dental hygiene committee presides over the hearing, the panel shall issue a proposed decision which shall include proposed findings of fact, conclusions of law, and order. A proposed decision, together with a transcript of the proceedings and the exhibits presented, shall be reviewed by the board within 30 days of the date the proposed decision was issued. A proposed decision of a board hearing panel becomes a final decision without further proceedings unless appealed in accordance with the following provisions:

a. The board may review a proposed decision on its own motion by serving a notice of appeal on the parties within 30 days after issuance of the proposed decision.

b. A proposed decision may be appealed to the board by either party by serving on the executive director, either in person or by certified mail, a notice of appeal within 30 days after service of the proposed decision on the appealing party.

c. Following receipt of a notice of appeal, the board shall enter an order establishing a schedule for submission of briefs and oral argument. The parties shall serve their briefs on the board and shall furnish an additional copy to each party by first-class mail.

d. Oral argument shall be heard by the board unless waived by both parties. The time granted each party for oral argument shall be established by the board.

e. The record on appeal shall be the entire record made before the hearing panel or administrative law judge. Costs associated with the appeal shall be paid by the appealing party.

51.26(4) At no time prior to the release of the final decision by the board shall a proposed decision be made public or distributed to any person other than the parties.

51.26(5) Requests to present additional evidence. A party may request the taking of additional evidence only by establishing that:

a. The evidence is material; and

b. The evidence arose after completion of the original hearing; or

c. Good cause exists for failure to present the evidence at the original hearing; and

d. The party has not waived the right to present the additional evidence.

A written request to present additional evidence must be filed with the notice of appeal or, by a nonappealing party, within 14 days of service of the notice of appeal. The board may remand a case to the hearing panel for further hearing or may itself preside at the taking of additional evidence.

650—51.27(17A) Applications for rehearing.

51.27(1) *By whom filed.* Any party to a contested case proceeding may file an application for rehearing from a final order.

51.27(2) *Content of application.* The application for rehearing shall state on whose behalf it is filed, the specific grounds for rehearing, and the relief sought. In addition, the application shall state whether the applicant desires reconsideration of all or part of the board decision on the existing record and whether, on the basis of the grounds enumerated in subrule 51.27(5), the applicant requests an opportunity to submit additional evidence.

51.27(3) *Time of filing.* The application shall be filed with the board within 20 days after issuance of the final decision.

51.27(4) *Notice to other parties.* A copy of the application shall be timely mailed by the applicant to all parties of record not joining therein.

51.27(5) *Additional evidence.* A request that additional evidence be considered on rehearing shall be governed by subrule 51.26(5).

51.27(6) *Disposition.* Any application for a rehearing shall be deemed denied unless the board grants the application within 20 days after its filing.

650—51.28(17A) Stays of board actions.

51.28(1) *When available.* Any party to a contested case proceeding may petition the board for a stay of an order issued in that proceeding or for other temporary remedies, pending review by the board or pending judicial review. The petition shall state the reasons justifying a stay or other temporary remedy.

51.28(2) *When granted.* In determining whether to grant a stay, the board shall consider the factors listed in 1998 Iowa Acts, chapter 1202, section 23(5c). The board shall not grant a stay in any case in which the district court would be expressly prohibited by statute from granting a stay.

650—51.29(17A) No factual dispute contested cases. If the parties agree that no dispute of material fact exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant admissible evidence either by stipulation or otherwise as agreed by the parties, without necessity for the production of evidence at an evidentiary hearing. If such agreement is reached, a jointly submitted schedule detailing the method and timetable for submission of the record, briefs and oral argument should be submitted to the presiding officer for approval as soon as practicable.

650—51.30(17A) Emergency adjudicative proceedings.

51.30(1) To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with the Constitution and other provisions of law, the board may issue a written order in compliance with 1998 Iowa Acts, chapter 1202, section 21, to suspend a license in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the board by emergency adjudicative order. Before issuing an emergency adjudicative order the board shall consider factors including, but not limited to, the following:

a. Whether there has been a sufficient factual investigation to ensure that the board is proceeding on the basis of reliable information;

b. Whether the specific circumstances which pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing;

c. Whether the person required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety or welfare;

d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or welfare; and

e. Whether the specific action contemplated by the board is necessary to avoid the immediate danger.

51.30(2) Issuance of order.

a. An emergency adjudicative order shall contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger in the board's decision to take immediate action. The order is a public record.

b. The written emergency adjudicative order shall be immediately delivered to the person who is required to comply with the order by utilizing one or more of the following procedures:

(1) Personal delivery;

(2) Certified mail, return receipt requested, to the last address on file with the board;

(3) Certified mail to the last address on file with the board; or

(4) Fax. Fax may be used as the sole method of delivery if the person required to comply with the order has filed a written request that board orders be sent by fax and has provided a fax number for that purpose.

c. To the degree practicable, the board shall select the procedure for providing written notice that best ensures prompt, reliable delivery.

51.30(3) Oral notice. Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the board shall make reasonable immediate efforts to contact by telephone the persons who are required to comply with the order.

51.30(4) Completion of proceedings. After the issuance of an emergency adjudicative order, the board shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

Issuance of a written emergency adjudicative order shall include notification of the date on which board proceedings are scheduled for completion. After issuance of an emergency adjudicative order, continuance of further board proceedings to a later date will be granted only in compelling circumstances upon application in writing, unless the person who is required to comply with the order is the party requesting the continuance.

650—51.31(153) Judicial review. Judicial review of the board's decision may be sought in accordance with the terms of Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and Iowa Code section 153.33(4)*"g"* and *"h."*

650—51.32(17A) Notification of decision. All parties to a contested case shall be promptly furnished with a copy of any decision or order either by personal delivery or by certified or first-class mailing. Delivery or first-class mailing of any decision or order to an attorney of record in a contested case hearing shall constitute notification of the respondent. Service by mail is complete upon mailing.

650—51.33(17A) Publicizing disciplinary action.

51.33(1) Final decisions of the board relating to licensee discipline shall be transmitted to the appropriate state and national professional associations and news media, which may include a newspaper(s) of general circulation, and to other news media, person or organization upon request.

51.33(2) The board shall notify other boards of dentistry in states where the respondent is also licensed of disciplinary action taken against the Iowa licensee.

51.33(3) The board shall notify the American Association of Dental Examiners of disciplinary action taken against an Iowa licensee.

51.33(4) The board shall, in accordance with federal law, notify the National Practitioners Data Bank of disciplinary action taken against an Iowa licensee.

650—51.34(153) Reinstatement.

51.34(1) Any person whose license has been revoked or suspended by the board may apply to the board for reinstatement in accordance with the terms of the order of revocation or suspension.

51.34(2) If the order of revocation or suspension did not establish terms upon which reinstatement might occur, or if the license was voluntarily surrendered pursuant to disciplinary action, an initial application for reinstatement may not be made until one year has elapsed from the date of the final order.

51.34(3) All proceedings for reinstatement shall be initiated by the respondent, who shall file with the board an application for the reinstatement of the license. All proceedings upon the petition for reinstatement shall be subject to the same rules of procedure as other disciplinary matters before the board.

51.34(4) An application for reinstatement shall allege facts which, if established, will be sufficient to enable the board to determine that the basis for the revocation or suspension no longer exists and that it will be in the public interest for the license to be reinstated. The burden of proof to establish such facts shall be on the respondent.

51.34(5) An application for reinstatement may include a request for a hearing on the issues raised on the application or any other information furnished to the board. The hearing on an application for reinstatement shall be a contested case proceeding within the meaning of Iowa Code section 17A.2(2).

51.34(6) The order to grant or deny reinstatement shall include findings of fact and conclusions of law. If reinstatement is granted, terms and conditions of licensure may be imposed. Such terms and conditions may include restrictions on the licensee's practice. This order will be published as provided for in rule 650—51.33(153).

51.34(7) A person whose license to practice dentistry or dental hygiene was revoked or suspended must successfully complete the examination required at the time of reinstatement for dental or dental hygiene licensure. The board may in its discretion require remedial training in addition to or in lieu of the examination requirements.

650—51.35(272C) Disciplinary hearings—fees and costs.

51.35(1) Fees. The fees related to a formal disciplinary action filed by the board are specified in 650—Chapter 15.

51.35(2) Failure of a licensee, registrant or permit holder to pay the fees and costs assessed in 650—Chapter 15 in the time specified in the board's final disciplinary order shall constitute a violation of a lawful order of the board.

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◊ Two or more ARCs

CHAPTER 52
MILITARY SERVICE AND VETERAN RECIPROCITY

650—52.1(85GA,ch1116) Definitions.

"License" or *"licensure"* means any license, registration, certificate or permit that may be granted by the board.

"Military service" means honorably serving on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1; in the military services of other states, as provided in 10 U.S.C. Section 101(c); or in the organized reserves of the United States, as provided in 10 U.S.C. Section 10101.

"Military service applicant" means an individual who is requesting credit toward licensure for military education, training, or service obtained or completed in military service.

"Reciprocity" means the process by which an individual licensed in another jurisdiction becomes licensed in Iowa and may also be referred to in other board rules as "licensure by credentials."

"Veteran" means an individual who meets the definition of "veteran" in Iowa Code section 35.1(2).

[**ARC 1811C**, IAB 1/7/15, effective 2/11/15]

650—52.2(85GA,ch1116) Military education, training, and service credit. A military service applicant may apply for credit for verified military education, training, or service toward any experience or educational requirement for licensure by submitting a military service application form to the board office.

52.2(1) The completed military service application may be submitted with an application for licensure or examination or prior to an applicant's applying for licensure or to take an examination. No fee is required with submission of an application for military service credit.

52.2(2) The applicant shall identify the experience or educational licensure requirement to which the credit would be applied if granted. Credit shall not be applied to an examination requirement.

52.2(3) The applicant shall provide documents, military transcripts, a certified affidavit, or forms that verify completion of the relevant military education, training, or service, which may include, when applicable, the applicant's Certificate of Release or Discharge from Active Duty (DD Form 214) or Verification of Military Experience and Training (VMET) (DD Form 2586).

52.2(4) Upon receipt of a completed military service application, the board shall promptly determine whether the verified military education, training, or service will satisfy all or any part of the identified experience or educational licensure requirement.

52.2(5) The board shall grant the application in whole or in part if the board determines that the verified military education, training, or service satisfies all or part of the experience or educational qualifications for licensure.

52.2(6) The board shall inform the military service applicant in writing of the credit, if any, given toward an experience or educational qualification for licensure or explain why no credit was granted. The applicant may request reconsideration upon submission of additional documentation or information.

52.2(7) A military service applicant who is aggrieved by the board's decision may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's decision. No fees or costs shall be assessed against the military service applicant in connection with a contested case conducted pursuant to this subrule.

52.2(8) The board shall grant or deny the military service application prior to ruling on the application for licensure. The applicant shall not be required to submit any fees in connection with the licensure application unless the board grants the military service application. If the board does not grant the military service application, the applicant may withdraw the licensure application or request that the licensure application be placed in pending status for up to one year or as mutually agreed. The withdrawal of a licensure application shall not preclude subsequent applications supported by additional documentation or information.

[**ARC 1811C**, IAB 1/7/15, effective 2/11/15]

650—52.3(85GA,ch1116) Veteran reciprocity.

52.3(1) A veteran with an unrestricted professional license in another jurisdiction may apply for licensure in Iowa through reciprocity. A veteran must pass any examinations required for licensure to be eligible for licensure through reciprocity. A fully completed application for licensure submitted by a veteran under this subrule shall be given priority and shall be expedited.

52.3(2) An application for licensure by reciprocity shall contain all of the information required of all applicants for licensure who hold unrestricted licenses in other jurisdictions and who are applying for licensure by reciprocity including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check. The applicant shall use the same forms as any other applicant for licensure by reciprocity and shall additionally provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2).

52.3(3) Upon receipt of a fully completed licensure application, the board shall promptly determine if the professional or occupational licensing requirements of the jurisdiction where the veteran is licensed are substantially equivalent to the licensing requirements in Iowa. The board shall make this determination based on information supplied by the applicant and such additional information as the board may acquire from the applicable jurisdiction. The board may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, postgraduate experience, and examinations required for licensure.

52.3(4) The board shall promptly grant a license to the veteran if the veteran is licensed in the same or similar profession in another jurisdiction whose licensure requirements are substantially equivalent to those required in Iowa, unless the applicant is ineligible for licensure based on other grounds, for example, the applicant's disciplinary or criminal background.

52.3(5) If the board determines that the licensure requirements in the jurisdiction in which the veteran is licensed are not substantially equivalent to those required in Iowa, the board shall promptly inform the veteran of the additional experience, education, or examinations required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary or criminal background, the following shall apply:

a. If a veteran has not passed the required examination(s) for licensure, the veteran may not be issued a provisional license, but may request that the licensure application be placed in pending status for up to one year or as mutually agreed to provide the veteran with the opportunity to satisfy the examination requirements.

b. If additional experience or education is required in order for the applicant's qualifications to be considered substantially equivalent, the applicant may request that the board issue a provisional license for a specified period of time during which the applicant will successfully complete the necessary experience or education. The board shall issue a provisional license for a specified period of time upon such conditions as the board deems reasonably necessary to protect the health, welfare or safety of the public unless the board determines that the deficiency is of a character that the public health, welfare or safety will be adversely affected if a provisional license is granted.

c. If a request for a provisional license is denied, the board shall issue an order fully explaining the decision and shall inform the applicant of the steps the applicant may take in order to receive a provisional license.

d. If a provisional license is issued, the application for full licensure shall be placed in pending status until the necessary experience or education has been successfully completed or the provisional license expires, whichever occurs first. The board may extend a provisional license on a case-by-case basis for good cause.

52.3(6) A veteran who is aggrieved by the board's decision to deny an application for a reciprocal license or a provisional license or is aggrieved by the terms under which a provisional license will be granted may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's

decision. No fees or costs shall be assessed against the veteran in connection with a contested case conducted pursuant to this subrule.

[**ARC 1811C**, IAB 1/7/15, effective 2/11/15]

These rules are intended to implement 2014 Iowa Acts, chapter 1116, division VI.

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