

DENTAL BOARD [650]
Notice of Intended Action

Pursuant to the authority of Iowa Code 147.76 and 153.33, the Dental Board hereby gives Notice of Intended Action to amend Chapter 10, “General Requirements” and Chapter 16 “Prescribing, Administering, and Dispensing Drugs.”

The purpose of the proposed amendments is to eliminate the prohibition against ownership of a dental practice by a dental hygienist, update protocols for a licensed dental hygienist to work in a public health setting and clarify the use of silver diamine fluoride, and implement clearer requirements for reporting changes of name and address.

The proposed amendments would remove the restriction against ownership of a dental practice by a dental hygienist. The amendments would focus on the level of supervision under which a dental hygienist must work, rather than practice ownership.

The proposed amendments reduce the number of years of clinical experience required for a licensed dental hygienist to work in a public health setting. Current rules allow a dental hygienist to work under public health supervision after having completed three years of clinical practice. The amendment reduces this requirement to one year, which is consistent with the requirement for registered dental assistants.

The proposed amendments permit licensed dental hygienists to use silver diamine fluoride in a public health setting and set forth parameters for its use.

The proposed amendments would clarify the situations wherein a licensee or registrant would be required to submit a change of address to the board.

Any interested person may make written comments on the proposed amendments on or before June 12, 2018. Such written materials should be directed to Phil McCollum, Associate Director, Iowa Dental Board, 400 S.W. Eighth Street, Suite D, Des Moines, Iowa 50309 or sent by email to phil.mccollum@iowa.gov.

There will be a public hearing on June 12, 2018, at 2:00 pm in the Board office, 400 S.W. Eighth Street, Suite D, Des Moines, Iowa, 50309 at which time persons may present their views orally or in writing.

The proposed amendments in Chapter 10 are subject to waiver or variance pursuant to 650-chapter 7.

After analysis and review of this rule making, there is a positive impact on jobs for hygienists who wish to work in a public health setting, because they will be able to do so with fewer years of experience.

The proposed amendments are intended to implement Iowa Code 147.9, 153.15, 153.16, 153.17, 153.33, 153.33A, and 153.34.

CHAPTER 10
GENERAL REQUIREMENTS
[Prior to 5/18/88, Dental Examiners, Board of [320]]

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 hygiene dental services, except educational services, directly which have not been delegated by a licensed dentist or which are not performed under the supervision of a licensed dentist as provided by rule 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, practice 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(43) 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]

ITEM 2. Amend subrule **650—10.5** as follows:

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~~ one year 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.

(5) Complete board-approved training on silver diamine fluoride if the supervision agreement permits the use of silver diamine fluoride. The supervision agreement must specify guidelines for use of silver diamine fluoride, and must follow board-approved protocols.

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; and

(6) Complete board-approved training on silver diamine fluoride if the supervision agreement permits the use of silver diamine fluoride. The supervision agreement must specify guidelines for use of silver diamine fluoride, and must follow board-approved protocols.

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]

ITEM 3. Amend subrule **650—10.6** as follows:

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 notarized letter, marriage certificate, or other legal document establishing the change must accompany the request for a name change.

10.6(12) Change of address. Each person licensed or registered by the board must notify the board within 60 days, through the board's online system, of changes in e-mail and mailing addresses. Address changes shall be submitted as follows:

a. Primary mailing address. Licensees or registrants shall designate a primary mailing address. The primary mailing address may be a designated work or home address.

b. Practice locations. Licensees or registrants shall report addresses for all practice locations. Practice locations include full-time and part-time practice locations.

c. E-mail address. Each licensee or registrant shall report, when available, an email address for the purpose of electronic communications from the board.

10.6(23) 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(34) 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]

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 or silver diamine fluoride dispensed under protocols approved by the bureau of oral and health delivery systems 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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