Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 481—Chapter 575
"Dental Assistants, Dental Radiography Qualifications, and Dental Laboratory Technicians"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A, 147, 153 and 272C
State or federal law(s) implemented by the rulemaking: Iowa Code chapters 136C and 153

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

October 22, 2024 12 noon	6200 Park Avenue Des Moines, Iowa Via videoconference call: meet.google.com/nuk-xcby-nyf Or dial: 541.838.0234 PIN: 917 400 078#

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Des Moines, Iowa 50321
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Purpose and Summary

These proposed rules provide Iowans, licensees, and their employers with the requirements for registered dental assistants, dental radiography and dental laboratory technicians and, additionally, provides clarification regarding those who are exempt from these requirements. These rules articulate practice standards and provide a scope of practice for dental assistants in a dental office and public health setting and articulate the responsibilities of the supervising dentist. These rules also provide information regarding unlawful practice and the prohibition of advertising and soliciting dental services by these licensees.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

There are often costs associated with practice standards because there is often time, effort and money associated with compliance, as is true for any service-oriented industry. Members of the public would have costs associated with the services they are seeking to receive, which may include an office visit payment or copayment. Each licensee's practice has different variables, including factors such as number of clients seen, nature of services provided, how services are delivered (i.e., telehealth or in person), and administrative support.

Costs to the agency include the staff time needed to manage Dental Board activities, which include oversight of practice standards. The time needed to manage this provision is generally in the form of responding to questions related to registration and scope of practice. Approximately 6.0 full-time equivalent (FTE) positions are required to complete the work of this Board. Staff salaries to support the work of the Board are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557.

- Classes of persons that will benefit from the proposed rulemaking:

In order to regulate the profession as directed in the Iowa Code, the infrastructure that has been created to license and regulate these professions is necessary to protect the public. The 6.0 FTE positions dedicated to this function play a critical role in issuing licenses, conducting investigations, providing administrative support to the Board, and supporting the board monitoring programs. This work is done with a focus on protecting the health and safety of members of the public who receive services and/or care from licensed professionals. Due to the state government realignment, boards are evaluating ways to streamline and simplify processes and procedures.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

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Costs to the agency include the staff time needed to manage Board activities, which include oversight of practice standards. The time needed to manage this provision is generally in the form of responding to questions related to registration and scope of practice. Approximately 6.0 FTE positions are required to complete the work of this Board. Staff salaries to support the work of the Board are covered by the fund.

- Qualitative description of impact:

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3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

Costs to the agency include the staff time needed to manage Board activities, which include oversight of practice standards. The 6.0 FTE positions dedicated to this function play a critical role in issuing licenses, conducting investigations, providing administrative support to the Board, responding to questions related to practice standards, and supporting the board monitoring programs. Staff salaries to support the work of the Board are covered by the fund.

- Anticipated effect on state revenues:

This rule has no anticipated impact on state revenues. Staff salaries to support the work of the Board are covered by the fund. Licensing fees go to the fund to cover the operations of the regulated professional licensing boards.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

Dental assistants are registered in the state of Iowa. The Board has not identified a more cost-effective alternative to the current process. Although dental assistants provide dental treatment to patients under the supervision of a dentist, they still require training and monitoring for compliance and meeting practice standards. Dental radiography requires qualification issued by the Board. If these professions were not regulated, it could mean that lower-skilled individuals would provide this service to Iowans, which would be of concern to the Board. Statute currently requires registration of dental assistants (Iowa Code chapter 153) and qualification to take X-rays (Iowa Code chapter 136C). Additionally, dental assistants are the primary staff members to handle infection control in dental offices. Lack of training and oversight could result in impacts on public health and safety.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The Board has not identified a more cost-effective alternative to the current process. Dental assistants provide services under the supervision of dentists, but still require ongoing monitoring for compliance and meeting practice standards. If these professions were not regulated, it could mean that lower-skilled individuals would provide this service to Iowans, which would be of concern to the Board. Dental assistant fees are the lowest established by the Board. Prior to Executive Order 10, the Board proactively took steps to ease requirements for dental assistants and increase access to joining the workforce in this profession. In December 2021, changes to the rules took effect that eliminated the need for formal application, including a fee, to work as a dental assistant trainee. Dental assistant trainees can now apply for registration as soon as the supervising dentist determines they are competent. Prior to the changes to the rules, trainees had to work on the job for a minimum of six months. Clinical practice requirements to train in expanded functions also changed from 12 months as a registered dental assistant (or practice in another state) to 3 months.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

The Board has not identified a more cost-effective alternative to the current process. Dental assistants provide services under the supervision of dentists, but still require ongoing monitoring for compliance and meeting practice standards. If these professions were not regulated, it could mean that lower-skilled individuals would provide this service to Iowans, which would be of concern to the Board.

The Department's Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. The changes to this chapter support this effort.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

The Board has not identified a more cost-effective alternative to the current process. If these professions were not regulated, it could mean that lower-skilled individuals would provide this service to Iowans, which would be of concern to the Board.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.

- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The proposed rules relate to public safety concerns that are present whether the business is a small business or a large corporation. While some dental assistants may work in a smaller dental office, some also work for large corporations, hospitals, and other dental facilities. To exempt small businesses from adhering to this chapter would jeopardize any member of the public who sought services from that small business. The risk to the public is greater than the potential harm or cost to the small business.

Text of Proposed Rulemaking

ITEM 1. Adopt the following **new** 481—Chapter 575:

CHAPTER 575
DENTAL ASSISTANTS, DENTAL RADIOGRAPHY QUALIFICATIONS,
AND DENTAL LABORATORY TECHNICIANS

481—575.1(153) Registration required. A person shall not practice dental assisting without a current registration issued by the board pursuant to rule 481—571.5(147,153). The following individuals are exempt from the requirements of this rule:

575.1(1) Students enrolled in an accredited dental, dental hygiene, or dental assisting program;

575.1(2) Dental assistant trainees who are meeting the requirements for registration pursuant to Iowa Code section 153.39; and

575.1(3) Persons who are actively licensed in Iowa to practice dental hygiene or nursing and who are engaged in the practice of said profession.

481—575.2(136C,153) Qualification required.

575.2(1) A person who is not otherwise actively licensed by the board shall not participate in dental radiography unless the person holds an active registration or nursing license and holds an active radiography qualification issued by the board and a dentist provides general supervision.

a. 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 is exempt from the requirements of this rule; and

b. Dental assistants or Iowa-licensed nurses who are engaging in on-the-job training in dental radiography are exempt from the requirements of this rule.

575.2(2) 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 may be subject to the criminal and civil penalties set forth in Iowa Code chapter 136C.

575.2(3) 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 may be subject to discipline by the board pursuant to 481—Chapter 580.

481—575.3(153) Dental assistants.

575.3(1) Dental assistant trainees are individuals who are engaging in on-the-job training to meet the requirements for registration pursuant to Iowa Code section 153.39 and rule 481—571.5(147,153). Trainees who are 18 years of age or older may also engage in on-the-job training in dental radiography pursuant to Iowa Code chapters 136C and 153 and this chapter.

a. Dental assistant trainees should successfully complete on-the-job training and examinations in the areas of infection control, hazardous materials, and jurisprudence.

b. A dental assistant trainee shall stop work as a dental assistant trainee if the trainee fails to become registered prior to the expiration date.

575.3(2) Registered dental assistants are individuals who have met the requirements for registration and have been issued registration. A registered dental assistant may, under direct supervision, assist a dentist in performing duties assigned by the dentist that are consistent with these rules. A registered dental assistant may take radiographs if qualified pursuant to this chapter.

481—575.4(153) Scope of practice.

575.4(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.

575.4(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 and performed under the supervision of a licensed dentist and may include:

a. Placement and removal of dry socket medication;

b. Placement of periodontal dressings;

c. Testing pulp vitality;

d. Preliminary charting of existing dental restorations and teeth;

e. Glucose testing;

f. Phlebotomy;

g. Securing orthodontic wire with elastic chains, rubber bands, and ligature wire; and

h. Expanded function procedures in accordance with 481—Chapter 577.

575.4(3) The dentist will exercise supervision and is fully responsible for all acts performed by a dental assistant. A dentist may not delegate to a dental assistant any of the following, unless allowed pursuant to 481—Chapter 577:

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 this chapter.

g. Those procedures that require the professional judgment and skill of a dentist.

481—575.5(153) Supervision required.

575.5(1) A licensed dentist may delegate the following services to a registered dental assistant under general supervision:

a. All extraoral duties.

b. Intraoral suctioning.

c. Use of a curing light.

d. Dental radiography in accordance with rule 481—575.2(136C,153).

e. Other intraoral imaging except for taking occlusal registrations or final impressions. Expanded functions may only be performed in accordance with 481—Chapter 577.

575.5(2) Dentists may delegate other services that are within the scope of practice of a dental assistant, including expanded functions pursuant to 481—Chapter 577, under direct supervision or as otherwise permitted by rule.

575.5(3) A registered dental assistant may practice under public health supervision in accordance with rule 481—574.11(153).

481—575.6(153) Continuing education. For the purposes of renewal, every registrant and licensed nurse who holds a dental radiography qualification will complete continuing education requirements as specified in 481—Chapter 573 unless exempted by rule.

481—575.7(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:

575.7(1) The practice of clinical skills on peers enrolled in the same program is performed under the direct supervision of a program instructor with an active Iowa dental assistant registration, dental hygiene license, faculty permit, or dental license;

575.7(2) The practice of clinical skills on members of the public is performed under the direct supervision of a dentist with an active Iowa dental license or faculty permit.

481—575.8(153) Unlawful practice.

575.8(1) 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; 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.

575.8(2) Any dental laboratory technician who assists a dentist in practicing dentistry in any capacity other than as an employee or independent contractor; 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.

481—575.9(153) Advertising and soliciting of dental services prohibited. Dental assistants, dental laboratories or dental laboratory technicians 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 or render any other dental service.

These rules are intended to implement Iowa Code chapters 136C and 153.