Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 481—Chapter 576
"Dental Hygienists"

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 sections 147.10, 153.14 and 153.15

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 information relevant to the scope of practice of a dental hygienist. These rules list the types of services that dental hygienists can perform when delegated by and performed under the supervision of an Iowa-licensed dentist. Requirements for the level of supervision necessary are also established in these rules.

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. Dental Board staff review applications for initial and renewal licenses and for licensure reinstatement. Board staff also answer inquiries on licensing and field phone calls. 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. It takes roughly 6.0 full-time equivalent (FTE) positions to review application materials. Licensing fees go to the fund to cover the operations of the regulated professional licensing boards.

- 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, monitoring compliance, providing administrative support to the Board, responding to questions related to standard of practice, 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:

There are approximately 2,700 licensed individuals who provide dental hygiene services to Iowans. The Board believes that the benefits achieved justify the costs because the rules provide required guardrails for providing these important services to Iowans. If this profession was not regulated, it could mean that lower-skilled individuals would provide this service to Iowans, which would be of concern to the Board. Dental hygienists are regulated in all 50 states.

- Qualitative description of impact:

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.

3. Costs to the State:

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

Costs to the state 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 rulemaking 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:

There are approximately 2,700 licensed individuals who provide dental hygiene services to Iowans. The Board believes that the benefits achieved justify the costs because the rules provide required guardrails for providing these important services to Iowans. If this profession was not regulated, it could mean that lower-skilled individuals would provide this service to Iowans, which would be of concern to the Board. Dental hygienists are regulated in all 50 states.

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 hygienists provide services under the supervision of dentists and require ongoing monitoring for compliance and meeting practice standards. Iowa Code chapter 153 requires that dental hygienists complete two years of training at an accredited school. Dental hygienists are regulated in all 50 states.

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 hygienists provide dental care to Iowans. Hygienists provide services under the supervision of dentists and require ongoing monitoring for compliance and meeting practice standards. Other dental professionals must also meet the ethical standards detailed in this chapter. Dentists and hygienists are regulated in all 50 states.

The Department's Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. The updates 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. Dental hygiene is a profession that provides dental care to Iowans. Hygienists provide services under the supervision of dentists and require ongoing monitoring for compliance and meeting practice standards. Hygienists are regulated in all 50 states.

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 576:

CHAPTER 576
DENTAL HYGIENISTS

481—576.1(153) Authorized practice of a dental hygienist.

576.1(1) "Practice of dental hygiene" is defined in Iowa Code section 153.15 and includes the performance of educational, therapeutic, preventive and assessment services. Dental hygienists may perform such services, except educational services, when delegated by and performed under the supervision of an Iowa-licensed dentist.

a. Educational services include assessing the need for, planning, implementing, and evaluating oral health education programs for individual patients and community groups and 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 services include identifying and evaluating factors that indicate the need for and performing the following:

(1) Oral prophylaxis, which includes supragingival and subgingival debridement of plaque, and detection and removal of calculus with instruments or other devices;

(2) Periodontal scaling and root planing;

(3) Removal and polishing of hardened excess restorative material, which may include adhesives, using nonmotorized instruments;

(4) Administration of local anesthesia with the proper permit;

(5) Administration of nitrous oxide inhalation analgesia in accordance with rule 481—579.1(153);

(6) Application and administration of medicaments prescribed by a dentist, including chemotherapeutic agents, or therapies for the treatment of periodontal disease and caries;

(7) Phlebotomy; and

(8) Expanded function procedures in accordance with 481—Chapter 577.

c. Preventive services include applying pit and fissure sealants and medications, including silver diamine fluoride; using other methods for caries and periodontal disease control; and organizing and administering fluoride rinse or sealant programs.

d. Assessment services include 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, testing glucose levels, and analyzing dietary surveys.

576.1(2) The following services may only be delegated by a dentist to a dental hygienist:

a. Administration of local anesthesia;

b. Placement of sealants except as permitted by 481—Chapter 577; and

c. Removal of any plaque, stain, calculus, or hard natural or synthetic material, except when removed by toothbrush, floss, or rubber cup coronal polish.

576.1(3) 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.

This rule is intended to implement Iowa Code section 153.15.

481—576.2(153) Scope of practice and supervision requirements.

576.2(1) In accordance with Iowa Code chapter 153, all authorized services provided by a dental hygienist, except educational services, shall be performed under the general, direct, or public health supervision of an Iowa-licensed dentist. Pursuant to 481—Chapter 577, clinical training in expanded functions requires those services to be performed under observational supervision.

576.2(2) Under the general supervision of a dentist, a dental hygienist may provide educational, therapeutic, preventive and assessment services, including screening, or data collection for the preparation of written records for evaluation by a licensed dentist. A dentist may only delegate patient services to be performed under general supervision for patients of record.

576.2(3) Under the public health supervision of a dentist, a dental hygienist may provide educational, therapeutic, preventive and assessment services, including screening, or data collection pursuant to rule 481—574.11(153).

576.2(4) Dental hygienists may only administer local anesthesia if they hold a current permit in accordance with rule 481—572.10(147,153), or nitrous oxide inhalation analgesia in accordance with rule 481—579.1(153), and perform expanded functions in accordance with 481—Chapter 577 under the direct supervision of a dentist.

576.2(5) Dental hygienists may perform all other authorized services on a new patient under the direct or public health supervision of a dentist pursuant to rule 481—574.11(153). 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.

576.2(6) Dentists may authorize services to be performed under direct supervision in lieu of general supervision when the dentist determines such supervision is necessary to meet the individual needs of the patient.

This rule is intended to implement Iowa Code section 153.15.

481—576.3(153) Unauthorized practice of a dental hygienist.

576.3(1) A dental hygienist who renders hygiene services, except educational services, that have not been delegated by a licensed dentist or that are not performed under the supervision of a licensed dentist as provided by rule is deemed to be practicing illegally.

576.3(2) The unauthorized practice of dental hygiene means allowing a person not licensed in dentistry or dental hygiene to perform dental hygiene services or for a dental hygienist to perform services that exceed the scope of practice authorized in Iowa Code section 153.15 and this chapter.

This rule is intended to implement Iowa Code sections 147.10 and 153.15.

481—576.4(153) 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 complies with the following:

576.4(1) The practice of clinical skills on peers enrolled in the same program may be performed under the direct supervision of a program instructor with an active Iowa dental hygiene license, faculty permit, or dental license.

576.4(2) The practice of clinical skills on members of the public may only be performed under the general supervision of a dentist with an active Iowa dental license or faculty permit.

576.4(3) The practice of clinical skills involving the administration or monitoring of nitrous oxide or the administration of local anesthesia may only be performed under the direct supervision of a dentist with an active Iowa dental license or faculty permit.

This rule is intended to implement Iowa Code sections 153.14 and 153.15.