

DENTAL BOARD[650]

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

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TITLE I
GENERAL PROVISIONSCHAPTER 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 shall result in the return of the original request and payment, prior to processing, with a clarification of the total amount due.

“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; ARC 3963C, IAB 8/15/18, effective 9/19/18]

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

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.

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

[Filed 4/21/95, Notice 2/15/95—published 5/10/95, effective 6/14/95]

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 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 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) 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; ARC 3987C, IAB 8/29/18, effective 10/3/18]

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 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;

(4) Specify the location or locations where the hygiene services will be provided under public health supervision; and

(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 650—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;

(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; ARC 3987C, IAB 8/29/18, effective 10/3/18]

650—10.6(147,153,272C) Other requirements.

10.6(1) *Change of name.* Each person licensed or registered by the board must notify the board, by written correspondence, of a change of legal name within 60 days of such change. Proof of a legal name change, such as a copy of a notarized letter, marriage certificate, or other legal document establishing the change must accompany the request for a name change.

10.6(2) *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 email 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. Email address. Each licensee or registrant shall report, when available, an email address for the purpose of electronic communications from the board.

10.6(3) *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(4) *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.

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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.

†See HJR 2006 of 2006 Session of the Eighty-first General Assembly regarding nullification of subrule 10.6(4).

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 dental education program at an accredited dental college. The program must consist of either:

a. An undergraduate supplemental dental education program of at least two academic years. The undergraduate supplemental dental education program must provide didactic and clinical education to the level of a DDS or DMD graduate of the accredited dental college; or

b. A postgraduate general practice residency program of at least one academic year.

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. Satisfactory evidence of completion of board-approved dental education at an accredited dental college;

b. 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

c. 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 evidence of achieving a score sufficient to be rated in the highest level of ability on each section of the Test of English as a Foreign Language (TOEFL) as administered by the Educational Testing Service (ETS).

This rule is intended to implement Iowa Code chapters 147 and 153.
[ARC 3961C, IAB 8/15/18, effective 9/19/18]

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 and registration 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 an application referred by the executive director, the license and registration committee may at its discretion:

- a. Authorize the executive director to issue the license, permit, or registration.
- b. Send the license, permit, or registration application to the board for further review and consideration.

11.8(2) Following review and consideration of a license, permit, or registration application referred by the license and registration 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 and registration 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 and registration 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 and registration 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.

[ARC 4187C, IAB 12/19/18, effective 1/23/19]

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.

[ARC 7790B, IAB 5/20/09, effective 6/24/09; ARC 9510B, IAB 5/18/11, effective 6/22/11; ARC 2871C, IAB 12/21/16, effective 1/25/17; ARC 3488C, IAB 12/6/17, effective 1/10/18]

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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.

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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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[Filed ARC 0618C (Notice ARC 0473C, IAB 11/28/12), IAB 3/6/13, effective 4/10/13]

[Filed ARC 0984C (Notice ARC 0724C, IAB 5/1/13), IAB 9/4/13, effective 10/9/13]

[Filed ARC 3488C (Notice ARC 3252C, IAB 8/16/17), IAB 12/6/17, effective 1/10/18]

[Filed ARC 3490C (Notice ARC 3156C, IAB 7/5/17), IAB 12/6/17, effective 1/10/18]

[◇] 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.

“*Authorized delegate*” means a licensed or registered health care professional, such as a dental hygienist, dental assistant or registered nurse, who has obtained PMP log-in credentials. A dental assistant trainee may not serve as an authorized delegate.

“*Controlled substance*” means a drug or other substance listed in division II of Iowa Code chapter 124.

“*Opioid*” means a drug that produces an agonist effect on opioid receptors and is indicated or used for the treatment of pain.

“*Prescription drug*” means a drug, as classified by the United States Food and Drug Administration, that is required to be prescribed or administered to a patient by a practitioner prior to dispensation.

“*Prescription monitoring program*” or “*PMP*” means the information program for drug prescribing and dispensing administered by the Iowa board of pharmacy.

[ARC 4409C, IAB 4/24/19, effective 5/29/19]

650—16.2(153) Scope of authority and prescribing requirements.

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 and is within the scope of the dentist-patient relationship. Registration with the federal Drug Enforcement Administration and the Iowa board of pharmacy further extends this privilege to controlled substances.

16.2(2) Prescribing by a licensed dentist must be directly related to the practice of dentistry. A dental examination and medical history must be taken before a dentist initially prescribes, administers, or dispenses a prescription drug to a patient, except for patients who receive fluoride dispensed under protocols approved by the bureau of oral and health delivery systems of the department of public health. A prescription drug prescribed, administered, or dispensed by a licensed dentist must be for a diagnosed condition and be included in a dental treatment plan. The patient’s dental record must contain written evidence of the examination and medical history.

16.2(3) On each occasion when a prescription drug 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 prescription drug; the directions for its use; the date of issuance; and the condition for which the prescription drug was used.

16.2(4) The prescribing, administering, and dispensing of prescription drugs shall be done in accordance with all applicable state and federal laws.

16.2(5) When controlled substances are purchased, administered, or dispensed, a dentist shall maintain records and accountability in accordance with 657—Chapter 10.

16.2(6) A dentist shall not self-prescribe or self-administer controlled substances.

16.2(7) Prescribing, administering, or dispensing controlled substances to members of the licensee’s immediate family is prohibited, except in the case of 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 3987C, IAB 8/29/18, effective 10/3/18; ARC 4409C, IAB 4/24/19, effective 5/29/19]

650—16.3(153) Dispensing—requirements for containers and labeling.

16.3(1) *Containers.* A prescription drug shall be dispensed in a suitable container designed to protect its integrity in accordance with all applicable federal and state laws.

16.3(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.
- [ARC 8369B, IAB 12/16/09, effective 1/20/10; ARC 4409C, IAB 4/24/19, effective 5/29/19]

650—16.4(153) Prescription requirements.

16.4(1) Prior to January 1, 2020, a prescription drug order may be written or transmitted to a pharmacy orally, by fax, or through electronic prescribing in accordance with applicable federal and state laws. A dentist shall take adequate measures to prevent prescription forgery from occurring. Beginning January 1, 2020, all prescription drug orders, including prescriptions for controlled substances, must be electronically prescribed unless exempted. Beginning January 1, 2020, a dentist who fails to comply with the electronic prescription mandate may be subject to a nondisciplinary administrative penalty of \$250 per violation, up to a maximum of \$5,000 per calendar year.

16.4(2) A dentist may delegate to a licensed dental hygienist or registered dental assistant the preparation of a prescription for the review, authorization, and manual or electronic signature of the dentist, but the dentist is responsible for the accuracy, completeness, and validity of the prescription.

16.4(3) A dentist shall securely maintain the unique authentication credentials issued to the dentist for utilization of the electronic prescription application and authentication of the dentist’s electronic signature. Unique authentication credentials issued to any individual shall not be shared with or disclosed to any other individual.

[ARC 4409C, IAB 4/24/19, effective 5/29/19]

650—16.5(153) Required use of the PMP.

16.5(1) Before a dentist issues an opioid prescription or dispenses an opioid, a dentist or authorized delegate shall query the PMP. The query shall be performed within 48 hours prior to a prescription being issued or dispensed and shall be done for each patient, each time an opioid prescription is authorized or dispensed.

16.5(2) A dentist who dispenses a controlled substance is required to report the dispensing to the PMP within one business day in accordance with 657—Chapter 37.

[ARC 4409C, IAB 4/24/19, effective 5/29/19]

These rules are intended to implement Iowa Code section 153.20.

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[Filed ARC 4409C (Notice ARC 4305C, IAB 2/13/19), IAB 4/24/19, effective 5/29/19]

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.

20.7(5) Review of applications. The board shall follow the procedures specified in 650—11.8(147,153) in reviewing applications for registration and qualification.

[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; ARC 4187C, IAB 12/19/18, effective 1/23/19]

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 261.127 and 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.

“Opioid” means a drug that produces an agonist effect on opioid receptors and is indicated or used for the treatment of pain.

“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; ARC 4409C, IAB 4/24/19, effective 5/29/19]

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 all 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 25.4(2) “f,” 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 25.4(2) “f,” 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 25.4(2) “f,” 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. Credit hours awarded for certification in pediatric advanced life support (PALS) or advanced cardiac life support (ACLS) may be claimed hour for hour.

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.

25.4(6) The following is required for dentists only.

a. As a condition of license renewal, a licensed dentist who has prescribed opioids to a patient during the biennium renewal period shall obtain a minimum of one hour of continuing education credit on opioids. This training shall include guidelines for prescribing opioids, including recommendations on limitations of dosages and the length of prescriptions, risk factors for abuse, and nonopioid and nonpharmacological therapy options. This hour may count toward the 30 hours of continuing education required for license renewal. The licensee shall maintain documentation of this hour, which may be subject to audit. If the continuing education did not cover the U.S. Centers for Disease Control and Prevention guideline for prescribing opioids for chronic pain, the licensee shall read the guideline prior to license renewal.

b. A licensed dentist who did not prescribe opioids during the biennium renewal period may attest that the dentist is not subject to this requirement due to the fact that the dentist did not prescribe opioids during the time period.

[ARC 3489C, IAB 12/6/17, effective 1/10/18; ARC 4409C, IAB 4/24/19, effective 5/29/19]

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]

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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 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 advertisements 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 "specialist," "specializes," or "specializing." A dentist advertising or representing oneself as a specialist must comply with the other provisions of this rule.

26.4(2) A dentist may advertise as a specialist if the dentist meets the standards set forth in this rule.

a. The dentist wishing to advertise as a specialist must be a diplomate of, or board-eligible for, a national certifying board of a specialty recognized by the American Dental Association (ADA), or a diplomate of a board recognized by the American Board of Dental Specialties (ABDS); and

b. The indicated area of specialty must be board-approved. Board-approved ADA specialties are as follows: dental public health, endodontics, oral and maxillofacial pathology, oral and maxillofacial surgery, orthodontics and dentofacial orthopedics, pediatric dentistry, periodontics, prosthodontics and oral and maxillofacial radiology. Board-approved ABDS specialties are as follows: oral implantology/implant dentistry, oral medicine, orofacial pain, and anesthesiology.

26.4(3) A certifying board may apply for a new area of specialty to become board-approved by submitting information regarding the area of specialty, including an explanation of how the proposed specialty is within the scope of practice of dentistry in Iowa, and proof of the following:

a. The proposed specialty is separate and distinct from any preexisting specialty recognized by the board or combination of board-recognized dental specialties;

b. The proposed specialty is a distinct and well-defined field which requires unique knowledge and skills beyond those commonly possessed by dental school graduates;

c. The certifying board is an independent entity that is comprised of licensed dentists, whose membership is reflective of the proposed specialty, and that is incorporated and governed solely by the licensed dentists/board members;

d. The certifying board has a permanent headquarters and staff;

e. The certifying board has issued diplomate certificates to licensed dentists for at least five years;

f. The certifying board requires passing an oral and written examination based on psychometric principles that tests the applicant's knowledge and skill in the proposed specialty;

g. The certifying board requires all dentists who seek certification in the proposed specialty to have successfully completed a specified, objectively verifiable amount of post-DDS or -DMD education and experience that is appropriate for the proposed specialty area, as determined by the board; and

h. The certifying board's website that includes online resources for the consumer to verify the certifying board's certification requirements and a list of the names and addresses of the dentists who have been awarded certification by the board shall be made available for public access.

26.4(4) The use of the terms "specialist," "specializes," "orthodontist," "oral and maxillofacial surgeon," "oral and maxillofacial radiologist," "periodontist," "pediatric dentist," "prosthodontist," "endodontist," "oral pathologist," "public health dentist," "dental anesthesiologist," or other similar terms which imply that the dentist is a specialist may only be used by a licensed dentist meeting the requirements of this rule. A dentist who advertises as a specialist must avoid any implication that other dentists associated with the same practice are specialists unless the dentists also meet all of the requirements of this rule.

26.4(5) The term “diplomate” or “board-certified” may only be used by a dentist who has successfully completed the qualifying examination of the appropriate certifying board of one or more of the specialties recognized by the ADA or the ABDS, or as otherwise permitted pursuant to these rules.

26.4(6) A dentist advertising as a specialist pursuant to these rules shall include the name of the national certifying board and the name of the entity which recognizes the board in the advertisement.

26.4(7) A dentist may advertise the areas in which the dentist practices, including, but not limited to, specialty services, using other descriptive terms such as “emphasis on _____” or other similar terms, as long as all other provisions of these rules regarding advertising are met.

[ARC 4099C, IAB 10/24/18, effective 11/28/18]

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.

[Filed 4/9/79, Notice 10/4/78—published 5/2/79, effective 6/6/79¹]

[Filed emergency 6/5/79—published 6/27/79, effective 6/5/79]

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[Filed 1/19/01, Notice 11/15/00—published 2/7/01, effective 3/14/01]

[Filed ARC 4099C (Notice ARC 3901C, IAB 7/18/18), IAB 10/24/18, effective 11/28/18]

¹ Effective date of 650—Chapter 26 delayed by the Administrative Rules Review Committee 70 days.

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]]

Rescinded **ARC 4099C**, IAB 10/24/18, effective 11/28/18

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 CO₂, 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 CO₂ 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 CO₂ 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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 [Filed ARC 3491C (Notice ARC 3261C, IAB 8/16/17), IAB 12/6/17, effective 1/10/18]

◇ 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 REGULATIONCHAPTER 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.

30.4(1) The board may impose discipline for the following violations related to licensure and registration:

- a. Fraud or deceit in procuring or renewing any license, permit, or registration, including any false or misleading statement of a material fact or omission of information required to be disclosed;
- b. 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;
- c. Engaging in the practice of dentistry, dental hygiene, or dental assisting without a license, permit, or registration, or engaging in dental radiography without a dental radiography qualification;
- d. Employing or permitting an unlicensed or unregistered person or a person with a lapsed or inactive license, permit, or registration to practice dentistry, dental hygiene, or dental assisting;
- e. Encouraging, assisting, or enabling in any manner the unauthorized practice of dentistry, dental hygiene, or dental assisting; or

f. Failure to prominently display the names of all persons who are practicing dentistry, dental hygiene, or dental assisting within an office.

30.4(2) The board may impose discipline for the following violations related to ethics:

a. Fraud in representation as to skill or ability, whether by words or conduct or concealment of that which should have been disclosed, including but not limited to violations of 650—Chapter 26;

b. Knowingly making misleading, deceptive, untrue, or fraudulent representations in the practice of the licensee's or registrant's profession;

c. Practicing dentistry, dental hygiene, or dental assisting in a manner that is harmful or detrimental to the public. Proof of actual injury need not be established;

d. Conviction of a felony or misdemeanor crime if the conviction relates to the practice of the profession, which 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;

e. Improper sexual contact with, or making suggestive, lewd, lascivious or improper remarks or advances to, a patient or a coworker;

f. Actions which are abusive, coercive, intimidating, harassing, untruthful, or threatening in the practice of dentistry;

g. Obtaining any fee by fraud or misrepresentation;

h. Giving or receiving cash or cash equivalents, or giving or receiving any gifts exceeding nominal value, for referral of patients;

i. Failure to transfer patient records to another licensee upon request; or

j. Unprofessional or unethical conduct including, but not limited to, those acts defined by Iowa Code section 153.32 or any violation of 650—Chapter 27.

30.4(3) The board may impose discipline for the following violations related to the ability to practice:

a. Habitual use of drugs or intoxicants rendering the licensee or registrant unfit for practice; or

b. 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.

30.4(4) The board may impose discipline for the following violations related to patient care:

a. Willful and gross malpractice;

b. Willful and gross neglect;

c. Failure to maintain a satisfactory standard of competency;

d. Failure to preserve the confidentiality of patient information or accessing any confidential patient information without authorization;

e. Practicing beyond training; or

f. 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.

30.4(5) The board may impose discipline for the following violations related to prescribing:

a. Violating the rules governing prescribing, including any violation of 650—Chapter 16;

b. Improperly delegating access to the Iowa prescription monitoring program (PMP) to an unauthorized individual;

c. Indiscriminately or promiscuously prescribing, administering, or dispensing any drug;

d. Failure to check the PMP prior to prescribing an opioid; or

e. Prescribing opioids in dosage amounts exceeding what would be prescribed by a reasonably prudent prescribing practitioner engaged in a similar practice.

30.4(6) The board may impose discipline for the following violations related to infection control:

a. Failure to maintain adequate safety and sanitary conditions for a dental office; or

b. 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 and the Iowa occupational safety and health administration.

30.4(7) The board may impose discipline for the following violations related to reporting, compliance, and other state laws:

- a. Failure to notify the board of change of address within 60 days;
- b. Failure to report disciplinary action taken by a licensing authority of another state, territory or country, or another licensing authority in this state, 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;
- c. Having a license or registration revoked, suspended, or otherwise disciplined by a licensing authority in any state, territory, or country;
- d. Failure to report any adverse judgment in a professional malpractice action to which the licensee or registrant was a party or any settlement of a claim against the licensee or registrant alleging malpractice;
- e. Failure to comply with an order of the board;
- f. Violating any provision of Iowa law or rule of the board, or being a party to or assisting in any violation of any provision of Iowa law or rule of the board;
- g. Failure to report any restriction of practice imposed by a hospital, clinic, or other practicing setting;
- h. Failure to report any misdemeanor or felony conviction within 60 days, excluding traffic offenses;
- i. Failure to comply with an Iowa practitioner review committee (IPRC) initial agreement or contract;
- j. Failure to report to the board any acts or omissions made by other licensees or registrants of the board that may constitute a basis for disciplinary action under the rules of statutory provisions governing the practice of dentistry, dental hygiene, or dental assisting in Iowa; or
- k. Failure to report adverse occurrences related to sedation, nitrous oxide inhalation analgesia, and antianxiety premedication pursuant to 650—Chapter 29.

30.4(8) The board may impose discipline for the following violations related to board investigations:

- a. 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;
- b. Failure to comply with a subpoena issued by the board;
- c. 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 or sedation permit requirements;
- d. Failure to cooperate with a board investigation; or
- e. Retaliating against, threatening, or coercing any person for filing a complaint with the board or cooperating with a board inspection or investigation.

30.4(9) The board may impose discipline for the following violations related to continuing education:

- a. Failure to respond to the board during a continuing education audit, or failure to submit verification of continuing education requirements within the time period provided;
- b. Knowingly submitting a false report of continuing education; or
- c. Failure to meet the required continuing education hours per biennium.

[ARC 4409C, IAB 4/24/19, effective 5/29/19]

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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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.

†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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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) Preparative 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.

[ARC 8369B, IAB 12/16/09, effective 1/20/10; ARC 0265C, IAB 8/8/12, effective 9/12/12]

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.

[ARC 0265C, IAB 8/8/12, effective 9/12/12]

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and Iowa Code sections 272C.5 and 272C.6.

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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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