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**Code of Alabama/Alabama Dental Practice Act**

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**Alabama State Code & Rules of the Board of  
Dental Examiners of Alabama**

**Published by  
BOARD OF DENTAL EXAMINERS OF  
ALABAMA**

## INTRODUCTION

Code of Alabama (1975), §34-9-43(11) requires the Board to annually publish the provisions of the Alabama Dental Practice Act and Board Rules. The purpose and intent of this requirement is to ensure that all licensees have knowledge and are informed of the statutes and rules which govern their professional activities and license. The Board implores you to take the time to review and understand both the Act and Rules and to call the Board office if you have any questions. Many problems can be avoided if you ask first rather than act first. Remember, you are charged with knowledge of these requirements, and ignorance of or not reading them is no excuse.

You are also encouraged to carefully read Board newsletters, its website [www.dentalboard.org](http://www.dentalboard.org), Alabama Dental Association News or other publications for any changes or proposed changes to the Act or Rules which may occur during the year. The Board has express statutory rule making authority and must follow the provisions of the Alabama Administrative Procedure Act whenever a rule is adopted, amended or rescinded. Before any of these actions can be taken, there must be publication of the Board's intended action in the Alabama Administrative News Monthly and a public hearing before the Board.

**YOUR LICENSE IS VALUABLE.** With the benefits of licensure, there are also responsibilities and obligations. One of those is adhering to the requirements of the Alabama Dental Practice Act and Board Rules. The Board believes that disciplinary actions can be reduced if you seek guidance before acting. Relying upon forgiveness rather than permission is an unwise course of action when it involves your license.

You are encouraged to contact the Board if you have questions about any requirement. Your questions will be answered as promptly as possible.

Please remember that annual renewal of licenses or any required permits must be timely and presently there are penalties and disciplinary consequences for your failure to do so. Please also remember to timely renew your Federal Drug Enforcement Administration (DEA) registration. The expiration date is on the permit. The DEA also requires YOU to notify them of any address change.

It is YOUR responsibility to notify the Board of any address change. Please make sure individuals in your office who require licensure have timely renewed. Requesting to see a copy and posting of the current annual registration certificate is the fail safe method of verification.

Please remember to comply with the mandatory continuing education requirements and to retain documentation evidencing your attendance so that if you are randomly audited, there will be no adverse consequences.

## Alabama Dental Professionals Wellness Committee

The Alabama Legislature has mandated that it is the “duty and obligation of the Board to promote the early identification, intervention, treatment and rehabilitation of individuals licensed by the Board of Dental Examiners (BDEA) who may be impaired. Impairment may include inebriation, excessive use of drugs, controlled substances, alcohol, chemicals or other dependent forming substances which results in a physical or mental condition rendering such person unable to meet the standards of their profession.” Code of Alabama (1975), §34-38-2. Impaired is defined as the inability to practice with reasonable skill and safety to patients due to the conditions or diseases described above.

To fulfill its statutory “duty and obligation” the BDEA created what is now known as the Alabama Dental Professionals Wellness Committee (Committee). The Committee is led by a dedicated group of recovering professionals who discharge or assist in the important functions of identification, intervention, treatment and rehabilitation of impaired professionals. The BDEA commends the Committee on its success due to the procedures, policies and compliance monitoring they have adopted. The cooperation between the Committee and the BDEA has produced one of the lowest relapse rates in the nation and excellent relationships with treatment facilities and providers have been established. The Committee currently monitors a number of individuals who have successfully returned to practice.

As a part of the mandate of the Committee, the Board has adopted a non disciplinary procedure for those licensees who SELF REPORT their abuse of or addiction to alcohol or drugs and voluntarily participates in rehabilitation. If the licensee on his or her own contacts the Committee and agrees to recommended treatment, completes treatment and is acknowledged by the treatment facility as able to resume practice with reasonable skill and safety to patients, a Deferral Agreement will be offered. The essential terms of this Agreement require complete compliance with a five year chemical dependency monitoring contract, payment of costs, annual monitoring fee and strict compliance with any recommendations imposed by the treatment facility or the Committee. This agreement also provides that if its terms are violated the licensee agrees to the entry of a Consent Order which sanctions the license, imposes penalties and is reportable as discipline.

If a licensee qualifies for the above described Agreement he or she is not required to appear before the Board. The Agreement will not be reported as discipline either in the BDEA newsletter or to the Federal Data Banks as long as there is compliance throughout the term of the Agreement. The Committee has a hotline, 1-800-818-3880, which you are encouraged to call should the need arise or you have any information regarding the impairment of any individual. More information on the history of the Committee, how the Committee functions, contact information and links to treatment facilities can be found on the BDEA’s website, [www.dentalboard.org](http://www.dentalboard.org).

**THE ALABAMA BOARD OF DENTAL EXAMINERS**  
**THE EARLY YEARS**  
**Dr. Mike Mahan**

According to the Code of Alabama, the practice of dentistry was deemed to “affect the public health, safety, and welfare.” To protect this public interest, the Alabama Board of Dental Examiners was created by the Alabama Dental Association in 1881, the first such regulatory body for dentists in the nation.

The inaugural meeting of the Board of Examiners took place at Lotus Hall in Selma on July 19, 1881. Elected to the first Board were the following: Drs. E.S. Chisholm (Chair), W.R. McWilliams, F.M. Allen (secretary), and W.D. Dunlap, and J.G. McAuley. Also at the initial meeting, the Board chose the seal still used today - the coat of arms of Alabama, with “Board of Dental Examiners of Alabama, organized July the 19<sup>th</sup> 1881” engraved on it. But more importantly, they began reviewing applications for license, approving some and rejecting others.

The 1882 meeting took place in Montgomery on April 9-11. Secretary Allen reported the Board that his “labors [had] not been light” during the previous year and that he had worked with an insufficient budget. He made up some of the deficit out of his own pocket, but, at the year’s end, he was able to report a balance of fifty-two cents.

By the end of the second meeting of the Board of Dental Examiners, rules and regulations governing the Board had been adopted. New applicants for license had been approved, and those rejected were sent off to study more before receiving the imprimatur of the Board. In subsequent years during the nineteenth century, the Board met annually to approve licenses. It never acted as a rubber stamp, always turning down some of the applicants.

The year of 1889 is a signal year for the board in that it adopted for the first time a standard for grading the examinations of the candidates. The applicant had to score seventy-five points out of one hundred. In the following years, the Board found that the dental colleges were becoming better and better, and in 1896, eighty percent, rather than seventy-five, was required for successfully passing the exam. In his message to the Alabama Dental Association that year, Chairman W.D. Boyd, Jr., lamented, “We regret to state that we have parties coming before us who claim to have diplomas who are totally incapacitated to pass a theoretical examination.”

In 1897, 1898, and 1899, the work continued as usual, and the numbers of applicants examined were growing. In 1888, under the leadership of Chairman E.S. Chisholm and Secretary G.M. Rousseau, the organization seemed to take stock of itself and get new bearings. Dr. Chisolm reported to the Alabama Dental Association that “it affords the Board gratification to state that the gentlemen who have been examined by us stood a closer and more thorough examination that has ever been given by the board.” In addition, the board tightened the requirements for temporary licenses and issued a new directory of Alabama dentists.

As the century turned, The Alabama Board of Dental Examiners was well established, continuing to accomplish the task it was charged with when it was organized in 1881: to protect the public’s interest and insure quality dental care in Alabama.



# CODE OF ALABAMA

The portion of the Code of Alabama (1975) that deals specifically with the practice of dentistry and the licensing of dentists and dental hygienists in the state of Alabama may be found in §34. If you would like to view the entire Code of Alabama please visit <http://alisondb.legislature.state.al.us/acas/ACASLogin.asp>. The Board has provided you with §34 for you to review should you have any questions about the practice of dentistry and the licensing of dentists and dental hygienists in Alabama. Should you have any questions after reviewing the Code of Alabama please contact the Board office.

## **Chapter 9 Dentists and Dental Hygienists**

### **Article 1. General Provisions**

Section:

- 34-9-1. Definitions.
- 34-9-2. Legislative findings.
- 34-9-3. License or permit required to practice dentistry.
- 34-9-4. License required to practice dental hygiene or expanded duty dental assisting.
- 34-9-5. Penalties.
- 34-9-6. What constitutes practice of dentistry.
- 34-9-6.1 Mobile dental facilities or portable dental operations.
- 34-9-7. Exemption of certain practices and operations.
- 34-9-7.1 Exemption of participation in continuing education course.
- 34-9.7.2 Registration of a 501(c)(3) entity.
- 34-9-8. Dental faculty teaching permits; dental faculty special teaching permits.
- 34-9-9. Exercise of independent professional judgment by dentist; prohibited business arrangements or relationships; penalties.
- 34-9-10. Application; licensure by credentials; special purpose license.
- 34-9-11. Examination of applicants; issuance of licenses.
- 34-9-12. Recording, reporting requirements.
- 34-9-13. License and registration certificates to be kept in office of practitioner.
- 34-9-14. Change of address generally.
- 34-9-15. Annual registration; continuing education.
- 34-9-15.1. Release of records.
- 34-9-16. Fee schedule.
- 34-9-17. Use of names.
- 34-9-18. Grounds for disciplinary action.
- 34-9-19. Advertising – Dentist; specialty requirements; practice emphasis; purpose of section; rules and regulations.
- 34-9-19.1 Advertising – Dental referral service; requirements; prohibitions; penalties.
- 34-9-20. Unauthorized advertising, selling, or offering of dental services and appliances; injunctions.
- 34-9-21. Employing services of commercial dental laboratory or private technician.
- 34-9-22. Sale, offer to sell, procurement, or alteration of diploma or certificate; fraud or cheating.
- 34-9-23. Title and letters signifying degree.
- 34-9-24. Statement of charges and notice of hearing before revocation or suspension of license.
- 34-9-25. Judicial review of orders of board.
- 34-9-26. Examination, qualifications, licensing, etc. of dental hygienists and expanded duty dental assistants.
- 34-9-27. Employment, supervision, and practice of dental hygienists and expanded duty dental assistants.
- 34-9-28. Notification of change of address or employer; annual registration requirements.
- 34-9-29. Injunctions against violations of chapter.

### **Article 2. Board of Dental Examiners**

- 34-9-40. Creation; composition.
- 34-9-41. Officers of board; seal; meetings; compensation; disposition of funds.
- 34-9-42. Bond of secretary-treasurer of board; annual report and audit; national affiliation.
- 34-9-43. Powers and duties generally.

- 34-9-43.1 Administration and enforcement of duties; consultants.
- 34-9-44. Records to be kept by secretary-treasurer; copies and certificates as evidence.
- 34-9-45. Board to assist prosecuting officers.
- 34-9-46. Subpoenas and testimony.
- 34-9-47. Taking of depositions.

**Article 3.**  
**Use of Anesthesia by Dentists.**

- 34-9-60. Use of local anesthesia; permit to use general anesthesia.
- 34-9-61. Review and renewal of permit; reevaluation of credentials and facility.
- 34-9-62. Certification in cardiopulmonary resuscitation.
- 34-9-63. Permit to use parenteral sedation.
- 34-9-64. Annual renewal of parenteral sedation permit; reevaluation of credentials and facility.
- 34-9-65. Reports of mortalities and other incidents resulting from general anesthesia or sedation.
- 34-9-80. Definitions.
- 34-9-81. Permits required.
- 34-9-82. Requirements for treatment.
- 34-9-83. Requirements for assistants.
- 34-9-84. Report of adverse consequences.
- 34-9-85. Limits on advertisements.
- 34-9-86. On-site inspection.
- 34-9-87. Permit limitations.
- 34-9-88. Renewal of permit.
- 34-9-89. Treatment of patients under 12 years of age.
- 34-9-90. Violations and penalties.

**Chapter 38**  
**Impaired Professionals Committee**  
**(Alabama Dental Professionals Wellness Committee)**

- 34-38-1. Definitions.
- 34-38-2. Promotion of early treatment, etc., of individuals impaired by illness, inebriation, etc.; Alabama Impaired Professionals' Committee; expenses; competitive bidding not required.
- 34-38-3. Authority of board or boards to contract for Impaired Professionals' Committee to undertake certain functions.
- 34-38-4. Procedures for reporting impaired professional program activity and disclosure and joint review of information.
- 34-38-5. Nonliability of Impaired Professionals' Committee personnel, etc., for actions within scope of function.
- 34-38-6. Confidentiality of information, records, and proceedings.
- 34-38-7. Annual report.
- 34-38-8. Evaluations of professional who is believed to be impaired; report of findings.

**ARTICLE 1.  
GENERAL PROVISIONS.**

**§34-9-1. Definitions.**

For the purposes of this chapter, the following terms shall have the respective meanings ascribed by this section:

(1) ANNUAL REGISTRATION. The documentary evidence that the board has renewed the authority of the licensee to practice dentistry or dental hygiene in this state.

(2) BOARD. The Board of Dental Examiners of Alabama.

(3) COMMERCIAL DENTAL LABORATORY. A technician or group of technicians available to any or all licensed dentists for construction or repair of dental appliances.

(4) EXPANDED DUTY DENTAL ASSISTANT. A dental assistant who holds a current expanded license certificate from the board.

(5) GENERAL ANESTHESIA. A controlled state of unconsciousness, 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, produced by a pharmacologic method.

(6) LICENSE. The grant of authority by the board to a person to engage in the practice of dentistry or dental hygiene.

(7) LICENSE CERTIFICATE. The documentary evidence under seal of the board that the board has granted authority to the licensee to practice dentistry or dental hygiene in this state.

(8) LICENSED DENTIST. A dentist who holds a current license certificate from the board.

(9) LICENSED HYGIENIST. A hygienist who holds a current license certificate from the board.

(10) LOCAL ANESTHESIA. The elimination of sensations, especially pain in one part of the body by topical application or regional injection of a drug.

(11) PRACTICE OF DENTISTRY ACROSS STATE LINES.

a. The practice of dentistry as defined in Section 34-9-6 as it applies to the following:

1. The rendering of a written or otherwise documented professional opinion concerning the diagnosis or treatment of a patient located within this state by a dentist located outside this state as a result of transmission of individual patient data by electronic or other means from within this state to the dentist or his or her agent.

2. The rendering of treatment to a patient located within this state by a dentist located outside this state as a result of transmission of individual patient data by electronic or other means from this state to the dentist or his or her agent.

3. The holding of himself or herself out as qualified to practice dentistry, or use any title, word, or abbreviation to indicate or induce others to believe that he or she is licensed to practice dentistry across state lines.

b. This definition is not intended to include an informal consultation between a licensed dentist located in this state and a dentist located outside this state provided that the consultation is conducted without compensation or the expectation of compensation to either dentist, and does not result in the formal rendering of a written or otherwise documented professional opinion concerning the diagnosis or treatment of a patient by the dentist located outside the state.

(12) PRIVATE TECHNICIANS. A technician employed by a dentist or group of dentists for a specified salary.



(13) SEDATION. A depressed 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, produced by a pharmacologic method.

**§34-9-2. Legislative findings.**

(a) The Legislature hereby declares that the practice of dentistry and the practice of dental hygiene affect the public health, safety, and welfare and should be subject to regulation. It is further declared to be a matter of public interest and concern that the dental profession merit and receive the confidence of the public and that only qualified dentists be permitted to practice dentistry and only qualified dental hygienists be permitted to practice dental hygiene in the State of Alabama. All provisions of this chapter relating to the practice of dentistry and dental hygiene shall be liberally construed to carry out these objects and purposes.

(b) The Legislature also finds and declares that, because of technological advances and changing practice patterns, the practice of dentistry and the practice of dental hygiene is occurring with increasing frequency across state lines and that the technological advances in the practice of dentistry and in the practice of dental hygiene are in the public interest.

(c) The Legislature further finds and declares that the practice of dentistry and the practice of dental hygiene are each a privilege. The licensure by this state of nonresident dentists who engage in dental practice and persons who engage in the practice of dental hygiene within this state are within the public interest. The ability to discipline the nonresident dentists and dental hygienists who engage in dental practice in this state is necessary for the protection of the citizens of this state and for the public interest, health, welfare, and safety.

**§34-9-3. License or permit required to practice dentistry.**

It shall be unlawful for any person to practice dentistry in the State of Alabama except the following:

- (1) Those who are now duly licensed or permitted dentists, pursuant to law.
- (2) Those who may be hereafter duly licensed or permitted and who are currently registered as dentists, pursuant to this chapter.
- (3) Those nonresident dentists who have been issued a special purpose license to practice dentistry across state lines in accordance with Section 34-9- 10. This subdivision shall not apply to those dentists who hold a full, unrestricted, and current license or permit issued pursuant to Section 34-9- 8 or Section 34-9-10.

**§34-9-4. License required to practice dental hygiene or expanded duty dental assisting.**

It shall be unlawful for any person to practice dental hygiene or expanded duty dental assisting in the State of Alabama, except:

- (1) Those who are now licensed dental hygienists or expanded duty dental assistants pursuant to law; and
- (2) Those who may hereafter be duly licensed and who are currently registered as dental hygienists or expanded duty dental assistants pursuant to the provisions of this chapter.

**§34-9-5. Penalties.**

Any person who shall engage in the practice of dentistry across state lines or practice dentistry or dental hygiene in this state within the meaning of this chapter without having first obtained from the board a license and an annual registration certificate, when the certificate is required by this chapter, or who violates this chapter, or who willfully violates any published rule or regulation of the board, or who does any act described in this chapter as unlawful, the penalty for which is not herein specifically provided, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than five thousand dollars (\$5,000) for each offense, to be fixed by the court trying the case, and in addition thereto may be, in the discretion of the court, sentenced to hard labor for the county for a period not to exceed 12 months.

**§34-9-6. What constitutes practice of dentistry.**

Any person shall be deemed to be practicing dentistry who does any of the following:

- (1) Performs, or attempts or professes to perform, any dental operation or dental service of any kind, gratuitously or for a salary, fee, money or other remuneration paid, or to be paid, directly or indirectly, to himself or herself, or to any person in his or her behalf, or to any agency which is a proprietor of a place where dental operations or dental services are performed.
- (2) Directly or indirectly, by any means or method, makes impression of the human tooth, teeth, jaws or adjacent tissue, or performs any phase of any operation incident to the replacement of a tooth or any part thereof.
- (3) Supplies artificial substitutes for the natural teeth, and who furnishes, supplies, constructs, reproduces, or repairs any prosthesis (fixed or removable), appliance, or any other structure to be worn in the human mouth.
- (4) Places such appliance or structure in the human mouth, or adjusts, attempts, or professes to adjust the same, or delivers the same to any person other than the dentist upon whose prescription the work was performed.
- (5) Professes to the public by any method to furnish, supply, construct, reproduce, or repair any prosthesis (fixed or removable), appliance, or other structure to be worn in the human mouth, or who diagnoses, or professes to diagnose, prescribe for, professes to prescribe for, treats or professes to treat disease, pain, deformity, deficiency, injury, or physical condition of the human teeth or jaws, or adjacent structure, or who extracts or attempts to extract human teeth, or remove tumors, abnormal growths, or other lesions from the human gums, jaws, and adjacent structures, or who operates for cleft lip or palate, or both; or who treats surgically or mechanically fractures of the human jaw; or who administers local or general anesthetics in the treatment of any dental lesion.
- (6) Repairs or fills cavities in the human teeth.
- (7) Uses a roentgen, radiograph, or digital imaging machine for the purpose of making dental roentgenograms, radiographs, or digital images, or who gives, or professes to give, interpretations or readings of dental roentgenograms, radiographs, or digital images, or radiographic or roentgen therapy.
- (8) Administers an anesthetic of any nature in connection with a dental procedure.
- (9) Uses the words "dentist," "dental surgeon," "oral surgeon," or the letters "D.D.S.," "D.M.D." or any other words, letters, title, or descriptive matter which in any way represents him or her as being able to diagnose, treat, prescribe, or operate for any disease, pain, deformity, deficiency, injury, or physical condition of the teeth or jaws, or adjacent structures.
- (10) States, or professes, or permits to be stated or professed by any means or method whatsoever that he or she can perform or will attempt to perform dental procedures, or render a diagnosis connected therewith.
- (11) Performs any clinical operation included in the curricula of recognized dental colleges; provided, that members of the faculty, teachers, instructors, fellows, interns, residents, dental students, student dental hygienists, and student expanded duty dental assistants who are employed by or who are taking courses or instructions at the University of Alabama School of Dentistry or such other dental colleges, hospitals, or institutions in Alabama, as may be approved by the board; and provided, that the work of fellows, interns, residents, dental students, and student dental hygienists is performed within the facilities of such dental colleges, hospitals, and institutions under the supervision of an instructor and as an adjunct to his or her course of study or training, shall not be required to take examination or obtain a license certificate and renewal license certificate when all of such work, dental procedures, and activities are confined to his or her work in the college, hospital, or other institution and the work is done without remuneration other than the regular salary or compensation paid by such colleges, hospitals, or other institutions.
- (12) Professes to the public by any method to bleach human teeth, performs bleaching of the human teeth alone or within his or her business, or instructs the public within his or her business, or through any agent or employee of his or her business, in the use of any tooth bleaching product.

**§34-9-6.1 Mobile dental facilities or portable dental operations.**

(a) For purposes of this section, the following words have the following meanings:

(1) DENTAL HOME. The dental home is the ongoing relationship between the dentist and the patient, inclusive of all aspects of oral health care, delivered in a comprehensive, continuously accessible, coordinated, and family-centered way.

(2) MOBILE DENTAL FACILITY. Any self-contained facility in which dentistry or dental hygiene is practiced which may be moved, towed, or transported from one location to another.

(3) OPERATOR. A person licensed to practice dentistry in this state or an entity which is approved as tax exempt under Section 501(c)(3) of the Internal Revenue Code which employs dentists licensed in the state to operate a mobile dental facility or portable dental operation.

(4) PORTABLE DENTAL OPERATION. The use of portable dental delivery equipment which is set up on site to provide dental services outside of a mobile dental facility or a dental office and uses non-fixed dental equipment and independent plumbing.

(b) In order to operate a mobile dental facility or portable dental operation, an operator shall first obtain a certificate of registration issued by the board. The operator shall complete an application in the form and manner required by the board and shall meet all qualifications established by rules of the board.

(c) A mobile dental facility shall comply with all of the following requirements:

(1) The operator shall maintain an official business address which shall not be a post office box and which shall be within this state and be associated with an established dental facility which shall have an official business address on record with the board. The address shall be filed with the board as part of the application for a certificate of registration.

(2) The operator shall maintain an official telephone number of record which shall be accessible 24 hours a day and which shall be filed with the board as part of the application for a certificate of registration. The telephone number shall have 911 capability.

(3) The board shall be notified within 30 days of any change in address, location, or telephone number of record. The notification shall also include the method by which patients are notified of the change of address, location, or telephone number of record. For purposes of this subdivision, patient shall mean any individual who has received treatment or consultation of any kind within two years of the date of the proposed change of address, location, or telephone number of record.

(4) All written or printed documents available from or issued by the mobile dental facility shall contain the official business address and telephone number of record for the mobile dental facility.

(5) When not in transit, all dental and official records shall be maintained at the official business address.

(6) The operator shall maintain a written procedure for emergency follow-up care for patients treated in a mobile dental facility, which includes arrangements for treatment in a dental facility that is permanently established in the area within a 50-mile radius where services are provided subject to a qualified dentist being located in the area and subject to the dentist agreeing to provide follow-up care. An operator who either is unable to identify a qualified dentist in the area or is unable to arrange for emergency follow-up care for patients otherwise shall be obligated to provide the necessary follow-up care via the mobile dental facility or the operator may choose to provide the follow-up care at his or her established dental practice location in the state or at any other established dental practice in the state which agrees to accept the patient. An operator who fails to arrange or provide follow-up care as required herein shall be considered to have abandoned the patient, and the operator and any dentist or dental hygienist, or both, who fail to provide the referenced follow-up care shall be subject to disciplinary action by the board.

(7) The mobile dental facility shall have communication abilities that enable the operator to contact necessary parties in the event of a medical or dental emergency. The communication abilities shall enable the patient or the parent or guardian of the patient treated to contact the operator for emergency care, follow-up care, or

information about treatment received. The provider who renders follow-up care must also be able to contact the operator and receive treatment information, including radiographs.

(8) The mobile dental facility and the dental procedures performed therein shall comply with all applicable federal and state laws and all applicable rules of the board promulgated pursuant to Section 34-9-43.

(9) Any driver of a mobile dental facility shall possess a valid Alabama driver's license appropriate for the operation of the vehicle. A copy of the driver's license of each driver shall be submitted to the board at least 30 days prior to the individual operating a mobile dental facility.

(10) All mobile dental facilities authorized in this section which are a vehicle or which are to be towed or otherwise transported by another vehicle shall be registered in this state.

(11) The operator of a mobile dental facility shall not perform services on a minor without the signed consent from the parent or guardian which form shall be established by the board. The consent form shall inquire whether the prospective patient has received dental care from a licensed dentist within one year and if so, the consent form shall request the name, address, and phone number of the dental home. If the information provided to the operator does not identify a dental home for the prospective patient, the operator shall contact the Alabama Medicaid Agency for assistance in identifying a dental home for Medicaid eligible patients. If this information is provided to the operator, the operator shall contact the designated dental home by phone, facsimile, or electronic mail and notify the dental home of the prospective patient's interest in receiving dental care from the operator. If the dental home confirms that an appointment for the prospective patient is scheduled with the dentist, the operator shall encourage the prospective patient or his or her guardian to seek care from the dental home. The consent form shall document that the patient, or legal guardian, understands the prospective patient has an option to receive dental care from the mobile dental facility or his or her designated dental home if applicable. The consent form shall require the signature of a parent or legal guardian if the patient is a minor.

(12) Each operator of a mobile dental facility shall maintain a written or electronic record detailing for each location where services are performed all of the following information:

- a. The street address of the service location.
- b. The dates of each session.
- c. The number of patients served.
- d. The types of dental services provided and the quantity of each service provided.
- e. Any other information requested by rule of the board.

(13) The written or electronic record shall be made available to the board within 10 days of a request.

(14) Each mobile dental facility shall possess all applicable county and city licenses or permits to operate at each location.

(d) The mobile dental facility shall comply with the following physical requirements and inspection criteria:

- (1) Ready access in a ramp or lift.
- (2) A properly functioning sterilization system.
- (3) Ready access to an adequate supply of potable water, including hot water.
- (4) A covered galvanized, stainless steel, or other noncorrosive container for deposit of refuse and waste materials.
- (5) Ready access to toilet facilities which shall be located within the mobile dental facility. Operators applying for a certificate prior to July 1, 2008, are not required to meet this requirement. Any governmental entity operating a mobile dental facility shall only be required to have ready access to toilet facilities.

(6) All licenses and permits as required by Section 34-9-13 on site.

(7) Ready access to an emergency kit.

(8) Sharps containers and red biohazard equipment available on site.

(e) A portable dental operation shall comply with all of the following requirements:

(1) The operator shall maintain an official business address which shall not be a post office box and which shall be within this state and be associated with an established dental facility which shall have an official business address on record with the board. The address shall be filed with the board as part of the application for a certificate of registration.

(2) The operator shall maintain an official telephone number of record which shall be accessible 24 hours a day and which shall be filed with the board as part of the application for a certificate of registration. The telephone number shall have E-911 capability.

(3) The board shall be notified within 30 days of any change in address, location, or telephone number of record. The notification shall also include the method by which patients are notified of the change of address, location, or telephone number of record. For purposes of this subdivision, patient shall mean any individual who has received treatment or consultation of any kind within two years of the date of the proposed change of address, location, or telephone number of record.

(4) All written or printed documents available from or issued by the portable dental operation shall contain the official business address and telephone number of record for the portable dental operation.

(5) When not in transit, all dental and official records shall be maintained at the official business address.

(6) The operator shall maintain a written procedure for emergency follow-up care for patients treated in a portable dental operation, which includes arrangements for treatment in a dental facility that is permanently established in the area within a 50-mile radius where services are provided subject to a qualified dentist being located in the area and subject to the dentist agreeing to provide follow-up care. An operator who either is unable to identify a qualified dentist in the area or is unable to arrange otherwise for emergency follow-up care for patients shall be obligated to provide the necessary follow-up care via the portable dental operation, or the operator may choose to provide the follow-up care at his or her established dental practice location in the state or at any other established dental practice in the state which agrees to accept the patient. An operator who fails to arrange or provide follow-up care as required herein shall be considered to have abandoned the patient, and the operator and any dentist or dental hygienist, or both, who fail to provide the referenced follow-up care shall be subject to disciplinary action by the board.

(7) The portable dental operation shall have communication abilities that enable the operator to contact necessary parties in the event of a medical or dental emergency. The communication abilities shall enable the patient or the parent or guardian of the patient treated to contact the operator for emergency care, follow-up care, or information about treatment received. The provider who renders follow-up care must also be able to contact the operator and receive treatment information, including radiographs.

(8) The portable dental operation and the dental procedures performed therein shall comply with all applicable federal and state laws and all applicable rules of the board promulgated pursuant to Section 34-9-43.

(9) The operator of a portable dental operation may not perform services on a minor without the signed consent from the parent or guardian on a form established by the board. The consent form shall request information as to whether the prospective patient has received dental care from a licensed dentist within one year and, if so, shall request the name, address, and phone number of the dental home. If the information provided to the operator does not identify a dental home for the prospective patient, the operator shall contact the Alabama Medicaid Agency for assistance in identifying a dental home for Medicaid eligible patients. If this information is provided to the operator, the operator shall contact the designated dental home by phone, facsimile, or electronic mail and notify the dental home of the prospective patient's interest in receiving dental care from the operator. If the dental home confirms that an appointment for the prospective patient is scheduled with the dentist, the operator shall

encourage the prospective patient or his or her guardian to seek care from the dental home. The consent form shall document that the patient, or legal guardian, understands the prospective patient has an option to receive dental care from either the portable dental operation or his or her designated dental home, if applicable. The consent form shall require the signature of a parent or legal guardian if the patient is a minor.

(10) Each operator of a portable dental operation shall maintain a written or electronic record detailing for each location where services are performed all of the following information:

- a. The street address of the service location.
- b. The dates of each session.
- c. The number of patients served.
- d. The types of dental services provided and the quantity of each service provided.
- e. Any other information requested by rule of the board.

(11) The written or electronic record shall be made available to the board within 10 days of a request.

(12) Each portable dental operation shall possess all applicable county and city licenses or permits to operate at each location.

(f) The portable dental operation shall comply with all physical requirements and inspection criteria established by rule of the board and shall comply with the license and permit requirements of Section 34-9-13.

(g) The mobile dental facility or a portable dental operation shall be inspected by the board or its representative prior to receiving a certificate of registration. Once registered, the mobile dental facility or a portable dental operation shall be subject to periodic unannounced audits and inspections by the board.

(h) The mobile dental facility or a portable dental operation shall comply with the current recommendations for infection control practices for dentistry as promulgated by the Centers for Disease Control and any rule of the board relating to infection control or reporting in a dental office.

(i) The initial application for a certificate of registration shall include the full name, address, and telephone number of the dentists and dental hygienists working at the facility or operation. The initial application for a certificate of registration shall also include proof of insurance from a licensed insurance carrier that the operator has in force at least one million dollars (\$1,000,000) of general liability insurance. The operator shall be required to maintain one million dollars (\$1,000,000) of general liability insurance at all times for which the mobile dental facility or portable dental operation is licensed by the Board of Dental Examiners. Governmental entities which operate mobile dental facilities or portable dental operations shall not be required to have or maintain any amount of general liability insurance. The operator shall advise the board in writing within 15 days of any change in the employment of any dentist or dental hygienist working at the facility or operation.

(j) The operator shall notify the board in writing within 10 days of any change made relating to a dentist to whom patients are to be referred for follow-up care as provided in subdivision (6) of subsection (c).

(k) The operator shall notify the board in writing within 10 days of any change in the procedure for emergency follow-up care as provided in subdivision (6) of subsection (c).

(l) At the conclusion of each patient's visit to the mobile dental facility or a portable dental operation, the patient shall be provided with a patient information sheet which shall also be provided to any individual or entity to whom the patient has consented or authorized to receive or access the patient's records. The information sheet shall include at a minimum the following information:

- (1) The name of the dentist or dental hygienist, or both, who performed the services.
- (2) A description of the treatment rendered, including billing service codes and fees associated with treatment and tooth numbers when appropriate.

(3) If applicable, the name, address, and telephone number of any dentist to whom the patient was referred for follow-up care and the reason for such referral.

(4) The name, address, and telephone number, if applicable, of a parent or guardian of the patient.

(m) In the event a mobile dental facility or a portable dental operation is to be sold, the current operator shall inform the board and the Alabama Medicaid Agency, if the operator is an Alabama Medicaid enrolled provider, at least 10 days prior to the sale being completed and shall be required to disclose the purchaser to the board and the Alabama Medicaid Agency, if the operator is an Alabama Medicaid enrolled provider, via certified mail within 10 days after the date the sale is finalized. The operator of a mobile dental facility or a portable dental operation shall notify the board and the Alabama Medicaid Agency, if the operator is an Alabama Medicaid enrolled provider, at least 30 days prior to cessation of operation. Such notification shall include the final day of operation and a copy of the notification shall be sent to all patients and shall include the manner and procedure by which patients may obtain their records or transfer those records to another dentist. It is the responsibility of the operator to take all necessary action to insure that the patient records are available to the patient, a duly authorized representative of the patient, or a subsequent treating dentist. For purposes of this subsection, a patient shall mean any individual who has received any treatment or consultation of any kind within two years of the last date of operation of the mobile dental facility or a portable dental operation.

(n) A mobile dental facility or a portable dental operation that accepts or treats a patient but does not refer patients for follow-up care when such follow-up care is clearly necessary, shall be considered to have abandoned the patient and will subject the operator and any dentist or dental hygienist, or both, who fails to provide the referenced follow-up care to disciplinary action by the board.

(o) In addition to the requirements of this section, any operator, dentist, or dental hygienist working or performing any services at a mobile dental facility or a portable dental operation shall be subject to the provisions of this chapter. Any violation of the provisions of this section shall subject the operator, dentist, or dental hygienist to the penalties provided in Section 34-9-18, and no order imposing penalties pursuant to Section 34-9-18 shall be made or entered except after notice and hearing by the board with any such order being subject to judicial review.

(p) The board may promulgate rules to implement and enforce this section.

(q) A mobile dental facility or portable dental operation shall conform to all requirements of this chapter, rules promulgated by the board pursuant to this chapter, any rule or regulation promulgated by the Occupational Safety and Health Administration, the federal Centers for Disease Control and Prevention, and the Alabama Department of Public Health, and any applicable federal, state, or local law, regulation, guideline, or ordinance including, but not limited to, those relating to radiographic equipment, flammability, construction, sanitation, medical waste transportation, zoning, prevention of infection and disease, facility operation, and licenses or permits to operate.

(r) This section shall not apply to any existing Jefferson County Department of Health mobile dental facilities that have been in service providing dental care within Jefferson County prior to December 31, 2007.

(s) This section shall not apply to any mobile dental facility or portable dental operation which is operated during a state of emergency declared by the Governor as authorized in Section 31-9-8.

(t) It is the express intent of the Legislature that no state agency, including, but not limited to, the Alabama Medicaid Agency, shall restrict any mobile dental facility or portable dental operation which complies with the provisions outlined herein and all applicable state and federal rules from participation in its programs.

(u) Notwithstanding any other provision of law, any entity which is approved as tax exempt under Section 501(c)(3) of the Internal Revenue Code and employs dentists licensed in this state shall continue to be able to employ dentists licensed in this state and to provide dental services in the same manner and under the same conditions as licensed on June 7, 2008.

#### **§34-9-7. Exemption of certain practices and operations.**

Nothing in this chapter shall apply to the following practices, acts, and operations:

(1) The practice of his or her profession by a physician or surgeon holding a certificate of qualification as a medical doctor and licensed as such under the laws of this state, provided he or she shall not practice dentistry as a specialty.

(2) The practice of dentistry in the discharge of their official duties by graduate dentists or dental surgeons in the United States Army, Navy, Air Force, or other armed services, public health service including, but not limited to, a federally qualified health center authorized and operating under Section 330 of the Public Health Service Act (42 U.S.C. § 254B), provided, however, that such federally qualified health centers shall register pursuant to Section 34-9-7.2 (provided further however, dentists, dental hygienists, and other personnel employed by any public health service which performs dental health care for the general public under programs funded in whole or part by the state or federal government shall be subject to all of the provisions of this chapter and the rules and regulations duly promulgated by the board governing the practice of dentistry and dental hygiene in this state), Coast Guard, or Veteran's Administration.

(3) The practice of dentistry by a licensed dentist of other states or countries at meetings of the Alabama Dental Association or components thereof, or other like dental organizations approved by the board, while appearing as clinicians, or when appearing in emergency cases upon the specific call of dentists duly licensed under this chapter.

(4) The filling of prescriptions of a licensed and registered dentist, as hereinafter provided, by any person or persons, association, corporation, or other entity for the construction, reproduction, or repair of prostheses (fixed or removable) or appliances on a cast made by or from impressions made by a licensed and currently registered dentist, to be used or worn as a substitute for natural teeth; provided, that the person or persons, association, corporation, or other entity, shall not solicit or advertise, directly or indirectly, by mail, card, newspaper, pamphlet, radio, television, Internet, or otherwise, to the general public to construct, reproduce, or repair prostheses (fixed or removable) or other appliances to be used or worn as substitutes for natural teeth.

(5) The use of roentgen machines or other means for making radiographs, digital images, or similar records, of dental or oral tissues under the supervision of a licensed dentist or physician; provided, that the services shall not be advertised by any name whatever as an aid or inducement to secure dental patronage, and no person shall advertise that he or she has, leases, owns, or operates a roentgen or other machine for the purpose of making dental radiographs or images, of the human teeth or tissues or the oral cavity, or administering treatments thereto for any disease thereof.

(6) The giving of a general anesthetic by a nurse anesthetist who administers a general anesthetic under the direct supervision of a duly licensed dentist to a patient who is undergoing dental treatment rendered by the dentist.

(7) The use of a nurse in the practice of professional or practical nursing, as defined in Sections 34-21-1 through 34-21-26, by a dentist.

(8) A dentist who engages in the practice of dentistry across state lines in an emergency, as defined by the board.

(9) A dentist who engages in the practice of dentistry across state lines on an irregular or infrequent basis. The "irregular or infrequent" practice of dentistry across state lines is considered to occur if the practice occurs less than 10 times in a calendar year or involves fewer than 10 patients in a calendar year, or the practice comprises less than one percent of the diagnostic or therapeutic practice of the dentist.

(10) A dentist, dental hygienist, or expanded duty dental assistant on active duty, or performing his or her duties as a reservist in the military, is not subject to any fee required for a special purpose license to practice dentistry across state lines. The dentist, dental hygienist, or expanded duty dental assistant shall notify the board in advance of his or her participation in military activities and shall forward a copy of his or her current dental license or permit, or both, to the board. The dentist, dental hygienist, or expanded duty dental assistant shall also provide proof of military status and any orders requiring him or her to perform dental treatment services in this state.

#### **§ 34-9-7.1 Exemption of participation in continuing education course.**

The practice of dentistry by a dentist licensed in another state as a part of participation in a continuing education course conducted, taught, or supervised by the University of Alabama School of Dentistry or any other dental college, hospital, or institution in Alabama which is approved by the board is exempt from the licensing requirements of this chapter.

#### **§ 34-9-7.2. Registration of a 501(c)(3) entity.**

A 501(c)(3) entity, as defined under Section 501(c)(3) of the Internal Revenue Code, that operates a dental clinic that provides dental services shall register with the board. The information provided to the board as a part of the registration process shall include the name of the corporation, the nonprofit status of the corporation, sites where dental services shall



be provided by the corporation, and the names of all persons employed by, or contracting with, the corporation who are required to hold a license pursuant to this chapter. A copy of the entity's 501(c)(3) certification from the Internal Revenue Service shall be filed with the board. If the entity has multiple clinics, the entity shall register each clinic with the board and the entity shall have one licensed dentist serving as chief of dental services for all of the clinics. All dentists, hygienists, and expanded duty dental assistants at each clinic shall possess the applicable licenses or permits required by this chapter and shall be subject to this chapter.

**§ 34-9-8. Dental faculty teaching permits; dental faculty special teaching permits.**

(a) The board shall annually issue dental faculty teaching permits to persons who are bona fide members of the faculty of a dental college, if they hold a dental degree but are not licensed and registered to practice dentistry, dental hygiene, or expanded duty dental assisting in the state. The dean of any dental college located in the state shall annually certify to the board the bona fide members of the clinical faculty of the college who are not licensed and registered to practice dentistry or dental hygiene in the state. The board shall issue teaching permits to applicants upon the certification by the dean. The teaching permits shall be invalid if the holder ceases to be a member of the clinical faculty of the dental college. The dean of any dental college shall promptly notify the board regarding changes in the faculty which affect the eligibility of a faculty member to possess a teaching permit. The holder of a teaching permit shall be subject to this chapter and may perform all clinical operations which a person licensed to practice dentistry, dental hygiene, or expanded duty dental assisting in the state is entitled to perform. The operations may only be performed within the facilities of the dental college or any other facility approved by the board as an adjunct to his or her teaching functions in the college. An annual fee established pursuant to this chapter shall be paid to the board when the teaching permit is issued.

(b) The board shall annually issue dental faculty special teaching permits to persons who are bona fide members of the faculty of a dental college if they hold a dental degree but are not licensed and registered to practice dentistry, dental hygiene, or expanded duty dental assisting in the state. The dean of any dental college located in the state shall annually certify to the board the bona fide members of the clinical faculty of the college who are not licensed and registered to practice dentistry, dental hygiene, or expanded duty dental assisting in the state. The board shall issue special teaching permits to applicants upon certification by the dean. The special teaching permits shall be invalid if the holder ceases to be a member of the clinical faculty of the dental college. The dean of any dental college shall promptly notify the board regarding changes in the faculty which affect the eligibility of a faculty member to possess a special teaching permit. The holder of a special teaching permit shall be subject to this chapter and may perform all clinical operations on his or her private patients which a person licensed to practice dentistry or dental hygiene in the state is entitled to perform. The clinical operations may only be performed within the faculty private practice facilities of the dental college or any other facility approved by the board. An annual fee established pursuant to this chapter shall be paid to the board when the special teaching permit is issued.

**§ 34-9-9. Exercise of independent professional judgment by dentist; prohibited business arrangements or relationships; penalties.**

(a) No person other than a dentist licensed pursuant to this chapter or a 501(c)(3) entity registered under Section 34-9-7.2 may do any of the following:

- (1) Employ a dentist, dental hygienist, or expanded duty dental assistant in the operation of a dental office.
- (2) Place in the possession of a dentist, dental hygienist, expanded duty dental assistant or other agent such dental material or equipment as may be necessary for the management of a dental office on the basis of a lease or any other agreement for compensation for the use of such material, equipment, or offices.
- (3) Retain the ownership or control of dental equipment, material, or office and make the same available in any manner for the use of a dentist, dental hygienist, expanded duty dental assistant, or other agent.
- (4) The term "person" as used in this section, shall not in any way pertain to state, county, municipal, or city institutions but shall be deemed to include any individual, firm, partnership, corporation, or other entity not licensed to practice dentistry in the State of Alabama.
- (5) Nothing in this subsection shall apply to bona fide sales of dental equipment, material, or office secured by a chattel mortgage or retention title agreement, or to an agreement for the rental of the equipment or office by bona fide lease at a reasonable amount, and under which agreement the licensee under this chapter maintains complete care, custody, and control of the equipment and the practice. Further, nothing in this subsection shall prohibit or

restrict persons, firms, or corporations from employing or retaining licensed dentists to furnish dental treatment for their employees or dependents of their employees.

(b) A prohibited business arrangement or relationship as defined in subsection (a) shall not be considered a violation of that subsection if a prohibited arrangement or relationship results from the death of a licensed dentist and is cured within 12 months of the date of the death.

(c) The purpose of this section is to prevent a non-dentist from influencing or otherwise interfering with the exercise of a dentist's independent professional judgment. In addition to the acts specified in subsection (a), no person, other than a dentist licensed in accordance with this chapter, shall enter into a relationship with a person licensed under this chapter pursuant to which the unlicensed person exercises control over the selection of a course of treatment for a patient, the procedures or materials to be used as a part of such course of treatment, or the manner in which such course of treatment is carried out by the licensee.

(d) No person other than a dentist licensed pursuant to this chapter or a 501(c)(3) entity registered under Section 34-9-7.2 shall exercise control over any of the following:

- (1) The patient records of a dentist.
- (2) Policies and decisions relating to pricing, credit, refunds, warranties, and advertising.
- (3) Decisions relating to office personnel and hours of practice.

(e) Any licensed or permitted dentist, dental hygienist, or expanded duty dental assistant who enters into any of the arrangements or relationships in violation of subsection (a) or subsection (c) with an unlicensed person as defined above, may be subject to any of the penalties set forth in Section 34-9-18.

#### **§ 34-9-10. Application; licensure by credentials; special purpose license.**

(a) Every person who desires to practice dentistry within the State of Alabama shall file an application prescribed by the board. Notwithstanding the method of obtaining licensure or any particular requirement set forth herein, every person as a prerequisite to licensure shall be at least 19 years of age, of good moral character, a citizen of the United States or, if not a citizen of the United States, a person who is legally present in the United States with appropriate documentation from the federal government, a graduate of a dental school or college accredited by the American Dental Association Commission on Dental Accreditation and approved by the board and shall satisfy any other requirement set forth in any rule adopted by the board.

(b) Licensure by examination shall be applicable to the following categories:

(1) Those individuals who have never been licensed or taken an examination and whose application to take an examination administered or approved by the board is received by the board within 18 months of graduation from dental school.

(2) Those individuals who have successfully passed an examination approved but not administered by the board so long as an application for licensure is received by the board within five years of the date of notification of passing such examination. All applicants shall pay a fee which shall accompany the application.

(c) Any individual who possesses a current license in any state, who has passed an examination approved by the board and who has, since graduation from dental or dental hygiene school, practiced or participated in a clinical residency or practiced dentistry or dental hygiene in the Armed Forces or with the public health service shall be eligible for licensure if an application is received by the board within five years of the completion of the subject residency or Armed Forces or public health service commitment. All the above applicants shall pay a fee which shall accompany the application.

(d) Licensure by credentials may be utilized to evaluate the theoretical knowledge and clinical skill of a dentist, dental hygienist, or expanded duty dental assistant when an applicant for licensure by credentials holds a dental, dental hygiene, or expanded duty dental assisting license in another state. The board may promulgate rules and regulations relating to licensure by credentials in addition to any requirements by law. An applicant for licensure by credentials shall satisfy all of the following:

- (1) The dentist, dental hygienist, or expanded duty dental assistant shall have been engaged in the active practice of clinical dentistry, clinical dental hygiene, or clinical expanded duty dental assisting or in full-time dental, dental hygiene, or clinical expanded duty dental assisting education for the five years or 5,000 hours immediately preceding his or her application.
- (2) The applicant shall hold a current, valid, unrevoked, and unexpired license in a state having examination standards regarded by the board as an equivalent to the Alabama standards.
- (3) The board of examiners in the state of current practice shall verify or endorse that the applicant's license is in good standing without any restrictions.
- (4) The dentist, dental hygienist, or expanded duty dental assistant shall not be the subject of a pending disciplinary action in any state in which the individual has been licensed which shall be verified by a query to the National Practitioner Data Bank, the Health Integrity Protection Data Bank, the American Association of Dental Boards Clearing House for Disciplinary Information, or any other pertinent bank currently existing or which may exist in the future.
- (5) The applicant shall provide a written statement agreeing to be interviewed at the request of the board.
- (6) The individual shall successfully pass a written jurisprudence examination.
- (7) There shall be certification from the United States Drug Enforcement Administration and from the state board of any state in which the applicant is or has been licensed that the DEA registration is not the subject of any pending disciplinary action or enforcement proceeding of any kind.
- (8) The dentist applicant shall submit affidavits from two licensed dentists practicing in the same geographical area where the applicant is then practicing or teaching attesting to the moral character, standing, and ability of the applicant. The dental hygiene applicant shall submit affidavits from two licensed dentists or two licensed dental hygienists, or any combination of two thereof, practicing in the same geographical area where the applicant is then practicing or teaching attesting to the moral character, standing, and ability of the applicant. The expanded duty dental assistant applicant shall submit affidavits from two licensed dentists, two licensed dental hygienists, or two licensed expanded duty dental assistants, or any combination of two thereof, practicing in the same geographical area where the applicant is then practicing or teaching attesting to the moral character, standing, and ability of the applicant.
- (9) The applicant shall provide the board with an official transcript with school seal from the school of dentistry, school of dental hygiene, or expanded duty dental assisting which issued the applicant's professional degree or execute a request and authorization allowing the board to obtain the transcript.
- (10) The applicant shall be a graduate of a dental, dental hygiene, or expanded duty dental assisting school, college, or educational program approved by the board.
- (11) The applicant shall not be the subject of any pending or final action from any hospital revoking, suspending, limiting, modifying, or interfering with any clinical or staff privileges.
- (12) The applicant shall not have been convicted of a felony or misdemeanor involving moral turpitude or of any law dealing with the administering or dispensing of legend drugs, including controlled substances.
- (13) The board may consider or require other criteria including, but not limited to, any of the following:
  - a. Questioning under oath.
  - b. Results of peer review reports from constituent dental societies or federal dental services.
  - c. Substance abuse testing or treatment.
  - d. Background checks for criminal or fraudulent activities.
  - e. Participation in continuing education.

- f. A current certificate in cardiopulmonary resuscitation.
- g. Recent case reports or oral defense of diagnosis and treatment plans.
- h. Proof of no physical or psychological impairment that would adversely affect the ability to practice dentistry or dental hygiene with reasonable skill and safety.
- i. An agreement to initiate practice within the State of Alabama within a period of one year.
- j. Proof of professional liability coverage and that coverage has not been refused, declined, cancelled, nonrenewed, or modified.
- k. Whether the applicant has been subject to any final disciplinary action in any state in which the individual has been licensed which shall be verified by a query in the National Practitioner Data Bank, the Health Integrity Protection Data Bank, the American Association of Dental Boards Clearing House for Disciplinary Information, any state where the applicant has been licensed, or any other pertinent bank currently existing or which may exist in the future.
- l. Whether the applicant's DEA registration or any state controlled substances permit has ever been revoked, suspended, modified, restricted, or limited in any way. Provided, however, that any discipline that results only from a failure to timely renew a registration or permit shall not prevent an applicant from being eligible for this method of licensure.

(14) If all criteria and requirements are satisfied and the board determines, after notice and hearing, that the individual committed fraud or in any way falsified any information in the application process, the license may be revoked by the board.

(15) In addition to the requirements for applicants seeking licensure by credentials, an applicant desiring to practice a specialty only shall satisfy the following requirements:

- a. The specialty shall be one in a branch of dentistry approved by the American Dental Association.
- b. The applicant shall satisfy the existing educational requirements and standards set forth by the American Dental Association for that approved specialty.
- c. An applicant who chooses to announce or practice a specialty shall limit his or her practice exclusively to the announced special area or areas of dental practice.
- d. If an applicant who is initially licensed by credentials for a specialty practice decides to renounce his or her specialty and practice general dentistry, and the license originally issued did not require a general dental license but rather a specialty license, or the applicant originally passed only a specialty examination, the applicant may not practice general dentistry until he or she successfully passes the board's regular general dentistry examination. However, if the applicant has passed a general dentistry examination or has a general dentistry license, was practicing a specialty, and decides not to continue that specialty and practice only general dentistry, the applicant is eligible for licensure by credentials as a general dentist.

(e) Notwithstanding the provisions of subsection (a), the board shall issue a special purpose license to practice dentistry across state lines to an applicant who has met the following requirements:

- (1) The applicant holds a full and unrestricted license to practice dentistry in any state of the United States or in territories, other than the State of Alabama, in which the individual is licensed.
- (2) The applicant has not had any disciplinary action or other action taken against him or her by any state or licensing jurisdiction. If there has been previous disciplinary or other action taken against the applicant, the board may issue a certificate of qualification if it finds that the previous disciplinary or other action indicates that the dentist is not a potential threat to the public.

(3) The applicant submits an application for a certificate of qualification for a special purpose license to practice dentistry across state lines on a form provided by the board, remits an application fee in an amount established by the board, and pays a fee.

(f) A special purpose license issued by the board to practice dentistry across state lines limits the licensee solely to the practice of dentistry across state lines. The special purpose license shall be valid for a period of up to three years, shall expire on a renewal date determined by the board, and may be renewed upon receipt of a renewal fee as established by the board. Failure to renew a license according to the renewal schedule established by the board shall cause the special purpose license to be inactive. An applicant may reapply for a special purpose license to practice dentistry across state lines following placement of the license on inactive status. The applicant shall meet the qualifications of subsection (e) in order to be eligible for renewal of the license.

(g) Notwithstanding the provisions of this section, the board shall only issue a special purpose license to practice dentistry across state lines to an applicant whose principal practice location and license to practice are located in a state or territory of the United States whose laws permit or allow for the issuance of a special purpose license to practice dentistry across state lines or similar license to a dentist whose principal practice location and license are located in another state. It is the stated intent of this section that dentists who hold a full and current license in the State of Alabama be afforded the opportunity to obtain, on a reciprocal basis, a license to practice dentistry across state lines in any other state or territory of the United States as a precondition to the issuance of a special purpose license as authorized by this section to a dentist licensed in the other state or territory. The board shall determine which states or territories have reciprocal licensure requirements meeting the qualifications of this section.

(h) Any individual who does not qualify for licensure pursuant to any of the above subsections but who has passed an examination approved by the board and possesses a current license in another state is eligible to apply for licensure upon payment of a fee. The board shall have discretion whether to require an examination for any such individual, including the time, place, type, and content of any such examination.

(i) A current license shall mean one in good standing authorizing the individual to practice in the state of issuance.

#### **§ 34-9-11. Examination of applicants; issuance of licenses.**

When application and accompanying proof as are required herein are found satisfactory, the board shall notify the applicant to appear for examination at a time and place to be fixed by the board, and each applicant shall be examined and graded by number in lieu of name. All examinations provided for in this chapter shall be approved by the board and shall be of such type and character as to test the qualifications of the applicant to practice dentistry. It is provided, however, that the board may recognize any written parts of an examination given by the Joint Commission on National Dental Examinations in lieu of such examinations or subject to such examinations as the board may approve. Those found qualified by the board shall be granted a license and a license certificate which shall bear a serial number, the full name of the licensee, the date of issuance, and the seal of the board, and shall be signed by each member of the board.

#### **§ 34-9-12. Recording, reporting requirements.**

(a) Every person granted a license to practice dentistry, dental hygiene, or expanded duty dental assisting in this state by the board, as herein provided, shall cause his or her license certificate to be recorded in the office of the judge of probate of the county in which he or she desires to practice before beginning the practice of dentistry, dental hygiene, or expanded duty dental assisting in the county. Any person receiving a license from the board, whether or not intending to immediately engage in the practice of dentistry, dental hygiene, or expanded duty dental assisting in this state, shall cause his or her license certificate to be recorded in the office of the judge of probate in one of the counties of this state within 60 days of the issuance of the license certificate.

(b) Every person issued a special purpose license to practice dentistry across state lines shall be subject to the jurisdiction of the board, and all rules and regulations of the board, including all matters relating to discipline. It shall be the affirmative duty of every special purpose licensee to report to the board in writing within 15 days of the initiation of any disciplinary action against the licensee to practice dentistry by any state or territory in which the licensee is licensed. In addition, the licensee agrees, by acceptance of the license, to produce any patient records or materials as requested by the board or to appear before the board or any of its committees following receipt of a written notice issued by the board. The notice may be issued by the board. The failure of a special purpose licensee to report, produce records, or appear as set forth above shall subject the licensee to the disciplinary penalties as set forth in Section 34-9-5.

(c) Every person issued a special purpose license to practice dentistry across state lines shall comply with all laws, rules, and regulations governing the maintenance of patient records, including patient confidentiality requirements, regardless of the state where the records of any patient within this state are maintained.

**§ 34-9-13. License and registration certificates to be kept in office of practitioner.**

Every practitioner of dentistry, dental hygiene, and expanded duty dental assisting within the meaning of this chapter shall have in his or her possession a license certificate and an annual registration certificate in the office wherein he or she practices.

**§ 34-9-14. Change of address generally.**

Every licensed dentist, dental hygienist, and expanded duty dental assistant upon changing his or her place of practice, whether from one building, city, street address, or county to another, shall within 30 days thereafter furnish the secretary-treasurer of the board with the new address. The secretary-treasurer shall acknowledge receipt of change of address within 30 days.

**§ 34-9-15. Annual registration; continuing education.**

(a) No person shall practice dentistry, dental hygiene, or expanded duty dental assisting in the State of Alabama unless licensed or permitted by the board and registered annually as required by this chapter. The secretary-treasurer of the board shall issue to each licensee an initial registration form which shall contain space for the insertion of name, address, date, and number of license certificate, and other information as the board shall deem necessary. The licensee shall sign and verify the accuracy of the registration before a notary public after which he or she shall forward the registration to the secretary-treasurer of the board together with a fee. Each subsequent registration shall be made in electronic format or by United States mail upon a form to be determined by the board. On or before October 1 of each year, every dentist, dental hygienist, and expanded duty dental assistant licensed or permitted to practice dentistry, dental hygiene, or expanded duty dental assisting in the state shall transmit either online or by United States mail to the secretary-treasurer of the board the completed form prescribed by the board, together with a fee established by the board pursuant to this chapter, and receive thereafter the current annual registration certificate authorizing him or her to continue the practice of dentistry, dental hygiene, or expanded duty dental assisting in the state for a period of one year. Any license or permit previously granted under the authority of this chapter or any prior dental practice act shall automatically be suspended if the holder thereof fails to secure the annual registration certificate before January 1, each year. Any dentist, dental hygienist, or expanded duty dental assistant whose license or permit is automatically suspended by reason of failure, neglect, or refusal to secure the annual registration certificate shall be reinstated by the board upon payment of the penalty fee plus all accrued annual registration fees up to a maximum of five years, accompanied with the prescribed form for annual registration of the license or permit. Upon failure of any licensee or permittee to file application for the annual registration certificate and pay the annual registration fee on or before November 30, each year, the board shall notify the licensee or permittee by mail addressed to the last address of record that the application and fee have not been received and that, unless the application and fee are received on or before the first day of January, the license or permit shall be automatically suspended. The board shall notify the licensee or permittee by mail addressed to the last address of record of the effective date of the automatic suspension and the provisions for registration of the license or permit. The board shall waive the annual payment of fees herein provided for and issue a current annual registration certificate to any licensee or permittee who, because of age or physical disability, has retired from the practice of dentistry, dental hygiene, or expanded duty dental assisting or who is suffering a malady of a lingering or permanent nature. The board by rule shall waive annual registration and the payment of fees while any licensee is on temporary active duty with any of the Armed Forces of the United States. The waiver of fees herein provided shall be effective so long as the retirement because of age or physical disability or temporary active duty continues.

(b) The board shall adopt and promulgate rules and regulations for the adoption of a program of continuing education for its licensees by October 1, 1991. After that date, the successful completion of continuing education program requirements shall be a requisite for renewal of licenses issued pursuant to this chapter.

**§ 34-9-15.1. Release of records.**

(a) Upon the request of a patient or authorized agent of a patient, a dentist shall promptly release to the patient or his or her authorized agent legible and accurate copies of all records of the patient regardless of how they are generated or

maintained. The reasonable costs of reproducing copies shall not be more than the amounts authorized by statute and in the absence of any statutory authority no more than the actual cost of the reproduction.

(b) The release of records under this section shall not be made contingent upon the payment of any fee or charge owed by the patient.

(c) The provisions of the section shall survive the closing of a dental office or practice for any reason, including, but not limited to, sale of practice, any disciplinary action, retirement, disability, or death.

**§ 34-9-16. Fee schedule.**

The board shall establish and collect reasonable fees provided for in this chapter within the ranges set forth below and without having to engage in the rulemaking process:

Description	Not More Than
Dental Examination Application Fee	\$750.00
Dental Examination Fee	\$2,500.00
Dental Examination Materials Fee	\$500.00
Dental Licensure by Credentials Application Fee	\$4,000.00
Dental Licensure by Regional Exam Application Fee	\$1,000.00
Special Purpose Licensure Fee	\$750.00
Special Purpose Licensure Renewal Fee	\$750.00
Dental Annual Registration Fee	\$500.00
Dental License Reinstatement Penalty	\$500.00
Dental Hygiene Program Application Fee	\$500.00
Alabama Dental Hygiene Training Permit Fee	\$450.00
Alabama Dental Hygiene Training Education Fee	\$600.00
Alabama Dental Hygiene Program Instructor Certification Course Fee	\$200.00
Alabama Dental Hygiene Program Instructional Materials Fee	\$950.00
Dental Hygiene By Regional Exam Application Fee	\$75.00
Dental Hygiene Examination Application Fee	\$500.00
Dental Hygiene Examination Fee	\$600.00
Dental Hygiene Examination Materials Fee	\$400.00
Dental Hygiene Licensure by Credentials Fee	\$2,000.00
Dental Hygiene Annual Registration Fee	\$75.00
Dental Hygiene License Reinstatement Penalty	\$200.00
Expanded Duty Dental Assistant by Regional Exam Application Fee	\$75.00
Expanded Duty Dental Assistant Examination Application Fee	\$500.00
Expanded Duty Dental Assistant Examination Fee	\$600.00
Expanded Duty Dental Assistant Examination Materials Fee	\$400.00
Expanded Duty Dental Assistant Licensure by Credentials Fee	\$2,000.00
Expanded Duty Dental Assistant Annual Registration Fee	\$75.00
Expanded Duty Dental Assistant License Reinstatement Penalty	\$200.00
License Certificate Fee	\$500.00
Duplicate or Replacement License Fee	\$150.00
Dental Faculty Teaching Permit Fee	\$350.00
Dental Faculty Special Teaching Permit Fee	\$500.00
Alabama Controlled Substance Permit Fee	\$400.00
Alabama Controlled Substance Permit Renewal Fee	\$400.00
General Anesthesia Permit Fee	\$1,500.00
General Anesthesia Permit Renewal Fee	\$750.00
Parenteral Sedation Permit Fee	\$1,500.00
Parenteral Sedation Permit Renewal Fee	\$750.00
Oral Conscious Sedation Permit Fee	\$250.00
Oral Conscious Sedation Permit Renewal Fee	\$250.00

Mobile Dental Application/Inspection Fee	\$1,500.00
Mobile Dental Renewal Fee	\$1,500.00
Mobile Dental Facility/Portable Dental Operation Application for Certificate of Registration Fee	\$750.00
Mobile Dental Facility/Portable Dental Operation Renewal of Certificate of Registration Fee	\$500.00
Alabama Impaired Dental Professionals Committee Annual Monitoring Fee	\$2,000.00

**§ 34-9-17. Use of names.**

(a) Any person or persons may practice or offer to practice dentistry in connection with any dental office or offices by or under the use of a name other than their own provided their name or names as they appear on their license certificate granted to him or them as a dentist pursuant to this chapter appear in a reasonably dignified manner either following or beneath any name selected and further provided that such person or persons are personally present in their office or offices operating as a dentist or personally overseeing such operations as they are performed in their office or each of their offices. When an associate in practice is on temporary active duty with the armed forces, his or her name may continue to appear in connection with the practice of dentistry at any office or offices. Nothing herein shall allow or permit any person or persons to select a name that suggests or implies a nonprofit or charitable activity. The violation of any of the provisions of this subsection by any dentist may subject such dentist to any of the penalties outlined in Section 34-9-18.

(b) It shall be unlawful for a licensee to permit his or her name to appear in any manner on, within, or in connection with any office which he or she has sold to another licensee and from which he or she has severed active practice, provided the name of the dentist who sells his or her office to a licensed dentist, or in the event of the death of a licensee, the name of the deceased dentist, may remain in the office for a period not to exceed 12 months and it shall also be unlawful for the buyer to permit the former owner's name or the deceased's license to appear in any manner on, within, or in connection with the office, except as herein provided. The violation of any of the provisions of this subsection by any dentist may subject such dentist to the penalties outlined in subsection (b) of Section 34-9-18.

(c) Nothing in this section shall be so construed as to prevent two or more licensed dentists from associating together for the practice of dentistry.

**§ 34-9-18. Grounds for disciplinary action.**

(a) The board may invoke disciplinary action as outlined in subsection (b) hereof whenever it shall be established to the satisfaction of the board, after hearing as hereinafter provided, that any dentist, dental hygienist, or expanded duty dental assistant has been guilty of the following:

- (1) Fraud, deceit, or misrepresentation in obtaining any license, license certificate, annual registration certificate, money, or other thing of value.
- (2) Gross immorality.
- (3) Is a menace to the public health or to patients or others by reason of a disease.
- (4) Is an habitual user of intoxicants or drugs rendering him or her unfit for the practice of dentistry, dental hygiene, or expanded duty dental assisting.
- (5) Has been convicted for violation of federal or state narcotics or barbiturate laws.
- (6) Is guilty of negligence or gross negligence.

a. For the purposes of this subdivision, negligence is defined as the failure to do what a reasonably prudent dentist or dental hygienist would have done under the same or similar circumstances or the doing of that which a reasonably prudent practitioner would not have done under the same or similar circumstances.

b. For the purposes of this subdivision, gross negligence is defined as willful or wanton conduct with reckless, malicious, or conscious disregard for the rights or safety of others, or conduct that is so



deliberate, outrageous, and callous as to display total indifference to the health or safety of a patient, that could result in serious bodily injury or death.

(7) Is guilty of employing, allowing, or permitting any unlicensed person or persons to perform any work in his or her office which, under this chapter, can only be legally done by a person or persons holding a license to practice dentistry, dental hygiene, or expanded duty dental assisting.

(8) Willfully or negligently violates the rules of the State Department of Health or of the board regarding sanitation.

(9) Is guilty of division of fees, or agreeing to split or divide the fee received for dental service with any person for bringing or referring a patient without the knowledge of the patient or his or her legal representative, except the division of fees between dentists practicing in a partnership and sharing professional fees, or in case of one licensed dentist employing another.

(10) Is guilty of professional connection or association with or lending his or her name to anyone who is engaged in the illegal practice of dentistry, dental hygiene, or expanded duty dental assisting.

(11) Conviction in any court of competent jurisdiction of a felony or a misdemeanor involving moral turpitude.

(12)a. A dental hygienist using or attempting to use in any manner whatsoever any prophylactic list, call list, records, reprints, or copies of same, or information gathered therefrom, of the names of patients whom the dental hygienist served in the office of a prior employer, unless the names appear upon the bona fide call or prophylactic list of his or her present employer and were caused to appear through the legitimate practice of dentistry, dental hygiene, or expanded duty dental assisting as provided for in this chapter.

b. A licensed dentist who aids or abets or encourages a dental hygienist or expanded duty dental assistant employed by him or her to make use of a prophylactic list or the calling by telephone or by the use of letters transmitted through the mails to solicit patronage from patients formerly served in the office of any dentist employing the hygienist, expanded duty dental assistant, or nurse.

c. An expanded duty dental assistant using or aiding, abetting, or encouraging a dental hygienist to use in any manner whatsoever any prophylactic list, call list, records, reprints, or copies of same, or information gathered therefrom, of the names of patients who the expanded duty dental assistant served in the office of a prior employer, unless the names appear upon the bona fide call or prophylactic list of his or her present employer and were caused to appear through the legitimate practice of dentistry, dental hygiene, or expanded duty dental assisting as provided for in this chapter.

(13) Pertaining to licensed dentists only, the prescribing, administering or dispensing of any controlled substances enumerated in Schedules I through V contained in the Alabama Uniform Controlled Substances Act, Chapter 2 of Title 20, or any amendment or successor thereto, or any drug not prescribed for any dentally or facially related condition, and/or for any necessary medication during the course of treatment rendered directly by the dentist, for any person not under his or her treatment in the regular practice of his or her profession.

(14) Irregularities in billing an insurance company or other third party payer for services rendered to a patient. For the purposes of this section irregularities in billing shall include: Reporting charges for the purpose of obtaining a total payment in excess of that usually received by the dentist for the services rendered; falsely reporting treatment dates for the purpose of obtaining payment; falsely reporting charges for services not rendered; falsely reporting services rendered for the purpose of obtaining payment; or failing to advise any third party payer that the copayment provisions of a contract have been abrogated by accepting the payment received from the third party payer as full payment.

(15) Violating any rule adopted by the board.

(16) Has had his or her license or permit to practice dentistry, dental hygiene, or expanded duty dental assisting from another state suspended or revoked based upon acts similar to those described in this section. A certified copy of the record of suspension or revocation of the state making the suspension or revocation shall be conclusive evidence thereof.

(17) Violating any provision of this chapter.

(b) When the board finds any dentist, dental hygienist, or expanded duty dental assistant guilty of any of the grounds set forth in subsection (a), it may enter an order imposing one or more of the following penalties:

(1) Refuse to issue the dentist, dental hygienist, or expanded duty dental assistant any license or permit provided for in this chapter.

(2) With the exception of negligence as defined in paragraph (a)(6)a. revoke the license or permit of any dentist, dental hygienist, or expanded duty dental assistant.

(3) Suspend the license or permit of any dentist, dental hygienist, or expanded duty dental assistant.

(4) Enter a censure.

(5) Issue an order fixing a period and terms of probation best adapted to protect the public health and safety and to rehabilitate the dentist, dental hygienist, or expanded duty dental assistant.

(6) Impose an administrative fine not to exceed five thousand dollars (\$5,000) for each count or separate offense.

(7) Impose restrictions on the scope of practice.

(8) Impose peer review or professional education requirements.

(9) Assess the costs of the disciplinary proceedings.

(c) Failure to comply with any final order of the board, including, but not limited to, an order of censure or probation, is cause for suspension or revocation of a license.

(d) No disciplinary action as outlined in subsection (b) or (c) hereof shall be invoked or entered except after hearing by the board as provided in this chapter, and such order is subject to judicial review as provided by this chapter.

No order of suspension or revocation provided in this section shall be made or entered except after hearing by the board as provided in this chapter, and the order shall be subject to judicial review as provided by this chapter.

(e) The board may temporarily suspend a special purpose license to practice dentistry across state lines without a hearing on either of the following grounds:

(1) The failure of the licensee to appear or produce records or materials as requested by the board.

(2) The initiation of a disciplinary action against the licensee by any state or territorial licensing jurisdiction in which the licensee holds a license to practice dentistry.

Notwithstanding any other provision of law, including the Alabama Administrative Procedure Act, the temporary suspension provided herein shall remain in effect until either the licensee has complied with the request of the board or the disciplinary action pending against the licensee has been terminated in favor of the licensee and the temporary suspension has been terminated by a written order of the board. A special purpose license to practice dentistry across state lines is subject to each of the grounds for disciplinary action provided in this section in accordance with the procedures of Section 34-9-24 and the Alabama Administrative Procedure Act.

(f) Members of the board, any agent, employee, consultant, or attorney for the board, and the members of any committee of dentists, dental hygienists, or expanded duty dental assistants impaneled by the board, shall be immune from suits for any conduct in the course of their official duties with respect to investigations or hearings; provided, that the persons act without malice and in good faith that such investigations or hearings are warranted by the facts, known to them after diligent effort to obtain the facts of the matter relative to the investigations or hearings.

(g) Nothing in this chapter shall be interpreted to limit or restrict the authority of the board to discipline any dentist licensed to practice in this state who violates this chapter while engaging in the practice of dentistry within this or any other state.

(h) The board shall have the authority to adopt rules imposing a non-disciplinary administrative penalty for designated violations of this chapter.

**§ 34-9-19. Advertising -- Dentist; specialty requirements; practice emphasis; purpose of section; rules and regulations.**

(a) For the purpose of this section, the following terms shall have the respective meanings:

(1) ADVERTISEMENT. An advertisement is information communicated in a manner designed to attract public attention to the practice of a dentist as heretofore defined.

(2) DENTIST. Any person licensed to practice dentistry in this state pursuant to this chapter or any entity authorized by law which is formed for the purpose of practicing dentistry.

(3) FALSE. A false statement or claim is one which:

a. Contains a material misrepresentation of fact or law.

b. Omits a material fact rendering the statement or claim when considered as a whole false.

(b) A dentist shall have ultimate responsibility for all advertisements which are approved by him or her or his or her agents or associates and the dentist shall be responsible for the following:

(1) Broadcast advertisements shall be recorded, approved by the dentist, and a recording of the actual transmission shall be retained by the dentist for one year following the final appearance or use of the advertisement. The dentist is responsible for making copies of the advertisement available to the board within 10 days following a request by the board.

(2) Written or printed advertisements shall be approved by the dentist and a copy of the publication in which the advertisement is displayed shall be retained by the dentist for one year following the final appearance or use of the advertisement. The dentist is responsible for making copies of the advertisement available to the board within 10 days following a request by the board.

(3) Other forms of advertisement shall be approved by the dentist and the contents and specifications, where applicable, shall be retained by the dentist for one year following the final appearance or use of the advertisement and the dentist is responsible for making copies of the advertisement available to the board within 10 days following a request by the board.

(c) A dentist may not hold himself or herself out as a specialist or advertise specialty status unless the specialty is approved by the American Dental Association.

(d) Dentists who are not specialists in specialties approved by the American Dental Association may nevertheless advertise that their practice is limited to a specific area of dentistry only if the dentist has obtained membership in or otherwise has been credentialized by an accrediting organization which is recognized by the board as a bona fide organization for such an area of practice.

(e) Notwithstanding any provision of this section to the contrary, a dentist licensed pursuant to this chapter may not hold himself or herself out as a specialist or advertise membership in a specialty recognized by an accrediting organization, unless the dentist has continuously held himself or herself out as a specialist since December 31, 1964, in a specialty recognized by the American Dental Association or has completed a specialty education program approved by the American Dental Association and the Commission on Dental Accreditation and meets either of the following qualifications:

(1) Is eligible for examination by a national specialty board recognized by the American Dental Association.

(2) Is a diplomate of a national specialty board recognized by the American Dental Association.

(f) A dentist licensed under this chapter may not represent to the public without appropriate disclosure that his or her practice is limited to a specific area of dentistry other than a specialty area of dentistry authorized under subsection (e)

unless the dentist has attained membership in or has otherwise been credentialed by an accrediting organization which is recognized by the board as a bona fide organization for such an area of dental practice. In order to be recognized by the board as a bona fide accrediting organization for a specific area of dental practice other than a specialty area of dentistry authorized under subsection (c), the organization must condition membership or credentialing of its members upon all of the following:

- (1) Successful completion of a formal, full-time advanced education program that is affiliated with or sponsored by a university-based dental school that is beyond the dental degree, is at the graduate or postgraduate level, and is of at least 12 months in duration.
- (2) Prior didactic training and clinical experience in the specific area of dentistry which is greater than that of other dentists.
- (3) Successful completion of oral and written examinations based on psychometric principles.

(g) Notwithstanding the requirements of subsections (e) and (f), a dentist who lacks membership in or certification, diplomate status, or other similar credentials from an accrediting organization approved as bona fide by either the American Dental Association or the board may announce a practice emphasis in any other area of dental practice if the dentist incorporates in capital letters or some other manner clearly distinguishable from the rest of the announcement, solicitation, or advertisement the following statement: " \_\_\_\_\_ (NAME OF ANNOUNCED AREA OF DENTAL PRACTICE) IS NOT RECOGNIZED AS A SPECIALTY AREA BY THE AMERICAN DENTAL ASSOCIATION OR THE BOARD OF DENTAL EXAMINERS OF ALABAMA." If such an area of dental practice is officially recognized by an organization which the dentist desires to acknowledge or otherwise reference in the dentist's announcement, solicitation, or advertisement, the same announcement, solicitation, or advertisement shall also state prominently: " \_\_\_\_\_ (NAME OF REFERENCED ORGANIZATION) IS NOT RECOGNIZED AS A BONA FIDE SPECIALTY ACCREDITING ORGANIZATION BY THE AMERICAN DENTAL ASSOCIATION OR THE BOARD OF DENTAL EXAMINERS OF ALABAMA."

(h) The purpose of this section is to prevent a dentist from advertising without appropriate disclosure membership in an organization which may be perceived by the public as recognizing or accrediting specialization or other unique competencies in an area of dentistry that is not recognized or accredited by the American Dental Association or the board in accordance with this section. The purpose of this section is also to prohibit a dentist from advertising a specialty or other area of dental practice without appropriate disclosure unless the special competencies held by the dentist satisfy the requirements of subsections (d) and (f). The Legislature finds that dental consumers can reasonably rely on these requirements as satisfactory evidence of a dentist's attainment of meaningful competencies in the specialty or other bona fide area of dental practice advertised. The Legislature also finds that this process for the recognition of dental specialties and other bona fide areas of dental practice is the least restrictive means available to ensure that consumers are not misled about a dentist's unique credentials.

(i) A dentist who lacks membership in or certification, diplomate status, or similar credentials from an accrediting organization approved as bona fide by either the American Dental Association or the board may announce a practice emphasis in any other area of dental practice if the dentist incorporates the disclaimer set forth in subsection (g).

(j) The board shall promulgate rules and regulations delineating examples of advertising which would be considered false, fraudulent, misleading, or deceptive.

**§ 34-9-19.1. Advertising -- Dental referral service; requirements; prohibitions; penalties.**

(a) For purposes of this section, the following words shall have the following meanings:

- (1) ADVERTISEMENT. Information communicated in a manner designed to attract public attention to a referral service, participating dentist, or a practice of dentistry.
- (2) DENTAL REFERRAL SERVICE. A person, firm, partnership, association, corporation, agent, or employee of any of the foregoing that engages in any business or service for profit that in whole or in part includes the referral or recommendation of persons to a dentist for any form of dental care or treatment.
- (3) DENTIST. Any person licensed to practice dentistry or any entity authorized by law which is formed for the purpose of practicing dentistry.

(4) FALSE, FRAUDULENT, MISLEADING, OR DECEPTIVE STATEMENT. A statement or claim having one or more of the following characteristics:

- a. One that contains a misrepresentation of fact.
- b. One that is likely to mislead or deceive because in context it makes only a partial disclosure of relevant facts.
- c. One that is intended or is likely to create a false or unjustified expectation of favorable results.
- d. One that implies unusual superior dental ability.
- e. One that contains other representations or implications that in reasonable probability will cause an ordinary and prudent person to misunderstand or be deceived.

(5) PARTICIPATING DENTIST. A dentist who has paid a fee to the dental referral service in order to be included on its referral service.

(b) A dental referral service shall not participate in the advertising of or operate a dental referral service unless all of the following conditions are met:

(1) The patient referrals by the dental referral service result from patient-initiated responses to the service's advertising.

(2) The dental referral service discloses to any prospective patient who makes contact with the service that the participating dentists have paid a fee for participation in the service.

(3) The dental referral service does not impose a fee on the participating dentists dependent on the number of referrals or amount of professional fees paid by the patient to the dentist.

(4) Participating dentists charge no more than their usual and customary fees to any patient referred.

(5) The dental referral service registers with the Board of Dental Examiners of Alabama providing all the following information:

- a. Name.
- b. Street address.
- c. Mailing address.
- d. Telephone number.
- e. Name of registered agent or person responsible for the operation of the dental referral service.
- f. Listing of other states where the dental referral service is registered.
- g. A copy of the standard form contract that regulates its relationship with participating dentists.

(c) Participating dentists shall not enter into a contract or other form or agreement to accept for dental care or treatment a person referred or recommended for the care or treatment by a dental referral service unless the dental referral service meets all the requirements of this section.

(d) A dental referral service that advertises shall include in each advertisement in legible or audible language, or both, a disclaimer containing all the following statements or information that:

(1) The participating dentist of the dental referral service is a dentist who has paid a fee to participate in the service.

(2) The advertisement is paid for by participating dentists.

(3) No representation is made about the quality of the dental services to be performed or the expertise of the participating dentists.

(4) Participating dentists are not more or less qualified than dentists who are not participating in the service.

(e) Dental referral service advertisements shall not do any of the following:

(1) Advertise or solicit patients in a manner that contains a false, fraudulent, misleading, or deceptive statement in any material respect.

(2) Publish or circulate, directly or indirectly, any false, fraudulent, misleading, or deceptive statement as to the skill or methods of practice of any participating dentist.

(3) Contain a statement or make a recommendation that the dental referral service provides referrals to the most qualified dentists or dental practices.

(4) Contain a review process or a screening.

(5) Contain qualifications or information verification that misleads the public into thinking a participating dentist has obtained special recognition or joined a selective group of licensed dentists by being a participating dentist in the dental referral service.

(f) A violation of Sections 34-9-15, 34-9-19, 34-9-28, or this section, including, but not limited to, advertising in any manner which is false, fraudulent, misleading, or deceptive, shall subject a participating dentist to possible administrative disciplinary actions outlined in Section 34-9-18, after notice and hearing by the Board of Dental Examiners of Alabama and the opportunity for judicial review as provided in this article.

**§ 34-9-20. Unauthorized advertising, selling, or offering of dental services and appliances; injunctions.**

Any person, which word when used in this section shall include all legal entities not licensed to practice dentistry in this state, who shall advertise in any manner to the general public that he or she can or will sell, supply, furnish, construct, reproduce, or repair prostheses (fixed or removable), or other appliances to be used or worn as substitutes for natural teeth, or for the regulation thereof, shall be guilty of a misdemeanor, and the circuit courts shall have jurisdiction to enjoin such person from so doing.

**§ 34-9-21. Employing services of commercial dental laboratory or private technician.**

(a) Every duly licensed and registered dentist who employs the services of a commercial dental laboratory or private technician for the purpose of constructing, altering, repairing, or duplicating any prostheses (fixed or removable), splint, or orthodontic appliance shall be required to furnish the commercial dental laboratory or private technician an impression or cast made by the dentist when necessary, together with a prescription setting forth the following:

(1) The name and address of the commercial dental laboratory or private dental technician.

(2) The patient's name or identification number, and if a number is used the patient's name shall be written upon the duplicate copy of the prescription retained by the dentist.

(3) The date on which the prescription was written.

(4) A description of the work to be done, with diagram if necessary.

(5) A specification of the type and quality of materials to be used.

(6) The signature of the dentist and his or her license number.

(b) Such prescription shall be made in duplicate form. The duplicate copy shall be retained in a permanent file for a period of two years by the dentist, and the original copy shall be retained on a permanent file for a period of two years by the

commercial dental laboratory or private technician. Such permanent file of prescriptions to be kept by such dentists, commercial dental laboratory, or private technician shall be open to inspection at any reasonable time by the board or its duly constituted agent. Failure of the dentist, commercial dental laboratory, or private technician to keep such permanent records of prescriptions which are identifiable with each prostheses (fixed or removable), splint, or orthodontic appliance shall be prima facie evidence of a violation of this chapter and shall constitute and be punishable as a misdemeanor.

**§ 34-9-22. Sale, offer to sell, procurement, or alteration of diploma or certificate; fraud or cheating.**

Whoever sells or offers to sell a diploma conferring a dental, dental hygiene, or expanded duty dental assistant degree, or a license certificate or annual registration certificate granted pursuant to this chapter or prior dental act, or procures such diploma or license certificate or annual registration certificate with intent that it shall be used as evidence of the right to practice dentistry or dental hygiene as defined by law, by a person other than the one upon whom it was conferred or to whom such license certificate or annual registration certificate was granted, or with fraudulent intent alters such diploma or license certificate or annual registration certificate, or uses or attempts to use it when it is so altered shall be deemed guilty of a misdemeanor. The board may impose any of the penalties outlined in Section 34-9-18 against any person found guilty of making a false statement or cheating, or of fraud or deception either in applying for a license, a license certificate, or annual registration or in taking any of the examinations provided for herein.

**§ 34-9-23. Title and letters signifying degree.**

Any licensed dentist of this state being a graduate of a reputable dental school or college recognized by the board shall have the right to use the title "doctor" or abbreviation thereof before his or her name, or appended to his or her name the letters "D.D.S.," "D.M.D.," or equivalent letters signifying the dental degree conferred upon him or her.

**§ 34-9-24. Statement of charges and notice of hearing before revocation or suspension of license.**

No action to revoke or suspend a license or permit shall be taken until the licensee or permittee has been furnished a statement in writing of the charges against him or her, together with a notice of the time and place of the hearing. The statement of charges and notice shall be served upon the licensee or permittee at least 20 days before the date fixed for hearing, either personally or by registered or certified mail sent to his or her last known physical home or office address or post-office address, or any combination of them.

**§ 34-9-25. Judicial review of orders of board.**

From any order of the board imposing any of the penalties found in Section 34-9-18, any party affected thereby may bring an action in the circuit courts to set aside the order on the ground that same is unlawful or arbitrary.

**§ 34-9-26. Examination, qualifications, licensing, etc., of dental hygienists and expanded duty dental assistants.**

(a) No person shall practice as a dental hygienist in this state until such person has passed an examination given by the board or approved by the board, or both, under rules and regulations as the board may promulgate and the payment of a fee. The board shall issue licenses and license certificates as dental hygienists to those persons who have passed the examination and have been found qualified by the board. The license certificate and annual registration certificate shall be displayed in the office in which the dental hygienist is employed. No person shall be entitled to a license and license certificate unless the person is 19 years of age and of good moral character. Each applicant for examination and license as a dental hygienist shall be a graduate of a school of dental hygiene which has been approved by the board, or in lieu thereof, shall have served as a dental assistant for a period of time established by board rule and shall have served at least one year as a dental hygienist trainee under a training permit issued by the board to a qualified dentist practicing in this state in accordance with the dental hygienist training program established by the board. Any person practicing in violation of this section shall be guilty of a misdemeanor, and the board may impose the penalties outlined in Section 34-9-18 for such violation.

(b) No person shall practice as an expanded duty dental assistant in this state until such person has passed an examination given by the board or approved by the board, or both, under rules and regulation as the board may promulgate and the payment of a fee. The board shall issue licenses and license certificates as expanded duty dental assistants to those persons who have passed the examination and have been found qualified by the board. The license certificate and annual registration certificate shall be displayed in the office in which the expanded duty dental assistant is employed. No person shall be entitled to a license and license certificate unless the person is 19 years of age and of good moral character. Each applicant for examination and license as an expanded duty dental assistant shall be a graduate of a school of expanded duty

dental assisting which has been approved by the board. Any person practicing in violation of this section shall be guilty of a misdemeanor, and the board may impose the penalties outlined in Section 34- 9-18 for such violation.

**§ 34-9-27. Employment, supervision, and practice of dental hygienists and expanded duty dental assistants.**

Dental hygienists and expanded duty dental assistants shall work only under the direct supervision of a duly licensed dentist practicing in this state. Dental hygienists and expanded duty dental assistants may perform any duties allowed by rule or regulation of the board and assist a licensed or permitted dentist in his or her practice; however, expanded duty dental assistants may not perform any irreversible procedure, including surgery. Any dental hygienist licensed by the board under this section who has completed the curriculum for dental hygienists at a dental school approved by the board shall have the right to use the title Registered Dental Hygienist or the abbreviation thereof, "R.D.H." appended to his or her name signifying the license conferred. The board may impose any of the penalties outlined in Section 34-9-18 against any dentist who shall permit any dental hygienist or expanded duty dental assistant working under his or her supervision to perform any operation other than those permitted under the provisions of this section, and may impose the penalties outlined in Section 34-9-18 against any dental hygienist or expanded duty dental assistant who shall perform any operation other than those permitted under this section.

**§ 34-9-28. Notification of change of address or employer; annual registration requirements..**

It shall be the duty of all licensed dental hygienists and expanded duty dental assistants to notify the board, in writing, of any change of address or employer and have issued to them an annual registration certificate by the board. Any dental hygienist or expanded duty dental assistant whose license shall be automatically suspended by reason of failure, neglect, or refusal to secure the annual registration certificate may be reinstated by the board upon payment of the penalty fee plus the current year's registration fee. The form and method provided for in Section 34-9-15 shall apply to the annual registration of dental hygienists.

**§ 34-9-29. Injunctions against violations of chapter.**

When it appears to the board that any person is violating any of the provisions of this chapter, the board may in its own name bring an action in the circuit court for an injunction, and said court of this state may enjoin any person from violating this chapter regardless of whether proceedings have been or may be instituted before the board or whether criminal proceedings have been or may be instituted. For purposes of this section, person shall be deemed to include any individual, firm, partnership, corporation, professional association, professional corporation or other entity.

**ARTICLE 2  
BOARD OF DENTAL EXAMINERS**

**§ 34-9-40. Creation; composition.**

(a) In order to accomplish the purposes and to provide for the enforcement of this chapter, there is hereby created the board. The board is hereby vested with the authority to carry out the purposes and enforce the provisions of this chapter. On June 24, 1959, the members of the present board now in existence shall hold office for the remainder of their respective terms for which they have been elected and thereafter until their successors are elected and qualified and shall constitute the board under this chapter. The board shall consist of six dentists who shall be selected in the method set forth herein all of whom having been actively engaged in the practice of dentistry in the State of Alabama for at least five years next preceding the date of their election and one dental hygienist elected at-large as provided in subsection (b). Each member of the board shall be a citizen of this state. No member of the board shall be a member of the faculty of any dental school, dental college, dental hygiene school, or dental hygiene college or receive any financial benefits for teaching in any dental school, dental college, dental hygiene school, or dental hygiene college or have a financial interest in a commercial dental laboratory or a dental supply business. One member, who is qualified as provided herein, shall be selected by the Alabama Dental Society every five years. As for all elections of members, any group of 10 or more licensed dentists, residing and practicing dentistry in the state, may nominate a candidate for the position of board member by submitting a petition bearing their signatures to the secretary of the board to be postmarked no later than the first day of July in the year of the election. The board shall cause the election ballots to be mailed or published digitally not later than September 1 in the year of the election to all the licensed dentists residing and practicing in the state and currently registered as prescribed by law, along with the annual registration form for the forthcoming fiscal year. Both the annual registration form and fee shall accompany the ballot that shall be postmarked, or otherwise submitted electronically, no later than October 1 to the secretary of the board no later than the first board workday following October 1 each year, ballots being nullified unless accompanied by or electronically filed with completed annual registration form and annual



registration fee. Three members of the board shall be present at the time the ballots, digital or physical, are tallied. Any candidate receiving a majority of the votes shall be declared elected to the board and will take the oath of office on or before October 15 in the year of his or her election. In the event no candidate receives a majority of the votes cast, the board shall conduct a run-off election between the two candidates receiving the largest number of votes. The board shall cause the ballots pertaining to the run-off election to be mailed or digitally published on or before October 31 of the election year to all the licensed dentists who have renewed their licenses for the succeeding year as of October 1 of the current year, are residing and practicing in the state and, currently are registered as prescribed by law, and the ballots pertaining to the run-off election shall be postmarked or digitally published no later than the fourteenth day of November in the year of the run-off election and received, if mailed, by the secretary of the board no later than the first board workday following the fourteenth day of November. All mailed ballots received after this date shall be nullified. In the event of a run-off election, the candidate receiving the largest number of votes in the run-off election shall be declared elected to the board and shall take the oath of office and begin his or her term of office no later than the next scheduled board meeting. Every member elected shall hold office for a period of five years, which terms shall begin immediately upon taking an oath to properly and faithfully discharge the duties of his or her office and until his or her successor is elected and qualified, and the member so elected shall not at the expiration of the term be eligible to succeed himself or herself. The membership of the board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state. Except for the board member position selected by the Alabama Dental Society, vacancies on the board shall be filled by the board by the appointment of the immediate past member of the board, and if for any reason the immediate past member of the board is unable to accept the appointment, then the board shall fill the vacancy by appointment of the most recent past board member who is willing to accept the appointment. If no past board member accepts the appointment, then the board may, by majority vote, appoint any licensed dentist qualified under the provisions of this chapter. In the event of a vacancy in the position selected by the Alabama Dental Society, the Alabama Dental Society shall select a dentist who is qualified as provided herein to fill the vacancy. Members of the board shall be removed by a two-thirds vote of the registered dentists in the state for neglect of duty or any just cause, by petition to the secretary of the board by 10 percent of the licensed dentists in the state. On or before July 1, 1962, the board shall send a copy of this section to all licensed dentists in the state.

(b) (1) One member of the board shall be a licensed dental hygienist. The dental hygienist member shall be of good moral and ethical character and shall have been actively engaged in the practice of dental hygiene in the State of Alabama for at least five years preceding the date of election. No dental hygienist member shall be a member of the faculty of any dental school, dental college, dental hygiene school, or dental hygiene college or receive any financial benefits for teaching in any dental school, dental college, dental hygiene school, or dental hygiene college or have a financial interest in a commercial dental laboratory or dental supply business while serving on the board.

(2) The dental hygienist member shall be elected as follows:

a. Any group of 10 or more licensed dental hygienists, residing and practicing dental hygiene in the State of Alabama, may nominate a candidate for the dental hygienist position by submitting a petition bearing their signatures to the secretary of the board no later than the first day of July in the year of an election. The board shall cause election ballots to be mailed or published digitally no later than September 1 in the year of an election to all the licensed dental hygienists residing and practicing in the state and currently registered as prescribed by law. Both the annual registration form and the registration fee shall accompany the ballot that shall be postmarked or otherwise submitted electronically no later than October 1 to the secretary of the board no later than the first board workday following October 1 each year, and the ballots will be nullified unless accompanied by or electronically filed with a completed annual registration form and the annual registration fee.

b. Three members of the board shall be present at the time the ballots, digital or physical, are tallied. Any candidate receiving a majority of the votes shall be declared elected to the board and shall take the oath of office on or before October 15 in the year of his or her election. In the event no candidate receives a majority of the votes cast, the board shall conduct a run-off election between the two candidates receiving the largest number of votes. The board shall cause the ballots pertaining to any run-off election to be mailed or digitally published on or before October 31 of the election year to all licensed dental hygienists who have renewed their licenses for the succeeding year as of October 1 of the current year, are residing and practicing in the state, and are currently registered as prescribed by law, and the ballots pertaining to the run-off election shall be postmarked or digitally submitted no later than the fourteenth day of November in the year of the run-off election and received, if mailed, by the secretary of the board no later than the first board workday following November 14. All mailed ballots

received after November 14 shall be nullified. In the event of a run-off election, the dental hygienist candidate receiving the largest number of votes in the run-off election shall be declared elected to the board and shall take the oath of office and begin his or her term of office no later than the next scheduled board meeting.

c. All elections as described above shall be conducted by the board.

(3) The dental hygienist member shall be removed by a two-thirds vote of the registered dental hygienists in the state for neglect of duty or any just cause by petition to the secretary of the board by 10 percent of the licensed dental hygienists in the state.

(4) The dental hygienist member shall hold that position for a period of five years, which term shall begin immediately upon taking an oath to properly and faithfully discharge the duties of his or her office and continue until his or her successor is elected and qualified, and the member so elected shall not at the expiration of the term be eligible to succeed himself or herself. If a vacancy occurs in the position of dental hygienist, the unexpired term shall be filled by the board by the appointment of the immediate past dental hygienist member. If for any reason the immediate past dental hygienist member is unable to accept the appointment, then the board shall fill the vacancy by a majority vote of the other board members by the appointment of some other past dental hygienist member. If a vacancy occurs and there is not an immediate past dental hygienist member or other past dental hygienist member, the vacancy shall be filled by a unanimous vote of the board by the appointment of some otherwise qualified dental hygienist.

(5) The dental hygienist member shall advise the board on matters relating to dental hygiene and shall only be permitted to vote on matters relating to dental hygiene. The board shall provide the dental hygienist member with timely notice of all board meetings and the dental hygienist member shall be allowed to attend all meetings unless prohibited by law from attendance at any disciplinary hearings. The board shall not adopt any rule relating to the practice of dental hygiene unless the proposed rule has been submitted to the dental hygienist member for review and comment at least 30 days prior to its adoption. The dental hygienist member shall be entitled to the same compensation and expenses paid to dentist members of the board pursuant to Section 34-9-41.

(c) Any dentist or dental hygienist who has been found guilty of violating this chapter or any provision of a dental practice act of any other state and as a result his or her license was revoked, suspended, or placed on probation or who has been convicted of a felony, shall not be eligible for election or membership on the board for a period of five years from the termination of any such revocation, suspension, or probation.

#### **§ 34-9-41. Officers of board; seal; meetings; compensation; disposition of funds.**

The board shall annually elect from its membership a president, vice-president, and secretary-treasurer and may employ staff members who are not members of the board. The board shall have a common seal. The board shall hold an annual meeting in Birmingham at the University of Alabama School of Dentistry as soon as practical after the graduation exercises of the dental school for the purpose of examining or participating in the regional examination of applicants for a license to practice dentistry and dental hygiene or at such other times and places as the board may designate for the purpose of transacting its business and examinations. A majority of the board shall constitute a quorum for the transaction of business at any meeting except that in conducting hearings involving any of the penalties outlined in Section 34-9-18, no less than five members of the board shall be present. In conducting hearings involving any of the penalties outlined in Section 34-9-18, a majority of the board may appoint any former member of the board who for such purposes shall have all the powers and privileges of such office as a regular board member possesses. In conducting or participating in exams, a majority of the board may appoint any former member of the board or such other licensed practicing dentists from a jurisdiction recognized by the board who for such purposes shall have all the powers and privileges of such office as a regular board member possesses. Out of the funds of the board the members thereof shall receive as compensation a sum to be fixed by the board for each day actively engaged in the duties of their office, and in addition board members shall receive the same per diem and travel allowance as is paid by law to state employees for each day actively engaged in the duties of their office. The secretary-treasurer shall receive such compensation as may be fixed by the board, which shall be in addition to his or her per diem and expenses, provided no per diem or expenses shall be allowed unless his or her duties require his or her absence from his or her office. The secretary shall receive such compensation as may be fixed by the board. The secretary-treasurer shall be custodian of all property, money, records and the official seal of the board. All money received by the board under this chapter shall be paid to and received by the secretary-treasurer of the board. The secretary-treasurer shall deposit to the credit of the board all funds paid to the board in a bank selected by its members. The board is authorized to expend such funds as shall be necessary to enforce the provisions of this chapter; to pay

salaries, expenses and other costs herein provided; to promote the arts and science of dentistry; and for such other purposes as the board shall consider to be in the best interest of dentistry in this state. All the costs herein provided for shall be paid by checks drawn by the secretary-treasurer and countersigned by the president of the board; except the board may authorize the administrative secretary or the executive director to sign checks for costs that do not exceed a monetary limit to be set by the board in its rules. Should the property be other than money, the secretary-treasurer shall provide for the safekeeping thereof for the use of the board. All money, including license fees, annual renewal license certificate fees, examination fees and any and all other fees and receipts under the provisions of this chapter, are hereby appropriated to the Board of Dental Examiners to be used as herein provided.

**§ 34-9-42. Bond of secretary-treasurer of board; annual report and audit; national affiliation.**

The secretary-treasurer of the board shall give bond in such sum as may be prescribed by the board, conditioned to faithfully and honestly discharge the duties of the office according to law, which bond shall be made payable to the Board of Dental Examiners of Alabama and held in the custody of the president of the board. The secretary-treasurer of the board shall compile an annual report which shall contain an itemized statement of all money received and disbursed and a summary of the official acts of the board during the preceding year, and the report shall have attached thereto a certified report and audit made by a certified public accountant of the State of Alabama. A copy of the report and audit shall be filed of record in the office of the Department of Finance of the State of Alabama, and a copy shall be retained by the secretary-treasurer to be rendered upon request, to the dentists at large in the State of Alabama. The board may affiliate with the American Association of Dental Boards, may pay dues to the the association, and may send all members of the board to the meetings of the association. Such delegates may receive the per diem herein provided for attending such meetings and reimbursement for necessary expenses audited and allowed by the board.

**§ 34-9-43. Powers and duties generally.**

(a) The board shall exercise, subject to this chapter, the following powers and duties:

- (1) Adopt rules for its government as deemed necessary and proper.
- (2) Prescribe rules for qualification and licensing of dentists and dental hygienists.
- (3) Conduct or participate in examinations to ascertain the qualification and fitness of applicants for licenses as dentists and dental hygienists.
- (4) Make rules and regulations regarding sanitation.
- (5) Formulate rules and regulations by which dental schools and colleges are approved, and formulate rules and regulations by which training, educational, technical, vocational, or any other institution which provides instruction for dental assistants, dental laboratory technicians, or any other paridental personnel are approved.
- (6) Grant licenses, issue license certificates, teaching permits, and annual registration certificates in conformity with this chapter to such qualified dentists and dental hygienists.
- (7) Conduct hearings or proceedings to impose the penalties specified in Section 34-9-18.
- (8)
  - a. Employ necessary persons to assist in performing its duties in the administration and enforcement of this chapter, and to provide offices, furniture, fixtures, supplies, printing, or secretarial service to these persons and expend necessary funds.
  - b. Employ an attorney or attorneys, subject to the approval of the Attorney General, to advise and assist in the carrying out and enforcing of the provisions of this chapter. Provided, however, if the board contracts with an outside attorney to be general counsel to the board, that attorney or any member of a law firm with which he or she is associated shall not function as the board's prosecutor at disciplinary hearings.
- (9)
  - a. Investigate alleged violations of this chapter and institute or have instituted before the board or the proper court appropriate proceedings regarding the violation.
  - b. Authorize and employ investigators who comply with the Peace Officers' Minimum Standards and Training Act to exercise the powers of a peace officer in investigating alleged violations of the drug or

controlled substances laws by persons licensed pursuant to this chapter, including the powers of arrest and inspection of documents.

(10) Adopt rules and regulations to implement this chapter.

(11) Publish, on a quarterly basis, all minutes, except minutes of executive sessions, financial reports, schedules of meetings, including anticipated executive sessions, and other pertinent information on the board's website no later than 90 days following the date of occurrence. In addition, publish or post annually the rules and regulations promulgated by the board, a copy of the Dental Practice Act, and a list of all persons licensed to practice under this chapter.

(12) Attend meetings, seminars, workshops, or events that may improve the function and efficiency of the board or improve the ability of the board to enforce and administer this chapter.

(b) The board, in exercising its powers and duties, shall adhere to guidelines and proceedings of the State Ethics Commission as provided in Chapter 25 of Title 36. The board may adopt rules for the purpose of establishing additional ethical guidelines.

**§ 34-9-43.1. Administration and enforcement of duties; consultants.**

(a) The board may employ investigators, attorneys, agents, and any other employees and assistants to aid in the administration and enforcement of the duties of the board. The board may request assistance from the Attorney General, district attorneys, or other prosecuting attorneys of this state in the various circuits and counties. All prosecuting attorneys throughout the state shall assist the board, upon request of either, in any action for injunction or any prosecution without charge or additional compensation.

(b) The board may employ consultants to render professional services such as, but not limited to, reviewing records and providing expert testimony in contested cases to aid the board in carrying out its lawful responsibilities. Consultants shall be compensated for professional services at rates established by the board by rule. In addition, consultants shall be reimbursed for actual reasonable expenses for travel, lodging, meals, long distance telephone expense, and other expenses reasonably incurred in the performance of the consultant's professional services.

**§ 34-9-44. Records to be kept by secretary-treasurer; copies and certificates as evidence.**

The secretary-treasurer of the board shall keep a registry in which shall be entered the names of all persons to whom license certificates have been granted under this chapter, the numbers of such license certificates, the dates of granting the same and other matters of records, and he or she shall keep a true and correct copy of the minutes of all board meetings, and the book so provided and kept shall be the official book of records. A copy of the records or a copy of the records certified by the secretary-treasurer and under the seal of the board shall be admitted in any of the courts of this state as prima facie evidence of the facts contained in the records and in lieu of the original thereof. A certificate under the hand of the secretary-treasurer and the seal of the board that there is not entered in such record books the name and number of and date of granting such license certificate to a person charged with a violation of any of the provisions of this chapter shall be prima facie evidence of the facts contained therein. Such certificates shall be admitted in any of the courts of this state in lieu of the records of the board. The original books, records, and papers of the board shall be kept at the office of the secretary-treasurer of the board, which office shall be at such place as may be designated by the board.

**§ 34-9-45. Board to assist prosecuting officers.**

The board and its members and officers shall assist prosecuting officers in the enforcement of this chapter, and it shall be the duty of the board, its members and officers to furnish the proper prosecuting officers with such evidence as it or they may ascertain to assist them in the prosecution of any violation of this chapter, and the board is authorized for such purposes to make such reasonable expenditures from the funds of the board as it may deem necessary to ascertain and furnish such evidence.

**§ 34-9-46. Subpoenas and testimony.**

In all matters pending before it, the board shall have the power to issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books, and records, documentary evidence and materials or other evidence. Any person failing or refusing to appear or testify regarding any matter about which he or she may be lawfully questioned

or to produce any papers, books, records, documentary evidence, or materials or other evidence in the matter to be heard, after having been required by order of the board or by a subpoena of the board to do so, may, upon application by the board to any circuit judge of the State of Alabama, be ordered to comply therewith; and, upon failure to comply with the order of the circuit judge, the court may compel obedience by attachment as for contempt as in case of disobedience of a similar order or subpoena issued by the court. The president, in writing filed with the board, may designate and authorize any member of the board to issue subpoenas, and any board member shall have authority to administer oaths to witnesses, or to take their affirmation. A subpoena or other process of paper may be served upon any person named therein, anywhere within the State of Alabama with the same fees and mileage by any officer authorized to serve subpoenas or such other process or paper in civil actions, in the same manner as is prescribed by law for subpoenas issued out of the circuit courts of this state, the fees and mileage and other costs to be paid as the board directs.

**§ 34-9-47. Taking of depositions.**

Depositions may be taken within or without the State of Alabama in the manner provided for by the laws of Alabama and the Alabama Rules of Civil Procedure for the taking of depositions in matters pending in the circuit courts of this state. The depositions shall be returnable to the board office, and the depositions may be opened or used by the parties to the proceedings the same as is provided for in matters pending before the circuit courts.

**ARTICLE 3.  
USE OF ANESTHESIA BY DENTISTS.**

**§ 34-9-60. Use of local anesthesia; permit to use general anesthesia.**

Any person licensed or permitted to practice dentistry in the State of Alabama shall be authorized to use anesthesia in accordance with the provisions of this section.

(1) All dentists are authorized to use local anesthesia.

(2) Twelve months after May 29, 1985, no dentist shall use general anesthesia on an outpatient basis for dental patients, unless such dentist possesses a permit of authorization issued by the Board of Dental Examiners.

a. In order to receive such permit, the dentist must apply on a prescribed application form to the Board of Dental Examiners, submit an application fee, and produce evidence showing that he or she:

1. Has completed a minimum of one year of advanced training in anesthesiology and related academic subjects (or its equivalent) beyond the undergraduate dental school level in a training program as described in Part II of the guidelines for teaching the comprehensive control of pain and anxiety in dentistry; or

2. Is a diplomate of the American Board of Oral and Maxillofacial Surgery, or is eligible for examination by the American Board of Oral and Maxillofacial Surgery, or is a member of the American Association of Oral and Maxillofacial Surgeons; or

3. Employs or works in conjunction with a qualified medical doctor who is a member of the anesthesiology staff in an accredited hospital, provided that such anesthesiologist must remain on the premises of the dental facility until any patient given a general anesthetic regains consciousness and is discharged; and

4. Has a properly equipped facility for the administration of general anesthesia staffed with a supervised team of auxiliary personnel capable of reasonably assisting the dentist with procedures, problems, and emergencies incident thereto. Adequacy of the facility and competence of the anesthesia team shall be determined by the Board of Dental Examiners as outlined below.

5. Possesses current training in Advanced Cardiac Life Support (ACLS) and basic life support certification.

b. Prior to the issuance of such permit, the Board of Dental Examiners, at its discretion, may require an on-site inspection of the facility, equipment, and personnel to determine if, in fact, the aforementioned

requirements have been met. This evaluation shall be carried out in a manner prescribed by the board. The evaluation shall be conducted by a team of three examiners appointed by the Board of Dental Examiners. These examiners shall be dentists who are authorized to administer general anesthesia. If the results of the initial evaluation are deemed unsatisfactory, the applicant may reapply for a permit subject to the correction of the deficiencies outlined in the original evaluation.

(3) Each dentist who is licensed to practice dentistry in the state on May 29, 1985, who desires to continue to use general anesthesia shall make application on the prescribed form to the Board of Dental Examiners within 12 months of May 29, 1985. If he or she meets the requirements of this section, he or she shall be issued such a permit. If the applicant does not meet the requirements of paragraph a. of subdivision (2) of this section, he or she may be entitled to a "general anesthesia permit" provided said applicant passes to the satisfaction of the board an on-site inspection as provided for in paragraph b. of subdivision (2) of this section.

(4) Each dentist who has not been using general anesthesia prior to May 29, 1985, may be granted by the board a temporary provisional permit based on the applicant's producing evidence that he or she has complied with paragraph a. of subdivision (2) of this section above pending complete processing of the application and thorough investigation of an on-site evaluation as described in paragraph b. of subdivision (2) of this section.

**§ 34-9-61. Review and renewal of permit; reevaluation of credentials and facility.**

(a) Any dentist holding a permit of authorization issued by the Board of Dental Examiners shall be subject to review and such permit must be renewed annually.

(b) The board shall, upon payment of a renewal fee, renew the general anesthesia permit annually unless the holder is informed in writing that a reevaluation of his or her credentials and facility is to be required. In determining whether such reevaluation is necessary, the board shall consider such factors as it deems pertinent including, but not limited to, patient complaints and reports of adverse occurrences. Such reevaluation shall be carried out in the manner described in paragraph b. of subdivision (2) of Section 34-9-60.

**§ 34-9-62. Certification in cardiopulmonary resuscitation.**

Any dentist using general anesthesia, and his or her auxiliary personnel shall be currently certified in cardiopulmonary resuscitation.

**§ 34-9-63. Permit to use parenteral sedation.**

The issuance of a permit for general anesthesia shall include the privilege of administering parenteral sedation in accordance with this section. The issuance of a permit for parenteral sedation shall include the privilege of administering intravenous sedation. All current intravenous sedation permit holders are entitled to a parenteral sedation permit subject to the renewal and regulatory provisions afforded to the Board of Dental Examiners by this chapter. The term parenteral sedation shall not include the use or regulation of nitrous oxide.

(1) No dentist shall use parenteral sedation on an outpatient basis for dental patients unless the dentist possesses a permit of authorization issued by the board. The dentist applying for or holding the permit shall be subject to on-site inspections as provided in paragraph b. of subdivision (2) of Section 34-9-60.

a. In order to receive the permit, the dentist shall:

1. Apply on a prescribed application form to the board.

2. Submit a fee.

3. Produce evidence showing that he or she has satisfied each of the following requirements:

(i) Received formal training in the use of parenteral sedation from a board approved training program, is competent to handle all emergencies relating to parenteral sedation, and is currently certified in cardiopulmonary resuscitation. The certification of the formal training shall specify the total number of hours, the number of didactic hours, and the number of patient contact hours. The required

number of didactic hours and patient contact hours shall be determined by the board.

(ii) Equipped a proper facility for the administration of parenteral sedation, staffed with a supervised team of auxiliary personnel capable of reasonably assisting the dentist with procedures, problems, and emergencies incident to the sedation procedure.

b. Adequacy of the facility and the competency of the sedation team shall be determined by the board.

c. Prior to the issuance of a permit, the board may require an on-site inspection of the facility, equipment, and personnel to determine if the requirements of this section have been met. This evaluation shall be performed as provided in subdivision (2) of this section.

(2) Each dentist who is licensed to practice dentistry in the state who desires to continue to use parenteral sedation shall make application on the prescribed form to the board. If he or she meets the requirements of this section, or currently holds a valid intravenous sedation permit, he or she shall be issued such a permit subject to all renewal and regulatory requirements of Section 34-9-64. If the applicant does not meet the requirements of paragraph a. of subdivision (1) of this section, or does not currently hold a valid intravenous sedation permit, he or she may be entitled to a "parenteral sedation permit" if the applicant passes, to the satisfaction of the board, an on-site inspection. The inspection shall ascertain that the dentist has a properly equipped facility for the administration of parenteral sedation, staffed with a supervised team of auxiliary personnel capable of reasonably assisting the dentist with incidental procedures, problems, and emergencies.

The board, in conducting the on-site inspection and evaluations required in this section, shall appoint a team of up to three examiners who shall be dentists certified to administer parenteral sedation in accordance with this article.

(3) A dentist utilizing parenteral sedation and the auxiliary personnel of the dentist shall be currently certified in cardiopulmonary resuscitation and the dentist shall be trained in advanced cardiac life support.

(4) Each dentist who has not been using parenteral sedation, pending complete processing of an application and a thorough on-site evaluation, may be granted one temporary provisional permit by the board at a time, if the applicant produces evidence that he or she has complied with this section.

#### **§ 34-9-64. Annual renewal of parenteral sedation permit; reevaluation of credentials and facility.**

The board shall renew the parenteral sedation permit annually, upon payment of a renewal fee, unless the holder is informed in writing that a reevaluation of his or her credentials and facility is necessary. In determining whether the reevaluation is necessary, the board shall consider any factors as it deems pertinent including, but not limited to, patient complaints and reports of adverse occurrences. The reevaluation shall be performed as provided in paragraph b. of subdivision (2) of Section 34-9-60.

#### **§ 34-9-65. Reports of mortalities and other incidents resulting from general anesthesia or sedation.**

(a) All licensees engaged in the practice of dentistry in the state must submit a complete report within a period of 30 days to the Board of Dental Examiners of any mortality or other incident occurring in the outpatient facilities of such dentist which results in permanent physical or mental injury of the patient as a direct result of general anesthesia or sedation techniques.

(b) The Board of Dental Examiners shall have authority to adopt rules and regulations implementing and enforcing the provisions of this section.

(c) Violation of any provision of this section shall subject the dentist to the penalties outlined in Section 34-9-18 and no order imposing those penalties shall be made or entered except after notice and hearing by the board as provided in Chapter 9, Title 34. Such order shall be subject to judicial review as provided by such chapter.

#### **§ 34-9-80. Definitions.**

As used in this article, the following terms shall have the following meanings:

- (1) ANALGESIA. The diminution or elimination of pain in the conscious patient.
- (2) ANXIOLYSIS. A pharmacological induced state, oral or inhalation, where a patient experiences a diminution of anxiety.
- (3) BOARD. The Alabama Board of Dental Examiners.
- (4) ENTERAL. Any technique of administration in which the agent is absorbed through the gastrointestinal (GI) tract or oral mucosa (i.e., oral, rectal, sub lingual).
- (5) INHALATION. A technique of administration in which a gaseous or volatile agent is introduced into the pulmonary tree and the primary effect is due to absorption through the pulmonary bed.
- (6) LOCALIZED ANESTHESIA. The elimination of sensations, especially pain, in one part of the body by the topical application or regional injection of a drug.
- (7) ORAL CONSCIOUS SEDATION. A depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and to respond appropriately to physical stimulation or verbal command and that is produced by a pharmacological or nonpharmacological method or a combination thereof. Oral conscious sedation does not include the administration of a medication given only for the purpose of diminution of anxiety. An oral conscious sedation permit is not required for the use of inhalation nitrous oxide following the administration of a medication given only for the purpose of diminution of anxiety.

**§ 34-9-81. Permits required.**

In order to administer oral conscious sedation, a dentist must possess a general anesthesia permit, a parenteral sedation permit, or an oral conscious sedation permit from the board. In order to receive an oral conscious sedation permit, the dentist must apply on a prescribed application form to the board and submit an application fee. The dentist applying for the permit must show evidence that he or she has done at least one of the following:

- (1) Has completed an American Dental Association accredited postgraduate general dentistry or specialty residency program which included specific training in oral conscious sedation.
- (2) Has completed a minimum of 16 hours' training in oral conscious sedation in a course approved by the board.
- (3) Has certification of training in oral conscious sedation by any entity or organization approved by the board.

**§ 34-9-82. Requirements for treatment.**

(a) A dentist using oral conscious sedation must comply with all of the following requirements:

- (1) Patients to be treated under oral conscious sedation must be suitably evaluated prior to the start of any sedation procedure. Using the American Society of Anesthesiologists Patient Physical Status classifications the dentist should determine that the patient is an appropriate candidate for oral conscious sedation.
- (2) The patient or guardian must be advised regarding the procedure associated with the delivery of any sedative agents and the appropriate written informed consent should be obtained.
- (3) Inhalation equipment used in conjunction with oral conscious sedation must be evaluated prior to use on each patient. Determination of adequate oxygen supply must be completed prior to use with each patient.
- (4) Appropriate verbal or written preoperative and postoperative instructions must be given to the patient or guardian.
- (5) Baseline vital signs should be obtained unless the patient's behavior prohibits such determination.
- (6) Pretreatment physical evaluation should be performed as deemed appropriate.
- (7) All medications and dosages used during an oral conscious sedation procedure must be recorded in the



patient's record of treatment.

(8) An emergency cart or kit must be readily accessible and must be available for immediate use during any sedation procedure.

(9) The only classification of drugs for sedation to be administered enterally by a responsible adult procedurally outside the treatment facility is minor tranquilizers. Minor tranquilizers (i.e., hydroxyzine or diazepam) do not include chloral hydrate or narcotics.

(10) Direct clinical observation and monitoring of the patient by a staff member must be continuous during the recovery period. The dentist shall assess the patient's responsiveness and must determine that the patient has met discharge criteria prior to leaving the office and the patient must be discharged into the care of a responsible person.

(b) It shall be incumbent upon the operating dentist to insure that the patient is appropriately monitored. A sedated patient must be continuously kept under direct clinical observation by a trained individual. The sedated patient's oxygen saturation must be monitored by pulse oximetry. Chest excursions must be observed and the color of mucosa and skin continually evaluated. Back-up emergency services should be identified and a protocol outlining necessary procedures for their immediate employment should be developed and operational for each facility.

(c) Any dentist utilizing oral conscious sedation procedures must have a properly equipped facility staffed with a supervised team of allied dental personnel who will be appropriately trained and capable of reasonably assisting the dentist with procedures, problems, and emergencies incident thereto. When inhalation equipment is used, in combination with orally administered sedatives, it must have a failsafe system that is appropriately checked and calibrated. The inhalation equipment must have the capacity for delivering 100 percent oxygen, and never less than 25 percent oxygen. A system for delivering oxygen must be available and must have adequate full-face mask and appropriate connectors, and be capable of delivering oxygen under positive pressure to the patient. Inhalation equipment must have a scavenging system. Suction equipment must be available that allows aspiration of the oral and pharyngeal cavities. A stethoscope and a sphygmomanometer with cuffs of appropriate size shall be immediately available.

**§ 34-9-83. Requirements for assistants.**

Allied dental personnel who assist dentists during oral conscious sedation procedures must be currently certified in cardiopulmonary resuscitation. During a sedation procedure, at least one additional person must be present in addition to the dentist. This may be a chair side dental assistant.

**§ 34-9-84. Report of adverse consequences.**

Any adverse consequence occurring with oral conscious sedation shall be reported to the board as required with general anesthesia and parenteral sedation.

**§ 34-9-85. Limits on advertisements.**

The availability of oral conscious sedation, if advertised, shall be done without reference to sleep, snooze, or any other expression indicating a total or partial loss of consciousness.

**§ 34-9-86. On-site inspection.**

The board, prior to issuance of a permit for oral conscious sedation, may require an on-site inspection of the personnel, the facility, and the equipment to determine if the requirements of this article have been met. The inspection team shall be determined by the board and shall reflect the principles of peer review.

**§ 34-9-87. Permit limitations.**

A dentist who holds only an oral conscious sedation permit may not use or administer general anesthesia or parenteral sedation, or both, as those terms are used in this chapter.

**§ 34-9-88. Renewal of permit.**

This permit must be renewed annually upon payment of a renewal fee.

**§ 34-9-89. Treatment of patients under 12 years of age.**

When oral conscious sedation is used on any patient under 12 years of age, the following provisions shall apply:

- (1) The drugs, dosages, and techniques used should carry a margin of safety which is unlikely to render the patient noninteractive and nonarousable.
- (2) Appropriately sized emergency equipment must be available.

**§ 34-9-90. Violations and penalties.**

Violation of any provision of this article shall subject the dentist to the penalties in Section 34-9-18, and no order imposing those penalties shall be made or entered except after notice and hearing by the board as provided by that section. Such order shall be subject to judicial review.

**IMPAIRED PROFESSIONALS COMMITTEE**

**§34-38-1. Definitions.**

For the purpose of this chapter, the following terms shall have the meaning respectively ascribed to them by this section, unless the context clearly provides for another:

- (1) DENTIST. Any person who is a dentist or dental practitioner pursuant to the definition of section 6-5-481, as amended.
- (2) PHARMACIST. Any person who is a pharmacist as defined in section 34-23-1, as amended, and pharmacy externs and interns registered by the Board of Pharmacy under Rule 680-X-2.16 of the Alabama Administrative Code.
- (3) BOARDS. Individually and/or jointly: the Board of Dental Examiners and the Board of Pharmacy.
- (4) COMMITTEE. The Alabama Impaired Professional's Committee.
- (5) HYGIENIST. Any person who is a hygienist pursuant to the provisions of sections 34-9-26 and 34-9-27.

**§34-38-2. State Board of Dental Examiners; duties - State Board of Pharmacy; duties - Committee; established.**

It shall be the duty and obligation of the State Board of Dental Examiners and the State Board of Pharmacy to promote the early identification, intervention, treatment and rehabilitation of individuals within the respective jurisdiction, licensed to practice in the state of Alabama, who may be impaired by reason of illness, inebriation, excessive use of drugs, narcotics, controlled substances, alcohol, chemicals or other dependent forming substances, or as a result of any physical or mental condition rendering such person unable to meet the standards of his or her profession. For the purposes of this chapter, the term "impaired" shall mean the inability of a dentist, hygienist, expanded duty dental assistant, or pharmacist to practice with reasonable skill and safety to patients by reason of illness, inebriation, excessive use of drugs, narcotics, controlled substances, alcohol, chemicals or other dependent forming substances, or as a result of any physical or mental condition rendering such person unable to meet the standards of his or her profession. In order to carry out this obligation, each Board, individually or jointly, is hereby empowered to contract with any non-profit corporation, health provider or professional association for the purpose of creating, supporting and maintaining a committee of professionals to be designated the Alabama Impaired Professionals Committee. The committee shall consist of not less than three nor more than fifteen professionals licensed to practice dentistry or pharmacy in the State of Alabama, and selected in a manner prescribed by the board or boards. The authority of the Alabama Impaired Professionals Committee shall not supersede the authority of the board or boards to take disciplinary action against individuals subject to this chapter. Nothing in this chapter shall limit the power and authority of the board or boards to discipline an impaired individual subject to its jurisdiction; provided that where an individual is impaired and currently in need of intervention, treatment or rehabilitation and such individual is currently participating in programs or rehabilitation recommended by the Committee, then in its discretion, the board or boards may refrain from taking or continuing disciplinary action against such individuals; and further provided that where the board or boards, upon reasonable cause to believe an individual subject to its jurisdiction is impaired, has referred such individual to the Committee for evaluation, then in its discretion, the board or boards may refrain from taking or continuing disciplinary action against such individual. The board, or boards, may collect or expend such funds as are available to it as deemed necessary to adequately provide for the operational expenses of the Alabama Impaired Professionals Committee, including, but not limited to, the actual cost of travel, office overhead and personnel expense and compensation for the members of the Committee and its staff; provided that operational expenses of the

Alabama Impaired Professionals Committee shall not include the cost of treatment or rehabilitation programs recommended by the Committee to individuals subject to this chapter. The funds provided by the board or boards, under this section for the purposes stated herein shall not be subject to any provision of law requiring competitive bidding.

**§34-38-3. Authority of board or boards to contract for Impaired Professionals' Committee to undertake certain functions.**

The board or boards shall have the authority to enter into an agreement with a nonprofit corporation, health provider or professional association for the Alabama Impaired Professionals Committee to undertake those functions and responsibilities specified in the agreement. Such functions and responsibilities may include any or all of the following:

- (1) contracting with providers of treatment programs;
- (2) receiving and evaluating reports of suspected impairment from any source;
- (3) intervening in cases of verified impairment;
- (4) referring impaired professional to treatment programs;
- (5) monitoring the treatment and rehabilitation of impaired professional;
- (6) providing post-treatment monitoring and support of rehabilitated impaired professional; and
- (7) performing such other activities as agreed upon by the respective Board or Boards and the Alabama Impaired Professionals Committee.

**§34-38-4. Procedures for reporting impaired professional program activity and disclosure and joint review of information.**

The Alabama Impaired Professionals Committee shall develop procedures in consultation with such board or boards for:

- (1) periodic reporting of statistical information regarding Alabama Impaired Professionals Committee activity;
- (2) periodic disclosure and joint review of such information as the board or boards may deem appropriate regarding reports received, contracts or investigations made and the disposition of each report, provided, however, that the committee shall not disclose any personally identifiable information except as provided in section 34-38-7.

**§34-38-5. Nonliability of Impaired Professionals' Committee personnel, etc., for actions within scope of function.**

Any dentist licensed to practice in the state of Alabama, or pharmacist, who shall be duly appointed to serve as a member of the Alabama Impaired Professionals Committee and any auxiliary personnel, consultants, attorneys, or other employees of the committee shall not be liable to any person for any claim for damages as a result of any decision, opinion, investigation or action taken by the committee or any individual member of the committee made by him within the scope of his function as a member of the committee if such decision, opinion, investigation or action was taken without malice and on a reasonable belief that such action or recommendation was warranted by the facts that were then available. No nonprofit corporation, professional association, health provider or state or county association that contracts with, or received funds from board or boards for the creation, support and operation of the Alabama Impaired Professionals Committee shall be liable to any person for any claim for damages for any action taken or recommendation made by the Alabama Impaired Professionals' Committee, or any member thereof, or any auxiliary personnel, consultant, attorney, or employee of such committee.

**§34-38-6. Confidentiality of information, records, and proceedings.**

All information, interviews, reports, statements, memorandums, or other documents furnished to or produced by the Alabama Impaired Professionals Committee and any findings, conclusions, recommendations or reports resulting from the investigations, interventions, treatment or rehabilitation, or other related proceedings of such committee are declared to be privileged and confidential. All records and proceedings of such committee shall be confidential and shall be used by such committee, the members thereof and the boards, only in the exercise of the proper functions of the committee and the boards, and shall not be public records nor available for court subpoena or for discovery proceedings. Nothing contained

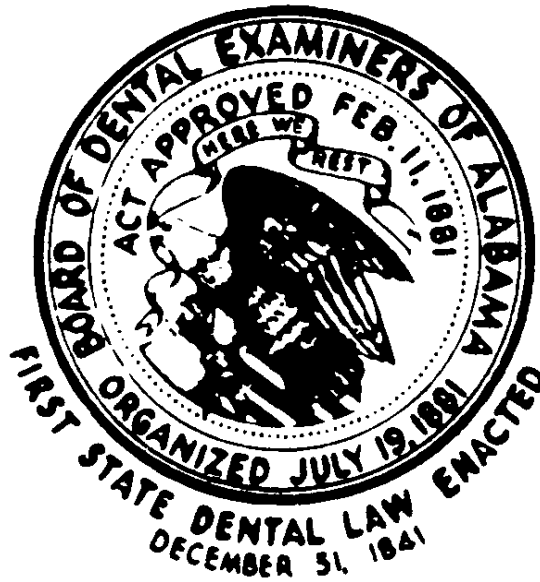
herein shall apply to records made in the regular course of business of an individual; documents or records otherwise available from original sources are not to be construed as immune from discovery or use in any civil proceedings merely because they were presented or considered during the proceedings of the Alabama Impaired Professionals Committee.

**§34-38-7. Annual report.**

It shall be the duty of the Alabama Impaired Professionals Committee to render an annual report to each board or boards, concerning the operations and proceedings of the committee for the preceding year. In addition, the committee shall promptly report to the respective boards any individual within their jurisdiction who, in the opinion of the committee is unable to practice the standards of his or her profession with reasonable skill and safety to patients, by reason of illness, inebriation, excessive use of drugs, controlled substances, narcotics, alcohol, chemicals or other dependent forming substances, or as a result of any physical or mental condition rendering such person unable to meet the standards of his or her profession and appears that such individual is currently in need of intervention, treatment or rehabilitation. A report to the Alabama Impaired Professionals Committee shall be deemed to be a report to the board or boards for the purpose of any mandated reporting of professional impairment otherwise provided for by the statutes of this state.

**§34-38-8. Evaluations of professional who is believed to be impaired; report of findings.**

If the board or boards has reasonable cause to believe that a professional is impaired, such board may cause an evaluation of such professional to be conducted by the Alabama Impaired Professionals Committee, for the purpose of determining if there is an impairment. The Alabama Impaired Professionals Committee shall report the findings of its evaluation to the respective board or boards.



# ALABAMA DENTAL PRACTICE ACT

## Rules of the Board of Dental Examiners of Alabama

The Alabama Dental Practice Act is the set of Rules set forth by the Board of Dental Examiners of Alabama. The Code of Alabama has given the Board the Authority to set rules for the dental professionals practicing in Alabama. Specifically the Rules issued by the Board must be in subjection one of the statutes in the Code of Alabama. The Board has provided you with the Alabama Dental Practice Act for you to review should you have any questions about the practice of dentistry and the licensing of dentists and dental hygienists in Alabama. Should you have any questions after reviewing the Alabama Dental Practice Act please contact the Board office.

**BOARD OF DENTAL EXAMINERS OF ALABAMA  
ADMINISTRATIVE CODE**

**TABLE OF CONTENTS**

**CHAPTER 270-X-1  
INTERNAL BOARD MATTERS**

270-X-1.01	Oath of Office.
270-X-1.02	Parliamentary Usage.
270-X-1.03	Duties of the Secretary-Treasurer.
270-X-1.04	Administrative Staff.
270-X-1.05	All Correspondence by Secretary-Treasurer.
270-X-1.06	Assistant Dentists to Aid the Board.
270-X-1.07	Travel Allowances for Board Members.
270-X-1.08	Meetings of the Board.
270-X-1.09	Check Signing Authority of Administrative Staff
270-X-1.10	Consulting Fees

**CHAPTER 270-X-2  
DENTISTS**

270-X-2.01	Education Requirements for Examination-Dentists.
270-X-2.02	Applications for Dental License, Qualifications of Applicants and Licensing of Persons Licensed in Other States.
270-X-2.03	Licensure of Foreign Graduates.
270-X-2.04	Fees for Dental Applicants.
270-X-2.05	Examination of Rules and Issuance of Licenses.
270-X-2.06	Replacement and/or Duplicate Certificate.
270-X-2.07	Annual Registration for Dentists.
270-X-2.08	Grounds for Disciplinary Action Pertaining to Dental License.
270-X-2.09	Change of Address of Licensed Dentists.
270-X-2.10	Teaching / Special Teaching Permits.
270-X-2.11	Alabama Uniform Controlled Substances Act.
270-X-2.12	Maintenance of Controlled Substances Records and Inventory.
270-X-2.13	Statement of Charges and Notice of Hearing before Imposition of Disciplinary Penalties.
270-X-2.14	Change of Name on License Certificates. (Repealed 1/20/09)
270-X-2.15	Standards for Infection Control in Dental Offices.
270-X-2.16	Training and Educational Requirements for the Use of Parenteral Sedation.
270-X-2.17	Criteria for On-Site Inspection for the Use of General Anesthesia and Parenteral Sedation.
270-X-2.18	The Practice of Dentistry Across State Lines.
270-X-2.19	Licensure by Credentials.
270-X-2.20	Reporting of Adverse Occurrences.
270-X-2.21	Oral Conscious Sedation.
270-X-2.22	Patient Records.

**Chapter 270-X-3  
DENTAL HYGIENISTS**

270-X-3.01	Examination Rules for Dental Hygienists.
270-X-3.02	Replacement Certificate for Dental Hygienists. (Repealed 8/25/09)
270-X-3.03	Education Requirements for Examination, Qualifications, Application, Examination and Licensure of Dental Hygienists.
270-X-3.04	Alabama Dental Hygiene Program (AHHP) Requirements.
270-X-3.05	Replacement and/or Duplicate Certificate.
270-X-3.06	Direct Supervision Defined.
270-X-3.07	Annual Registration for Hygienists.
270-X-3.08	Change of Address of Dental Hygienists.
270-X-3.09	Grounds for Disciplinary Action Pertaining To Dental Hygienist License.

- 270-X-3.10 Duties of Allied Dental Personnel.  
270-X-3.11 Statement of Charges and Notice of Hearing Before Imposition of Disciplinary Penalties.  
270-X-3.12 Dental Hygiene Advisor. (Repealed 3/06/98)

**Chapter 270-X-4  
MISCELLANEOUS**

- 270-X-4.01 Professional Corporations and Professional Associations.  
270-X-4.02 Approval Required for Utilization of Unlicensed Individuals by Institutions.  
270-X-4.03 Approval for Training, Educational, Technical, Vocational, or any other Institution Providing Instruction for Dental Assistants.  
270-X-4.04 Mandatory Continuing Education for Dentists and Dental Hygienists.  
270-X-4.05 Infected Health Care Workers.  
270-X-4.06 Limited Liability Companies.  
270-X-4.07 Registered Limited Liability Partnerships.  
270-X-4.08 Advertising.  
270-X-4.09 Criteria and Fees for Mobile Dental Facilities or Portable Dental Operations.  
270-X-4.10 Registration of a 501(c)(3) Dental Clinic.

**Chapter 270-X-5  
ORGANIZATION AND PROCEDURE**

- 270-X-5.01 Description of Organization of Board of Dental Examiners of Alabama.  
270-X-5.02 Procedure for Requesting Adoption, Amendment or Repeal of Rule and Submission.  
270-X-5.03 Administrative Determinations and Declaratory Rulings of the Board.  
270-X-5.04 Rule Making Proceedings.  
270-X-5.05 Disciplinary Hearings for Dentists and Dental Hygienists.  
270-X-5.06 Complaints.  
270-X-5.07 Expense Recovery.  
270-X-5.08 Authorized Fees. (Repealed 8/28/09)  
270-X-5.09 Non-disciplinary Administrative Penalties.  
270-X-5.10 Definition of Gross Negligence. (Repealed 4/23/13)  
270-X-5.11 Definition of the Active Practice of Dentistry and Dental Hygiene.  
270-X-5.12 Candidates for Board Election: Campaign Procedures.

**CHAPTER 270-X-1  
INTERNAL BOARD MATTERS**

**270-X-1.01 OATH OF OFFICE.**

Pursuant to Code of Alabama (1975), § 34-9-40, each member of said Board, after his/her election or appointment and before entering upon the discharge of the duties of his/her office, shall take the following oath of office to be administered by the president as follows: "I, \_\_\_\_\_, solemnly swear that I will support the Constitution of the United States, and the Constitution of the State of Alabama, so long as I continue a citizen thereof; and that I will faithfully and honestly discharge the duties of the office upon which I am about to enter, to the best of my ability. So help me God."

Statutory Authority: Code of Alabama (1975), §§ 34-9-40, 34-9-43.

**270-X-1.02 PARLIAMENTARY USAGE.**

The Board of Dental Examiners of Alabama in the deliberations of its business sessions shall be governed by parliamentary usage; and Robert's Rules of Order shall be accepted as authority.

Statutory Authority: Code of Alabama (1975), §§ 36-25A-1, 36-25A-2, 36-25A-5.

**270-X-1.03 DUTIES OF THE SECRETARY-TREASURER.**

The secretary-treasurer shall keep a record of all meetings of the Board of Dental Examiners of Alabama. The place of each meeting of the Board, names of the members present, all official acts of the Board, and the votes shall be recorded in the minutes. The minutes shall be presented for approval or amendment at the next meeting of the Board, which upon approval will be signed by the secretary-treasurer. The minutes, not including any section relating to the good name or character of an individual, shall be open to public inspection.

Statutory Authority: Code of Alabama (1975), §§ 34-9-41, 34-9-42, 34-9-43(1)(10), 34-9-44.

**270-X-1.04 ADMINISTRATIVE STAFF.**

The Board may, at its discretion, permit the administrative staff to sit in all Board meetings for the purpose of recording the minutes and other data necessary to carry on the business of the Board.

Statutory Code of Alabama (1975), §§ 34-9-41, 34-9-43.

**270-X-1.05 ALL CORRESPONDENCE BY SECRETARY-TREASURER.**

All correspondence relative to Board matters shall be forwarded to the attention of the secretary-treasurer to the Board office for reply, except that when a Board member shall have been assigned the handling of some specific case or matter, he/she also may attend to such correspondence as may be required. When such matter is settled, said member shall forward all data relating to the case or matter to the Board office for filing.

Statutory Authority: Code of Alabama (1975), § 34-9-44.

**270-X-1.06 ASSISTANT DENTISTS TO AID THE BOARD.**

At the discretion of the Board, there may be appointed duly qualified licensed dentists to assist the Board in conducting the Board examinations or any other lawful functions. Priority may be given to past Board members.

Statutory Authority: Code of Alabama (1975), §§ 34-9-41, 34-9-43.

**270-X-1.07 TRAVEL ALLOWANCES FOR BOARD MEMBERS.**

- (1) Board members shall be reimbursed expenses for instate travel in accordance with the state expense law.
- (2) Board members shall be reimbursed for actual expenses on authorized out-of-state travel.



Statutory Authority: Code of Alabama (1975), §§ 34-9-41, 34-9-43.

#### **270-X-1.08 MEETINGS OF THE BOARD.**

(1) The Board of Dental Examiners of Alabama shall comply with all the requirements of Code of Alabama (1975), § 34-9-41, concerning their meetings. Board member shall receive as compensation a sum of three hundred dollars and 00/100 (\$300.00) per each day actively engaged in the duties of their office.

(a) Board members who participate in the licensing examinations conducted by an approved testing agency shall be compensated by the testing agency.

(b) A sitting Board member who observes a licensing examination, without actively participating in the examination, shall be compensated one hundred dollars and 00/100 (\$100.00) per day out of Board funds.

(c) Board members shall be compensated at a rate of one hundred dollars and 00/100 (\$100.00) per hour, not to exceed three hundred dollars and 00/100 (\$300.00) per day, for documented time spent in review of assigned cases while serving on an Investigative or a Complaint Review Team.

(2) The secretary-treasurer shall keep a record of all meetings of the Board of Dental Examiners of Alabama. The place of each meeting of the Board, names of the members present, all official acts of the Board, and the votes shall be recorded in the minutes. The minutes shall be presented for approval or amendment at the next meeting of the Board, which upon approval will be signed by the secretary-treasurer. The minutes, not including any section relating to the good name or character of an individual, shall be open to public inspection.

(3) All meetings of the Board of Dental Examiners of Alabama, not including any part relating to the good name or character of an individual, shall be open and public. Reports of investigations or complaints alleging violation of any law or rule; documents subpoenaed by the Board; reports of any investigators or investigative agency appointed or employed by the Board; memorandum or reports of the Board's counsel; memorandum or reports of the Board's counsel relating to investigations or complaints alleging violation of any law or rule; statements of persons interviewed by the Board or any committee or member thereof, unless made at a public hearing; reports of information received by the Board or any member thereof in confidence; reports memorialized either in physical or digital form, of sensitive personnel records or other gathered information; reports of pending criminal investigations or reports or information, the disclosure of which would be detrimental to the best interests of the public, shall be considered privileged and confidential and shall not be disclosed except to an agent, attorney, or employee of the Board of Dental Examiners of Alabama. The foregoing non-public records or writings shall not be subject to public disclosure and shall not be subject to subpoena except upon the express order of a court of competent jurisdiction.

(4) Anyone wishing to address the Board at a regularly scheduled Board meeting will be required to submit a written request to the Board no later than one week prior to the Board meeting date. The request should include the topic to be addressed and the name(s) of the presenter(s). If time permits, the matter will be placed on the Board's agenda; otherwise the matter will be placed on the agenda of the next regularly scheduled Board meeting. All presenters will be given a presentation time limit to be determined by the Board to present their requests to the Board.

Statutory Authority: Code of Alabama (1975), §§ 34-9-41, 34-9-42, 34-9-43(1)(10), 34-9-44(13)(a).

#### **270-X-1.09 Check Signing Authority Of Administrative-Staff.**

The Board of Dental Examiners of Alabama may authorize a designated staff member who would be authorized to sign checks on behalf of the Board for costs or expenses that do not exceed twenty-five hundred dollars and 00/100 (\$2500.00).

Statutory Authority: Code of Alabama (1975), §§ 34-9-41, 34-9-43(10).

#### **270-X-1.10 Consulting Fees.**

Consultants employed by the Board pursuant to Code of Alabama (1975), § 34-9-43.1(b) shall be compensated at the rate of one hundred dollars and 00/100 (\$100.00) per hour, not to exceed the amount of current Board compensation.

Statutory Authority: Code of Alabama (1975), §§ 34-9-10(e), 34-9-43(2)(10).

**CHAPTER 270-X-2  
DENTISTS**

**270-X-2.01 Education Requirements For Examination-Dentists.**

(1) Pre-Dental. A minimum of three (3) years academic study of ninety (90) semester hours or its equivalent. This will include a minimum of:

Biology	8 hours
Chemistry	16 hours
Physics	8 hours
Mathematics	6 hours
Non-Science	30 hours
(12 of which must be English or its equivalent)	

(2) Must be a graduate of a school or college of dentistry approved by the Board.

(3) Must successfully complete the National Dental Board Examination Parts one (1) and two (2) administered by the Joint Commission on National Dental Examinations.

(4) A person's failure to satisfy subsection (1) above shall not prevent that person from taking the dental licensure examination provided for in the Alabama Dental Practice Act, Code of Alabama (1975), § 34-9-1 et seq., provided that person has satisfied the requirements of subsection (2) above.

Statutory Authority: Code of Alabama (1975), §§ 34-9-2, 34-9-3, 34-9-10, 34-9-43.

**270-X-2.02 Applications For Dental License, Qualifications Of Applicants And Licensing Of Persons Licensed In Other States.**

(1) All applicants for dental examination must file his/her application, giving first, middle and last name, and all credentials pertaining to the examination, along with examination fee and certificate fee in an amount set forth in Code of Alabama (1975), § 34-9-16, with the secretary-treasurer not less than thirty (30) days prior to the date of the examination.

(2) Applications not complete with all credentials or received after the closing dates will be returned or rejected.

(3) Fees are not refundable.

(4) All applicants for licensure shall also comply with the provisions of Code of Alabama (1975), § 34-9-10.

Statutory Authority: Code of Alabama (1975), §§ 34-9-2, 34-9-3, 34-9-10, 34-9-16, 34-9-43.

**270-X-2.03 Licensure Of Foreign Graduates.**

(1) Definitions:

(a) GRADUATE OF A FOREIGN DENTAL SCHOOL shall mean any person of good moral character, nineteen (19) years of age or more, who has been graduated and admitted to the degree of doctor of dental surgery, doctor of dental medicine, or other equivalent degree by any university or college authorized to grant said degree located in any country other than the United States, its territories, districts, or possessions, or the Dominion of Canada.

(b) APPLICANT shall mean any person applying for licensure pursuant to the provisions of this rule and of any applicable provisions contained in Code of Alabama (1975), § 34-9-1 et seq.

(c) BOARD shall mean the Board of Dental Examiners of Alabama.

(2) Requirements for Licensure. In addition to meeting the requirements set forth in Code of Alabama (1975), § 34-9-10, with respect to moral character, age, and graduation, the applicants shall submit the following credentials to the Board:

(a) An application, completed and verified by the oath of the applicant, upon such form as the Board deems appropriate, accompanied by a recent un-mounted autographed photograph of the applicant.

(b) Evidence satisfactory to the Board that the applicant has completed at least three (3) years of pre-professional post-secondary academic training and four (4) years of professional training in the field of dentistry.

(c) At least two (2) academic years of formal clinical training in a United States or Canadian accredited institution and the awarding or receiving of a D.M.D. or D.D.S. degree from said United States or Canadian accredited institution shall be required.

(d) A copy of the degree or diploma issued to the applicant by the college or university conferring the same, properly authenticated by an official of said college or university authorized to make such authentication.

(e) A copy of the subjects taken and the credits earned by the applicant and his/her courses at such college or university, duly authenticated by an official of said college or university authorized to make such authentication.

(f) In the event that the degree, diploma, or transcript required be furnished the Board hereunder such will be in a language other than the English language, each such document shall be accompanied by a translation thereof into the English language, which such translation shall be certified by an officer or other individual acceptable to the Board.

(g) Some form of documentation, duly and properly authenticated by an official authorized to make such authentication, that the applicant has completed at least two (2) academic years of formal training in a United States or Canadian accredited institution and has received a D.M.D. or D.D.S. degree from said United States or Canadian accredited institution.

(h) Two (2) letters of recommendation written by persons acceptable to the Board which shall certify to the Board the good moral character of the applicant and his/her age, qualifications, background, and experience, if any.

(3) Reciprocity. In the event that the applicant has been tested, licensed, or qualified in some other state of the United States or its districts, territories, or possessions, the Board may, but shall not be obligated to, accept the pretesting credentials and evidence submitted to such other states provided that such credentials and pretesting meet the minimum standards of the Board as set forth in this rule and by law.

(4) Fees. An applicant shall submit to the Board with his/her application a fee to be determined by the Board within the limits set by law.

(5) Time Limitations. An applicant shall take the Board's regular examination within one (1) year of the time that he/she has made application to the Board and satisfactorily completed the pre-examination requirements set forth in this rule; otherwise, his/her application and any other requirements that he/she has failed to meet shall be deemed to be lapsed and void.

Statutory Authority Code of Alabama (1975), §§ 34-9-2, 34-9-3, 34-9-10, 34-9-43.

#### **270-X-2.04 Fees For Licensure Applicants.**

(1) Fees are not refundable at the discretion of the Board.

(2) Examination fees are to be determined by the Board

Statutory Authority Code of Alabama (1975), §§ 34-9-2, 34-9-3, 34-9-10, 34-9-16, 34-9-43.

#### **270-X-2.05 Examination Rules And Issuance Of Licenses.**

(1) No person other than Examiners and applicants for licensure shall be present in the rooms when and where examinations, either written, clinical or laboratory procedures are being conducted except by permission of examiner in charge.

(2) Any applicant found guilty of receiving or giving aid during the theoretical, operative, clinical, or prosthetic laboratory examination will be dismissed. Dismissal will constitute a failure.

(3) No smoking is allowed during examinations.

(4) Examination paper will be furnished by the Board. No other paper of any kind, or textbooks, will be allowed in the examination room unless approved by the examiner in charge.

(5) All written examinations must be written in the English language.

(6) Board members are not permitted to interview applicants who have failed the examination. All such matters shall be directed to the secretary-treasurer in writing by the applicant.

(7) Board members are not permitted to disclose grades made by any applicant to anyone other than the applicant.

(8) When an applicant for licensure successfully passes the written or clinical examination, that passing grade shall carry over and be valid only until the next available examination.

(9) In addition, examinations shall be conducted and licenses issued in compliance with Code of Alabama (1975), § 34-9-11.

Statutory Authority Code of Alabama (1975), §§ 34-9-2, 34-9-3, 34-9-11, 34-9-41, 34-9-43.

#### **270-X-2.06 Replacement and/or Duplicate Certificate.**

(1) Replacement.

(a) Replacement certificate must be requested in writing. The request for replacement must include the reason for request

(b) Replacement certificate must be marked "replacement certificate."

(c) Replacement certificate should contain date that original certificate was issued and must be signed by the entire Board and contain the date the duplicate is issued.

(d) Fee to be set by the Board.

(2) Change of name on license certificate.

(a) Any individual desiring a change of name on their certificate must notify the Board in writing and enclose the following:

1. The reason for the name change (i.e. the legal document used to change the name)

2. Original license certificate, if available

3. Fee to be set by the Board

(b) The original license certificate will be destroyed upon issuance of a new certificate so marked as "change of name certificate".

(3) Duplicate certificate.

(a) Any licensee requesting a duplicate certificate must notify the Board in writing and enclose the following:

1. The reason they are requesting a duplicate certificate and where it will be held.

2. Fee to be set by the Board.

Statutory Authority Code of Alabama (1975), §§ 34-9-2, 34-9-3, 34-9-13, 34-9-16, 34-9-43.

#### **270-X-2.07 Annual Registration For Dentists.**

(1) The Secretary-Treasurer of the Board shall furnish to each such licensee, on or before September 1st of each year, a registration form which contains space for the insertion of his/her name, address, date and number of his/her license certificate and such other information as the Board shall deem necessary.

(2) On or before the first day of October of each year, every dentist licensed to practice in the State of Alabama shall transmit to the Secretary of the Board the completed form prescribed by the Board, together with the annual registration fee.

(3) Any license and license certificate previously granted shall automatically be suspended if the holder fails to secure the annual registration certificate before January 1st of each year.

(a) The annual registration fee for the dentists shall be in an amount fixed by the Board.

(4) Any dentist whose license shall be automatically suspended for reason of failure, neglect or refusal to secure the annual registration certificate shall be reinstated by the Board upon payment of a penalty fee as determined by the Board plus all accrued annual registration fees up to a maximum of five (5) years accompanied with the prescribed form of annual registration of such license.

(5) The Board shall waive the annual payment of fees and issue a current annual registration certificate to any licensee who because of age or physical disability has retired from the practice of dentistry or who is suffering a malady of a lingering or permanent nature. This waiver shall be effective so long as the retirement or these conditions continue. The licensee shall provide any documentation required by the Board to establish eligibility for this waiver. The Board shall also waive annual registration and the payment of annual fees while any licensee is on temporary active duty with any of the armed forces of the United States and the waiver of fees shall be effective so long as temporary active duty continues. For purposes of this rule, temporary active duty shall not exceed three (3) years.

(6) All licensed dentists shall also comply with the provisions of Code of Alabama (1975), § 34-9-15.

Statutory Authority Code of Alabama (1975), §§ 34-9-2, 34-9-3, 34-9-15, 34-9-43.

#### **270-X-2.08 Grounds For Disciplinary Action Pertaining To Dental License.**

The Board may refuse to issue the license or license certificate provided for in Code of Alabama (1975), § 34-9-1, et seq., or may impose any of the penalties outlined in Code of Alabama (1975), § 34-9-18(b), et seq., whenever it shall be established to the satisfaction of the Board, after a hearing as provided for in Code of Alabama (1975), §§ 34-9-18, 34-9-24, and the Alabama Administrative Procedure Act, that any licensed dentist has been guilty of any of the provisions of Code of Alabama (1975), § 34-9-1, et seq., including but not limited to Code of Alabama (1975), § 34-9-18.

Statutory Authority Code of Alabama (1975), §§ 34-9-2, 34-9-18, 34-9-24, 34-9-43.

#### **270-X-2.09 Change Of Address Of Licensed Dentists.**

All licensed dentists upon changing his/her place of practice shall comply with Code of Alabama (1975), § 34-9-14.

Statutory Authority Code of Alabama (1975), §§ 34-9-14, 34-9-43.

#### **270-X-2.10 Teaching/Special Teaching Permits.**

Teaching/Special Teaching permits shall only be issued in compliance with Code of Alabama (1975), § 34-9-8.

Statutory Authority Code of Alabama (1975), §§ 34-9-2, 34-9-8, 34-9-16, 34-9-43.

#### **270-X-2.11 Alabama Uniform Controlled Substances Act.**

(1) Pursuant to the Alabama Uniform Controlled Substances Act, specifically, Code of Alabama (1975), §§ 20-2-50 and 20-2-52, it shall be necessary for all licensed dentists and dentists who are issued special teaching permits who dispense, administer, prescribe, maintain or otherwise have in their possession controlled substances to annually register with the Board of Dental Examiners of Alabama and obtain a State Controlled Substance Number from said Board.

(a) The requirement stated in paragraph (1) of obtaining a registration certificate is waived for post-doctoral dental students and residents from the start date of each post-doctoral dental student's/resident's training until the end of each post-doctoral dental student's/resident's training period. Each post-doctoral dental student/resident shall be issued a controlled substance number following the acceptance of an application submitted to the Board. Each post-doctoral dental student/resident must renew his/her controlled substance number annually.

(b) Dental post-doctoral students and residents shall mean those enrolled in ADA accredited graduate programs at the UAB School of Dentistry or UAB Hospital, or in other such dental colleges, hospitals or institutions in Alabama, as may be approved by the Board.

(c) A dental post-doctoral student or resident for whom the requirement of obtaining a registration certificate is waived shall perform his/her work within the facilities of such dental colleges, hospitals and institutions under the supervision of an instructor and as adjunct to his/her post graduate course of study or training.

(2) This State Controlled Substance Number must appear on prescription blanks as well as the Drug Enforcement Agency Number. Every written prescription issued in this state by a licensed dentist and/or post-doctoral dental student/resident in possession of a Board issued controlled substance number shall contain two (2) signature lines. Under one signature line shall be printed clearly the words "product selection permitted." The licensed dentist shall communicate instructions to the pharmacist by signing on the appropriate line.

(3) Registration under this rule will be due at the same time as the annual license registration to practice dentistry. In order to obtain a state controlled substances number the dentist must possess a current and valid registration from the United States Drug Enforcement Agency. A post-doctoral dental student/resident shall be required to use their schools facility United States Drug Enforcement Agency issued number.

(4) The fee for registration and the State Controlled Substance Number shall be an amount to be fixed by the Board.

(5) Any licensed dentist and/or post-doctoral dental student/resident dispensing, administering, prescribing, maintaining, or possessing controlled substances who has not registered or obtained a State Controlled Substance Number will be deemed in violation of the Uniform Controlled Substances Act and will be subject to the penalties prescribed by law.

Statutory Authority Code of Alabama (1975), §§ 20-2-2, 20-2-50, 20-2-51, 20-2-52, 20-2-54 34-9-2, 34-9-43.

#### **270-X-2.12 Maintenance Of Controlled Substances Records And Inventory.**

(1) Every dentist certified to dispense controlled substances by the Board of Dental Examiners of Alabama shall be required to maintain an accurate inventory and separate dispensing record of all controlled substances in Schedules II through V dispensed in his/her offices. The inventory shall account for all controlled substances obtained or received by the dentist's office or the dentist regardless of whether the said controlled substances were purchased or obtained at no cost. The dispensing record shall contain the following information:

(a) The date the controlled substance was dispensed;

(b) The method by which the controlled substance was dispensed (i.e., administered in office or released to patient);

(c) The name of the controlled substance dispensed (trade name or generic name);

(d) The name of the patient to whom the controlled substance was dispensed; and,

(e) The quantity of the controlled substance dispensed.

(2) The inventory and separate dispensing record required by this rule shall be kept in the office of the dentist for a period of five (5) years from the date the controlled substances are dispensed and shall be made available for inspection by agents of the Board of Dental Examiners of Alabama or any law enforcement agency.

(3) Failure to maintain and make available the inventory and separate dispensing record required by this rule shall be considered a failure to maintain effective controls against diversion of controlled substances into other than legitimate dental channels.

(4) Whenever any dentist desires or is required to dispose of any controlled substances located in his/her office, he/she shall do so in accordance with the procedure for the disposing of controlled substances established by the Drug Enforcement Agency or pursuant to any rules or regulations promulgated by that agency.

Statutory Authority Code of Alabama (1975), §§ 20-2-2, 20-2-50, 20-2-51, 20-2-52, 20-2-54 34-9-2, 34-9-43(10).

#### **270-X-2.13 Statement Of Charges And Notice Of Hearing Before Imposition Of Disciplinary Penalties.**

No imposition of any of the disciplinary penalties set forth and outlined in Code of Alabama (1975), § 34-9-18(b), shall be taken until the licensee has been furnished a statement in writing of the charges against him/her and with a notice of the time and place of the hearing. The statement of charges shall be in compliance with Code of Alabama (1975), §§ 34-9-24, 41-22-12.

Statutory Authority Code of Alabama (1975), §§ 34-9-2, 34-9-24, 34-9-43, 41-22-12.

#### **270-X-2.14 Change of Name On License Certificates. (Repealed 1/20/09)**

Statutory Authority Code of Alabama (1975), §§ 34-9-2, 34-9-(4), 34-9-16, 34-9-43.

#### **270-X-2.15 Standards For Infection Control In Dental Offices.**

All dental offices must conform to and comply with the current recommendations and guidelines of the Centers for Disease Control and Prevention (C.D.C.) relating to infection control practices for dentistry and/or dental offices. The recommendations and guidelines of the C.D.C. may be obtained from the United States Department of Health and Human Services, Public Health Service or through the Board of Dental Examiners of Alabama. It is the responsibility of all currently licensed dentists, dental hygienists, dental assistants and all other personnel who are utilized by a licensed dentist and who assist in a dental practice and may be exposed to body fluids such as blood or saliva to maintain familiarity with these recommendations and guidelines.

Statutory Authority Code of Alabama (1975), §§ 34-9-2, 34-9-18(8), 34-9-43(4).

#### **270-X-2.16 Training And Educational Requirements For The Use Of Parenteral Sedation.**

(1) In order to satisfy the formal training requirements imposed by law for the issuance of a parenteral sedation permit, a dentist must have completed a minimum of sixty (60) hours of instruction and the management of at least the number of patients recommended by the American Dental Association's Council on Dental Education. The hours of instruction must cover the following areas:

- (a) Patient evaluation and medical risk assessment;
- (b) Management of medical emergencies, including the principals and techniques of advanced life support; and
- (c) Parenteral conscious sedation techniques.

(2) The training program attended by the dentist must be approved as acceptable for training in parenteral sedation by the Board of Dental Examiners of Alabama.

Statutory Authority Code of Alabama (1975), §§ 34-9-43(10), 34-9-63(1)(a)(1), 34-9-65(b).

#### **270-X-2.17 Criteria For On-Site Inspection For The Use Of General Anesthesia And Parenteral Sedation.**

(1) This rule contains the procedures, criteria, and information which the inspecting team shall observe, gather, or use in determining whether a dentist's facilities, equipment, and personnel have satisfied the requirements imposed by law and this rule for the issuance of a general anesthesia or a parenteral sedation permit. This determination shall be made based upon the following procedures, criteria, and information:

- (a) Clinical Use of Parenteral Sedation and/or General Anesthesia. Three (3) procedures utilizing Parenteral Sedation and/or General Anesthesia should be observed. At least two (2) procedures should be performed. This

portion of the evaluation should not exceed two (2) hours. No evaluation can be considered complete unless this part is included.

(b) Simulated Emergencies.

1. The evaluators and the dental team should not just talk about the emergency situations and how they should be managed. The dentist and his team must perform an actual demonstration of their method for managing the following situations:

- (i) Laryngospasm
- (ii) Bronchospasm
- (iii) Emesis and aspiration of vomitus
- (iv) Management of foreign bodies in the airway
- (v) Angina pectoris
- (vi) Myocardial infarction
- (vii) Cardiopulmonary resuscitation
- (viii) Hypotension
- (ix) Hypertensive crisis
- (x) Acute allergic reaction
- (xi) Hyperventilation syndrome
- (xii) Convulsion of unknown etiology
- (xii) Syncope

2. The simulated emergency procedures are to be demonstrated in the operator with full participation of the office staff. An exact simulation of the emergency situation should be demonstrated.

(c) Office Equipment, Records, and Emergency Medications.

1. All office equipment and records related to patient care should be available for inspection by the visiting doctors.

2. Specific attention should be directed to the following areas:

- (i) The oxygen and supplement gas-delivery system - backup system
- (ii) Provision for suction and backup system
- (iii) Auxiliary lighting system
- (iv) The gas storage facilities
- (v) Suitability of the operator
- (vi) Patient transportation equipment (if used)
- (vii) Recovery area



- (viii) Sterilization areas
- (ix) Preparation of medications
- (x) Completeness of emergency anesthetic equipment and medications
- (xi) Completeness of office patient-care records
- (xii) Monitoring equipment

(d) Outline of Information that Should be Obtained and Recorded in the Patient's Record. The information should provide a database that aids in treatment planning and selection of the anesthetic/sedation and furnish needed data in the event that unexpected physiologic change occurs during the course of surgical/operative procedure. Patients are reassured and apprehension reduced by the knowledge that surgery/operative procedure is being managed carefully by a competent team with a sincere interest in their problem. The need to develop a database to substantiate the choice of therapy selected is essential. A written record of this evaluation is a requirement for proper patient care. This section sets forth the core of material that should be obtained and recorded. This should serve as a reference to the knowledgeable dentist as he/she reviews his/her own standards for patient evaluation.

1. Vital Statistics. Vital statistics are the most basic information in the office record. They should include:

- (i) Patient's full name
- (ii) Address - home and work
- (iii) Telephone - home and work
- (iv) Date of birth
- (v) Sex
- (vi) Marital status (name of spouse \_\_\_\_\_)
- (vii) Occupation
- (viii) Name of parent or guardian, if patient is a minor

2. Patient Evaluation (Medical History).

(i) The patient's chief complaint, followed by history of the present illness or a statement about the patient's problem, should be recorded. The history should fulfill two basic requirements:

- (I) It must elicit the core medical information which will enable the dentist to identify the poor risk patient.
- (II) It should provide written evidence that the process of patient evaluation did occur and that the treatment was logical.

(ii) The following core questions should be on any medical history:

- (I) Are you now or have you ever been under a physician's care during the past five years?
- (II) Are you currently under a doctor's orders or taking any medication?
- (III) Do you have any allergies or are you sensitive to any drugs such as penicillin, Novocain, aspirin, or codeine?
- (IV) Do you bleed excessively after a cut, wound, or surgery?

(V) Are you subject to fainting, dizziness, nervous disorders, convulsions, or epilepsy?

(VI) Have you ever had any breathing difficulty such as asthma, emphysema, chronic cough, pneumonia, tuberculosis, or any other lung disorders?

(VII) Have you ever had any of the following illnesses?

Heart problems \_\_\_\_\_  
Stroke \_\_\_\_\_  
Rheumatic fever \_\_\_\_\_  
Hepatitis or liver disease \_\_\_\_\_  
Kidney disease \_\_\_\_\_  
High blood pressure \_\_\_\_\_  
Diabetes \_\_\_\_\_  
Anemia \_\_\_\_\_

(iii) The Core Physical Examination. Vital signs include blood pressure, pulse rate, and respiratory rate. Preoperative blood pressure and pulse rate measurements should be made and documented on the patient's record. Temperature should be taken and recorded when one suspects it is elevated and could affect the treatment plan.

(iv) Laboratory Data. Laboratory studies such as complete blood count, blood chemistries, and urinalysis are not a routine part of the preoperative outpatient evaluation in the dental office. These tests may be requested by the dentist for specific problems, and shall be made part of the patient's record.

(v) Summary of Data that should be in the Office-Record:

(I) A written medical history containing the vital statistics and core medical information.

(II) An examination chart with the proposed procedure clearly indicated and the probable complications written on that record or on the informed consent.

(III) A written informed consent for the proposed procedure.

(IV) When indicated, adequate radiographs should be available and should delineate clearly the areas to be treated.

(V) A record of the anesthesia/sedation must be made. This may be combined with the operative record or it may be a separate form. In either event, the anesthetic and other agents and amounts given must be indicated. Preoperative, intraoperative and post-operative vital signs should be recorded and any unusual reactions or complications should be documented. Starting and ending times for anesthesia should be recorded. The members of the surgical/operative team present during the procedure should be noted.

(VI) A record of prescriptions given should be included. A duplicate copy of the prescription is preferred. A separate note on the operative record indicating the above information is satisfactory if duplicate prescriptions are not being used.

(e) Office Facilities and Equipment. This section deals with the physical requirements for conducting office anesthesia/sedation.

1. The fundamental physical requirements for the anesthesia/sedation facility are:

(i) The Operating Room/Operatory- The operatory should be large enough to adequately accommodate the patient on a table or in a dental chair and permit the anesthesia/sedation team, consisting of the dentist and two or three trained assistants, to move freely about the patient.

(ii) The Operating Table or Dental Chair- The most important features of the table or chair are that it permits the patient to be positioned so the anesthesia team can maintain the airway, allows quick alteration of patient position in an emergency, provides a firm platform for the management of cardiopulmonary resuscitation, and provides easy access to the patient's oral cavity.

(iii) Lighting Systems.

(I) Room lighting must be adequate to permit evaluation of the patient's skin and mucosal color.

(II) Provision for auxiliary lighting in the event of power failure in the operatory is most important. Backup lighting should be battery powered and of sufficient intensity to permit completion of any procedure under way at the time of general power failure.

(iv) Suction Equipment.

(I) Aspiration may be provided either by a portable suction unit or by a central suction installation. It is important to provide for auxiliary suction in the event the pump or electrical power fails.

(II) If electrical power should fail, suction can be provided by a unit functioning on the Venturi principle. A simple, water-powered laboratory suction device that attaches to a convenient water supply or a unit that creates suction by the flow of oxygen may be installed. Sources of light and suction not dependent on electrical current are important. Multiple suction tips, including tonsil suction tips, should be available.

(v) Oxygen and Supplemental Gas-Delivery System.

(I) The fundamental requirement is a unit capable of delivering metered oxygen under positive pressure.

(II) Gas outlets for remote delivery systems must be coded to prevent accidental administration of the wrong gas. Fail-safe mechanisms on anesthetic machines are mandatory.

(vi) Patient Recovery.

(I) Patients should be retained in the surgery area until all protective reflexes have fully returned unless the dental staff is in immediate attendance at all times in the recovery area to continue vital-sign and airway observations.

(II) The major requirement for the recovery area is that the staff must be able to observe a patient recovering from a general anesthetic or sedation procedure and that there must be room to treat any emergency situation. It is mandatory that the recovery area can provide oxygen under pressure, adequate lighting, suction, and the presence of electrical outlets for connecting cardiac monitoring and defibrillating equipment.

(vii) Drug and Instrument Preparation/Sterilization and Storage. Area- An adequate outpatient facility should contain a sterilization area conducive to the sterile preparation and storage of drugs used in anesthesia/sedation. There should be provision for refrigeration to store such drugs as succinylcholine, certain antibiotics, and anesthetic agents. The sterilization area should include a secure storage site for narcotics and other dangerous drugs.

(viii) Gas Storage Area.

(I) Defined

I. May be gas stored in central location used by one or multiple practitioners within the same building.

- II. May be gas stored in the individual operator.
- III. May be reserve tanks of gas not connected for immediate use
- (II) Requirements
  - I. All gas storage must be maintained according to local building, fire and safety codes.
  - II. Gas stored in a central location must have a central low pressure alarm, easily heard in the treatment area where the dentist is located. In lieu of a central alarm, a daily gas log may be maintained and checked by the dentist.

(f) Monitoring.

1. Anesthetics/sedatives may directly or indirectly alter the metabolic, electrolyte, or hemodynamic parameters in various tissues and organ systems. The quantitative and qualitative changes produced are directly dependent on various factors such as the pharmacologic properties of the agents, autonomic response, concentration, mode of administration, tissue perfusion, and metabolism and excretion of the agent (biotransformation).

2. The various methods and physiologic parameters used in monitoring patients should be designed to detect immediately the changes produced either by dental stimulation or the anesthetics or sedatives employed. This information allows for alteration of the anesthetic management to minimize or prevent any adverse reactions induced by the stress of the procedure, anesthesia, or preexisting systemic disease.

3. Acceptable anesthetic practice dictates that all patients must be monitored when anesthetics/sedation are employed. The accuracy and reliability of the data obtained from monitoring will make possible early recognition of problems and their proper treatment. Thus the doctor must obtain, evaluate, and interpret all the available preoperative information and establish a diagnosis prior to treatment. He/she must be continually alert in observing the patient's status and in making a moment-to-moment assessment of the patient's condition so he/she can make the necessary adjustments.

4. Strict reliance on measuring a single physiologic parameter not only may be misleading, but also potentially hazardous. For example, the diagnosis of acute myocardial infarction by electrocardiography cannot always be made immediately, but may be delayed 12 to 18 hours or may not even be possible. Alteration in the ECG tracing may be very subtle. Thus vital signs, symptoms, and clinical judgment are of paramount importance in establishing the diagnosis. As a rule, no single symptom may be diagnostic of a particular condition, but rather the "total patient" must be evaluated in respect to the various signs and symptoms.

5. The primary step in total patient monitoring begins with a review of the past and most recent medical history. The importance of the medical history cannot be overemphasized because many of the potential hazards and pitfalls of anesthesia and surgery can be circumvented when the dentist has evaluated thoroughly the patient's medical status and its relevance to the proposed anesthesia and treatment.

6. The classic vital signs of blood pressure, cardiac rate and rhythm, and respiratory exchange are the standard physiologic parameters to be used in monitoring the patient, baseline determinations are imperative.

7. A monitor can be defined as one who or that which watches and warns. Monitoring methods may be either mechanical (e.g., E.C.G., B.P.) or non-mechanical (visual observations). Mechanical monitors have disadvantages but serve as adjuncts to alert the practitioner to any change in the patient's status. The non-mechanical methods of monitoring involve close observation of the patient. Is the patient breathing? What is the character of the respiratory pattern, i.e., depth, rate, rhythm? Is the respiratory exchange unobstructed? What is the patient's color? What is the color of the blood? These observations will give some information as to the adequacy or deficiency of the "oxygen carrier system" which is comprised of the blood components, the respiratory system, and heart action. The degree of autonomic tone and perfusion may be inferred by observing the patient's color and temperature. The patient with increased sympathetic tone and marked peripheral vasoconstriction as a result of stress, decreased blood pressure, or decreased cardiac rate will have pallor and coolness of the extremities. These signs and symptoms will not necessarily pinpoint the exact etiology but, when coupled with mechanical methods of monitoring

(i.e., blood pressure, pulse, or electrocardioscope), will help establish the diagnosis and facilitate treatment.

8. It is mandatory that some method of mechanical monitoring be used with every patient. Blood pressure, cardiac rate and oxygen saturation are the vital signs most frequently monitored during the pre-anesthetic/pre-sedation and intra-and-postoperative interval. EKG monitoring is suggested in all patients and mandated in all ASA Class 2 or higher patients. If any unforeseen reaction should occur with alteration or depression of the vital signs, the magnitude of the baseline shift may be determined and appropriate therapy begun.

9. An example of the importance of the magnitude of the baseline shift of vital signs can best be illustrated by the patient with hypertensive cardiovascular disease. If the individual with a resting blood pressure of 170/90 suffers a drop in systemic pressure to 120/70, he may greatly compromise his cerebral and coronary perfusion even though a blood pressure of 120/80 is regarded as very acceptable in the normotensive individual.

(g) Monitoring of Respiration.

1. Pre-tracheal stethoscope least expensive means of continuously monitoring rate and volume of ventilation.
2. Electronically enhanced pre-tracheal stethoscope with speaker.
3. Oximetry

(h) Monitoring of Heart Rate.

1. Pre-cordial stethoscope least expensive means of continuously monitoring heart rate, rhythm and heart sounds
2. Pulse monitor inexpensive electrical pickup of peripheral pulse recorded digitally.
3. Plethysmograph electrical pickup of peripheral pulse. The pulse wave form is displayed on an oscilloscope (indication of stroke volume and cardiac output). The heart rate and rhythm are recorded as well.
4. Electrocardioscope (ECG) Electrical activity of heart is picked up, usually centrally, and recorded graphically on an oscilloscope. The heart rate and rhythm are also evident.

(i) Monitor of Blood Pressure (systolic pressure, diastolic pressure, mean arterial pressure, and heart rate are recorded).

1. Sphygmomanometer and stethoscope least expensive way to monitor blood pressure.
2. Numerous manufacturers produce equipment to do this automatically. The machine can be set to monitor as frequently as you choose. Several manufacturers have recorders for this information. The continuous record during the procedure can be part of your anesthetic record.

(j) Oximetry.

1. Oximeter using a peripheral (finger, ear or toe) electrical pickup. The oxygen saturation of the arterial hemoglobin is measured and recorded. In addition, most equipment records the quality and rate of peripheral pulse. This technique is noninvasive. Its accuracy has been established by comparison with invasive arterial oxygen saturation studies. Oximetry provides not only evidence of peripheral perfusion, but also it indicates that the blood is sufficiently saturated with oxygen to provide for adequate cellular respiration.

(k) Personnel.

1. For conscious sedation, the practitioner responsible for treatment of the patient and/or administration of the drugs must be appropriately trained in the use of this modality. The minimum number of people involved should be two, i.e., the dentist or other licensed professional and an assistant trained to monitor appropriate physiologic variables.

2. For deep sedation or general anesthesia, at least three (3) individuals, each appropriately trained, are required. One is the operating dentist who directs the deep sedation or general anesthesia. The second is a person whose responsibilities are observation and monitoring of the patient. If this person is an appropriately trained professional, he or she may direct the deep sedation or general anesthesia. The third person assists the operating dentist.

(l) The Board shall appoint examiners for the purpose of conducting the on-site inspections of dental facilities, equipment, and personnel. Any on-site inspection shall be conducted by a team of three examiners. All examiners appointed by the Board for the purpose of inspecting applicants for a parenteral sedation permit shall be dentists who are authorized to administer parenteral sedation. The examiners shall receive as compensation and expenses while in the performance of their duties the same amount paid to members of the Board and under the same terms and conditions.

(m) If upon an initial application for the issuance of a permit for the administration of general anesthesia or parenteral sedation, the primary office of a dentist(s) has received a satisfactory onsite inspection and the dentist(s) also applies for the issuance of a permit to administer General Anesthesia or Parenteral sedation at a secondary office(s) or location(s), any onsite inspection thereof shall be limited only to the dental facility and equipment, provided that the same personnel satisfactorily evaluated at the primary office(s) of the dentist(s) will be engaged or involved in the administration of general anesthesia or parenteral sedation at the said secondary office(s) or location(s). If upon a request for renewal by a dentist(s) of a permit to administer general anesthesia or parenteral sedation at both his primary and secondary office(s) or location(s), the Board of Dental Examiners of Alabama determines that an onsite inspection of these office(s) or location(s) is required, the same procedure as outlined above in relation to the initial application for these permits shall be utilized.

(n) The examining team shall submit to the Board the report of their onsite inspection within fourteen (14) days from the date of said inspection. If the results of the initial evaluation are deemed unsatisfactory, the anesthesia certificate is immediately suspended and the applicant must reapply.

Statutory Authority Code of Alabama (1975), §§ 34-9-43(10), 34-9-60(2)(a)(4), 34-9-60(2)(b), 34-9-63(1)(b)(c), 34-9-65(b).

### **270-X-2.18 The Practice Of Dentistry Across State Lines.**

(1) Definitions: The following definitions shall apply to these rules.

(a) Practice Of Dentistry Across State Lines. The practice of dentistry across state lines means the practice of dentistry as defined in Code of Alabama (1975), § 34-9-6, as it applies to:

1. The rendering of a written or otherwise documented medical opinion concerning the diagnosis or treatment of a patient located within this state by a dentist located outside this state as a result of transmission of individual patient data by electronic or other means from within this state to such physician or his or her agent; or

2. The rendering of treatment to a patient located within the state by a dentist located outside this state as a result of transmission of individual patient data by electronic or other means from this state to such dentist or his or her agent.

3. This definition is not intended to include an informal consultation between a licensed dentist located in this state and a dentist located outside this state provided that the consultation is conducted without compensation to or the expectation of compensation to either dentist and does not result in the formal rendering of a written or otherwise documented medical opinion concerning the diagnosis or treatment of a patient by the dentist located outside this state.

(b) Dental Emergency. A dental emergency is a condition or circumstance in which a patient is experiencing acute oral trauma, severe pain, bleeding or infection of dental of dental hard or soft tissue, requiring, in the best clinical

judgment of the attending dentist based on the facts before him or her, immediate treatment. Conditions qualifying as dental emergencies include periapical inflammation, periapical infection, periapical abscess, acute perioral swelling, post extraction alveolitis, post extraction bleeding, fractured or abscessed teeth, fractures of the jaw, and dislocated mandible.

(c) Irregular Or Infrequent. The irregular or infrequent practice of dentistry across state lines is deemed to occur if such practice occurs less than ten (10) times in a calendar year or involves fewer than ten (10) patients in a calendar year or composes less than one percent (1%) of the dentist's diagnostic or therapeutic practice.

(2) License Requirement. To engage in the practice of dentistry across state lines in the State of Alabama, a person shall hold a current special purpose license to practice dentistry across state lines issued in accordance with the provisions of Code of Alabama (1975), § 34-9-10 and this Rule or a person shall hold a full, unrestricted, and current license issued under Code of Alabama (1975), § 34-9-10 and the Rules of the Board. Exemptions to this licensing requirement are as follows:

(a) A dentist who engages in the practice of dentistry across state lines in a dental emergency, as defined in this Rule and as set forth in Code of Alabama (1975), § 34-9-7.

(b) A dentist who engages in the practice of dentistry across state lines on an irregular or infrequent basis, as defined in this Rule and as set forth in Code of Alabama (1975), § 34-9-7.

(3) Qualifications For A Special Purpose License. An applicant shall be eligible for issuance of a certificate or qualification to practice dentistry across state lines if all of the following requirements are met:

(a) The applicant holds a full and unrestricted license to practice dentistry in any state of the United States or territories, other than this state, in which such individual is licensed.

(b) The applicant has not had any previous disciplinary action or other action taken against the applicant by any state or licensing jurisdiction, provided, however, that in the event of previous disciplinary or other action taken against the applicant, the Board may issue a certificate of qualification. If it finds that the previous disciplinary action or other action does not indicate that the dentist is a potential threat to the public.

(c) The applicant completes and submits an application form for a certificate of qualifications for a special purpose license on a form provided and approved by the Board in an amount established by the Board.

(d) Any special purpose license issued by the Board to practice dentistry across state lines limits the license solely to the practice of dentistry across state lines. The special purpose license shall be valid for a period of three years, shall expire on a renewal date established by the Board in the third calendar year after its issuance, and may be renewed upon receipt of a renewal fee as established by the Board. Failure to renew a license according to the renewal schedule established by the Board shall cause the special purpose license to be inactive. An applicant may reapply following placement of the license on inactive status. The application shall meet the qualifications of Code of Alabama (1975), § 34-9-10 in order to be eligible for renewal of the license.

(e) A special purpose license to practice dentistry across state lines shall only be issued to an applicant whose principal practice location and license to practice are located in a state or territory of the United States whose laws permit or allow for the issuance of a special purpose license to practice dentistry across state lines of similar license to a dentist whose principal practice location and license are located in another state. It is the stated intent that dentist who hold a full and current license in the State of Alabama be afforded the opportunity to obtain, on a reciprocal basis, a license to practice dentistry across state lines in any other state or territory of the United States as a precondition to the issuance of a special purpose license as authorized by this act to a dentist licensed in the other state or territory. The Board shall determine which states or territories have reciprocal license requirements meeting the qualification of this section.

(4) Effect Of Special Purpose License.

(a) The issuance by the Board of a special purpose license to practice dentistry across state lines subjects the licensee to the jurisdiction of the Board in all matters set forth in Code of Alabama (1975), § 34-9-1 et seq., and the Rules of the Board, including all matters related to discipline.

(b) It shall be the affirmative duty of every licensee to report to the Board of Dental Examiners in writing within fifteen (15) days of the initiation of any disciplinary action against the license to practice dentistry of the licensee by any state or territory in which the licensee is licensed.

(c) By accepting a special purpose license, the licensee agrees to produce patient medical records or other materials as requested by the Board and to appear before the Board or any of its committees following receipt of a written notice issued by the Board or its authorized representative. The failure of a special purpose licensee to report, produce records, or appear as set forth above shall subject the licensee to the disciplinary penalties as set forth in section 34-9-5.

(d) A special purpose license to practice dentistry across state lines is subject to each of the grounds for disciplinary action as provided in Code of Alabama (1975), § 34-9-10, in accordance with the procedures set out in that section and the Alabama Administrative Procedures Act, Code of Alabama (1975), § 41-2-21 et seq.

(e) The holder of a special purpose license shall comply with all laws, rules, and regulations governing the maintenance of patient medical records, including patient confidentiality requirements, regardless of the state where the medical records of any patient within this state are maintained.

(5) Annual Renewal For Fees And Licensing. The licensee holding a special purpose license must submit a completed renewal form prescribed by the Board on or before October 1st of the third year of the license. The licensee shall accompany such renewal form with a renewal fee established by the Board. These actions shall result in the licensee's receipt of a current annual registration certificate authorizing him or her to continue the practice of dentistry under a special purpose license. Failure to secure the annual registration certificate by the 1st of January of the next year will result in automatic revocation of the special purpose license to practice dentistry across state lines.

Statutory Authority Code of Alabama (1975), §§ 34-9-1, 34-9-2, 34-9-7, 34-9-10, 34-9-43.

#### **270-X-2.19 Licensure By Credentials.**

(1) Definitions: The following definitions shall apply to these rules:

(a) LICENSURE BY CREDENTIALS. Licensure by credentials is to be used to evaluate the theoretical knowledge and clinical skill of a dentist/dental hygienist when an applicant holds a dental/dental hygienist license in another state,

(b) BOARD. Board shall mean the Board of Dental Examiners of Alabama.

(c) ACT. Code of Alabama (1975), § 34-9-1 et seq.

(2) To be eligible for licensure by credentials in the State of Alabama, the applicant shall meet the provisions of Code of Alabama (1975), § 34-9-10 and this Rule, which are as follows:

(a) The dentist/dental hygienist must have been engaged in the active practice of clinical dentistry/clinical dental hygiene or in full time dental/dental hygiene education for the five (5) years or five thousand (5,000) hours immediately preceding their application.

(b) The applicant must hold a current, valid, unrevoked, and unexpired license in a state having examination standards regarded by the Board of Dental Examiners of Alabama as an equivalent to the Alabama standards. For purposes of this requirement, these exam standards shall include passing the National Dental Board Examination Parts 1 and 2 administered by the Joint Commission on National Dental Examinations.

(c) The Board of Examiners in the state of current practice shall verify or endorse that the applicant's license is in good standing without any restrictions.

(d) The dentist/dental hygienist must not be the subject of a pending disciplinary action in any state in which the individual has been licensed which shall be verified through inquiry to the National Practitioner Data Bank, the health Integrity Protection Data Bank, the American Association of Dental Boards Clearing House for Disciplinary Information, or any other pertinent Bank currently existing or which may exist in the future.



- (e) The applicant shall provide a written statement agreeing to be interviewed at the request of the Board.
- (f) The applicant must successfully pass a written jurisprudence examination.
- (g) There shall be certification from the United States Drug Enforcement Administration (DEA) and from the State board of any state in which the applicant is or has been licensed that the DEA registration is not the subject of any pending disciplinary action or enforcement of any kind, or that any state controlled substances permit has not been revoked, suspended, modified restricted or limited in any way.
- (h) The applicant must submit affidavits from two (2) licensed dentists/dental hygienists practicing in the same geographical area where the applicant currently is practicing or teaching attesting to the applicant's moral character, standing, and ability.
- (i) The applicant must provide the Board with and official transcript with school seal from the school of dentistry/dental hygiene which issued the applicant's professional degree or execute a request and authorization allowing the board to obtain the transcript.
- (j) The applicant must be a graduate of a dental/dental hygiene school, college or educational program approved by the board.
- (k) The applicant must not be the subject of any pending or final action from any hospital revoking, suspending, limiting, modifying, or interfering with any clinical or staff privileges.
- (l) The applicant must not have been convicted of a felony or any misdemeanor involving moral turpitude or of any law dealing with the administering or dispensing of legend drugs, including controlled substances.
- (m) The Board may consider or require other criteria including, but not limited to, any of the following:
1. Questioning.
  2. Results of peer review reports from constituent dental societies or federal dental services.
  3. Substance abuse testing or treatment.
  4. Background checks for criminal or fraudulent activities.
  5. Participation in continuing education.
  6. A current certificate in cardiopulmonary resuscitation.
  7. Recent case reports or oral defense of diagnosis and treatment plans.
  8. Proof of no physical or psychological impairment that would adversely affect the ability to practice dentistry/dental hygiene with reasonable skill and safety.
  9. Proof of professional liability coverage and that coverage has not been refused, declined, cancelled, non-renewed, or modified.
  10. Whether the applicant has been subject to any final disciplinary action in any state in which the individual has been licensed which shall be verified by a query in the National Practitioner Data Bank, the Health Integrity Protection Databank, the American Association of Dental Examiners Clearing House for Disciplinary Information, any state where the applicant has been licensed, or any other pertinent bank currently existing or which may exist in the future.
  11. Whether the applicant's DEA registration or any state controlled substances permit has ever been revoked, suspended, modified, restricted, or limited in any way. Provided, however, that any discipline that results only from a failure to timely renew a registration or permit shall not prevent an applicant from being eligible for this method of licensure.

12. Denial of any professional license or denial of the opportunity to take a dental/dental hygiene exam.

(n) If all criteria and requirements are satisfied and the Board determines, after notice and hearing, that the individual committed fraud or in any way falsified any information in the application process, the Board may impose disciplinary sanctions allowed by the provisions of the Act.

(3) In addition to the requirements for applicants seeking licensure by credentials, an applicant desiring to practice a specialty only, must meet the following requirements:

(a) The specialty must be one in a branch of dentistry approved by the American Dental Association.

(b) The applicant shall meet the existing educational requirements, and standards set forth by the American Dental Association for that approved specialty.

(c) An applicant who chooses to announce or practice a specialty must limit his/her practice exclusively to the announced special area or areas of dental practice.

(4) An applicant shall submit to the board with the application, a non-refundable fee to be determined by the Board. If an applicant is granted a license, this fee includes the licensing fee for the remaining portion of the first licensing year.

(5) Regardless of the applicant's compliance with the foregoing requirements, the Board may refuse to issue a license by credentials based on any conduct which would be a ground for discipline pursuant to Code of Alabama (1975), § 34-9-19.

(6) An applicant granted a license by credentialing will be subject to the Act and all Board rules.

Statutory Authority Code of Alabama (1975), §§ 34-9-10, 34-9-43.

#### **270-X-2.20 Reporting Of Adverse Occurrences.**

(1) Any dentist practicing in the State of Alabama must notify the Board of Dental Examiners of Alabama (Board) of any mortality or other adverse incident occurring or related to a dental procedure or treatment performed by dentists or in which a dentist participated in any manner whether occurring in an office, hospital or other outpatient treatment facility within Seventy-two (72) hours of the referenced occurrence.

(2) In addition, the dentist shall submit a complete report to the Board within thirty (30) days of the referenced occurrence. For purposes of this Rule, a reportable occurrence shall include any procedure or treatment resulting in death or permanent physical or mental injury as a result of the administration of general anesthesia or sedation techniques as defined in Code of Alabama (1975), § 34-9-1(10). Reportable occurrences shall also include any resulting in calling any emergency responders, initiation of CPR or utilizing cardiac defibrillation.

(3) The report references above shall include at a minimum the following:

(a) Description of the dental procedure.

(b) Description of preoperative physical condition of the patient, including vitals.

(c) List of drugs and dosages administered.

(d) Description, in detail, of techniques utilized in administering the drugs utilized.

(e) Description of the adverse occurrence.

1. Describe, in detail, symptoms of any complications to include, but not limited to, the onset and type of symptoms exhibited by the patient.

2. Treatment instituted on the patient.

3. Response of the patient to the treatment.

Statutory Authority Code of Alabama (1975), §§ 34-9-1(10), 34-9-2, 34-9-43, 34-9-65.

**270-X-2.21 Oral Conscious Sedation.**

The following requirements shall apply to the administration in the office of oral conscious sedation by dentists:

- (1) In order for a course of training to be approved by the Board, the following shall be required:
  - (a) A minimum of sixteen (16) hours of training;
  - (b) The definition of oral conscious sedation and anxiety reduction (anxiolysis);
  - (c) A list of oral sedative agents commonly used, their basic pharmacology and past documentation or records of use;
  - (d) Coverage of medical conditions which can adversely affect the administration of oral conscious sedation and the basics of physical diagnosis to appropriately classify your patient medically;
  - (e) Coverage of proper monitoring techniques for the sedated patient;
  - (f) An overview of the most common sedation protocols from start to finish;
  - (g) Proper documentation required by the dentist and dental staff; i.e., consent forms, monitoring strips, and patient information packets;
  - (h) An overview of potential medical emergencies specific to oral conscious sedation and their diagnosis and management;
- (2) In order for an entity or organization to be approved by the Board for purposes of training in oral conscious sedation, training offered must at a minimum include the topics referenced in subsection (1) above.
- (3) The emergency kit must at a minimum include the following:
  - (a) Epinephrine;
  - (b) Atropine;
  - (c) Narcotic antagonist (e.g., Naloxone HCL) and benzodiazepine antagonist (e.g., Flumazenil), if these agents are used;
  - (d) An antihistamine (e.g., Diphenhydramine HCL);
  - (e) Nitroglycerine;
  - (f) A bronchodilator (e.g., Albuterol inhaler); and
  - (g) An antihypoglycemic (e.g., 50% glucose).
- (4) Any operatory where oral conscious sedation is administered must be of adequate size and design to permit physical access of emergency equipment and personnel and to permit effective emergency management.
- (5) All allied personnel who may be involved in the monitoring of a patient who is administered oral conscious sedation shall be trained to assist the dentist in the recognition and management of the following clinical emergencies:
  - (a) Laryngospasm;
  - (b) Bronchospasm;

- (c) Emesis and aspiration of vomitus;
- (d) Management of foreign bodies in the airway;
- (e) Angina pectoris;
- (f) Myocardial infarction;
- (g) Cardiopulmonary resuscitation;
- (h) Hypotension;
- (i) Hypertensive crisis;
- (j) Acute allergic reaction;
- (k) Hyperventilation syndrome;
- (l) Convulsions; and
- (m) Syncope.

(6) In order for a patient to be appropriately monitored, the monitoring and recording of blood pressure at intervals determined by the dentist must be performed both during the administration of oral conscious sedation and any recovery period.

(7) As to all patients who are administered oral conscious sedation, the type and amount shall be within accepted therapeutic guidelines and not dependent upon the period of duration of the procedure.

(8) A dentist utilizing oral conscious sedation in the dental office may induce only one (1) patient at a time. A second (2<sup>nd</sup>) patient shall not be induced until the first (1<sup>st</sup>) patient is awake, alert, conscious, spontaneously breathing, has stable vital signs, is ambulatory with assistance, is under the care of a responsible adult, and that portion of the procedure requiring the participation of the dentist is complete. In an office setting where two (2) or more permit holders are present simultaneously, each may sedate one (1) patient provided that the office has the necessary staff and equipment, as set forth in this rule.

(9) Notwithstanding any of the provisions set forth above, any oral conscious sedation administered to a pediatric patient, shall be pursuant to and follow the current guidelines and recommendations for sedation of the pediatric dental patients promulgated by the American Academy of Pediatric Dentistry. Pediatric patients shall be defined as infants and children through adolescence, including those with special health care needs.

(10) All individuals licensed to practice dentistry who intend on administering Oral Conscious Sedation shall submit an application for an Oral Conscious Sedation permit. Thereafter the renewal requirements and expiration date shall be the same as those for a dental license.

All individuals who intend on administering Oral Conscious Sedation shall file for an Oral Conscious Sedation permit prior to administering such sedation. The renewal requirements and expiration of such permit shall be the same as those for annual renewal of a dental license. Fees for such permit shall be established by the Board.

Statutory Authority Code of Alabama (1975), §§ 34-9-16, 34-9-43, 34-9-81, Act 2005-298.

**270-X-2.22 Patient Records.**

(1) A dentist shall maintain complete treatment records on all patients and those treatment records may include such information as the dentist deems appropriate but shall at a minimum include the following:

- (a) Patient's first and last name, address and contact information; and,
- (b) Current health history; and,

(c) The date treatment rendered. The type of treatment rendered. The reason for the treatment rendered and the name and/or initials of treating dentist and/or dental hygienist; and,

(d) Records of financial transactions should be retained or recorded; and,

(e) Applicable radiographs; and,

(f) Correspondence between treating dentist and any prior and subsequent dentists, physicians and/or referral sources/recommendations; and,

(g) Pathology reports.

(2) When appropriate, records may also include but not be limited to:

(a) Treatment plan(s); and,

(b) Informed consent(s).

(3) Records may be maintained in physical or digital format and may be disposed of in accordance with current American Dental Association (ADA) guidelines.

Statutory Authority Code of Alabama (1975), § 34-9-43.

### **Chapter 270-X-3 DENTAL HYGIENISTS**

#### **270-X-3.01 Examination Rules for Dental Hygienists.**

(1) No person other than members of the Board of Dental Examiners and applicants for licensure shall be present in the rooms when and where examinations, either written, clinical, or laboratory procedures, are being conducted except by permission of the examiner(s) in charge.

(2) Any applicant found guilty of receiving or giving aid during the theoretical, operative, clinical, or prosthetic laboratory examination will be dismissed. Dismissal will constitute a failure.

(3) No smoking is allowed during examinations in examination facilities.

(4) Examination paper and other necessary materials will be furnished by the Board; no other paper of any kind, or textbooks, will be allowed in the examination room unless approved by the Board.

(5) All written examinations must be written in the English language.

(6) Board members are not permitted to interview applicants who have failed the examination. All such matters shall be directed to the secretary-treasurer in writing by the applicant.

(7) Board members are not permitted to disclose grades made by any applicant to anyone other than the applicant.

(8) When an applicant for licensure successfully passes either the written or clinical examination, that passing grade shall carry over and be valid only-for the next three (3) examinations but within the next sixteen (16) months following the initial examination unless a written request for an exception is submitted in writing by the applicant and granted by the Board.

(9) In addition, examinations shall be conducted and licenses issued in compliance with Code of Alabama (1975), § 34-9-11.

(10) If the applicant for licensure is unsuccessful after four (4) attempts or within the sixteen (16) month period following the initial Alabama Dental Hygiene Board Examination then the applicant shall be required to remediate by successfully completing a Board approved hygiene school or training program before he/she will be allowed to reapply for the Alabama Dental Hygiene Board Examination.

Statutory Authority Code of Alabama (1975), §§ 34-9-2, 34-9-4, 34-9-26, 34-9-43.

### **270-X-3.02 Replacement Certificate For Dental Hygienists. (Repealed 8/25/09)**

Statutory Authority Code of Alabama (1975), §§ 34-9-2, 34-9-4, 34-9-13, 34-9-16, 34-9-43.

### **270-X-3.03 Education Requirements For Examination, Qualifications, Application, Examination And Licensure Of Dental Hygienists.**

#### (1) Education Requirements for Examination.

(a) Graduate of a school or college of dental hygiene approved by the Board.

(b) Graduate of the Alabama Dental Hygiene Program (ADHP) conducted by the Board pursuant to Code of Alabama (1975), § 34-9-26.

#### (2) Applications for Dental Hygiene Licensure Examinations.

(a) Applications and fee in an amount fixed by the Board must be filed with the Board at least thirty (30) days prior to the date of the examination.

(b) If the applicant is a graduate of a college approved by the Board, a copy of a transcript of the applicant's grades from said college must accompany the application.

(c) If the applicant is a graduate of the ADHP, the secretary of the Board shall attach a copy of the applicant's grades to the application at least five (5) days prior to the date of the examination.

(d) No part of the above fees are refundable.

(e) All applicants must otherwise comply with all requirements established by law.

#### (3) All applicants for licensure shall also comply with Code of Alabama (1975), §34-9-26.

#### (4) No person shall be granted a license to practice dental hygiene unless he/she has met the requirements of Code of Alabama (1975), §34-9-26.

Statutory Authority Code of Alabama (1975), §§34-9-2, 34-9-4, 34-9-16, 34-9-26, 34-9-43.

### **270-X-3.04 Alabama Dental Hygiene Program Requirements.**

(1) ADHP students must be at least eighteen (18) years of age prior to the time the student makes application to begin training, of good moral character, of good health, a citizen of the United States or, if not a citizen of the United States, a person who is legally present in the United States with appropriate documentation from the federal government, and must be a graduate of an accredited high school or hold a GED certificate.

(2) All ADHP students must have had at least twenty-four (24) full months of full time employment as a dental assistant, or the equivalent of twenty-four (24) full months in Part-time employment week within the three (3) years previous to the student's enrollment in the ADHP. This time must be spent assisting the dentist(s) and/or hygienist(s) at the chair. Fulltime shall mean employment of at least three and one-half (3 1/2) days or thirty (30) hours of Board approved employment per week. Graduates of an approved school of dental assisting will be given credit for such course on a formula determined by the Board.

(3) All ADHP students must be employed full time during the effective period of the training permit before being eligible to take the Dental Hygiene Licensure examination. Full time shall mean employment of at least three and one-half (3 1/2) days or thirty (30) hours of Board approved employment per week with their primary certified dentist instructor whose name appears on the training permit. Any dentist licensed and practicing dentistry full time in the State of Alabama may be issued a training permit upon application to the Board of Dental Examiners, which shall have the discretion to grant or deny such permit. No dentist shall be issued a training permit unless certified by the Board of Dental Examiners of Alabama, which shall have the discretion to grant or deny such certification. The certification shall be valid for three (3) years from the date of issuance. In the event the certification

expires during the effective period of the training permit, the dentist shall be allowed to continue training subject to enrolling in and taking the online certification course. Any dentist who is certified shall be given credit for continuing dental education.

(4) ADHP students may practice only under the direct supervision of the dentist whose name appears on the training permit; however, another dentist employed in the same office who is certified pursuant to this Rule may perform pre and post prophylactic examinations of the ADHP student's patients.

(5) The closing date for accepting applications for training permits for each year will be determined by the Board.

(6) ADHP students are allowed one transfer of their training permit per class cycle based upon approval by the Board of Dental Examiners of Alabama. During the period of the ADHP student training permit, the student may only be terminated for good cause which shall be determined by the Board. An ADHP student who has participated in the Alabama Dental Hygiene Program twice unsuccessfully may apply to participate in the program a third time at the discretion of the Board after two (2) years of continual full time employment as a dental assistant.

(7) All ADHP students must attend all sessions of the academic instruction given under the auspices of the Board. An ADHP student who fails to attend any session of academic instruction is no longer eligible for a training permit without consent of the Board. If an ADHP student misses any part of an academic instruction session, the student must submit a written explanation of the absence within ten (10) business days of the absence to the Board office for review and request permission to continue in the program. An ADHP student who fails to attend all sessions of academic instruction is not eligible for a renewed training permit without consent of the Board.

(8) No dentist shall be permitted to train more than one (1) ADHP student at a time.

(9) ADHP students who obtain training in the ADHP must pay a fee in an amount fixed by the Board, (this includes training permit, examination, certificate and workshop fees), which must be enclosed with the application for training permit. The academic instruction portion of the fee may be refunded only within the first thirty (30) days of issuance and only at the Board's discretion.

Statutory Authority Code of Alabama (1975), §§ 20-2-50 et seq., 34-9-43(10).

### **270-X-3.05 Replacement and/or Duplicate Certificate.**

#### (1) Replacement

(a) Replacement certificate must be requested in writing. The request for replacement must include the reason for request

(b) Replacement certificate must be marked "replacement certificate."

(c) Replacement certificate should contain date that original certificate was issued and must be signed by the entire Board and contain the date the duplicate is issued.

(d) Fee to be set by the Board

#### (2) Change of name on license certificate

(a) Any individual desiring a change of name on their certificate must notify the Board in writing and enclose the following.

(i) The reason for the name change (i.e. the legal document used to change the name)

(ii) Original license certificate, if available

(iii) Fee to be set by the Board

(b) The original license certificate will be destroyed upon issuance of a new certificate so marked as "change of name certificate".

#### (3) Duplicate certificate.

(a) Any licensee requesting a duplicate certificate must notify the Board in writing and enclose the following:

(i) The reason they are requesting a duplicate certificate and where it will be held.

(ii) Fee to be set by the Board.

Statutory Authority Code of Alabama (1975), §§34-9-2, 34-9-4, 34-9-16, 34-9-43.

### **270-X-3.06 Direct Supervision Defined.**

Direct supervision is defined as supervision by a dentist who authorizes the intraoral procedure to be performed, is physically present in the dental facility and available during performance of the procedure, examines the patient during the procedure and takes full professional responsibility for the completed procedure.

Statutory Authority Code of Alabama (1975), §§34-9-2, 34-9-27, 34-9-43.

### **270-X-3.07 Annual Registration For Hygienists.**

(1) No person shall practice dental hygiene in the State of Alabama unless licensed by the Board and registered annually as required by Code of Alabama (1975).

(2) The secretary-treasurer of the Board shall furnish to each such licensee on or before the September 1st of each year, a registration form which shall contain space for the insertion of his/her name, address, date, and number of his/her license certificate and such other information as the Board shall deem necessary.

(3) On or before the first day of October of each year, every dental hygienist licensed to practice in the State of Alabama shall transmit to the secretary of the Board the completed form prescribed by the Board, together with the annual registration fee.

(4) Any license and license certificate previously granted shall automatically be suspended if the holder fails to secure the annual registration certificate before the first day of January each year.

(5) The annual registration for dental hygienists shall be an amount fixed by the Board.

(6) Any dental hygiene license suspended by reason of failure, neglect or refusal to secure the annual registration certificate may be reinstated by the Board upon payment of a penalty fee as determined by the Board plus the current year's registration fee. The form and method provided for in Code of Alabama (1975), §34-9-28 as amended.

(7) All licensed dental hygienists shall also comply with the provisions of Code of Alabama (1975), §34-9-28.

Statutory Authority Code of Alabama (1975), §§34-9-2, 34-9-4, 34-9-16, 34-9-28, 34-9-43.

### **270-X-3.08 Change Of Address Of Dental Hygienists.**

Every licensed dental hygienist upon changing his/her mailing address or employer shall within thirty (30) days thereafter furnish the secretary-treasurer of the Board with their new address or the address of the new employer.

Statutory Authority Code of Alabama (1975), §§ 34-9-14, 34-9-43.

### **270-X-3.09 Grounds For Disciplinary Action Pertaining To Dental Hygienist License.**

The Board may refuse to issue the license or license certificate provided for in Code of Alabama (1975), § 34-9-1, et seq., or may impose any of the penalties outlined in Code of Alabama (1975), § 34-9-18(b), whenever it shall be established to the satisfaction of the Board, after a hearing as provided in Code of Alabama (1975), §§ 34-9-18 and 34-9-24, and the Alabama Administrative Procedure Act, that any licensed dental hygienist has been guilty of any of the provisions of Code of Alabama (1975), § 34-9-1, et seq., including but not limited to Code of Alabama (1975), § 34-9-18.

Statutory Authority Code of Alabama (1975), §§ 34-9-2, 34-9-18, 34-9-24, 34-9-43.



### **270-X-3.10 Duties Of Allied Dental Personnel.**

Allied dental personnel are dental hygienists, dental assistants and dental laboratory technicians.

Subject to the prohibition that no intra-oral procedure can be performed unless under the direct supervision of a duly licensed dentist as defined by Board rule, the following allied dental personnel may perform the following:

(1) Dental Laboratory Technicians:

- (a) No intra-oral duties are allowable other than assisting the dentist in determining tooth color.

(2) Dental Assistants and Dental Hygienists:

- (a) Preliminary charting and inspection of the oral cavity. (Final examination and diagnosis must be made by a dentist before treatment can be instituted.)

- (b) Apply topical agents under direct supervision of the dentist.

1. Apply topical anesthetics.
2. Oxygenating Agents. (Excluding endodontic therapy.)
3. Apply anti-inflammatory agents.
4. Apply astringents.
5. Desensitizing agents.
6. Topical fluoride.

- (c) Place and remove rubber dam.

- (d) Place and remove periodontal dressings.

- (e) Place and remove alveolar socket dressings.

- (f) Construct and remove with hand instruments only interim restorations. (Interim restorations being any restoration placed while a more permanent restoration is being completed.)

- (g) Construct and place temporary crowns (excluding stainless steel crowns placed with intentions of reasonable permanency.)

- (h) Contour stainless steel or chrome crowns but cannot cement them.

- (i) Pre-fit and pre-contour orthodontic appliances either extra-orally or intra-orally for final adaptation by the dentist.

- (j) Remove excess cement with hand instruments from around permanent dental restorations and orthodontic appliances.

- (k) Make impressions for diagnostic casts or opposing casts.

- (l) Place, wedge and remove matrices for operative dentistry.

- (m) Take and record case history, blood pressure, pulse, and oral temperature.

- (n) Remove intraoral sutures. (Excluding wire sutures.)

- (o) Make dental radiographs.
- (p) Give oral hygiene instructions including plaque staining, flossing, brushing, and caries susceptibility tests.
- (q) Place cavity liners and bases. (Excluding capping of exposed pulpal tissues.)
- (r) Assist in the administering of N2O and O2.
- (s) Insert into the mouth of the patient wax models of dentures, partial dentures, or any other structures and make adjustments outside the mouth of the patient to such wax models pursuant to written or verbal instructions or directions from the dentist; provided, however,
  - 1. That the dental hygienist or dental assistant may use these wax models of dentures, partial dentures or any other structure to register the jaw relationships or occlusal relationships of the patient; and,
  - 2. That before such wax models may be used for the manufacture of dentures, partial dentures or other structures the dentist shall personally consult with the patient, examine such wax models, and make such additional adjustments as may be required.
- (t) Insert into the mouth of the patient dentures, partial dentures, removable orthodontic appliances, prostheses, or any other structures and make adjustments outside the mouth of the patient to the dentures, prostheses (fixed or removable), removable orthodontic appliances, prosthetic appliances, bridges, or other structures pursuant to written or verbal instructions or directions from the dentist; provided, however,
  - 1. That before such prostheses (fixed or removable), removable orthodontic appliances, or other structures are delivered to the patient leaving the dental office with such removable orthodontic appliances, prostheses (fixed or removable) or other structures the dentist shall personally consult with the patient, examine such prostheses (fixed or removable), removable orthodontic appliances, or other structures, and make such additional adjustments as may be required; and
  - 2. That final placement and cementation of all fixed appliances, fixed prostheses and other fixed structures shall be performed by the dentist.
- (u) Apply reversible liners and bases to prostheses, orthodontic appliances, or any other structures. However, the dentist shall personally consult with the patient and examine such liners and bases, and make such additional adjustments as may be required.
- (v) Place and remove gingival retraction materials.
- (w) Make final impressions for removable and fixed prostheses, orthodontic appliances, retainers and medicament/whitening delivery trays. However, before said impressions may be used for the manufacture of prostheses and appliances, the dentist shall examine and approve such impressions for accuracy.
- (x) Use laser and/or narrow band (light) imaging technology for preliminary diagnostic purposes only with the dentist's final examination and diagnosis.

(3) Dental Hygienists Only:

- (a) Remove extrinsic stains, accretions, and calcareous deposits from teeth.
- (b) Gingival curettage.
- (c) Root planing.
- (d) Polish completed restorations.

- (e) Place Pit and Fissure Sealant and polish and adjust sealant as needed.
- (f) Place resorbable chlorhexidine chips.
- (g) Place topical or sub-gingival antimicrobial or antibacterial agents.
- (h) Periodontal probing

Statutory Authority Code of Alabama (1975), §§34-9-2, 34-9-6, 34-9-27, 34-9-43.

#### **270-X-3.11 Statement Of Charges And Notice Of Hearing Before Imposition Of Disciplinary Penalties.**

No imposition of any of the disciplinary penalties set forth and outlined in Code of Alabama (1975), § 34-9-18(b), shall be taken until the licensee has been furnished a statement in writing of the charges against him/her and with a notice of the time and place of the hearing. The statement of charges shall be in compliance with Code of Alabama (1975), §§ 34-9-24, 41-22-12(b).

Statutory Authority Code of Alabama (1975), §§ 34-9-2, 34-9-24, 34-9-43, 41-22-12.

#### **270-X-3.12 Dental Hygiene Advisor. (Repealed 3/06/98)**

Statutory Authority Code of Alabama (1975), §§ 34-9-2, 34-9-43 (1) (8) (10).

### **Chapter 270-X-4.01 MISCELLANEOUS**

#### **270-X-4.01 Professional Corporations And Professional Associations.**

##### (1) Professional Corporations.

(a) This rule is promulgated pursuant to the Revised Alabama Professional Corporation Law, Code of Alabama (1975), § 10A-4-1.01 et seq. This rule shall apply to professional corporations formed after January 1, 1984, by dentists licensed to practice dentistry in the State of Alabama and all professional corporations formed prior to January 1, 1984, which are governed by the provisions of the above-referenced portion of the Code of Alabama (1975), and those professional associations formed prior to January 1, 1984, which amend their Articles of Association as provided in Code of Alabama (1975), §-10A-4-403 (b).

(b) Any dentist or group thereof licensed to practice dentistry in the State of Alabama who desires to render dental professional services as a corporation in this state shall comply with the provisions of Code of Alabama (1975), § 10A-4-1.01 et seq. and this rule.

(c) The names of professional corporations shall be governed by the provisions of Code of Alabama (1975), § 10A-1-5.08. If the corporate name of the professional corporation utilizes the name or names of the dentist(s) who are employees of or shareholders in the professional corporation, then such corporate name shall include the designation "D.M.D." or "D.D.S." whichever is appropriate. In addition, the following requirements shall be applicable to professional corporations:

1. Practicing dentists forming or who formed a professional corporation may practice under a name other than the one(s) of the participating dentist(s) only if the following are met:

(i) That the name so selected should not suggest a non-profit or charitable activity or be false, fraudulent, misleading, or deceptive.

(ii) That the name of the dentist(s) and the words "professional corporation" or the abbreviation "P.C.," as required by Code of Alabama (1975), § 10A-1-5.08, shall be displayed with similar prominence as the name so selected.

(d) Every professional corporation formed after January 1, 1984, shall file with the Board of Dental Examiners of Alabama a certified copy of the Articles of Incorporation and the Certificate of Authority, a complete list of the names and addresses of the shareholders and any and all subsequent amendments to the Articles of Incorporation, changes of ownership of any shares in the professional corporation or changes in the business address of the professional corporation.

(e) All professional corporations in existence on the effective date of the act and all professional associations which are hereinafter governed by the provisions of the act shall file a certified copy of all amendments to the Articles of Incorporation or Articles of Association with the Board of Dental Examiners of Alabama and a copy of any changes of ownership of any shares in the professional corporation or changes in the business address of the professional corporation or association.

(f) Every professional corporation or professional association governed by the provisions of the act shall file with the Board of Dental Examiners of Alabama a certified copy of any Articles of Dissolution or Articles of Merger or Consolidation with another professional corporation or association.

(g) All filings shall be within thirty (30) days of the effective date of the instrument or document filed.

(h) In addition to the requirements of Code of Alabama (1975), § 10A-4-3.01, no shares may be transferred upon the books of the professional corporation or issued by the professional corporation until there is presented to and filed with the corporation a certificate by the Board of Dental Examiners of Alabama stating that the individual to whom the transfer is to be made or the shares issued is a qualified person as defined by Code of Alabama (1975), § 10A-4-1.03 (6).

(i) In addition to the requirements of Code of Alabama (1975), § 10A-4-3.06, no officers or members of the board of directors of a professional corporation who are not licensed to practice dentistry shall participate in any decision constituting the practice of dentistry.

(j) A foreign professional corporation rendering dental professional services in the State of Alabama shall, in addition to the requirements of Code of Alabama (1975), § 10A-4-5.02, be subject to the following:

1. All shareholders of a foreign professional corporation who render dental professional services in Alabama shall be dentists licensed to practice dentistry in the State of Alabama.

(k) The Board of Dental Examiners of Alabama may propound interrogatories to any professional corporation under the provisions of Code of Alabama (1975), § 10A-4-5.05.

(l) The Board of Dental Examiners of Alabama may request that the Attorney General initiate involuntary dissolution procedures against a professional corporation under the provisions of Code of Alabama (1975), § 10A-4-5.01. In addition, the Board may certify to the Secretary of State the names of any foreign professional corporation which has given cause for revocation of its certificate of authority under the provisions of Code of Alabama (1975), § 10A-4-5.03.

(m) Every professional corporation subject to the provisions of the act rendering dental professional services shall file with the Board of Dental Examiners of Alabama a copy of the annual report required by Code of Alabama (1975), § 10A-4-5.04. Financial or confidential information contained in the annual report may be disclosed or made public pursuant to the provisions of Code of Alabama (1975), § 10A-4-5.04(b).

(2) Professional Associations. The following shall apply to professional associations who do not elect to become subject to the provisions of the Revised Alabama Professional Corporation Act, Code of Alabama (1975), § 10A-4-1.01.

(a) Professional associations may practice under a name other than the one(s) of the participating dentist(s) only if the following requirements are met:

1. That the name of the participating dentist(s) shall appear following or beneath the name selected.
2. That the designation, "Professional Association" or the abbreviation "P.A." shall appear either following or beneath the name so selected.

3. That the name so selected should not suggest a non-profit or charitable activity or be false, fraudulent, misleading or deceptive.
4. That the name of the dentist(s) and the designation "professional association" or the abbreviation "P.A." shall be displayed with similar prominence as the name so selected.

Statutory Authority Code of Alabama (1975), §§ 10A-1-5.08, 10A-4, et seq., 34-9-2; 34-9-19; 34-9-43.

#### **270-X-4.02 Approval Required For Utilization Of Unlicensed Individuals By Institutions.**

(1) Pursuant to the provisions of Code of Alabama (1975), § 34-9-43(5), any clinical dental facility of any institution, school, or college where dental care is provided by dentists, dental hygienists, faculty members, students, interns, residents, or other individuals not duly licensed in Alabama, will be required to obtain APPROVED STATUS from the Board under the following procedure:

- (a) The parent institution, school or college seeking APPROVED STATUS will be required to furnish the Board a detailed written description of the facility and its activities. This document shall include such items as location of the clinic; names and license (teaching permit) numbers of staff members; name and responsibility of all persons who perform any services defined as dentistry/dental hygiene by Code of Alabama (1975), §§ 34-9-6, 34-9-27; source of and number of patients; services that will be rendered; copies of applicable grants or grant requests; description of quality control mechanisms; description of any research or experimental activities and such other data that the Board may deem necessary or pertinent.
- (b) Any new clinical dental facility must request APPROVED STATUS from the Board at least six (6) months prior to the commencement of operations.
- (c) The Board requires immediate notification before any change is made in an existing facility which has APPROVED STATUS.
- (d) The Board or its authorized representative(s) will conduct onsite inspections of all APPROVED facilities and those seeking APPROVED STATUS whenever such action is deemed necessary by the Board.
- (e) The Board may issue a temporary permit authorizing an APPROVED facility to employ an unlicensed graduate dentist provided that such dentist:
  1. Has met the requirements of Board Rule 270-X-2.01.
  2. Will work under the direct supervision of a staff dentist duly licensed in Alabama.
  3. Has made application to take the next licensure examination. This temporary permit shall be valid only until date of the next annual examination and shall not be renewable. Fees paid by such dentist as defined in Code of Alabama (1975), § 34-9-16, shall not be refundable.
- (f) Each facility with APPROVED STATUS must request renewal approval on an annual basis. The Board will compile and distribute annually a list of these facilities that have APPROVED STATUS and those which have requested APPROVED STATUS.
- (g) The Board may withdraw APPROVED STATUS of any clinical dental facility if it deems such action shall be necessary or in the best interest of the people of this state.

Statutory Authority Code of Alabama (1975), §§ 34-9-2, 34-9-43.

#### **270-X-4.03 Approval For Training, Educational, Technical, Vocational, Or Any Other Institution Providing Instruction For Dental Assistants.**

Pursuant to the provisions of Code of Alabama (1975), § 34-9-43(5), any training, educational, technical, vocational, or any other institution which provides instruction for dental assistants shall be required to obtain APPROVED STATUS from the

Board of Dental Examiners of Alabama (hereinafter "Board") if they wish to be listed as an approved program for the ADHP prerequisites, under the following procedure:

(1) For Board approval, any training, educational, technical, vocational or any other institution (hereinafter collectively referred to as "institution") shall meet the applicable requirements and standards for such instruction as approved or adopted by the American Dental Association, a copy of these requirements and standards being available to the said institutions upon request to the secretary-treasurer of the Board.

(2) In determining whether the instruction at the institution meets and satisfies the requirements and standards for the same then in effect, the Board or any authorized representative(s) may conduct onsite inspections and examinations of the institution and may require the institution to submit any written information or material which the Board or its authorized representative(s) may deem necessary and appropriate. If the institution fails or refuses to allow the Board or its authorized representative(s) to conduct onsite inspections and examinations or refuses or fails to submit, after notice, and within a reasonable period of time to be determined by the Board or its authorized representative(s), any required written information or material, the Board shall deny the institution APPROVED STATUS and give the institution notice thereof in writing.

(3) If the Board determines that the instruction provided by the institution meets the requirements and standards of the Board then in effect for the same, the institution shall be so notified by the Board in writing as soon as practicable.

(4) If the Board determines that the instruction provided by the institution does not meet the requirements and standards of the Board then in effect for the same, the Board shall so notify the institution in writing as soon as practicable, said notice to include at least the following:

(a) The reasons why the instruction at the institution did not meet or satisfy the requirements or standards of the Board then in effect.

(b) The specific requirements or standards that the institution failed to meet or satisfy.

(c) A reasonable period of time to be determined by the Board or its authorized representative(s) in which the institution can correct the deficiencies so noted or otherwise satisfy or meet the Board's requirements or standards then in effect.

(5) If the institution fails to meet or satisfy the requirements or standards of the Board then in effect after notice and opportunity as provided in subsection (4) above, the Board shall deny the institution APPROVED STATUS.

(6) The Board may withdraw APPROVED STATUS of an institution providing instruction if it deems such action shall be necessary or in the best interest of the people of this state or to protect the health, safety, or welfare of the people in this state.

(7) Each institution with APPROVED STATUS must request in writing renewal approval on an annual basis. In deciding whether to grant any renewal, the Board may utilize any of the procedures contained in subsections (1) through (5) above.

Statutory Authority Code of Alabama (1975), §§ 34-9-2, 34-9-43.

#### **270-X-4.04 Mandatory Continuing Education For Dentists And Dental Hygienists.**

##### **(1) NUMBER OF HOURS.**

(a) Dentists shall complete forty (40) hours of continuing education every two (2) years as a condition of licensure renewal; provided, however, that no more than one-half (1/2) of these hours can be completed or satisfied by video tapes, journals, publications, internet courses, correspondence courses or distance based education whether by video or audio format. It shall be the responsibility of each dentist to submit on a bi-annual basis an affidavit or other form approved and provided by the Board of Dental Examiners of Alabama to demonstrate compliance with this requirement. The required hours must be completed in the twenty-four (24) month period beginning October 1 of the initial year and ending September 30 of the second calendar year afterward. At least within two (2) calendar years, the dentist shall be required to be certified in cardiopulmonary resuscitation (CPR) at the basic support level

by the American Heart Association, the American Red Cross or an equivalent association; provided however, this requirement shall only be satisfied by attending this training. The two (2) calendar year period shall begin on the date of the initial certification or on the date of any subsequent recertification. Further, at least within two (2) calendar years, the required hours shall include, and be limited to two (2) hours of training on infectious disease control as it relates to the dental office or to the practice of dentistry. Further, at least within two (2) calendar years, the required hours shall include, and be limited to four (4) hours of accredited training in CPR. Additionally, the combined number of hours of continuing education training in the course areas of insurance, governmental regulations, and tort liability and/or risk management shall not exceed a total of eight (8) hours for the twenty-four month period. Practice management courses shall not exceed a total of six (6) hours for the twenty-four (24) month period.

(b) Dental Hygienists shall complete twenty-four (24) hours of continuing education every two (2) years as a condition of licensure renewal; provided, however, that no more than one-half (1/2) of these hours can be completed or satisfied by video tapes, journals, publications, internet courses, correspondence courses or distance based education whether by video or audio format. It shall be the responsibility of each dental hygienist to submit on a bi-annual basis an affidavit or other form approved and provided by the Board of Dental Examiners of Alabama to demonstrate compliance with this requirement. The required hours must be completed in the twenty-four (24) month period beginning October 1 of the initial year and ending September 30 of the second calendar year afterward. At least within two (2) calendar years, the dentist hygienist shall be required to be certified in cardiopulmonary resuscitation (CPR) at the basic support level by the American Heart Association, the American Red Cross or an equivalent association; provided however, this requirement shall only be satisfied by attending this training. The two (2) calendar year period shall begin on the date of the initial certification or on the date of any subsequent recertification. Further, at least within two (2) calendar years, the required hours shall include two (2) hours of training on infectious disease control as it relates to the dental office or to the practice of dentistry/dental hygiene. Additionally, the combined number of hours of continuing education training in the course areas of insurance, governmental regulations, and tort liability and/or risk management shall not exceed a total of eight (8) hours for the twenty-four month period and the combined number of hours of continuing education training relating to restorative dentistry shall be limited to twelve (12) hours for the twenty-four month period. Practice management courses shall not exceed a total of three (3) hours for the twenty-four (24) month period.

(c) Dentists/dental hygienists will be allowed up to eight (8) hours of credit for the twenty-four month period for pro bono charitable work performed at non-profit clinics located within the State of Alabama offering dental services. Any such work by a dental hygienist must be under the direct supervision of a dentist licensed in the State of Alabama. One (1) hour of continuing education credit shall be awarded for every four (4) hours of service.

(d) Licensees who have graduated in the year of their initial licensure shall only be required to accrue and prove compliance with required hours of continuing education through the end of the subsequent year following licensure. Thereafter said licensees shall comply with continuing education requirements set forth above. Further, said licensees must be able to prove compliance with this rule regarding CPR and infectious disease control certifications.

## (2) RECORD KEEPING, REPORTING AND MONITORING.

(a) It is the responsibility of each dentist/dental hygienist to maintain and compile accurate records relating to all continuing education courses or activities they have attended and completed. Accurate records shall mean a certification or evidence of attendance at any "live" continuing education courses and copies of video tapes, journals, publications or correspondence courses. It shall be the responsibility of each dentist/dental hygienist to maintain the above described documentation and information pertaining to each year for a period of six (6) years and this information shall be submitted to the Board of Dental Examiners of Alabama within thirty (30) days after a request for the same by the Board.

(b) Each dentist/dental hygienist must submit by the first (1<sup>st</sup>) day of October of each year, evidence or documentation of satisfactory completion of the required hours of continuing education provided for in these rules. This information shall be submitted on an affidavit and/or other forms to be approved and provided by the Board of Dental Examiners of Alabama. Upon receipt of this information it shall be reviewed by the Board of Dental Examiners of Alabama and the dentist/dental hygienist shall then be notified that either:

1. They have fulfilled the requirements of these rules and their annual registration will be issued or

2. They will be notified there are deficiencies or non-compliance with these rules and their annual registration will not be issued until the non-compliance or deficiencies have been remedied in accordance with these rules to the satisfaction of the Board of Dental Examiners of Alabama.

(c) Any dentist/dental hygienist who receives notification that their annual registration will not be issued because of non-compliance with these rules may appeal in writing to the Board of Dental Examiners of Alabama within Thirty (30) days from the date of the Board's notification to them of their non-compliance. Upon the receipt of the written appeal, the Board may request the submission of additional information or records or may require the dentist/dental hygienist to appear before the Board in connection with the appeal.

### (3) AUDITING.

The Board of Dental Examiners of Alabama shall randomly audit the continuing education documentation or information to be maintained or submitted by each dentist/dental hygienist as described herein to assure compliance with these rules. Failure to maintain the documentation or information set forth in these rules the submission of false or misleading information or documentation to the Board of Dental Examiners of Alabama or failure to submit requested documentation or information within the time specified by the Board may subject the dentist/dental hygienist, after hearing, to those penalties outlined in Code of Alabama (1975), §\_34-9-18(b).

### (4) WAIVER.

Upon written request to the Board of Dental Examiners of Alabama, and upon the demonstration of good and sufficient cause, the Board of Dental Examiners of Alabama may grant a waiver or extension of time for the completion of the annual hour requirements for continuing education as set forth herein. Any such request must be received by the Board of Dental Examiners of Alabama prior to September first (1<sup>st</sup>) of the year in which the waiver or extension applies. Any such request received after the above referenced date will be considered untimely and denied. The dentist/dental hygienist who seeks such a waiver or extension shall submit to the Board of Dental Examiners of Alabama any documentation required by the Board which the Board deems appropriate for it to make a decision concerning that waiver or extension.

### (5) CRITERIA FOR APPROVAL OF CONTINUING EDUCATION.

(a) Continuing dental education may include, but is not limited to, attendance at lectures, study clubs, college and post graduate courses, scientific sessions of conventions, research, graduate studies, teachings, service as a clinician, video tapes, journals, internet courses, publications or correspondence courses. Continuing education programs may include, but are not limited to, programs that address any of the following:

1. Competency in treating patients who are medically compromised or who experience medical emergencies during the course of dental treatment;
2. Knowledge of pharmaceutical products and the protocol of the proper use of medications or controlled substances;
3. Competency to diagnose oral pathology;
4. Awareness of currently accepted methods of infection control;
5. Basic medical and scientific subjects including but not limited to biology, physiology, pathology, biochemistry and pharmacology, analgesia, diet and nutrition, microbiology, anatomy, dental anatomy, microscopic anatomy, chemistry, organic chemistry and neurology;
6. Clinical and technological subjects including but not limited to techniques and procedures in general dentistry or recognized specialties, dental materials and equipment, diagnosis and treatment planning, asepsis and sterilization techniques and radiology;
7. Subjects pertinent to health and safety including but not limited to public health problems, communicable diseases, emergency care, cardiopulmonary resuscitation, advanced life support, patient stress management, the laws and rules governing the practice of dentistry/dental hygiene and ethical considerations in the practice of dentistry/dental hygiene; and



8. Insurance, governmental regulations and tort liability and/or risk management.

(b) Programs or courses that include the following areas cannot be considered acceptable or satisfactory continuing education:

1. Personal finances;
2. Presentations by political or public figures or other persons who do not deal primarily with dental or dental hygiene practice;
3. Personal motivational courses; and
4. Presentations by political or public figures or other persons who do not deal primarily with dentistry/dental hygiene practice; Basic educational or cultural subjects not directly related to the practice of dentistry/dental hygiene, outside the scope of the dentist/dental hygienist's practice or inconsistent with the dentist/dental hygienist's scope of practice.

(c) One (1) hour of continuing education credit shall be given for each hour of attendance and an hour of attendance shall be defined as exceeding Fifty (50) minutes. Two (2) hours of continuing education credit shall be given for each hour taught by a dentist/dental hygienist at a continuing education program provided, however, that no more than one-half (1/2) of the annual required hours can be completed or satisfied in this manner. A dentist/dental hygienist cannot attain more than eight (8) hours of continuing education credit for any one day.

(d) Programs meeting the general requirements of paragraph 5(a) above may be developed and offered to dentists/dental hygienists by any of the following agencies or organizations:

1. National, state, district or local dental associations affiliated with the American Dental Association or the National Dental Association;
2. Accredited dental colleges or schools;
3. National, state, district or local dental hygienists associations affiliated with the American or National Dental Hygienist Association or the American Dental Assistants Association and their constituent and opponent associations and societies;
4. Accredited dental hygiene colleges or schools; and

(e) The Board of Dental Examiners of Alabama shall have the right to monitor or audit any course or program to determine whether that course or program is in compliance with these rules.

#### (6) LICENSEES EXCUSED FROM CONTINUING EDUCATIONAL REQUIREMENTS.

(a) Any dentist/dental hygienist licensed in the State of Alabama but practicing outside the State of Alabama; however, if such person returns to the State of Alabama, and desires to practice dentistry/dental hygiene, he/she shall then be required to submit evidence to the Board of Dental Examiners of Alabama prior to being allowed to practice, that they have attended and completed within the preceding five (5) years continuing education courses or programs which comply with these rules in a number of hours not less than twenty (20) nor more than One Hundred (100).

(b) Dentists enrolled fulltime in a postgraduate specialty training or residency program at a dental school accredited by the American Dental Association's Commission on Dental Accreditation.

(c) Dental hygienists enrolled fulltime in an academic program directly related to dentistry/dental hygiene, including but not limited to the Alabama Dental Hygiene Program.

(d) Any dentist/dental hygienist who has permanently retired from the practice of dentistry/dental hygiene; however, if said person desires to return to the active practice of dentistry/dental hygiene, then he/she shall then be required to submit evidence to the Board of Dental Examiners of Alabama, prior to being allowed to practice, that

they have attended and completed within the preceding five (5) years continuing education courses or programs which comply with these rules.

(e) Dentists/dental hygienists who are not practicing and can demonstrate to the Board of Dental Examiners of Alabama good cause for being excused from the application of these rules, such excuses including but not limited to age, disability, illness or disease. If such person returns to the active practice of dentistry/dental hygiene, then that person shall first be required to attend and complete continuing education courses or programs that would comply with these rules in a number of hours deemed appropriate by the Board of Dental Examiners of Alabama.

(f) Any dentist/dental hygienist who fails to comply with the provisions of these rules or who otherwise violates the Alabama Dental Practice Act in connection with the requirements of these rules or relating to any information to be maintained or submitted to the Board as provided for in these rules shall be, upon notice and hearing, subject to the penalties outlined in Code of Alabama (1975), § 34-9-18(b).

Statutory Authority Code of Alabama (1975), §§ 34-9-2, 34-9-15(b), 34-9-18(1), 34-9-43(1).

#### **270-X-4.05 Infected Health Care Workers.**

(1) The Board of Dental Examiners of Alabama adopts as its rule for the reporting, assessment and practice management of HBV and HIV infected health care workers the following: Chapter 420-4-3 (and all parts of that Chapter) entitled “Infected Health Care Workers” of the rules of the State Board of Health, Bureau of Disease Control adopted on November 16, 1994.

(2) All infected health care workers, as defined by law or the Rule referenced above, working in a dental office shall be required to conform to and comply with the provisions of Chapter 420-4-3 referenced above and this Rule. It is the responsibility of all currently licensed dentists/dental hygienists, dental assistants and all other personnel who provide or assist in the provision of dental/dental hygiene services to maintain familiarity with the provisions of Chapter 420-4-3 referenced above, this Rule and the Alabama Infected Health Care Worker Management Act.

(3) A copy of Chapter 420-4-3 entitled “Infected Health Care Workers” of the Rules of the State Board of Health, Bureau of Disease Control, the Policy and Procedures for compliance with the current recommendations and guidelines of the Centers for Disease Control and Prevention (C.D.C.) relating to infection control practices for dentistry and/or dental offices and Alabama’s Infected Health Care Worker Management Act are available upon request from the Board.

Statutory Authority Code of Alabama (1975), §§ 22-11A-70, 34-9-2, 34-9-15, 34-9-18, 34-9-43.

#### **270-X-4.06 Limited Liability Companies.**

(1) This rule is promulgated pursuant to the Alabama Limited Liability Act, Code of Alabama (1975), § 10A-5, *et seq.* (hereinafter referred to as the “Act”). This rule is applicable to limited liability companies formed for the purpose of rendering dental professional services by dentists licensed to practice dentistry in the State of Alabama.

(2) Any dentist or group thereof licensed to practice dentistry in the State of Alabama who desire to render dental professional services as a limited liability company shall comply with the provisions of the Act and this rule.

(3) The names of limited liability companies shall be governed by the provisions of Code of Alabama (1975), § 10A-1-5.06. If the name of the limited liability company utilizes the name or names of the dentist(s) who are members or employees of the limited liability company, then such name shall include the designation “D.M.D.” or “D.D.S.” whichever is appropriate. In addition, the following requirements shall be applicable to limited liability companies.

(a) Practicing dentists forming or who formed a limited liability company may practice under a name other than the one(s) of the participating dentist(s) only if the following requirements are met:

(i) That the name of the participating dentist(s) shall appear following or beneath the name selected.

(ii) That the names so selected should not suggest a non-profit or charitable activity or be false, fraudulent, misleading or deceptive.

(iii) That the name of the dentist(s) and the words “Limited Liability company” or the abbreviation “L.L.C.”, as required by Code of Alabama (1975), § 10A-1-5.06 shall be displayed with similar prominence as the name so selected.

(4) Every limited liability company organized for the rendering of dental professional services shall file with the Board of Dental Examiners of Alabama a certified copy of the Articles of Organization and any and all subsequent amendments to those articles, changes of members of the limited liability company or changes in the business address of the limited liability company. As to limited liability companies formed after the effective date of this Rule, the filing referenced above shall be made within thirty (30) days of the effective date of the instrument or document filed. As to limited liability companies in existence on the effective date of this Rule, the filings referenced above shall be made within thirty (30) days of that effective date.

(5) Every limited liability company governed by the provisions of the Act shall file with the Board of Dental Examiners of Alabama a certified copy of the Articles of Dissolution or Articles of Merger within thirty (30) days of the dissolution or merger.

(6) Dentists licensed to practice dentistry who render dental professional services as a limited liability company shall comply with the conditions, requirements and restrictions of Code of Alabama (1975), § 10A-5-8.01. A limited liability company organized to render dental professional services, foreign or domestic, may render dental professional services in Alabama only through individuals licensed to practice dentistry in the state of Alabama.

(7) In addition to the requirements of Code of Alabama (1975), § 10A-5-8.01 (i) no interest may be transferred until there is presented to and filed with the limited company a certificate by the Board of Dental Examiners of Alabama stating that the individual to whom the transfer is made is licensed to practice dentistry in the State of Alabama.

(8) No employee of a limited liability company who is not licensed to practice dentistry shall participate in any decision constituting the practice of dentistry or shall interfere with the exercise of the independent professional judgment of a dentist in matters related to the practice of dentistry. In addition, a dentist’s actions with respect to the practice of dentistry shall not be subject to the control of any individual not licensed to practice dentistry, including but not limited to those matters set forth in Code of Alabama (1975), § 34-9-9(b).

(9) A foreign limited liability company rendering dental professional services in the State of Alabama shall, in addition to the requirements of Code of Alabama (1975), § 10A5-8.01, be subject to the following:

(a) All members or employees of a foreign limited liability company who render dental professional services in Alabama shall be dentists licensed to practice dentistry in the State of Alabama.

(b) Filing with the Board of Dental Examiners of Alabama the registration form required by Code of Alabama (1975), § 10A-1-3.01, the Certificate of Formation referenced in Code of Alabama (1975), § 10A-1-3.05 and the Certificate of Withdrawal required by Code of Alabama (1975), § 10A-1-7.11. These documents shall be filed within thirty (30) days of their filing with the Secretary of State. As to those foreign limited liability companies registered on the effective date of this Rule, the above referenced filings shall be made within thirty (30) days of that effective date.

Statutory Authority Code of Alabama (1975), §§10-12-45, 34-9-43(2)

#### **270-X-4.07 Registered Limited Liability Partnerships.**

(1) This rule is promulgated pursuant to the Alabama Limited Liability Partnership Act, Code of Alabama (1975), § 10-A-5-8.01. This rule is applicable to professional registered limited liability partnerships formed for the purpose of rendering dental professional services by dentists licensed to practice dentistry in the State of Alabama.

(2) Any dentist licensed to practice dentistry in the State of Alabama who desire to render dental professional services as a professional registered limited liability partnership shall comply with the provisions of Code of Alabama (1975), § 10A-5-8.01 and this Rule.

(3) The names of professional registered limited liability partnerships formed by dentists shall be governed by the provisions of, Code of Alabama (1975), § 10A-1-5.06. If the names of the professional registered limited liability partnership utilizes the name or names of the dentists who are partners or employees of the professional registered limited liability partnership, then such name shall include the designation “D.M.D.” or “D.D.S.” whichever is appropriate. In addition, the following requirements shall be applicable to professional registered limited liability partnership.

(a) Practicing dentists forming or who formed a professional registered limited liability partnership may practice under a name other than the one(s) of the participating dentist(s) only if the following requirements are met:

1. That the name of the participating dentist(s) shall appear following or beneath the name selected.
2. That the name so selected should not suggest a non-profit or charitable activity or be false, fraudulent, misleading or deceptive.
3. That the name of the dentist(s) and the words “Registered Limited Liability Partnership” or the abbreviation “L.L.P.”, as required by Code of Alabama (1975), § 10A-1-5.07 shall be displayed with similar prominence as the name so selected.

(4) Every professional registered limited liability partnership organized for the rendering of dental professional service shall file with the Board of Dental Examiners of Alabama a certified copy of the Registration and any all amendments to the Registration, a complete list of the names and addresses of the partners, changes of the partners of the professional registered limited liability partnership or changes in the business address of the professional registered limited liability partnership. As to professional registered limited liability partnerships formed after the effective date of this Rule, the filing referenced above shall be made within thirty (30) days of the effective date of the instrument or document filed. As to professional registered limited liability partnerships in existence on the effective date of the Rule, the filings referenced above shall be made within thirty (30) days of that effective date.

(5) Every professional registered limited liability partnership governed by the provisions of the Act shall file with the Board of Dental Examiners of Dental Examiners of Alabama a certified copy of a Termination Notice or Statement of Cancellation of Registration within thirty (30) days of the dissolution or cancellation.

(6) Dentists licensed to practice dentistry who render dental professional services as a professional registered limited liability partnership shall comply with the conditions and restrictions of Code of Alabama (1975), § 10A-8-10.10. A professional registered limited liability partnership organized to render dental professional services, foreign or domestic, may render dental professional services in Alabama only through individuals licensed to practice dentistry in the state of Alabama.

(7) In addition to the requirements of Code of Alabama (1975), § 10A-8-10.10(h), no interest may be transferred until there is presented to and filed with the professional registered limited liability partnership a certificate by the Board of Dental Examiners of Alabama stating that the individual to whom the transfer is made is licensed to practice dentistry in the State of Alabama.

(8) No employee of a professional registered limited liability partnership who is not licensed to practice dentistry shall anticipate in any decision constituting the practice of dentistry or shall interfere with the exercise of the independent professional judgment of a dentist in matters related to the practice of dentistry. In addition, a dentist’s actions with respect to the practice of dentistry shall not be subject to the control of any individual not licensed to practice dentistry, including but not limited to those matters set forth in Code of Alabama (1975), § 34-9-9(b).

(9) A foreign professional registered limited liability partnership rendering dental professional services in the State of Alabama shall, in addition to the requirements of Code of Alabama (1975), § 10A-8-10.10, be subject to the following:

(a) All partners or employees of a foreign professional registered limited liability partnership who render dental professional services in Alabama shall be dentists licensed to practice dentistry in the State of Alabama.

(b) Filings with the Board of Dental Examiners of Alabama the registration form required by Code of Alabama (1975), § 10A-8-10.06 and the withdrawal notice referenced in Code of Alabama (1975), § 10A-8-10.06. Both these documents shall be filed within thirty (30) days of their filing with the Secretary of State. As to those foreign professional registered limited liability partnership registered on the effective date of this Rule, the above referenced filings shall be made within thirty (30) days of that effective date.

Statutory Authority Code of Alabama (1975), §§ 10A-1-5.06, 10A-1-5.07, 10A-5-8.01, 10A-8-10.06, 10A-8-10.10, 34-9-43.

**270-X-4.08 Advertising.**

(1) A dentist shall not make or cause to be made a false communication about the dentist or the dentist's services. A communication is false if it contains a material misrepresentation of fact or law.

(2) A communication is defined as information in any manner or medium designed or intended to attract public attention to the dentist or his/her practice and shall include any "advertisement" as that term is defined in Code of Alabama (1975), § 34-9-19.

(3) Any/all advertisements for a dental practice/organization must include at least one dentist's name (working within the practice/organization) and/or the practice/organization name.

Statutory Authority Code of Alabama (1975), §§ 34-9-19(j), 34-9-43(1).

**270-X-4.09 Criteria And Fees For Mobile Dental Facilities Or Portable Dental Operations.**

(1) All applications for a Certificate of Registration to operate a mobile dental facility or portable dental operation must be complete and comply with all the requirements of Code of Alabama (1975), § 34-9-6.1. The required initial application or renewal will not be acted upon if not fully completed. The initial application or any renewal must be forms approved by the Board.

(2) No initial Certification of Registration to operate a mobile dental facility or portable dental operation shall be issued until there has been an inspection by the Board or its authorized representative. If there is a determination as a result of the inspection that the application will not be granted, a list of the deficiencies noted shall be provided to the applicant within ten (10) days from the date of the inspection. If the applicant desires another inspection, a request must be made in writing to the Board.

(3) No Certificate of Registration or renewal thereof shall be issued until the required fee is paid.

(4) The fee for the initial Certificate of Registration and the required inspection shall be an amount to be determined by the Board. In the event of an unsuccessful inspection, the applicant will be required to submit an additional amount to be determined by the Board for re-inspection.

(5) The fee for renewal of the Certificate of Registration shall be an amount to be determined by the Board.

(6) Any and all Mobile Dental Facilities/Portable Dental Operations must comply with applicable provisions of the Americans with Disabilities Act.

Statutory Authority Code of Alabama (1975), §§ 34-9-6.01, 34-9-16, 34-9-43(10).

**270-X-4.10 Registration of a 501(c)(3) Dental Clinic.**

(1) Every 501(c)(3) nonprofit entity that operates one or more dental clinics must register with the Board on or before the 1<sup>st</sup> day of October of each year to obtain a dental annual registration from the Board. Registration shall consist of completing the dental annual registration form and payment of the dental annual registration fee for each clinic operated by the 501(c)(3) entity. The dental annual registration fee shall be set by the Board as per Code of Alabama (1975) §34-9-16. The registration shall be renewed on an annual basis. The information required on the registration form shall be the following:

(a) Name, address, phone number and after hours contact information of the 501(c)(3) entity.

(b) The name and contact information of the Chief of Dental Services of the 501(c)(3) entity if the 501(c)(3) entity is operating multiple clinics.

- (c) Name, address, phone number and after hours contact information for each clinic operated by the 501(c)(3) entity.
- (d) A list of all licensed dentists and hygienists that work for the 501(c)(3) entity. All licensees must have all applicable licenses and registrations as required by this chapter. Any changes to the employment/volunteer status of these licensees must be reported to the Board within thirty (30) days.
- (e) A copy of the Articles of Incorporation of the 501(c)(3) entity.
- (f) A valid copy of the IRS Determination Letter of the 501(c)(3) entity.

Authority: Code of Alabama (1975) §§ 34-9-7.2, 34-9-15, 34-9-17

### **Chapter 270-X-5 ORGANIZATION AND PROCEDURE**

#### **270-X-5.01 Description Of Organization Of Board Of Dental Examiners Of Alabama.**

- (1) The Board of Dental Examiners of Alabama is a legislatively created board established pursuant to Code of Alabama (1975), § 34-9-1, et seq.
- (2) A description of the Board and its general course or method of its operations are found in Code of Alabama (1975), § 34-9-1 et seq., and include as its main operations:
  - (a) The enforcement of Code of Alabama (1975), § 34-9-1, et seq.
  - (b) The processing and determining the eligibility of applicants for dental/dental hygiene examinations.
  - (c) The conducting of these examinations and conducting hearings for the purpose of imposing those disciplinary penalties against dentists/dental hygienists set forth and outlined in Code of Alabama (1975), § 34-9-18(b), for a violation of the provisions of Code of Alabama (1975), § 34-9-1, et seq., including but not limited to Code of Alabama (1975), § 34-9-18.
- (3) The description of the composition, government and operation of the Board is found generally in Code of Alabama (1975), §§ 34-9-40 through 34-9-44.
- (4) The power and duties of the Board are found in Code of Alabama (1975), § 34-9-43.
- (5) Any member of the public may obtain information or make submissions or requests by notifying in writing the secretary-treasurer of the Board.
- (6) This rule is adopted and intended to comply with Code of Alabama (1975), § 41-22-4(a).

Statutory Authority Code of Alabama (1975), §§ 34-9-1, et seq.; 41-22-4.

#### **270-X-5.02 Procedure For Requesting Adoption, Amendment Or Repeal Of Rule And Submission.**

Pursuant to Code of Alabama (1975), § 41-22-8, any person [as defined by Code of Alabama (1975), § 41-22-3(6)] who wishes to request the adoption, amendment or repeal of any rule of the Board of Dental Examiners of Alabama shall be required to comply with the following:

- (1) All requests shall be in writing and shall be sent to the secretary-treasurer of the Board of Dental Examiners of Alabama by registered mail with return receipt requested.

- (2) If the request is submitted on behalf of a person who is an individual, it shall include the name, business and residence address, business and residence telephone number.
- (3) If the request is submitted on behalf of an entity, it shall include the name, address and telephone number of the said entity, and the name and title or position of the individual signing the request.
- (4) The request shall identify with particularity the rule to be amended or repealed.
- (5) The request shall explain in detail the reasons for the adoption, amendment, or repeal of any rule and shall set forth in detail the portion of the rule desired to be amended and shall set forth in detail the substance of any proposed amendment or new rule.
- (6) The request shall state in detail how the person/entity is affected by the present rule and how they will be affected by the amendment or repeal of the existing rule or by the adoption of a new rule.
- (7) At the discretion of the Board, the request shall either be considered and disposed of at a meeting of the entire Board or may be assigned to any member or members of the Board for consideration and disposition.
- (8) Within sixty (60) days after receipt of the request by the Board the person/entity who made the request shall be notified in writing that the Board has denied the request on the merits, stating its reasons for the denial, or shall be notified that the Board will initiate rulemaking procedures in accordance with Code of Alabama (1975), § 41-22-5.
- (9) If the request does not meet the requirements set out above, the request shall be returned and the person/entity shall be notified in writing of this failure and shall further be notified of their right to resubmit the request.

Statutory Authority Code of Alabama (1975), §§ 34-9-43, 41-22-8.

#### **270-X-5.03 Administrative Determinations And Declaratory Rulings Of The Board.**

Pursuant to Code of Alabama (1975), § 41-22-11, any person [as defined by Code of Alabama (1975), § 41-22-3(6)] who wishes to petition the Board for a declaratory ruling with respect to the validity of a Board rule or with respect to the applicability to any person, property or state of facts of any rule of the Board or statute enforceable by the Board, or with respect to the means and scope of any order of the Board, shall comply with the following:

- (1) All petitions shall be in writing and shall be sent to the secretary-treasurer of the Board of Dental Examiners of Alabama by registered mail with return receipt requested and shall specifically state that it is a "request for a declaratory ruling."
- (2) If the petition is submitted on behalf of a person who is an individual, it shall include the name, business and residence address, business and residence telephone number. If the petition is submitted on behalf of an entity, it shall include the name, address and telephone number of the said entity, and the name and title or position of the individual signing the request.
- (3) The petition shall state with particularity facts sufficient to show the person/entity seeking relief is substantially affected by the rule and shall also state sufficient facts to permit the Board to make a valid determination.
- (4) Provided that the petition or the matters stated therein arise from an actual question or controversy, the petition shall then request that the Board do one or more of the following:
  - (a) Issue a declaratory ruling with respect to the validity of one of the Board's rules; or
  - (b) Issue a declaratory ruling with respect to the applicability to any person/entity, property or state of facts of any rule of the Board or statute enforceable by the Board; or
  - (c) Issue a declaratory ruling with respect to the meaning and scope of any order of the Board.
- (5) At the discretion of the Board, the petition shall either be considered at a meeting of the entire Board or may be assigned to any member or members of the Board for consideration, and in either case a declaratory ruling may

be issued. The failure of the Board to issue a declaratory ruling on the merits within forty-five (45) days from the receipt of the request by the Board shall constitute a denial of the request as well as a denial of the merits of the request.

(6) If the petition does not meet the requirements set out above, the petition shall be returned and the party shall be notified in writing of this failure and shall further be notified of their right to submit the petition again.

Statutory Authority Code of Alabama (1975), §§ 34-9-43, 41-22-11.

#### **270-X-5.04 Rule-Making Proceedings.**

(1) Notice.

(a) The Board shall give at least thirty-five (35) days notice of any proposed action on any rule by publication in the Alabama Administrative Monthly and shall otherwise comply with the notice requirements stated in Code of Alabama (1975), § 41-22-5(a)(1).

(b) Any person who has made a timely request of the agency for advance notice of its rulemaking proceedings and who has furnished the Board with a sufficient amount of money to cover the cost of mailing shall receive a copy of the notice referred to above.

(2) Public Hearings. The Board shall afford all interested persons reasonable opportunity to submit data, views or arguments, either orally or in writing. Any data, views, or arguments submitted in writing must be received by the secretary-treasurer of the Board at least seven (7) days before the date specified in the notice as the day of the public hearing. Those persons wishing to appear before the Board to present data, views, or arguments orally must submit a request to appear before the Board to the secretary-treasurer, and such request must be received by the secretary-treasurer at least seven (7) days before the scheduled public hearing. This request shall contain a complete summary of the data, views, or arguments which are to be orally presented.

(3) Board Decision. The Board shall fully consider all written and oral submissions concerning every proposed rule action. Upon adoption of a rule, the Board, if conflicting views are submitted on the proposed rule, shall issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling any consideration urged against its adoption.

(4) Emergency Rules. In the event the Board finds that immediate danger to the public health, safety, or welfare requires adoption of a rule upon fewer than thirty-five (35) days' notice, or that action is required by or to comply with a federal statute or regulation which requires adoption of a rule upon fewer than thirty-five (35) days notice, the Board may adopt an emergency rule under the provisions of Code of Alabama (1975), § 41-22-5(b).

(5) Compliance with the Alabama Administrative Procedure Act. All rules adopted by the Board shall otherwise substantially and procedurally comply with the provisions of the Alabama Administrative Procedure Act.

Statutory Authority Code of Alabama (1975), §§ 34-9-43, 41-22-5.

#### **270-X-5.05 Disciplinary Hearings For Dentists And Dental Hygienists.**

(1) Conduct of Hearing.

(a) Hearing Examiner. The Board may in its discretion appoint some person to act as hearing examiner at disciplinary hearings. In the event a hearing examiner is appointed, he/she shall preside at the hearing and shall rule on all questions of evidence and procedure, notwithstanding any other provisions of these rules to the contrary.

(b) The procedure and format of a hearing shall be the same as that utilized in non-jury civil cases in the circuit courts of this state. Additionally, the Board shall be allowed the right to examine any witnesses called by either party.



(c) Order. The Board shall issue an order within thirty (30) days of the date of the final hearing, which shall include findings of fact, official notice taken, and conclusions of law, separately stated. The final order shall either be personally delivered or mailed by certified mail, return receipt requested, to each party or to his/her attorney of record.

(2) Evidence. Evidence shall be admitted in accordance with Code of Alabama (1975), §41-22-13. Further, in arriving at a determination upon dental issues in contested cases, the Board may consider the testimony of expert witnesses; however, the Board shall not be required to hear said expert testimony and may exercise its independent dental judgment in the resolution of dental issues.

(3) Emergencies. The Board may in an emergency situation, when danger to the public health, safety and welfare requires, suspend the license of a dentist/dental hygienist without a hearing or with an abbreviated hearing in accordance with Code of Alabama (1975), § 41-22-19(d).

(4) Other. The hearing shall otherwise be conducted in compliance with the provisions of the Alabama Administrative Procedure Act.

(5) Effective Date. Section 1(a) through 1(b) October 1, 1982. Section 1(c), (2), (3) and (4) October 1, 1983.

Statutory Authority Code of Alabama (1975), §§ 34-9-2, 34-9-18, 34-9-24, 34-9-43, 41-22-12, 41-22-13, 41-22-16.

#### **270-X-5.06 Complaints.**

(1) The Board shall investigate complaints of alleged violations of the provisions of Code of Alabama (1975), § 34-9-1 et seq. or of the drug or controlled substances laws by persons licensed pursuant to the provisions of Code of Alabama (1975), § 34-9-1, et seq., following the complaint protocol approved by Board vote and kept on file at the Board offices and effective at the time the complaint is received.

(2) In carrying out its investigations, the Board shall have the power to issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books, records, documentary evidence and materials as set forth in Code of Alabama (1975), § 34-9-46.

(3) At any time during the course of an investigation, the Board may, within its discretion, issue a Letter of Concern to the licensee who is the subject of the investigation. A Letter of Concern shall consist of a private, confident, written communication from the Board to the licensee, the contents of which shall be specified by the Board. A Letter of Concern shall not be considered a disciplinary action and is not intended to communicate a finding on the part of the Board that a licensee to whom the Letter of Concern is directed will be charged with or has been found guilty of wrong doing. The purpose of the Letter of Concern is to provide notice to the licensee under investigation that the Board has concluded that the alleged actions or conduct in question may not be in accord with provisions of Code of Alabama (1975), § 34-9-1 et seq. The issuance of a Letter of Concern shall not preclude the Board from taking any other action authorized by law. A Letter of Concern shall be deemed a nonpublic record under the provisions of Rule 270-X-1.08. The Board shall notify the person or persons whose complaint led to the Board's decision to send a Letter of Concern. The Board may make public statistical reports concerning the number and type of Letters of Concern issued by the Board.

Statutory Authority Code of Alabama (1975), §§ 34-9-2, 34-9-43, 41-22-12, et seq.

#### **270-X-5.07 Expense Recovery.**

The Board shall be entitled to the following reimbursement or cost recovery:

- (1) Insufficient check fund fee thirty dollars and 00/100 (\$30.00)
- (2) Cost of supplying mailing labels twenty-five dollars and 00/100 (\$25.00)
- (3) Reimbursement for mailing directories seven-dollars and 00/100 (\$7.00)
- (4) Copying of Drug Inventory/Dispensing Log seven dollars and 00/100 (\$7.00)

(5) Copy of records fifty cents (\$0.50) per page for pages over twenty (20) pages.

Statutory Authority Code of Alabama (1975), §§ 34-9-10(e), 34-9-43(2), (10)

**270-X-5.08 Authorized Fees. (Repealed 8/28/09)**

Statutory Authority Code of Alabama (1975), §§ 34-9-10 (a), 34-9-15, (2), 34-9-16, 34-9-61, 34-9-63, 34-9-64, 34-9-81

**270-X-5.09 Non-Disciplinary Administrative Penalties.**

Any dentist/dental hygienist who is found to be in violation of the following requirements of the Alabama Dental Practice Act shall have imposed a non-disciplinary administrative penalty in the amount set forth below:

- (1) As to dentists only, failing to renew their DEA registration within one (1) year of the expiration thereof.
- (2) As to dentists only, any practice owner who allows a licensee to practice up to thirty (30) days without a current annual registration permit.
- (3) As to dentists only, by failing to comply with the provisions of Code of Alabama (1975), § 34-9-15.1.
- (4) Failing to timely renew any license or permit required pursuant to the Alabama Dental Practice Act and performing activities which require the applicable license or permit for up to thirty (30) days during the time the same was expired.
- (5) Failing to comply with the provisions of Board Rule 270-X-4.04. In addition to the applicable penalty, the licensee shall be required to make up the number of deficient hours by December thirty-first (31<sup>st</sup>) of the following renewal period.
- (6) The penalty for a violation by dentists shall be up to five hundred dollars and 00/100 (\$500.00).
- (7) The penalty for a violation by a licensed dental auxilliary shall be up to two hundred fifty dollars and 00/100 (\$250.00).
- (8) Failure to pay the penalty within the time prescribed by the Board, unless otherwise notified, will result in disciplinary action.
- (9) A licensee shall not qualify for the non-disciplinary administrative penalty referenced above for more than one (1) violation occurring within five (5) years of any prior application of this rule.

Statutory Authority Code of Alabama (1975), §§ 34-9-18(17), Act 2009-18.

**270-X-5.10 Definition Of Gross Negligence. (Repealed 4/23/13)**

Statutory Authority Code of Alabama (1975), § 34-9-18(a)(6).

**270-X-5.11 Definition Of The Active Practice of Dentistry and Dental Hygiene.**

The Active Practice of Dentistry shall mean the practice of dentistry as defined in Code of Alabama (1975), § 34-9-6 and that the licensed dentist must be an owner, employee or independent contractor of a dental practice practicing no less than twenty (20) hours per week or one thousand (1,000) hours per year. Further, the active practice of dental hygiene shall mean the practice of dental hygiene as set forth in Board Rule 270-X-3.10 and that the licensed dental hygienist practices no less than twenty (20) hours per week or one thousand (1,000) hours per year.

Statutory Authority Code of Alabama (1975), § 34-9-40.

**270-X-5.12 Candidates For Board Election: Campaign Procedures.**

- (1) Elections

(a) A candidate for the Board of Dental Examiners of Alabama must maintain a complete and accurate record of all campaign contributions accepted and said record must be submitted to the Secretary/Treasurer of the Board, at the Board's office, by the first day of November in his/her election year and made available to any licensee upon written request.

(b) Candidate's solicitation of votes shall not be false or fraudulent.

Statutory Authority Code of Alabama (1975), §§ 34-9-40, 34-9-43.