

**CHAPTER 33. STATE BOARD OF DENTISTRY**

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**Authority**

The provisions of this Chapter 33 issued under The Dental Law (63 P. S. §§ 120—130b), unless otherwise noted.

**Cross References**

This chapter cited in 25 Pa. Code § 215.24 (relating to human use); 49 Pa. Code § 23.34 (relating to professional corporations); 49 Pa. Code § 25.214 (relating to corporate practice and fictitious names); 49 Pa. Code § 29.27 (relating to permitted business practices); 49 Pa. Code § 41.26 (relating to professional corporations); and 49 Pa. Code § 47.21 (relating to professional corporations).

**Subchapter A. GENERAL PROVISIONS**

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**§ 33.1. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*ASA CLASS I*—A classification of patient status developed by the American Society of Anesthesiologists for a patient without systemic disease.

*ASA CLASS II*—A classification of patient status developed by the American Society of Anesthesiologists for a patient with mild systemic disease.

*ASA CLASS III*—A classification of patient status developed by the American Society of Anesthesiologists for a patient with severe systemic disease that limits activity but is not incapacitating.

*ASA CLASS IV*—A classification of patient status developed by the American Society of Anesthesiologists for a patient with incapacitating systemic disease that is a constant threat to life.

*ASA CLASS V*—A classification of patient status developed by the American Society of Anesthesiologists for a moribund patient not expected to survive 24 hours with or without operation.

*Act*—The Dental Law (63 P. S. §§ 120—130i), which regulates the licensure of dentists and dental hygienists and the practice of dentistry and practice as a dental hygienist in this Commonwealth.

*Auxiliary personnel*—Persons who perform dental supportive procedures authorized by the act and this chapter under the general or direct supervision of a dentist.

*Board regulated practitioner*—A dentist, restricted faculty license holder, dental hygienist, public health dental hygiene practitioner or expanded function dental assistant.

*Bodily injury*—Impairment of physical condition or substantial pain.

*Bureau*—The Bureau of Professional and Occupational Affairs of the Commonwealth.

*Child*—An individual under 18 years of age.

*Child abuse*—Intentionally, knowingly or recklessly doing any of the following:

- (i) Causing bodily injury to a child through any recent act or failure to act.
- (ii) Fabricating, feigning or intentionally exaggerating or inducing a medical symptom or disease which results in a potentially harmful medical evaluation or treatment to the child through any recent act.
- (iii) Causing or substantially contributing to serious mental injury to a child through any act or failure to act or a series of such acts or failures to act.
- (iv) Causing sexual abuse or exploitation of a child through any act or failure to act.
- (v) Creating a reasonable likelihood of bodily injury to a child through any recent act or failure to act.
- (vi) Creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act.
- (vii) Causing serious physical neglect of a child.

(viii) Engaging in any of the following recent acts:

(A) Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child.

(B) Unreasonably restraining or confining a child, based on consideration of the method, location or duration of the restraint or confinement.

(C) Forcefully shaking a child under 1 year of age.

(D) Forcefully slapping or otherwise striking a child under 1 year of age.

(E) Interfering with the breathing of a child.

(F) Causing a child to be present at a location while a violation of 18 Pa.C.S. § 7508.2 (relating to operation of methamphetamine laboratory) is occurring, provided that the violation is being investigated by law enforcement.

(G) Leaving a child unsupervised with an individual, other than the child's parent, who the actor knows or reasonably should have known:

(I) Is required to register as a Tier II or Tier III sexual offender under 42 Pa.C.S. Chapter 97, Subchapter H (relating to registration of sexual offenders), where the victim of the sexual offense was under 18 years of age when the crime was committed.

(II) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.24 (relating to assessments) or any of its predecessors.

(III) Has been determined to be a sexually violent delinquent child as defined in 42 Pa.C.S. § 9799.12 (relating to definitions).

(IV) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.58 (relating to assessments) or has to register for life under 42 Pa.C.S. § 9799.55(b) (relating to registration).

(H) Causing the death of the child through any act or failure to act.

(I) Engaging a child in a severe form of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C.A. § 7102).

*ChildLine*—An organizational unit of the Department of Human Services, which operates a 24-hour a day Statewide toll free telephone system for receiving reports of suspected child abuse, referring reports for investigation and maintaining the reports in the appropriate file.

*Continuing education certificate*—A document prepared by the program sponsor which contains the title of the course, the dates attended or completed and the hours of education completed.

*Coronal polishing*—

(i) A procedure limited to the supragingival removal of light plaque and extrinsic stain from the exposed natural and restored surfaces of the teeth using a rotary instrument with a rubber cup or brush and a polishing agent.

(ii) The term does not include calculus removal.

*Credit hour*—A minimum unit of continuing education consisting of 60 minutes of instruction. Programs longer than 60 minutes will be credited in 30 minute increments.

*Current patient*—

(i) A person that is in the process of dental treatment with a Board-regulated practitioner or who has been treated by the Board-regulated practitioner within the previous 3 months.

(ii) The term does not include a patient who has terminated the Board-regulated practitioner/patient relationship by being accepted as a patient of record at another dental practice.

*Dental clinic*—A public or quasipublic institution operated not for profit which has as a primary purpose providing dental health care.

*Department*—The Department of State of the Commonwealth.

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

*EFDA program*—An expanded function dental assisting training program.

*General supervision*—In a dental facility, supervision by a dentist who examines the patient, develops a treatment plan, authorizes the performance of dental hygiene services to be performed within 1 year of the examination, and takes full professional responsibility for the performance of the dental hygienist. In facilities identified in § 33.205(c)(2) and (3) (relating to practice as a dental hygienist), general supervision is defined in § 33.205(d)(2).

*Individual study*—A course of continuing education offered by an approved program sponsor, which permits the participant to learn without interacting with an instructor or interactive learning methodologies and which requires a passing grade on a written examination or workbook.

*Local anesthesia*—The elimination of sensations, especially pain, in one part of the body by regional injection of an anesthetic agent.

*Mandated reporter*—A person who is required under 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse) to make a report of suspected child abuse. For purposes of this chapter, the term includes all Board regulated practitioners.

*Parent*—A biological parent, adoptive parent or legal guardian.

*Perpetrator*—A person who has committed child abuse as defined in this section.

- (i) This term includes only the following:
- (A) A parent of the child.
  - (B) A spouse or former spouse of the child's parent.
  - (C) A paramour or former paramour of the child's parent.

(D) A person 14 years of age or older and responsible for the child's welfare or having direct contact with children as an employee of child-care services, a school or through a program, activity or service.

(E) An individual 14 years of age or older who resides in the same home as the child.

(F) An individual 18 years of age or older who does not reside in the same home of the child but is related within the third degree of consanguinity or affinity by birth or adoption of the child.

(G) An individual 18 years of age or older who engages a child in severe forms of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C.A. § 7102).

(ii) Only the following may be considered a perpetrator for failing to act, as provided in this section:

(A) A parent of the child.

(B) A spouse or former spouse of the child's parent.

(C) A paramour or former paramour of the child's parent.

(D) A person 18 years of age or older and responsible for the child's welfare.

(E) A person 18 years of age or older who resides in the same home as the child.

*Person responsible for the child's welfare*—A person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control.

*Program, activity or service*—Any of the following in which children participate and which is sponsored by a school or a public or private organization:

(i) A youth camp or program.

(ii) A recreational camp or program.

(iii) A sports or athletic program.

(iv) A community or social outreach program.

(v) An enrichment or educational program.

(vi) A troop, club or similar organization.

*Program sponsor*—The party approved by the Board who is responsible for the development and presentation of the continuing dental education program.

*Public health dental hygiene practitioner*—A licensed dental hygienist who is certified by the Board as having met the requirements of section 11.9 of the act (63 P.S. § 130j), and who is authorized to perform dental hygiene services in accordance with § 33.205b (relating to practice as a public health dental hygiene practitioner) without the authorization, assignment or examination of a dentist.

*Recent act or failure to act*—An act or failure to act committed within 2 years of the date of the report to the Department of Human Services or county agency.

*Serious mental injury*—A psychological condition, as diagnosed by a physician or licensed psychologist, including the refusal of appropriate treatment, that does one or more of the following:

- (i) Renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that the child's life or safety is threatened.
- (ii) Seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks.

*Serious physical neglect*—Any of the following when committed by a perpetrator that endangers a child's life or health, threatens a child's well-being, causes bodily injury or impairs a child's health, development or functioning:

- (i) A repeated, prolonged or egregious failure to supervise a child in a manner that is appropriate considering the child's developmental age and abilities.
- (ii) The failure to provide a child with adequate essentials of life, including food, shelter or medical care.

*Sexual abuse or exploitation*—Any of the following:

- (i) The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another individual to engage in sexually explicit conduct, which includes the following:

- (A) Looking at the sexual or other intimate parts of a child or another individual for the purpose of arousing or gratifying sexual desire in any individual.

- (B) Participating in sexually explicit conversation either in person, by telephone, by computer or by a computer-aided device for the purpose of sexual stimulation or gratification of any individual.

- (C) Actual or simulated sexual activity or nudity for the purpose of sexual stimulation or gratification of any individual.

- (D) Actual or simulated sexual activity for the purpose of producing visual depiction, including photographing, videotaping, computer depicting or filming.

- (ii) Any of the following offenses committed against a child:

- (A) Rape as defined in 18 Pa.C.S. § 3121 (relating to rape).

- (B) Statutory sexual assault as defined in 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).

- (C) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).

- (D) Sexual assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault).

(E) Institutional sexual assault as defined in 18 Pa.C.S. 3124.2 (relating to institutional sexual assault).

(F) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

(G) Indecent assault as defined in 18 Pa.C.S. § 3126 (relating to indecent assault).

(H) Indecent exposure as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure).

(I) Incest as defined in 18 Pa.C.S. § 4302 (relating to incest).

(J) Prostitution as defined in 18 Pa.C.S. § 5902 (relating to prostitution and related offenses).

(K) Sexual abuse as defined in 18 Pa.C.S. § 6312 (relating to sexual abuse of children).

(L) Unlawful contact with a minor as defined in 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).

(M) Sexual exploitation as defined in 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).

(iii) For the purposes of subparagraph (i), the term does not include consensual activities between a child who is 14 years of age or older and another person who is 14 years of age or older and whose age is within 4 years of the child's age.

*Sexual misconduct*—Any conduct with a current patient, including words, gestures or expressions, actions or any combination thereof, which is sexual in nature, or which may be construed by a reasonable person as sexual in nature.

*Subgingival agents*—Therapeutic agents, including antimicrobials, antibiotics, antiseptics or anesthetics, placed below the free margin of the gingiva by a local delivery system or device, including injectable systems for ointments, gels or pastes, and degradable or nondegradable devices, such as fibers, films, strips, slaps, spheres, discs or chips.

#### Authority

The provisions of this § 33.1 amended under the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2); sections 3, 4.1(a)(8) and 10.1 of The Dental Law (63 P.S. §§ 122, 123(a)(8) and 129.1); and section 4 of the act of April 29, 2010 (P.L. 176, No. 19).

#### Source

The provisions of this § 33.1 adopted April 4, 1949; amended June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492; amended November 8, 1996, effective November 9, 1996, 26 Pa.B. 5410; corrected November 22, 1996, effective November 9, 1996, 26 Pa.B. 5700; amended August 11, 2000, effective August 12, 2000, 30 Pa.B. 4245; amended November 14, 2008, effective November 15, 2008, 38 Pa.B. 6279; amended December 11, 2009, effective December 12, 2009, 39 Pa.B. 6982; amended February 10, 2012, effective February 11, 2012, 42 Pa.B. 769; amended September 7, 2012, effective September 8, 2012, 42 Pa.B. 5736; amended July 31, 2020, effective August 1, 2020, 50 Pa.B. 3854. Immediately preceding text appears at serial pages (387699) to (387700), (371891) to (371892) and (369749).

#### Notes of Decisions

##### *Ripeness*

Petition for review of these regulations was dismissed as the association of dental hygienists' allegations of direct and immediate harm did not establish the justiciability of a pre-enforcement challenge to this regulation. The association's allegations of change in their work schedule, reduced availability of dental hygiene services, reduced income, possible unemployment and the uncertainty of the ongoing day-to-day operations of dental hygiene care are merely anticipatory, speculative and too remote to support a claim of direct and immediate harm. *Pennsylvania Dental Hygienists' Association v. State Board of Dentistry*, 672 A.2d 414 (Pa. Cmwlth. 1996).

#### 33-6.1

(411803) No. 579 Feb. 23

**Cross References**

This section cited in 49 Pa. Code § 33.202 (relating to fictitious names).

**§ 33.2. Applicability of general rules.**

Under 1 Pa. Code § 31.1 (relating to scope of part), 1 Pa. Code Part II (relating to general rules of administrative practice and procedure) is applicable to the activities of and proceedings before the Board.

**Source**

The provisions of this § 33.2 adopted December 19, 1975, effective December 20, 1975, 5 Pa.B. 3274.

**§ 33.3. Fees.**

Following is the schedule of fees charged by the Board:

(a) *Application fees*

	<i>Effective November 5, 2022</i>	<i>Effective July 1, 2025</i>	<i>Effective July 1, 2027</i>
Dentist	\$235	\$260	\$282
Dental facility fictitious name	\$65	\$71	\$78
Dental hygienist	\$140	\$154	\$168
Expanded function dental assistant	\$110	\$120	\$132
Anesthesia—unrestricted	\$150	\$165	\$180
Anesthesia—restricted I	\$150	\$165	\$180
Anesthesia—restricted II	\$65	\$71	\$78
Dental hygienist local anesthesia	\$50	\$55	\$60
Public health dental hygienist practitioner	\$80	\$88	\$95
Expanded function dental assistant education program	\$315	\$345	\$378
Restricted faculty license	\$235	\$260	\$282
Criteria approval—dentists	\$235	\$260	\$282
Criteria approval—dental hygienists	\$140	\$154	\$168
Criteria approval—expanded function dental assistants	\$140	\$154	\$168



(b) *Biennial renewal fees*

Following is the schedule of biennial renewal fees charged by the Board:

	<i>April 1, 2023— March 31, 2025 biennial renewal</i>	<i>April 1, 2025— March 31, 2027 biennial renewal</i>	<i>April 1, 2027— March 31, 2029 biennial renewal and thereafter</i>
Dentist	\$310	\$366	\$432
Dental hygienist	\$50	\$59	\$70
Expanded function dental assistant	\$31	\$37	\$44
Anesthesia—unrestricted	\$248	\$293	\$346
Anesthesia—restricted I	\$248	\$293	\$346
Anesthesia—restricted II	\$63	\$74	\$87
Dental hygienist local anesthesia	\$50	\$59	\$70
Public health dental hygienist practitioner	\$50	\$59	\$70
Expanded function dental assistant education program	\$118	\$139	\$164
Restricted faculty license	\$310	\$366	\$432

(c) *Miscellaneous fees*

Verification of license, permit or registration fee—dentists, dental hygienists  
and expanded function dental assistants . . . . . \$15

**Authority**

The provisions of this § 33.3 issued under section 4 of The Dental Law (63 P.S. § 123); amended under sections 3, 4(a), (b) and 11.2(a)(2), (4) and (6) and 11.11(a)(7) and (d) of The Dental Law (63 P.S. §§ 122, 123(a), (b) and 130c(a)(2), (4) and (6) and 130l(a)(7) and (d)).

**Source**

The provisions of this § 33.3 adopted April 28, 1989, effective April 29, 1989, 19 Pa.B. 1840; amended March 22, 1991, effective March 23, 1991, 21 Pa.B. 1167; amended May 19, 1995, effective May 20, 1995, 25 Pa.B. 1950; amended June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492; corrected June 30, 1995, effective July 1, 1995, 25 Pa.B. 2598; amended May 23, 1997, effective May 24, 1997, 27 Pa.B. 2547; amended June 5, 1998, effective June 6, 1998, 28 Pa.B. 2590; amended June 16, 2000, effective June 17, 2000, 30 Pa.B. 3046; amended April 30, 2004, effective May 1, 2004, 34 Pa.B. 2326; amended May 13, 2005, effective May 14, 2005, 35 Pa.B. 2899; amended December 11, 2009, effective December 12, 2009, 39 Pa.B. 6982; amended February 10, 2012, effective February 11, 2012, 42 Pa.B. 769; amended December 20, 2013, effective December 21, 2013, 43 Pa.B. 7441; amended November 4, 2022, effective November 5, 2022, 52 Pa.B. 6849. Immediately preceding text appears at serial pages (402122) to (402123).

## 33-6.3

(411805) No. 579 Feb. 23

**Cross References**

This section cited in 49 Pa. Code § 33.101 (relating to general information); 49 Pa. Code § 33.105 (relating to biennial renewal of licenses); 49 Pa. Code § 33.108 (relating to transfers out-of-State); 49 Pa. Code § 33.110 (relating to volunteer license); 49 Pa. Code § 33.115 (relating to local anesthesia permit); 49 Pa. Code § 33.116 (relating to certification of public health dental hygiene practitioners); 49 Pa. Code § 33.117 (relating to EFDA program approval); and 49 Pa. Code § 33.202 (relating to fictitious names).

**§ 33.4. Board address.**

The address of the Board is State Board of Dentistry, Post Office Box 2649, Harrisburg, PA 17105-2649.

**Source**

The provisions of this § 33.4 adopted June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492.

**§ 33.11. [Reserved].****Source**

The provisions of this § 33.11 adopted April 4, 1949; reserved June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial pages (156433) to (156434).

**§ 33.12. [Reserved].****Source**

The provisions of this § 33.12 adopted April 4, 1949; reserved June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial page (156434).

**§ 33.21. [Reserved].****Source**

The provisions of this § 33.21 adopted April 4, 1949; amended May 6, 1977, effective May 7, 1977, 7 Pa.B. 1237; reserved June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial page (154121).

**§ 33.22. [Reserved].****Source**

The provisions of this § 33.22 adopted December 23, 1977, effective December 24, 1977, 7 Pa.B. 3925; amended September 7, 1984, effective September 8, 1984, 14 Pa.B. 3250; reserved June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial pages (154121) and (119334).

**§ 33.31. [Reserved].****Source**

The provisions of this § 33.31 adopted April 4, 1949; amended August 2, 1985, effective August 3, 1985, 15 Pa.B. 2814; reserved June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial pages (119334) to (119336) and (159385).

**§ 33.32. [Reserved].****Source**

The provisions of this § 33.32 adopted April 4, 1949; reserved July 20, 1990, effective July 21, 1990, 20 Pa.B. 3972. Immediately preceding text appears at serial pages (119337) to (119338).

**§ 33.41. [Reserved].****Source**

The provisions of this § 33.41 adopted September 18, 1967; amended September 12, 1975, effective September 13, 1975, 5 Pa.B. 2396; reserved June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial pages (159385) to (159386).

**Law Reviews**

*The Choice Between Adjudication and Rulemaking for Developing Administrative Policy in Pennsylvania*, Fitzpatrick, Terrance J., 4 Widener J. Public L. 373 (1995).

**§ 33.43. [Reserved].****Source**

The provisions of this § 33.43 adopted May 24, 1985, effective May 25, 1985, 15 Pa.B. 1915; reserved June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial page (159386).

**§ 33.45. [Reserved].****Source**

The provisions of this § 33.45 adopted May 24, 1985, effective May 25, 1985, 15 Pa.B. 1915; reserved June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial pages (159386) to (159388).

**§ 33.46. [Reserved].****Source**

The provisions of this § 33.46 adopted September 19, 1986, effective September 20, 1986, 16 Pa.B. 3511; reserved June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial pages (159388) and (178769).

**§ 33.47. [Reserved].****Source**

The provisions of this § 33.47 adopted June 21, 1991, effective June 22, 1991, 21 Pa.B. 2818; reserved June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial pages (178769) to (178770).

**§ 33.48. [Reserved].****Source**

The provisions of this § 33.48 adopted March 5, 1993, effective March 6, 1993, 23 Pa.B. 1065; reserved June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial pages (178770) to (178771).

**§ 33.51. [Reserved].****Source**

The provisions of this § 33.51 adopted November 11, 1977, effective November 12, 1977, 7 Pa.B. 3316; amended January 20, 1978, effective January 21, 1978, 8 Pa.B. 203; amended June 12, 1987, effective June 13, 1987, 17 Pa.B. 2216; reserved June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial pages (178771) and (159391) to (159392).

**§ 33.51a. [Reserved].****Source**

The provisions of this § 33.51a adopted June 12, 1987, effective June 13, 1987, 17 Pa.B. 2216; reserved June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial page (159392).

**§ 33.52. [Reserved].****Source**

The provisions of this § 33.52 adopted January 27, 1978, effective January 28, 1978, 8 Pa.B. 252; reserved July 20, 1990, effective July 21, 1990, 20 Pa.B. 3972. Immediately preceding text appears at serial page (119344).

**§ 33.61. [Reserved].****Source**

The provisions of this § 33.61 adopted December 14, 1990, effective December 15, 1990, 20 Pa.B. 6190; reserved June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial pages (159393) to (159394) and (167701).

**Subchapter B. LICENSURE OF DENTISTS AND  
DENTAL HYGIENISTS AND CERTIFICATION OF EXPANDED  
FUNCTION DENTAL ASSISTANTS**

**Sec.**

- 33.101. General information.
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- 33.104. Initial licensure/certification; licensure/certification documents.
- 33.105. Biennial renewal of licenses and certificates.
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- 33.125—33.128. [Reserved].
- 33.131. [Reserved].
- 33.132—33.134. [Reserved].
- 33.135—33.140. [Reserved].
- 33.141. [Reserved].
- 33.141a. [Reserved].
- 33.142. [Reserved].
- 33.143. [Reserved].
- 33.144. [Reserved].
- 33.145. [Reserved].
- 33.146. [Reserved].
- 33.151. [Reserved].
- 33.161. [Reserved].
- 33.162. [Reserved].
- 33.163. [Reserved].
- 33.164. [Reserved].
- 33.191. [Reserved].

#### Authority

The provisions of this Subchapter B issued under section 506 of The Administrative Code of 1929 (71 P. S. § 186); and The Dental Law (63 P. S. §§ 122—130), unless otherwise noted.

### § 33.101. General information.

- (a) Only persons holding a current license issued by the Board may practice dentistry or may practice as a dental hygienist in this Commonwealth.
- (b) Only persons holding a certificate issued by the Board may practice as an expanded function dental assistant in this Commonwealth.
- (c) To secure a license or certificate, an applicant shall satisfy the requirements of the act and of this subchapter.
- (d) Applications for licensure or certification shall be made on forms supplied by the Board and shall be accompanied by the application fee in § 33.3 (relating to fees).

#### Authority

The provisions of this § 33.101 amended under sections 2—5.1, 10—11.5 and 11.7 of The Dental Law (63 P. S. §§ 121—124.1, 129—129.1, 130, 130e and 130h).

**Source**

The provisions of this § 33.101 adopted January 18, 1965; amended September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397; amended June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492; amended May 12, 2000, effective May 13, 2000, 30 Pa.B. 2359. Immediately preceding text appears at serial page (238316).

**§ 33.102. Professional education.****(a) *Dentists.***

(1) Candidates for licensure as dentists shall show compliance with section 3(c) of the act (63 P. S. § 122(c)) which requires a diploma from an “approved institution or college,” by submitting certification of graduation from a dental school accredited or provisionally accredited by the Commission on Accreditation of the American Dental Association.

(2) Candidates for licensure who received their professional education outside the United States in a nonaccredited school may satisfy the education requirement by submitting their credentials to an accredited or provisionally accredited school and obtaining additional preclinical and clinical training that will lead to the awarding of the D.M.D. or D.D.S. degree by that school.

**(b) *Dental hygienists.***

(1) Candidates for licensure as dental hygienists shall show compliance with section 3(d) of the act by submitting certification of graduation from a dental hygiene school accredited or provisionally accredited by an approved United States Department of Education-recognized regional accrediting agency or the Commission on Dental Accreditation (CODA) of the American Dental Association, if the school’s dental hygiene course of study comprises a minimum of 2 years of at least 32 weeks of at least 30 hours each week or its equivalent.

(2) Candidates for licensure who received their professional education outside the United States in a nonaccredited school may satisfy the education requirement by submitting their credentials to an accredited or provisionally accredited school and obtaining additional training that will lead to the awarding of a degree in dental hygiene by that school.

**(c) *Expanded function dental assistants.***

(1) Candidates for certification as expanded function dental assistants shall show compliance with section 3(d.1) of the act by submitting verification of one of the following:

(i) Graduation from a Board-approved EFDA program at a 2-year college or other institution accredited or provisionally accredited by an accrediting agency approved by the United States Department of Education Council on Postsecondary Accreditation which offers an Associate Degree.

(ii) Graduation from a dental hygiene school which required the successful completion of at least 75 hours of clinical and didactic instruction in

restorative functions accredited or provisionally accredited by the Commission on Dental Accreditation (CODA) of the American Dental Association.

(iii) Completion of a Board-approved EFDA program, which offers a certificate or diploma, consisting of at least 200 hours of clinical and didactic instruction from a dental assisting program accredited by one of the following:

(A) The Commission on Dental Accreditation (CODA) of the American Dental Association.

(B) An accrediting agency approved by the United States Department of Education Council on Postsecondary Accreditation whose expanded function educational standards are approved by the Board.

(2) The Board will approve EFDA programs that meet the criteria in § 33.117 (relating to EFDA program approval). A list of Board-approved EFDA programs will be maintained on the Board's web site.

(3) Candidates for certification who receive their professional education outside the United States or from a nonaccredited program may satisfy the





education requirement by submitting their credentials to a program listed in paragraph (1) and obtaining additional training that will lead to the awarding of a degree by that school.

(4) This subsection does not apply to persons who are not required to meet the educational requirements under section (3)(d.1)(2) of the act.

#### Authority

The provisions of this § 33.102 amended under sections 2—5.1, 10—11.5 and 11.7 of The Dental Law (63 P. S. §§ 121—124.1, 129—129.1, 130, 130e and 130h).

#### Source

The provisions of this § 33.102 adopted June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492; amended May 12, 2000, effective May 13, 2000, 30 Pa.B. 2359; amended December 11, 2009, effective December 12, 2009, 39 Pa.B. 6982; amended February 10, 2012, effective February 11, 2012, 42 Pa.B. 769. Immediately preceding text appears at serial pages (346645) to (346646) and (349677).

#### Cross References

This section cited in 49 Pa. Code § 33.117 (relating to EFDA program approval).

### § 33.103. Examinations.

(a) *Dentists*. Candidates for licensure shall pass the National Board Dental Examination (written examination) and the dental clinical examination administered by one of the following:

- (1) The North East Regional Board of Dental Examiners, Inc. (NERB).
- (2) The Southern Regional Testing Agency, Inc. (SRTA).
- (3) The Western Regional Examining Board (WREB).
- (4) The Central Regional Dental Testing Service, Inc. (CRDTS).
- (5) The Council of Interstate Testing Agencies, Inc. (CITA).

(b) *Dental hygienists*. Candidates for licensure shall pass the National Board Dental Hygiene Examination (written examination) and the dental hygiene clinical examination administered by one of the following:

- (1) The North East Regional Board of Dental Examiners, Inc. (NERB).
- (2) The Southern Regional Testing Agency, Inc. (SRTA).
- (3) The Western Regional Examining Board (WREB).
- (4) The Central Regional Dental Testing Service, Inc. (CRDTS).
- (5) The Council of Interstate Testing Agencies, Inc. (CITA).

(c) *Expanded function dental assistants*. Candidates for certification shall pass a written examination acceptable to the Board.

(d) *Additional requirement*. The Board will recognize successful completion of the dental or dental hygiene clinical examinations or the expanded function dental assistant examination approved by the Board for up to 5 years from the date scores are reported to the Board. After 5 years, the Board will accept passing scores on the examinations only if the candidate has been engaged in post-graduate training or in the practice of dentistry, as a dental hygienist or as an expanded function dental assistant in another jurisdiction.

**Authority**

The provisions of this § 33.103 amended under sections 2—5.1, 10—11.5 and 11.7 of the Dental Law (63 P. S. §§ 121—124.1, 129—129.1, 130, 130e and 130h).

**Source**

The provisions of this § 33.103 adopted June 23, 1995, effective June 24, 1995, except subsection (c) effective June 24, 1996, 25 Pa.B. 2492; amended May 12, 2000, effective May 13, 2000, 30 Pa.B. 2359; amended September 3, 2004, effective September 4, 2004, 34 Pa.B. 4882; amended May 14, 2010, effective May 15, 2010, 40 Pa.B. 2532. Immediately preceding text appears at serial pages (346647) and (342139).

**§ 33.104. Initial licensure/certification; licensure/certification documents.**

(a) Each new licensee is issued a wall certificate indicating initial licensure and a registration packet including a biennial renewal certificate and a wallet-size license card that show the expiration date of the license. Licenses expire on March 31 of each odd-numbered year, regardless of the date of issuance.

(b) Each new certificate holder is issued a wall certificate indicating initial certification and a registration packet including a biennial renewal certificate and a wallet-size certification card that show the expiration date of the certificate. Certificates expire on March 31 of each odd-numbered year, regardless of the date of issuance.

(c) Fees as prescribed by the Bureau of Professional and Occupational Affairs Fee Act (63 P. S. §§ 1401-101—1401-501), shall be charged for duplicate wall certificates and biennial renewal documents. A duplicate will be issued only upon submission by the licensee or certificate holder of a notarized statement specifying why the original is unavailable and stating that the duplicate will be returned if the original is recovered.

**Authority**

The provisions of this § 33.104 amended under sections 2—5.1, 10—11.5 and 11.7 of the Dental Law (63 P. S. §§ 121—124.1, 129—129.1, 130, 130e and 130h).

**Source**

The provisions of this § 33.104 adopted June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492; amended May 12, 2000, effective May 13, 2000, 30 Pa.B. 2359. Immediately preceding text appears at serial page (223025).

**§ 33.105. Biennial renewal of licenses and certificates.**

(a) Licenses and certificates are renewable for a 2-year period beginning April 1 of each odd-numbered year. The fee for the biennial renewal is set by the Board. See § 33.3 (relating to fees). Upon renewal, licensees and certificate holders receive new biennial renewal licenses or certificates, as appropriate, and wallet-size cards which include the expiration date.

(b) As a condition of biennial renewal, commencing with the 2001-2003 renewal period, licensees and certificate holders shall maintain current certifica-

tion in infant, child and adult cardiopulmonary resuscitation and continuing education requirements specified in Subchapter F (relating to continuing dental education). Licensees and certificate holders shall certify their compliance with this subsection when renewing their licenses on and after April 1, 2001. Courses for certification in cardiopulmonary resuscitation (CPR) shall be substantially similar in content to the CPR courses offered by the American Heart Association and the American Red Cross and have a similar renewal period.

(c) Dentists and dental hygienists who fail to renew their licenses and expanded function dental assistants who fail to renew their certificates are prohibited from practicing their profession in this Commonwealth.

#### Authority

The provisions of this § 33.105 amended under sections 2—5.1, 10—11.5 and 11.7 of the Dental Law (63 P. S. §§ 121—124.1, 129—129.1, 130, 130e and 130h).

#### Source

The provisions of this § 33.105 adopted June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492; amended May 12, 2000, effective May 13, 2000, 30 Pa.B. 2359; amended August 11, 2000, effective August 12, 2000, 30 Pa.B. 4245. Immediately preceding text appears at serial page (266021).

#### Cross References

This section cited in 49 Pa. Code § 43b.14a (relating to civil penalties—dentists, dental hygienists and expanded function dental assistants).

### § 33.106. Reactivation of licenses and certificates.

(a) Dentists and dental hygienists who have failed to renew their licenses and expanded function dental assistants who have failed to renew their certificates may apply for reactivation on forms prescribed by the Board. The applicant for reactivation shall pay the current biennial renewal fee, provide evidence of current certification in cardiopulmonary resuscitation, and shall submit a notarized affidavit identifying the period of time in which the applicant did not practice in this Commonwealth. Effective with the 1999-2001 renewal period, licensees and certificate holders shall also complete the continuing education requirements for the renewal periods during which the license or certificate was not renewed.

(b) In addition to the requirements in subsection (a), an applicant for reactivation who has failed to renew for more than 5 years may be subject to reexamination under section 3.1(b) of the act (63 P. S. § 122.1.(b)).

(c) An applicant for reactivation who practiced in this Commonwealth without a current license or certificate shall pay a later renewal fee of \$5 for each month or part of a month during which the unauthorized practice occurred, as provided in section 225 of the Bureau of Professional and Occupational Affairs Fee Act (63 P. S. § 1401-225). In addition, the applicant shall pay the biennial renewal fee for each biennium during which unauthorized practice occurred. The payment of late fees and biennial renewal fees does not preclude the Board from taking disciplinary action against a dentist or dental hygienist who practice without a current license or an expanded function dental assistant who practice without a current certificate.

**Authority**

The provisions of this § 33.106 amended under sections 2—5.1, 10—11.5 and 11.7 of the Dental Law (63 P. S. §§ 121—124.1, 129—129.1, 130, 130e and 130h).

**Source**

The provisions of this § 33.106 adopted June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492; amended May 12, 2000, effective May 13, 2000, 30 Pa.B. 2359; amended August 11, 2000, effective August 12, 2000, 30 Pa.B. 4245. Immediately preceding text appears at serial pages (266021) to (266022).

**§ 33.107. Licensure and certification by criteria approval.**

Dentists, dental hygienists and expanded function dental assistants who are currently licensed or certified in another state or territory or in Canada may be granted licensure or certification in this Commonwealth if the credentials submitted meet the requirements of the act and of this subchapter. Licensure and certification by criteria approval will be granted only to applicants whose licensing boards confirm that they reciprocate with the Commonwealth. An applicant shall cause the licensing authority of each state where the applicant has practiced to submit to the Board a letter of good standing. The Board may grant a personal interview to resolve questions concerning an applicant's qualifications.

**Authority**

The provisions of this § 33.107 amended under sections 2—5.1, 10—11.5 and 11.7 of the Dental Law (63 P. S. §§ 121—124.1, 129—129.1, 130, 130e and 130h).

**Source**

The provisions of this § 33.107 adopted June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492; amended May 12, 2000, effective May 13, 2000, 30 Pa.B. 2359. Immediately preceding text appears at serial page (223026).

**§ 33.108. Transfers out-of-state.**

Dentists, dental hygienists and expanded function dental assistants who wish their licensure, certification or grades certified to another state shall pay the fee in § 33.3 (relating to fees).

**Authority**

The provisions of this § 33.108 amended under sections 2—5.1, 10—11.5 and 11.7 of the Dental Law (63 P. S. §§ 121—124.1, 129—129.1, 130, 130e and 130h).

**Source**

The provisions of this § 33.108 adopted June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492; amended May 12, 2000, effective May 13, 2000, 30 Pa.B. 2359. Immediately preceding text appears at serial page (238317).

**§ 33.109. Licensee's and certificate holder's change of name or address; service of process and legal papers.**

(a) A licensee's or certificate holder's name on file with the Board shall be the name that appears on the license or certificate unless that name is legally changed, in which case the licensee or certificate holder shall report the change to the Board in writing within 10 days.

(b) A licensee or certificate holder who changes an address on file with the Board shall notify the Board in writing within 10 days. Licensees or certificate

holders who do not comply with this subsection shall bear full responsibility for failure to receive correspondence, including biennial renewal notifications, from the Board or the Department.

(c) A licensee's or certificate holder's most recent name and address on file with the Board will be deemed the licensee's or certificate holder's official name and address for purposes of service of process and other legal papers.

**Authority**

The provisions of this § 33.109 amended under sections 2—5.1, 10—11.5 and 11.7 of the Dental Law (63 P. S. §§ 121—124.1, 129—129.1, 130, 130e and 130h).

**Source**

The provisions of this § 33.109 adopted June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492; amended May 12, 2000, effective May 13, 2000, 30 Pa.B. 2359. Immediately preceding text appears at serial page (238317).

**§ 33.110. Volunteer license.**

(a) *Purpose and definitions.*

(1) The following subsections implement the Volunteer Health Services Act (35 P. S. §§ 449.41—449.50) and provide for the issuance of a volunteer license to a qualified individual who retires from active practice and seeks to provide professional services as a volunteer. A volunteer license authorizes the holder to practice only in an organized community-based clinic without remuneration.

(2) The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

*Approved clinic—*

(i) An organized community-based clinic offering primary health care services to individuals and families who cannot pay for their care, to Medical Assistance clients or to residents of medically underserved areas or health professionals shortage areas.

(ii) The term includes a State health center, nonprofit community-based clinic and Federally qualified health center, as designated by Federal rule-making or as approved by the Department of Health or the Department of Public Welfare.

*Unrestricted license—*A license which is not restricted or limited by order of the Board under its disciplinary power.

(b) *License.* A volunteer license may be issued to a licensee or certificateholder of the Board who documents to the satisfaction of the Board that the licensee will practice without personal remuneration in approved clinics and meets one of the following conditions:

(1) Holds a currently renewed, active, unrestricted license, registration or certificate in this Commonwealth and retires from active practice at the time the licensee applies for a volunteer license.

(2) Retires from the active practice of dentistry, or as a dental hygienist or as an expanded function dental assistant in this Commonwealth in possession of an unrestricted license, registration or certificate which was allowed to lapse by not renewing it. A retired licensee, registrant or certificateholder shall meet

any requirements of the act or the regulations pertaining to continued education or continued competency to be eligible for renewal.

(c) *Applications.* An applicant for a volunteer license shall complete an application obtained from the Board. In addition to providing information requested by the Board, the applicant shall provide:

(1) An executed verification on forms provided by the Board certifying that the applicant intends to practice exclusively:

- (i) Without personal remuneration for professional services.
- (ii) In an approved clinic.

(2) A letter signed by the director or chief operating officer of an approved clinic that the applicant has been authorized to provide volunteer services in the named clinic by the governing body or responsible officer of the clinic.

(d) *Validity of license.* A volunteer license shall be valid for the biennial period for which it is issued, subject to biennial renewal. During each biennial renewal period, the volunteer license holder shall notify the Board of any change in clinic or volunteer status within 30 days of the date of the change, or at the time of renewal, whichever occurs first.

(e) *Biennial renewal.* A volunteer license shall be renewed biennially on forms provided by the Board.

(1) As a condition of biennial renewal, the applicant shall satisfy the same continuing education requirements as the holder of an active, unrestricted license.

(2) The applicant shall be exempt from payment of the biennial renewal fee in § 33.3 (relating to fees).

(f) *Return to active practice.* A volunteer license holder who desires to return to active practice shall notify the Board and apply for biennial registration on forms provided by the Board.

(g) *Disciplinary provisions.* A volunteer license holder shall be subject to the disciplinary provisions of the act and this chapter. Failure of the licensee to comply with the Volunteer Health Services Act or this section may also constitute grounds for disciplinary action.

(h) *Permits to administer general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia.*

(1) A dentist who applies for a volunteer license under subsection (b) who holds a current permit to administer anesthetic modalities may also apply for reissuance of an unrestricted or restricted permit of the type issued to the dentist as an active licensee under § 33.333 (relating to types of permits).

(2) A retired dentist who applies under subsection (b)(1) and (2) for a volunteer license who, within 2 years of the date of application, held an unrestricted permit or a restricted permit I, may apply for reissuance of the permit, but shall be required to comply with § 33.336a (relating to requirements for unrestricted permit and restricted permit I) by completing:

- (i) An attestation in accordance with § 33.336a(b).
- (ii) ACLS/PALS certification in accordance with § 33.336a(c).
- (iii) Continuing anesthesia education in accordance with § 33.336a(d).

(3) A retired dentist who applies under subsection (b)(1) and (2) for a volunteer license who, within 5 years of the date of application, held a restricted permit II may apply for reissuance of the permit, but shall be required to comply with § 33.337(b) (relating to requirements for restricted permit II) by providing:

(i) A statement containing the make, model and serial number of nitrous oxide/oxygen analgesia equipment.

(ii) A certification that the equipment is properly calibrated, maintained, contains a fail-safe system and is in working order.

(iii) An attestation that the applicant has written procedures for handling emergencies.

(4) A dentist who applies for a volunteer license who does not qualify for a permit under paragraphs (1)—(3) and who wishes to administer general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia under § 33.332(a) (relating to requirement of permit to administer general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia) shall satisfy the educational requirements of § 33.335(a)(1), § 33.336 or § 33.337(a) (relating to requirements for unrestricted permit; requirements for restricted permit I; and requirements for restricted permit II), as applicable.

(5) Volunteer license holders will not be subject to any fee for the issuance, reissuance or renewal of a permit under this subsection.

(i) *Supervision.* Volunteer dental hygienists shall meet the supervision requirements of § 33.205(c)(1) (relating to practice as a dental hygienist). Volunteer expanded function dental assistants shall meet the supervision requirements of section 2 of the act (63 P. S. § 121).

#### Authority

The provisions of this § 33.110 issued under section 5 of the Volunteer Health Services Act (35 P. S. § 449.45); and section 3(o) of The Dental Law (63 P. S. § 122(o)); amended under sections 3(o) and 11.2(a) of The Dental Law (63 P. S. §§ 122(o) and 130c(a)).

#### Source

The provisions of this § 33.110 adopted November 28, 1997, effective November 29, 1997, 27 Pa.B. 6220; amended May 13, 2005, effective May 14, 2005, 35 Pa.B. 2880. Immediately preceding text appears at serial pages (267882) to (267884).

### § 33.111. [Reserved].

#### Source

The provisions of this § 33.111 adopted January 18, 1965; amended September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397; amended January 20, 1978, effective January 21, 1978, 8 Pa.B. 203; amended July 20, 1990, effective July 21, 1990, 20 Pa.B. 3972; reserved June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial page (148359).

### § 33.112. [Reserved].

#### Source

The provisions of this § 33.112 adopted January 18, 1965; amended September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397; reserved June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial page (148359).



**§ 33.113. [Reserved].****Source**

The provisions of this § 33.113 adopted January 18, 1965; reserved September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397. Immediately preceding text appears at serial page (9773).

**§ 33.114. First certification examination.**

(a) The Board will give notice to temporary permit holders of the date, time and location of the first expanded function dental assistant certification examination. A temporary permit holder is required to register for and achieve a passing score on the examination.

(b) Failure to register or to sit for the examination (unless the Board grants a waiver under subsection (c)) shall be deemed a failure of the examination. Upon notice from the Board of the failure of the examination, the temporary permit holder shall immediately cease to practice as an expanded function dental assistant and shall return the temporary permit to the Board.

(c) The Board will grant a waiver to a temporary permit holder who has not been present at the examination, who provides the Board with documentation acceptable to the Board that illness or bereavement prevented the applicant from taking the examination as scheduled. A request for a waiver shall be filed with the Board within 10 days of the examination date. If a waiver is not granted, the temporary permit holder shall, upon notice, immediately cease practicing as an expanded function dental assistant and return the permit to the Board.

**Authority**

The provisions of this § 33.114 amended under sections 2—5.1, 10—11.5 and 11.7 of The Dental Law (63 P. S. §§ 121—124.1, 129—129.1, 130, 130e and 130h).

**Source**

The provisions of this § 33.114 adopted May 12, 2000, effective May 13, 2000, 30 Pa.B. 2359.

**§ 33.115. Local anesthesia permit.**

(a) *Permit required.* A dental hygienist shall possess a current permit issued by the Board under this section before administering local anesthesia to a patient in a dental office. For purposes of this section, the term “local anesthesia” includes local infiltration anesthesia and intraoral nerve block anesthesia limited to the 2nd (maxillary) and 3rd (mandibular) divisions of the trigeminal nerve.

(b) *Application.* A dental hygienist who desires to obtain a permit to administer local anesthesia shall submit an application on a form provided by the Board, pay the permit fee prescribed in § 33.3 (relating to fees) and meet the qualifications for the permit as prescribed in this section.

(c) *Qualifications.* To obtain a local anesthesia permit, a dental hygienist shall:

- (1) Hold a current license in good standing to practice as a dental hygienist in this Commonwealth.
- (2) Hold current certification in Basic Life Support (BLS).
- (3) Provide to the Board one of the following:
  - (i) Certification of education by the dental hygiene program on a form provided by the Board verifying that the dental hygienist graduated, within



the 5 years immediately preceding the filing of the application for local anesthesia permit, from a dental hygiene program that meets the following criteria:

(A) The dental hygiene program is accredited by the American Dental Association's Commission on Dental Accreditation (CODA).

(B) The dental hygiene program included the successful completion of a didactic and clinical course in the administration of local anesthesia.

(ii) Certification of education by the dental or dental hygiene program on a form provided by the board verifying that the dental hygienist successfully completed, within the 5 years immediately preceding the filing of the application for local anesthesia permit, a course consisting of a minimum of 30 hours of didactic and clinical instruction in the administration of local anesthesia sponsored by a dental or dental hygiene education program accredited by CODA.

(iii) A certificate or letter of good standing from the proper licensing authority of another state, territory or district of the United States, or of a province or territory of Canada, verifying that the dental hygienist possesses a current license or permit issued by the proper licensing authority of another state, territory or district of the United States, or by the proper licensing authority of a province or territory of Canada, where the dental hygienist is authorized under the laws of that jurisdiction to administer local anesthesia, provided that the following additional conditions are met:

(A) The jurisdiction where the dental hygienist is so licensed or permitted requires completion of a course in the administration of local anesthesia accredited by CODA or by the Commission on Dental Accreditation of Canada (CDAC) prior to obtaining certification, endorsement or other such authority.

(B) The dental hygienist signs a certification statement on the application for a local anesthesia permit verifying that the dental hygienist actively engaged in the administration of local anesthesia under a current license or permit within the 5 years immediately preceding the filing of the application for a local anesthesia permit.

(C) The dental hygienist signs a certification statement on the application for a local anesthesia permit verifying that, at all times prior to filing the application for local anesthesia permit, the dental hygienist administered local anesthesia in accordance with all applicable laws and regulations of the jurisdiction where the dental hygienist is so licensed or permitted.

(D) The jurisdiction where the dental hygienist is so licensed or permitted verifies that there has been no disciplinary action taken against the dental hygienist relating to the administration of local anesthesia.

(d) *Expiration and biennial renewal.* A local anesthesia permit issued by the Board under this section will expire at the same time as the permitholder's dental hygiene license but may be renewed biennially at the same time the dental hygiene license is renewed. A dental hygienist who desires to renew a local anesthesia permit shall submit the following:

- (1) A renewal application on a form provided by the Board.
- (2) The permit renewal fee set forth in § 33.3.
- (3) Proof of current certification in BLS.

**Authority**

The provisions of this § 33.115 issued under sections 3(d), (j.2) and (o) of The Dental Law (63 P. S. § 122(d), (j.2) and (o)).

**Source**

The provisions of this § 33.115 adopted December 11, 2009, effective December 12, 2009, 39 Pa.B. 6982.

**Cross References**

This section cited in 49 Pa. Code § 33.205 (relating to practice as a dental hygienist).

**§ 33.116. Certification of public health dental hygiene practitioners.**

(a) *Application.* A licensed dental hygienist who desires to obtain certification as a public health dental hygiene practitioner shall submit an application on a form provided by the Board, pay the application fee prescribed in § 33.3 (relating to fees) and meet the qualifications for certification as prescribed in this section.

(b) *Qualifications.* To qualify for certification as a public health dental hygiene practitioner, a dental hygienist shall:

- (1) Hold a current license in good standing to practice as a dental hygienist in this Commonwealth.
- (2) Provide to the Board a certification statement signed by a licensed dentist verifying that the dental hygienist has completed 3,600 hours of practice as a licensed dental hygienist under the supervision of the licensed dentist.
- (3) Provide to the Board documentation demonstrating that the dental hygienist has obtained professional liability insurance or is a named insured covered by a group policy in the minimum amount of \$1,000,000 per occurrence and \$3,000,000 per annual aggregate. This documentation may include a certificate of insurance issued by the insurer, or a copy of the declarations page of the professional liability insurance policy.

(c) *Expiration and biennial renewal.* A certificate issued by the Board under this section will expire at the same time as the certificateholder's dental hygiene license but may be renewed biennially at the same time the dental hygiene license is renewed. A dental hygienist who desires to renew a public health dental hygiene practitioner certificate shall submit the following:

- (1) A renewal application on a form provided by the Board.
- (2) The permit renewal fee set forth in § 33.3.

**Authority**

The provisions of this § 33.116 issued under section 3(d), (j.2) and (o) of The Dental Law (63 P. S. § 122(d), (j.2) and (o)).

**Source**

The provisions of this § 33.116 adopted December 11, 2009, effective December 12, 2009, 39 Pa.B. 6982.

**§ 33.117. EFDA program approval.**

(a) *Definitions.* The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

*Clinical evaluation*—An evaluation system based on observation of a student's performance of clinical skills in contexts that resemble those the student will be expected to encounter as an expanded function dental assistant in a dental office.

*Clinical instruction*—A learning experience in a clinical setting where the student performs expanded functions on patients under the supervision of an instructor.

*Clinical setting*—

(i) A setting in which expanded function dental assisting procedures are performed through direct patient care.

(ii) The term does not include a setting where procedures are performed on typodonts, manikins or by other simulation methods.

*Competencies*—Statements describing the necessary requirements to perform each procedure in § 33.205a (relating to practice as an expanded function dental assistant) to the level required to meet the acceptable and prevailing standard of care within the dental community in this Commonwealth.

*Competent*—Having sufficient knowledge, skill and expertise in performing expanded functions to meet and maintain the acceptable and prevailing standard of care within the dental community in this Commonwealth.

*Laboratory or preclinical instruction*—A learning experience in which students perform expanded functions using study models, typodonts, manikins or other simulation methods under the supervision of the instructor.

(b) *Application.* EFDA programs shall apply for Board approval on forms to be provided by the Board and pay the fee in § 33.3 (relating to fees). The application must include the following information:

- (1) The EFDA program goals and objectives.
- (2) The criteria for measuring competencies.
- (3) Documentation of accreditation as required under section 3(d.1) of the act (63 P. S. § 122(d.1)).
- (4) The curriculum vitae and job description of the EFDA program director.
- (5) The curriculum vitae and job description of each faculty member assigned to the EFDA program.
- (6) A description of the physical facilities and equipment used by the EFDA program for laboratory, preclinical and clinical instruction.
- (7) A copy of the formal written agreement for the use of off-campus laboratory, preclinical or clinical facilities, if applicable.
- (8) Course outlines, course descriptions or syllabi for the EFDA program curriculum.
- (9) Other information related to the EFDA program requested by the Board.

(c) *Requirements for approval.* The Board will approve EFDA programs that meet the following requirements:

(1) *Planning and assessment.*

(i) The EFDA program shall delineate its program goals and objectives for preparing individuals in the expanded function dental assisting procedures in § 33.205a to a level consistent with the acceptable and prevailing standard of care within the dental community in this Commonwealth.

(ii) The EFDA program shall develop specific criteria for measuring levels of competency for the procedures in § 33.205a which reflect the acceptable and prevailing standards and expectations of the dental community. Students shall be evaluated by faculty according to these predetermined criteria.

(iii) The EFDA program shall record and retain student clinical evaluations as documentation of student competency for a minimum of 5 years from the student's graduation or completion of the EFDA program.

(2) *Institutional accreditation.* The EFDA program shall comply with the accreditation requirements of section 3(d.1) of the act and § 33.102(c) (relating to professional education).

(3) *Program director.* The EFDA program shall identify a program director who is responsible for and involved in the following:

(i) Student selection.

(ii) Curriculum development and implementation.

(iii) Ongoing evaluation of program goals, objectives, content and outcomes assessment.

(iv) Annual evaluations of faculty performance including a discussion of the evaluation with each faculty member.

(v) Evaluation of student performance and maintenance of competency records for 5 years from graduation or completion of the EFDA program.

(vi) Participation in planning for and operation of facilities used in the EFDA program.

(vii) Evaluation of the clinical training and supervision provided in affiliated offices and off-campus facilities, as applicable.

(viii) Maintenance of records related to the EFDA program, including instructional objectives and course outcomes.

(ix) Instruction of licensed dentists overseeing off-campus clinical procedures performed by expanded function dental assistant students to ensure that the policies and procedures of the off-campus facility are consistent with the philosophy and objectives of the EFDA program.

(4) *Faculty.* An EFDA program faculty member shall either be a dentist who holds a current license in good standing from the Board or meets the following criteria:

(i) Holds a current expanded function dental assistant certificate issued by the Board.

(ii) Has a minimum of 2 years of practical clinical experience as an expanded function dental assistant.

(iii) Holds National certification as a certified dental assistant issued by the Dental Assisting National Board.

(iv) Has completed a course in education methodology of at least 3 credits or 45 hours offered by an accredited institution of postsecondary education or complete a course in educational methodology no later than 18 months after employment as a faculty member.

(5) *Facilities and equipment.*

(i) The EFDA program shall provide physical facilities which provide space adequate to the size of its student body and sufficient to enable it to meet its educational objectives for laboratory, preclinical and clinical instruction.

(ii) The EFDA program shall provide equipment suitable to meet the training objectives of the course or program and shall be adequate in quantity and variety to provide the training specified in the course curriculum or program content.

(iii) If the EFDA program contracts for off-campus laboratory, preclinical or clinical instruction facilities, the following conditions must be met:

(A) There must be a formal written agreement between the EFDA program and the laboratory, preclinical or clinical facility.

(B) In off-campus clinical facilities, a licensed dentist shall oversee dental procedures performed on patients by EFDA program students. The licensed dentist shall receive instruction to ensure that the policies and procedures of the off-campus facility are consistent with the philosophy and objectives of the EFDA program.

(iv) The standards in this paragraph are equally applicable to extramural dental offices or clinic sites used for clinical practice experiences, such as internships or externships.

(6) *Curriculum.* The curriculum of an EFDA program must consist of the following components:

(i) *General education.* The EFDA program shall include general education subjects as determined by the educational institution with a goal of preparing the student to work and communicate effectively with patients and other health care professionals.

(ii) *Dental sciences.* The EFDA program shall include content in general dentistry related to the expanded functions in section 11.10(a) of the act (63 P. S. § 130k(a)) and as set forth in § 33.205a, including courses covering the following topics:

- (A) Dental anatomy.
- (B) Occlusion.
- (C) Rubber dams.
- (D) Matrix and wedge.
- (E) Cavity classification and preparation design.
- (F) Bases and liners.
- (G) Amalgam restoration.
- (H) Composite restoration.
- (I) Sealants.

- (J) Crown and bridge provisional fabrication.
- (K) Dental law and ethics.
- (L) Coronal polishing.
- (M) Fluoride treatments, including fluoride varnish.
- (N) Taking impressions of teeth for study models, diagnostic casts and athletic appliances.

(iii) *Clinical experience component.* The EFDA program shall include a minimum of 120 hours of clinical experience performing expanded function dental assisting procedures as an integral part of the EFDA program. The clinical experience component shall be designed to achieve a student's clinical competence in each of the expanded function dental assisting procedures in § 33.205a.

(7) *Demonstrating competency.*

(i) *General education.* Students of the EFDA program shall be required to demonstrate competency in general education subjects by attaining a passing grade on examinations.

(ii) *Laboratory and preclinical instruction.* Students in the EFDA program shall be required to demonstrate competency by attaining a score of at least 80% in laboratory and preclinical courses. Students shall be required to demonstrate the knowledge and skills required to:

(A) Carve the anatomy of all teeth.

(B) Establish proper contact areas, embrasures, marginal adaptation, as well as facial and lingual heights of contour to restore the proper tooth form and function in restorative materials commonly used for direct restorations, such as amalgam and composite resin.

(C) Apply the basic concepts and terms of occlusion and carving concepts in the restoration of proper occlusal relationships.

(D) Describe the problems associated with improper contouring of restorations.

(E) Identify and differentiate G.V. Black's cavity classifications.

(F) Select, prepare, assemble, place and remove a variety of matrices and wedges.

(G) Place and finish Class I—VI restorations with correct marginal adaptation contour, contact and occlusion.

(H) Assemble, place and remove rubber dams.

(I) Place sealants.

(J) Crown and bridge provisional fabrication.

(K) Understand the act and this chapter as they apply to an expanded function dental assistant's responsibilities.

(L) Perform coronal polishing.

(M) Perform fluoride treatments, including fluoride varnish.

(N) Take impressions of teeth for study models, diagnostic casts and athletic appliances.

(iii) *Clinical experience.* EFDA program students shall be evaluated and deemed clinically competent by at least one licensed dentist evaluator in a clinical setting. The EFDA program director shall instruct the dentist clinical

evaluators regarding the required competencies to ensure consistency in evaluation. Clinical competency is achieved when the dentist evaluator confirms the student has sufficient knowledge, skill and expertise in performing expanded functions to meet and maintain the acceptable and prevailing standard of care within the dental community in this Commonwealth.

(iv) *Documenting competency.*

(A) The EFDA program faculty and program director shall document the student's general education, preclinical and laboratory competency attainment.

(B) The licensed dentist evaluator shall document the student's clinical competency attainment prior to graduation from the EFDA program.

(C) The EFDA program director shall sign a statement certifying the student's competency attainment in general education, laboratory and preclinical instruction, and clinical experience to the Board as part of the student's application for certification as an expanded function dental assistant.

(D) The EFDA program shall retain supporting documentation evidencing the student's competency attainment for a minimum of 5 years from graduation or completion of the EFDA program.

(d) *Refusal or withdrawal of approval.* The Board may refuse to approve an EFDA program or may remove an EFDA program from the approved list if it fails to meet and maintain the requirements set forth in this section, in accordance with the following:

(1) The Board will give an EFDA program notice of its provisional denial of approval or of its intent to remove the program from the approved list.

(2) The notice will set forth the requirements that are not being met or maintained by the EFDA program.

(3) A program served with a provisional denial or notice of intent to remove will be given 45 days in which to file a written answer to the notice.

(4) The EFDA program will be provided an opportunity to appear at a hearing to demonstrate why approval should not be refused or withdrawn.

(5) The Board will issue a written decision.

(6) The Board's written decision is a final decision of a governmental agency subject to review under 2 Pa.C.S. § 702 (relating to appeals).

(e) *Biennial renewal of EFDA program approval.* EFDA program approvals are renewable for a 2-year period beginning on April 1 of each odd-numbered year. An EFDA program shall apply for renewal of Board approval on forms provided by the Board and pay the fee for biennial renewal in § 33.3. Upon applying for renewal, the EFDA program shall update all of the information required under subsection (b)(1)—(9) or certify that there have not been changes to the EFDA program.

**Authority**

The provisions of this § 33.117 adopted under section 3(a), (b), (d.1)(1) and (o) of The Dental Law (63 P. S. § 122(a), (b), (d.1)(1) and (o)).

**Source**

The provisions of this § 33.117 adopted February 10, 2012, effective February 11, 2012, 42 Pa.B. 769.



**§ 33.121. [Reserved].****Source**

The provisions of this § 33.121 adopted January 18, 1965; amended September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397; reserved June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial pages (148359) to (148360).

**§ 33.122. [Reserved].****Source**

The provisions of this § 33.122 adopted January 18, 1965; amended September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397; amended January 20, 1978, effective January 21, 1978, 8 Pa.B. 203; amended July 20, 1990, effective July 21, 1990, 20 Pa.B. 3972; reserved June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial page (148360).

**§ 33.123. [Reserved].****Source**

The provisions of this § 33.123 adopted January 18, 1965; amended September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397; reserved June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial pages (148360) and (135699).

**§ 33.124. [Reserved].****Source**

The provisions of this § 33.124 adopted January 18, 1965; amended September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397; amended January 20, 1978, effective January 21, 1978, 8 Pa.B. 203; reserved April 28, 1989, effective April 29, 1989, 19 Pa.B. 1840. Immediately preceding text appears at serial page (119349).

**§§ 33.125—33.128. [Reserved].****Source**

The provisions of these §§ 33.125—33.128 adopted January 18, 1965; reserved September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397. Immediately preceding text appears at serial pages (9774) to (9779).

**§ 33.131. [Reserved].****Source**

The provisions of this § 33.131 adopted January 18, 1965; amended September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1840; reserved June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial pages (135699) to (135700).

**§§ 33.132—33.134. [Reserved].****Source**

The provisions of these §§ 33.132—33.134 adopted January 18, 1965; amended September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397; reserved June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial pages (135700) to (135701).



**§§ 33.135—33.140. [Reserved].****Source**

The provisions of these §§ 33.135—33.140 adopted January 18, 1965; reserved September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397. Immediately preceding text appears at serial pages (9781) to (9784).

**§ 33.141. [Reserved].****Source**

The provisions of this § 33.141 adopted September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397; amended November 3, 1978, effective November 4, 1978, 8 Pa.B. 3034; reserved June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial page (135702).

**§ 33.141a. [Reserved].****Source**

The provisions of this § 33.141a adopted November 3, 1978, effective November 4, 1978, 8 Pa.B. 3034; reserved June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial pages (135702) and (148361).

**§ 33.142. [Reserved].****Source**

The provisions of this § 33.142 adopted September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397; amended January 20, 1978, effective January 21, 1978, 8 Pa.B. 203; amended July 20, 1990, effective July 21, 1990, 20 Pa.B. 3972; reserved June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial page (148361).

**§ 33.143. [Reserved].****Source**

The provisions of this § 33.143 adopted September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397; reserved January 20, 1978, effective January 21, 1978, 8 Pa.B. 203. Immediately preceding text appears at serial page (30317).

**§ 33.144. [Reserved].****Source**

The provisions of this § 33.144 adopted September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397; reserved January 20, 1978, effective January 21, 1978, 8 Pa.B. 203. Immediately preceding text appears at serial page (30317).

**§ 33.145. [Reserved].****Source**

The provisions of this § 33.145 adopted September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397; reserved June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial page (148362).

**§ 33.146. [Reserved].****Source**

The provisions of this § 33.146 adopted September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1840; reserved June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial page (148362).

**§ 33.151. [Reserved].****Source**

The provisions of this § 33.151 adopted January 18, 1965; reserved September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397. Immediately preceding text appears at serial page (9784).

**§ 33.161. [Reserved].****Source**

The provisions of this § 33.161 adopted January 18, 1965; reserved September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397. Immediately preceding text appears at serial page (9785).

**§ 33.162. [Reserved].****Source**

The provisions of this § 33.162 adopted January 18, 1965; reserved September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397. Immediately preceding text appears at serial page (9785).

**§ 33.163. [Reserved].****Source**

The provisions of this § 33.163 adopted January 18, 1965; reserved September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397. Immediately preceding text appears at serial pages (9785) to (9786).

**§ 33.164. [Reserved].****Source**

The provisions of this § 33.164 adopted January 18, 1965; reserved September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397. Immediately preceding text appears at serial page (9786).

**§ 33.191. [Reserved].****Source**

The provisions of this § 33.191 adopted September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397; reserved June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial page (135705).

**Subchapter C. MINIMUM STANDARDS OF CONDUCT  
AND PRACTICE**

- Sec.  
33.201. Use of titles and other designations.  
33.202. Fictitious names.  
33.203. Advertising.  
33.204. Assignment of duties.  
33.205. Practice as a dental hygienist.

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- 33.224—33.226. [Reserved].
- 33.231. [Reserved].
- 33.232—33.234. [Reserved].
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- 33.250. Suspected child abuse—mandated reporting requirements.
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- 33.255. Noncompliance.
- 33.256. Child abuse recognition and reporting—mandatory training requirement.
- 33.257. Child abuse recognition and reporting course approval process.
- 33.291. [Reserved].

**§ 33.201. Use of titles and other designations.**

(a) Dentists, dental hygienists and expanded function dental assistants may use only the following titles when formally holding themselves out to the public as members of their respective professions:

(1) *Dentists.*

(i) “Doctor” or “Dr.” if the licensee’s name and a title permitted under subparagraph (ii) or (iii) follows immediately. The Board specifically prohibits the use of the word “Doctor” or its abbreviation except in combination with one of these titles.

(ii) “Dentist,” “Doctor of Dental Surgery,” “Doctor of Dental Medicine,” or a title such as “Orthodontist,” signifying a specialty recognized by the Board in which the dentist has advanced training in conformity with § 33.203(d)(1) (relating to advertising), when preceded by the licensee’s name.

(iii) “D.D.S.” or “D.M.D.,” when preceded by the licensee’s name.

(2) *Dental hygienists.*

(i) “Dental Hygienist” or “D. H.,” when preceded by the licensee’s name.

(ii) “Registered Dental Hygienist” or “R.D.H.,” when preceded by the licensee’s name.

(3) *Expanded function dental assistants.* “Expanded function dental assistant” or “EFDA” when preceded by the certificate holder’s name.

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(b) In addition to the titles approved under subsection (a), licensees may use, in conjunction with their names, designations of advanced degrees earned from accredited institutions and designations of advanced professional status—such as diplomate or fellow.

(c) References in this section to the licensee's or certificate holder's name shall be interpreted to mean the name appearing on the licensee's or certificate holder's current license or certificate but to allow for the use of initials preceding the licensee's or certificate holder's surname.

**Authority**

The provisions of this § 33.201 amended under sections 2—5.1, 10—11.5 and 11.7 of The Dental Law (63 P. S. §§ 121—124.1, 129—129.1, 130, 130e and 130h).

**Source**

The provisions of this § 33.201 adopted January 18, 1965; amended May 13, 1977, effective May 14, 1977, 7 Pa.B. 1284; amended June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492; amended May 12, 2000, effective May 13, 2000, 30 Pa.B. 2359. Immediately preceding text appears at serial page (253124).

**§ 33.202. Fictitious names.**

(a) Dentists may use a fictitious name that is not false, misleading or deceptive.

(b) Dentists who wish to practice under a fictitious name shall submit to the Board a fictitious name registration and the fee specified in § 33.3 (relating to fees). The dentist who submits the registration shall be associated with the facility and shall assume responsibility for compliance with this section. The owner of the facility, if different from the applicant, shall be identified on the registration.

(c) Changes in the ownership of a dental facility, changes in the designation of the responsible dentist, changes in the scope of practice or changes in professional staffing, shall be reported in writing within 10 days.

(d) Advertisements in any medium shall include the name, as it appears on the current biennial renewal certificate, and the degree—D.D.S. or D.M.D.—of at least one licensed dentist who is associated with the dental facility. The lettering for the name of the dentist shall be at least equal in size to the lettering used for the fictitious name. The dentist referred to in this subsection and the dentist who registered to use the name under subsection (b) shall be jointly responsible for the advertisement.

(e) A directory listing the names of the dentists practicing at that location shall be prominently displayed in the entrance or reception area of the dental facility.

(f) The names of dentists who have practiced under the fictitious name shall be maintained in the records of the dental facility for at least 5 years following their departure from the practice.

(g) The use of the name of a dentist no longer actively associated with the practice may be continued for up to 1 year.

(h) Dentists who are specialists under § 33.203(d)(1) (relating to advertising) may incorporate their area of specialization in their fictitious name. A specialist in one area may include another recognized specialty area, or a nonspecialty area, in a fictitious name (examples: a specialist in orthodontics using Central Orthodontics and Pediatric Dentistry or a specialist in periodontics using Central Periodontics and Cosmetic Dentistry) only if the specialist conspicuously discloses, in every medium in which the name is used, that specialty status does not extend to the other specialty or nonspecialty area.

(i) Dentists who are not specialists under § 33.203(d)(1) may incorporate any area of dentistry in their fictitious name, including the recognized specialties, only if the name, in every medium in which it is used, is accompanied by the conspicuous disclosure that services are provided by a general dentist.

(j) A fictitious name may not include the word “clinic” unless the name designates a public or quasipublic facility as defined in § 33.1 (relating to definitions).

(k) A fictitious name may not include the word “institute” unless the name designates an educational or research facility.

(1) A fictitious name may not, by the use of plurals or otherwise, misrepresent the number of dentists practicing at a facility or the number of dentists at the facility who are specialists under § 33.203(d)(1).

#### Source

The provisions of this § 33.202 adopted June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492; amended May 23, 1997, effective May 24, 1997, 27 Pa.B. 2547. Immediately preceding text appears at serial pages (223032) to (223034).

#### Cross References

This section cited in 49 Pa. Code § 33.203 (relating to advertising).

### § 33.203. Advertising.

(a) Advertising is permitted to provide the public with a sufficient basis for making an informed selection of a dentist. For purposes of this section, the term “advertising” includes signs, letterheads, business cards, and printed or broadcast announcements of services to the public.

(b) Advertising that is false, misleading or deceptive is prohibited under section 4.1(a)(10) of the act (63 P. S. § 123.1(a)(10)). Advertising is false, misleading or deceptive if it does one or more of the following:

(1) Contains a material misrepresentation of fact, or omits a fact necessary to make the statement considered as a whole not materially misleading.

(2) Is likely to create an unjustified expectation about results the dentist can achieve.

(3) Compares the advertising dentist’s services with the services of other dentists unless the comparison can be factually substantiated.

(c) A dental advertisement in any medium shall contain the name of at least one dentist whose services are being advertised. Each dentist whose name appears in the advertisement shall assume responsibility for the advertisement and shall use the name that appears on the dentist’s current biennial renewal certificate. A dentist who advertises under a fictitious name shall comply with § 33.202 (relating to fictitious names).

(d) A dental advertisement in any medium may identify the dentist as a specialist in a particular area of dentistry, state that the practice is limited to a particular area of dentistry or merely designate the kinds of dental services available. In addition, the following shall be met:

(1) An advertisement may not hold out or imply that the dentist is a specialist in any area unless the conditions in subparagraphs (i) and (ii) are satisfied. Holding out as a specialist includes the use of the terms “specialist” and “limited to specialty of” or of words such as “endodontist” and “pediatric dentist,” which denote a practitioner of the dental specialties listed in subparagraph (i).

(i) The area must be recognized by the Board as a dental specialty. The Board has adopted the American Dental Association’s (ADA’s) standards for recognizing the following specialties:

- (A) Dental public health.
- (B) Endodontics.
- (C) Oral and maxillofacial surgery.
- (D) Oral pathology.
- (E) Orthodontics.
- (F) Pediatric dentistry.
- (G) Periodontics.
- (H) Prosthodontics.

(ii) The dentist shall have successfully completed a specialty training program approved by the ADA's Commission on Dental Accreditation.

(2) A dentist who is a specialist in one area under paragraph (1) and advertises, in conjunction with the specialty, that services are provided in another recognized specialty area, or in a nonspecialty area (examples: a specialist in orthodontics announcing additional services in pediatric dentistry or a specialist in periodontics announcing additional services in placing dental implants) shall conspicuously disclose that specialty status does not extend to the other specialty or nonspecialty area.

(3) A specialist under paragraph (1) may not hold out or imply that general dentists associated with the practice are specialists.

(4) A dentist who is not a specialist under paragraph (1) may list the area in which the dentist practices or to which the practice is limited. If the advertisement identifies an area by a term that designates a recognized specialty under paragraph (1)(i), the advertisement shall conspicuously disclose that services are provided by a general dentist. For example, an advertisement that announces services in prosthodontics or oral surgery shall include the general dentist disclosure, whereas an advertisement that announces services such as crown and bridge work or extractions may omit the disclosure.

(5) Neither general dentists nor specialists may hold out or imply that a nonspecialty area of dentistry has specialty status. For example, dentists may not state that they specialize in or limit their practice to temporomandibular joint disorders or implantology but may announce services in, or a practice limited to diagnosing or treating temporomandibular joint disorders, or placing dental implants.

(e) A dental advertisement in any medium may contain the fees charged by the advertising dentist for dental services, as defined in subsection (k). If a minimum fee is advertised, the advertisement shall contain a statement disclosing that the advertised fee is the minimum fee charged for the advertised service and that the actual fee may vary depending on the degree of complexity involved in treatment. The disclosure statement shall be at least as prominent in the context of the advertisement as the fee information contained in the advertisement. If the fee information is verbal, the disclosure statement also shall be verbal and shall be at least equal to the fee information in volume, quality and duration. If the fee

information is in writing, the disclosure statement also shall be in writing and shall be at least equal to the fee information in size, legibility and length.

(f) A dental advertisement in any medium may state that dental services, as defined in subsection (k), will be rendered free of charge.

(g) For at least 60 days following final publication or broadcast of an advertisement containing information about fees or free services, the advertising dentist shall neither increase the advertised fees nor charge fees for services advertised as free unless the advertisement specifically and conspicuously stated that the advertised fees or free services would be available for a shorter period of time. When a dental patient agrees, within the 60-day period or the period otherwise stated in the advertisement, to accept a treatment plan for services for which fees have been advertised, the advertising dentist may not charge a fee higher than the advertised fee, even if the services are rendered beyond the 60-day period or the period otherwise stated in the advertisement. When a dental patient agrees, within the 60-day period or the period otherwise stated in the advertisement, to accept a treatment plan for services advertised as free, the advertising dentist may not charge fees for services, even if the services are rendered beyond the 60-day period or the period otherwise stated in the advertisement.

(h) A dental advertisement in any medium may state the dentist's office hours.

(i) A recorded copy of an advertisement on radio or television shall be retained for 1 year following the final broadcast of the advertisement. The dentist who is responsible for the advertisement under subsection (c) shall furnish the Board with a copy of the advertisement within 20 days of being requested to do so.

(j) If the narrator of a dental advertisement on radio or television is represented as a dentist, that person shall be the dentist so represented.

(k) This subsection contains definitions of some but not all of the various types of dental services for which fees may be advertised under subsection (e). Whenever a fee is advertised for one of the defined terms listed in paragraphs (1)–(10), the meaning of the term, as used in the advertisement, is at least as inclusive as the definition set forth in this subsection. These definitions will help ensure that commonly used terms for dental services convey the same meanings in advertisements, thus providing consumers with a better opportunity to compare fees for equivalent services.

(1) *Examination.* A study of the structures of the oral cavity, including the recording of the condition of the structures and the appropriate history. At a minimum, the study shall include the charting of caries; the notation of periodontal disease, occlusal discrepancies, and oral lesions; and a written diagnosis. If a dentist intends to render services in addition to the examination and to charge a separate fee for the additional services, the dentist shall disclose this separate fee to the patient before rendering the additional services.



(2) *Treatment planning.* A written statement of treatment recommendations following an examination and diagnosis. This statement shall include an itemized treatment recommendation and an itemized fee statement.

(3) *Radiographs.* X-rays of the hard and soft oral structures to be used as an aid to diagnosis.

(4) *Oral prophylaxis.* Scaling and polishing of teeth by a licensed dentist or dental hygienist.

(5) *Restorative dentistry.* Procedures involving restoration of tooth structure. The advertisement shall indicate type of restoration and materials to be used.

(6) *Endodontics.* Treatment of the dental pulp, its replacement with suitable material and associated surgery, if indicated.

(7) *Orthodontics.* Prevention and treatment of irregular dentition.

(8) *Periodontics.* Treatment of diseases of the hard and soft tissue surrounding and supporting the oral dentition, including curettage, root planing, surgery, splinting, equilibration and hygiene control procedures.

(9) *Prosthodontics.* Restoration and replacement of teeth and other oral structures by artificial devices, including:

(i) *Fixed prosthetics.* Crowns and bridges. The advertisement shall indicate the type of prosthesis and materials to be used.

(ii) *Removable prosthetics.* Partial and full dentures. The advertisement shall indicate type of prosthesis and materials to be used.

(10) *Surgery.* Surgical treatment of hard or soft tissues, extractions, and treatment of oral pathology, injuries, pain, dysfunction, deformities or other conditions of the oral cavity and its surrounding structures.

#### Source

The provisions of this § 33.203 adopted June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492.

#### Cross References

This section cited in 49 Pa. Code § 33.201 (relating to use of titles and other designations); and 49 Pa. Code § 33.202 (relating to fictitious names).

### § 33.204. Assignment of duties.

Dental procedures shall be assigned to a competent person who the dentist deems appropriate as defined by and consistent with the act.

#### Source

The provisions of this § 33.204 adopted June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492.

### § 33.205. Practice as a dental hygienist.

(a) *Scope of professional practice.* A dental hygienist may offer to perform or perform services that involve:

(1) Placement of subgingival agents.

- (2) Periodontal probing, scaling, root planning, polishing or another procedure required to remove calculus deposits, accretions, excess or flash restorative materials and stains from the exposed surfaces of the teeth and beneath the gingiva.
- (3) Evaluation of the patient to collect data to identify dental hygiene care needs.
- (4) The application of fluorides and other recognized topical agents for the prevention of oral diseases.
- (5) Conditioning of teeth for and application of sealants.
- (6) Taking of impressions of the teeth for athletic appliances.
- (7) Administration of local anesthesia by regional injection in accordance with § 33.115 (relating to local anesthesia permit).
- (b) *Prohibition against independent practice.* A dental hygienist is prohibited from establishing or maintaining an office or other workplace for the provision of dental hygiene services separate or independent from the office or other workplace in which the supervision of a dentist is provided.
- (c) *Practice sites.* A dental hygienist may engage in professional practice at the following sites under the supervision of a dentist as required in subsection (d):
  - (1) In dental facilities.
  - (2) In public or private institutions such as schools, hospitals, public health care agencies, nursing homes, mobile health units and homes for juveniles, the elderly and the handicapped.
  - (3) In institutions under the jurisdiction of Federal, State or local health agencies.
- (d) *Supervision.*
  - (1) In subsection (c)(1) practice sites (dental facilities), a dental hygienist shall provide professional services as follows:
    - (i) A dental hygienist may provide the professional services identified in subsection (a)(1) under the direct supervision of a dentist, except that these services may be provided under general supervision if the dentist has reviewed the patient's dental records and medical history and has written a prescription or given an order for the placement of subgingival agents by the dental hygienist.
    - (ii) A dental hygienist may provide the professional services identified in subsection (a)(2) under the general supervision of a dentist when the patient is free of systemic disease or suffers from mild systemic disease, as determined by the dentist with input from the dental hygienist and upon review of the patient's medical history.
    - (iii) A dental hygienist may provide the professional services identified in subsection (a)(2) under the direct supervision of a dentist when the patient is suffering from systemic disease which is severe, incapacitating, or life threatening, as determined by the dentist with input from the dental hygienist and upon review of the patient's medical history.

(iv) A dental hygienist may provide the professional services identified in subsection (a)(3)—(6) under the general supervision of a dentist.

(v) A dental hygienist may provide the professional services identified in subsection (a)(7) only under the direct supervision of a dentist. For purposes of this subparagraph, direct supervision means supervision by a dentist who has examined the patient and authorized the procedure to be performed, is physically present in the dental facility and available during the performance of the procedure, and takes full professional responsibility for the completed procedure.

(2) In subsection (c)(2) and (3) practice sites (public and private institutions and institutions under the jurisdiction of Federal, State or local health agencies), a dental hygienist shall provide professional services as follows:

(i) A dental hygienist may provide the professional services identified in subsection (a)(1) under the direct supervision of a dentist, except that these services may be provided under general supervision if a dentist has reviewed the patient's dental records and medical history and has written a prescription or given an order for the placement of subgingival agents by the dental hygienist.

(ii) A dental hygienist may provide the professional services identified in subsection (a)(2)—(6) under the general supervision of a dentist. For the purposes of this paragraph, general supervision is defined as supervision by a dentist who authorizes and takes full professional responsibility for the provision of the services. A single authorization may, when appropriate, apply to one or more classes or categories of students/patients.

(iii) A dental hygienist may provide the professional service identified in subsection (a)(7) only under the direct supervision of a dentist. For purposes of this subparagraph, direct supervision means supervision by a dentist who has examined the patient and authorized the procedure to be performed, is physically present and available during the performance of the procedure, and takes full professional responsibility for the completed procedure.

(3) For professional services not identified in subsection (a)(1)—(7) or § 33.302 (relating to requirements for personnel performing radiologic procedures), the dentist shall compare the listed services and the supervision required with the unlisted service and utilize the appropriate supervision. Supervision for noncomparable services will be determined by the Board on a modality basis.

(4) Notwithstanding the supervision requirements in this subsection, a dental hygienist may provide oral health education and perform preliminary dental screenings in any setting without the supervision of a dentist.

#### Authority

The provisions of this § 33.205 amended under section 3(d), (j.2) and (o) of The Dental Law (63 P. S. § 122(d), (j.2) and (o)).

**Source**

The provisions of this § 33.205 adopted June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492; amended December 11, 2009, effective December 12, 2009, 39 Pa.B. 6982; corrected February 26, 2010, effective December 12, 2009, 40 Pa.B. 1082. Immediately preceding text appears at serial pages (346659) to (346662).

**Cross References**

This section cited in 49 Pa. Code § 33.1 (relating to definitions); 49 Pa. Code § 33.110 (relating to volunteer license); and 49 Pa. Code § 33.205b (relating to practice as a public health dental hygiene practitioner).

**§ 33.205a. Practice as an expanded function dental assistant.****(a) *Scope of professional practice.***

(1) An expanded function dental assistant may offer to perform or perform the following services:

- (i) Placing and removing rubber dams.
- (ii) Placing and removing matrices.
- (iii) Placing and removing wedges.
- (iv) Applying cavity liners and bases.
- (v) Placing and condensing amalgam restorations.
- (vi) Carving and contouring amalgam restorations.
- (vii) Placing and finishing composite resin restorations or sealant material, or both.
- (viii) Performing coronal polishing as defined in § 33.1 (relating to definitions).
- (ix) Performing fluoride treatments, including fluoride varnish.
- (x) Taking impressions of teeth for study models, diagnostic casts or athletic appliances.

(2) Each of the professional services identified in paragraph (1) shall be performed under the direct supervision of a dentist.

**(b) *Prohibitions.*** An expanded function dental assistant may not perform the following procedures:

- (1) Complete or limited examination, diagnosis and treatment planning.
- (2) Surgical or cutting procedures of hard or soft tissue.
- (3) Prescribing drugs, medicaments or work authorizations.
- (4) Final inspection and approval of restorative and other treatment which affects occlusion and necessary occlusal adjustments.
- (5) Pulp capping, pulpotomy and other endodontic procedures.
- (6) Placement and intraoral adjustments of fixed and removable prosthetic appliances.
- (7) Administration of local anesthesia, parenteral or inhalational sedation, nitrous oxide analgesia or general anesthesia.
- (8) Take impressions other than for study models, diagnostic casts or athletic appliances.

(c) *Supervision.* Expanded function dental assistants shall perform under the direct supervision of a dentist. Direct supervision means that a dentist is in the dental office or treatment facility, personally diagnoses the condition to be treated, personally authorizes the procedure and remains in the dental office or treatment facility while the procedure is being performed by the expanded function dental assistant, and, before dismissal of the patient, personally evaluates the work performed by the expanded function dental assistant.

#### Authority

The provisions of this § 33.205a amended under sections 2—5.1, 10—11.5 and 11.7 of The Dental Law (63 P. S. §§ 121—124.1, 129—129.1, 130, 130e and 130h); and section 4 of the act of April 29, 2010 (P. L. 176, No. 19).

#### Source

The provisions of this § 33.205a adopted May 12, 2000, effective May 13, 2000, 30 Pa.B. 2359; amended September 7, 2012, effective September 8, 2012, 42 Pa.B. 5736. Immediately preceding text appears at serial pages (348144) and (360159).

#### Cross References

This section cited in 49 Pa. Code § 33.117 (relating to EFDA program approval).

### § 33.205b. Practice as a public health dental hygiene practitioner.

(a) *Scope of professional practice.* A public health dental hygiene practitioner may perform the dental hygiene services set forth in § 33.205(a)(2)—(6) (relating to practice as a dental hygienist) in the practice settings identified in subsection (c) without the authorization, assignment or examination by a dentist. A public health dental hygiene practitioner may perform the dental hygiene services set forth in § 33.205(a)(1) and (7) in accordance with § 33.205(d).

(b) *Requirement of referral.* A public health dental hygiene practitioner shall refer each patient to a licensed dentist on an annual basis. Documentation of the referral must be maintained in the patient's dental record. The failure of the patient to see a dentist as referred will not prevent the public health dental hygiene practitioner from continuing to provide dental hygiene services to the patient within the scope of professional practice set forth in subsection (a).

(c) *Practice settings.* A public health dental hygiene practitioner may perform dental hygiene services without the supervision of a dentist in the following practice settings:

(1) Public and private educational institutions that provide elementary and secondary instruction to school aged children under the jurisdiction of the State Board of Education, and in accordance with all applicable provisions of the Public School Code of 1949 (24 P.S. §§ 1-101—27-2702), the regulations relating to the certification of professional personnel in 22 Pa. Code Chapter 49 (relating to certification of professional personnel), and the regulations of the Department of Health in 28 Pa. Code § 23.35 (relating to dental hygienists).

(2) *Correctional facilities.* For purposes of this section, correctional facilities include Federal prisons and other institutions under the jurisdiction of the United States Department of Justice, Bureau of Prisons which are located

within this Commonwealth; institutions, motivational boot camps and community corrections centers operated or contracted by the Department of Corrections; and jails, prisons, detention facilities or correctional institutions operated or contracted by local, county or regional prison authorities within this Commonwealth.

(3) Health care facilities, as defined in section 802.1 of the Health Care Facilities Act (35 P.S. § 448.802a), including a general, chronic disease or other type of hospital; a home health care agency; a home care agency; a hospice; a long-term care nursing facility; a cancer treatment center; an ambulatory surgical facility or a birth center.

(4) Any other facility licensed and regulated by the Department of Health or a successor agency.

(5) A “facility,” as defined in section 1001 of the Human Services Code (62 P.S. § 1001), including an adult day care center; child day care center; family child care home; boarding home for children; mental health establishment; personal care home; assisted living residence; nursing home, hospital or maternity home.

(6) Any other facility licensed and regulated by the Department of Human Services or a successor agency.

(7) Domiciliary care facilities, as defined in section 2202-A of The Administrative Code of 1929 (71 P.S. § 581-2).

(8) Older adult daily living centers, as defined in section 2 of the Older Adult Daily Living Centers Licensing Act (62 P.S. § 1511.2).

(9) Continuing-care provider facilities, as defined in section 3 of the Continuing-Care Provider Registration and Disclosure Act (40 P.S. § 3203).

(10) *Federally-qualified health centers*, as defined in section 1905(1)(2)(B) of the Social Security Act (42 U.S.C.A. § 1369(1)(2)(B)). For purposes of this section, the term includes Federally-qualified health center lookalikes that do not receive grant funds under section 330 of the Public Health Service Act (42 U.S.C.A. § 254b).

(11) Public or private institutions under the jurisdiction of a Federal, State or local agency.

(12) Free and reduced-fee nonprofit health clinics.

(13) An office or clinic of a physician who is licensed by the State Board of Medicine under the Medical Practice Act of 1985 (63 P.S. §§ 422.1—422.53) or by the State Board of Osteopathic Medicine under the Osteopathic Medical Practice Act (63 P.S. §§ 271.1—271.18), that is located in a dental health professional shortage area, as determined by the United States Department of Health and Human Services, Health Resources & Services Administration, and published on the Pennsylvania Department of Health’s web site at [www.health.pa.gov](http://www.health.pa.gov). For purposes of this paragraph, an office or clinic of a physician includes a “satellite location” as defined in § 18.122 (relating to definitions) or “satellite operations” as defined in § 25.142 (relating to definitions).

(14) A “facility,” as defined in 28 Pa. Code § 701.1 (relating to general definitions) that is licensed by the Department of Drug and Alcohol Programs to provide drug and alcohol treatment services.

(d) *Recordkeeping.* A public health dental hygiene practitioner shall maintain a dental record which accurately, legibly and completely reflects the dental hygiene services provided to the patient. The dental record must be retained for at least 5 years from the date of the last treatment entry. The dental record must include, at a minimum, the following:

- (1) The name and address of the patient and, if the patient is a minor, the name of the patient's parents or legal guardian.
- (2) The date dental hygiene services are provided.
- (3) A description of the treatment or services rendered at each visit.
- (4) The date and type of radiographs taken, if any, and documentation demonstrating the necessity or justification for taking radiographs, as well as the radiographs themselves.
- (5) Documentation of the annual referral to a dentist.

**Authority**

The provisions of this § 33.205b issued under section 3(d), (j.2) and (o) of The Dental Law (63 P.S. § 122(d), (j.2) and (o)); and amended under sections 3(o) and 11.9(b)(10) of The Dental Law (63 P.S. §§ 122(o) and 130j(b)(10)).

**Source**

The provisions of this § 33.205b adopted December 11, 2009, effective December 12, 2009, 39 Pa.B. 6982; amended January 15, 2021, effective January 16, 2021, 51 Pa.B. 304. Immediately preceding text appears at serial pages (371899) to (371900) and (363515).

**Cross References**

This section cited in 49 Pa. Code § 33.1 (relating to definitions); and 49 Pa. Code § 33.302 (relating to requirements for personnel performing radiologic procedures).

**§ 33.206. Identifying information on prescriptions.**

- (a) The name, address, telephone number and dental license number of the prescribing dentist shall appear on prescriptions for drugs, services or supplies.
- (b) Noncompliance with subsection (a) will be considered unprofessional conduct and will subject the noncomplying dentist to disciplinary action as authorized in section 4.1(a)(8) of the act (63 P. S. § 123.1(a)(8)).

**Source**

The provisions of this § 33.206 adopted June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492.

**§ 33.207. Prescribing, administering and dispensing controlled substances.**

- (a) When prescribing, administering or dispensing controlled substances as defined in section 4 of The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. § 780-104), a dentist shall comply with, or cause compliance with, the following minimum standards:

- (1) *Scope of authority.* A dentist may prescribe, administer or dispense a controlled substance only:
  - (i) In good faith in the course of the dentist's professional practice.
  - (ii) Within the scope of the dentist-patient relationship.
  - (iii) In accordance with treatment principles accepted by a responsible segment of the profession.

(2) *Dental examination and medical history.* A dental examination shall be conducted and a medical history shall be taken before a dentist initially prescribes, administers or dispenses a controlled substance to a patient. The examination and medical history shall be complete enough to justify the prescription, administration or dispensation of the controlled substance. The examination shall focus on the patient's dental problems, and the resulting diagnosis shall relate to the patient's specific complaint. The patient's dental record shall contain written evidence of the examination and medical history.



(3) *Records.*

(i) On each occasion when a controlled substance is prescribed, administered or dispensed to a patient, an entry shall be made in the patient's dental record containing the following information:

- (A) The name, quantity and strength of the controlled substance.
- (B) The directions for use.
- (C) The date of issuance.
- (D) The condition for which the controlled substance was issued.

(ii) For the purpose of this subsection, health care facility records will be considered part of the patient's dental record. A patient's dental record that contains entries pertaining to the issuance of controlled substances shall be retained by the dentist for a minimum of 5 years following the date of the last entry of any kind in the record.

(4) *Emergency prescriptions.* If an emergency requires the issuance of a prescription, an appropriate short-term prescription may be telephoned to a pharmacist. An emergency prescription for a Schedule II controlled substance shall be covered by a written prescription delivered to the dispensing pharmacist within 72 hours. A dentist may not order a renewal or a refill of an emergency prescription unless the order is in writing and the dentist has given the patient a dental examination and has taken a medical history as required by paragraph (2).

(5) *Exception.* This subsection, except for paragraph (1), does not apply when a controlled substance is prescribed, administered or dispensed to a patient in a health care facility regulated by the Department of Health or by the Department of Public Welfare.

(b) A dentist's failure to comply with this section will be considered unprofessional conduct and will subject the noncomplying dentist to disciplinary action as authorized in section 4.1(a)(8) of the act (63 P. S. § 123.1(a)(8)).

(c) This section does not restrict or limit the applicability of The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144) or of another statute or regulation and does not relieve a dentist from complying with more stringent standards that may be imposed by another regulation or statute.

**Source**

The provisions of this § 33.207 adopted June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492.

**Cross References**

This section cited in 49 Pa. Code § 33.208 (relating to prescribing, administering and dispensing medications); 49 Pa. Code § 33.209 (relating to preparing, maintaining and retaining patient records); and 49 Pa. Code § 33.212 (relating to misleading, deceptive, untrue or fraudulent representations).

**§ 33.208. Prescribing, administering and dispensing medications.**

(a) When prescribing, administering or dispensing medications not included under § 33.207 (relating to prescribing, administering and dispensing controlled substances), dentists shall comply with, or cause compliance with, the following minimum standards:

(1) *Scope of authority.* A dentist may prescribe, administer or dispense medication only:

- (i) In good faith in the course of the dentist's professional practice.
- (ii) Within the scope of the dentist-patient relationship.
- (iii) In accordance with treatment principles accepted by a responsible segment of the profession.

(2) *Dental examination and medical history.* A dental examination shall be conducted and a medical history shall be taken before a dentist initially prescribes, administers or dispenses medication to a patient. The examination and medical history shall be complete enough to justify the prescription, administration or dispensation of the medication. The examination shall focus on the patient's dental problems, and the resulting diagnosis shall relate to the patient's specific complaint. The patient's dental record shall contain written evidence of the examination and medical history.

(3) *Records.* On each occasion when medication is prescribed, administered or dispensed to a patient, an entry shall be made in the patient's dental record containing the following information:

- (i) The name, quantity and strength of the medication.
- (ii) The directions for use.
- (iii) The date of issuance.
- (iv) The condition for which the medication was issued.

(4) *Emergency prescriptions.* If an emergency requires the issuance of a prescription, an appropriate short-term prescription may be telephoned to a pharmacist. A dentist may not order a renewal or a refill of an emergency prescription unless the order is in writing and the dentist has given the patient a dental examination and has taken a medical history as required by paragraph (2).

(b) A dentist's failure to comply with this section will be considered unprofessional conduct and will subject the noncomplying dentist to disciplinary action as authorized in section 4.1(a)(8) of the act (63 P. S. § 123.1(a)(8)).

#### Source

The provisions of this § 33.208 adopted June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492.

#### Cross References

This section cited in 49 Pa. Code § 33.209 (relating to preparing, maintaining and retaining patient records); and 49 Pa. Code § 33.212 (relating to misleading, deceptive, untrue or fraudulent representations).

### § 33.209. Preparing, maintaining and retaining patient records.

(a) A dentist shall maintain a dental record for each patient which accurately, legibly and completely reflects the evaluation and treatment of the patient. A patient dental record shall be prepared and maintained regardless of whether

treatment is actually rendered or whether a fee is charged. The record shall include, at a minimum, the following:

- (1) The name and address of the patient and, if the patient is a minor, the name of the patient's parents or legal guardian.
  - (2) The date of each patient visit.
  - (3) A description of the patient's complaint, symptoms and diagnosis.
  - (4) A description of the treatment or service rendered at each visit and the identity of the person rendering it.
  - (5) Information as required in § 33.208 (relating to prescribing, administering and dispensing medications) and this section with regard to controlled substances or other medications prescribed, administered or dispensed.
  - (6) The date and type of radiographs taken and orthodontic models made, as well as the radiographs and models themselves. Notwithstanding this requirement, the dentist may release orthodontic models to the patient. This transaction shall be memorialized on a form which is signed by the patient. The signed form shall become part of the patient's record.
  - (7) Information with regard to the administration of local anesthesia, nitrous oxide/oxygen analgesia, conscious sedation, deep sedation or general anesthesia. This shall include results of the preanesthesia physical evaluation, medical history and anesthesia procedures utilized.
  - (8) The date of each entry into the record and the identity of the person providing the service if not the dentist of record—for example, dental hygienist, expanded function dental assistant, dental assistant, and the like.
- (b) A patient dental record shall be retained by a dentist for a minimum of 5 years from the date of the last dental entry.
- (c) Within 30 days of receipt of a written request from a patient or a patient's parents or legal guardian if the patient is a minor, an exact copy of the patient's written dental record, along with copies of radiographs and orthodontic models, if requested, shall be furnished to the patient or to the patient's new dentist. This service shall be provided either gratuitously or for a fee reflecting the cost of reproduction.
- (d) The obligation to transfer records under subsection (c) exists irrespective of a patient's unpaid balance for dental services or for the cost of reproducing the record.
- (e) Dentists shall provide for the disposition of patient records in the event of the dentist's withdrawal from practice, incapacity or death in a manner that will ensure their availability under subsection (c).
- (f) The components of a patient dental record that are prepared by a dentist or an agent and retained by a health care facility regulated by the Department of Health or the Department of Public Welfare shall be considered a part of the patient dental record required to be maintained by a dentist, but shall otherwise be exempt from subsections (a)—(e). The components of a patient dental record shall contain information required by applicable Department of Health and

Department of Public Welfare regulations—see, for example, 28 Pa. Code § 141.26 (relating to patient dental records)—and health care facility bylaws.

(g) This section does not restrict or limit the applicability of recordkeeping requirements in §§ 33.207 and 33.208 (relating to prescribing, administering and dispensing controlled substances; and prescribing, administering and dispensing medications).

(h) A dentist's failure to comply with this section will be considered unprofessional conduct and will subject the noncomplying dentist to disciplinary action as authorized in section 4.1(a)(8) of the act (63 P. S. § 123.1(a)(8)).

#### Authority

The provisions of this § 33.209 amended under sections 3(c) and 11.2(a) of the Dental Law (63 P. S. §§ 122(o) and 130c(a)).

#### Source

The provisions of this § 33.209 adopted June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492; amended May 12, 2000, effective May 13, 2000, 30 Pa.B. 2359; amended May 13, 2005, effective May 14, 2005, 35 Pa.B. 2880. Immediately preceding text appears at serial pages (266034) to (266036).

#### Notes of Decisions

##### *Patient's Complaint*

The State Board of Dentistry's findings that the dentist failed to properly record the parents' complaint was supported by substantial evidence, where, based on the expert testimony, the Board found that the dentist should have recorded the parents' complaint that their son had black spots on his teeth or recorded "no complaints" on the child's record, and where the Board stated that while the dentist recorded the child's cavities, such an activity constituted a diagnosis, which is a separate recording requirement. *Watkins v. State Board of Dentistry*, 740 A.2d 760 (Pa. Cmwlth. 1999).

#### Cross References

This section cited in 49 Pa. Code § 33.340 (relating to duties of dentists who are unrestricted permitholders); and 49 Pa. Code § 33.340a (relating to duties of dentists who are restricted permit I holders); and 49 Pa. Code § 33.340b (relating to duties of dentists who are restricted permit II holders).

### § 33.210. Storage of drugs.

Dentists who administer or dispense drugs shall comply with the following standards:

- (1) Each drug storage area shall be maintained in a clean and orderly condition.
  - (i) The storage area shall be dry, well ventilated and well lighted. Provision shall be made for adequate dust, humidity and temperature controls to ensure drug stability.
  - (ii) The storage area shall contain only drugs and related supplies and equipment which are necessary for the administration and dispensing of drugs to the dentist's own patients.

(iii) Drugs in the storage area shall be accurately labeled. Until a drug is administered or dispensed to a dental patient, it shall be kept in the manufacturer's original container showing the manufacturer's lot number and the expiration date.

(iv) Drugs in the storage area shall be free from adulteration. Appropriate procedures shall be established to minimize the hazards of cross contamination.

(v) Outdated or deteriorated drugs shall be identified as such and shall be segregated in the storage area pending their return to the manufacturer or their appropriate disposal. The dentist shall maintain records reflecting the final disposition of these products.

(2) Controlled substances shall be stored in a substantially constructed, locked container such as a cabinet or safe. Access to the locked container where controlled substances are kept in order to clean, replenish supplies or perform other necessary functions shall be allowed only when a dentist is present and supervising.

(3) The dentist shall provide for the safe, secure and sanitary disposal of drug-containing refuse.

(4) This section prescribes minimum standards for the storage of drugs in dental offices. It does not relieve a dentist from complying with more stringent standards that may be imposed by another regulation or by statute.

(5) A dentist's failure to comply with this section will be considered unprofessional conduct and will subject the noncomplying dentist to disciplinary action as authorized in section 4.1(a)(8) of the act (63 P. S. § 123.1(a)(8)).

#### Source

The provisions of this § 33.210 adopted June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492.

### § 33.211. Unprofessional conduct.

(a) *Dentists.* Unprofessional conduct, as defined in section 4.1(a)(8) of the act (63 P. S. § 123.1(a)(8)), includes the following conduct by a dentist:

(1) Knowingly or negligently employing as a dentist, dental hygienist or expanded function dental assistant a person whose license or certificate is not current or has been suspended or revoked.

(2) Failing to carry out supervisory responsibility with regard to auxiliary personnel or dental residents/interns.

(3) Delegating to a person duties that the dentist knows, or has reason to know, the person is not competent to perform or not authorized to perform.

(4) Withdrawing dental services after a dentist-patient relationship has been established so that the patient is unable to obtain necessary dental care in a timely manner.

(5) Physically, sexually or verbally abusing a patient.

(6) Unnecessarily exposing a patient to ionizing radiation.

- (7) Failing to follow current infection-control recommendations issued by the Federal Centers for Disease Control or to ensure that auxiliary personnel and other supervisees follow these Federal guidelines.
- (8) Failing to provide necessary dental care to a patient in a timely manner or to apprise the patient of the need for the care.
- (9) Failing to make available to a patient, within 30 days of a request, information sufficient to enable the patient to complete an insurance form.
- (b) *Dental hygienists*. Unprofessional conduct, as defined in section 4.1(a)(8) of the act includes the following conduct by a dental hygienist:
  - (1) Practicing as a dental hygienist without the supervision of a dentist.
  - (2) Performing a service that the dental hygienist knows, or has reason to know, the hygienist is not competent to perform or not authorized to perform.
  - (3) Physically, sexually or verbally abusing a patient.
  - (4) Failing to follow current infection-control recommendations issued by the Federal Centers for Disease Control.
  - (5) Unnecessarily exposing a patient to ionizing radiation.
- (c) *Expanded function dental assistants*. Unprofessional conduct, as defined in section 4.1(a)(8) of the act includes the following conduct by an expanded function dental assistant:
  - (1) Practicing as an expanded function dental assistant without the direct supervision of a dentist.
  - (2) Performing a service that the expanded function dental assistant is not competent or not authorized to perform.
  - (3) Physically, sexually or verbally abusing a patient.
  - (4) Failing to follow current infection-control recommendations issued by the Federal Centers for Disease Control.
  - (5) Providing ionizing radiation in violation of § 33.302 (relating to auxiliary personnel performing radiologic procedures).

#### Authority

The provisions of this § 33.211 amended under sections 2—5.1, 10—11.5 and 11.7 of the Dental Law (63 P. S. §§ 121—124.1, 129—129.1, 130, 130e and 130h).

#### Source

The provisions of this § 33.211 adopted January 18, 1965; amended September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397; amended January 20, 1978, January 21, 1978, 8 Pa.B. 203; amended July 20, 1990, effective July 21, 1990, 20 Pa.B. 3972; amended June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492; amended May 12, 2000, effective May 13, 2000, 30 Pa.B. 2359. Immediately preceding text appears at serial pages (223044) to (233045).

### § 33.211a. Sexual misconduct.

- (a) *Disciplinary action authorized*. Unprofessional conduct, as defined in section 4.1(a)(8) of the act (63 P. S. § 123.1(a)(8)), includes sexual misconduct by a dentist, a dental hygienist, a public health dental hygiene practitioner or an

expanded function dental assistant (EFDA), and subjects the Board-regulated practitioner to disciplinary action under section 4.1(a)(8) and section 10.1 of the act (63 P. S. § 129.1).

(b) *Impaired professional program.* A Board-regulated practitioner who engages in conduct prohibited by this section will not be eligible for placement into an impaired professional program in lieu of disciplinary action or correction.

(c) *Consent.* Consent is not a defense to conduct prohibited by this section.

(d) *Exclusion.* This section does not apply to conduct between a Board-regulated practitioner and the Board-regulated practitioner's spouse or a person cohabitating with the Board-regulated practitioner.

#### Authority

The provisions of this § 33.211a adopted under sections 4.1(a)(8) and 10.1 of the Dental Law (63 P. S. §§ 123.1 (a)(8) and 129.1).

#### Source

The provisions of this § 33.211a adopted November 14, 2008, effective November 15, 2008, 38 Pa.B. 6279.

### § 33.212. Misleading, deceptive, untrue or fraudulent representations.

As used in section 4.1(a)(2) of the act (63 P. S. § 123.1(a)(2)), the phrase “misleading, deceptive, untrue or fraudulent representations” includes the following conduct by dentists, dental hygienists and expanded function dental assistants:





- (1) Misrepresenting or concealing a material fact in obtaining, renewing or seeking reinstatement of a license or certificate.
- (2) Misrepresenting or concealing a material fact in obtaining payment for dental services.
- (3) Writing a prescription for a controlled substance or other medication in the name of a person other than for whom the controlled substance or other medication is intended under §§ 33.207 and 33.208 (relating to prescribing, administering and dispensing controlled substances; and prescribing, administering and dispensing medications).
- (4) Falsifying a patient's record regarding treatment or the issuance of a controlled substance or other medication.

#### Authority

The provisions of this § 33.212 amended under sections 2—5.1, 10—11.5 and 11.7 of the Dental Law (63 P. S. §§ 121—124.1, 129—129.1, 130, 130e and 130h).

#### Source

The provisions of this § 33.212 adopted January 18, 1965; amended September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397; reserved April 28, 1989, effective April 29, 1989, 19 Pa.B. 1840; amended June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492; amended May 12, 2000, effective May 13, 2000, 30 Pa.B. 2359. Immediately preceding text appears at serial page (223045).

#### Cross References

This section cited in 49 Pa. Code § 33.404 (relating to reporting continuing education credit hours).

### § 33.213. Use and replacement of dental amalgams—statement of policy.

(a) *Background.* The safety of dental amalgams, specifically, whether the mercury in amalgams causes or contributes to a variety of health problems, has become a recurring issue in dentistry. The Food and Drug Administration has determined that while elemental mercury has been associated with adverse health effects at high exposures, the levels released by amalgam fillings are not high enough to cause harm in patients. The Board is not aware, however, of conclusive evidence that the use of alternative restorative materials or removal of amalgams will prevent, cure or ameliorate disorders other than those associated with confirmed allergic reactions to mercury. Nonetheless, nonallergic patients may request the use of alternative restorative materials or replacement of amalgam restorations in the belief, or merely the hope, that a medical condition will thereby disappear or improve. Dentists receiving these requests must make ethical and professional decisions compatible with the best interests of their patients.

(b) *Purpose.* Section 4.1(a)(8) and (9) of the act (63 P. S. § 123.1(a)(8) and (9)) authorizes the Board to take disciplinary action against licensees who engage in unprofessional conduct or commit acts of negligence, incompetence or malpractice. The replacement of amalgams may implicate both provisions by, for example, generating complaints of unnecessary or even harmful treatment. The Board therefore provides the following guidelines to assist its licensees in con-

forming their behavior to the requirements of the act. In a disciplinary action brought against a dentist for treatment associated with replacing amalgams, the Board will consider whether these guidelines were followed.

(c) *Guidelines.*

(1) The Board recommends that, before replacing amalgams in a nonallergic patient, the dentist:

(i) Explain to the patient the current status of research on the safety of dental amalgams.

(ii) Provide the patient with information on contraindications and costs associated with removal/replacement of amalgam restorations.

(iii) Advise a patient relying on third-party payment to ascertain whether the insurer will cover removal/replacement procedures.

(iv) Encourage a patient seeking amelioration of a medical condition to consult with a physician and, as appropriate, secure from the physician documentation of recommendations made to the patient.

(v) Memorialize in writing the disclosures made to the patient and the patient's informed consent.

(2) The Board recognizes the right and duty of dentists to refuse to replace amalgam restorations when, in their professional judgment, this procedure would not be in the best interests of the patient.

**Source**

The provisions of this § 33.213 adopted January 18, 1965; amended September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397; amended June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492; amended October 25, 2013, effective October 26, 2013, 43 Pa.B. 6385. Immediately preceding text appears at serial pages (311481) to (311482).

**§ 33.214. Disclosure of financial or ownership interest—statement of policy.**

(a) *Purpose.* This section provides guidelines for compliance with the act of May 26, 1988 (P. L. 403, No. 66) (35 P. S. §§ 449.21—449.23), which requires practitioners of the healing arts, before referring a patient to a facility or entity engaged in providing health-related services, tests, pharmaceuticals, appliances or devices, to disclose to the patient any financial or ownership interest of the practitioner in the facility or entity.

(b) *Definitions.* The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

*Appliances or devices*—The term includes therapeutic equipment, instruments and prosthetic appliances.

*Disclose to the patient*—The practitioner of the healing arts makes known to the patient at the time a referral is made that the practitioner has a financial or ownership interest in the facility or entity to which the patient is referred. The practitioner shall also inform the patient of the patient's freedom to choose an alternate provider.

*Facility or entity*—The term includes another practitioner of the healing arts, licensed health care practitioner, partnership, association, group practice, business corporation and professional corporation not on the premises of the practitioner.

*Financial interest of the practitioner or ownership by the practitioner in the facility or entity*—A financial or ownership interest to any extent or degree, including interests held by the practitioner, the practitioner's spouse or the practitioner's minor children.

*Health-related services*—The term includes radiologic services, physical therapy, counseling and laboratory services.

*Pharmaceutical*—Pertaining to a drug or pharmacy.

*Practitioner of the healing arts*—A dentist or dental hygienist.

*Referral*—The act of prescribing, ordering, directing, redirecting or recommending to a patient a specific facility or entity which provides a health-related service, test, pharmaceutical, appliance or device, either by means of prescription, recommended course of treatment, or direction concerning diagnostic or therapeutic treatment or services.

*Test*—The term includes a test necessary for dental diagnosis or treatment.

(c) *Use of patient disclosure forms.*

(1) It is the practitioner's responsibility to disclose to the patient a financial or ownership interest when making a referral covered by the act. Meaningful disclosure shall be given to each patient at the time a referral is made. The disclosure may be made orally or in writing. In either event, the Board recommends that the disclosure be memorialized, dated and signed at the time of referral by the practitioner and the patient, and that the practitioner maintain written evidence of the disclosure. If the practitioner delegates the disclosure to another person in the practitioner's office, the Board recommends that the disclosure be memorialized, dated and signed by the person making the disclosure and the patient.

(2) The memorialization of the disclosure shall be substantially in the following form:

I ACKNOWLEDGE THAT I HAVE BEEN ADVISED BY MY DENTIST/  
DENTAL HYGIENIST THAT HE/SHE HAS A FINANCIAL OR OWNER-  
SHIP INTEREST IN THE FACILITY OR ENTITY TO WHICH HE/SHE  
HAS REFERRED ME, AND THAT HE/SHE HAS ADVISED ME THAT I  
AM FREE TO CHOOSE ANOTHER FACILITY OR ENTITY TO PRO-  
VIDE THE SERVICE, DRUG, DEVICE OR EQUIPMENT.

(3) In an enforcement proceeding before the Board, the memorialization referred to in paragraphs (1) and (2) shall constitute presumptive evidence that the practitioner made the required disclosure. The disclosure to the patient is

not, however, the act of the patient signing the form but is, rather, the act of the practitioner disclosing to the patient the practitioner's financial or ownership interest and advising the patient of the patient's freedom of choice.

(d) *Guidelines for disclosure.* With regard to patients who are minors, unconscious, of unsound mind or otherwise incompetent to understand their freedom of choice in selection of a facility or entity, disclosure shall be made to the guardian, spouse or closest adult next of kin. Disclosure of a practitioner's interest cannot be accomplished unless patients are competent to understand their freedom of choice. A practitioner will not be disciplined for failure to disclose in the event of an emergency which prevents consulting the patient or the patient's representative.

#### Source

The provisions of this § 33.214 adopted May 13, 1977, effective May 14, 1977, 7 Pa.B. 1284; amended June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial pages (151838) to (151839).

### § 33.215. Use of lasers in the dental office—statement of policy.

(a) *Background and purpose.* The use of lasers in experimental and institutional settings has raised questions with regard to using this technology in the dental office. In addressing this issue, the Board has been mindful of its principal mandate: protection of the public. Section 4.1(a)(8) and (9) of the act (63 P. S. § 123.1(a)(8) and (9)) authorizes the Board to take disciplinary action against licensees who engage in unprofessional conduct or who commit acts of negligence, incompetence or malpractice. The use of lasers may implicate both provisions by, for example, generating complaints of incompetent treatment or treatment that fails to conform to acceptable standards of practice. The Board offers the following guidelines to assist its licensees in conforming their behavior to the act. In a disciplinary action brought against a dentist for treatment involving a laser, the Board will consider whether these guidelines were followed.

(b) *Guidelines.* A dentist who uses a laser in private practice shall:

- (1) Be familiar with and conform to regulations on lasers promulgated by the Food and Drug Administration.
- (2) Possess clinical competency in the use of lasers. The Board recommends a minimum of 6 hours of instruction given by an accredited institution or by a manufacturer of lasers sponsored by such an institution. The instruction should include hands-on training and should cover all known risks to patients, staff and the practitioner.

#### Source

The provisions of this § 33.215 adopted June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492.

**§§ 33.221—33.223. [Reserved].****Source**

The provisions of these §§ 33.221—33.223 adopted January 18, 1965; amended September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397; reserved June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial page (151839).

 **§§ 33.224—33.226. [Reserved].****Source**

The provisions of these §§ 33.224—33.226 adopted January 18, 1965; reserved September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397. Immediately preceding text appears at serial pages (9789) to (9790).

 **§ 33.231. [Reserved].****Source**

The provisions of this § 33.231 adopted January 18, 1965; amended September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1840; reserved June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial page (151840).

 **§§ 33.232—33.234. [Reserved].****Source**

The provisions of these §§ 33.232—33.234 adopted September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397; reserved June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial pages (151840) and (135711).

 **§ 33.241. [Reserved].****Source**

The provisions of this § 33.241 adopted January 18, 1965; amended September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397; reserved June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial page (135711).

 **§ 33.242. [Reserved].****Source**

The provisions of this § 33.242 adopted September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397; amended April 28, 1989, effective April 29, 1989, 19 Pa.B. 1840; reserved June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial page (135712).

 **§ 33.250. Suspected child abuse—mandated reporting requirements.**

(a) *General rule.* Under 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse), all Board regulated practitioners are considered mandated reporters. A mandated reporter shall make a report of suspected child

abuse in accordance with this section if the mandated reporter has reasonable cause to suspect that a child is a victim of child abuse under any of the following circumstances:

(1) The mandated reporter comes into contact with the child in the course of employment, occupation and practice of the profession or through a regularly scheduled program, activity or service.

(2) The mandated reporter is directly responsible for the care, supervision, guidance or training of the child, or is affiliated with an agency, institution, organization, school, regularly established church or religious organization or other entity that is directly responsible for the care, supervision, guidance or training of the child.

(3) A person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse.

(4) An individual 14 years of age or older makes a specific disclosure to the mandated reporter that the individual has committed child abuse.

(b) *Staff members of public or private agencies, institutions and facilities.* Whenever a Board regulated practitioner is required to make a report under subsection (a) in the capacity as a member of the staff of a medical, dental or other public or private institution, school, facility or agency, that Board regulated practitioner shall report immediately in accordance with subsection (c) and shall immediately thereafter notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge.

(c) *Reporting procedure.* A mandated reporter shall immediately make a report of suspected child abuse to the Department of Human Services by either:

(1) Making an oral report of suspected child abuse by telephone to Child-Line at (800) 932-0313, followed by a written report within 48 hours to the Department of Human Services or the county agency assigned to the case in a manner and format prescribed by the Department of Human Services. The written report submitted under this subparagraph may be submitted electronically.

(2) Making an electronic report of suspected child abuse in accordance with 23 Pa.C.S. § 6305 (related to electronic reporting) through the Department of Human Service's Child Welfare Information Solution self-service portal at [www.compass.state.pa.us/cwis](http://www.compass.state.pa.us/cwis). A confirmation by the Department of Human Services of the receipt of a report of suspected child abuse submitted electronically relieves the mandated reporter of the duty to make an additional oral or written report.

(d) *Written or electronic reports.* A written or electronic report of suspected child abuse, shall include the following information, if known:

(1) The names and addresses of the child, the child's parents and any other person responsible for the child's welfare.

(2) Where the suspected child abuse occurred.

(3) The age and sex of the subject or subjects of the report.

- (4) The nature and extent of the suspected child abuse, including any evidence of prior abuse to the child or sibling of the child.
- (5) The name and relationship of the person or persons responsible for causing the suspected abuse and any evidence of prior abuse by those persons.
- (6) Family composition.
- (7) The source of the report.
- (8) The name, telephone number and e-mail address of the person making the report.
- (9) The actions taken by the person making the report, including actions taken under 23 Pa.C.S. §§ 6314—6317.
- (10) Other information required by Federal law or regulation.
- (11) Other information that the Department of Human Services may require by regulation.

#### Authority

The provisions of this § 33.250 issued under the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2); and section 3(o) of The Dental Law (63 P. S. § 122(o)); amended under section 3(o) of the Dental Law (63 P.S. § 122(o)); and the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2).

#### Source

The provisions of this § 33.250 adopted November 8, 1996, effective November 9, 1996, 26 Pa.B. 5410; amended July 31, 2020, effective August 1, 2020, 50 Pa.B. 3854. Immediately preceding text appears at serial pages (311485) to (311487).

#### Cross References

This section cited in 49 Pa. Code § 33.251 (relating to photographs, medical tests and X-rays of child subject to report); 49 Pa. Code § 33.253 (relating to immunity from liability); 49 Pa. Code § 33.254 (relating to confidentiality—waived); and 49 Pa. Code § 33.255 (relating to noncompliance).

### **§ 33.251. Photographs, medical tests and X-rays of child subject to report.**

A Board regulated practitioner may take or cause to be taken photographs of the child who is subject to a report and, if clinically indicated, cause to be performed a radiological examination and other medical tests on the child. Medical summaries or reports of the photographs, X-rays and relevant medical tests taken shall be sent to the county children and youth social service agency at the time the written report is sent, or within 48 hours after an electronic report is made under § 33.250(c)(2) (relating to suspected child abuse—mandated reporting requirements), or as soon thereafter as possible. The county children and youth social service agency shall have access to actual photographs or duplicates and X-rays and may obtain them or duplicates of them upon request.

**Authority**

The provisions of this § 33.251 issued under the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2); and section 3(o) of The Dental Law (63 P.S. § 122(o)); amended under section 3(o) of the Dental Law (63 P.S. § 122(o)); and the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2).

**Source**

The provisions of this § 33.251 adopted November 8, 1996, effective November 9, 1996, 26 Pa.B. 5410; amended July 31, 2020, effective August 1, 2020, 50 Pa.B. 3854. Immediately preceding text appears at serial page (311487).

**Cross References**

This section cited in 49 Pa. Code § 33.253 (relating to immunity from liability); 49 Pa. Code § 33.254 (relating to confidentiality—waived); and 49 Pa. Code § 33.255 (relating to noncompliance).

**§ 33.252. Suspected death as a result of child abuse—mandated reporting requirement.**

A Board regulated practitioner who has reasonable cause to suspect that a child died as a result of child abuse shall report that suspicion to the coroner or medical examiner of the county where death occurred or, in the case where the child is transported to another county for medical treatment, to the coroner or medical examiner of the county where the injuries were sustained.

**Authority**

The provisions of this § 33.252 issued under the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2); and section 3(o) of The Dental Law (63 P.S. § 122(o)); amended under section 3(o) of the Dental Law (63 P.S. § 122(o)); and the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2).

**Source**

The provisions of this § 33.252 adopted November 8, 1996, effective November 9, 1996, 26 Pa.B. 5410; amended July 31, 2020, effective August 1, 2020, 50 Pa.B. 3854. Immediately preceding text appears at serial pages (311487) to (311488).

**Cross References**

This section cited in 49 Pa. Code § 33.253 (relating to immunity from liability); 49 Pa. Code § 33.254 (relating to confidentiality—waived); and 49 Pa. Code § 33.255 (relating to noncompliance).

**§ 33.253. Immunity from liability.**

Under 23 Pa.C.S. § 6318 (relating to immunity from liability) a Board regulated practitioner who participates in good faith in the making of a report of suspected child abuse, making a referral for general protective services, cooperating or consulting with an investigation including providing information to a child fatality or near fatality review team, testifying in a proceeding arising out of an instance of suspected child abuse or general protective services or engaging in any action authorized under 23 Pa.C.S. §§ 6314—6317, shall have immunity



from civil and criminal liability that might otherwise result by reason of the Board regulated practitioner's actions. For the purpose of any civil or criminal proceeding, the good faith of the Board regulated practitioner shall be presumed. The Board will uphold the same good faith presumption in any disciplinary proceeding that might result by reason of a Board regulated practitioner's actions under §§ 33.250—33.252 (relating to suspected child abuse—mandatory reporting requirements; photographs, medical tests and x-rays of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement).

#### Authority

The provisions of this § 33.253 issued under the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2); and section 3(o) of The Dental Law (63 P. S. § 122(o)); amended under section 3(o) of the Dental Law (63 P.S. § 122(o)); and the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2).

#### Source

The provisions of this § 33.253 adopted November 8, 1996, effective November 9, 1996, 26 Pa.B. 5410; amended July 31, 2020, effective August 1, 2020, 50 Pa.B. 3854. Immediately preceding text appears at serial page (311488).

### § 33.254. Confidentiality—waived.

To protect children from abuse, the reporting requirements of §§ 33.250—33.252 (relating to suspected child abuse—mandated reporting requirements; photographs, medical tests and X-rays of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement) take precedence over the provisions of any client confidentiality, ethical principle or professional standard that might otherwise apply. In accordance with 23 Pa.C.S. § 6311.1 (relating to privileged communications), privileged communications between a mandated reporter and a patient does not apply to a situation involving child abuse and does not relieve the mandated reporter of the duty to make a report of suspected child abuse.

#### Authority

The provisions of this § 33.254 issued under the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2); and section 3(o) of The Dental Law (63 P. S. § 122(o)); amended under section 3(o) of the Dental Law (63 P.S. § 122(o)); and the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2).

#### Source

The provisions of this § 33.254 adopted November 8, 1996, effective November 9, 1996, 26 Pa.B. 5410; amended July 31, 2020, effective August 1, 2020, 50 Pa.B. 3854. Immediately preceding text appears at serial page (311488).

### § 33.255. Noncompliance.

(a) *Disciplinary action.* A Board regulated practitioner who willfully fails to comply with the reporting requirements in §§ 33.250—33.252 (relating to sus-

pected child abuse—mandated reporting requirements; photographs, medical tests and X-rays of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement) will be subject to disciplinary action under section 4.1 of the act (63 P.S. § 123.1).

(b) *Criminal penalties.* Under 23 Pa.C.S. § 6319 (relating to penalties), a Board regulated practitioner who is required to report a case of suspected child abuse or to make a referral to the appropriate authorities and who willfully fails to do so commits a criminal offense, as follows:

(1) An offense not otherwise specified in paragraphs (2), (3) or (4) is a misdemeanor of the second degree.

(2) An offense is a felony of the third degree if all of the following apply:

- (i) The mandated reporter willfully fails to report.
- (ii) The child abuse constitutes a felony of the first degree or higher.
- (iii) The mandated reporter has direct knowledge of the nature of the abuse.

(3) If the willful failure to report continues while the mandated reporter knows or has reasonable cause to suspect a child is being subjected to child abuse by the same individual, or while the mandated reporter knows or has reasonable cause to suspect that the same individual continues to have direct contact with children through the individual's employment, program, activity or service, the mandated reporter commits a felony of the third degree, except that if the child abuse constitutes a felony of the first degree or higher, the mandated reporter commits a felony of the second degree.

(4) A mandated reporter who, at the time of sentencing for an offense under 23 Pa.C.S. § 6319, has been convicted of a prior offense under § 6319, commits a felony of the third degree, except that if the child abuse constitutes a felony of the first degree or higher, the penalty for the second or subsequent offense is a felony of the second degree.

#### Authority

The provisions of this § 33.255 issued under the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2); and section 3(o) of The Dental Law (63 P. S. § 122(o)); amended under section 3(o) of the Dental Law (63 P.S. § 122(o)); and the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2).

#### Source

The provisions of this § 33.255 adopted November 8, 1996, effective November 9, 1996, 26 Pa.B. 5410; amended July 31, 2020, effective August 1, 2020, 50 Pa.B. 3854. Immediately preceding text appears at serial page (371903).

### § 33.256. Child abuse recognition and reporting—mandatory training requirement.

(a) Except as provided in subsection (c), individuals applying to the Board for an initial license or certificate shall submit proof of completion of 3 hours of training in child abuse recognition and reporting requirements which has been approved by the Department of Human Services.

(b) Except as provided in subsection (c), licensees and certificate holders seeking renewal of a license or certificate issued by the Board shall complete, as a condition of biennial renewal of the license or certificate, 2 hours of approved continuing education in child abuse recognition and reporting requirements, as a portion of the total continuing education required for biennial renewal. For credit to be granted, the continuing education course or program must be approved by the Bureau, in consultation with the Department of Human Services, as set forth in § 33.257 (relating to child abuse recognition and reporting course approval process).

(c) An applicant, licensee or certificate holder may apply in writing for an exemption from the training/continuing education requirements set forth in subsections (a) and (b) provided the applicant, licensee or certificate holder meets one of the following:

(1) The applicant, licensee or certificate holder submits documentation demonstrating that:

(i) The applicant, licensee or certificate holder has already completed child abuse recognition training as required by section 1205.6 of the Public School Code of 1949 (24 P.S. § 12-1205.6).

(ii) The training was approved by the Department of Education in consultation with the Department of Human Services.

(iii) The amount of training received equals or exceeds the amount of training or continuing education required under subsection (a) or (b), as applicable.

(2) The applicant, licensee or certificate holder submits documentation demonstrating all of the following:

(i) The applicant, licensee or certificate holder has already completed child abuse recognition training required under 23 Pa.C.S. § 6383(c) (relating to education and training).

(ii) The training was approved by the Department of Human Services.

(iii) The amount of training received equals or exceeds the amount of training or continuing education required under subsection (a) or (b), as applicable.

(3) The applicant, licensee or certificate holder submits documentation demonstrating that the applicant, licensee or certificate holder should not be subject to the training or continuing education requirement. Each request for an exemption under this paragraph will be considered on a case-by-case basis.

#### **Authority**

The provisions of this § 33.256 issued under section 3(o) of the Dental Law (63 P.S. § 122(o)); and the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2).

#### **Source**

The provisions of this § 33.256 adopted July 31, 2020, effective August 1, 2020, 50 Pa.B. 3485.

#### **Cross Reference**

This section cited in 49 Pa. Code § 33.401 (relating to credit-hour requirements).

**§ 33.257. Child abuse recognition and reporting course approval process.**

(a) An individual, entity or organization may apply for approval to provide mandated reporter training as required under 23 Pa.C.S. § 6383(b) (relating to education and training) by submitting the course materials set forth in subsection (b) simultaneously to the Department of Human Services (DHS), Office of Children, Youth and Families, and to the Bureau at the following addresses:

(1) Department of Human Services, Office of Children, Youth and Families, Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120 or electronically at RA-PWOCYFCPSL@pa.gov.

(2) Bureau of Professional and Occupational Affairs, 2601 North Third Street, P.O. Box 2649, Harrisburg, PA 17105-2649 or electronically at RA-stcpsl\_course\_app@pa.gov.

(b) Submissions must include all of the following:

(1) Contact information (mailing address, e-mail address and telephone number) for the agency/course administrator.

(2) General description of the training and course delivery method.

(3) Title of the course.

(4) Timed agenda and estimated hours of training.

(5) Learning objectives.

(6) Intended audience.

(7) All course related materials, including as applicable:

(i) Handouts.

(ii) Narrated script or talking points.

(iii) Interactive activities or exercises.

(iv) Videos and audio/visual content.

(v) Knowledge checks, quizzes or other means of assessing participant's understanding of the material.

(vi) For online courses, a transcript or recording of audio training.

(8) Citation of sources, including written permission to use copyrighted material, if applicable.

(9) Anticipated credentials or experience of the presenter, or biography of presenter, if known.

(10) Printed materials used to market the training.

(11) Evaluation used to assess participants' satisfaction with the training.

(12) Sample certificate of attendance/participation, which shall include:

(i) Name of participant.

(ii) Title of training.

(iii) Date of training.

(iv) Length of training (2 or 3 hours).

(v) Name and signature of the authorized representative of the provider. The signature may be an electronic signature.

(vi) Statement affirming the participant attended the entire course.

(13) Verification of ability to report participation/attendance electronically to the Bureau in a format prescribed by the Bureau.

(c) The Bureau will notify the applicant in writing upon approval of the course and will post a list of approved courses on the Bureau's web site and the Board's web site.

**Authority**

The provisions of this § 33.257 issued under section 3(o) of the Dental Law (63 P.S. § 122(o)); and the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2).

**Source**

The provisions of this § 33.257 adopted July 31, 2020, effective August 1, 2020, 50 Pa.B. 3854.

**Cross References**

This section cited in 49 Pa. Code § 33.256 (relating to child abuse recognition and reporting—mandatory training requirement).

**§ 33.291. [Reserved].**

**Source**

The provisions of this § 33.291 adopted September 12, 1975, effective September 13, 1975, 5 Pa.B. 2397; reserved June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492. Immediately preceding text appears at serial page (135712).

**Subchapter D. PERFORMANCE OF RADIOLOGIC PROCEDURES  
BY AUXILIARY PERSONNEL**

Sec.

- 33.301. Definitions.
- 33.302. Requirements for personnel performing radiologic procedures.
- 33.303. Applications for examination.
- 33.304. Radiologic procedure examination fees.
- 33.305. Effective date.

**§ 33.301. Definitions.**

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

*Ionizing radiation*—

- (i) Gamma rays and X-rays; alpha and beta particles, high-speed electrons, neutrons, protons and other nuclear particles.
- (ii) The term does not include ultrasound, sound or radio waves or visible, infrared or ultraviolet light.

*Premises of the dentist*—A location at which a dentist practices dentistry, other than a health care facility regulated by the Department of Health, Department of Public Welfare or the Federal government.

*Radiologic procedure*—A dental diagnostic procedure that utilizes ionizing radiation.

*Radiologic procedure examination*—The Radiation Health and Safety examination administered by The Dental Assisting National Board, Inc. (DANB).

**Authority**

The provisions of this § 33.301 issued under section 11.4 of The Dental Law (63 P. S. § 130e); amended under section 3(d), (j.2) and (o) of The Dental Law (63 P. S. § 122(d), (j.2) and (o)).

**Source**

The provisions of this § 33.301 adopted August 21, 1987, effective August 22, 1987, 17 Pa.B. 3477; amended June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492; amended December 11, 2009, effective December 12, 2009, 39 Pa.B. 6982. Immediately preceding text appears at serial pages (311489) to (311490).

**§ 33.302. Requirements for personnel performing radiologic procedures.**

(a) Public health dental hygiene practitioners may perform radiologic procedures in those settings set forth in § 33.205b(c) (relating to practice as a public health dental hygiene practitioner) without the supervision of a dentist. Public health dental hygiene practitioners shall take radiographs under this section in accordance with the following:

(1) Within 30 days of taking a radiograph, the public health dental hygiene practitioner shall provide to the patient a copy of the radiograph and a referral to a dentist indicating the reason the radiograph was taken and any observations noted by the public health dental hygiene practitioner.

(2) The public health dental hygiene practitioner shall instruct the patient to consult with the dentist as indicated on the referral form.

(3) Upon presentation by the patient, the dentist shall perform an examination of the patient, review the radiograph and report any diagnosis to the public health dental hygiene practitioner and the patient.

(b) Dental hygienists may perform radiologic procedures in any setting under the general supervision of a licensed dentist. For the purpose of this subsection, “general supervision” means supervision by a dentist who examines the patient, develops a dental treatment plan, authorizes the performance of the radiologic services to be performed within 1 year of the examination, and takes full professional responsibility for performance of the dental hygienist.

(c) Auxiliary personnel who have passed the radiologic procedure examination adopted by the Board may perform radiologic procedures on the premises of a dentist under the direct supervision of a dentist. The dentist shall be on the premises when a radiologic procedure is performed, but is not required to personally observe performance of the procedure.

**Authority**

The provisions of this § 33.302 issued under section 11.4 of The Dental Law (63 P. S. § 130e); amended under section 3(d), (j.2) and (o) of The Dental Law (63 P. S. § 122(d), (j.2) and (o)).

**Source**

The provisions of this § 33.302 adopted August 21, 1987, effective August 22, 1987, 17 Pa.B. 3477; amended June 23, 1995, effective June 24, 1995, 25 Pa.B. 2492; amended December 11, 2009, effective December 12, 2009, 39 Pa.B. 6982. Immediately preceding text appears at serial page (311490).

**Notes of Decisions***Ripeness*

Petition for review of these regulations was dismissed as the association of dental hygienists' allegations of direct and immediate harm did not establish the justiciability of a pre-enforcement challenge to this regulation. The association's allegations of change in their work schedule, reduced availability of dental hygiene services, reduced income, possible unemployment and the uncertainty of the ongoing day-to-day operations of dental hygiene care are merely anticipatory, speculative and too remote to support a claim of direct and immediate harm. *Pennsylvania Dental Hygienists' Association v. State Board of Dentistry*, 672 A.2d 414 (Pa. Cmwlth. 1996).

**Cross References**

This section cited in 49 Pa. Code § 33.205 (relating to practice as a dental hygienist); and 49 Pa. Code § 33.211 (relating to unprofessional conduct).

**§ 33.303. Applications for examination.**

The testing organization charged with administering the radiologic procedure examination will provide examination application materials to licensed dentists in this Commonwealth and to educational institutions and professional associations designated by the Bureau for distribution to auxiliary personnel who wish to apply to take the examination.





**Authority**

The provisions of this § 33.303 issued under section 11.4 of The Dental Law (63 P.S. § 130e).

**Source**

The provisions of this § 33.303 adopted August 21, 1987, effective August 22, 1987, 17 Pa.B. 3477.

**§ 33.304. Radiologic procedure examination fees.**

Examination candidates shall pay fees directly to the testing organization charged with administering the radiologic procedure examination.

**Authority**

The provisions of this § 33.304 issued under section 11.4 of The Dental Law (63 P.S. § 130e).

**Source**

The provisions of this § 33.304 adopted August 21, 1987, effective August 22, 1987, 17 Pa.B. 3477.

**§ 33.305. Effective date.**

The testing organization charged with administering the radiologic procedure examination will begin accepting applications to take the examination on August 22, 1987. On and after January 1, 1988, no auxiliary person may administer radiologic procedures on the premises of a dentist except as set forth in this subchapter.

**Authority**

The provisions of this § 33.305 issued under section 11.4 of The Dental Law (63 P.S. § 130e).

**Source**

The provisions of this § 33.305 adopted August 21, 1987, effective August 22, 1987, 17 Pa.B. 3477.

**Subchapter E. ADMINISTRATION OF GENERAL ANESTHESIA, DEEP SEDATION, CONSCIOUS SEDATION AND NITROUS OXIDE/OXYGEN ANALGESIA**

Sec.

- 33.331. Definitions.
- 33.332. Requirement of permit to administer general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia.
- 33.333. Types of permits.
- 33.334. Application for permit.
- 33.335. Requirements for unrestricted permit.
- 33.336. Requirements for restricted permit I.
- 33.336a. Requirements for unrestricted permit and restricted permit I.

- 33.336b. Approved peer evaluation organizations for administering clinical evaluations and office inspections.
- 33.336c. Standards for office inspections and clinical evaluations.
- 33.336d. Qualifications of peer evaluators conducting office inspections and clinical evaluations.
- 33.336e. Confidentiality of peer evaluation reports.
- 33.337. Requirements for restricted permit II.
- 33.337a. Requirements for temporary permit.
- 33.338. Expiration and renewal of permits.
- 33.339. [Reserved].
- 33.340. Duties of dentists who are unrestricted permitholders.
- 33.340a. Duties of dentists who are restricted permit I holders.
- 33.340b. Duties of dentists who are restricted permit II holders.
- 33.341. Duties of dentists who are not permitholders.
- 33.342. Inspection of dental offices.
- 33.343. Suspension, revocation, limitation of permit; refusal to issue or renew.
- 33.344. Requirement of anesthesia permit for nonparenteral premedication of dental patients—statement of policy.

### § 33.331. Definitions.

The following words and phrases, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

*AAOMS*—American Association of Oral and Maxillofacial Surgeons.

*AAOMS Guidelines*—*AAOMS Parameters and Pathways 2000 Clinical Practice Guidelines for Oral and Maxillofacial Surgery, Anesthesia in Outpatient Facilities* (AAOMS Par Path 2000), 4/15/99.

*AAOMS Manual*—*AAOMS Office Anesthesia Manual*, 6th Edition, 2000.

*AAPD*—American Academy of Pediatric Dentistry.

*AAPD Guidelines*—*AAPD Guidelines for the Elective Use of Conscious Sedation, Deep Sedation and General Anesthesia in Pediatric Dental Patients* (May, 1998).

*ACLS*—Advanced Cardiac Life Support.

*ADA*—American Dental Association.

*ADA Guidelines*—*ADA Guidelines for the Use of Conscious Sedation, Deep Sedation and General Anesthesia for Dentists* (October, 2000).

*Adult patient*—A patient 18 years of age or older.

*Authorized agent*—An organization or individual that the Board has officially authorized to act as the Board's agent in carrying out the mandates of the Board, the act or this chapter.

*BLS*—Basic Life Support.

*Board*—The State Board of Dentistry.

*CRNA*—A registered nurse certified as a Registered Nurse Anesthetist by the Council on Certification or Recertification of Nurse Anesthetists of the American Association of Nurse Anesthetists authorized to administer anesthesia under § 21.17 (relating to the administration of anesthesia by a registered nurse.)

*Clinical evaluation*—A determination of the dentist's current technical competency to safely administer general anesthesia, deep sedation or conscious

sedation and to effectively respond to anesthesia related emergencies, in accordance with the AAOMS Manual for OMSs or the ADA Guidelines (for adult patients) and the AAPD Guidelines (for pediatric patients) for general dentists.

*Communications equipment*—Equipment capable of being used to elicit a response in an emergency by voice, video or electronic data transmission, such as a telephone, video link, intercom, two-way radio or other similar device.

*Conscious sedation*—A minimally depressed level of consciousness that is produced by a pharmacologic method, a nonpharmacologic method, or a combination of both, in which the patient retains the ability to maintain an airway independently and continuously and to respond appropriately to physical stimulation or verbal command.

*Deep sedation*—A controlled, pharmacologically induced state of depressed consciousness from which the patient is not easily aroused and which may be accompanied by a partial loss of protective reflexes, including the ability to maintain a patent airway independently or respond purposefully to physical stimulation or verbal command, or both.

*General anesthesia*—A controlled state of unconsciousness that is produced by a pharmacologic method, a nonpharmacologic method, or a combination of both, and that is accompanied by a complete or partial loss of protective reflexes that include the patient's inability to maintain an airway independently and to respond purposefully to physical stimulation or verbal command.

*General dentist*—A dentist who is not an oral and maxillofacial surgeon.

*Nitrous oxide/oxygen analgesia*—The diminution or elimination of pain in the conscious patient through the use of nitrous oxide/oxygen.

*OMS*—Oral and Maxillofacial Surgeon who is a current member of the PSOMS or AAOMS.

*Office inspection*—A determination as to whether the offices where the dentist administers anesthesia is properly equipped as prescribed in § 33.340(a)(2), § 33.340a(a)(2) or § 33.340b(a)(2) (relating to duties of dentists who are unrestricted permit holders; duties of dentists who are restricted permit I holders; and duties of dentists who are restricted permit II holders), as appropriate to the type of permit, and in accordance with the AAOMS Manual for OMSs, or the ADA Guidelines (for adult patients) and the AAPD Guidelines (for pediatric patients) for general dentists.

*PALS*—Pediatric Advanced Life Support.

*PSOMS*—Pennsylvania Society of Oral and Maxillofacial Surgeons.

*Patient physical evaluation*—An assessment of the patient's physical and mental condition relevant to the surgery to be performed and anesthesia or anesthetic to be utilized.

*Pediatric patient*—A patient under 18 years of age.

*Peer evaluation organization*—An entity approved by the Board for administering a program whereby licensed dentists conduct office inspections and

clinical evaluations for dentists seeking initial or renewal unrestricted or restricted I permits in accordance with § 33.336b (relating to approved peer evaluation organizations for administering clinical evaluations and office inspections).

*Peer evaluator*—A licensed dentist with a current unrestricted permit or restricted permit I who conducts an office inspection or clinical evaluation under the auspices of an approved peer evaluation organization.

*Physician*—A Pennsylvania licensed medical or osteopathic physician who is currently certified by the American Board of Anesthesiology or the American Osteopathic Board of Anesthesiology, or is credentialed to administer anesthesia in a hospital or ambulatory surgical facility licensed by the Department of Health.

#### Authority

The provisions of this § 33.331 issued under sections 11.2 and 11.3 of The Dental Law (63 P. S. §§ 130c and 130d); amended under sections 3(o) and 11.2(a) of The Dental Law (63 P. S. §§ 122(o) and 130c(a)).

#### Source

The provisions of this § 33.331 adopted July 8, 1988, effective July 9, 1988, 18 Pa.B. 3045; amended May 13, 2005, effective May 14, 2005, 35 Pa.B. 2880. Immediately preceding text appears at serial page (238326).

#### Cross References

This section cited in 49 Pa. Code § 33.341 (relating to duties of dentists who are not permit holders).

### § 33.332. Requirement of permit to administer general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia.

(a) *Permit required for administration of anesthetic modality in dental office.* A dentist shall possess a current permit issued by the Board under this subchapter before administering, or supervising the administration of, general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia in a dental office.

(b) *Permit not required for administration of anesthetic modality in other facilities.* A dentist is not required to possess a permit under this subchapter before administering, or supervising the administration of, general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia in a State- or Federally-regulated facility other than a dental office.

(c) *Failure to comply.* A dentist's failure to comply with subsection (a) will be considered unprofessional conduct and will subject the dentist to disciplinary action under section 4.1 of the act (63 P. S. § 123.1).

**Authority**

The provisions of this § 33.332 issued under sections 11.2 and 11.3 of The Dental Law (63 P. S. §§ 130c and 130d); amended under sections 3(o) and 11.2(a) of The Dental Law (63 P. S. §§ 122(o) and 130c(a)).

**Source**

The provisions of this § 33.332 adopted July 8, 1988, effective July 9, 1988, 18 Pa.B. 3045; amended July 7, 1989, effective July 8, 1989, 19 Pa.B. 2953; amended May 13, 2005, effective May 14, 2005, 35 Pa.B. 2880. Immediately preceding text appears at serial pages (238326) to (238327).

**Cross References**

This section cited in 49 Pa. Code § 33.110 (relating to volunteer license).

**§ 33.333. Types of permits.**

The Board will issue the following permits to licensees qualified under this subchapter:

- (1) *Unrestricted permit.* A permit which authorizes the holder to administer general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia.
- (2) *Restricted permit I.* A permit which authorizes the holder to administer conscious sedation or nitrous oxide/oxygen analgesia.
- (3) *Restricted permit II.* A permit which authorizes the holder to administer nitrous oxide/oxygen analgesia.
- (4) *Temporary permit.* A permit limited to 1 year which authorizes the applicant for an unrestricted, restricted I or restricted II permit to administer the appropriate type of anesthesia relevant to the applicant's qualifications.

**Authority**

The provisions of this § 33.333 issued under sections 11.2 and 11.3 of The Dental Law (63 P. S. §§ 130c and 130d); amended under sections 3(o) and 11.2(a) of The Dental Law (63 P. S. §§ 122(o) and 130c(a)).

**Source**

The provisions of this § 33.333 adopted July 8, 1988, effective July 9, 1988, 18 Pa.B. 3045; amended May 13, 2005, effective May 14, 2005, 35 Pa.B. 2880. Immediately preceding text appears at serial page (238327).

**Cross References**

This section cited in 49 Pa. Code § 33.110 (relating to volunteer license).

**§ 33.334. Application for permit.**

- (a) A dentist who desires to obtain a permit to administer general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia, or a temporary permit, shall submit an application on a form provided by the Board, pay the permit fee prescribed in § 33.339 (relating to fees for issuance of permits) and meet the requirements for the permit applied for as prescribed in this subchapter.

(b) Application forms may be obtained from the State Board of Dentistry, Post Office Box 2649, Harrisburg, Pennsylvania 17105-2649.

**Authority**

The provisions of this § 33.334 issued under sections 11.2 and 11.3 of The Dental Law (63 P. S. §§ 130c and 130d); amended under sections 3(o) and 11.2(a) of The Dental Law (63 P. S. §§ 122(o) and 130c(a)).

**Source**

The provisions of this § 33.334 adopted July 8, 1988, effective July 9, 1988, 18 Pa.B. 3045; amended May 13, 2005, effective May 14, 2005, 35 Pa.B. 2880. Immediately preceding text appears at serial pages (238327) to (238328).

**§ 33.335. Requirements for unrestricted permit.**

(a) To secure an unrestricted permit, a dentist shall have done one of the following:

(1) Successfully completed at least 2 years in a postgraduate program for advanced training in anesthesiology and related academic subjects that conforms to Part II of the American Dental Association's *Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry*.

(2) Possess current certification as a Diplomate of the American Board of Oral and Maxillofacial Surgeons, a Fellow of the American Association of Oral and Maxillofacial Surgery or a Fellow of the American Dental Society of Anesthesiology, or be eligible for examination by the American Board of Oral and Maxillofacial Surgery.

**Authority**

The provisions of this § 33.335 issued under sections 11.2 and 11.3 of The Dental Law (63 P. S. §§ 130c and 130d); amended under sections 3(o) and 11.2(a) of The Dental Law (63 P. S. §§ 122(o) and 130c(a)).

**Source**

The provisions of this § 33.335 adopted July 8, 1988, effective July 9, 1988, 18 Pa.B. 3045; amended July 7, 1989, effective July 8, 1989, 19 Pa.B. 2953; amended May 13, 2005, effective May 14, 2005, 35 Pa.B. 2880. Immediately preceding text appears at serial page (238328).

**Cross References**

This section cited in 49 Pa. Code § 33.110 (relating to volunteer license); and 49 Pa. Code § 33.339 (relating to fees for issuance of permits).

**§ 33.336. Requirements for restricted permit I.**

To secure a restricted permit I, a dentist shall have successfully completed a course on conscious sedation comprising at least 60 hours of undergraduate or postgraduate didactic instruction and clinical experience in a program that conforms to Part I (for an undergraduate program) or Part III (for a postgraduate

program) of the ADA's *Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry*.

#### Authority

The provisions of this § 33.336 issued under sections 11.2 and 11.3 of The Dental Law (63 P. S. §§ 130c and 130d); amended under sections 3(o) and 11.2(a) of The Dental Law (63 P. S. §§ 122(o) and 130c(a)).

#### Source

The provisions of this § 33.336 adopted July 8, 1988, effective July 9, 1988, 18 Pa.B. 3045; amended July 7, 1989, effective July 8, 1989, 19 Pa.B. 2953; amended May 13, 2005, effective May 14, 2005, 35 Pa.B. 2880. Immediately preceding text appears at serial page (238329).

#### Cross References

This section cited in 49 Pa. Code § 33.110 (relating to volunteer license); and 49 Pa. Code § 33.339 (relating to fees for issuance of permits).

### § 33.336a. Requirements for unrestricted permit and restricted permit I.

#### (a) *Office inspections and clinical evaluations.*

(1) *Initial permits.* Initial unrestricted and restricted I permit applicants shall satisfactorily complete an office inspection and clinical evaluation conducted by an approved peer evaluation organization under § 33.336b (relating to approved peer evaluation organizations for administering clinical evaluations and office inspections).

(2) *First renewal permit beginning April 1, 2005.* Beginning April 1, 2005, renewal unrestricted and restricted I permit applicants shall satisfactorily complete an office inspection and clinical evaluation as a condition for permit renewal. Completion of an office inspection and clinical evaluation may be waived if the applicant can demonstrate satisfactory completion of an office inspection and clinical evaluation, administered by an organization approved by the Board, within 6 years preceding April 1, 2005.

(3) *Subsequent renewal permit.* Following the applicant's initial permit renewal after April 1, 2005, unrestricted and restricted permit I renewal applicants shall satisfactorily complete an office inspection and clinical evaluation once every 6 years.

(4) *Report of office inspection and clinical evaluation.* An application for an initial or renewal permit shall contain documentation from the peer review organization that conducted the office inspection and clinical evaluation that evidences the applicant's satisfactory completion of an office inspection and clinical evaluation and a written report of the results of the office inspection and clinical evaluation.

#### (b) *Standards for anesthesia administration.*

(1) An OMS applicant for an unrestricted or restricted I permit shall attest that the administration of anesthesia to adult and pediatric patients will be conducted in conformance with the standards outlined in the AAOMS Guidelines and the AAOMS Manual.

(2) A general dentist applicant for an unrestricted or restricted I permit shall attest that the administration of anesthesia to adult patients will be conducted in conformance with the standards outlined in the ADA Guidelines and that the administration of anesthesia to pediatric patients will be conducted in conformance with the standards outlined in the AAPD Guidelines.

(c) *ACLS/PALS certification.*

(1) *Adult patients.* An applicant for an unrestricted or restricted I permit shall have successfully completed and maintained current certification in ACLS prior to the administration of anesthesia to an adult patient.

(2) *Pediatric patients.* An applicant for an unrestricted or restricted I permit shall have successfully completed and maintained current certification in PALS prior to the administration of anesthesia to a pediatric patient.

(d) *Continuing anesthesia education.*

(1) Beginning April 1, 2005, and for all subsequent renewal periods, the following hours of continuing education are required as a condition of permit renewal:

(i) *Unrestricted permit.* An applicant for an unrestricted permit shall have completed 15 hours of Board approved courses related to general anesthesia and deep sedation.

(ii) *Restricted permit I.* An applicant for a restricted permit I shall have completed 15 hours of Board approved courses related to conscious sedation.

(2) Continuing anesthesia education will be credited toward the permit-holder's continuing education requirement under § 33.401(a)(1) (relating to credit-hour requirements).

#### Authority

The provisions of this § 33.336a issued under sections 3(o) and 11.2(a) of The Dental Law (63 P. S. §§ 122(o) and 130c(a)).

#### Source

The provisions of this § 33.336a adopted May 13, 2005, effective May 14, 2005, 35 Pa.B. 2880.

#### Cross References

This section cited in 49 Pa. Code § 33.110 (relating to volunteer license); and 49 Pa. Code § 33.338 (relating to expiration and renewal of permits).



**§ 33.336b. Approved peer evaluation organizations for administering clinical evaluations and office inspections.**

(a) The following organizations are deemed qualified to conduct clinical evaluations and office inspections and do not require prior approval from the Board:

(1) The American Association of Oral and Maxillofacial Surgeons (AAOMS).

(2) The Pennsylvania Society of Oral and Maxillofacial Surgeons (PSOMS).

(b) An organization of oral and maxillofacial surgeons or of unrestricted permit and restricted permit I holders that does not qualify as an organization to conduct clinical evaluations and office inspections under subsection (a) may apply to the Board for approval to serve as an organization to conduct clinical evaluations and office inspections. In determining whether to grant approval, the Board will consider the following factors:

(1) Whether the organization agrees to utilize peer evaluators meeting the following criteria:

(i) A minimum 5 years experience administering general anesthesia and deep sedation (for unrestricted permit holders) or conscious sedation (for restricted permit I holders) within the last 7 years.

(ii) A current unrestricted permit or restricted permit I.

(iii) Completion of a minimum 7-hour course in conducting office inspections and clinical evaluations.

(2) Whether the organization has sufficient peer evaluators that meet the criteria listed in § 33.336d (relating to qualifications of peer evaluators conducting office inspections and clinical evaluations) to conduct office inspections and clinical evaluations.

(3) Whether the organization has the technical competence to administer office inspections and clinical evaluations to applicants for initial and renewal permits.

(4) Whether the organization's fee for office inspections and clinical evaluations is based upon reasonable costs.

(5) Whether the organization has standards for satisfactory completion of an office inspection and clinical evaluation.

(6) Whether the organization has an internal appeal procedure to contest the office inspection or clinical evaluation.

(7) Whether the organization has a peer review oversight committee whose members meet the following criteria:

(i) A minimum 5 years experience administering general anesthesia and deep sedation.

(ii) A current unrestricted permit.

(8) Whether the organization has procedures to facilitate fair, unbiased and equitable office inspections and clinical evaluations.

(9) Whether the organization agrees to make records of all office inspections and clinical evaluations available to the Board upon request and agrees to maintain these records for at least 5 years.

(10) Whether the organization agrees to conduct a subsequent office inspection or clinical evaluation within a reasonable time if the results of the initial office inspection or clinical evaluation are unsatisfactory.

(11) Whether the organization agrees to conduct office inspections and clinical evaluations in conformance with the standards outlined in the AAOMS Manual and AAOMS Guidelines (for OMSs) and the ADA Guidelines or AAPD Guidelines (for general dentists), and in accordance with §§ 33.340 and 33.340a (relating to duties of dentists who are unrestricted permitholders; and duties of dentists who are restricted permit I holders).

(12) Whether the organization agrees to utilize peer evaluator teams consisting of at least two permitholders as follows:

(i) For office inspections and clinical evaluations of unrestricted permitholders and applicants, a team of at least two unrestricted permitholders.

(ii) For office inspections and clinical evaluations of restricted permit I holders and applicants, a team consisting of at least two unrestricted permitholders, or a team consisting of at least one unrestricted permitholder and one restricted permit I holder.

(c) An approved peer evaluation organization may not require a permit applicant to become a member of the organization as a precondition for the organization to conduct a clinical evaluation and office inspection for the applicant.

#### **Authority**

The provisions of this § 33.336b issued under sections 3(o) and 11.2(a) of The Dental Law (63 P. S. §§ 122(a) and 130c(a)).

#### **Source**

The provisions of this § 33.336b adopted May 13, 2005, effective May 14, 2005, 35 Pa.B. 2880.

#### **Cross References**

This section cited in 49 Pa. Code § 33.331 (relating to definitions); 49 Pa. Code § 33.336a (relating to requirements for unrestricted permit and restricted permit I); and 49 Pa. Code § 33.340 (relating to duties of dentists who are unrestricted permitholders).

### **§ 33.336c. Standards for office inspections and clinical evaluations.**

Office inspections and clinical evaluations shall be conducted in accordance with the AAOMS Manual and AAOMS Guidelines for OMSs and the ADA Guidelines and AAPD Guidelines for general dentists.

#### **Authority**

The provisions of this § 33.336c issued under sections 3(o) and 11.2(a) of The Dental Law (63 P. S. §§ 122(a) and 130c(a)).

**Source**

The provisions of this § 33.336c adopted May 13, 2005, effective May 14, 2005, 35 Pa.B. 2880.

**Cross References**

This section cited in 49 Pa. Code § 33.336e (relating to confidentiality of peer evaluation reports).

**§ 33.336d. Qualifications of peer evaluators conducting office inspections and clinical evaluations.**

(a) A peer evaluator conducting office inspections and clinical evaluations of unrestricted permitholders and applicants shall be a licensed dentist holding a current unrestricted permit.

(b) A peer evaluator conducting office inspections and clinical evaluations of restricted permit I holders and applicants shall be a licensed dentist holding either a current unrestricted permit or a current restricted permit I, provided that a peer evaluator holding a current restricted permit I may only conduct office inspections and clinical evaluations when part of a team consisting of at least one unrestricted permitholder.

(c) A peer evaluator shall be independent from, and have no conflict of interest with, the dentist or dental practice being reviewed.

(d) The administering approved peer evaluation organization shall ensure that its peer evaluators are qualified under this section.

**Authority**

The provisions of this § 33.336d issued under sections 3(o) and 11.2(a) of The Dental Law (63 P. S. §§ 122(a) and 130c(a)).

**Source**

The provisions of this § 33.336d adopted May 13, 2005, effective May 14, 2005, 35 Pa.B. 2880.

**Cross References**

This section cited in 49 Pa. Code § 33.336b (relating to approved peer evaluation organizations for administering clinical evaluations and office inspections).

**§ 33.336e. Confidentiality of peer evaluation reports.**

(a) Office inspection and clinical evaluation reports and related information shall remain confidential except as provided in § 33.336a(a)(4) (relating to requirements for unrestricted permit and restricted permit I) and the act of June 21, 1957 (P. L. 390, No. 212) (65 P. S. §§ 66.1—66.4), known as the Right-to-Know Law.

(b) An administering approved peer evaluation organization shall submit to the Board a written report of the results of the office inspection and clinical evaluation within 30 days from the date the office inspection and clinical evaluation was conducted that documents whether the applicant has successfully completed the office inspection and clinical evaluation.

(c) If a clinical evaluation or office inspection reveals that the noncompliance of a dentist or dental office presents an immediate and clear danger to the public health and safety, the administering approved peer evaluation organization shall immediately notify the Commissioner of the Bureau.

**Authority**

The provisions of this § 33.336e issued under sections 3(o) and 11.2(a) of The Dental Law (63 P. S. §§ 122(a) and 130c(a)).

**Source**

The provisions of this § 33.336e adopted May 13, 2005, effective May 14, 2005, 35 Pa.B. 2880.

**§ 33.337. Requirements for restricted permit II.**

(a) To secure a restricted permit II, a dentist shall have successfully completed a course in nitrous oxide/oxygen analgesia comprising at least 14 hours of undergraduate or postgraduate didactic instruction and clinical experience in a program that conforms to Part I (for an undergraduate program) or Part III (for a postgraduate program) of the ADA's *Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry*.

(b) Initial restricted II permit applicants shall provide the following:

(1) The make, model and serial number of any nitrous oxide/oxygen analgesia equipment utilized by the applicant.

(2) Certification that the equipment is properly calibrated and maintained, contains a fail-safe system and is in working order.

(3) An attestation that the applicant has written office procedures for administering nitrous oxide/oxygen analgesia and handling emergencies related to the administration of nitrous oxide/oxygen analgesia.

(c) *Subsequent renewal permits.* Following the applicant's initial permit renewal after April 1, 2004, for each subsequent renewal period, an applicant shall provide an attestation to the Board, in accordance with § 33.338(b)(4) (relating to expiration and renewal of permits), that the nitrous oxide/oxygen analgesia equipment that the applicant uses is properly calibrated and maintained and contains a fail-safe system.

**Authority**

The provisions of this § 33.337 issued under sections 11.2 and 11.3 of The Dental Law (63 P. S. §§ 130c and 130d); amended under sections 3(o) and 11.2(a) of The Dental Law (63 P. S. §§ 122(o) and 130c(a)).

**Source**

The provisions of this § 33.337 adopted July 8, 1988, effective July 9, 1988, 18 Pa.B. 3045; amended July 7, 1989, effective July 8, 1989, 19 Pa.B. 2953; amended May 13, 2005, effective May 14, 2005, 35 Pa.B. 2880. Immediately preceding text appears at serial pages (238329) to (238330).

**Cross References**

This section cited in 49 Pa. Code § 33.110 (relating to volunteer license); and 49 Pa. Code § 33.339 (relating to fees for issuance of permits).

**§ 33.337a. Requirements for temporary permit.**

(a) To secure a temporary unrestricted permit, restricted permit I or restricted permit II, an applicant shall include with the application proof that the applicant possesses the qualifications required for the type of permit requested.

(b) Temporary permits expire 1 year following the effective date and may not be renewed.

**Authority**

The provisions of this § 33.337a issued under sections 3(o) and 11.2(a) of The Dental Law (63 P. S. §§ 122(a) and 130c(a)).

**Source**

The provisions of this § 33.337a adopted May 13, 2005, effective May 14, 2005, 35 Pa.B. 2880.

**§ 33.338. Expiration and renewal of permits.**

(a) A permit issued by the Board under this subchapter will expire at the same time as the permitholder's dental license but may be renewed biennially at the same time the dental license is renewed.

(b) A dentist who desires to renew a permit shall submit the following:

(1) A renewal application on a form provided by the Board.

(2) The permit renewal fee prescribed in § 33.339 (relating to fees for issuance of permits).

(3) Proof of current certification in ACLS (adult patients) or PALS (pediatric patients), or both (for unrestricted permits and restricted I permits).

(4) An attestation, on the renewal application, that any equipment used to administer general anesthesia, deep sedation, conscious sedation and nitrous oxide/oxygen analgesia has been installed, properly calibrated and maintained according to the equipment manufacturer's guidelines and contains a fail-safe system (for all permits).

(5) Proof of compliance with the continuing anesthesia education requirement under § 33.336a(d) (relating to requirements for unrestricted permit and restricted I permit).

(6) Proof of compliance with the office inspection and clinical evaluation requirements under § 33.336a(a).

**Authority**

The provisions of this § 33.338 issued under sections 11.2 and 11.3 of The Dental Law (63 P. S. §§ 130c and 130d); amended under sections 3(o) and 11.2(a) of The Dental Law (63 P. S. §§ 122(o) and 130c(a)).

**Source**

The provisions of this § 33.338 adopted July 8, 1988, effective July 9, 1988, 18 Pa.B. 3045; amended May 13, 2005, effective May 14, 2005, 35 Pa.B. 2880. Immediately preceding text appears at serial page (238330).

**Cross References**

This section cited in 49 Pa. Code § 33.337 (relating to requirements for restricted permit II).

**§ 33.339. [Reserved].****Authority**

The provisions of this § 33.339 issued under sections 11.2 and 11.3 of The Dental Law (63 P.S. §§ 130c and 130d); amended under sections 3(o), 4(a) and (b) and 11.2(a) of The Dental Law (63 P.S. §§ 122(o), 123(a) and (b) and 130c(a)); deleted under sections 3(b), 3(f), 3(g.1), 3(j) and 3(o), 4(a) and (b), 11.2(a)(2), (4) and (6) and 11.11(a)(7) and (d) of The Dental Law (63 P.S. §§ 122(b), (f), (g.1), (j) and (o), 123(a) and (b), 130c(a)(2), (4) and (6) and 130l(a)(7) and (d)).

**Source**

The provisions of this § 33.339 adopted July 8, 1988, effective July 9, 1988, 18 Pa.B. 3045; amended May 13, 2005, effective May 14, 2005, 35 Pa.B. 2899 and 2880; amended December 20, 2013, effective December 21, 2013, 43 Pa.B. 7441; deleted November 4, 2022, effective November 5, 2022, 52 Pa.B. 6849. Immediately preceding text appears at serial page (369752).

**Cross References**

This section cited in 49 Pa. Code § 33.3 (relating to fees); 49 Pa. Code § 33.334 (relating to application for permit); and 49 Pa. Code § 33.338 (relating to expiration and renewal of permits).

**§ 33.340. Duties of dentists who are unrestricted permitholders.**

(a) A dentist who possesses an unrestricted permit issued under this subchapter shall ensure that:

- (1) Prior to the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia, the permitholder takes or updates a patient medical history and gives the patient a physical evaluation

sufficient to determine the patient's suitability to receive general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia.

(2) The dental office in which the permitholder administers general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia on an outpatient basis contains the following:

- (i) An operating room.
- (ii) An operating table or chair.
- (iii) A lighting system.
- (iv) Suction equipment commensurate with the patient's age, size and condition.
- (v) Oxygen and supplemental gas delivery systems, including primary and back-up sources and a fail-safe control mechanism.
- (vi) A sterilization area.
- (vii) A recovery area.
- (viii) A gas storage area and scavenger system.
- (ix) Emergency airway equipment and medications, including intravenous emergency equipment.
- (x) Communications equipment.
- (xi) Patient transport equipment.
- (xii) Monitoring equipment, procedures and documentation to conform to the age, size and condition of the patient and the AAOMS Manual and AAOMS Guidelines for adult and pediatric patients (OMS); the ADA Guidelines for adult patients (general dentists); and the AAPD Guidelines for pediatric patients (general dentists).
- (xiii) Capnograph for intubated patients and pulse oximeter.
- (xiv) ECG.
- (xv) Blood pressure monitoring device.
- (xvi) Defibrillator.
- (xvii) Results of patient medical history and patient physical evaluation, and identification of anesthesia procedures to be utilized, prior to the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia.
- (xviii) Signed, written, informed patient consent, prior to the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia, which includes a description of the procedure, its risks and possible alternative treatments. Consent for a minor patient shall be obtained from the minor's parent or guardian.
- (xix) Stethoscope.

(3) Auxiliary personnel who assist the permitholder in the administration of general anesthesia, deep sedation or conscious sedation:

- (i) Are trained to perform the duties that the permitholder delegates to them, if the duties do not require the professional judgment and skill of the

permitholder and do not involve the actual administration of general anesthesia, deep sedation or conscious sedation.

(ii) Perform their duties under the direct on-premises supervision of the permitholder, who shall assume full responsibility for the performance of the duties.

(iii) Do not render assistance in areas that are beyond the scope of the permitholder's authority.

(iv) Are currently certified in BLS.

(4) CRNAs who are delegated the duties of administering general anesthesia, deep sedation or conscious sedation:

(i) Perform their duties under the direct on-premises supervision of the permitholder, who shall assume full responsibility for the performance of the duties.

(ii) Do not perform duties that are beyond the scope of the permitholder's authority.

(iii) Are currently certified in ACLS.

(5) The dentist possesses a current certification in ACLS for adult patients and PALS for pediatric patients.

(6) The Board receives a complete report of a death or incident requiring medical care and resulting in physical or mental injury that directly resulted from the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia by the permitholder or by a CRNA working under the supervision of the permitholder. The permitholder shall submit the report within 30 days of the death or incident.

(7) The Board receives prior notice of the first time that a dental office of the permitholder will be used for the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia.

(8) General anesthesia or deep sedation administered to pediatric patients by or under the delegation of a general dentist is administered by a person dedicated solely to the administration and monitoring of anesthesia, and the dental procedures are performed by a dental licensee who is not involved in the administration of the general anesthesia.

(9) Monitoring equipment and equipment used to administer general anesthesia, deep sedation, conscious sedation and nitrous oxide/oxygen analgesia is installed, maintained and calibrated according to the equipment manufacturer's guidelines; is in proper working condition prior to the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia; and monitoring equipment is being used during the administration of general anesthesia.

(10) If the permitholder travels to the offices of non-permitholders for the purpose of administering general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia, the permitholder shall satisfactorily com-



plete a clinical evaluation and the equipment transported to the nonpermitted dentist's office for the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia by a permit holder shall satisfactorily complete an inspection conducted by an approved peer evaluation organization under § 33.336b(a) (relating to approved peer evaluation organizations for administering clinical evaluations and office inspections) in accordance with the requirements of the AAOMS Manual and AAOMS Guidelines (OMS). As part of that clinical evaluation and inspection, the permit holder shall certify that each office location in which general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia is administered by the permit holder has the equipment required by paragraph (2) and that the staff is properly trained to handle anesthesia-related emergencies.

(11) General anesthesia, deep sedation, conscious sedation and nitrous oxide/oxygen analgesia is administered to adult and pediatric patients in accordance with the AAOMS Guidelines and AAOMS Manual (OMSs) or to adult patients in accordance with the ADA Guidelines (general dentists) or to pediatric patients in accordance with the AAPD Guidelines (general dentists). Conflicts between the AAOMS Guidelines, the AAOMS Manual, the ADA Guidelines, or the AAPD Guidelines and this subchapter shall be resolved in favor of this subchapter.

(12) Patient records are prepared, maintained and retained in accordance with § 33.209 (relating to preparing, maintaining and retaining patient records).

(b) A dentist's failure to comply with this section will be considered unprofessional conduct and will subject the dentist to disciplinary action under section 4.1 of the act (63 P. S. § 123.1).

#### Authority

The provisions of this § 33.340 issued under sections 11.2 and 11.3 of The Dental Law (63 P. S. §§ 130c and 130d); amended under sections 3(o) and 11.2(a) of The Dental Law (63 P. S. §§ 122(o) and 130c(a)).

#### Source

The provisions of this § 33.340 adopted July 8, 1988, effective July 9, 1988, 18 Pa.B. 3045; amended May 13, 2005, effective May 14, 2005, 35 Pa.B. 2880. Immediately preceding text appears at serial pages (266043) to (266045).

#### Notes of Decisions

##### *Appropriate Monitoring Equipment*

The term "appropriate monitoring equipment" for the administration of general anesthesia is unconstitutionally vague because it does not provide a reasonable standard by which a dentist is supposed to act; the lack of clear guidance as to what constitutes "appropriate" monitoring equipment lends itself to a situation in which the standards are left to be defined by the personal or professional views of individual members of the State Board of Dentistry. *Watkins v. State Board of Dentistry*, 740 A.2d 760 (Pa. Cmwlth. 1999).

**Cross References**

This section cited in 49 Pa. Code § 33.331 (relating to definitions); 49 Pa. Code § 33.336b (relating to approved peer evaluation organizations for administering clinical evaluations and office inspections); 49 Pa. Code § 33.341 (relating to duties of dentists who are not permitholders); and 49 Pa. Code § 33.342 (relating to inspection of dental offices).

**§ 33.340a. Duties of dentists who are restricted permit I holders.**

(a) A dentist who possesses a restricted permit I issued under this subchapter shall ensure that:

(1) Prior to the administration of conscious sedation or nitrous oxide/oxygen analgesia, the permitholder takes or updates a patient medical history and gives the patient a physical evaluation sufficient to determine the patient's suitability to receive conscious sedation or nitrous oxide/oxygen analgesia.

(2) The dental office in which the permitholder administers conscious sedation or nitrous oxide/oxygen analgesia on an outpatient basis contains the following:

- (i) An operating room.
- (ii) An operating table or chair.
- (iii) A lighting system.
- (iv) Suction equipment commensurate with the patient's age, size and condition.
- (v) Oxygen and supplemental gas delivery systems, including primary and back-up sources and a fail-safe control mechanism.
- (vi) A sterilization area.
- (vii) A recovery area.
- (viii) A gas storage area and scavenger system.
- (ix) Emergency airway equipment and medications, including intravenous emergency equipment.
- (x) Communications equipment.
- (xi) Patient transport equipment.
- (xii) Monitoring equipment, procedures and documentation to conform to the age, size and condition of the patient and the AAOMS Manual and AAOMS Guidelines for adult and pediatric patients (OMS); the ADA Guidelines for adult patients (general dentists); and the AAPD Guidelines for pediatric patients (general dentists.)
- (xiii) Pulse oximeter.
- (xiv) ECG.
- (xv) Blood pressure monitoring device.
- (xvi) Defibrillator.
- (xvii) Results of patient medical history and patient physical evaluation, and identification of anesthesia procedures to be utilized, prior to the administration of conscious sedation or nitrous oxide/oxygen analgesia.

(xviii) Signed, written, informed patient consent, prior to the administration of conscious sedation or nitrous oxide/oxygen analgesia, which includes a description of the procedure, its risks and possible alternative treatments. Consent for a minor patient shall be obtained from the minor's parent or guardian.

(xix) Stethoscope.

(3) Auxiliary personnel who assist the permitholder in the administration of conscious sedation:

(i) Are trained to perform the duties that the permitholder delegates to them, if the duties do not require the professional judgment and skill of the permitholder and do not involve the actual administration of conscious sedation.

(ii) Perform their duties under the direct on-premises supervision of the permitholder, who shall assume full responsibility for the performance of the duties.

(iii) Do not render assistance in areas that are beyond the scope of the permitholder's authority.

(iv) Are currently certified in BLS.

(4) CRNAs who are delegated the duties of administering conscious sedation:

(i) Perform their duties under the direct on-premises supervision of the permitholder, who shall assume full responsibility for the performance of the duties.

(ii) Do not perform duties that are beyond the scope of the permitholder's authority.

(iii) Are currently certified in ACLS.

(5) The dentist possesses a current certification in ACLS for adult patients and PALS for pediatric patients.

(6) The Board receives a complete report of a death or incident requiring medical care and resulting in physical or mental injury that directly resulted from the administration of conscious sedation or nitrous oxide/oxygen analgesia by the permitholder or by a CRNA working under the supervision of the permitholder. The permitholder shall submit the report within 30 days of the death or incident.

(7) The Board receives prior notice of the first time that a dental office of the permitholder will be used for the administration of conscious sedation or nitrous oxide/oxygen analgesia.

(8) Monitoring equipment and equipment used to administer conscious sedation and nitrous oxide/oxygen analgesia is installed, maintained and calibrated according to the equipment manufacturer's guidelines, contains a fail-safe system and is in proper working condition prior to the administration of conscious sedation or nitrous oxide/oxygen analgesia.

(9) If the permitholder travels to the offices of non-permitholders for the purpose of administering conscious sedation or nitrous oxide/oxygen analgesia, the permitholder shall satisfactorily complete a clinical evaluation and the equipment transported to a non-permitholder dentist's office for the administration of conscious sedation or nitrous/oxide oxygen analgesia by a permitholder must satisfactorily complete an inspection conducted by an approved peer evaluation organization under § 33.336b(a) (relating to approved peer evaluation organizations for administering clinical evaluations and office inspections) in accordance with the requirements of the AAOMS Manual and AAOMS Guidelines, the ADA Guidelines or the AAPD Guidelines, as applicable. As part of that clinical evaluation and inspection, the permitholder shall certify that each office location in which conscious sedation or nitrous oxide/oxygen analgesia is administered has the equipment required by paragraph (2) and that the staff is properly trained to handle anesthesia-related emergencies.

(10) Conscious sedation and nitrous oxide/oxygen analgesia is administered to adult and pediatric patients in accordance with the AAOMS Guidelines and AAOMS Manual (OMSs) or to adult patients in accordance with the ADA Guidelines (general dentists) or to pediatric patients in accordance with the AAPD Guidelines (general dentists). Conflicts between the AAOMS Guidelines, the AAOMS Manual, the ADA Guidelines, or the AAPD Guidelines and this subchapter shall be resolved in favor of this subchapter.

(11) Patient records are prepared, maintained and retained in accordance with § 33.209 (relating to preparing, maintaining and retaining patient records).

(b) A dentist's failure to comply with this section will be considered unprofessional conduct and will subject the dentist to disciplinary action under section 4.1 of the act (63 P. S. § 123.1).

#### **Authority**

The provisions of this § 33.340a issued under sections 3(o) and 11.2(a) of The Dental Law (63 P. S. §§ 122(o) and 130c(a)).

#### **Source**

The provisions of this § 33.340a adopted May 13, 2005, effective May 14, 2005, 35 Pa.B. 2880.

#### **Cross References**

This section cited in 49 Pa. Code § 33.331 (relating to definitions); 49 Pa. Code § 33.336b (relating to approved peer evaluation organizations for administering clinical evaluations and office inspections); 49 Pa. Code § 33.341 (relating to duties of dentists who are not permitholders); and 49 Pa. Code § 33.342 (relating to inspection of dental offices).

### **§ 33.340b. Duties of dentists who are restricted permit II holders.**

(a) A dentist who possesses a restricted permit II issued under this subchapter shall ensure that:

(1) Prior to the administration of nitrous oxide/oxygen analgesia, the permitholder takes or updates a patient medical history and gives the patient a physical evaluation sufficient to determine the patient's suitability to receive nitrous oxide/oxygen analgesia.

(2) The dental office in which the permitholder administers nitrous oxide/oxygen analgesia on an outpatient basis contains the following:

- (i) An operating room.
- (ii) An operating table or chair.
- (iii) A lighting system.
- (iv) Dental office suction equipment.
- (v) Oxygen and supplemental gas delivery systems, including primary and back-up sources and a fail-safe control mechanism.
- (vi) A sterilization area.
- (vii) A gas storage area and scavenger system.
- (viii) Communications equipment.
- (ix) Monitoring equipment, procedures and documentation to conform to the age, size and condition of the patient and the AAOMS Manual and AAOMS Guidelines for adult and pediatric patients (OMS), the ADA Guidelines for adult patients (general dentists) and the AAPD Guidelines for pediatric patients (general dentists).
- (x) Results of patient medical history, patient physical evaluation and identification of the nitrous oxide/oxygen analgesia procedure to be utilized, prior to the administration of nitrous oxide/oxygen analgesia.
- (xi) Signed, written, informed patient consent, prior to the administration of nitrous oxide/oxygen analgesia, which includes a description of the procedure, its risks and possible alternative treatments. Consent for a minor patient shall be obtained from the minor's parent or guardian.
- (xii) Stethoscope.

(3) Nitrous oxide/oxygen analgesia is administered to adult and pediatric patients in accordance with the AAOMS Guidelines and AAOMS Manual (OMS) or to adult patients in accordance with the ADA Guidelines (general dentists) or to pediatric patients in accordance with the AAPD Guidelines (general dentists). Conflicts between the AAOMS Guidelines, the AAOMS Manual, the ADA Guidelines or the AAPD Guidelines and this subchapter shall be resolved in favor of this subchapter.

(4) Monitoring equipment and equipment used to administer nitrous oxide/oxygen analgesia is installed, maintained and calibrated according to the equipment manufacturer's guidelines, contains a fail-safe system and is in proper working condition prior to the administration of nitrous oxide/oxygen analgesia.

(5) Patient records are prepared, maintained and retained in accordance with § 33.209 (relating to preparing, maintaining and retaining patient records).

(b) A dentist's failure to comply with this section will be considered unprofessional conduct and will subject the dentist to disciplinary action under section 4.1 of the act (63 P. S. § 123.1).

#### Authority

The provisions of this § 33.340b issued under sections 3(o) and 11.2(a) of The Dental Law (63 P. S. §§ 122(o) and 130c(a)).

#### Source

The provisions of this § 33.340b adopted May 13, 2005, effective May 14, 2005, 35 Pa.B. 2880.

#### Cross References

This section cited in 49 Pa. Code § 33.331 (relating to definitions); 49 Pa. Code § 33.341 (relating to duties of dentists who are not permitholders); and 49 Pa. Code § 33.342 (relating to inspection of dental offices).

### § 33.341. Duties of dentists who are not permitholders.

(a) A dentist who does not possess a permit issued under this subchapter may not allow general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia to be administered on an outpatient basis in his dental office unless the following conditions are met:

(1) The Board receives prior notice of the first time that the dental office will be used for the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia.

(2) The dental office meets the appropriate equipment and facility requirements prescribed in § 33.340(a)(2), § 33.340a(a)(2) or § 33.340b(a)(2) (relating to duties of dentists who are unrestricted permitholders; duties of dentists who are restricted permit I holders; and duties of dentists who are restricted permit II holders) and the Board receives a written certification from the dentist to that effect.

(3) The general anesthesia, deep sedation, conscious sedation and nitrous oxide/oxygen analgesia, are administered by one of the following:

(i) The holder of a permit under this subchapter or CRNA delegatee.

(ii) A physician as defined in § 33.331 (relating to definitions).

(4) Either the dentist who performs the dental procedure or the CRNA, physician or permitholder who administers the general anesthesia, deep sedation or conscious sedation possesses a current certification in ACLS.

(5) The nonpermitholder dentist receives a written certification from the permitholder that all monitoring equipment and equipment used to administer general anesthesia, deep sedation, conscious sedation and nitrous oxide/oxygen analgesia is present in the nonpermitholder's office, is properly installed, maintained and calibrated according to the equipment manufacturer's guidelines, contains a fail-safe system and is in proper working condition prior to the

administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia, and that monitoring equipment is being used during the administration of general anesthesia.

(6) The nonpermitholder receives a written certification from the permitholder that the permitholder has satisfactorily completed a clinical evaluation and the equipment transported to the nonpermitholder dentist's office for the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia by a permitholder has satisfactorily completed an inspection conducted by an approved peer evaluation organization under § 33.336b(a) (relating to approved peer evaluation organizations for administering clinical evaluations and office inspection), in accordance with the requirements of the AAOMS Manual and AAOMS Guidelines (OMS), ADA Guidelines or AAPD Guidelines, as applicable.

(b) A dentist shall submit to the Board a complete written report on a death or an incident requiring medical care and resulting in physical or mental injury that directly resulted from the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia in his dental office. The report shall be submitted within 30 days of the death or incident.

(c) A dentist's failure to comply with this section will be considered unprofessional conduct and will subject the dentist to disciplinary action under section 4.1 of the act (63 P. S. § 123.1).

(d) Beginning April 1, 2005, and for all subsequent renewal periods, nonpermitholder licensees who maintain offices in which general anesthesia, deep sedation or conscious sedation is administered, shall have completed 5 hours of Board-approved courses related to anesthesia. These 5 hours shall be credited toward the nonpermitholder licensee's continuing education requirement under § 33.401(a)(1) (relating to credit hour requirements).

#### Authority

The provisions of this § 33.341 issued under sections 11.2 and 11.3 of The Dental Law (63 P. S. §§ 130c and 130d); amended under sections 3(o) and 11.2(a) of The Dental Law (63 P. S. §§ 122(o) and 130c(a)).

#### Source

The provisions of this § 33.341 adopted July 8, 1988, effective July 9, 1988, 18 Pa.B. 3045; amended July 7, 1989, effective July 8, 1989, 19 Pa.B. 2953; amended May 13, 2005, effective May 14, 2005, 35 Pa.B. 2880. Immediately preceding text appears at serial pages (266045) to (266046).

#### Notes of Decisions

##### Notice

In the absence of a clause exempting from the notice requirements those who administered anesthesia prior to the effective date of the regulation or a clause stating that the regulation applied only to new practitioners, the State Board of Dentistry's interpretation that the regulation applies to all dentists upon becoming effective is a reasonable interpretation of that regulation; the dentist was required to give notice the first time he used general anesthesia in his office after the effective date of the regulation. *Watkins v. State Board of Dentistry*, 740 A.2d 760 (Pa. Cmwlth. 1999).

**Cross References**

This section cited in 49 Pa. Code § 33.342 (relating to inspection of dental offices).

**§ 33.342. Inspection of dental offices.**

(a) *Inspections.* The Board, through its authorized agents, may conduct inspections of a dental office with or without prior notice, for the purpose of determining whether the office is in compliance with the equipment and facility requirements prescribed in § 33.340(a)(2), § 33.340a(a)(2) or § 33.340b(a)(2), (relating to duties of dentists who are unrestricted permitholders; duties of dentists who are restricted permit I holders; and duties of dentists who are restricted permit II holders) or as follows:

(1) Upon a death or injury related to the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia in the office.

(2) Upon a complaint that the office or the dentist who operates the office is not in compliance with this subchapter.

(3) Upon a reasonable belief that conditions exist in the office that pose a danger to the health or safety of the public.

(b) *Notice of inspection.* Prior to the start of an inspection of a dental office, the Board's authorized agents will advise the dentist whose office is being inspected that the inspection is being made under this section and is limited in scope by this section.

(c) *Access during inspection.* A dentist shall give the Board's authorized agents access to:

(1) Areas of the dental office where general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia are administered.

(2) Equipment, supplies, records and documents relating to the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia.

(3) Interviews with auxiliary personnel.

(d) *Guideline for inspection.* An inspection will be conducted under provisions pertaining to office facilities and equipment in § 33.340(a)(2), § 33.340a(a)(2), § 33.340b(a)(2) or § 33.341(2) (relating to duties of dentists who are not permitholders).

(e) *Inspection showing noncompliance.*

If an inspection reveals that a dental office is not in compliance with the equipment and facility requirements prescribed in §§ 33.340(a)(2), 33.340a(a)(2), 33.340b(a)(2) or 33.341(2), the Board will give the dentist whose office was inspected written notice of the deficiencies and of the deadline for correcting the deficiencies. A reinspection shall take place within 30 days, and, if noncompliance is still shown, formal administrative charges may be initiated.



**Authority**

The provisions of this § 33.342 issued under sections 11.2 and 11.3 of The Dental Law (63 P. S. §§ 130c and 130d); amended under sections 3(o) and 11.2(a) of The Dental Law (63 P. S. §§ 122(o) and 130c(a)).

**Source**

The provisions of this § 33.342 adopted July 8, 1988, effective July 9, 1988, 18 Pa.B. 3045; amended May 13, 2005, effective May 14, 2005, 35 Pa.B. 2880. Immediately preceding text appears at serial pages (266046) and (266047).

**§ 33.343. Suspension, revocation, limitation of permit; refusal to issue or renew.**

The Board may, following notice and a hearing under section 4.1(c) of the act (63 P. S. § 123.1(c)), refuse to issue or renew a permit, or may suspend, revoke or limit a permit, for any of the following reasons:

- (1) Noncompliance with the requirements of the act or this subchapter.
- (2) Fraud or deceit in obtaining or attempting to obtain a permit.
- (3) Knowingly aiding or abetting the improper issuance of a permit.
- (4) Incompetence, negligence or misconduct in rendering services authorized by a permit.
- (5) Having a dental license suspended or revoked under section 4.1 of the act.

**Authority**

The provisions of this § 33.343 issued under sections 11.2 and 11.3 of The Dental Law (63 P. S. §§ 130c and 130d).

**Source**

The provisions of this § 33.343 adopted July 8, 1988, effective July 9, 1988, 18 Pa.B. 3045.

**§ 33.344. Requirement of anesthesia permit for nonparenteral premedication of dental patients—statement of policy.**

(a) *Background.* Section 11.2 of the act (63 P. S. § 130c) directs the Board to establish minimal training and education for the issuance of permits to dentists to administer general anesthesia, conscious sedation and analgesia on an outpatient basis. Definitions of these three terms appear in section 2 of the act (63 P. S. § 121). The definition of conscious sedation as “a minimally depressed level of consciousness . . . produced by a pharmacologic or nonpharmacologic method, or combination thereof” has raised the question of whether nonparenteral premedication of patients constitutes conscious sedation and thus triggers the permit requirement.

(b) *Purpose.* The Board regards section 11.2 of the act as expressing the legislative purpose of reducing the risk of death or injury to dental patients who receive anesthetic modalities on an outpatient basis. In view of that purpose, and of the encompassing definition of conscious sedation adopted by the legislature,

the Board believes that the protection afforded by the act extends to patients who, owing to a depressed level of consciousness produced by premedication, are at greater risk during the dental procedure and the recovery period thereafter. The Board believes further that such an increase in patient risk as a result of premedication requires the dentist to have training in preventing, recognizing and managing complications and emergencies associated with conscious sedation. It is this training which the conscious sedation permit requirement is designed to ensure.

(c) *Implementation.* The Board recognizes that many variables—such as dosage, time of administration and the patient's physical and medical condition—bear on the effects of premedication during and after the dental procedure and that judgments as to these effects are the professional responsibility of the dentist. It is for the dentist therefore to determine whether premedication produces conscious sedation creating an increased risk of harm to the patient. If so, the dentist shall possess a restricted permit I or an unrestricted permit. In disciplinary proceedings brought against a dentist who has premedicated a patient without a permit, the Board will consider whether the average dentist in this Commonwealth, acting reasonably under the same circumstances, would have concluded, based on this section, the act and this chapter, that a permit was required.

(d) *Guidelines.* The Board cannot provide absolute directives as to when a dentist is required to possess a permit before premedicating patients. The Board offers, however, the following guidelines concerning patients who, in its judgment, are most and least likely to require the protection afforded by the permit requirement:

(1) The Board regards pediatric patients, geriatric patients, patients with handicapping conditions and patients who are medically compromised as principal candidates for nonparenteral premedication as well as the groups most at risk from this modality. Dentists who premedicate patients from these groups are advised to consider most carefully whether the permit requirement applies.

(2) The Board regards persons not in the groups enumerated in paragraph (1), for whom nonparenteral premedications are used solely to reduce mild situational anxiety, or for whom analgesics are prescribed preoperatively to relieve dentally related pain, as generally incurring no increased risk of injury. In the absence of obvious risk, premedication of these patients is not considered conscious sedation for purposes of the permit requirement.

#### Source

The provisions of this § 33.344 adopted December 8, 1989, effective December 9, 1989, 19 Pa.B. 5223.

**Subchapter F. CONTINUING DENTAL EDUCATION**

Sec.

- 33.401. Credit-hour requirements.
- 33.402. Continuing education subject areas.
- 33.403. Program sponsors.
- 33.404. Reporting continuing education credit hours.

**Authority**

The provisions of this Subchapter F issued under section 3(j.1) and (j.2) of The Dental Law (63 P. S. § 122(j.1) and (j.2)), unless otherwise noted.

**Source**

The provisions of this Subchapter F adopted August 11, 2000, effective August 12, 2000, 30 Pa.B. 4245, unless otherwise noted.

**Cross References**

This subchapter cited in 49 Pa. Code § 33.105 (relating to biennial renewal of licenses and certificates).

**§ 33.401. Credit-hour requirements.**

(a) An applicant shall complete the following continuing education credit hours during the preceding biennial period:

- (1) Dentists—30 hours.
- (2) Dental hygienists—20 hours.
- (3) Expanded function dental assistants—10 hours.

(b) Except as provided in subsection (h), the required hours shall be taken in subject areas listed in § 33.402 (relating to continuing education subject areas) from a program sponsor listed in § 33.403 (relating to program sponsors).

(c) At least 50% of the required credit hours shall be taken in lecture or clinical presentations.

(d) A maximum of 50% of the required credit hours, listed in § 33.402, may be taken through individual study, serving as an instructor or author of a book, article or continuing education program.

(1) Instructors will be awarded two additional credit hours as preparation time for each credit hour of instruction, and for actual instruction, up to 50% of the required hours. Additional credit hours for instructors are subject to the limitations of subsection (e).

(2) Authors will be awarded 50% of the required hours for articles published in a peer-reviewed professional journal.

(e) Credit will not be awarded for repeating a program in the same renewal period unless the subject matter has substantially changed during that period.

(f) A licensee or certificate holder suspended for disciplinary reasons is not exempt from the continuing education requirements in subsection (a).

(g) Exceptions are as follows:

- (1) An applicant is exempt from the continuing education requirement in subsection (a) for only the biennial period during which the applicant passed the licensure or certification examination.
- (2) An applicant who cannot meet the continuing education requirement due to illness, emergency or hardship may apply to the Board in writing for a waiver. The request must explain why compliance is impossible. Waiver requests will be evaluated on a case-by-case basis.
- (h) All licensees and certificate holders shall complete 2 of the required hours of continuing education in approved courses on child abuse recognition and reporting as set forth in § 33.256 (relating to child abuse recognition and reporting—mandatory training requirement). The Board will not renew a license or certificate unless the bureau has received an electronic report from an approved course provider documenting the attendance/participation by the licensee or certificateholder.

#### Authority

The provisions of this § 33.401 amended under section 3(o) of the Dental Law (63 P.S. § 122(o)); and the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2).

#### Source

The provisions of this § 33.401 amended July 31, 2020, effective August 1, 2020, 50 Pa.B. 3854. Immediately preceding text appears at serial pages (363517) to (363518).

#### Cross References

This section cited in 49 Pa. Code § 33.336a (relating to requirements for unrestricted permit and restricted permit I); and 49 Pa. Code § 33.341 (relating to duties of dentists who are not permitholders).

### § 33.402. Continuing education subject areas.

- (a) Except as provided in subsections (c)—(e), the required credit hours shall be completed in subjects which contribute directly to the maintenance of clinical competence of a dentist, dental hygienist, public health dental hygiene practitioner or expanded function dental assistant. Examples of acceptable subjects include:
  - (1) Diagnosis and treatment of oral pathosis.
  - (2) Clinical and technological subjects.
  - (3) Emergency procedures excluding hours required for cardiopulmonary resuscitation (CPR) certification.
  - (4) Infection control.
  - (5) Abuse and neglect.
  - (6) Medical and scientific subjects.
  - (7) Laws and regulations pertaining to dentists, dental hygienists and expanded function dental assistants.
- (b) Credit hours will not be awarded in nonclinical subjects, including:

- (1) Billing.
  - (2) Office management.
  - (3) Practice building.
  - (4) Insurance reimbursement.
  - (5) Communication skills, except as provided in subsection (c).
- (c) A dental hygienist may complete no more than three of the required 20 hours of continuing education in courses relating to communication skills.
- (d) A public health dental hygiene practitioner shall complete five of the required 20 hours of continuing education in public health-related courses.
- (e) A school dental hygienist who is certified as a public health dental hygiene practitioner and who, as a certified educational specialist is required to obtain continuing professional education under the act and under section 1205.2 of the Public School Code of 1949 (24 P. S. § 12-1205.2) may submit evidence



of the completion of education courses approved for certification by the school district to meet the 20-hour continuing education requirement.

(f) A dental hygienist who holds a local anesthesia permit shall complete 3 of the required 20 hours of continuing education in courses related to the administration of local anesthesia, including pharmacology or other related courses.

(g) Expanded function dental assistants shall comply with the following:

(1) Except as provided in paragraph (2), expanded function dental assistants shall complete 3 of the 10 required hours of continuing education in the area of coronal polishing as follows:

(i) Unless an exemption applies, an expanded function dental assistant certified by the Board by March 31, 2011, shall complete the 3 hours of continuing education in the area of coronal polishing as a condition of renewal for the biennial period which begins on April 1, 2013.

(ii) Unless an exemption applies, an expanded function dental assistant certified by the Board after March 31, 2011, shall complete the 3 hours of continuing education in the area of coronal polishing as a condition of renewal for the first complete biennial renewal period after initial certification.

(2) The following expanded function dental assistants are exempt from the requirement to complete 3 hours of continuing education in coronal polishing in paragraph (1):

(i) Expanded function dental assistants who are also licensed as dental hygienists.

(ii) Expanded function dental assistants who can document that they have completed coursework including coronal polishing as part of their education at a Board-approved EFDA education program at any time after June 28, 2010.

(iii) Expanded function dental assistants who can document that they have completed a course in coronal polishing of at least 3 hours offered by an approved program sponsor at any time after June 28, 2010.

(3) The requirements of this subsection may not be met through video, online or distance education, but shall be completed by physical attendance at a hands-on clinical training course offered by an approved program sponsor or an approved EFDA education program.

#### **Authority**

The provisions of this § 33.402 amended under section 3 of The Dental Law (63 P. S. § 122; and section 4 of the act of April 29, 2010 (P. L. 176, No. 19).

#### **Source**

The provisions of this § 33.402 amended December 11, 2009, effective December 12, 2009, 39 Pa.B. 6982; amended September 7, 2012, effective September 8, 2012, 42 Pa.B. 5736. Immediately preceding text appears at serial pages (346674) to (346675).

**Cross References**

The provisions of this § 33.401 (relating to credit-hour requirements).

**§ 33.403. Program sponsors.**

- (a) The Board has approved the following as program sponsors:
  - (1) An accredited dental, dental hygiene or expanded function dental assisting school or program.
  - (2) The medical or osteopathic medical school or college accredited by an accrediting body recognized by the State Board of Medicine, State Board of Osteopathic Medicine or State Board of Nursing.
  - (3) The American Dental Association Continuing Education Review Program, the American Dental Association's specialty associations, the American Dental Hygienists Association and the American Dental Assistants Association.
  - (4) The National Dental Association and its specialty societies and the National Dental Hygienists Association.
  - (5) The American Medical Association, American Osteopathic Medical Association and the American Nursing Association.
  - (6) The Pennsylvania Academy of Dental Hygiene Studies.
  - (7) The Academy of General Dentistry National Sponsor Approval Program.
  - (8) The Veterans' Administration.
  - (9) The United States military services.
  - (10) The National Institutes of Health.
  - (11) The United States Public Health Services.
- (b) Program sponsors shall:
  - (1) Disclose in advance to prospective participants the objectives, prerequisites, experience level, content, required advanced preparation, teaching method and number of continuing education credits involved in the program.
  - (2) Conduct programs in subjects which contribute directly to the maintenance of clinical competence of a dentist, dental hygienist or expanded function dental assistant.
  - (3) Provide program materials which are accurate and consistent with currently accepted standards relating to the program's subject matter.
  - (4) Provide sufficient and adequate physical facilities for the number and type of participants and the teaching methods to be utilized.
  - (5) Evaluate the program, through questionnaires of the participants and instructors, to determine its effectiveness.
  - (6) Retain accurate attendance records and written outlines for a 4-year period.
  - (7) Provide participants with a continuing education certificate after assuring satisfactory completion and attendance of the program.



(c) The Board may, following notice and hearing under 2 Pa.C.S. §§ 501—508 (relating to practice and procedure of Commonwealth agencies), withdraw the approval of a program sponsor for cause and amend subsection (a) accordingly.

(d) A party desiring to be an approved program sponsor shall file a written petition with the Board outlining the party's qualifications and experience. Upon Board approval, subsection (a) will be amended accordingly.

#### Cross References

This section cited in 49 Pa. Code § 33.401 (relating to credit-hour requirements).

### § 33.404. Reporting continuing education credit hours.

(a) The applicant shall provide the requested information concerning the required hours on an application for biennial renewal.

(b) The applicant shall provide a copy of the documentation supporting the completion of the required credit hours when requested to do so by the Board.

(c) Acceptable documentation consists of any one of the following:

(1) A continuing education certificate or sponsor-generated printouts.

(2) A certified transcript of courses taken for credit in an accredited university or college. For noncredit courses taken, a statement of hours of attendance, signed by the instructor.

(3) Evidence of publication for published articles, books or continuing education programs.

(4) Evidence obtained from the program sponsor of having been an instructor, including an agenda.

(d) The responsibility for documenting the continuing education requirements rests with the applicant. The documentation shall be maintained for 4 years after the completion of the program.

(e) Falsification of information required under subsection (a) constitutes a violation of § 33.212(1) (relating to misleading, deceptive, untrue or fraudulent representations) and section 4.1 of the act (63 P. S. § 123.1(a)(2)).

(f) Failure to comply with subsection (b) may result in disciplinary or corrective action.

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