

Amend Den 301.01, effective 3/9/07 (Doc #8838), as amended effective 8/16/07 (Doc #8963), by amending (a)(10)c, d, and f., readopting (a)(10)e and amending (a)(11) and (i) to read as follows:

Den 301.01 Application for Dental Hygiene Licensure.

(a)

(10) Whether the applicant:

c. Has been or is currently subjected by a professional licensing body to any investigation, sanction, or disciplinary action including but not limited to probation or stayed probation, limitation or restriction, fine, reprimand, or being required to submit to care, counseling, supervision or further education;

d. Possessed a dental hygiene license that has been revoked, suspended, placed under probation or stayed probation, restricted, denied, not renewed, involuntarily relinquished, or otherwise sanctioned, or is currently under review in any jurisdiction or state;

e. Has investigations or disciplinary actions pending against the applicant's dental hygiene license;

f. Has been the subject of a malpractice judgment.

(11) Whether the applicant has a physical or mental illness, or other condition, or addiction to alcohol, narcotics or other mind altering drugs which impairs the applicant's ability to practice dental hygiene;

(i) Applicants for endorsement certification shall have successfully completed the Northeast Regional Board examination, or other regional or state board clinical examination for dental hygienists with a score of 75% or higher on each part.

Amend Den 301.02, effective 3/9/07 (Doc #8838), as amended effective 8/16/07 (Doc #8963), by amending (a)(11) c, d, g, h, and I, readopting (a)(11) e & f, and amending (a)(12), (h)(1), and (j) to read as follows:

Den 301.02 Application for Dental Licensure.

(a)

(11) Whether the applicant:

c. Has been or is currently subjected by a professional licensing body to any investigation, sanction, or disciplinary action including but not limited to probation or stayed probation, limitation or restriction, fine, reprimand or being required to submit to care, counseling, supervision or further education;

- d. Possessed a dental license that has been revoked, suspended, placed under probation or stayed probation, restricted, denied, not renewed, involuntarily relinquished, or otherwise sanctioned, or is currently under review in any jurisdiction or state;
- e. Has investigations or disciplinary actions pending against the applicant's dental license;
- f. Has been the subject of malpractice judgments;
- g. Has had hospital privileges revoked, suspended, restricted, denied, not renewed, or involuntarily relinquished;
- h. Has had a DEA license revoked, suspended, denied, placed on probation, restricted or otherwise sanctioned by a state or federal board or agency; or
- i. Has a DEA license which is currently involved in an investigation or disciplinary process.

(12) Whether the applicant has a physical or mental illness or other condition, or addiction to alcohol, narcotics or other mind altering drugs which impairs the applicant's ability to practice dentistry;

(h)

- (1) The applicant has successfully completed the Northeast Regional Board examination, or other regional or state board clinical examination for dentists with a score of 75% or higher on each part; and

(j) Pursuant to RSA 317-A:8, an applicant shall be a graduate of a dental school general dentistry program which:

- (1) Is of at least 2 years duration;
- (2) Is accredited by the American Dental Association Commission of Accreditation of Dental and Dental Auxiliary Programs; and
- (3) Awards the degree of Doctor of Dental Medicine (DMD) or Doctor of Dental Surgery (DDS).

Amend Den 302.05, effective 3/9/07 (Doc #8838), as amended effective 8/16/07(Doc #8963), by amending (e)(3), (g)(2), and (i)(2), inserting new (u) & (v), renumber and adopting existing (u) as (w), and renumber subsequent paragraphs, to read as follows:

Den 302.05 Qualification in Specific Area.

(e) If qualification in dental sealants is determined, the duty shall be performed with the following conditions:

- (3) Any dental assistant other than a graduate dental assistant shall have 400 hours work experience in clinical dental assisting in order to qualify to take a sealants course; and

(g) If qualification in dental radiology is determined, the duty shall be performed with the following conditions:

(2) Any dental assistant other than a graduate dental assistant shall have 400 hours work experience in clinical dental assisting in order to qualify to take a radiology course; and

(i) If qualification in provisional crown and bridge restorations is determined, the duty shall be performed with the following conditions:

(2) Any dental assistant other than a graduate dental assistant shall have 400 hours work experience in clinical dental assisting in order to qualify to take an expanded duty course;

(u) Any dental hygienist shall be considered qualified to administer nitrous oxide (N₂O) for minimal sedation of patients after successfully completing an expanded duty course in the monitoring and administration of nitrous oxide which:

(1) Is offered by an institution accredited by the Commission on Dental Accreditation of the American Dental Association;

(2) Is a minimum of 8 didactic hours and 6 clinical hours;

(3) Includes at least the following:

- a. Physiological and psychological aspects of pain and anxiety;
- b. Stages of drug induced central nervous system depression;
- c. Anatomy and physiology as they relate to inhalation sedation;
- d. Indications and contraindications of inhalation sedation;
- e. Pharmacology and physiological effects of nitrous oxide, including drug interactions;
- f. Medical assessment of patient prior to using nitrous oxide;
- g. Description and use of inhalation sedation equipment;
- h. Monitoring of patient's vital functions;
- i. Preventing, recognizing and managing possible complications of inhalation sedation;
- j. Health hazards and techniques to limit occupational exposure;

- k. Abuse potential of nitrous oxide;
 - l. Maintenance of proper records; and
- (4) Requires the passing of a written test administered by the course provider; and
 - (5) Requires successfully completion of a clinical evaluation by the course provider.
 - (6) Is certified as successfully completed by written evidence signed by the course provider and given to the dental hygienist.
- (v) The following shall apply to the administration of nitrous oxide:
- (1) A dental hygienist qualified in the administration of nitrous oxide shall:
 - a. Administer nitrous oxide only under the direct supervision of a dentist; and
 - b. Display at his or her place of practice proof of a nitrous oxide qualification course approved by the board.
 - (2) Any hygienist graduating from an American Dental Association accredited school of dental hygiene shall comply with (u) above if a nitrous oxide course meeting the foregoing requirements was not part of the school curriculum;
 - (3) A dental hygienist who has qualified to administer nitrous oxide in another jurisdiction may qualify for endorsement by the board to perform that function by presenting written documentation of training equivalent to (u) above and a letter from a supervising dentist attesting to the hygienist's experience administering nitrous oxide within the previous 2 years; and
 - (4) Students enrolled in an American Dental Association accredited school of dental hygiene, who have passed a nitrous oxide course as part of the school curriculum, shall not be in violation of this rule if they administer nitrous oxide as part of a dental hygiene examination
- (w) A dental hygienist or dental assistant shall be qualified to perform in-office tooth whitening after successfully completing an expanded duty course in in-office tooth whitening which:

- (1) Is offered by a course provider as defined in Den 403.07(a)(1);
- (2) Is a minimum of 4 hours;
- (3) Includes at least the following:
 - a. An overview of prescription and non-prescription whitening systems;
 - b. Mechanisms of action;
 - c. Treatment methods; and
 - d. Safety considerations, including:
 1. Contraindications; and
 2. Side effects; and
- (4) Be certified as successfully completed by written evidence signed by the course provider and given to the dental hygienist or dental assistant.

Readopt with amendments Den 304.01, effective 3/9/07 (Doc #8838), to read as follows:

Den 304.01 Definitions.

(a) "General anesthesia" means a controlled state of unconsciousness, accompanied by a partial or complete loss of protective reflexes, including inability to maintain an airway independently and respond purposefully to physical stimulation or verbal command, produced by a pharmacologic or nonpharmacologic method, or combination thereof.

(b) "Deep sedation" means an induced state of depressed consciousness, accompanied by partial loss of protective reflexes, including the inability to continually maintain an airway independently and/or to respond purposefully to verbal command, and is produced by a pharmacologic or nonpharmacologic method, or combination thereof.

(c) "Moderate sedation", formerly known as conscious sedation, means a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command, produced by a pharmacologic or nonpharmacologic method, or combination thereof.

(d) "Minimal sedation", formerly known as anxiolysis, means a drug induced state during which patients respond normally to verbal commands. Although cognitive function and coordination might be impaired, ventilatory and cardiovascular functions are unaffected.

Readopt with amendments Den 304.02, effective 3/9/07 (Doc #8838), as amended effective 8/16/07 (Doc #8963), to read as follows:

Den 304.02 Permits for Use of General Anesthesia, Deep Sedation and Moderate Sedation

(a) Unless practicing in a hospital or New Hampshire licensed ambulatory surgical facility, no dentist shall use general anesthesia, deep sedation or moderate sedation on an outpatient basis for dental patients except as follows:

- (1) Such dentist shall possess a permit of authorization issued by the board;
- (2) Such permit shall be subject to review and shall be renewed every 2 years at the same time as biennial registration for the practice of dentistry;

(b) In order to receive a permit to use general anesthesia, deep sedation and moderate sedation the dentist shall:

- (1) Apply on a prescribed application form to the board;
- (2) Submit the application fee specified in Den 301.06; and
- (3) Provide evidence showing that he or she:
 - a. Is currently certified in basic life support (BLS) and advanced cardiac life support (ACLS); and
 - b. Complies with one of the following:
 1. Has completed advanced training in anesthesiology and related academic subjects beyond the undergraduate dental school level in a training program as described in Part III C. of the American Dental Association 2007 Guidelines for the Use of Sedation and General Anesthesia by Dentists;
 2. Has completed advanced training in anesthesiology and related academic subjects as described in the American Dental Association Commission on Dental Accreditation requirements for each advanced program; or
 3. Employs or works in conjunction with an anesthesiology staff physician, dentist, or certified registered nurse anesthetist of a New Hampshire licensed health care facility who shall remain on the premises of the dental facility until any patient given a general anesthetic regains consciousness; and
 - c. Has a properly staffed and equipped facility as set forth in:
 1. The 2006 edition of the "Office Anesthesia Evaluation Manual" of the American Association of Oral and Maxillofacial Surgeons; or
 2. Part IV c. of the 2007 edition of the "Guidelines for the Use of Sedation and General Anesthesia by Dentists" of the American Dental Association;

(c) In order to receive an unrestricted permit or a restricted permit to use moderate sedation only, the dentist shall:

- (1) Apply on a prescribed application form to the board;
- (2) Submit the application fee specified in Den 304.01;
- (3) Provide evidence showing that he or she:
 - a. Has met the requirements of Part V of the American Dental Association 2007 Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students; and
 - b. Has a properly staffed and equipped facility as set forth in Part IV B. of the 2007 "Guidelines for the Use of Sedation and General Anesthesia by Dentists" of the American Dental Association;

(d) The following shall apply to an unrestricted moderate sedation permit:

- (1) Patients shall be of any age, however for children under age 16 treatment shall follow the American Academy of Pediatric Dentistry 2006 Guidelines for Monitoring and Management of Pediatric Patients During and After Sedation for Diagnostic and Therapeutic Procedures;
- (2) Routes of administration shall be enteral, parenteral or any combination with inhalation sedation;
- (3) With or without inhalation sedation, agents shall be limited to a single dose of one or more drugs, or a multi-dose of a single drug using manufacturer guidelines;
- (4) To renew their permit, dentists shall document 6 cases per year or 4 hours of continuing education in sedation training;
- (5) Dentists shall be currently certified in basic life support (BLS) and advanced cardiac life support (ACLS);

(e) The following shall apply to a restricted moderate sedation permit:

- (1) Patients shall be 16 years or older;
- (2) Routes of administration shall be enteral or combination enteral-inhalation. Parenteral administration shall not be used;
- (3) With or without inhalation sedation, agents shall be limited to a single dose of one or more drugs, or a multi-dose of a single drug using manufacturer guidelines;
- (4) To renew their permit, dentists shall document 6 cases per year or 4 hours

continuing education in sedation training; and

- (5) Dentists shall be currently certified in basic life support (BLS) and advanced cardiac life support (ACLS);

(f) Each applicant for a permit to use general anesthesia, deep sedation and moderate sedation, or moderate sedation only shall supply the board with the following on the "Application for Dental General Anesthesia, Deep Sedation or Moderate Sedation Permit" form:

- (1) His or her name;
- (2) His or her home address;
- (3) His or her New Hampshire dental license number;
- (4) Professional addresses and telephone numbers where permits are to be used;
- (5) Proof of the basis in (b) or (c) above upon which the permit is to be issued;
- (6) A list of all staff members who assist in general anesthesia or sedation; and
- (7) Current cardiac life support training status of the applicant and each of the foregoing staff members.

(g) To determine if the requirements of this section have been met by dentists with permits to administer general anesthesia, deep sedation and moderate sedation, or moderate sedation only:

- (1) The board shall require an on-site evaluation of the facility, equipment, personnel and records;
- (2) The evaluation shall be carried out by a team of dental consultants acting as agents of the board, as follows:
 - a. Dentists with permits to administer general anesthesia, deep sedation and moderate sedation shall be evaluated by dental consultants who satisfy (b)(3) b. 1. or 2. above; and
 - b. Dentists with permits to administer moderate sedation only shall be evaluated by dental consultants who satisfy (b)(3) b. 1. or 2. above or (c)(3) a. above.
- (3) If more than one office location is used by the dentist, then each office shall have an on-site evaluation;
- (4) If the results of an initial evaluation are unsatisfactory to the board, upon written request of the applicant, a second evaluation shall be conducted by a different team of consultants;
- (5) Upon completion of a satisfactory evaluation, evaluations shall be held at least once every 5 years; and
- (6) Such evaluation shall be carried out in the same manner as the initial evaluation.

(h) The board shall take action in any one or more of the following ways as necessary to protect the public welfare when the results of an evaluation are unsatisfactory:

- (1) By permit revocation or suspension;
- (2) By limitation or restriction of a permit;
- (3) By requiring the licensee to participate in an educational program relevant to areas the licensee has been found to be professionally deficient;

(i) Fees for all evaluations shall be borne by the dentist examined. Third party fees shall be paid directly to the third party.

(j) For applicants who have not used general anesthesia, deep sedation or moderate sedation in New Hampshire, a permit shall be granted by the board based solely upon credentials contained in the application, pending complete processing of the application and thorough investigation by an on-site evaluation as described in (f) and (g) above.

(k) Dentists administering minimal sedation shall:

- (1) Not be required to have a permit.
- (2) Have met the requirements of Part IV of the American Dental Association 2007 “Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students”; and
- (3) Follow the guidelines set forth in Part IV a. the 2007 “Guidelines for the Use of Sedation and General Anesthesia by Dentists” of the American Dental Association, including having a properly staffed and equipped facility.

(l) The following routes of administration shall apply to the use of minimal sedation:

- (1) For patients under age 16 the route shall be inhalation only, using nitrous oxide;
- (2) For patients 16 or over the route shall be by:
 - a. Inhalation using nitrous oxide;
 - b. Enteral, using one or more doses of one drug using manufacturers guidelines;
or
 - c. A combination inhalation-enteral, as above in (1) and (2).

(m) Within 20 days each dentist who has been using general anesthesia, deep sedation or moderate sedation shall inform the board in writing of all cases of morbidity and mortality occurring in the outpatient facility.

(n) The report shall include a description of:

- (1) Dental procedure;
- (2) Pre-operative physical condition of the patient;

- (3) Drugs and dosages administered;
- (4) Techniques used in administering the drugs;
- (5) Any adverse occurrence, including:
 - a. Patient's signs and symptoms;
 - b. Treatment instituted in response to adverse occurrences; and
 - c. Patient's response to the treatment; and
- (6) Patient's condition on termination of any procedures undertaken.

Amend Den 401.02 intro, effective 3/9/07 (Doc #8838), to read as follows:

Den 401.02 Certified Dental Assistants' and Graduate Dental Assistants' Duties. Dental assistants who have completed the certification process of the Dental Assisting National Board and dental assistants who have graduated from an American Dental Association accredited school of dental assisting may, in addition to the duties of assistants, perform the following duties under direct supervision as defined in Den 101.06 and arranged by degree of supervision in Den 302.02: Amend 402.01, effective 3/9/07 (Doc #8838), by readopting the introduction, deleting (b)(5), and readopting and renumbering (b)(6)-(b)(16) as (b)(5)-(b)(15), to read as follows:

Den 402.01 Hygienists' Duties: A dental hygienist shall perform the following duties:

(b) Under direct supervision as defined in Den 101.10 and arranged by degree of supervision in Den 302.02:

- (5) Make cytological smears;
- (6) Perform brush biopsies;
- (7) Make final impressions;
- (8) Place amalgam prior to condensing by a dentist;
- (9) Place cavity liners and bases;
- (10) Remove temporary restorations, not to include the use of rotary instruments;
- (11) Cement bands and bond brackets;
- (12) Perform orthodontic duties, if qualified pursuant to Den 302.05;
- (13) Fabricate provisional crown and bridge restorations, if qualified pursuant to Den 302.05;
- (14) Administer local anesthesia, if qualified pursuant to Den 302.05; and
- (15) Monitor nitrous oxide inhalation administration, if qualified pursuant to Den 302.05.

Readopt with amendments Den 403.04, effective 3/9/07 (Doc #8838), to read as follows:

Den 403.04 Renewal and Monitoring

(a) Biennially each active licensee shall submit to the board before April 1 a summary of continuing education indicating that the required number of CEUs were completed. A renewal license shall not be issued to an active licensee if the continuing education requirements were not met.

(b) During the biennium at least 3 percent of active licensees shall be randomly audited by the board for compliance with Den 403. Documentation demonstrating completion of continuing education shall be submitted to the board within 30 days after the licensee is notified of the audit. Academy of General Dentistry, specialty, NH Dental Society and Dental Hygienists' Association printouts shall be acceptable. If the submitted documentation does not fulfill the requirements of Den 403, the licensee shall be notified and called for a hearing before the board to determine if the licensee has obtained the minimum requirement to maintain an active license.

Amend Den 403.05(a), effective 3/9/07 (Doc #8838), by deleting the comma after "board", to read as follows:

Den 403.05 Waivers.

(a) A licensee seeking a waiver because of severe illness, incapacity, or other hardship of any requirement of this part shall submit a written petition to the board outlining the reasons the licensee was unable to satisfy the biennial continuing education requirement.

Amend Den 403.07, effective 3/9/07 (Doc #8838), as amended effective 8/16/07 (Doc #8863), by deleting paragraph (i) as follows:

Den 403.07 Categories of Credit

Amend Den 501.01, effective 3/9/07 (Doc #8838), as amended effective 8/16/07 (Doc #8963), by inserting paragraph (j) to read follows:

Den 501.01 Ethical Duties

(j) Dentists and dental hygienists licensed in New Hampshire shall report to the board sanctions, including stayed probations, administered by other state dental boards or the DEA within 30 days.