

# CHAPTER 39

## Department of Labor, Licensing and Regulation— State Board of Dentistry

(Statutory Authority: 1976 Code §§ 40-1-40, 40-1-50(D), 40-1-70, 40-15-40, 40-15-140, and 40-15-275)

### **Editor's Note**

These regulations, became effective December 29, 1976.

See SCSR 44-5 Doc. No. 4965, effective April 23, 2020 for 90 days, which promulgated emergency regulation SC ADC 39-19, relating to the authorization of the issuance of a Dental Resident Limited License (DRLL) to assist dental residents unable to test and enroll in their residency programs due to the suspension of testing as a result of the COVID-19 public health emergency.

### **39-1. License to Practice Dentistry.**

A. The South Carolina Board of Dentistry has no reciprocal licensure arrangement with any other jurisdiction.

B. No applicant shall be examined by the Board to practice dentistry in this state unless the applicant shall;

(1) Be at least twenty-one (21) years of age.

(2) Present such evidence of good moral character as is required by the Board.

(3) Present to the Board satisfactory evidence of graduation from a dental college approved by the Commission on Accreditation of Dental and Dental Auxiliary Educational Programs of the American Dental Association. The Board may, in its discretion, accept as such satisfactory evidence of graduation any of the following:

(a) A notarized copy of the applicant's diploma or other certificate of graduation from an approved dental college.

(b) A sworn statement from the Dean of the dental college stating that the applicant has graduated from such dental college.

(4) Complete the application to practice dentistry in South Carolina on the form furnished by the Board at least forty-five (45) days prior to the date of the examination. In making the application the applicant authorizes the Board to verify the information contained in the application or to seek such further information pertinent to the applicant's qualification or character as the Board may deem proper.

(5) Pay to the Board a fee as prescribed by the Board at the same time the application is received by the Board.

C. The Board shall require each applicant to successfully complete an examination before such applicant is licensed. The examination may be given either orally, or in writing, or by requiring a practical demonstration of the applicant's skill, or by any combination of such methods as the Board may in its discretion require. Each applicant shall furnish their own patient on the exam. The selection of this patient as well as the final treatment for this patient shall be considered in the final grade.

D. The Board may automatically disqualify any person who may be detected using or attempting to use any unfair assistance during the exam.

E. Dentists licensed in any state or territory of the United States may be issued a license to practice dentistry in this State if the applicant complies with the provisions of Regulation 39-1(B) and Section 40-15-275 and pays a fee for licensure by credentials. The Board may waive a portion of the fee

upon agreement with an applicant to practice exclusively in a rural county for not less than two consecutive years.

F. The Board may charge fees as shown in South Carolina Code of Regulations Chapter 10–12 and on the South Carolina Board of Dentistry website at <http://lir.sc.gov/POL/Dentistry>.

**HISTORY: Amended by State Register Volume 39, Issue No. 4, Doc. No. 4502, eff April 24, 2015.**

### **39–2. License to Practice Dental Hygiene.**

A. The South Carolina State Board has no reciprocal licensure arrangement with any other jurisdiction.

B. No applicant shall be examined by the Board to practice dental hygiene in this state unless applicant shall:

(1) Present such evidence of good moral character as is required by the Board.

(2) Present to the Board satisfactory evidence of graduation from a school of dental hygiene approved by the Commission on Accreditation of Dental and Dental Auxiliary Education Programs of the American Dental Association. The Board may, in its discretion, accept as such satisfactory evidence of graduation any of the following:

(a) A notarized copy of the applicant's diploma or other certificate of graduation from a school of dental hygiene accredited by the council on Dental Education of the American Dental Association.

(b) A sworn statement from the Dean or Registrar of a school of dental hygiene stating that the applicant has graduated from such school of dental hygiene.

(3) Complete the application to practice dental hygiene in South Carolina on the form furnished by the Board at least forty-five (45) days prior to the date of the examination. In making the application the applicant authorizes the Board to verify the information contained in the application or to seek such further information pertinent to the applicant's qualification or character as the Board may deem proper.

(4) The Board may charge fees as shown in South Carolina Code of Regulations Chapter 10–12 and on the South Carolina Board of Dentistry website at <http://lir.sc.gov/POL/Dentistry>.

C. The Board shall require each applicant to successfully complete an examination before such applicant is licensed. The examination may be given either orally, or in writing, or by requiring a practical demonstration of the applicant's skill, or by any combination of such methods as the Board may in its discretion require.

(1) The Board may automatically disqualify any person who may be detected using or attempting to use any unfair assistance during the exam.

**HISTORY: Amended by State Register Volume 39, Issue No. 4, Doc. No. 4502, eff April 24, 2015.**

### **39–3. Registration as a Dental Technician.**

A. The South Carolina State Board has no reciprocal arrangement with any other jurisdiction.

B. No applicant shall be examined by the Board to practice as a dental technician unless he or she shall:

(1) Be at least twenty-one (21) years of age.

(2) Present such evidence of good moral character as is required by the Board.

(3) Present to the satisfaction of the Board evidence that the applicant has graduated from high school, or the equivalent, and present to the satisfaction of the Board, evidence that such applicant has completed a two (2) year course of study in a school for dental technological work acceptable to the Board or, in the alternative, has performed dental technological work under the direct supervision of a licensed dentist or registered dental technician for a period of three (3) years.

(4) Complete the application for registration as a dental technician on the form furnished by the Board at least forty-five (45) days prior to the date of the examination. In making the application, the applicant authorizes the Board to verify the information contained in the application or to seek such further information pertinent to the applicant's qualification or character as the Board may deem proper.

(5) Pay to the Board a fee as prescribed by the Board at the same time the application is received by the Board. The Board may charge fees as shown in South Carolina Code of Regulations Chapter 10-12 and on the South Carolina Board of Dentistry website at <http://lir.sc.gov/POL/Dentistry>.

C. The Board shall require each applicant to successfully complete an examination before such applicant is registered. The examination may be given either orally, or in writing, or by requiring a practical demonstration of the applicant's skill, or by any combination of such methods as the Board may in its discretion require.

(1) The Board may automatically disqualify any person who may be detected using or attempting to use any unfair assistance during the exam.

**HISTORY: Amended by State Register Volume 39, Issue No. 4, Doc. No. 4502, eff April 24, 2015.**

### **39-4. Examination of Dentists and Dental Hygienists.**

(Statutory Authority: 1976 Code §§ 40-1-40, 40-15-40, and 40-15-140)

All applicants for the general dentistry examination, and all applicants for the dental hygiene examination applying for licensure by examination in South Carolina must have passed the National Board (Joint Commission on National Dental Examinations).

**HISTORY: Amended by State Register Volume 29, Issue No. 6, eff June 24, 2005.**

#### **39-4.1. Re-examination.**

A. In case of failure at any examination, the applicant shall have the privilege of a second or third examination with the payment of the regular fee.

B. If the applicant has not met the Board's criteria for passing the examination after three takings, applicant shall not be permitted to retake the examination, and any score received after three takings shall not be considered, except by special permission of the Board. It shall be the responsibility of the applicant to petition the Board and to successfully complete at least one year of additional dental or dental hygiene education in an American Dental Association approved dental school or residency, as applicable, or explain in detail any special or compelling factors presented by the applicant to the Board the applicant wishes the Board to consider.

**HISTORY: Added by State Register Volume 29, Issue No. 6, eff June 24, 2005.**

### **39-5. Registration of Licenses or Certificates.**

A. Every licensed dentist or dental hygienist and every registered technician shall keep the Board informed of their current mailing address.

B. The Board will notify any dentist, dental hygienist or technician of the expiration of his/her license or certificate.

C. Any person whose license or certificate has expired and who wishes to have the same reinstated must notify the Board of this in writing. Such notification must set forth the reasons for seeking to have the same reinstated and the reasons why the same has expired. Thereafter the Board may require a reexamination of the person whose license or certificate has expired or may require the person to appear before the Board and explain why the license or certificate has expired.

D. In Section 40-15-170 of the Code of Laws of South Carolina, 1976, there is a requirement that affects your license: "The license of a dentist or dental hygienist who does not either reside or practice in South Carolina for a period of six successive years shall be deemed inactive. Provided, that the time spent in active service by any person in the armed forces or public health service of the United States or with the Veterans' Administration shall not be construed as absence from or failure to practice in the State. Relicensing after an absence of over six years can be made at the discretion of the Board upon proof of high professional fitness and moral character."

E. Relicensing can be made at the discretion of the Board upon proof of high professional fitness and moral character.

F. Each licensed dentist, licensed dental hygienist and registered dental technician shall complete as a requirement for relicensure the following accredited continuing education on a two-year continuous cycle basis. The licensee/registrant shall certify on the relicensure/registration form that he/she has taken and can verify the required number of hours specified below. Verification shall be in the form of

a record of courses taken, continuing hours earned, the date, sponsor and subject matter of the courses. This material shall be maintained for a period of three years from the date of verification to the Board upon licensure/reregistration and, upon request of the State Board or its representative, the licensee/registrant shall provide documentation in the form of certificates or attendance or letters from course sponsors as proof of attendance.

(1) All dentists shall complete a minimum of fourteen (14) continuing education hours per year or twenty-eight (28) continuing education hours over two (2) years; dental hygienists shall complete a minimum of seven (7) continuing education hours per year or fourteen (14) over two (2) years; dental technicians shall complete a minimum of four (4) continuing education hours per year or eight (8) continuing education hours over two (2) years, in order to be eligible for relicensure or reregistration. Upon licensure by examination of this State, dentists, dental hygienists and dental technicians shall be exempt from continuing education requirements for the first relicensure period. Fifty percent (50%) of the required continuing education hours must be obtained via live, in-person attendance. Interactive webinars are considered live or in-person continuing education hours. The remaining fifty percent (50%) of the required continuing education hours can be earned via online computer seminars.

(a) All licensed dentists and dental hygienists must have at least two (2) hours of their required continuing education be dedicated to sterilization and infection control.

(b) It is the responsibility of all dentists to ensure that their auxiliary staff who may be exposed to blood and other body fluids require and provide two (2) hours biennially of continuing education on sterilization and infection control and maintain records of such training.

(2) The continuing education hours must be courses related to the procedures approved for each licensee/registrant such as

- (a) medical and scientific subjects;
- (b) clinical and technical subjects;
- (c) risk management and infection control;
- (d) dental radiology;
- (e) CPR, diet and nutrition.

(3) All dentists and dental hygienists must have completed an approved CPR course within two (2) years of licensure or renewal. Thereafter, all dentists and dental hygienists must be recertified in CPR once every two (2) years. Yearly recertification is not required, but can be used as continuing education hours any time.

(4) Programs that meet the general requirement of Section 2 may be developed and/or endorsed by organizations and agencies such as:

- (a) the American Dental Association, Academy of General Dentistry, American Dental Hygienists' Association, American Dental Assistants' Association, National Association of Dental Laboratories, or their local societies and associations;
- (b) national, state, local, district dental specialty organizations recognized by the American Dental Association;
- (c) dental colleges or schools accredited by the American Dental Association;
- (d) other organizations, schools, and agencies approved by the State Board of Dentistry.

(5) Each dentist, dental hygienist and dental technician licensed/registered by the Board who is not exempt from this regulation, at the time of filing his application for renewal of his license/registration, shall certify on the reregistration form that he/she has taken and can verify the required number of hours. A record of the courses taken, continuing education hours earned, date, sponsor, and subject matter shall be retained for a minimum of three (3) years from the date of attendance. Upon request, the applicant shall provide documentation in the form of certificates of attendance or letters from course sponsors, to the Board as proof of attendance.

(6) Failure to comply with this mandatory continuing education requirement may result in disciplinary action by the Board against the applicant.

(7) In individual cases involving extraordinary hardship or extenuating circumstances, disability or illness, all or any part of the requirements may be waived, modified or extended by the Board.

Any applicant shall be eligible for waiver or extension who, upon written application to the Board and for good cause shown, demonstrates that they are unable to participate in a sufficient number of regular continuing educational programs for licensure/registration.

(8) The Board shall have the authority to decide if a course meets its accreditation criterion, if a question arises.

**HISTORY:** Added by State Register Volume 5, effective June 5, 1981. Amended by State Register Volume 17, Issue No. 6, eff June 25, 1993; State Register Volume 22, Issue No. 6, Part 3, eff June 26, 1998; State Register Volume 36, Issue No. 6, eff June 22, 2012; State Register Volume 40, Issue No. 5, Doc. No. 4573, eff May 27, 2016; SCSR 45-5 Doc. No. 4985, eff May 28, 2021.

### **39-6. Annual Election of the Board.**

Dentists qualified to vote in accordance with the Board's records will be noticed in March of the upcoming Congressionally-assigned board seat elections. Nominations of candidates shall be made to the Board by written petition signed by not less than fifteen dentists qualified to vote in the election. Any person who is nominated by valid petition may withdraw his name by written notice to the Board. If only one candidate is nominated, he shall be declared elected. If more than one candidate is nominated, ballots shall be prepared with the names of the nominees in alphabetical order. The candidate receiving the majority of the ballots received by the Board, in the allotted time, will be declared elected. Voters will be allowed approximately ten days to cast their ballot.

Dental hygienists qualified to vote in accordance with the Board's records will be noticed in March of the appropriate year (once every six years) of the Board seat election. Nominations of candidates shall be made to the Board by written petition signed by not less than fifteen dental hygienists qualified to vote in the election. Nominations must be received by the Board within thirty days from the date of the notice announcing the election. Any person who is nominated by valid petition may withdraw their name by written notice to the Board. If only one candidate is nominated, she shall be declared elected. If more than one candidate is nominated, ballots shall be prepared with the names of the nominees in alphabetical order. The candidate receiving the majority of the ballots received by the Board in the allotted time will be declared elected. Voters will be allowed approximately ten days to cast their ballots.

Annual elections for officers of the Board shall be conducted by the Board at the first meeting held in each calendar year.

**HISTORY:** Amended by State Register Volume 36, Issue No. 6, eff June 22, 2012; SCSR 45-5 Doc. No. 4985, eff May 28, 2021.

### **39-7. Repealed** by State Register Volume 36, Issue No. 6, eff June 22, 2012.

#### **Editor's Note**

Former R. 39-7 was titled "Executive Director".

### **39-8. Laboratory Interactions.**

A. All dental laboratory work must have an accompanying authorization document. This document may be physical or electronic and must contain, at a minimum, the following:

1. The laboratory name and mailing address;
2. The authorizing dentist's name, mailing address, contact information, and license number;
3. The name of the patient;
4. The type of prosthesis, as well as clear instructions on all components of the prosthesis.

These components include, but are not limited to, type of materials desired, occlusal contacts in centric occlusion and all excursive movements, types of clasps, attachments, esthetic characteristics, and other pertinent items; and

5. The signature, either physical or electronic, of the dentist.

B. All materials that have had contact with patients must be disinfected following the Centers for Disease Control (CDC) Guidelines and clearly marked when being sent to an off-site laboratory from a dentist.

C. All materials that are to be placed in patient contact must be disinfected following CDC Control Guidelines and clearly marked when being sent from an off-site laboratory to a dentist.

**HISTORY: Amended by SCSR 44-6 Doc. No. 4890, eff June 26, 2020.**

### **39-9. Use of Lasers in a Dental Setting.**

A. The requirements contained herein do not apply to the use of non-adjustable laser units used for the purposes of diagnosis and curing.

B. Only a dentist may employ a laser capable of the removal of hard and/or soft tissue in the treatment of a dental patient.

C. A dental hygienist may only use a laser under the direct supervision of a dentist, and the hygienist's use of the laser must be limited to pocket disinfection at settings that preclude hard and soft tissue removal, except for incidental gingival curettage.

D. Use of a laser:

(1) Prior to utilizing a laser, a licensee must first successfully complete training that covers, at a minimum, laser physics, safety, and appropriate use of the laser. A licensee must also complete an interactive training that addresses operation of the specific laser(s) utilized in the practice. The initial training must include a minimum of 12 hours of instruction and must be obtained through a course provided or recognized by any of the following organizations (or a successor organization):

(a) The Commission on Dental Accreditation (CODA);

(b) The American Dental Association (ADA) Continuing Education Recognition Program (CERP);

(c) The Academy of General Dentistry (AGD) Program Approval for Continuing Education (PACE); or

(d) The American Medical Association (AMA).

A dental licensee who has more than three (3) years of experience using lasers is exempt from the training requirements set forth in Reg. 39-9 provided that the three (3) years of experience is obtained prior to January 1, 2021.

(2) A licensee utilizing a laser, other than what is described in Section A, must maintain evidence of training as required herein and submit such evidence to the Board upon request.

(3) All lasers must be used in accordance with accepted safety guidelines

E. When utilizing a laser pursuant to this Section, the licensee must document the following information, at a minimum, in the patient's record:

(1) the type of laser utilized, to include the wavelength of the laser;

(2) the settings used, such as pulse or continuous wave, and the power setting;

(3) local anesthesia used, if any; and

(4) the procedure attempted/performed, including details as to whether hard or soft tissue was removed.

**HISTORY: Added by SCSR 45-5 Doc. No. 4985, eff May 28, 2021.**

### **39-10. Sanitary Standards.**

A. All dental offices and dental laboratories shall provide and maintain sanitary facilities and conditions in accordance with the following regulations:

1. All dental practices shall conform to and comply with the current recommendations and guidelines of the CDC relating to infection control practices for dentistry and/or dental offices.

2. It is the responsibility of all dentists and dental hygienists licensed by the State and all other personnel who are utilized by a licensed dentist and who assist in a dental practice and may be exposed to body fluids such as blood or saliva to maintain familiarity with these recommendations and guidelines.

3. Premises:

a. The premises shall be kept neat and clean, and free of accumulated rubbish and substances of a similar nature which create a public health nuisance.

b. The premises shall be kept free of all insects and vermin. Proper methods for their eradication or control should be utilized.

c. Water of a safe, sanitary quality, from a source approved by the health officer, shall be piped under pressure and in an approved manner, to all equipment and fixtures where the use of water is required.

d. All plumbing shall be in accordance with the local plumbing ordinances.

4. Housekeeping:

a. Comfortable and sanitary conditions for patients and employees shall be maintained constantly.

b. All liquid and human waste, including floor wash water, shall be disposed of through trapped drains into a public sanitary sewer system in localities where such system is available. In localities where a public sanitary system is not available, liquid and human waste shall be disposed of through trapped drains in a manner approved by a health officer.

5. Toilet Facilities:

a. There shall be adequate toilet facilities on the premises of every dental office. They shall conform to the standards the State Board of Health.

6. Sterilization:

a. All instruments or equipment used in the treatment of dental patients shall be sterilized in compliance with the current recommendations of the CDC.

b. Each facility shall ensure compliance by all personnel with existing federal and state infection control procedures.

**HISTORY: Amended by State Register Volume 40, Issue No. 5, Doc. No. 4573, eff May 27, 2016; SCSR 44-6 Doc. No. 4890, eff June 26, 2020.**

### **39-11. Ethics.**

Section 1 PRINCIPLE: PATIENT AUTONOMY (“self-governance”). The dentist has a duty to respect the patient’s rights to self-determination and confidentiality.

*This principle expresses the concept that professionals have a duty to treat the patient according to the patient’s desires, within the bounds of accepted treatment, and to protect the patient’s confidentiality. Under this principle, the dentist’s primary obligations include involving patients in treatment decisions in a meaningful way, with due consideration being given to the patient’s needs, desires and abilities, and safeguarding the patient’s privacy.*

#### CODE OF PROFESSIONAL CONDUCT

##### 1.A. PATIENT INVOLVEMENT.

The dentist should inform the patient of the proposed treatment, and any reasonable alternatives, in a manner that allows the patient to become involved in treatment decisions.

##### 1.B. PATIENT RECORDS.

Dentists are obliged to safeguard the confidentiality of patient records. Dentists shall maintain patient records in a manner consistent with the protection of the welfare of the patient. Upon request of a patient of another dental practitioner, dentists shall provide any information in accordance with applicable law that will be beneficial for the future treatment of the patient.

#### ADVISORY OPINIONS

##### 1.B.1. CONFIDENTIALITY OF PATIENT RECORDS

The dominant theme in Code Section 1.B is the protection of the confidentiality of a patient’s records. The statement in this section that relevant information in the records should be released to another dental practitioner assumes that the dentist requesting the information is the patient’s present dentist. There may be circumstances where the former dentist has an ethical obligation to inform the present dentist of certain facts. Code Section 1.B assumes that the dentist releasing relevant information is acting in accordance with applicable law. Dentists should be aware that the laws of the various jurisdictions in the United States are not uniform and some confidentiality laws appear to prohibit the transfer of pertinent information, such as HIV seropositivity. Absent certain knowledge that the laws of

the dentist's jurisdiction permit the forwarding of this information, a dentist should obtain the patient's written permission before forwarding health records which contain information of a sensitive nature, such as HIV seropositivity, chemical dependency or sexual preference. If it is necessary for a treating dentist to consult with another dentist or physician with respect to the patient, and the circumstances do not permit the patient to remain anonymous, the treating dentist should seek the permission of the patient prior to the release of data from the patient's records to the consulting practitioner. If the patient refuses, the treating dentist should then contemplate obtaining legal advice regarding the termination of the dentist-patient relationship.

Section 2 PRINCIPLE: NONMALEFICENCE ("do no harm") The dentist has a duty to refrain from harming the patient.

*This principle expresses the concept that professionals have a duty to protect the patient from harm. Under this principle, the dentist's primary obligations include keeping knowledge and skills current, knowing one's own limitations and when to refer to a specialist or other professional, and knowing when and under what circumstances delegation of patient care to auxiliaries is appropriate.*

## CODE OF PROFESSIONAL CONDUCT

### 2.A. EDUCATION

The privilege of dentists to be accorded professional status rests primarily in the knowledge, skill and experience with which they serve their patients and society. All dentists, therefore, have the obligation of keeping their knowledge and skill current.

### 2.B. CONSULTATION AND REFERRAL

Dentists shall be obliged to seek consultation, if possible, whenever the welfare of patients will be safeguarded or advanced by utilizing those who have special skills, knowledge, and experience. When patients visit or are referred to specialists or consulting dentists for consultation:

1. The specialists or consulting dentists upon completion of their care shall return the patient, unless the patient expressly reveals a different preference, to the referring dentist, or, if none, to the dentist of record for future care.
2. The specialists shall be obliged when there is no referring dentist and upon a completion of their treatment to inform patients when there is a need for further dental care.

## ADVISORY OPINION

### 2.B.1. SECOND OPINIONS.

A dentist who has a patient referred by a third party<sup>1</sup> for a "second opinion" regarding a diagnosis or treatment plan recommended by the patient's treating dentist should render the requested second opinion in accordance with this *Code of Ethics*. In the interest of the patient being afforded quality care, the dentist rendering the second opinion should not have a vested interest in the ensuing recommendation.

### 2.C. USE OF AUXILIARY PERSONNEL.

Dentists shall be obliged to protect the health of their patients by only assigning to qualified auxiliaries those duties which can be legally delegated. Dentists shall be further obliged to prescribe and supervise the patient care provided by all auxiliary personnel working under their direction.

### 2.D. PERSONAL IMPAIRMENT.

It is unethical for a dentist to practice while abusing controlled substances, alcohol or other chemical agents which impair the ability to practice. All dentists have an ethical obligation to urge chemically impaired colleagues to seek treatment.

## ADVISORY OPINION

### 2.D.1. ABILITY TO PRACTICE.

A dentist who contracts any disease or becomes impaired in any way that might endanger patients or dental staff shall, with consultation and advice from a qualified physician or other authority, limit the activities of practice to those areas that do not endanger patients or dental staff. A dentist who has been advised to limit the activities of his or her practice should monitor the aforementioned disease or impairment and make additional limitations to the activities of the dentist's practice, as indicated.

## 2.E. POSTEXPOSURE, BLOODBORNE PATHOGENS.

All dentists, regardless of their bloodborne pathogen status, have an ethical obligation to immediately inform any patient who may have been exposed to blood or other potentially infectious material in the dental office of the need for postexposure evaluation and follow-up and to immediately refer the patient to a qualified health care practitioner who can provide postexposure services. The dentist's ethical obligation in the event of an exposure incident extends to providing information concerning the dentist's own bloodborne pathogen status to the evaluating health care practitioner, if the dentist is the source individual, and to submitting to testing that will assist in the evaluation of the patient. If a staff member or other third person is the source individual, the dentist should encourage that person to cooperate as needed for the patient's evaluation.

## 2.F. PATIENT ABANDONMENT.

Once a dentist has undertaken a course of treatment, the dentist should not discontinue that treatment without giving the patient adequate notice and the opportunity to obtain the services of another dentist. Care should be taken that the patient's oral health is not jeopardized in the process.

## 2.G. PERSONAL RELATIONSHIPS WITH PATIENTS.

Dentists should avoid interpersonal relationships that could impair their professional judgment or risk the possibility of exploiting the confidence placed in them by a patient.

Section 3 PRINCIPLE: BENEFICENCE ("do good"). The dentist has a duty to promote the patient's welfare.

*This principle expresses the concept that professionals have a duty to act for the benefit of others. Under this principle, the dentist's primary obligation is service to the patient and the public-at-large. The most important aspect of this obligation is the competent and timely delivery of dental care within the bounds of clinical circumstances presented by the patient, with due consideration being given to the needs, desires and values of the patient. The same ethical considerations apply whether the dentist engages in fee-for-service, managed care or some other practice arrangement. Dentists may choose to enter into contracts governing the provision of care to a group of patients; however, contract obligations do not excuse dentists from their ethical duty to put the patient's welfare first.*

## CODE OF PROFESSIONAL CONDUCT

### 3.A. COMMUNITY SERVICE.

Since dentists have an obligation to use their skills, knowledge and experience for the improvement of the dental health of the public and are encouraged to be leaders in their community, dentists in such service shall conduct themselves in such a manner as to maintain or elevate the esteem of the profession.

### 3.B. RESEARCH AND DEVELOPMENT.

Dentists have the obligation of making the results and benefits of their investigative efforts available to all when they are useful in safeguarding or promoting the health of the public.

### 3.C. ABUSE AND NEGLECT.

Dentists shall be obliged to become familiar with the signs of abuse and neglect and to report suspected cases if required by South Carolina law.

### 3.D. PROFESSIONAL Demeanor IN THE WORKPLACE.

Dentists have the obligation to provide a workplace environment that supports respectful and collaborative relationships for all those involved in oral health care.

## ADVISORY OPINION

### 3.D.1. DISRUPTIVE BEHAVIOR IN THE WORKPLACE.

Dentists are the leaders of the oral healthcare team. As such, their behavior in the workplace is instrumental in establishing and maintaining a practice environment that supports the mutual respect, good communication, and high levels of collaboration among team members required to optimize the quality of patient care provided. Dentists who engage in disruptive behavior in the workplace risk undermining professional relationships among team members, decreasing the quality of patient care provided, and undermining the public's trust and confidence in the profession.

Section 4 PRINCIPLE: JUSTICE ("fairness"). The dentist has a duty to treat people fairly.

*This principle expresses the concept that professionals have a duty to be fair in their dealings with patients, colleagues and society. Under this principle, the dentist's primary obligations include dealing with people justly and delivering dental care without prejudice. In its broadest sense, this principle expresses the concept that the dental profession should actively seek allies throughout society on specific activities that will help improve access to care for all.*

#### CODE OF PROFESSIONAL CONDUCT

##### 4.A. PATIENT SELECTION.

While a dentist, in serving the public, may exercise reasonable discretion in selecting patients for their practices, dentists shall not refuse to accept patients into their practice or deny dental service to patients because of the patient's race, creed, color, gender, sexual orientation or gender identity or national origin.

#### ADVISORY OPINION

##### 4.A.1. PATIENTS WITH BLOODBORNE PATHOGENS.

A dentist has the general obligation to provide care to those in need. A decision not to provide treatment to an individual because the individual is infected with Human Immunodeficiency Virus, Hepatitis B Virus, Hepatitis C Virus or another bloodborne pathogen, based solely on that fact, is unethical. Decisions with regard to the type of dental treatment provided or referrals made or suggested should be made on the same basis as they are made with other patients. As is the case with all patients, the individual dentist should determine if he or she has the need of another's skills, knowledge, equipment or experience. The dentist should also determine, after consultation with the patient's physician, if appropriate, if the patient's health status would be significantly compromised by the provision of dental treatment.

##### 4.B. EMERGENCY SERVICE.

Dentists shall be obliged to make reasonable arrangements for the emergency care of their patients of record. Dentists shall be obliged when consulted in an emergency by patients not of record to make reasonable arrangements for emergency care. If treatment is provided, the dentist, upon completion of treatment, is obliged to return the patient to his or her regular dentist unless the patient expressly reveals a different preference.

##### 4.C. EXPERT TESTIMONY.

Dentists may provide expert testimony when that testimony is essential to a just and fair disposition of a judicial or administrative action.

#### ADVISORY OPINION

##### 4.C.1. CONTINGENT FEES.

It is unethical for a dentist to agree to a fee contingent upon the favorable outcome of the litigation in exchange for testifying as a dental expert.

##### 4.D. REBATES AND SPLIT FEES.

Dentists shall not accept or tender "rebates" or "split fees."

#### ADVISORY OPINION

##### 4.D.1. SPLIT FEES IN ADVERTISING AND MARKETING SERVICES.

The prohibition against a dentist's accepting or tendering rebates or split fees applies to business dealings between dentists and any third party, not just other dentists. Thus, a dentist who pays for advertising or marketing services by sharing a specified portion of the professional fees collected from prospective or actual patients with the vendor providing the advertising or marketing services is engaged in fee splitting. The prohibition against fee splitting is also applicable to the marketing of dental treatments or procedures via "social coupons" if the business arrangement between the dentist and the concern providing the marketing services for that treatment or those procedures allows the issuing company to collect the fee from the prospective patient, retain a defined percentage or portion of the revenue collected as payment for the coupon marketing service provided to the dentist and remit to the dentist the remainder of the amount collected. Dentists should also be aware that the laws or regulations in their jurisdictions may contain provisions that impact the division of revenue collected

from prospective patients between a dentist and a third party to pay for advertising or marketing services.

Section 5 PRINCIPLE: VERACITY (“truthfulness”) The dentist has a duty to communicate truthfully.

*This principle expresses the concept that professionals have a duty to be honest and trustworthy in their dealings with people. Under this principle, the dentist’s primary obligations include respecting the position of trust inherent in the dentist-patient relationship, communicating truthfully and without deception, and maintaining intellectual integrity.*

#### CODE OF PROFESSIONAL CONDUCT

##### 5.A. REPRESENTATION OF CARE.

Dentists shall not represent the care being rendered to their patients in a false or misleading manner.

#### ADVISORY OPINIONS

##### 5.A.1. DENTAL AMALGAM AND OTHER RESTORATIVE MATERIALS.

Based on current scientific data, the ADA has determined that the removal of amalgam restorations from the non-allergic patient for the alleged purpose of removing toxic substances from the body, when such treatment is performed solely at the recommendation of the dentist, is improper and unethical. The same principle of veracity applies to the dentist’s recommendation concerning the removal of any dental restorative material.

##### 5.A.2. UNSUBSTANTIATED REPRESENTATIONS.

A dentist who represents that dental treatment or diagnostic techniques recommended or performed by the dentist has the capacity to diagnose, cure or alleviate diseases, infections or other conditions, when such representations are not based upon accepted scientific knowledge or research, is acting unethically.

##### 5.B. REPRESENTATION OF FEES.

Dentists shall not represent the fees being charged for providing care in a false or misleading manner.

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##### 5.B.1. WAIVER OF COPAYMENT.

A dentist who accepts a third party<sup>1</sup> payment under a copayment plan as payment in full without disclosing to the third party<sup>1</sup> that the patient’s payment portion will not be collected, is engaged in overbilling. The essence of this ethical impropriety is deception and misrepresentation; an overbilling dentist makes it appear to the third party<sup>1</sup> that the charge to the patient for services rendered is higher than it actually is.

##### 5.B.2. OVERBILLING.

It is unethical for a dentist to increase a fee to a patient solely because the patient is covered under a dental benefits plan.

##### 5.B.3. FEE DIFFERENTIAL.

The fee for a patient without dental benefits shall be considered a dentist’s full fee.<sup>2</sup> This is the fee that should be represented to all benefit carriers regardless of any negotiated fee discount. Payments accepted by a dentist under a governmentally funded program, a component or constituent dental society sponsored access program, or a participating agreement entered into under a program with a third party shall not be considered or construed as evidence of overbilling in determining whether a charge to a patient, or to another third party<sup>1</sup> in behalf of a patient not covered under any of the aforesaid programs constitutes overbilling under this section of the *Code*.

##### 5.B.4. TREATMENT DATES.

A dentist who submits a claim form to a third party<sup>1</sup> reporting incorrect treatment dates for the purpose of assisting a patient in obtaining benefits under a dental plan, which benefits would otherwise be disallowed, is engaged in making an unethical, false or misleading representation to such third party.<sup>1</sup>

#### 5.B.5. DENTAL PROCEDURES.

A dentist who incorrectly describes on a third party<sup>1</sup> claim form a dental procedure in order to receive a greater payment or reimbursement or incorrectly makes a non-covered procedure appear to be a covered procedure on such a claim form is engaged in making an unethical, false or misleading representation to such third party<sup>1</sup>.

#### 5.B.6. UNNECESSARY SERVICES.

A dentist who recommends and performs unnecessary dental services or procedures is engaged in unethical conduct. The dentist's ethical obligation in this matter applies regardless of the type of practice arrangement or contractual obligations in which he or she provides patient care.

#### 5.C. DISCLOSURE OF CONFLICT OF INTEREST.

A dentist who presents educational or scientific information in an article, seminar or other program shall disclose to the readers or participants any monetary or other special interest the dentist may have with a company whose products are promoted or endorsed in the presentation. Disclosure shall be made in any promotional material and in the presentation itself.

#### 5.D. DEVICES AND THERAPEUTIC METHODS.

Except for formal investigative studies, dentists shall be obliged to prescribe, dispense, or promote only those devices, drugs and other agents whose complete formulae are available to the dental profession. Dentists shall have the further obligation of not holding out as exclusive any device, agent, method or technique if that representation would be false or misleading in any material respect.

### ADVISORY OPINIONS

#### 5.D.1. REPORTING ADVERSE REACTIONS.

A dentist who suspects the occurrence of an adverse reaction to a drug or dental device has an obligation to communicate that information to the broader medical and dental community, including, in the case of a serious adverse event, the Food and Drug Administration (FDA).

#### 5.D.2. MARKETING OR SALE OF PRODUCTS OR PROCEDURES.

Dentists who, in the regular conduct of their practices, engage in or employ auxiliaries in the marketing or sale of products or procedures to their patients must take care not to exploit the trust inherent in the dentist-patient relationship for their own financial gain. Dentists should not induce their patients to purchase products or undergo procedures by misrepresenting the product's value, the necessity of the procedure or the dentist's professional expertise in recommending the product or procedure.

In the case of a health-related product, it is not enough for the dentist to rely on the manufacturer's or distributor's representations about the product's safety and efficacy. The dentist has an independent obligation to inquire into the truth and accuracy of such claims and verify that they are founded on accepted scientific knowledge or research.

Dentists should disclose to their patients all relevant information the patient needs to make an informed purchase decision, including whether the product is available elsewhere and whether there are any financial incentives for the dentist to recommend the product that would not be evident to the patient.

#### 5.E. PROFESSIONAL ANNOUNCEMENT.

In order to properly serve the public, dentists should represent themselves in a manner that contributes to the esteem of the profession. Dentists should not misrepresent their training and competence in any way that would be false or misleading in any material respect<sup>3</sup>.

#### 5.F. ADVERTISING.

Although any dentist may advertise, no dentist shall advertise or solicit patients in any form of communication in a manner that is false or misleading in any material respect<sup>3</sup>.

### ADVISORY OPINIONS

#### 5.F.1. PUBLISHED COMMUNICATIONS.

If a dental health article, message or newsletter is published in print or electronic media under a dentist's byline to the public without making truthful disclosure of the source and authorship or is

designed to give rise to questionable expectations for the purpose of inducing the public to utilize the services of the sponsoring dentist, the dentist is engaged in making a false or misleading representation to the public in a material respect<sup>3</sup>.

#### 5.F.2. EXAMPLES OF “FALSE OR MISLEADING.”

The following examples are set forth to provide insight into the meaning of the term “false or misleading in a material respect.”<sup>3</sup> These examples are not meant to be all-inclusive. Rather, by restating the concept in alternative language and giving general examples, it is hoped that the membership will gain a better understanding of the term. With this in mind, statements shall be avoided which would: a) contain a material misrepresentation of fact, b) omit a fact necessary to make the statement considered as a whole not materially misleading, c) be intended or be likely to create an unjustified expectation about results the dentist can achieve, and d) contain a material, objective representation, whether express or implied, that the advertised services are superior in quality to those of other dentists, if that representation is not subject to reasonable substantiation. Subjective statements about the quality of dental services can also raise ethical concerns. In particular, statements of opinion may be misleading if they are not honestly held, if they misrepresent the qualifications of the holder, or the basis of the opinion, or if the patient reasonably interprets them as implied statements of fact. Such statements will be evaluated on a case by case basis, considering how patients are likely to respond to the impression made by the advertisement as a whole. The fundamental issue is whether the advertisement, taken as a whole, is false or misleading in a material respect<sup>3</sup>.

#### 5.F.3. UNEARNED, NONHEALTH DEGREES.

A dentist may use the title Doctor or Dentist, D.D.S., D.M.D. or any additional earned, advanced academic degrees in health service areas in an announcement to the public. The announcement of an unearned academic degree may be misleading because of the likelihood that it will indicate to the public the attainment of specialty or diplomate status. For purposes of this advisory opinion, an unearned academic degree is one which is awarded by an educational institution not accredited by a generally recognized accrediting body or is an honorary degree. The use of a nonhealth degree in an announcement to the public may be a representation which is misleading because the public is likely to assume that any degree announced is related to the qualifications of the dentist as a practitioner. Some organizations grant dentists fellowship status as a token of membership in the organization or some other form of voluntary association. The use of such fellowships in advertising to the general public may be misleading because of the likelihood that it will indicate to the public attainment of education or skill in the field of dentistry. Generally, unearned or nonhealth degrees and fellowships that designate association, rather than attainment, should be limited to scientific papers and curriculum vitae.

#### 5.F.4. REFERRAL SERVICES.

There are two basic types of referral services for dental care: not-for-profit and the commercial. The not-for-profit is commonly organized by dental societies or community services. It is open to all qualified practitioners in the area served. A fee is sometimes charged the practitioner to be listed with the service. A fee for such referral services is for the purpose of covering the expenses of the service and has no relation to the number of patients referred. In contrast, some commercial referral services restrict access to the referral service to a limited number of dentists in a particular geographic area. Prospective patients calling the service may be referred to a single subscribing dentist in the geographic area and the respective dentist billed for each patient referred. Commercial referral services often advertise to the public stressing that there is no charge for use of the service and the patient may not be informed of the referral fee paid by the dentist. There is a connotation to such advertisements that the referral that is being made is in the nature of a public service. A dentist is allowed to pay for any advertising permitted by the *Code*, but is generally not permitted to make payments to another person or entity for the referral of a patient for professional services. While the particular facts and circumstances relating to an individual commercial referral service will vary, the council believes that the aspects outlined above for commercial referral services violate the *Code* in that it constitutes advertising which is false or misleading in a material respect and violates the prohibitions in the *Code* against fee splitting<sup>3</sup>.

#### 5.F.5. INFECTIOUS DISEASE TEST RESULTS.

An advertisement or other communication intended to solicit patients which omits a material fact or facts necessary to put the information conveyed in the advertisement in a proper context can be

misleading in a material respect. A dental practice should not seek to attract patients on the basis of partial truths which create a false impression.<sup>3</sup> For example, an advertisement to the public of HIV negative test results, without conveying additional information that will clarify the scientific significance of this fact contains a misleading omission. A dentist could satisfy his or her obligation under this advisory opinion to convey additional information by clearly stating in the advertisement or other communication: "This negative HIV test cannot guarantee that I am currently free of HIV."

#### 5.F.6. WEBSITES AND SEARCH ENGINE OPTIMIZATION.

Many dentists employ an Internet website to announce their practices, introduce viewers to the professionals and staff in the office, describe practice philosophies and impart oral health care information to the public. Dentists may use services to increase the visibility of their websites when consumers perform searches for dentally-related content. This technique is generally known as "search engine optimization" or "SEO." Dentists have an ethical obligation to ensure that their websites, like their other professional announcements, are truthful and do not present information in a manner that is false and misleading in a material respect.<sup>3</sup> Also, any SEO techniques used in connection with a dentist's web site should comport with the ADA *Principles of Ethics and Code of Professional Conduct*.

#### 5.G. NAME OF PRACTICE.

Since the name under which a dentist conducts his or her practice may be a factor in the selection process of the patient, the use of a trade name or an assumed name that is false or misleading in any material respect is unethical. Use of the name of a dentist no longer actively associated with the practice may be continued for a period not to exceed one year<sup>3</sup>.

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#### 5.G.1. DENTIST LEAVING PRACTICE.

Dentists leaving a practice who authorize continued use of their names should receive competent advice on the legal implications of this action. With permission of a departing dentist, his or her name may be used for more than one year, if, after the one year grace period has expired, prominent notice is provided to the public through such mediums as a sign at the office and a short statement on stationery and business cards that the departing dentist has retired from the practice.

#### 5.H. ANNOUNCEMENT OF SPECIALIZATION AND LIMITATION OF PRACTICE.

A dentist may ethically announce as a specialist to the public in any of the dental specialties recognized by the American Dental Association including dental public health, endodontics, oral and maxillofacial pathology, oral and maxillofacial radiology, oral and maxillofacial surgery, orthodontics and dentofacial orthopedics, pediatric dentistry, periodontics, and prosthodontics, and in any other areas of dentistry for which specialty recognition has been granted under the standards required or recognized in the practitioner's jurisdiction, provided the dentist meets the educational requirements required for recognition as a specialist adopted by the American Dental Association or accepted in the jurisdiction in which they practice\*. Dentists who choose to announce specialization should use "specialist in" and shall devote a sufficient portion of their practice to the announced specialty or specialties to maintain expertise in that specialty or those specialties. Dentists whose practice is devoted exclusively to an announced specialty or specialties may announce that their practice "is limited to" that specialty or those specialties. Dentists who use their eligibility to announce as specialists to make the public believe that specialty services rendered in the dental office are being rendered by qualified specialists when such is not the case are engaged in unethical conduct. The burden of responsibility is on specialists to avoid any inference that general practitioners who are associated with specialists are qualified to announce themselves as specialists.

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#### 5.H.1. DUAL DEGREED DENTISTS.

Nothing in Section 5.H shall be interpreted to prohibit a dual degreed dentist who practices medicine or osteopathy under a valid state license from announcing to the public as a dental specialist provided the dentist meets the educational, experience and other standards set forth in the *Code* for specialty announcement and further providing that the announcement is truthful and not materially misleading. In the case of the ADA, the educational requirements include successful completion of an advanced educational program accredited by the Commission on Dental Accreditation, two or more

years in length, as specified by the Council on Dental Education and Licensure, or being a diplomate of an American Dental Association recognized certifying board for each specialty announced.

#### 5.H.2. SPECIALIST ANNOUNCEMENT OF CREDENTIALS IN NON-SPECIALTY INTEREST AREAS.

A dentist who is qualified to announce specialization under this section may not announce to the public that he or she is certified or a diplomate or otherwise similarly credentialed in an area of dentistry not recognized as a specialty area by the American Dental Association unless:

1. The organization granting the credential grants certification or diplomate status based on the following: a) the dentist's successful completion of a formal, full-time advanced education program (graduate or postgraduate level) of at least 12 months' duration; and b) the dentist's training and experience; and c) successful completion of an oral and written examination based on psychometric principles; and

2. The announcement includes the following language: [Name of announced area of dental practice] is not recognized as a specialty area by the American Dental Association. Nothing in this advisory opinion affects the right of a properly qualified dentist to announce specialization in an ADA-recognized specialty area(s) as provided for under Section 5.H of this *Code* or the responsibility of such dentist to limit his or her practice exclusively to the special area(s) of dental practice announced. Specialists shall not announce their credentials in a manner that implies specialization in a non-specialty interest area.

#### 5.I. GENERAL PRACTITIONER ANNOUNCEMENT OF SERVICES.

General dentists who wish to announce the services available in their practices are permitted to announce the availability of those services so long as they avoid any communications that express or imply specialization. General dentists shall also state that the services are being provided by general dentists. No dentist shall announce available services in any way that would be false or misleading in any material respect<sup>3</sup>.

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#### 5.I.1. GENERAL PRACTITIONER ANNOUNCEMENT OF CREDENTIALS IN INTEREST AREAS IN GENERAL DENTISTRY.

A general dentist may not announce to the public that he or she is certified or a diplomate or otherwise similarly credentialed in an area of dentistry not recognized as a specialty area by the American Dental Association unless:

1. The organization granting the credential grants certification or diplomate status based on the following: a) the dentist's successful completion of a formal, full-time advanced education program (graduate or postgraduate level) of at least 12 months duration; and b) the dentist's training and experience; and c) successful completion of an oral and written examination based on psychometric principles;

2. The dentist discloses that he or she is a general dentist; and

3. The announcement includes the following language: [Name of announced area of dental practice] is not recognized as a specialty area by the American Dental Association.

#### 5.I.2. CREDENTIALS IN GENERAL DENTISTRY.

General dentists may announce fellowships or other credentials earned in the area of general dentistry so long as they avoid any communications that express or imply specialization and the announcement includes the disclaimer that the dentist is a general dentist. The use of abbreviations to designate credentials shall be avoided when such use would lead the reasonable person to believe that the designation represents an academic degree, when such is not the case.

#### NOTES:

1. A third party is any party to a dental prepayment contract that may collect premiums, assume financial risks, pay claims, and/or provide administrative services.

2. A full fee is the fee for a service that is set by the dentist, which reflects the costs of providing the procedure and the value of the dentist's professional judgment.

3. Advertising, solicitation of patients or business or other promotional activities by dentists or dental care delivery organizations shall not be considered unethical or improper, except for those promotional activities which are false or misleading in any material respect.

4. Completion of three years of advanced training in oral and maxillofacial surgery or two years of advanced training in one of the other recognized dental specialties prior to 1967.

**HISTORY:** Amended by SCSR 44-6 Doc. No. 4890, eff June 26, 2020.

\* In the case of the ADA, the educational requirements include successful completion of an advanced educational program accredited by the Commission on Dental Accreditation, two or more years in length, as specified by the Council on Dental Education and Licensure, or being a diplomate of an American Dental Association recognized certifying board for each specialty announced.

**Editor's Note**

Superscript text as added by SC SR 44-6, Doc. No. 4890, appears with no accompanying footnote text.

**39-12. Approved Procedures of Dental Assistants.**

The Board has approved performance of the following procedures by dental assistants in South Carolina. No formal academic dental training is required for dental assistants. These procedures must be performed under the direct supervision of a dentist present on the premises and licensed in South Carolina.

- (1) Assist in basic supportive chairside procedures.
- (2) Chart existing restorations, clinically missing teeth, and appliances within the oral cavity.
- (3) Apply topical drugs as prescribed by the dentist.
- (4) Place and remove rubber dam.
- (5) Place and remove matrix.
- (6) Place and remove orthodontic ligatures.
- (7) Take and record vital signs (blood pressure, pulse, respiration, etc.).
- (8) Expose radiographs upon completion of a Board approved radiation safety course.
- (9) Place and remove periodontal packs.
- (10) Remove sutures.

**39-13. Approved Procedures of Expanded Duty Dental Assistants.**

An Expanded Duty Dental Assistant is a dental assistant who is a graduate of an American Dental Association accredited dental assisting program, or one who has completed two (2) years of continuous full-time employment as a chairside dental assistant. In addition to the procedures listed for dental assistants, Expanded Duty Dental Assistants may perform the following procedures under the direct supervision of a dentist present on the premises and licensed in South Carolina.

- (1) Take impressions for study models.
- (2) Place and remove socket dressing.
- (3) Place gingival retraction cord.
- (4) Place temporary restorations.
- (5) Cement temporary crowns or bridges.
- (6) Remove excess cement from restoration and/or appliances.
- (7) Polish restorations and supra-gingival tooth structure.
- (8) Application of pit and fissure sealant.
- (9) Monitor nitrous oxide anesthesia upon completion of a Board approved course and certification by the Board.

**HISTORY:** Amended by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997.

**39-14. Approved Procedures for Licensed Dental Hygienists.**

In addition to the procedures outlined for dental hygienists as defined in the Code of Laws of South Carolina, Section 40-15-80, dental hygienists may perform all procedures listed above for dental assistants and expanded duty dental assistants.

### **39–15. Definitions.**

(Statutory Authority: 1976 Code § 40-15-40)

(1) “Under the direction and control” is defined to mean that the dentist or registered dental technician is present and directly supervising the performance of any and all dental technological work.

(2) “Premises” is defined to mean the immediate location where the dentist or dental technician is present and engaged in the practice of dentistry or the performance of dental technological work respectively. In the case of a dentist, the premises is further defined to mean the physical area where the dentist is actually present and practicing dentistry, commonly known as the “dental office”. In the case of a registered dental technician the premises is further defined to mean the physical area where the technician is present and actually performing dental technological work, commonly known as the “lab area”.

#### **Editor’s Note**

This regulation was adopted April 22, 1983.

### **39–16. Dental Radiography.**

(Statutory Authority: 1976 Code § 40-15-40)

On or after July 1, 1985, all personnel in a dental office who place and expose radiographic films shall have successfully completed a structured course of training in radiation safety. Every dentist shall certify to the Board that any person employed by him, who shall place and expose radiographic films, has successfully completed the training required herein.

#### **Editor’s Note**

This regulation became effective February 24, 1984.

### **39–17. Guidelines for Sedation and General Anesthesia.**

(Statutory Authority: 1976 Code §§ 40–1–40 and 40–15–40)

#### **A. Definitions.**

1. “Analgesia” means the diminution or elimination of pain with full consciousness maintained by the patient.

2. “Deep sedation” means a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. Reflex withdrawal from a painful stimulus is not considered a purposeful response. The ability to independently maintain ventilator function may be impaired. Patients may require assistance in maintaining patients’ airways. Spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.

3. “Enteral” means a route of administration that includes any technique in which the agent is absorbed through the gastrointestinal tract or oral mucosa.

4. “General anesthesia” means a drug-induced loss of consciousness during which patients are not aroused, even by painful stimulation. The ability to independently maintain ventilator functions is often impaired. Patients often require assistance in maintaining patients’ airways; positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

5. “Inhalation” means a route of administration in which a gaseous or volatile agent is introduced into the lungs and whose primary effect is due to absorption through the interface of gas and blood.

6. “Local anesthesia” means the elimination of sensation, especially pain, in one part of the body by the topical application or regional as applies to dental, oral, or maxillofacial injection of a drug.

7. “Minimal sedation” means a minimally depressed level of consciousness, produced by a pharmacological method, that retains the patient’s ability to independently and continuously maintain an airway and to respond appropriately to physical stimulation or verbal command.

8. "Moderate sedation" means a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patient airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained.

9. "Nitrous oxide analgesia or sedation" means the administration by inhalation of a combination of nitrous oxide and oxygen producing an altered level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command.

10. "Parenteral" means a route of administration in which the drug bypasses the gastrointestinal tract.

**B. Education and Training Requirements for Practicing Sedation.**

1. To provide moderate enteral sedation, applicable programs, pursuant to S.C. Code § 40-15-400(C)(1), must be accredited by The American Dental Association and its Commission of Dental Accreditation.

2. To provide moderate parenteral sedation, applicable programs, pursuant to S.C. Code § 40-15-400(D)(1), must be accredited by The American Dental Association and its Commission of Dental Accreditation.

3. To provide deep sedation/general anesthesia, applicable programs, pursuant to S.C. Code § 40-15-400(E)(1), must be accredited by The American Dental Association and its Commission of Dental Accreditation.

4. Residency programs, pursuant to S.C. Code § 40-15-400(F) must be accredited by The American Dental Association and its Commission of Dental Accreditation.

C. For purposes of these regulations, the administration of sedation and/or anesthesia by or under the direction of a licensed dentist in this state, except in the event that the sedation and/or anesthesia is administered by a licensed CRNA or anesthesiologist, shall be performed in accordance with the laws and regulations of this State, applicable guidelines approved by the Board, including but not limited to, current American Dental Association (ADA) "Guidelines for the Use of Conscious Sedation, Deep Sedation and General Anesthesia for Dentists" and current American Academy of Pediatric Dentistry (AAPD) "Guidelines for the Elective Use of Pharmacologic Conscious Sedation and Deep Sedation in Pediatric Dental Patients."

D. A licensed dentist in this state shall be solely responsible for the administration and management of sedation and/or anesthesia in the practice of dentistry, including but not limited to ordering, supplying, and prescribing medications used in the sedation procedure, and must determine which of the guidelines, as referenced above, he or she shall operate under, and shall be responsible for complying with the same, as provided above.

E. In procedures utilizing a CRNA or an anesthesiologist, the administration of sedation and/or anesthesia shall be in accordance with South Carolina law.

F. Dentists who have qualified to administer sedation and/or anesthesia under these regulations are subject to review and audit, and their facilities subject to on-site inspection by an official designee of the Board to determine compliance with these regulations every two years.

G. Reporting of Adverse Occurrences - A licensed dentist must submit a written report within thirty (30) days to the Board regarding any known mortality or serious, unusual incident which occurs in a dental facility or during the twenty-four (24) hour period after the patient leaves the facility, if the incident produces significant temporary or permanent physical or mental injury of the patient as a direct result of the administration of the general anesthesia or sedation.

H. Nitrous Oxide/Oxygen. For purposes of these regulations, a licensed dentist in this state shall be solely responsible for the administration and management of nitrous oxide/oxygen in the practice of dentistry, and adequacy of the facility, including equipment with fail-safe features that prohibit the delivery of less than thirty (30%) percent minimum oxygen flow. Dental offices are subject to inspection and audit to determine compliance with these regulations.

I. Permit Fees for all dentists performing sedation and general anesthesia; on-site inspections.

Any dentist practicing or seeking to practice moderate and/or deep sedation/general anesthesia must obtain the appropriate permit.

1. Moderate sedation permit: \$200 biennially.
2. Deep sedation/general anesthesia permit: \$200 biennially. A dentist with a deep sedation/general anesthesia permit may also perform moderate sedation without obtaining an additional permit.
3. Permit fees are renewed biennially with a dental license renewal.
4. New applicants for sedation permits must have an on-site inspection of each facility where permitted sedation will occur before beginning sedation procedures that require a permit. Dentists with a current license who have been practicing moderate or deep sedation/general anesthesia prior to the effective date of these regulations may continue to so practice during the pendency of their application and inspection process.
5. Dentists applying for permits under this section must list each and every location at which they will practice sedation that requires a permit and must update the Board within thirty (30) days of any change in location at which they will practice permitted sedation. Each facility where permitted sedation occurs must be equipped as required to provide the level of sedation being administered in that facility, and will be inspected.

**HISTORY:** Added by State Register Volume 15, Issue 2, effective February 22, 1991. Amended by State Register Volume 17, Issue No. 5, Part 1, eff May 28, 1993; State Register Volume 29, Issue No. 6, eff June 24, 2005; State Register Volume 40, Issue No. 5, Doc. No. 4626, eff May 27, 2016.

### **39–18. Mobile Dental Facilities and Portable Dental Operations.**

#### **A. Applicability.**

This regulation applies to an organization or dental practice utilizing a licensed dentist or dental hygienist to operate a mobile dental facility or portable dental operation who:

- (1) provides dental or dental hygiene services; and
- (2) does not have a physically stationary office at the location where the services are provided.

#### **B. Exceptions.**

(1) Federal, state, and local governmental agencies as well as Federally Qualified Health Centers (FQHCs) are exempt from the requirements of this regulation.

(2) Dentists licensed to practice in South Carolina who have not registered with the Board to operate a mobile dental facility or a portable dental operation may provide dental services through the use of dental instruments, materials, and equipment taken out of a dental office without registering if the service is provided as emergency treatment for their patients of record.

#### **C. Definitions.**

As used in this regulation unless the context indicates otherwise:

(1) “Mobile dental facility” means any self-contained facility in which dentistry or dental hygiene will be practiced, which may be moved, towed, or transported from one location to another.

(2) “Portable dental operation” means dental equipment utilized in the practice of dentistry or dental hygiene that is transported to and utilized on a temporary basis at an out-of-office location, including, but not limited to:

- (a) other dentists’ offices;
- (b) patients’ homes;
- (c) schools;
- (d) nursing homes; or
- (e) other institutions or locations.

(3) “Operator” means the organization or dental practice engaged in providing dental or dental hygiene services directly or through persons authorized by law to provide the services.

(4) “Organization or dental practice” means persons or entities that provide dental or dental hygiene services to others.

#### **D. Registration.**

(1) In order to operate a mobile dental facility or portable dental operation, the operator shall first register with the Board.

(2) For registration purposes, each mobile dental facility or portable dental operation must be registered. Such registration may not be issued until the mobile dental facility or portable dental operation has passed an inspection as provided in this regulation.

(3) The applicant shall complete an application in the form and manner required by the Board.

(4) The Board may charge fees as shown in South Carolina Code of Regulations Chapter 10–12 and on the South Carolina Board of Dentistry website at <http://lfr.sc.gov/POL/Dentistry>.

(5) The applicant shall provide the Board with evidence of compliance with the requirements of this regulation.

(6) The applicant shall submit proof of any applicable radiographic equipment inspection with the application for registration.

#### E. Inspection.

(1) An initial inspection of each mobile dental facility or portable dental operation shall be conducted by a representative of the Department/Board at a time and place to be designated by staff. Inspections may be scheduled throughout the year. Upon satisfactory inspection, the registrant will be issued a sticker, with the current year indicated, to be affixed to the mobile dental facility or portable dental operation in a place designated by the Board.

(2) Mobile dental facilities shall be inspected annually upon renewal of registration.

(3) Portable dental operations shall be inspected upon initial registration. Thereafter, the registration may be renewed annually without inspection, unless there has been a substantial repair, replacement, or modification made that requires inspection in the interest of patient safety before use on patients.

#### F. Official business or mailing address.

(1) The operator of a mobile dental facility or portable dental operation shall maintain an official business address of record, which shall not be a post office box and which shall be filed with the Board. A mailing address, if different than the business address and used on an official basis, shall be provided as well.

(2) The operator of a mobile dental facility or portable dental operation shall maintain an official telephone number of record, which shall be filed with the Board.

(3) The Board shall be notified within thirty (30) days of any change in the address or telephone number of record.

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

(5) All dental and official records shall be maintained and available for inspection and copying upon request by the representatives of the Board.

#### G. Written procedures; communication facilities; conformity with requirements.

The operator of a mobile dental facility or portable dental operation shall ensure the following:

(1) There is a written procedure for emergency or follow-up care for patients treated in the mobile dental facility or portable dental operation and that such procedure includes prior arrangements for emergency or follow-up treatment in a medical or dental facility, as may be appropriate, that is located in the area where services are being provided.

(2) The mobile dental facility has communication devices to enable immediate contact with appropriate persons in the event of a medical or dental emergency. The communications devices must enable the patient or the parent or guardian of the patient treated to contact the operator for emergency care, follow-up care, or information about treatment received. The provider who renders follow-up care must also be able to contact the operator and receive treatment information, including radiographs.

(3) The mobile dental facility complies with all applicable federal, state, and local laws, regulations, and ordinances dealing with radiographic equipment, flammability, construction, sanitation, zoning, infectious waste management, universal precautions, OSHA guidelines, access by persons with disabilities as required by state and federal law, and federal Centers for Disease Control Guidelines,

and the applicant possesses all applicable county and city licenses or permits, including business licenses, to operate the unit at the location where services are being provided.

(4) The mobile dental facility has carbon monoxide detection devices installed and in proper working order.

(5) No services are performed on minors without a signed consent form from the parent or guardian.

(6) During or at the conclusion of each patient's visit to the mobile dental facility or portable dental operation, the patient, or patient's parent or guardian if the patient is a minor, is provided with an information sheet and that if the patient has provided consent to an institutional facility to assist in the patient's dental health records, the institution is provided with a copy of the information sheet. An institutional facility includes, but is not limited to, a long term care facility or school, and that the information sheet includes the following:

(a) pertinent contact information as provided by this section;

(b) the name of the dentist and other dental staff who provided services and their license numbers, if applicable;

(c) a description of the treatment rendered, including billed service codes and, in the instance of fee for service patients, fees associated with treatment and tooth numbers when appropriate;

(d) a description of any dental needs either observed during a hygienist's screening or diagnosed during a dentist's evaluation;

(e) a recommendation that the patient see another dentist if the mobile dental facility or the portable dental operation is unable to provide the follow-up treatment described in subitem (d).

#### H. Follow-up treatment services.

A mobile dental facility that accepts a patient and provides preventive treatment, including prophylaxis, radiographs, and fluoride, but does not follow-up with treatment or follow-up on referral for treatment when such treatment is clearly indicated, is considered to be abandoning the patient. Appropriate and accessible (within the patient's geographic area) arrangements must be made for treatment services on a follow up basis. Reasonable attempts to have follow up treatment in an instance where a patient does not re-appear for treatment or does not meet a scheduled appointment is not abandonment.

#### I. Physical requirements for mobile dental facility.

The operator shall ensure that the mobile dental facility or portable dental operation has the following:

(1) ready access to a ramp or lift if services are provided to disabled persons;

(2) a properly functioning sterilization system;

(3) ready access to an adequate supply of potable water, including hot water;

(4) ready access to toilet facilities;

(5) a covered galvanized, stainless steel, or other noncorrosive container for deposit of refuse and waste materials.

#### J. Identification of personnel; notification of changes in written procedures; display of licenses.

(1) The operator shall identify and advise the Board in writing within thirty (30) days of any personnel change relative to all licensed dentists and licensed dental hygienists associated with the mobile dental facility or portable dental operation by providing the full name, address, telephone numbers, and license numbers where applicable.

(2) The operator shall advise the Board in writing within thirty (30) days of any change in the written procedure for emergency follow-up care for patients treated in the mobile dental facility, including arrangements for treatment in a dental facility, which is permanently established in the area. The permanent dental facility shall be identified in the written procedure.

(3) Each dentist and dental hygienist providing dental services in the mobile dental facility or portable dental operation shall prominently display his or her authorization to practice in this State in plain view of patients.

#### K. Identification of location of services.

(1) Each operator of a mobile dental facility or portable dental operation shall maintain a confidential written or electronic record detailing for each location where services are provided, including:

- (a) the street address of the service location;
- (b) the dates and times of each session;
- (c) the number of patients served; and
- (d) the types of dental services provided to each patient by name and quantity of each service provided.

(2) The confidential written or electronic record shall be made available to the Board within ten (10) days of a request by the Board. Costs for such records shall be borne by the mobile dental facility or portable dental operation.

L. Licensed dentist in charge.

A mobile dental facility or portable dental operation shall at all times be in the charge of a dentist licensed to practice dentistry in this State, who is responsible for services provided at the mobile dental facility or portable dental operation.

M. Prohibited operations.

The operator of a mobile dental facility or portable dental operation is prohibited from hiring, employing, allowing to be employed, or permitting to work in or about a mobile dental facility or portable dental operation, any person who performs or practices any occupation or profession regulated under Title 40 who is not duly authorized in accordance with state law.

N. Information for patients.

(1) During or at the conclusion of each patient's visit to the mobile dental facility or portable dental operation, the patient shall be provided with an information sheet. If the patient has provided consent to an institutional facility to access the patient's dental health records, the institution shall also be provided with a copy of the information sheet. An institutional facility includes, but is not limited to, a long term care facility or school.

(2) An information sheet shall include the following:

- (a) pertinent contact information as required by this regulation;
- (b) the name of the dentist and other dental staff who provided services and their license numbers, if applicable;
- (c) a description of the treatment rendered, including billed service codes and, in the instance of fee for service patients, fees associated with treatment, and tooth numbers when appropriate;
- (d) a description of any dental needs either observed during a dental hygienist's screening or diagnosed during a dentist's evaluation;
- (e) if necessary, referral information to another dentist.

O. Cessation of operations.

(1) Upon cessation of operation by the mobile dental facility or portable dental operation, the operator shall notify the Board within thirty (30) days of the last day of operations in writing of the final disposition of patient records and charts.

(2) If the mobile dental facility or portable dental operation is sold, a new registration application must be filed with the Board.

(3) Upon choosing to discontinue practice or services in a community, the operator of a mobile dental facility or portable dental operation shall:

- (a) notify all of the operator's active patients in writing, or by publication once a week for three (3) consecutive weeks in a newspaper of general circulation in the community, that the operator intends to discontinue the mobile dental facility's or portable dental operation's practice in the community; and
- (b) encourage the patients to seek the services of another dentist.

(4) The operator shall make reasonable arrangements with the active patients of the mobile dental facility or portable dental operation for the transfer of the patient's records, including radiographs

or copies thereof, to the succeeding practitioner or, at the written request of the patient, to the patient.

(5) As used in this section, "active patient" applies and refers to a person whom the mobile dental facility or portable dental operation has examined, treated, cared for, or otherwise consulted with during the two (2) year period prior to discontinuation of practice, or moving from or leaving the community.

P. Renewal of registration.

(1) The registration of mobile dental facilities and portable dental operations shall be renewed in accordance with a schedule set by the Department of Labor, Licensing and Regulation and the forms approved by the Board on the dates in the form and manner provided by the Board.

(2) The registrant shall pay the registration renewal fee in an amount set by the Department of Labor, Licensing and Regulation.

Q. Failure to comply.

Failure to comply with state statutes or regulations regulating the practice of dentistry, dental hygiene, and the operation of mobile dental facilities or portable dental operations may subject the operator and all practitioners providing services through a mobile dental facility or portable dental operation to disciplinary action.

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