

## OFFICIAL RULEMAKING RECORD

### MINNESOTA BOARD OF DENTISTRY

**ADOPTED PERMANENT RULES RELATING TO DENTISTS, DENTAL THERAPISTS, DENTAL HYGIENISTS, AND LICENSED DENTAL ASSISTANTS, MINNESOTA RULES 3100.1160, 3100.3600, 3100.8500, 3100.8700, and 3100.9600**

**REVISOR'S ID # 4507**

**FEBRUARY 2018 TO NOVEMBER 2018**

**NOTICE OF ADOPTION PUBLISHED: NOVEMBER 5, 2018**

**EFFECTIVE DATE: NOVEMBER 13, 2018**

(Effective Date is one day later due to Veterans Day being on November 12, 2018)

Under Minnesota Statutes, section 14.365, the Official Rulemaking Record contains:

*[Documents are located within and linked to the bolded designated file number.]*

- (1) Copies of all publications in the State Register pertaining to the rules. State Register publications include:
  - a. Request for Comments dated February 5, 2018 (42 SR 912). **[File #5]**
  - b. Dual Notice of Intent to Adopt Rules dated August 27, 2018 (43 SR 197), along with the proposed rules dated December 20, 2017. **[File #13]**
  - c. Notice of Adoption dated November 5, 2018 (43 SR 507). **[File #28]**
- (2) All written petitions, requests, submissions, or comments received by the Board or the Administrative Law Judge after publication of the Notice of Intent to Adopt Rules in the State Register pertaining to the rules.

The Board received no comments or requests for a hearing for these rules.

- (3) The Statement of Need and Reasonableness (SONAR) dated April 10, 2018. **[File #8b]**
- (4) The official transcript of the hearing if one was held, or the tape recording of the hearing if a transcript was not prepared.

There is no transcript or tape because no hearing was held.

- (5) The report of the Administrative Law Judge.

There is no report because no hearing was held.

- (6) The rules in the form first submitted to the Administrative Law Judge under Minnesota Statutes, sections 14.22 to 14.28.

The rules as adopted, dated December 20, 2017, were first submitted to the Administrative Law Judge under Minnesota Statutes, sections 14.22 to 14.28. **[File #8a]**

Secondly, there is a final copy of the adopted rules, dated August 28, 2018, containing: (a) the Revisor's approval for filing with the Secretary of State; and (b) the Secretary of State's stamp indicating filing with that office. **[File #25]**

Thirdly, there is a final stripped version of the adopted rules from the Revisor's Office dated November 5, 2018. **[File #21]**

- (7) The Administrative Law Judge's written statement of required modifications and of approval or disapproval by the Chief Administrative Law Judge.

The Administrative Law Judge's written Order approving the Board's rules dated October 9, 2018. **[File #24]**

- (8) Any documents required by applicable rules of the Office of Administrative Hearings.

Documents required by OAH Rules part 1400.2310 for rules adopted without a hearing:

- A. Request for Comments published in the State Register; **[File #5]**
- B. Not enclosed - rulemaking petition(s) – none submitted to Board;
- C. Proposed rules, including Revisor's approval, dated December 20, 2017; **[File #8a]**
- D. Statement of Need and Reasonableness; **[File #8b]**
- E. Dual Notice of Hearing - State Register; **[File #13]**
- F. Not enclosed – letter from Chief Administrative Law Judge authorizing the Board to omit the text of the proposed rules from Dual Notice in State Register – no text was omitted from Dual Notice;
- G. Certificate of Mailing the Dual Notice and Accuracy of Rulemaking Mailing List; **[File #14a]**
- H. Certificate of Giving Additional Notice; and Judge Case's Order approving Additional Notice Plan dated August 9, 2018; **[File #14b]**
- I. Certificate of Mailing SONAR to Legislative Reference Library; **[File #15]**
- J. Not enclosed - Written Comments, Requests for Hearing, and Withdrawals received by Board – none received by the Board;
- K. Not enclosed – a notice of withdrawal of hearing request;
- L. Copy of Adopted Rules dated August 28, 2018; **[File #25]**
- M. Not enclosed – a notice of adopting substantially different rules;
- N. Board's Order Adopting Rules dated October 9, 2018; **[File #20]**
- O. Not enclosed – a notice of submission of rules to OAH;
- P-1. Certificate of Sending Notice to Legislators; and **[File #16]**
- P-2. Consultation with MMB – Letter and Response. **[File #9b]**

(9) The Board's Order Adopting Rules.

The Board's Executive Director signed the Order Adopting Rules on October 9, 2018. **[File #20]**

(10) The Revisor's certificate approving the form of the rules.

The Revisor's approval of the form of the rules is contained on the following rules drafts: December 20, 2017 **[File #8a]**; and August 28, 2018 **[File #25]**.

(11) Copy of the adopted rules as filed with the Secretary of State.

The adopted rules dated August 28, 2018, were filed with the Secretary of State on October 11, 2018. **[File #25]**

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In addition to documents required under Minnesota Statutes, section 14.365, the Official Rulemaking Record also contains documents to show compliance with rulemaking requirements and other important documents:

(12) Governor's Office Review of Rules.

- a. Preliminary Proposal Form; **[File #2]**
- b. Proposed Rule and SONAR Form; and **[File #9a]**
- c. Final Rule Form. **[File #19b]**

(13) Governor's Veto of Adopted Rules.

On October 30, 2018, the Governor's office sent correspondence to the Board about not vetoing the Board's adopted rules. **[File #27]**

# Minnesota State Register

Published every Monday (Tuesday when Monday is a holiday)



**Proposed, Adopted, Emergency, Expedited, Withdrawn, Vetoed Rules;  
Executive Orders; Appointments; Commissioners' Orders; Revenue Notices;  
Official Notices; State Grants & Loans; State Contracts;  
Non-State Public Bids, Contracts and Grants**

**Monday 5 February 2018  
Volume 42, Number 32  
Pages 893 - 924**

# Official Notices

Pursuant to *Minnesota Statutes* §§ 14.101, an agency must first solicit comments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking.

The *State Register* also publishes other official notices of state agencies and non-state agencies, including notices of meetings and matters of public interest.

## Minnesota Board of Dentistry

### REQUEST FOR COMMENTS for Proposed Amendments to Permanent Rules Relating to Dentists, Dental Therapists, Dental Hygienists, and Licensed Dental Assistants, *Minnesota Rules* 3100.3600, 3100.8500, 3100.8700, and 3100.9600; Revisor's ID Number 4507

**Subject of Rules.** The Minnesota Board of Dentistry requests comments on its proposed amendments to rules governing dentists, dental therapists, dental hygienists, and licensed dental assistants. The Board is considering rule amendments in the following areas: simplify the documentation requirements for education regarding nitrous oxide and for CPR certification; modify some delegated procedures for licensed dental assistants, including impressions, ligature ties and arch wires, topical fluoride, and managing medications; restructure into different categories all of the delegated procedures for dental hygienists; and supplement the recordkeeping requirements for a dental/medical history and nitrous oxide in the progress notes.

**Persons Affected.** The amendments to the rules would affect dentists, dental therapists, dental hygienists, and licensed dental assistants.

**Statutory Authority.** *Minnesota Statutes*, section 150A.04, subdivision 5, authorizes the Board to adopt rules to carry out and make effective the provisions and purposes of sections 150A.01 to 150A.12, in accordance with Chapter 14.

**Public Comment.** Interested persons or groups may submit comments or information to the Board's contact person listed below on these possible rules in writing until 4:30 p.m. on April 6, 2018. The contact person shall direct all comments to the Board's Executive Committee for review. Any open meetings held by the Board's Executive Committee will be properly announced to the public prior to the meeting.

**Rules Draft.** The Minnesota Board of Dentistry has prepared and posted a draft of the possible rule changes on the Board's official website. The website address is [www.mn.gov/boards/dentistry](http://www.mn.gov/boards/dentistry). Persons interested in a paper copy of the draft rule changes should contact the Board's contact person directly.

**Board Contact Person.** Written comments, questions, and requests for more information on these possible rules should be directed to: Kathy Johnson at Minnesota Board of Dentistry, University Park Plaza, 2829 University Avenue SE, Suite 450, Minneapolis, Minnesota 55414-3249, **phone:** (612) 548-2134 or (888) 240-4762 (outside metro), **FAX:** (612) 617-2260, or directed by **e-mail:** [kathy.t.johnson@state.mn.us](mailto:kathy.t.johnson@state.mn.us). Minnesota Relay Service for hearing impaired: (800) 627-3529.

**Alternative Format.** Upon request, this information can be made available in an alternative format, such as large print, Braille, or audio. To make such a request, please contact the Board contact person at the address or telephone number listed above.

**NOTE:** Comments received in response to this notice will not necessarily be included in the formal rulemaking record submitted to the Administrative Law Judge if and when a proceeding to adopt rules is started. The Board is required to submit to the Judge only those written comments received in response to the rules after they are proposed. If you submit comments during the development of the rules and you want to ensure that the Administrative Law Judge reviews the comments, you should resubmit the comments after the rules are formally proposed.

Dated: January 24, 2018

Bridgett Anderson, Executive Director  
Minnesota Board of Dentistry



# Minnesota State Register

Published every Monday (Tuesday when Monday is a holiday)



Proposed, Adopted, Emergency, Expedited, Withdrawn, Vetoed Rules;  
Executive Orders; Appointments; Commissioners' Orders; Revenue Notices;  
Official Notices; State Grants & Loans; State Contracts;  
Non-State Public Bids, Contracts and Grants

Monday 27 August 2018  
Volume 43, Number 9  
Pages 193 - 290

# Proposed Rules

**Comments on Planned Rules or Rule Amendments.** An agency must first solicit Comments on Planned Rules or Comments on Planned Rule Amendments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* §§ 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking.

**Rules to be Adopted After a Hearing.** After receiving comments and deciding to hold a public hearing on the rule, an agency drafts its rule. It then publishes its rules with a notice of hearing. All persons wishing to make a statement must register at the hearing. Anyone who wishes to submit written comments may do so at the hearing, or within five working days of the close of the hearing. Administrative law judges may, during the hearing, extend the period for receiving comments up to 20 calendar days. For five business days after the submission period the agency and interested persons may respond to any new information submitted during the written submission period and the record then is closed. The administrative law judge prepares a report within 30 days, stating findings of fact, conclusions and recommendations. After receiving the report, the agency decides whether to adopt, withdraw or modify the proposed rule based on consideration of the comments made during the rule hearing procedure and the report of the administrative law judge. The agency must wait five days after receiving the report before taking any action.

**Rules to be Adopted Without a Hearing.** Pursuant to *Minnesota Statutes* § 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing. An agency must first solicit **Comments on Planned Rules or Comments on Planned Rule Amendments** from the public. The agency then publishes a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.1414.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

**KEY: Proposed Rules - Underlining** indicates additions to existing rule language. **~~Strikeouts~~** indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **Adopted Rules - Underlining** indicates additions to proposed rule language. **~~Strikeout~~** indicates deletions from proposed rule language.

## Board of Dentistry

**Proposed Permanent Rules Relating to Dentists, Dental Therapists, Licensed Dental Assistants, and Dental Hygienists; DUAL NOTICE: Notice of Intent to Adopt Rules without a Public Hearing Unless 25 or More Persons Request a Hearing, and Notice of Hearing if 25 or More Requests for Hearing are Received; Revisor's ID Number 4507; OAH Docket No. 82-9033-35427**

**Proposed Amendments to Permanent Rules of the Minnesota Board of Dentistry Relating to Dentists, Dental Therapists, Dental Hygienists, and Licensed Dental Assistants, *Minnesota Rules* 3100.1160, 3100.3600, 3100.8500, 3100.8700, and 3100.9600**

**Introduction.** The Minnesota Board of Dentistry intends to adopt rules without a public hearing following the procedures in the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310, and the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28. If, however, 25 or more persons submit a written request for a hearing on the rules by 4:30 p.m. on Wednesday, September 26, 2018, the Board will hold a public hearing in the 4<sup>th</sup> Floor Conference Room A, University Park Plaza, 2829 University Avenue SE, Minneapolis, Minnesota 55414, starting at 1:00 p.m. on Thursday, October 18, 2018. To find out whether the Board will adopt the rules without a hearing or if the hearing will be held, you should contact the agency contact person after September 26, 2018, and before October 18, 2018.

**Agency Contact Person.** Submit any comments or questions on the rules or written requests for a public hearing to the agency contact person. The agency contact person is: Kathy Johnson at Minnesota Board of Dentistry, 2829 University Avenue SE, Suite 450, Minneapolis, MN 55414-3249, [kathy.t.johnson@state.mn.us](mailto:kathy.t.johnson@state.mn.us), phone: (612) 548-2134 or (888) 240-4762 (outside metro), fax: (612) 617-2260. TTY users may call the Board of Dentistry at (800) 627-3529.

You may also review the proposed rules and submit written comments via the Office of Administrative Hearings

# Proposed Rules

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Rulemaking e-comments website at <https://minnesotaoah.granicusideas.com/discussions>.

**Subject of Rules and Statutory Authority.** The Board proposes to amend its rules regarding the following: simplify the documentation requirements for education regarding nitrous oxide and for CPR certification; modify some delegated procedures for licensed dental assistants, including impressions, ligature ties and arch wires, topical fluoride, and managing medications; restructure into different categories all of the delegated procedures for dental hygienists; and supplement the recordkeeping requirements for a dental/medical history and nitrous oxide in the progress notes.

The statutory authority to adopt the rules is *Minnesota Statutes*, section 150A.04, subdivision 5. A copy of the proposed rules is published in the *State Register*. The proposed rules are also available on the Board's website at [www.mn.gov/boards/dentistry](http://www.mn.gov/boards/dentistry) or a free copy of the entire proposed rules is available upon request from the agency contact person listed above.

**Comments.** You have until 4:30 p.m. on Wednesday, September 26, 2018, to submit written comments in support of or in opposition to the proposed rules or any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change that you desire. Any comments that you have about the legality of the proposed rules must also be made during this comment period.

**Request for a Hearing.** In addition to submitting comments, you may also request that the Board hold a hearing on the rules. You must make your request for a public hearing in writing, which the agency contact person must receive by 4:30 p.m. on Wednesday, September 26, 2018. You must include your name and address in your written request. In addition, you must identify the portion of the proposed rules that you object to or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and the Board cannot count it when determining whether the Board must hold a public hearing. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

**Withdrawal of Requests.** If 25 or more persons submit a valid written request for a hearing, the Board will hold a public hearing unless a sufficient number of persons withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the Board must give written notice of this to all persons who requested a hearing, explain the actions the Board took to affect the withdrawal, and ask for written comments on this action. If a public hearing is required, the Board will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

**Alternative Format/Accommodation.** Upon request, the Board can make this Notice available in an alternative format, such as large print, braille, or audio. To make such a request or if you need an accommodation to make this hearing accessible, please contact the agency contact person at the address or telephone number listed above.

**Modifications.** The Board may modify the proposed rules, either as a result of public comment or as a result of the rule hearing process. Modifications must be supported by data and views submitted to the Board or presented at the hearing. The adopted rules may not be substantially different than these proposed rules unless the Board follows the procedure under *Minnesota Rules*, part 1400.2110. If the proposed rules affect you in any way, the Board encourages you to participate in the rulemaking process.

**Cancellation of Hearing.** The Board will cancel the hearing scheduled for Thursday, October 18, 2018, if the Board does not receive requests for a hearing from 25 or more persons. If you requested a public hearing, the Board will notify you before the scheduled hearing whether the hearing will be held. You may also call the agency contact person at (612) 548-2134 after September 26, 2018, to find out whether the hearing will be held.

**Notice of Hearing.** If 25 or more persons submit valid written requests for a public hearing on the rules, the Board will hold a hearing following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The Board will hold the hearing on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard. Administrative Law Judge Barbara Case is assigned to conduct the hearing. Judge Case's Legal Assistant Katie Lin can be reached at the Office of Administrative Hearings, 600 North Robert Street, P.O. Box 64620, St. Paul, MN 55164-0620, telephone (651) 361-7900, FAX (651) 539-0310, or [katie.lin@state.mn.us](mailto:katie.lin@state.mn.us).



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## Proposed Rules

**Hearing Procedure.** If the Board holds a hearing, you and all interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time before the hearing record closes. All evidence presented should relate to the proposed rules. You may also submit written material to the Administrative Law Judge to be recorded in the hearing record for five working days after the public hearing ends. At the hearing, the Administrative Law Judge may order that this five-day comment period is extended for a longer period but not more than 20 calendar days. Following the comment period, there is a five-working-day rebuttal period when the Board and any interested person may respond in writing to any new information submitted. No one may submit new evidence during the five-day rebuttal period. The Office of Administrative Hearings must receive all comments and responses submitted to the Administrative Law Judge via the Office of Administrative Hearings Rulemaking e-comments website at <https://minnesotaoah.granicusideas.com/discussions> no later than 4:30 p.m. on the due date. All comments or responses received will be available for review at the Office of Administrative Hearings. This rule hearing procedure is governed by *Minnesota Rules*, parts 1400.2000 to 1400.2240, and *Minnesota Statutes*, sections 14.131 to 14.20. You may direct questions about the procedure to the Administrative Law Judge.

The Board requests that any person submitting written views or data to the Administrative Law Judge before the hearing or during the comment or rebuttal period also submit a copy of the written views or data to the agency contact person at the address stated above.

**Statement of Need and Reasonableness.** The statement of need and reasonableness summarizes the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. A free copy of the statement is now available from the agency contact person, if requested, or available on the Board's website at [www.mn.gov/boards/dentistry](http://www.mn.gov/boards/dentistry).

A copy of the Dual Notice and proposed rules shall be mailed by sending an electronic mailing to everyone who has registered to be on the Board of Dentistry's rulemaking mailing list under *Minnesota Statutes*, section 14.14, subdivision 1a; and

A copy of the Dual Notice, proposed rules, and the Statement of Need and Reasonableness shall be mailed to the Legislature according to *Minnesota Statutes*, section 14.116.

**Lobbyist Registration.** *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. Ask any questions about this requirement of the Campaign Finance and Public Disclosure Board at: Suite 190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone (651) 539-1180 or 1-800-657-3889.

**Adoption Procedure if No Hearing.** If no hearing is required, the Board may adopt the rules after the end of the comment period. The Board will submit the rules and supporting documents to the Office of Administrative Hearings for a legal review. You may ask to be notified of the date the rules are submitted to the office. If you want either to receive notice of this, to receive a copy of the adopted rules, or to register with the Board to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

**Adoption Procedure After a Hearing.** If a hearing is held, after the close of the hearing record, the Administrative Law Judge will issue a report on the proposed rules. You may ask to be notified of the date that the Administrative Law Judge's report will become available, and can make this request at the hearing or in writing to the Administrative Law Judge. You may also ask to be notified of the date that the Board adopts the rules and the rules are filed with the Secretary of State by requesting this at the hearing or by writing to the agency contact person stated above.

**Order.** I order that the rulemaking hearing be held at the date, time, and location listed above.

Date: August 9, 2018

Bridgett Anderson, L.D.A., M.B.A.  
Executive Director  
Minnesota Board of Dentistry

# Proposed Rules

## 3100.1160 LICENSE TO PRACTICE DENTISTRY AS A RESIDENT DENTIST.

*[For text of subp 1, see M.R.]*

### Subp. 2. Termination of licensure.

*[For text of items A and B, see M.R.]*

C. A person who fails to inform the board as required in item B is deemed to have committed fraud or deception within the meaning of Minnesota Statutes, section ~~150.08~~ 150A.08, subdivision 1, clause (1).

## 3100.3600 ADMINISTRATION OF GENERAL ANESTHESIA, DEEP SEDATION, MODERATE SEDATION, MINIMAL SEDATION, AND NITROUS OXIDE INHALATION ANALGESIA.

*[For text of subps 1 to 3, see M.R.]*

Subp. 4. **Nitrous oxide inhalation analgesia; educational training requirements.** A dentist may administer nitrous oxide inhalation analgesia only according to items A to D and subpart 5, items A and C. A dental therapist may administer nitrous oxide inhalation analgesia only according to items C to F. A dental hygienist may administer nitrous oxide inhalation analgesia only according to items C to F and subpart 5, item D. A licensed dental assistant may administer nitrous oxide inhalation analgesia only after a maximum dosage has been prescribed by a dentist for a specific patient, and it is administered according to items C to F and subpart 5, item D.

A. ~~Prior to January 1, 1993,~~ A licensed dentist who ~~is currently was~~ administering nitrous oxide inhalation analgesia ~~on or before January 1, 1993,~~ may register that fact with the board according to subpart 5, item A. Such registered dentists may continue to administer nitrous oxide inhalation analgesia and need not comply with item B.

*[For text of items B to F, see M.R.]*

### Subp. 5. Notice to board.

*[For text of items A and B, see M.R.]*

C. A dentist not previously registered with the board according to item A or who graduated from an institution in Minnesota accredited by the Commission on Dental Accreditation prior to April 15, 2008, may administer nitrous oxide inhalation analgesia only after the dentist has submitted the information in subitems (1) and (2) to the board on forms provided by the board:

(1) the name, address, and telephone number of the institution at which the dentist took the course that complies with subpart 4, item B, or the dentist's written attestation that the dentist has successfully completed the education to administer nitrous oxide inhalation analgesia through an institution accredited by the Commission on Dental Accreditation; and

(2) ~~a certified copy of the dentist's transcript and other official record from the institution verifying that the dentist has successfully completed~~ documentation of current CPR certification as required by subpart 4, item C.

After the initial submission, a dentist must attest to maintaining consecutive and current CPR certification at the time of each license renewal.

D. A dental hygienist or licensed dental assistant who graduated from an institution in Minnesota accredited by the Commission on Dental Accreditation or received licensure by credentials prior to September 2, 2004, may administer nitrous oxide inhalation analgesia only after the dental hygienist or licensed dental assistant has submitted the information in subitems (1) and (2) to the board on forms provided by the board:

*[For text of subitem (1), see M.R.]*

(2) ~~a certified copy of the dental hygienist's or licensed dental assistant's transcript and other official record from the institution verifying that the dental hygienist or licensed dental assistant has successfully completed~~ documentation of current CPR certification as required by subpart 4, item C.

After the initial submission, a dental hygienist or licensed dental assistant must attest to maintaining consecutive and

current CPR certification at the time of each license renewal.

E. A dental therapist who graduated from a board-approved dental therapy program in Minnesota prior to August 1, 2013, may administer nitrous oxide inhalation analgesia only after the dental therapist has submitted the information in subitems (1) and (2) to the board on forms provided by the board:

*[For text of subitem (1), see M.R.]*

(2) ~~a certified copy of the dental therapist's transcript and other official records from the institution verifying that the dental therapist has successfully completed~~ documentation of current CPR certification as required by subpart 4, item C.

After the initial submission, a dental therapist must attest to maintaining consecutive and current CPR certification at the time of each license renewal.

*[For text of subps 6 to 11, see M.R.]*

## 3100.8500 LICENSED DENTAL ASSISTANTS.

Subpart 1. ~~Duties~~ Procedures under general supervision. A licensed dental assistant may perform the following procedures without the dentist being present in the dental office or on the premises if the procedures being performed are with prior knowledge and consent of the dentist:

*[For text of items A to F, see M.R.]*

G. ~~take impressions for casts and appropriate bite registration; not to include impressions and bite registrations for final construction of fixed and removable prostheses;~~

*[For text of items H to K, see M.R.]*

L. take vital signs such as pulse rate and blood pressure as directed by a dentist; and

M. obtain informed consent, according to part 3100.9600, subpart 9, for treatments authorized by the supervising dentist pursuant to the licensed dental assistant's scope of practice;

N. remove and place ligature ties and remove and replace existing arch wires on orthodontic appliances; and

O. apply topical fluoride, including foam, gel, or varnish.

Subp. 1a. ~~Duties~~ Procedures under indirect supervision. A licensed dental assistant, in addition to the services performed by an assistant described in part 3100.8400, subpart 1, may perform the following services if a dentist is in the office, authorizes the procedures, and remains in the office while the procedures are being performed:

A. ~~apply topical medications such as, but not limited to, topical fluoride, including~~ bleaching agents; and cavity varnishes in appropriate dosages or quantities as prescribed by a dentist;

*[For text of items B to H, see M.R.]*

I. ~~remove and place ligature ties and initial~~ arch wires on orthodontic appliances. A dentist must select and, if necessary, adjust arch wires prior to placement;

*[For text of items J to O, see M.R.]*

Subp. 1b. ~~Duties~~ Procedures under direct supervision. A licensed dental assistant may perform the following services if a dentist is in the dental office, personally diagnoses the condition to be treated, personally authorizes the procedure, and evaluates the performance of the licensed dental assistant before dismissing the patient:

*[For text of items A to I, see M.R.]*

J. initiate and place an intravenous infusion line in preparation for intravenous medications and sedation while

# Proposed Rules

under direct supervision of a dentist who holds a valid general anesthesia or moderate sedation certificate. Before initiating and placing an intravenous ~~infusion~~ line, a licensed dental assistant must have successfully completed board-approved allied dental personnel courses comprised of intravenous access and general anesthesia and moderate sedation training; and

*[For text of item K, see M.R.]*

Subp. 1c. ~~Duties~~ **Procedures under personal supervision.** A licensed dental assistant may concurrently perform supportive services if the dentist holds a valid general anesthesia or moderate sedation certificate, is personally treating a patient, and authorizes the licensed dental assistant to aid in ~~treatment~~ the physical management of medications, including the ~~preparation and~~ administration of medications into an existing intravenous line; ~~an enteral agent, or emergency medications in an emergent situation.~~ Before administering any medications or agents, a licensed dental assistant must have successfully completed board-approved allied dental personnel courses comprised of general anesthesia and moderate sedation training.

Subp. 2. ~~Other duties~~ **procedures prohibited.** A licensed dental assistant may not perform any dental treatment or procedure on patients not otherwise authorized by this chapter.

*[For text of subp 3, see M.R.]*

## 3100.8700 DENTAL HYGIENISTS.

Subpart 1. ~~Duties~~ **Principal procedures under general supervision.** A dental hygienist may perform the following procedures ~~without the dentist being present in the dental office or on the premises if the procedures being performed are with prior knowledge and consent of the dentist under general supervision, as defined in part 3100.0100, subpart 21, item D:~~

A. ~~all services permitted under parts 3100.8400 and 3100.8500, subparts 1 and 1a, items A to L, preliminary charting of the oral cavity and surrounding structures, including case histories; initial and periodic examinations and assessments to determine periodontal status; and creation of a dental hygiene treatment plan in coordination with a dentist's treatment plan;~~

B. ~~complete prophylaxis to include scaling, root planing, and polishing of restorations obtain informed consent, according to part 3100.9600, subpart 9, for treatments authorized by the supervising dentist pursuant to the dental hygienist's scope of practice;~~

C. ~~preliminary charting of the oral cavity and surrounding structures to include case histories, perform initial and periodic examinations and assessments to determine periodontal status, and formulate a dental hygiene treatment plan in coordination with a dentist's treatment plan~~ take photographs extraorally or intraorally;

D. ~~dietary analysis, salivary analysis, and preparation of smears for dental health purposes~~ take vital signs, including pulse rate and blood pressure;

E. make referrals to dentists, physicians, and other practitioners in consultation with a dentist;

F. complete debridement, prophylaxis, and nonsurgical periodontal therapy;

E; G. etch appropriate enamel surfaces, application and adjustment of pit and fissure sealants;

F. removal of excess bond material from orthodontic appliances;

G. replacement, cementation, and adjustment of intact temporary restorations extraorally or intraorally;

H. removal of marginal overhangs;

I. make referrals to dentists, physicians, and other practitioners in consultation with a dentist;



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# Proposed Rules

J. H. administer local anesthesia. Before administering local anesthesia, a dental hygienist must have successfully completed a didactic and clinical program sponsored by a dental or dental hygiene school accredited by the Commission on Dental Accreditation, resulting in the dental hygienist becoming clinically competent in the administration of local anesthesia;

K. I. administer nitrous oxide inhalation analgesia according to part 3100.3600, subparts 4 and 5; and

J. take radiographs;

K. apply topical medications, including topical fluoride, bleaching agents, cavity varnishes, and desensitizing agents;

L. obtain informed consent, according to part 3100.9600, subpart 9, for treatments authorized by the supervising dentist pursuant to the dental hygienist's scope of practice; place subgingival medicaments;

M. take impressions and bite registration;

N. fabrication and delivery of custom fitted trays;

O. nutritional counseling;

P. salivary analysis;

Q. remove marginal overhangs;

R. remove sutures;

S. place and remove periodontal dressings;

T. place and remove isolation devices or materials for restorative purposes;

U. polish restorations;

V. remove excess cement from inlays, crowns, bridges, or orthodontic appliances;

W. fabrication, placement, replacement, cementation, and adjustment of temporary crowns or restorations;

X. remove temporary crowns or restorations with hand instruments only;

Y. place and remove matrix systems and wedges; and

Z. place nonsurgical retraction material for gingival displacement. Before placing nonsurgical retraction material, a dental hygienist must have successfully completed a course in nonsurgical retraction material for gingival displacement at a dental, dental hygiene, or dental assisting school accredited by the Commission on Dental Accreditation.

Subp. 2. **Duties under indirect supervision: Restorative procedures under indirect supervision.** A dental hygienist may perform the following procedures if a dentist is in the office, authorizes the procedures, and remains in the office while the procedures are being performed:

A. restorative procedures permitted under Minnesota Statutes, section 150A.10, subdivision 4;

B. maintain and remove intravenous lines while under indirect supervision of a dentist who holds a valid general anesthesia or moderate sedation certificate. Before managing and removing intravenous lines, a dental hygienist must

# Proposed Rules

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have successfully completed board-approved allied dental personnel courses comprised of intravenous access and general anesthesia and moderate sedation training; and

C. monitor a patient during preoperative, intraoperative, and postoperative phases of general anesthesia or moderate sedation using noninvasive instrumentation such as pulse oximeters, electrocardiograms, blood pressure monitors, and capnography while under indirect supervision of a dentist who holds a valid general anesthesia or moderate sedation certificate. Before monitoring a sedated patient, a dental hygienist must have successfully completed board-approved allied dental personnel courses comprised of intravenous access and general anesthesia and moderate sedation training.

A dental hygienist may perform restorative procedures pursuant to Minnesota Statutes, section 150A.10, subdivision 4, and under indirect supervision, as defined in part 3100.0100, subpart 21, item C, if the dental hygienist has fulfilled either item A or B:

A. successfully graduated from a Minnesota dental hygiene program accredited by the Commission on Dental Accreditation that included training for restorative procedures and received a restorative procedures certificate from the program; or

B. successfully completed a board-approved course on restorative procedures and received a restorative procedures certificate from the course sponsor.

Subp. 2a. ~~Duties under direct supervision:~~ **Orthodontic procedures under general, indirect, or direct supervision.** A dental hygienist may perform the following procedures if a dentist is in the office, personally diagnoses the condition to be treated, personally authorizes the procedure, and evaluates the performance of the dental hygienist before dismissing the patient:

A. ~~etch appropriate enamel surfaces before bonding of orthodontic appliances by a dentist;~~

B. ~~remove temporary crowns with hand instruments only;~~

C. ~~fabricate, cement, and adjust temporary restorations;~~

D. ~~place and remove matrix bands;~~

E. ~~remove bond material from teeth with rotary instruments after removal of orthodontic appliances. Before utilizing rotary instruments for the removal of bond material, a dental hygienist must have successfully completed a course in the use of rotary instruments for the express purpose of the removal of bond material from teeth. The course must be one that is presented by a dental, dental hygiene, or dental assisting school accredited by the Commission on Dental Accreditation;~~

F. ~~attach prefrit and preadjusted orthodontic appliances;~~

G. ~~remove fixed orthodontic bands and brackets;~~

H. ~~initiate and place an intravenous infusion line in preparation for intravenous medications and sedation while under direct supervision of a dentist who holds a valid general anesthesia or moderate sedation certificate. Before initiating and placing an intravenous infusion line, a dental hygienist must have successfully completed board-approved allied dental personnel courses comprised of intravenous access and general anesthesia and moderate sedation training; and~~

I. ~~place nonsurgical retraction material for gingival displacement. Before placing nonsurgical retraction material, a dental hygienist must have successfully completed a course in nonsurgical retraction material for gingival displacement at a dental, dental hygiene, or dental assisting school accredited by the Commission on Dental Accreditation.~~

If a dental hygienist has fulfilled the requirements of item A, subitems (1), (2), or (3), the dental hygienist may perform the procedures listed in item B under the level of supervision indicated, as defined in part 3100.0100, subpart 21, items B, C, and D.

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# Proposed Rules

A. A dental hygienist must have:

- (1) been granted a Minnesota dental hygiene license from the board prior to September 1, 2019;
- (2) successfully graduated from a Minnesota dental hygiene program accredited by the Commission on Dental Accreditation after September 1, 2019, that included training for orthodontic procedures and received an orthodontic procedures certificate from the program; or
- (3) successfully completed a board-approved course comprised of orthodontic procedures and received an orthodontic procedures certificate from the course sponsor.

B. The dental hygienist may perform the following procedures under:

- (1) general supervision:
    - (a) cut arch wires on orthodontic appliances;
    - (b) remove loose bands on orthodontic appliances;
    - (c) remove loose brackets on orthodontic appliances;
    - (d) remove excess bond material from orthodontic appliances;
    - (e) preselect orthodontic bands;
    - (f) place and remove elastic orthodontic separators;
    - (g) remove and place ligature ties and remove and replace existing arch wires on orthodontic appliances;
- and
- (h) deliver vacuum-formed orthodontic retainers;
  - (2) indirect supervision: place initial arch wires on orthodontic appliances. A dentist must select and, if necessary, adjust arch wires prior to placement;
  - (3) direct supervision:
    - (a) etch enamel surfaces before bonding of orthodontic appliances by a dentist;
    - (b) remove bond material from teeth with rotary instruments after removal of orthodontic appliances;
    - (c) attach prefit and preadjusted orthodontic appliances; and
    - (d) remove fixed orthodontic bands and brackets.

Subp. 2b. ~~Duties under personal supervision:~~ Sedation monitoring and intravenous procedures under indirect, direct, or personal supervision. A dental hygienist may concurrently perform supportive services if the dentist holds a valid general anesthesia or moderate sedation certificate and is personally treating a patient and authorizes the dental hygienist to aid in treatment including the administration of medications into an existing intravenous line, an enteral agent, or emergency medications in an emergent situation. Before administering any medications or agents, a dental hygienist must have successfully completed board-approved allied dental personnel courses comprised of general anesthesia and moderate sedation training.

If a dental hygienist has successfully completed board-approved allied dental personnel courses comprised of intrave-

# Proposed Rules

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nous access and general anesthesia and moderate sedation training and submitted to the board documentation of completion to receive a certificate from the board, the dental hygienist may perform the following procedures under either indirect, direct, or personal supervision, as defined in part 3100.0100, subpart 21, items A, B, and C, for a dentist who holds a valid general anesthesia or moderate sedation certificate:

A. indirect supervision:

(1) maintain and remove intravenous lines;

(2) monitor a patient during preoperative, intraoperative, and postoperative phases of general anesthesia or moderate sedation using noninvasive instrumentation, including pulse oximeters, electrocardiograms, blood pressures monitors, and capnography;

B. direct supervision: initiate and place an intravenous line in preparation for intravenous medications and sedation;

C. personal supervision: aid in the physical management of medications, including the preparation and administration of medications into an existing intravenous line.

Subp. 3. **Other duties ~~procedures~~ prohibited.** A dental hygienist may not perform any dental treatment or procedure on patients not authorized by this chapter.

## 3100.9600 RECORD KEEPING.

*[For text of subps 1 to 4, see M.R.]*

Subp. 5. **Dental and medical history.** Dental records must include information from the patient or the patient's parent or guardian on the patient's dental and medical history. The information must include a sufficient amount of data to support the recommended treatment plan. The dental and medical history must be updated to reflect the current status of the patient.

*[For text of subps 6 to 9, see M.R.]*

Subp. 10. **Progress notes.** Dental records must be legible and include a chronology of the patient's progress throughout the course of all treatment and postoperative visits. The chronology must include:

*[For text of items A and B, see M.R.]*

C. the treatment provider by license number, name, or initials; and

D. when applicable, the identity of the collaborating dentist authorizing treatment by license number; and

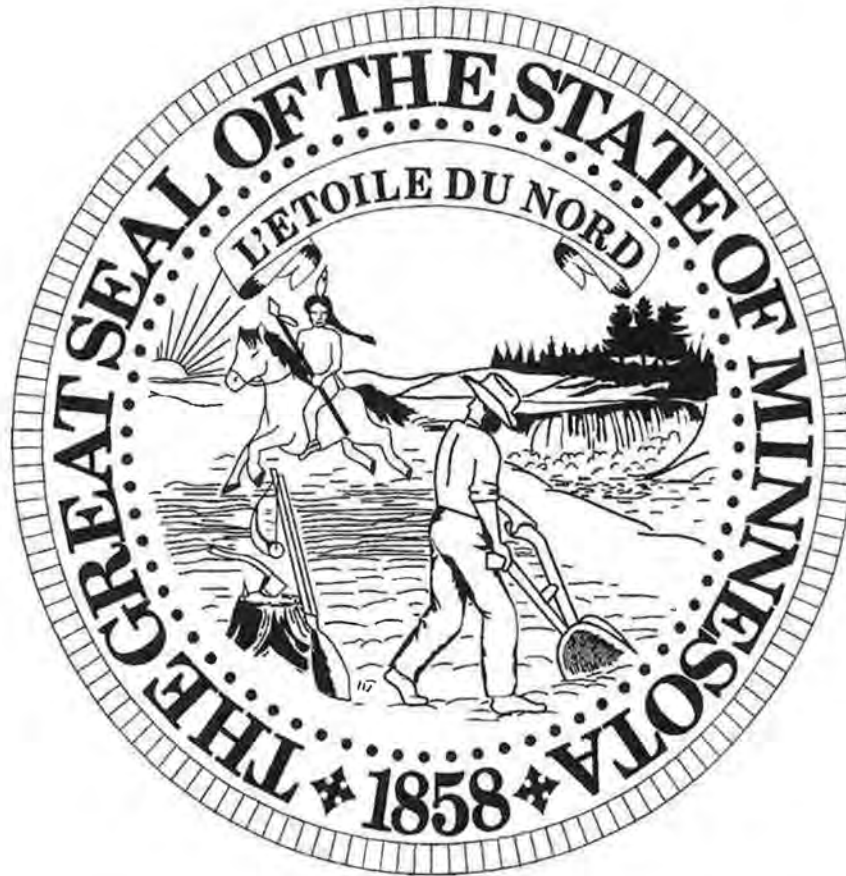
E. administration information for nitrous oxide inhalation analgesia, including indication for use, dosage, duration of administration, posttreatment oxygenation period prior to discharge, and patient status at discharge.

*[For text of subps 11 to 14, see M.R.]*



# Minnesota State Register

Published every Monday (Tuesday when Monday is a holiday)



**Proposed, Adopted, Emergency, Expedited, Withdrawn, Vetoed Rules;  
Executive Orders; Appointments; Commissioners' Orders; Revenue Notices;  
Official Notices; State Grants & Loans; State Contracts;  
Non-State Public Bids, Contracts and Grants**

**Monday 5 November 2018  
Volume 43, Number 19  
Pages 503 - 526**

## Adopted Rules

A rule becomes effective after the requirements of *Minnesota Statutes* §§ 14.05-14.28 have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule. If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed. If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

**KEY: Proposed Rules** - Underlining indicates additions to existing rule language. ~~Strikeouts~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **Adopted Rules** - Underlining indicates additions to proposed rule language. ~~Strikeout~~ indicates deletions from proposed rule language.

## Board of Dentistry

### Adopted Permanent Rules Relating to Dentists, Dental Therapists, Licensed Dental Assistants, and Dental Hygienists

The rules proposed and published at *State Register*, Volume 43, Number 9, pages 197-206, August 27, 2018 (43 SR 197), are adopted as proposed.

## Official Notices

Pursuant to *Minnesota Statutes* §§ 14.101, an agency must first solicit comments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking.

The *State Register* also publishes other official notices of state agencies and non-state agencies, including notices of meetings and matters of public interest.

## Department of Employment and Economic Development (DEED) Notice of Public Hearing by the Minnesota Department of Employment and Economic Development with Respect to a Proposed Project and the Provision of Funds from the Minnesota Job Creation Fund Program under Minnesota Statutes 116J.8748

**NOTICE IS HEREBY GIVEN** that the Minnesota Department of Employment and Economic Development ("DEED") will conduct a public hearing on Friday, November 16, 2018 at 1:00 p.m., or as soon thereafter as reasonably possible at 332 Minnesota Street, Suite E200, in Saint Paul, Minnesota, on a proposal to provide funding through the Minnesota Job Creation Fund Program pursuant to authority granted under *Minnesota Statutes* 116J.8748 and *Minnesota Rules* Chapter 4301. This hearing is conducted in accordance with *Minnesota Statutes* 116J.994, Subd. 5.

### Description of Projects and Proposed JCF Funding and Amendment:

Cantel Medical Corporation may expand in Plymouth (Hennepin County), Minnesota. The company is a leading provider of infection prevention and control products and services in the healthcare market, specializing in four areas: endoscopy, water purification and filtration, healthcare disposables, and dialysis. The proposed project would consist of renovation of the company's Plymouth facility to add a 20,000 square foot innovation and training center and a 7,500 square foot research and development testing center. The total project cost is \$4,500,000, of which \$3,500,000 would be eligible for the capital investment rebate as renovation of an existing building and infrastructure. The company expects to create 101 jobs within three (3) years at an average cash wage of \$28.21 per hour. All jobs will qualify for a job

# **Minnesota Board of Dentistry**

## **STATEMENT OF NEED AND REASONABLENESS**

**Proposed Amendments to Permanent Rules Relating to Dentists, Dental Therapists, Dental Hygienists, and Licensed Dental Assistants, *Minnesota Rules* 3100.1160, 3100.3600, 3100.8500, 3100.8700, and 3100.9600; Revisor's ID Number 4507**

## **INTRODUCTION**

The Minnesota Board of Dentistry is the state agency authorized to establish permanent rules for regulating all dentists, dental therapists, dental hygienists, and licensed dental assistants in the State of Minnesota.

The proposed rules will modify existing language in the following areas: simplify the documentation requirements for education regarding nitrous oxide inhalation analgesia and for CPR certification; modify some delegated procedures for licensed dental assistants, including impressions, ligature ties and arch wires, topical fluoride, and managing medications; restructure into different categories all of the delegated procedures for dental hygienists; and supplement the recordkeeping requirements for a dental/medical history and nitrous oxide in the progress notes.

Over the past year, various Committees of the Board have held a number of public meetings with all interested parties in attendance to thoroughly discuss and present scenarios regarding these proposed rule changes. Thereafter, all proposed changes to rules were heard before the Board and given approval to proceed with the rulemaking process.

The decisions of the Board to propose an amendment to a rule in this rulemaking proceeding are explained and justified in the Rule-By-Rule Analysis section of this statement.

## **ALTERNATIVE FORMAT**

Upon request, this Statement of Need and Reasonableness can be made available in an alternative format, such as large print, Braille, or audio. To make a request, contact Kathy Johnson at the Minnesota Board of Dentistry, 2829 University Avenue SE, Suite 450, Minneapolis, Minnesota 55414, (612) 548-2134, (612) 617-2250 or (888) 240-4762 (outside metro). TTY users may call (800) 627-3529.

## **STATUTORY AUTHORITY**

The Board of Dentistry's statutory authority to adopt the rules set forth is found in Minnesota Statutes section 150A.04, subdivision 5, which provides:

**"150A.04 RULES OF THE BOARD.**

Subdivision 5. **Rules.** The Board may promulgate rules as are necessary to carry out and make effective the provisions and purposes of sections 150A.01 to 150A.12, in accordance with Chapter 14.”

Under this statute, the Board of Dentistry has the necessary statutory authority to adopt the proposed rules. All sources of statutory authority were adopted and effective prior to January 1, 1996, and so Minnesota Statutes, section 14.125 does not apply. See Minnesota Laws 1995, chapter 233, article 2, section 58.

## **REGULATORY ANALYSIS**

Minnesota Statutes, section 14.131, sets out eight factors for a regulatory analysis that must be included in the SONAR. Paragraphs (1) through (8) below quote these factors and then provide the Board of Dentistry’s responses.

**“(1) a description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule”**

- The classes of affected persons are the following regulated dental professionals: dentists, dental therapists, dental hygienists, and licensed dental assistants;
- The training courses are NOT new requirements and considered elective training for interested dental professionals who want to perform those procedures; therefore, regulated dental professionals have already incurred costs prior to this rulemaking and should not be financially impacted by these changes; and
- All regulated dental professionals will benefit from the changes made because if needed a copy of the Licensee’s CPR card can now be provided relative to registering for nitrous oxide, instead of a certified transcript regarding CPR from an institution. In addition, dentists will benefit from the changes as they will now have the option of attestation to satisfy the education requirements for nitrous oxide, instead of having to provide documentation from the distant past that is no longer available from an institution.

**“(2) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues”**

- Regarding the proposed rules changes, the Board will NOT incur any increased costs beyond those currently associated with operation under existing rules;
- The Board does NOT anticipate any probable costs to any other agency in the implementation and enforcement of the proposed rules; and
- The Board does NOT anticipate any change to net effect on state revenues.

**“(3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule”**



- The Board has held a number of open public meetings with all interested parties (e.g., regulated dental professionals, association representatives, and the general public) in attendance and an opportunity to thoroughly discuss, present scenarios, and make recommendations regarding these proposed rules changes. To date, no additional information has been presented which suggests less costly or intrusive methods for accomplishing the purposes of the proposed rules. Therefore, the Board does not believe there are any less costly or intrusive methods for achieving this purpose.

**“(4) a description of any alternative methods for achieving the purpose of the proposed rules that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule”**

- The Board did NOT consider any alternative methods to achieve the purpose of the proposed rules because the impact of the proposed rules to regulated dental professionals does not involve additional costs, has not proven to be controversial, and does not require regulated dental professionals to make significant changes.

**“(5) the probable costs of complying with the proposed rules, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals”**

- The allied training courses that include delegated duties are NOT new requirements and considered elective training for interested dental professionals who want to perform those procedures; therefore, regulated dental professionals have already incurred costs prior to this rulemaking and should not be financially impacted by these changes; and
- No other classes of government units, businesses, or individuals are expected to bear costs associated with the proposed rules.

**“(6) the probable costs or consequences of not adopting the proposed rules, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals”**

- The probable consequences of not adopting the proposed rules are that regulated dental professionals will remain overburdened by having to provide additional documentation as evidence of nitrous oxide training and CPR certification to the Board. In addition, the dental hygiene programs will continue to struggle with their curriculum and the existing list of delegated procedures for dental hygienists; and
- No other classes of government units or businesses will be affected by not adopting the proposed rules.

**“(7) an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference”**

- There are no existing federal regulations relating to these proposed rules. Regulation of dental professionals is primarily a function of state government.

**“(8) an assessment of the cumulative effect of the rule with other federal and state regulations related to the specific purpose of the rule. . . . ‘[C]umulative effect’ means the impact that results from incremental impact of the proposed rule in addition to other rules, regardless of what state or federal agency has adopted the other rules. Cumulative effects can result from individually minor but collectively significant rules adopted over a period of time.”**

- The proposed rules cover areas that are not addressed by federal law or other Minnesota state laws. Therefore, this consideration is not applicable for these proposed rules.

## **PERFORMANCE-BASED RULES**

Minnesota Statutes, sections 14.002 and 14.131, require that the SONAR describe how the agency, in developing the rules, considered and implemented performance-based standards that emphasize superior achievement in meeting the agency’s regulatory objectives and maximum flexibility for the regulated party and the agency in meeting those goals.

For these proposed rules, the Board decided to perform the above analysis on a rule-by-rule basis and included the required information regarding the Board’s objectives and flexibility into the section entitled “Rule-By-Rule Analysis” of this statement.

## **ADDITIONAL NOTICE PLAN and NOTICE PLAN**

### Additional Notice Plan

Minnesota Statutes, sections 14.131 and 14.23, require that this SONAR contain a description of the Board of Dentistry’s efforts to provide additional notice to persons who might be affected by the proposed rules or explain why these efforts were not made. Additional notice has been provided by the Board, as follows:

1. Throughout 2016 and 2017, both the Policy and Allied Dental Education Committees of the Board have held a number of public meetings with all interested parties in attendance to thoroughly discuss and present scenarios regarding these proposed rule changes. Official notices of these public meetings were electronically sent by the Board to all licensed dental professionals, association representatives, and the general public, as well as doing a website posting of meetings. From and during those public meetings, these proposed rules were drafted, distributed, and reviewed by all individuals in attendance and input has been encouraged from all attendees. Thereafter, all proposed changes to rules were heard before the Board and the Board gave approval to proceed with the rulemaking process.
2. On January 29, 2018, the Board posted a draft copy of the proposed rule changes on the Board’s website at [www.mn.gov/boards/dentistry](http://www.mn.gov/boards/dentistry) making it accessible to the following individuals: all dentists; dental therapists; dental hygienists; dental assistants; state legislators; other health boards; professional associations; and members of the general

public. This draft copy identified the Board rules that will be affected by the Board's proposed rule changes.

3. On January 29, 2018, the Board posted a copy of the Request for Comments for publication in the State Register on the Board's website at [www.mn.gov/boards/dentistry](http://www.mn.gov/boards/dentistry). This website is accessible to the following individuals: all dentists; dental therapists; dental hygienists; dental assistants; state legislators; other health boards; professional associations; and members of the general public.
4. On January 30, 2018, the Board mailed the Request for Comments to all persons on the Board's rulemaking mailing list by sending an electronic copy via e-mail to all persons on the list.
5. On January 30, 2018, the Board contacted the representatives of the Minnesota Dental Association (Dentists), the Minnesota Dental Therapy Association (Dental Therapists), the Minnesota Dental Hygienists Association (Dental Hygienists), and the Minnesota Dental Assistants Association (Dental Assistants) with a request to notify its members about the Board's Request for Comments period and the proposed rules.
6. On January 30, 2018, the Board sent a broadcast electronic mailing to nearly 17,000 licensees including, dentists, dental therapists, dental hygienists, and licensed dental assistants, regarding the Board's Request for Comments period and the proposed rules.
7. On February 5, 2018, the Board's Request for Comments was published in the State Register, requesting that all comments be submitted to the Board by April 6, 2018. All comments received by the Board regarding the proposed rules shall be reviewed and any suggested changes shall be considered by the Board.
8. By April 6, 2018, the end of the 60-day Request for Comments period, the Board had not received any comments in opposition to its proposed rules.
9. On April 12, 2018, the Board posted a final version of its Statement of Need and Reasonableness ("SONAR") dated April 10, 2018, on the Board's website at [www.mn.gov/boards/dentistry](http://www.mn.gov/boards/dentistry) making this information accessible to the following individuals: all dentists; dental therapists; dental hygienists; dental assistants; state legislators; other health boards; professional associations; and members of the general public.
10. Prior to publication of the Dual Notice in the State Register, the Board will send by electronic mail a copy of the Dual Notice of Intent to Adopt Rules, the Proposed Rules, and the Statement of Need and Reasonableness to the representatives of the Minnesota Dental Association (Dentists), the Minnesota Dental Therapy Association (Dental Therapists), the Minnesota Dental Hygienists Association (Dental Hygienists), and the Minnesota Dental Assistants Association (Dental Assistants).

The Board of Dentistry believes that this Additional Notice Plan complies with the statute because the notification pathways described above provide the principal representatives of the affected parties and affected parties through electronic mailings with ample notice and opportunity to provide suggestions, proposals, and comments regarding the proposed rule amendments.

The listed persons and organizations receiving the Additional Notice together represent the vast majority of persons interested in these rules. They represent several classes and a number of different positions in the spectrum of the dental workforce, which is the central purpose of the rulemaking process.

#### Notice Plan

The Board of Dentistry's Notice Plan includes the following mandated statutory actions:

1. According to Minnesota Statutes, section 14.14, subdivision 1a, a copy of the Dual Notice and proposed rules shall be mailed to all persons who have registered to be on the Board of Dentistry's rulemaking mailing list. This mailing shall be accomplished by sending an electronic copy via e-mail to all persons on the list.
2. According to Minnesota Statutes, section 14.116, a copy of the Dual Notice, proposed rules, and this Statement of Need and Reasonableness shall be mailed to:
  - a. The committee members of the Legislature with jurisdiction over the subject matter of the proposed rules. The following is a possible list of these Legislative Committees:
    - 1) House: Health and Human Services Reform Committee Chair and Lead; and Health and Human Services Finance Committee Chair and Lead; and
    - 2) Senate: Health and Human Services Finance and Policy Committee Chair and Ranking Minority Member; and Human Services Reform Finance and Policy Committee Chair and Ranking Minority Member.
  - b. The members of the Legislative Coordinating Commission.

#### **CONSULTATION WITH MMB ON LOCAL GOVERNMENT IMPACT**

As required by Minnesota Statutes, section 14.131, the Board of Dentistry will consult with Minnesota Management and Budget ("MMB"). We will do this by sending MMB copies of the documents that we send to the Governor's Office for review and approval on or about the same day we send them to the Governor's Office. We will do this before the Board publishes its Dual Notice of Intent to Adopt. The documents will include: the Governor's Office Proposed Rule and SONAR Form; the proposed rules; and the SONAR. The Board will submit a copy of the cover correspondence and any response received from MMB to OAH at the hearing or with the documents it submits for ALJ review.



Specifically, the Board will send copies of the required documents to Chardae Kimber, the Board's Executive Budget Officer (EBO), at MMB and later provide Chardae Kimber's response to the OAH/ALJ.

### **DETERMINATION ABOUT RULES REQUIRING LOCAL IMPLEMENTATION**

As required by Minnesota Statutes, section 14.128, subdivision 1, the Board of Dentistry has considered whether these proposed rules will require a local government to adopt or amend any ordinance or other regulation in order to comply with these rules. The Board of Dentistry has determined that the local units of government would not be required to adopt or amend an ordinance or regulation because the proposed rules do not require local implementation. All of the Board's proposed rules are intended to provide guidelines and requirements limited to the individual dental professional who must comply with these rules.

### **COST OF COMPLYING FOR SMALL BUSINESS OR CITY**

As required by Minnesota Statutes, section 14.127, the Board of Dentistry has considered whether the cost of complying with the proposed rules in the first year after the rules take effect will exceed \$25,000 for any small business or small city. The Board of Dentistry has determined that the cost of complying with the proposed rules in the first year after the rules take effect will not exceed \$25,000 for any small business or small city. The Board of Dentistry has made this determination based on the probable costs of complying with the proposed rules, as previously described in the Regulatory Analysis section of this SONAR on pages 2 to 4.

### **LIST OF WITNESSES**

If these rules go to a public hearing, the Board of Dentistry anticipates having the following witnesses testify in support of the need for and reasonableness of the proposed rules:

1. Douglas Wolff, D.D.S., Board Member
2. Christy Jo Fogarty, D.H., A.D.T. Board Member
3. Bridgett Anderson, L.D.A., M.B.A., Executive Director

### **RULE-BY-RULE ANALYSIS**

#### **PROPOSED RULE CHANGES**

All of the rule parts hereafter include supportive information relative to the rule-by-rule analysis as follows:

#### **3100.3600 ADMINISTRATION OF GENERAL ANESTHESIA, DEEP SEDATION, MODERATE SEDATION, MINIMAL SEDATION, AND NITROUS OXIDE INHALATION ANALGESIA.**

Subpart 4. Nitrous oxide inhalation analgesia; educational training requirements.

Subpart 4, item A: In this item, some existing language has been deleted and replaced with the following: “~~Prior to~~ As of January 1, 1993, a licensed dentist who is currently administering nitrous oxide inhalation analgesia may register that fact with the board according to subpart 5, item A.” This change is intended to clarify that by that date a licensed dentist should have registered with the Board that he has been administering nitrous oxide to patients. Thus, the Board considers this change necessary and reasonable.

Subpart 5. **Notice to board.**

Subpart 5, item C, subitems (2) and (3): Regarding a dentist, the Board made the following changes below:

(2) the dentist’s written attestation regarding successfully completing the education to administer nitrous oxide inhalation analgesia through an institution accredited by the Commission on Dental Accreditation; and

~~(2) (3) a certified copy of the dentist’s transcript and other official record from the institution verifying that the dentist has successfully completed~~ documentation of current CPR certification as required by subpart 4, item C.

Regarding subitem (2) above, the Board found that some MN dentists, who had not previously provided proper Notice to the Board about administering nitrous oxide to patients, and credential candidates seeking licensure, who would like to administer nitrous oxide to patients, these individuals were having difficulty obtaining the necessary documentation of their prior education of nitrous oxide from their attended dental institution due lack of retention of ancient information. Therefore, the Board decided to create this new language that allows this particular dentist or credential candidate to instead provide their written attestation regarding their prior nitrous oxide education to the Board to make the process easier. The Board determined that a written attestation from the dentist would be an acceptable alternative since these dentists have been administering nitrous oxide to their patients for many years. Thus, the Board considers this change necessary and reasonable.

Regarding subitem (3) above, the Board decided that it was unnecessary to obtain a copy of the dentist’s transcript as proof of completing CPR certification. Therefore, the Board has amended the existing language to allow the dentist to provide documentation of current CPR certification, which means providing a copy of the front and back of their current CPR card to the Board. The Board believes in making the process easier and considers this change necessary and reasonable.

Subpart 5, item D, subitem (2): Regarding a dental hygienist and licensed dental assistant, the Board made the following change below:

~~(2) a certified copy of the dental hygienist’s or licensed dental assistant’s transcript and other official record from the institution verifying that the dental hygienist or licensed dental assistant has successfully completed~~ documentation of current CPR certification as required by subpart 4, item C.

Regarding subitem (2) above, the Board decided that it was unnecessary to obtain a copy of the dental hygienist's or licensed dental assistant's transcript as proof of completing CPR certification. Therefore, the Board has amended the existing language to allow the dental hygienist or licensed dental assistant to provide documentation of current CPR certification, which means providing a copy of the front and back of their current CPR card to the Board. The Board believes in making the process easier and considers this change necessary and reasonable.

Subpart 5, item E, subitem (2): Regarding a dental therapist, the Board made the following change below:

(2) ~~a certified copy of the dental therapist's transcript and other official records from the institution verifying that the dental therapist has successfully completed~~ documentation of current CPR certification as required by subpart 4, item C.

Regarding subitem (2) above, the Board decided that it was unnecessary to obtain a copy of the dental therapist's transcript as proof of completing CPR certification. Therefore, the Board has amended the existing language to allow the dental therapist to provide documentation of current CPR certification, which means providing a copy of the front and back of their current CPR card to the Board. The Board believes in making the process easier and considers this change necessary and reasonable.

### **3100.8500 LICENSED DENTAL ASSISTANTS.**

Subparts 1, 1a, 1b, 1c, and 2 below: The Board decided to replace the word "duties" with the word "procedures" because use of the word "procedures" seemed more appropriate indicating a series of actions.

Subpart 1. **Duties Procedures under general supervision.** A licensed dental assistant may perform the following procedures without the dentist being present in the dental office or on the premises if the procedures being performed are with prior knowledge and consent of the dentist:

G. ~~take impressions for casts and appropriate bite registration, not to include impressions and bite registrations for final construction of fixed and removable prostheses;~~

Subpart 1, item G: After many months of discussions at Allied Dental Education Committee meetings between dental educators, dentists, licensed dental assistants, dental hygienists, and Board members, it was decided to remove the language above that referenced the taking of impressions and bite registrations relative to the final construction of prostheses. With the development of new scanner technology being used to take digital dental impressions, the trends in dentistry are moving toward having the licensed dental assistant take the digital dental impressions for fixed and removable prostheses, as the process is less invasive and user-friendly with greater accurate results. This change will also broaden the scope of impressions to allow for future technology advancements in dentistry. As always with procedures under general supervision, the dentist will have prior knowledge and give consent before the licensed dental assistant can perform this procedure. For these reasons, the Board considers this change necessary and reasonable.



N. remove and place ligature ties and remove and replace existing arch wires on orthodontic appliances.

Subpart 1, item N: Following multiple meetings and discussions between the Minnesota Orthodontist Association, Board members, dentists, dental hygienists, and licensed dental assistants, it was decided to add this language above to the procedures a licensed dental assistant can perform under general supervision. The licensed dental assistant would be allowed to remove ligature ties and existing arch wires on orthodontic patients who needed to have their arch wires removed prior to having other dental treatment, such as a prophylaxis, digital impressions, or restorations completed by the patient's general dentist. Thereafter, the licensed dental assistant would replace the ligature ties and existing arch wires for the patient. The licensed dental assistant would not need any additional training to perform this procedure since this procedure is already part of the curriculum of dental assisting programs, because a similar procedure already exists under indirect supervision as seen below. As always with procedures under general supervision, the dentist will have prior knowledge and give consent before the licensed dental assistant can perform this procedure. For these reasons, the Board considers this change necessary and reasonable.

O. apply topical fluoride, including foam, gel, or varnish.

Subpart 1, item O: This existing procedure regarding applying topical fluoride has been moved from indirect supervision to general supervision for licensed dental assistants. In addition, the language for topical fluoride has been expanded to identify the general types of fluoride that may be applied with the intent of not limiting the possibilities for future types of topical fluoride as technology and research advance in fluoride substances over time. Along with applying topical fluoride to patients in the dental office under general supervision, the licensed dental assistant is also allowed to apply topical fluoride varnish to the teeth of a person being served in a community setting in accordance with a prescription and protocol issued and established by a dentist or physician, as long as the practitioner or facility maintains appropriate patient records of the treatment. The Board recognizes that topical fluoride is an important preventive measure of treatment for people to prevent tooth decay and improve oral health as long as the service is provided under appropriate supervision and documentation. Moreover, this will remove any barriers for the licensed dental assistant to participate in fluoride varnish programs in public settings. For these reasons, the Board considers the change to be necessary and reasonable.

Subpart 1a. **Duties Procedures under indirect supervision.** A licensed dental assistant, in addition to the services performed by an assistant described in part 3100.8400, subpart 1, may perform the following services if a dentist is in the office, authorizes the procedures, and remains in the office while the procedures are being performed:

A. apply topical medications such as, but not limited to, ~~topical fluoride~~, bleaching agents, and cavity varnishes in appropriate dosages or quantities prescribed by a dentist;

Subpart 1a, item A: The medication "topical fluoride" has been deleted from indirect supervision



and moved to general supervision for licensed dental assistants. The procedure of applying topical fluoride to patient's teeth is considered a safe and harmless procedure that is taught to all dental assisting students. The licensed dental assistant will still be under general supervision by the dentist in all situations. Therefore, the Board considers this change necessary and reasonable.

I. ~~remove and place ligature ties and initial~~ arch wires on orthodontic appliances. A dentist must select and, if necessary, adjust arch wires prior to placement;

Subpart 1a, item I: Following multiple meetings and discussions between the Minnesota Orthodontist Association, Board members, dentists, dental hygienists, and licensed dental assistants, it was decided to change the language for this procedure that a licensed dental assistant can perform under indirect supervision. Some of the language for this existing procedure dealing with ligature ties and arch wires was moved to general supervision as a new procedure. The remaining part of this procedure was changed to specify the placement of "initial" arch wires on orthodontic appliances. As a currently existing procedure, it was determined that licensed dental assistants have the knowledge and capability to place initial arch wires through the training provided by the orthodontist at the practice. In addition, the licensed dental assistant already receives orthodontic training as part of the curriculum of dental assisting programs. As a procedure under indirect supervision, the dentist is responsible for authorizing the procedure and remaining in the office while the procedure is being performed by the licensed dental assistant. For these reasons, the Board considers this change necessary and reasonable.

Subpart 1b. **Duties Procedures under direct supervision.** A licensed dental assistant may perform the following services if a dentist is in the dental office, personally diagnoses the condition to be treated, personally authorizes the procedure, and evaluates the performance of the licensed dental assistant before dismissing the patient:

J. initiate and place an intravenous ~~infusion~~ line in preparation for intravenous medications and sedation while under direct supervision of a dentist who holds a valid general anesthesia or moderate sedation certificate. Before initiating and placing an intravenous ~~infusion~~ line, a licensed dental assistant must have successfully completed board-approved allied dental personnel courses comprised of intravenous access and general anesthesia and moderate sedation training; and

Subpart 1b, item J: The word "infusion" was deleted because the word was found as an unnecessary component when referring to an intravenous line, which technically speaks for itself without further descriptors. For this reason, the Board considers this change necessary and reasonable.

Subpart 1c. **Duties Procedures under personal supervision.** A licensed dental assistant may concurrently perform supportive services if the dentist holds a valid general anesthesia or moderate sedation certificate, is personally treating a patient, and authorizes the licensed dental assistant to aid in ~~treatment~~ the physical management of medications, including the preparation and administration of medications into an existing intravenous line, an enteral agent, or emergency medications in an emergent situation. Before administering any medications or agents, a licensed

dental assistant must have successfully completed board-approved allied dental personnel courses comprised of general anesthesia and moderate sedation training.

Subpart 1c: The following phrases “the physical management of medications” and “the preparation” were added to the existing language to attempt to simplify what the licensed dental assistant is permitted to do regarding medications and intravenous lines. Basically, the licensed dental assistant is allowed to prepare or draw-up the medications and administer medications into the patient’s intravenous line under the personal supervision of the dentist who is presently treating the patient and authorizes the licensed dental assistant to assist him/her with these procedures. Additionally, the phrase “an enteral agent or emergency medications in an emergent situation” was deleted from the existing language because it seemed to only confuse the reader about what type of medications could be administered through the intravenous line which was not the intent. For these reasons, the Board considers these changes necessary and reasonable.

Subpart 2. **Other duties procedures prohibited.** A licensed dental assistant may not perform any dental treatment or procedure on patients not otherwise authorized by this chapter.

Subpart 2: The heading of this subpart has been changed by replacing the word “duties” with the word “procedures” because use of the word “procedures” seemed more appropriate indicating a series of actions.

### **3100.8700 DENTAL HYGIENISTS.**

Over the course of many years, the Board has been adding new delegated duties or procedures to the list for dental hygienists to perform through the rulemaking process. As a result, all of the four-year and two-year dental hygienist programs have chosen not to include all of the delegated procedures in the list as part of their curriculum, since the list has been growing over time and it would be impossible to teach all of these procedures to students. In April 2015, the dental hygiene educators explained to the Board that a new CODA proposed Standard 2-18, which was part of the Accreditation Standards for Dental Hygiene Programs from the Commission on Dental Accreditation, would require that all accredited dental hygiene programs would have to teach every delegated procedure outlined in either statutes or rules to clinical competency. This new proposal from CODA inspired the dental hygiene educators to restructure the current list of delegated procedures, so it is now clear that the delegated procedures in subpart 1 known as “principal procedures” are required to be taught as part of a dental hygiene curriculum for initial licensure in dental hygiene programs.

Additionally, the remaining delegated procedures were separated into other categories such as restorative procedures in subpart 2, orthodontic procedures in subpart 3, and sedation monitoring and intravenous procedures in subpart 4. For each of these latter categories, a list of delegated procedures are indicated under each appropriate supervision level as well as the educational training requirement needed by the dental hygienist to perform any of these delegated procedures.

All of the subparts below have been restructured and reorganized compared to the original version, so it may appear that lots of new procedures have been added to the delegated procedures list for dental hygienists, which has not happened. The following is a breakdown of the procedure changes that were made and the analysis for each subpart, item, and supervision level, plus the existing procedures that still remain under each subpart and supervision level:

### **“Principal Procedures Under General Supervision”**

Subpart 1. **Duties** **Principal procedures** under general supervision.

Subpart 1: The heading of this subpart has been changed to reflect the new category of principle procedures that can be performed by a dental hygienist under general supervision. These procedures will also be included in the training curriculum for dental hygiene students in dental hygiene programs.

### **Two New Principal Procedures Under General Supervision:**

The following two new principal procedures below are now part of the list of delegated procedures for dental hygienists under general supervision. These two new procedures are highly recommended for dental hygienists to perform since nutritional counseling is an important foundation for every patient toward having healthy hard and soft tissues of the mouth and overall a healthy body. As for placing subgingival medicaments, the dental hygienist is already very familiar with performing procedures that involve the subgingival area surrounding a patient's teeth with debridement and scaling. Therefore, this procedure of placing a medicament subgingivally along with the appropriate education will enhance the realm of delegated procedures for dental hygienists. Both of these new procedures will be part of the curriculum in dental hygiene programs and taught to a competent level to students. As always with procedures under general supervision, the dentist will have prior knowledge and give consent before the dental hygienist can perform these procedures. For these reasons, the Board considers these new procedures to be necessary and reasonable.

L. Place subgingival medicaments.

O. Nutritional counseling.

### **Existing Procedures Currently Under Direct Supervision, But The Change Involved Moving The Same Procedure To Principle Procedures Under General Supervision:**

These three principle procedures below currently exist as delegated procedures for a dental hygienist. With the proposed changes, the three procedures will be moved from the level of direct supervision to general supervision. Dental hygienists have been performing the first two procedures regarding temporary crowns/restorations and matrix systems/wedges since 1996 and 2003, respectively. With this lengthy background of performing these two procedures and having no known reported adverse events or complaints that would substantiate patient safety concerns, it would be considered reasonable to move these procedures regarding temporary



crowns/restorations and matrix systems/wedges from direct supervision to general supervision for dental hygienists.

As for the last principle procedure regarding nonsurgical retraction material, a dental hygienist may perform this procedure under general supervision after either: completing an acceptable continuing education course on placing nonsurgical retraction material for gingival displacement; or completing an accredited dental hygiene program that has incorporated into the curriculum of the program placing nonsurgical retraction material for gingival displacement. From the continuing education course or as part of the curriculum in a dental hygiene program, the dental hygienist will be instructed how to place nonsurgical retraction material on patients to a competent level. As always with procedures under general supervision, the dentist will have prior knowledge and give consent before the dental hygienist can perform the aforementioned procedures. For these reasons, the Board considers these proposed changes to be necessary and reasonable.

X. Remove temporary crowns or restorations with hand instruments only.

Y. Place and remove matrix systems and wedges.

Z. Place nonsurgical retraction material for gingival displacement. Before placing nonsurgical retraction material, a dental hygienist must have successfully completed a course in nonsurgical retraction material for gingival displacement at a dental, dental hygiene, or dental assisting school accredited by the Commission on Dental Accreditation.

#### **Existing Procedures Currently Under General Supervision That Will Remain Under General Supervision:**

All of the principle procedures indicated below currently exist as delegated procedures under general supervision for dental hygienists. The only changes made to the procedures were to rearrange the order of the procedures under general supervision to create a better layout. Therefore, no further analysis is necessary for the following procedures and the Board finds these proposed changes to be necessary and reasonable.

A. Preliminary charting of the oral cavity and surrounding structures to include case histories, perform initial and periodic examinations and assessments to determine periodontal status, and formulate a dental hygiene treatment plan in coordination with a dentist's treatment plan.

B. Obtain informed consent, according to part 3100.9600, subpart 9, for treatments authorized by the supervising dentist pursuant to the dental hygienist's scope of practice.

C. Take photographs extraorally or intraorally.

D. Take vital signs such as pulse rate and blood pressure.

E. Make referrals to dentists, physicians, and other practitioners in consultation with a dentist.



- F. Complete debridement, prophylaxis, and non-surgical periodontal therapy.
- G. Etch appropriate enamel surfaces, application and adjustment of pit and fissure sealants.
- H. Administer local anesthesia. Before administering local anesthesia, a dental hygienist must have successfully completed a didactic and clinical program sponsored by a dental or dental hygiene school accredited by the Commission on Dental Accreditation, resulting in the dental hygienist becoming clinically competent in the administration of local anesthesia.
- I. Administer nitrous oxide inhalation analgesia according to part 3100.3600, subparts 4 and 5.
- J. Take radiographs.
- K. Apply topical medications such as topical fluoride, bleaching agents, cavity varnishes, and desensitizing agents.
- M. Take impressions and appropriate bite registration.
- N. Fabrication and delivery of custom fitted trays.
- P. Salivary analysis.
- Q. Remove marginal overhangs.
- R. Remove sutures.
- S. Place and remove periodontal dressings.
- T. Place and remove isolation devices or materials for restorative purposes.
- U. Polishing of restorations.
- V. Remove excess cement from inlays, crowns, bridges, or orthodontic appliances.
- W. Fabrication, placement, replacement, cementation, and adjustment of temporary crowns or restorations.

### **“Restorative Procedures Under Indirect Supervision”**

Subpart 2. **Duties Restorative procedures under indirect supervision.**

Subpart 2: The heading of this subpart has been changed to reflect the new category of restorative procedures that can be performed by a dental hygienist under indirect supervision. Since 2003, the ability to perform restorative procedures after completing the appropriate training currently

exists under indirect supervision and will remain the same. To perform restorative procedures, a dental hygienist must either: (1) successfully graduate from a Minnesota dental hygiene program accredited by CODA that included training for restorative procedures and the dental hygienist received a restorative procedures certificate from the program; or (2) complete a board-approved course comprised of restorative procedures and received a restorative procedures certificate from the course sponsor. These same educational training options have already been available for dental hygienists to complete and thereafter provide restorative procedures. The changes to this part are mainly to rearrange currently existing restorative procedures language. For these reasons, the Board considers these proposed changes to be necessary and reasonable.

### **“Orthodontic Procedures Under General, Indirect, or Direct Supervision”**

#### **Subpart 2a 3. Duties Orthodontic procedures under general, indirect, or direct supervision.**

Subpart 3: The heading of this subpart has been changed to reflect the new category of orthodontic procedures that can be performed by a dental hygienist under general, indirect, or direct supervision. To perform these orthodontic procedures, a dental hygienist must have fulfilled either: (1) been granted a Minnesota dental hygiene license from the Board prior to September 1, 2019; (2) successfully graduated from a Minnesota dental hygiene program accredited by CODA after September 1, 2019, that included training for orthodontic procedures and the dental hygienist received an orthodontic procedures certificate from the program; or (3) successfully completed a board-approved course comprised of orthodontic procedures and received an orthodontic procedures certificate from the course sponsor. Since orthodontic procedures has become a separate category, the Board created the language in option (1) above to grandfather in all currently licensed dental hygienists in Minnesota prior to the specified date, which would allow them to continue to perform these orthodontic procedures without further training. Moreover, the Board created additional training criteria above to inform other dental hygienists who are interested in performing orthodontic procedures in the future how to achieve that goal through the stated options.

All of the following orthodontic procedures below were delegated procedures that dental hygienists had previously received the necessary training on through their dental hygiene programs and hygienists were already allowed to perform these orthodontic procedures under these same levels of supervision. The only changes made to the orthodontic procedures were to move the procedures to this subpart as a new orthodontic category. Therefore, no further analysis is necessary for the following procedures and the Board finds these proposed changes to be necessary and reasonable.

#### **Orthodontic procedures under general supervision:**

- (a) Cut arch wires on orthodontic appliances.
- (b) Remove loose bands on orthodontic appliances.
- (c) Remove loose brackets on orthodontic appliances.
- (d) Remove excess bond material from orthodontic appliances.
- (e) Preselect orthodontic bands.

- (f) Place and remove elastic orthodontic separators.
- (g) Remove and place ligature ties and remove and replace existing arch wires on orthodontic appliances.
- (h) Deliver vacuum-formed orthodontic retainers.

**Orthodontic procedures under indirect supervision:**

Place initial arch wires on orthodontic appliances. A dentist must select and, if necessary, adjust arch wires prior to placement.

**Orthodontic procedures under direct supervision:**

- (a) Etch appropriate enamel surfaces before bonding of orthodontic appliances by a dentist.
- (b) Remove bond material from teeth with rotary instruments after removal of orthodontic appliances.
- (c) Attach prefabricated and preadjusted orthodontic appliances.
- (d) Remove fixed orthodontic bands and bracket.

**“Sedation Monitoring and Intravenous Procedures Under Indirect, Direct, or Personal Supervision”**

**Subpart 2b 4. Duties Sedation monitoring and intravenous procedures under indirect, direct, or personal supervision.**

Subpart 4: The heading of this subpart has been changed to reflect the new category of sedation monitoring and intravenous procedures that can be performed by a dental hygienist under indirect, direct, or personal supervision. To perform sedation monitoring and intravenous procedures, a dental hygienist must have successfully completed board-approved allied dental personnel courses comprised of intravenous access and general anesthesia and moderate sedation training and submitted to the Board documentation of completion to receive a certificate from the Board. These same educational training courses have already been available for dental hygienists to complete and thereafter provide sedation monitoring and intravenous procedures.

Since 2010, the ability to perform sedation monitoring and intravenous procedures after completing the appropriate training currently exists under indirect, direct, or personal supervision and will remain the same, as follows:

**Sedation monitoring and intravenous procedures under indirect supervision:**

- (a) Maintain and remove intravenous lines.
- (b) Monitor a patient during preoperative, intraoperative, and postoperative phases of general anesthesia or moderate sedation using noninvasive instrumentation such as pulse oximeters, electrocardiograms, blood pressure monitors, and capnography.

**Sedation monitoring and intravenous procedures under direct supervision:**

Initiate and place an intravenous line in preparation for intravenous medications

and sedation.

**Sedation monitoring and intravenous procedures under personal supervision:**

Aid in the physical management of medications, including the preparation and administration of medications into an existing intravenous line.

The only changes made to the sedation monitoring and intravenous procedures were to move the procedures to this subpart as a new sedation monitoring and intravenous category. Therefore, no further analysis is necessary for the following procedures and the Board finds these proposed changes necessary and reasonable.

Subpart 3 ~~5~~. **Other duties procedures prohibited.** A dental hygienist may not perform any dental treatment or procedure on patients not authorized by this chapter.

Subpart 5: The heading of this subpart has been changed by replacing the word “duties” with the word “procedures” because use of the word “procedures” seemed more appropriate indicating a series of actions.

**3100.9600 RECORD KEEPING.**

Subpart 5. **Dental and medical history.** Dental records must include information from the patient or the patient's parent or guardian on the patient's dental and medical history. The information must include a sufficient amount of data to support the recommended treatment plan. The dental and medical history must be updated to reflect the current status of the patient.

Subpart 5: For this subpart, the sentence regarding updating the dental and medical history has been added to the existing language. It is important for the dentist to obtain updated dental and medical information for patient safety from the patient regarding changes to their current health status, such as recent dental issues and treatment, recent medical illnesses and care, and any alterations to medications. This updated dental and medical information must be documented in some form as determined by the dentist in the patient's record. Therefore, the Board finds these proposed changes necessary and reasonable.

Subpart 10. **Progress notes.** Dental records must be legible and include a chronology of the patient's progress throughout the course of all treatment and postoperative visits. The chronology must include:

- A. all treatment provided;
- B. all medications used and materials placed;
- C. the treatment provider by license number, name, or initials; ~~and~~
- D. when applicable, the identity of the collaborating dentist authorizing treatment by license number; and
- E. administration information for nitrous oxide inhalation analgesia, including indication for use, dosage, duration of administration, post-treatment oxygenation period prior to discharge,




and patient status at discharge.

Subpart 10: For this subpart, item “E” has been added regarding nitrous oxide to the existing language under progress notes. Specifically, whenever nitrous oxide inhalation analgesia is administered to a patient, the following information must be documented within the progress notes in the patient’s record: the indication for use, dosage, duration of administration, post-treatment oxygenation period prior to discharge, and patient status at discharge. Before this rulemaking, the use of nitrous oxide was considered as a “medication used” (indicated above as item “B”), which was previously required to be documented within the patient’s progress notes in the patient’s record. Since this previous requirement was unclear to some regulated dental professionals, the Board decided to specifically list under progress notes the administration of nitrous oxide and the required nitrous oxide information as part of this subpart to clarify any confusion as to what exactly is required to be documented whenever nitrous oxide is administered to a patient. Nitrous oxide must be properly administered to a patient and adequate documentation should support the administration process on the patient for this procedure. For these reasons, the Board finds these proposed changes necessary and reasonable.

## **CONCLUSION**

Based on the foregoing, the proposed rules are both needed and reasonable.

Dated: April 10, 2018



Bridgett Anderson, L.D.A., M.B.A.  
Executive Director  
Minnesota Board of Dentistry

**Board of Dentistry**

**Proposed Permanent Rules Relating to Dentists, Dental Therapists, Licensed Dental Assistants, and Dental Hygienists**

**3100.1160 LICENSE TO PRACTICE DENTISTRY AS A RESIDENT DENTIST.**

*[For text of subp 1, see M.R.]*

**Subp. 2. Termination of licensure.**

*[For text of items A and B, see M.R.]*

C. A person who fails to inform the board as required in item B is deemed to have committed fraud or deception within the meaning of Minnesota Statutes, section 150.08 150A.08, subdivision 1, clause (1).

**3100.3600 ADMINISTRATION OF GENERAL ANESTHESIA, DEEP SEDATION, MODERATE SEDATION, MINIMAL SEDATION, AND NITROUS OXIDE INHALATION ANALGESIA.**

*[For text of subps 1 to 3, see M.R.]*

**Subp. 4. Nitrous oxide inhalation analgesia; educational training requirements.** A dentist may administer nitrous oxide inhalation analgesia only according to items A to D and subpart 5, items A and C. A dental therapist may administer nitrous oxide inhalation analgesia only according to items C to F. A dental hygienist may administer nitrous oxide inhalation analgesia only according to items C to F and subpart 5, item D. A licensed dental assistant may administer nitrous oxide inhalation analgesia only after a maximum dosage has been prescribed by a dentist for a specific patient, and it is administered according to items C to F and subpart 5, item D.

A. ~~Prior to January 1, 1993,~~ A licensed dentist who ~~is currently~~ was administering nitrous oxide inhalation analgesia on or before January 1, 1993, may register that fact with the board according to subpart 5, item A. Such registered dentists may continue to administer nitrous oxide inhalation analgesia and need not comply with item B.

2.1 [For text of items B to F, see M.R.]

2.2 **Subp. 5. Notice to board.**

2.3 [For text of items A and B, see M.R.]

2.4 C. A dentist not previously registered with the board according to item A or who  
2.5 graduated from an institution in Minnesota accredited by the Commission on Dental  
2.6 Accreditation prior to April 15, 2008, may administer nitrous oxide inhalation analgesia  
2.7 only after the dentist has submitted the information in subitems (1) and (2) to the board on  
2.8 forms provided by the board:

2.9 (1) the name, address, and telephone number of the institution at which the  
2.10 dentist took the course that complies with subpart 4, item B, or the dentist's written attestation  
2.11 that the dentist has successfully completed the education to administer nitrous oxide  
2.12 inhalation analgesia through an institution accredited by the Commission on Dental  
2.13 Accreditation; and

2.14 (2) ~~a certified copy of the dentist's transcript and other official record from~~  
2.15 ~~the institution verifying that the dentist has successfully completed~~ documentation of current  
2.16 CPR certification as required by subpart 4, item C.

2.17 After the initial submission, a dentist must attest to maintaining consecutive and current  
2.18 CPR certification at the time of each license renewal.

2.19 D. A dental hygienist or licensed dental assistant who graduated from an institution  
2.20 in Minnesota accredited by the Commission on Dental Accreditation or received licensure  
2.21 by credentials prior to September 2, 2004, may administer nitrous oxide inhalation analgesia  
2.22 only after the dental hygienist or licensed dental assistant has submitted the information in  
2.23 subitems (1) and (2) to the board on forms provided by the board:

2.24 [For text of subitem (1), see M.R.]

(2) ~~a certified copy of the dental hygienist's or licensed dental assistant's transcript and other official record from the institution verifying that the dental hygienist or licensed dental assistant has successfully completed~~ documentation of current CPR certification as required by subpart 4, item C.

After the initial submission, a dental hygienist or licensed dental assistant must attest to maintaining consecutive and current CPR certification at the time of each license renewal.

E. A dental therapist who graduated from a board-approved dental therapy program in Minnesota prior to August 1, 2013, may administer nitrous oxide inhalation analgesia only after the dental therapist has submitted the information in subitems (1) and (2) to the board on forms provided by the board:

*[For text of subitem (1), see M.R.]*

(2) ~~a certified copy of the dental therapist's transcript and other official records from the institution verifying that the dental therapist has successfully completed~~ documentation of current CPR certification as required by subpart 4, item C.

After the initial submission, a dental therapist must attest to maintaining consecutive and current CPR certification at the time of each license renewal.

*[For text of subps 6 to 11, see M.R.]*

### **3100.8500 LICENSED DENTAL ASSISTANTS.**

Subpart 1. **Duties Procedures under general supervision.** A licensed dental assistant may perform the following procedures without the dentist being present in the dental office or on the premises if the procedures being performed are with prior knowledge and consent of the dentist:

*[For text of items A to F, see M.R.]*



4.1 G. take impressions for casts and appropriate bite registration, ~~not to include~~  
4.2 ~~impressions and bite registrations for final construction of fixed and removable prostheses;~~

4.3 [For text of items H to K, see M.R.]

4.4 L. take vital signs such as pulse rate and blood pressure as directed by a dentist;  
4.5 and

4.6 M. obtain informed consent, according to part 3100.9600, subpart 9, for treatments  
4.7 authorized by the supervising dentist pursuant to the licensed dental assistant's scope of  
4.8 practice;

4.9 N. remove and place ligature ties and remove and replace existing arch wires on  
4.10 orthodontic appliances; and

4.11 O. apply topical fluoride, including foam, gel, or varnish.

4.12 Subp. 1a. **Duties Procedures under indirect supervision.** A licensed dental assistant,  
4.13 in addition to the services performed by an assistant described in part 3100.8400, subpart  
4.14 1, may perform the following services if a dentist is in the office, authorizes the procedures,  
4.15 and remains in the office while the procedures are being performed:

4.16 A. apply topical medications such as, ~~but not limited to,~~ topical fluoride, including  
4.17 bleaching agents, and cavity varnishes in appropriate dosages or quantities as prescribed  
4.18 by a dentist;

4.19 [For text of items B to H, see M.R.]

4.20 I. ~~remove and place ligature ties and~~ initial arch wires on orthodontic appliances.  
4.21 A dentist must select and, if necessary, adjust arch wires prior to placement;

4.22 [For text of items J to O, see M.R.]

4.23 Subp. 1b. **Duties Procedures under direct supervision.** A licensed dental assistant  
4.24 may perform the following services if a dentist is in the dental office, personally diagnoses

5.1 the condition to be treated, personally authorizes the procedure, and evaluates the  
5.2 performance of the licensed dental assistant before dismissing the patient:

5.3 *[For text of items A to I, see M.R.]*

5.4 J. initiate and place an intravenous ~~infusion~~ line in preparation for intravenous  
5.5 medications and sedation while under direct supervision of a dentist who holds a valid  
5.6 general anesthesia or moderate sedation certificate. Before initiating and placing an  
5.7 intravenous ~~infusion~~ line, a licensed dental assistant must have successfully completed  
5.8 board-approved allied dental personnel courses comprised of intravenous access and general  
5.9 anesthesia and moderate sedation training; and

5.10 *[For text of item K, see M.R.]*

5.11 Subp. 1c. **Duties Procedures under personal supervision.** A licensed dental assistant  
5.12 may concurrently perform supportive services if the dentist holds a valid general anesthesia  
5.13 or moderate sedation certificate, is personally treating a patient, and authorizes the licensed  
5.14 dental assistant to aid in ~~treatment~~ the physical management of medications, including the  
5.15 preparation and administration of medications into an existing intravenous line, ~~an enteral~~  
5.16 ~~agent, or emergency medications in an emergent situation.~~ Before administering any  
5.17 medications or agents, a licensed dental assistant must have successfully completed  
5.18 board-approved allied dental personnel courses comprised of general anesthesia and moderate  
5.19 sedation training.

5.20 Subp. 2. **Other duties procedures prohibited.** A licensed dental assistant may not  
5.21 perform any dental treatment or procedure on patients not otherwise authorized by this  
5.22 chapter.

5.23 *[For text of subp 3, see M.R.]*

6.1 **3100.8700 DENTAL HYGIENISTS.**

6.2 Subpart 1. **Duties** Principal procedures under general supervision. A dental  
6.3 hygienist may perform the following procedures without the dentist being present in the  
6.4 dental office or on the premises if the procedures being performed are with prior knowledge  
6.5 and consent of the dentist under general supervision, as defined in part 3100.0100, subpart  
6.6 21, item D:

6.7 A. ~~all services permitted under parts 3100.8400 and 3100.8500, subparts 1 and~~  
6.8 ~~1a, items A to L~~ preliminary charting of the oral cavity and surrounding structures, including  
6.9 case histories; initial and periodic examinations and assessments to determine periodontal  
6.10 status; and creation of a dental hygiene treatment plan in coordination with a dentist's  
6.11 treatment plan;

6.12 B. ~~complete prophylaxis to include sealing, root planing, and polishing of~~  
6.13 ~~restorations~~ obtain informed consent, according to part 3100.9600, subpart 9, for treatments  
6.14 authorized by the supervising dentist pursuant to the dental hygienist's scope of practice;

6.15 C. ~~preliminary charting of the oral cavity and surrounding structures to include~~  
6.16 ~~case histories, perform initial and periodic examinations and assessments to determine~~  
6.17 ~~periodontal status, and formulate a dental hygiene treatment plan in coordination with a~~  
6.18 ~~dentist's treatment plan~~ take photographs extraorally or intraorally;

6.19 D. ~~dietary analysis, salivary analysis, and preparation of smears for dental health~~  
6.20 ~~purposes~~ take vital signs, including pulse rate and blood pressure;

6.21 E. make referrals to dentists, physicians, and other practitioners in consultation  
6.22 with a dentist;

6.23 F. complete debridement, prophylaxis, and nonsurgical periodontal therapy;

6.24 ~~E. G.~~ etch appropriate enamel surfaces, application and adjustment of pit and  
6.25 fissure sealants;

- 7.1 ~~F. removal of excess bond material from orthodontic appliances;~~
- 7.2 ~~G. replacement, cementation, and adjustment of intact temporary restorations~~
- 7.3 ~~extraorally or intraorally;~~
- 7.4 ~~H. removal of marginal overhangs;~~
- 7.5 ~~I. make referrals to dentists, physicians, and other practitioners in consultation~~
- 7.6 ~~with a dentist;~~
- 7.7 J. H. administer local anesthesia. Before administering local anesthesia, a dental
- 7.8 hygienist must have successfully completed a didactic and clinical program sponsored by
- 7.9 a dental or dental hygiene school accredited by the Commission on Dental Accreditation,
- 7.10 resulting in the dental hygienist becoming clinically competent in the administration of local
- 7.11 anesthesia;
- 7.12 ~~K. I. administer nitrous oxide inhalation analgesia according to part 3100.3600,~~
- 7.13 ~~subparts 4 and 5; and~~
- 7.14 J. take radiographs;
- 7.15 K. apply topical medications, including topical fluoride, bleaching agents, cavity
- 7.16 varnishes, and desensitizing agents;
- 7.17 ~~L. obtain informed consent, according to part 3100.9600, subpart 9, for treatments~~
- 7.18 ~~authorized by the supervising dentist pursuant to the dental hygienist's scope of practice.~~
- 7.19 place subgingival medicaments;
- 7.20 M. take impressions and bite registration;
- 7.21 N. fabrication and delivery of custom fitted trays;
- 7.22 O. nutritional counseling;
- 7.23 P. salivary analysis;



- 8.1 Q. remove marginal overhangs;
- 8.2 R. remove sutures;
- 8.3 S. place and remove periodontal dressings;
- 8.4 T. place and remove isolation devices or materials for restorative purposes;
- 8.5 U. polish restorations;
- 8.6 V. remove excess cement from inlays, crowns, bridges, or orthodontic appliances;
- 8.7 W. fabrication, placement, replacement, cementation, and adjustment of temporary
- 8.8 crowns or restorations;
- 8.9 X. remove temporary crowns or restorations with hand instruments only;
- 8.10 Y. place and remove matrix systems and wedges; and
- 8.11 Z. place nonsurgical retraction material for gingival displacement. Before placing
- 8.12 nonsurgical retraction material, a dental hygienist must have successfully completed a course
- 8.13 in nonsurgical retraction material for gingival displacement at a dental, dental hygiene, or
- 8.14 dental assisting school accredited by the Commission on Dental Accreditation.

8.15 Subp. 2. ~~Duties under indirect supervision.~~ Restorative procedures under indirect

8.16 supervision. A dental hygienist may perform the following procedures if a dentist is in the

8.17 office, authorizes the procedures, and remains in the office while the procedures are being

8.18 performed:

8.19 A. restorative procedures permitted under Minnesota Statutes, section 150A.10,

8.20 subdivision 4;

8.21 B. maintain and remove intravenous lines while under indirect supervision of a

8.22 dentist who holds a valid general anesthesia or moderate sedation certificate. Before

8.23 managing and removing intravenous lines, a dental hygienist must have successfully

9.1 completed board-approved allied dental personnel courses comprised of intravenous access  
9.2 and general anesthesia and moderate sedation training; and

9.3 ~~C. monitor a patient during preoperative, intraoperative, and postoperative phases~~  
9.4 ~~of general anesthesia or moderate sedation using noninvasive instrumentation such as pulse~~  
9.5 ~~oximeters, electrocardiograms, blood pressure monitors, and capnography while under~~  
9.6 ~~indirect supervision of a dentist who holds a valid general anesthesia or moderate sedation~~  
9.7 ~~certificate. Before monitoring a sedated patient, a dental hygienist must have successfully~~  
9.8 ~~completed board-approved allied dental personnel courses comprised of intravenous access~~  
9.9 ~~and general anesthesia and moderate sedation training.~~

9.10 A dental hygienist may perform restorative procedures pursuant to Minnesota Statutes,  
9.11 section 150A.10, subdivision 4, and under indirect supervision, as defined in part 3100.0100,  
9.12 subpart 21, item C, if the dental hygienist has fulfilled either item A or B:

9.13 A. successfully graduated from a Minnesota dental hygiene program accredited  
9.14 by the Commission on Dental Accreditation that included training for restorative procedures  
9.15 and received a restorative procedures certificate from the program; or

9.16 B. successfully completed a board-approved course on restorative procedures and  
9.17 received a restorative procedures certificate from the course sponsor.

9.18 Subp. 2a. **Duties under direct supervision. Orthodontic procedures under general,**  
9.19 **indirect, or direct supervision.** A dental hygienist may perform the following procedures  
9.20 if a dentist is in the office, personally diagnoses the condition to be treated, personally  
9.21 authorizes the procedure, and evaluates the performance of the dental hygienist before  
9.22 dismissing the patient:

9.23 A. etch appropriate enamel surfaces before bonding of orthodontic appliances by  
9.24 a dentist;

9.25 B. remove temporary crowns with hand instruments only;

- 10.1 ~~C. fabricate, cement, and adjust temporary restorations;~~
- 10.2 ~~D. place and remove matrix bands;~~
- 10.3 ~~E. remove bond material from teeth with rotary instruments after removal of~~
- 10.4 ~~orthodontic appliances. Before utilizing rotary instruments for the removal of bond material,~~
- 10.5 ~~a dental hygienist must have successfully completed a course in the use of rotary instruments~~
- 10.6 ~~for the express purpose of the removal of bond material from teeth. The course must be one~~
- 10.7 ~~that is presented by a dental, dental hygiene, or dental assisting school accredited by the~~
- 10.8 ~~Commission on Dental Accreditation;~~
- 10.9 ~~F. attach prefabricated and preadjusted orthodontic appliances;~~
- 10.10 ~~G. remove fixed orthodontic bands and brackets;~~
- 10.11 ~~H. initiate and place an intravenous infusion line in preparation for intravenous~~
- 10.12 ~~medications and sedation while under direct supervision of a dentist who holds a valid~~
- 10.13 ~~general anesthesia or moderate sedation certificate. Before initiating and placing an~~
- 10.14 ~~intravenous infusion line, a dental hygienist must have successfully completed~~
- 10.15 ~~board-approved allied dental personnel courses comprised of intravenous access and general~~
- 10.16 ~~anesthesia and moderate sedation training; and~~
- 10.17 ~~I. place nonsurgical retraction material for gingival displacement. Before placing~~
- 10.18 ~~nonsurgical retraction material, a dental hygienist must have successfully completed a course~~
- 10.19 ~~in nonsurgical retraction material for gingival displacement at a dental, dental hygiene, or~~
- 10.20 ~~dental assisting school accredited by the Commission on Dental Accreditation.~~
- 10.21 If a dental hygienist has fulfilled the requirements of item A, subitems (1), (2), or (3),
- 10.22 the dental hygienist may perform the procedures listed in item B under the level of
- 10.23 supervision indicated, as defined in part 3100.0100, subpart 21, items B, C, and D.
- 10.24 A. A dental hygienist must have:

11.1 (1) been granted a Minnesota dental hygiene license from the board prior to  
11.2 September 1, 2019;

11.3 (2) successfully graduated from a Minnesota dental hygiene program  
11.4 accredited by the Commission on Dental Accreditation after September 1, 2019, that included  
11.5 training for orthodontic procedures and received an orthodontic procedures certificate from  
11.6 the program; or

11.7 (3) successfully completed a board-approved course comprised of orthodontic  
11.8 procedures and received an orthodontic procedures certificate from the course sponsor.

11.9 B. The dental hygienist may perform the following procedures under:

11.10 (1) general supervision:

11.11 (a) cut arch wires on orthodontic appliances;

11.12 (b) remove loose bands on orthodontic appliances;

11.13 (c) remove loose brackets on orthodontic appliances;

11.14 (d) remove excess bond material from orthodontic appliances;

11.15 (e) preselect orthodontic bands;

11.16 (f) place and remove elastic orthodontic separators;

11.17 (g) remove and place ligature ties and remove and replace existing arch  
11.18 wires on orthodontic appliances; and

11.19 (h) deliver vacuum-formed orthodontic retainers;

11.20 (2) indirect supervision: place initial arch wires on orthodontic appliances.

11.21 A dentist must select and, if necessary, adjust arch wires prior to placement;

11.22 (3) direct supervision:



- 12.1                    (a) etch enamel surfaces before bonding of orthodontic appliances by a  
12.2 dentist;
- 12.3                    (b) remove bond material from teeth with rotary instruments after removal  
12.4 of orthodontic appliances;
- 12.5                    (c) attach prefabricated and preadjusted orthodontic appliances; and
- 12.6                    (d) remove fixed orthodontic bands and brackets.

12.7            Subp. 2b. ~~Duties under personal supervision. Sedation monitoring and intravenous~~  
12.8 ~~procedures under indirect, direct, or personal supervision. A dental hygienist may~~  
12.9 ~~concurrently perform supportive services if the dentist holds a valid general anesthesia or~~  
12.10 ~~moderate sedation certificate and is personally treating a patient and authorizes the dental~~  
12.11 ~~hygienist to aid in treatment including the administration of medications into an existing~~  
12.12 ~~intravenous line, an enteral agent, or emergency medications in an emergent situation.~~  
12.13 ~~Before administering any medications or agents, a dental hygienist must have successfully~~  
12.14 ~~completed board-approved allied dental personnel courses comprised of general anesthesia~~  
12.15 ~~and moderate sedation training.~~

12.16            If a dental hygienist has successfully completed board-approved allied dental personnel  
12.17 courses comprised of intravenous access and general anesthesia and moderate sedation  
12.18 training and submitted to the board documentation of completion to receive a certificate  
12.19 from the board, the dental hygienist may perform the following procedures under either  
12.20 indirect, direct, or personal supervision, as defined in part 3100.0100, subpart 21, items A,  
12.21 B, and C, for a dentist who holds a valid general anesthesia or moderate sedation certificate:

12.22            A. indirect supervision:

12.23            (1) maintain and remove intravenous lines;

13.1                   (2) monitor a patient during preoperative, intraoperative, and postoperative  
13.2 phases of general anesthesia or moderate sedation using noninvasive instrumentation,  
13.3 including pulse oximeters, electrocardiograms, blood pressures monitors, and capnography;

13.4                   B. direct supervision: initiate and place an intravenous line in preparation for  
13.5 intravenous medications and sedation;

13.6                   C. personal supervision: aid in the physical management of medications, including  
13.7 the preparation and administration of medications into an existing intravenous line.

13.8                   Subp. 3. **Other duties procedures prohibited.** A dental hygienist may not perform  
13.9 any dental treatment or procedure on patients not authorized by this chapter.

13.10 **3100.9600 RECORD KEEPING.**

13.11   *[For text of subps 1 to 4, see M.R.]*

13.12                   Subp. 5. **Dental and medical history.** Dental records must include information from  
13.13 the patient or the patient's parent or guardian on the patient's dental and medical history.  
13.14 The information must include a sufficient amount of data to support the recommended  
13.15 treatment plan. The dental and medical history must be updated to reflect the current status  
13.16 of the patient.

13.17   *[For text of subps 6 to 9, see M.R.]*

13.18                   Subp. 10. **Progress notes.** Dental records must be legible and include a chronology  
13.19 of the patient's progress throughout the course of all treatment and postoperative visits. The  
13.20 chronology must include:

13.21   *[For text of items A and B, see M.R.]*

13.22                   C. the treatment provider by license number, name, or initials; and

13.23                   D. when applicable, the identity of the collaborating dentist authorizing treatment  
13.24 by license number; and

- 14.1 E. administration information for nitrous oxide inhalation analgesia, including  
14.2 indication for use, dosage, duration of administration, posttreatment oxygenation period  
14.3 prior to discharge, and patient status at discharge.

14.4 *[For text of subps 11 to 14, see M.R.]*

# Office of the Revisor of Statutes

## Administrative Rules



**TITLE:** Proposed Permanent Rules Relating to Dentists, Dental Therapists, Licensed Dental Assistants, and Dental Hygienists

**AGENCY:** Board of Dentistry

**REVISOR ID:** R-4507

**MINNESOTA RULES:** Chapter 3100

The attached rules are approved for  
publication in the State Register

A handwritten signature in blue ink, reading "Lauren C. Bethke".

Lauren C. Bethke  
Assistant Revisor



# Office of the Revisor of Statutes

## Administrative Rules



**TITLE:** Adopted Permanent Rules Relating to Dentists, Dental Therapists, Licensed Dental Assistants, and Dental Hygienists

**AGENCY:** Board of Dentistry

**REVISOR ID:** R-4507

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The attached rules are approved for  
filing with the Secretary of State

A handwritten signature in black ink, appearing to read "Lauren C. Bethke".

Lauren C. Bethke  
Assistant Revisor

190941

1.1 **Board of Dentistry**1.2 **Adopted Permanent Rules Relating to Dentists, Dental Therapists, Licensed Dental**  
1.3 **Assistants, and Dental Hygienists**1.4 **3100.1160 LICENSE TO PRACTICE DENTISTRY AS A RESIDENT DENTIST.**1.5 *[For text of subp 1, see M.R.]*1.6 **Subp. 2. Termination of licensure.**1.7 *[For text of items A and B, see M.R.]*

1.8 C. A person who fails to inform the board as required in item B is deemed to have  
1.9 committed fraud or deception within the meaning of Minnesota Statutes, section 150A.08,  
1.10 subdivision 1, clause (1).

1.11 **3100.3600 ADMINISTRATION OF GENERAL ANESTHESIA, DEEP SEDATION,**  
1.12 **MODERATE SEDATION, MINIMAL SEDATION, AND NITROUS OXIDE**  
1.13 **INHALATION ANALGESIA.**1.14 *[For text of subps 1 to 3, see M.R.]*

1.15 **Subp. 4. Nitrous oxide inhalation analgesia; educational training requirements.** A  
1.16 dentist may administer nitrous oxide inhalation analgesia only according to items A to D  
1.17 and subpart 5, items A and C. A dental therapist may administer nitrous oxide inhalation  
1.18 analgesia only according to items C to F. A dental hygienist may administer nitrous oxide  
1.19 inhalation analgesia only according to items C to F and subpart 5, item D. A licensed dental  
1.20 assistant may administer nitrous oxide inhalation analgesia only after a maximum dosage  
1.21 has been prescribed by a dentist for a specific patient, and it is administered according to  
1.22 items C to F and subpart 5, item D.

1.23 A. A licensed dentist who was administering nitrous oxide inhalation analgesia  
1.24 on or before January 1, 1993, may register that fact with the board according to subpart 5,  
1.25 item A. Such registered dentists may continue to administer nitrous oxide inhalation analgesia  
1.26 and need not comply with item B.

2.1 *[For text of items B to F, see M.R.]*

2.2 Subp. 5. Notice to board.

2.3 *[For text of items A and B, see M.R.]*

2.4 C. A dentist not previously registered with the board according to item A or who  
2.5 graduated from an institution in Minnesota accredited by the Commission on Dental  
2.6 Accreditation prior to April 15, 2008, may administer nitrous oxide inhalation analgesia  
2.7 only after the dentist has submitted the information in subitems (1) and (2) to the board on  
2.8 forms provided by the board:

2.9 (1) the name, address, and telephone number of the institution at which the  
2.10 dentist took the course that complies with subpart 4, item B, or the dentist's written attestation  
2.11 that the dentist has successfully completed the education to administer nitrous oxide  
2.12 inhalation analgesia through an institution accredited by the Commission on Dental  
2.13 Accreditation; and

2.14 (2) documentation of current CPR certification as required by subpart 4, item  
2.15 C.

2.16 After the initial submission, a dentist must attest to maintaining consecutive and current  
2.17 CPR certification at the time of each license renewal.

2.18 D. A dental hygienist or licensed dental assistant who graduated from an institution  
2.19 in Minnesota accredited by the Commission on Dental Accreditation or received licensure  
2.20 by credentials prior to September 2, 2004, may administer nitrous oxide inhalation analgesia  
2.21 only after the dental hygienist or licensed dental assistant has submitted the information in  
2.22 subitems (1) and (2) to the board on forms provided by the board:

2.23 *[For text of subitem (1), see M.R.]*

- 3.1 (2) documentation of current CPR certification as required by subpart 4, item  
3.2 C.

3.3 After the initial submission, a dental hygienist or licensed dental assistant must attest  
3.4 to maintaining consecutive and current CPR certification at the time of each license renewal.

3.5 E. A dental therapist who graduated from a board-approved dental therapy program  
3.6 in Minnesota prior to August 1, 2013, may administer nitrous oxide inhalation analgesia  
3.7 only after the dental therapist has submitted the information in subitems (1) and (2) to the  
3.8 board on forms provided by the board:

3.9 *[For text of subitem (1), see M.R.]*

- 3.10 (2) documentation of current CPR certification as required by subpart 4, item  
3.11 C.

3.12 After the initial submission, a dental therapist must attest to maintaining consecutive  
3.13 and current CPR certification at the time of each license renewal.

3.14 *[For text of subps 6 to 11, see M.R.]*

3.15 **3100.8500 LICENSED DENTAL ASSISTANTS.**

3.16 Subpart 1. **Procedures under general supervision.** A licensed dental assistant may  
3.17 perform the following procedures without the dentist being present in the dental office or  
3.18 on the premises if the procedures being performed are with prior knowledge and consent  
3.19 of the dentist:

3.20 *[For text of items A to F, see M.R.]*

3.21 G. take impressions and bite registration;

3.22 *[For text of items H to K, see M.R.]*

3.23 L. take vital signs such as pulse rate and blood pressure as directed by a dentist;



4.1 M. obtain informed consent, according to part 3100.9600, subpart 9, for treatments  
4.2 authorized by the supervising dentist pursuant to the licensed dental assistant's scope of  
4.3 practice;

4.4 N. remove and place ligature ties and remove and replace existing arch wires on  
4.5 orthodontic appliances; and

4.6 O. apply topical fluoride, including foam, gel, or varnish.

4.7 Subp. 1a. **Procedures under indirect supervision.** A licensed dental assistant, in  
4.8 addition to the services performed by an assistant described in part 3100.8400, subpart 1,  
4.9 may perform the following services if a dentist is in the office, authorizes the procedures,  
4.10 and remains in the office while the procedures are being performed:

4.11 A. apply topical medications including bleaching agents and cavity varnishes as  
4.12 prescribed by a dentist;

4.13 *[For text of items B to H, see M.R.]*

4.14 I. place initial arch wires on orthodontic appliances. A dentist must select and, if  
4.15 necessary, adjust arch wires prior to placement;

4.16 *[For text of items J to O, see M.R.]*

4.17 Subp. 1b. **Procedures under direct supervision.** A licensed dental assistant may  
4.18 perform the following services if a dentist is in the dental office, personally diagnoses the  
4.19 condition to be treated, personally authorizes the procedure, and evaluates the performance  
4.20 of the licensed dental assistant before dismissing the patient:

4.21 *[For text of items A to I, see M.R.]*

4.22 J. initiate and place an intravenous line in preparation for intravenous medications  
4.23 and sedation while under direct supervision of a dentist who holds a valid general anesthesia  
4.24 or moderate sedation certificate. Before initiating and placing an intravenous line, a licensed

5.1 dental assistant must have successfully completed board-approved allied dental personnel  
5.2 courses comprised of intravenous access and general anesthesia and moderate sedation  
5.3 training; and

5.4 *[For text of item K, see M.R.]*

5.5 **Subp. 1c. Procedures under personal supervision.** A licensed dental assistant may  
5.6 concurrently perform supportive services if the dentist holds a valid general anesthesia or  
5.7 moderate sedation certificate, is personally treating a patient, and authorizes the licensed  
5.8 dental assistant to aid in the physical management of medications, including the preparation  
5.9 and administration of medications into an existing intravenous line. Before administering  
5.10 any medications or agents, a licensed dental assistant must have successfully completed  
5.11 board-approved allied dental personnel courses comprised of general anesthesia and moderate  
5.12 sedation training.

5.13 **Subp. 2. Other procedures prohibited.** A licensed dental assistant may not perform  
5.14 any dental treatment or procedure on patients not otherwise authorized by this chapter.

5.15 *[For text of subp 3, see M.R.]*

5.16 **3100.8700 DENTAL HYGIENISTS.**

5.17 **Subpart 1. Principal procedures under general supervision.** A dental hygienist may  
5.18 perform the following procedures under general supervision, as defined in part 3100.0100,  
5.19 subpart 21, item D:

5.20 A. preliminary charting of the oral cavity and surrounding structures, including  
5.21 case histories; initial and periodic examinations and assessments to determine periodontal  
5.22 status; and creation of a dental hygiene treatment plan in coordination with a dentist's  
5.23 treatment plan;

5.24 B. obtain informed consent, according to part 3100.9600, subpart 9, for treatments  
5.25 authorized by the supervising dentist pursuant to the dental hygienist's scope of practice;

- 6.1 C. take photographs extraorally or intraorally;
- 6.2 D. take vital signs, including pulse rate and blood pressure;
- 6.3 E. make referrals to dentists, physicians, and other practitioners in consultation
- 6.4 with a dentist;
- 6.5 F. complete debridement, prophylaxis, and nonsurgical periodontal therapy;
- 6.6 G. etch enamel surfaces, application and adjustment of pit and fissure sealants;
- 6.7 H. administer local anesthesia. Before administering local anesthesia, a dental
- 6.8 hygienist must have successfully completed a didactic and clinical program sponsored by
- 6.9 a dental or dental hygiene school accredited by the Commission on Dental Accreditation,
- 6.10 resulting in the dental hygienist becoming clinically competent in the administration of local
- 6.11 anesthesia;
- 6.12 I. administer nitrous oxide inhalation analgesia according to part 3100.3600,
- 6.13 subparts 4 and 5;
- 6.14 J. take radiographs;
- 6.15 K. apply topical medications, including topical fluoride, bleaching agents, cavity
- 6.16 varnishes, and desensitizing agents;
- 6.17 L. place subgingival medicaments;
- 6.18 M. take impressions and bite registration;
- 6.19 N. fabrication and delivery of custom fitted trays;
- 6.20 O. nutritional counseling;
- 6.21 P. salivary analysis;
- 6.22 Q. remove marginal overhangs;

- 7.1 R. remove sutures;
- 7.2 S. place and remove periodontal dressings;
- 7.3 T. place and remove isolation devices or materials for restorative purposes;
- 7.4 U. polish restorations;
- 7.5 V. remove excess cement from inlays, crowns, bridges, or orthodontic appliances;
- 7.6 W. fabrication, placement, replacement, cementation, and adjustment of temporary
- 7.7 crowns or restorations;
- 7.8 X. remove temporary crowns or restorations with hand instruments only;
- 7.9 Y. place and remove matrix systems and wedges; and
- 7.10 Z. place nonsurgical retraction material for gingival displacement. Before placing
- 7.11 nonsurgical retraction material, a dental hygienist must have successfully completed a course
- 7.12 in nonsurgical retraction material for gingival displacement at a dental, dental hygiene, or
- 7.13 dental assisting school accredited by the Commission on Dental Accreditation.
- 7.14 **Subp. 2. Restorative procedures under indirect supervision.** A dental hygienist
- 7.15 may perform restorative procedures pursuant to Minnesota Statutes, section 150A.10,
- 7.16 subdivision 4, and under indirect supervision, as defined in part 3100.0100, subpart 21, item
- 7.17 C, if the dental hygienist has fulfilled either item A or B:
  - 7.18 A. successfully graduated from a Minnesota dental hygiene program accredited
  - 7.19 by the Commission on Dental Accreditation that included training for restorative procedures
  - 7.20 and received a restorative procedures certificate from the program; or
  - 7.21 B. successfully completed a board-approved course on restorative procedures and
  - 7.22 received a restorative procedures certificate from the course sponsor.



8.1 Subp. 2a. **Orthodontic procedures under general, indirect, or direct supervision.** If  
8.2 a dental hygienist has fulfilled the requirements of item A, subitems (1), (2), or (3), the  
8.3 dental hygienist may perform the procedures listed in item B under the level of supervision  
8.4 indicated, as defined in part 3100.0100, subpart 21, items B, C, and D.

8.5 A. A dental hygienist must have:

8.6 (1) been granted a Minnesota dental hygiene license from the board prior to  
8.7 September 1, 2019;

8.8 (2) successfully graduated from a Minnesota dental hygiene program  
8.9 accredited by the Commission on Dental Accreditation after September 1, 2019, that included  
8.10 training for orthodontic procedures and received an orthodontic procedures certificate from  
8.11 the program; or

8.12 (3) successfully completed a board-approved course comprised of orthodontic  
8.13 procedures and received an orthodontic procedures certificate from the course sponsor.

8.14 B. The dental hygienist may perform the following procedures under:

8.15 (1) general supervision:

8.16 (a) cut arch wires on orthodontic appliances;

8.17 (b) remove loose bands on orthodontic appliances;

8.18 (c) remove loose brackets on orthodontic appliances;

8.19 (d) remove excess bond material from orthodontic appliances;

8.20 (e) preselect orthodontic bands;

8.21 (f) place and remove elastic orthodontic separators;

8.22 (g) remove and place ligature ties and remove and replace existing arch  
8.23 wires on orthodontic appliances; and

- 9.1 (h) deliver vacuum-formed orthodontic retainers;
- 9.2 (2) indirect supervision: place initial arch wires on orthodontic appliances.
- 9.3 A dentist must select and, if necessary, adjust arch wires prior to placement;
- 9.4 (3) direct supervision:
- 9.5 (a) etch enamel surfaces before bonding of orthodontic appliances by a
- 9.6 dentist;
- 9.7 (b) remove bond material from teeth with rotary instruments after removal
- 9.8 of orthodontic appliances;
- 9.9 (c) attach prefabricated and preadjusted orthodontic appliances; and
- 9.10 (d) remove fixed orthodontic bands and brackets.

9.11 Subp. 2b. **Sedation monitoring and intravenous procedures under indirect, direct,**

9.12 **or personal supervision.** If a dental hygienist has successfully completed board-approved

9.13 allied dental personnel courses comprised of intravenous access and general anesthesia and

9.14 moderate sedation training and submitted to the board documentation of completion to

9.15 receive a certificate from the board, the dental hygienist may perform the following

9.16 procedures under either indirect, direct, or personal supervision, as defined in part 3100.0100,

9.17 subpart 21, items A, B, and C, for a dentist who holds a valid general anesthesia or moderate

9.18 sedation certificate:

- 9.19 A. indirect supervision:
- 9.20 (1) maintain and remove intravenous lines;
- 9.21 (2) monitor a patient during preoperative, intraoperative, and postoperative
- 9.22 phases of general anesthesia or moderate sedation using noninvasive instrumentation,
- 9.23 including pulse oximeters, electrocardiograms, blood pressures monitors, and capnography;

10.1 B. direct supervision: initiate and place an intravenous line in preparation for  
10.2 intravenous medications and sedation;

10.3 C. personal supervision: aid in the physical management of medications, including  
10.4 the preparation and administration of medications into an existing intravenous line.

10.5 Subp. 3. **Other procedures prohibited.** A dental hygienist may not perform any  
10.6 dental treatment or procedure on patients not authorized by this chapter.

10.7 **3100.9600 RECORD KEEPING.**

10.8 *[For text of subps 1 to 4, see M.R.]*

10.9 Subp. 5. **Dental and medical history.** Dental records must include information from  
10.10 the patient or the patient's parent or guardian on the patient's dental and medical history.  
10.11 The information must include a sufficient amount of data to support the recommended  
10.12 treatment plan. The dental and medical history must be updated to reflect the current status  
10.13 of the patient.

10.14 *[For text of subps 6 to 9, see M.R.]*

10.15 Subp. 10. **Progress notes.** Dental records must be legible and include a chronology  
10.16 of the patient's progress throughout the course of all treatment and postoperative visits. The  
10.17 chronology must include:

10.18 *[For text of items A and B, see M.R.]*

10.19 C. the treatment provider by license number, name, or initials;

10.20 D. when applicable, the identity of the collaborating dentist authorizing treatment  
10.21 by license number; and

10.22 E. administration information for nitrous oxide inhalation analgesia, including  
10.23 indication for use, dosage, duration of administration, posttreatment oxygenation period  
10.24 prior to discharge, and patient status at discharge.

08/28/18

REVISOR

LCB/JU

AR4507

11.1

*[For text of subps 11 to 14, see M.R.]*



October 11, 2018

**VIA EMAIL ONLY**

Nancy Breems  
Secretary of State, Elections Division  
180 State Office Building  
100 Rev Dr Martin Luther King Jr Blvd  
St. Paul, Minnesota 55155-1299  
[official.documents@state.mn.us](mailto:official.documents@state.mn.us)

Re: *In the Matter of the Rules of the Board of Dentistry Relating to  
Dentists, Dental Therapists, Licensed Dental Assistants, and Dental  
Hygienists*  
OAH 82-9033-35427; Revisor R-4507

Dear Ms. Breems:

Enclosed for filing is an electronic copy of the above-entitled adopted rules.

Please send the agency copy of the rules to:

Kathy T. Johnson  
2829 University Ave SE Ste 450  
Minneapolis, MN 55414  
[Kathy.t.johnson@state.mn.us](mailto:Kathy.t.johnson@state.mn.us)

If you have any questions regarding this matter, please contact Katie Lin at  
(651) 361-7911, [katie.lin@state.mn.us](mailto:katie.lin@state.mn.us) or facsimile at (651) 539-0310.

Sincerely,

/s/ Lisa Armstrong

Lisa Armstrong  
Legal Assistant

Enclosures

cc: Kathy T. Johnson (via email)

**3100.1160 LICENSE TO PRACTICE DENTISTRY AS A RESIDENT DENTIST.**

*[For text of subp 1, see M.R.]*

**Subp. 2. Termination of licensure.**

*[For text of items A and B, see M.R.]*

C. A person who fails to inform the board as required in item B is deemed to have committed fraud or deception within the meaning of Minnesota Statutes, section 150A.08, subdivision 1, clause (1).

**3100.3600 ADMINISTRATION OF GENERAL ANESTHESIA, DEEP SEDATION, MODERATE SEDATION, MINIMAL SEDATION, AND NITROUS OXIDE INHALATION ANALGESIA.**

*[For text of subps 1 to 3, see M.R.]*

**Subp. 4. Nitrous oxide inhalation analgesia; educational training requirements.** A dentist may administer nitrous oxide inhalation analgesia only according to items A to D and subpart 5, items A and C. A dental therapist may administer nitrous oxide inhalation analgesia only according to items C to F. A dental hygienist may administer nitrous oxide inhalation analgesia only according to items C to F and subpart 5, item D. A licensed dental assistant may administer nitrous oxide inhalation analgesia only after a maximum dosage has been prescribed by a dentist for a specific patient, and it is administered according to items C to F and subpart 5, item D.

A. A licensed dentist who was administering nitrous oxide inhalation analgesia on or before January 1, 1993, may register that fact with the board according to subpart 5, item A. Such registered dentists may continue to administer nitrous oxide inhalation analgesia and need not comply with item B.

*[For text of items B to F, see M.R.]*

2.1 Subp. 5. **Notice to board.**

2.2 *[For text of items A and B, see M.R.]*

2.3 C. A dentist not previously registered with the board according to item A or who  
2.4 graduated from an institution in Minnesota accredited by the Commission on Dental  
2.5 Accreditation prior to April 15, 2008, may administer nitrous oxide inhalation analgesia  
2.6 only after the dentist has submitted the information in subitems (1) and (2) to the board on  
2.7 forms provided by the board:

2.8 (1) the name, address, and telephone number of the institution at which the  
2.9 dentist took the course that complies with subpart 4, item B, or the dentist's written attestation  
2.10 that the dentist has successfully completed the education to administer nitrous oxide  
2.11 inhalation analgesia through an institution accredited by the Commission on Dental  
2.12 Accreditation; and

2.13 (2) documentation of current CPR certification as required by subpart 4, item  
2.14 C.

2.15 After the initial submission, a dentist must attest to maintaining consecutive and current  
2.16 CPR certification at the time of each license renewal.

2.17 D. A dental hygienist or licensed dental assistant who graduated from an institution  
2.18 in Minnesota accredited by the Commission on Dental Accreditation or received licensure  
2.19 by credentials prior to September 2, 2004, may administer nitrous oxide inhalation analgesia  
2.20 only after the dental hygienist or licensed dental assistant has submitted the information in  
2.21 subitems (1) and (2) to the board on forms provided by the board:

2.22 *[For text of subitem (1), see M.R.]*

2.23 (2) documentation of current CPR certification as required by subpart 4, item  
2.24 C.

After the initial submission, a dental hygienist or licensed dental assistant must attest to maintaining consecutive and current CPR certification at the time of each license renewal.

E. A dental therapist who graduated from a board-approved dental therapy program in Minnesota prior to August 1, 2013, may administer nitrous oxide inhalation analgesia only after the dental therapist has submitted the information in subitems (1) and (2) to the board on forms provided by the board:

*[For text of subitem (1), see M.R.]*

(2) documentation of current CPR certification as required by subpart 4, item C.

After the initial submission, a dental therapist must attest to maintaining consecutive and current CPR certification at the time of each license renewal.

*[For text of subps 6 to 11, see M.R.]*

### **3100.8500 LICENSED DENTAL ASSISTANTS.**

Subpart 1. **Procedures under general supervision.** A licensed dental assistant may perform the following procedures without the dentist being present in the dental office or on the premises if the procedures being performed are with prior knowledge and consent of the dentist:

*[For text of items A to F, see M.R.]*

G. take impressions and bite registration;

*[For text of items H to K, see M.R.]*

L. take vital signs such as pulse rate and blood pressure as directed by a dentist;



4.1 M. obtain informed consent, according to part 3100.9600, subpart 9, for treatments  
4.2 authorized by the supervising dentist pursuant to the licensed dental assistant's scope of  
4.3 practice;

4.4 N. remove and place ligature ties and remove and replace existing arch wires on  
4.5 orthodontic appliances; and

4.6 O. apply topical fluoride, including foam, gel, or varnish.

4.7 Subp. 1a. **Procedures under indirect supervision.** A licensed dental assistant, in  
4.8 addition to the services performed by an assistant described in part 3100.8400, subpart 1,  
4.9 may perform the following services if a dentist is in the office, authorizes the procedures,  
4.10 and remains in the office while the procedures are being performed:

4.11 A. apply topical medications including bleaching agents and cavity varnishes as  
4.12 prescribed by a dentist;

4.13 *[For text of items B to H, see M.R.]*

4.14 I. place initial arch wires on orthodontic appliances. A dentist must select and, if  
4.15 necessary, adjust arch wires prior to placement;

4.16 *[For text of items J to O, see M.R.]*

4.17 Subp. 1b. **Procedures under direct supervision.** A licensed dental assistant may  
4.18 perform the following services if a dentist is in the dental office, personally diagnoses the  
4.19 condition to be treated, personally authorizes the procedure, and evaluates the performance  
4.20 of the licensed dental assistant before dismissing the patient:

4.21 *[For text of items A to I, see M.R.]*

4.22 J. initiate and place an intravenous line in preparation for intravenous medications  
4.23 and sedation while under direct supervision of a dentist who holds a valid general anesthesia  
4.24 or moderate sedation certificate. Before initiating and placing an intravenous line, a licensed

dental assistant must have successfully completed board-approved allied dental personnel courses comprised of intravenous access and general anesthesia and moderate sedation training; and

*[For text of item K, see M.R.]*

Subp. 1c. **Procedures under personal supervision.** A licensed dental assistant may concurrently perform supportive services if the dentist holds a valid general anesthesia or moderate sedation certificate, is personally treating a patient, and authorizes the licensed dental assistant to aid in the physical management of medications, including the preparation and administration of medications into an existing intravenous line. Before administering any medications or agents, a licensed dental assistant must have successfully completed board-approved allied dental personnel courses comprised of general anesthesia and moderate sedation training.

Subp. 2. **Other procedures prohibited.** A licensed dental assistant may not perform any dental treatment or procedure on patients not otherwise authorized by this chapter.

*[For text of subp 3, see M.R.]*

### **3100.8700 DENTAL HYGIENISTS.**

Subpart 1. **Principal procedures under general supervision.** A dental hygienist may perform the following procedures under general supervision, as defined in part 3100.0100, subpart 21, item D:

A. preliminary charting of the oral cavity and surrounding structures, including case histories; initial and periodic examinations and assessments to determine periodontal status; and creation of a dental hygiene treatment plan in coordination with a dentist's treatment plan;

B. obtain informed consent, according to part 3100.9600, subpart 9, for treatments authorized by the supervising dentist pursuant to the dental hygienist's scope of practice;

- 6.1 C. take photographs extraorally or intraorally;
- 6.2 D. take vital signs, including pulse rate and blood pressure;
- 6.3 E. make referrals to dentists, physicians, and other practitioners in consultation
- 6.4 with a dentist;
- 6.5 F. complete debridement, prophylaxis, and nonsurgical periodontal therapy;
- 6.6 G. etch enamel surfaces, application and adjustment of pit and fissure sealants;
- 6.7 H. administer local anesthesia. Before administering local anesthesia, a dental
- 6.8 hygienist must have successfully completed a didactic and clinical program sponsored by
- 6.9 a dental or dental hygiene school accredited by the Commission on Dental Accreditation,
- 6.10 resulting in the dental hygienist becoming clinically competent in the administration of local
- 6.11 anesthesia;
- 6.12 I. administer nitrous oxide inhalation analgesia according to part 3100.3600,
- 6.13 subparts 4 and 5;
- 6.14 J. take radiographs;
- 6.15 K. apply topical medications, including topical fluoride, bleaching agents, cavity
- 6.16 varnishes, and desensitizing agents;
- 6.17 L. place subgingival medicaments;
- 6.18 M. take impressions and bite registration;
- 6.19 N. fabrication and delivery of custom fitted trays;
- 6.20 O. nutritional counseling;
- 6.21 P. salivary analysis;
- 6.22 Q. remove marginal overhangs;

- 7.1 R. remove sutures;
- 7.2 S. place and remove periodontal dressings;
- 7.3 T. place and remove isolation devices or materials for restorative purposes;
- 7.4 U. polish restorations;
- 7.5 V. remove excess cement from inlays, crowns, bridges, or orthodontic appliances;
- 7.6 W. fabrication, placement, replacement, cementation, and adjustment of temporary
- 7.7 crowns or restorations;
- 7.8 X. remove temporary crowns or restorations with hand instruments only;
- 7.9 Y. place and remove matrix systems and wedges; and
- 7.10 Z. place nonsurgical retraction material for gingival displacement. Before placing
- 7.11 nonsurgical retraction material, a dental hygienist must have successfully completed a course
- 7.12 in nonsurgical retraction material for gingival displacement at a dental, dental hygiene, or
- 7.13 dental assisting school accredited by the Commission on Dental Accreditation.
- 7.14 Subp. 2. **Restorative procedures under indirect supervision.** A dental hygienist
- 7.15 may perform restorative procedures pursuant to Minnesota Statutes, section 150A.10,
- 7.16 subdivision 4, and under indirect supervision, as defined in part 3100.0100, subpart 21, item
- 7.17 C, if the dental hygienist has fulfilled either item A or B:
- 7.18 A. successfully graduated from a Minnesota dental hygiene program accredited
- 7.19 by the Commission on Dental Accreditation that included training for restorative procedures
- 7.20 and received a restorative procedures certificate from the program; or
- 7.21 B. successfully completed a board-approved course on restorative procedures and
- 7.22 received a restorative procedures certificate from the course sponsor.



8.1 Subp. 2a. **Orthodontic procedures under general, indirect, or direct supervision.** If  
8.2 a dental hygienist has fulfilled the requirements of item A, subitems (1), (2), or (3), the  
8.3 dental hygienist may perform the procedures listed in item B under the level of supervision  
8.4 indicated, as defined in part 3100.0100, subpart 21, items B, C, and D.

8.5 A. A dental hygienist must have:

8.6 (1) been granted a Minnesota dental hygiene license from the board prior to  
8.7 September 1, 2019;

8.8 (2) successfully graduated from a Minnesota dental hygiene program  
8.9 accredited by the Commission on Dental Accreditation after September 1, 2019, that included  
8.10 training for orthodontic procedures and received an orthodontic procedures certificate from  
8.11 the program; or

8.12 (3) successfully completed a board-approved course comprised of orthodontic  
8.13 procedures and received an orthodontic procedures certificate from the course sponsor.

8.14 B. The dental hygienist may perform the following procedures under:

8.15 (1) general supervision:

8.16 (a) cut arch wires on orthodontic appliances;

8.17 (b) remove loose bands on orthodontic appliances;

8.18 (c) remove loose brackets on orthodontic appliances;

8.19 (d) remove excess bond material from orthodontic appliances;

8.20 (e) preselect orthodontic bands;

8.21 (f) place and remove elastic orthodontic separators;

8.22 (g) remove and place ligature ties and remove and replace existing arch  
8.23 wires on orthodontic appliances; and

- 9.1 (h) deliver vacuum-formed orthodontic retainers;
- 9.2 (2) indirect supervision: place initial arch wires on orthodontic appliances.
- 9.3 A dentist must select and, if necessary, adjust arch wires prior to placement;
- 9.4 (3) direct supervision:
- 9.5 (a) etch enamel surfaces before bonding of orthodontic appliances by a
- 9.6 dentist;
- 9.7 (b) remove bond material from teeth with rotary instruments after removal
- 9.8 of orthodontic appliances;
- 9.9 (c) attach prefabricated and preadjusted orthodontic appliances; and
- 9.10 (d) remove fixed orthodontic bands and brackets.

9.11 Subp. 2b. **Sedation monitoring and intravenous procedures under indirect, direct,**

9.12 **or personal supervision.** If a dental hygienist has successfully completed board-approved

9.13 allied dental personnel courses comprised of intravenous access and general anesthesia and

9.14 moderate sedation training and submitted to the board documentation of completion to

9.15 receive a certificate from the board, the dental hygienist may perform the following

9.16 procedures under either indirect, direct, or personal supervision, as defined in part 3100.0100,

9.17 subpart 21, items A, B, and C, for a dentist who holds a valid general anesthesia or moderate

9.18 sedation certificate:

9.19 A. indirect supervision:

- 9.20 (1) maintain and remove intravenous lines;
- 9.21 (2) monitor a patient during preoperative, intraoperative, and postoperative
- 9.22 phases of general anesthesia or moderate sedation using noninvasive instrumentation,
- 9.23 including pulse oximeters, electrocardiograms, blood pressures monitors, and capnography;

10.1 B. direct supervision: initiate and place an intravenous line in preparation for  
10.2 intravenous medications and sedation;

10.3 C. personal supervision: aid in the physical management of medications, including  
10.4 the preparation and administration of medications into an existing intravenous line.

10.5 Subp. 3. **Other procedures prohibited.** A dental hygienist may not perform any  
10.6 dental treatment or procedure on patients not authorized by this chapter.

10.7 **3100.9600 RECORD KEEPING.**

10.8 *[For text of subps 1 to 4, see M.R.]*

10.9 Subp. 5. **Dental and medical history.** Dental records must include information from  
10.10 the patient or the patient's parent or guardian on the patient's dental and medical history.  
10.11 The information must include a sufficient amount of data to support the recommended  
10.12 treatment plan. The dental and medical history must be updated to reflect the current status  
10.13 of the patient.

10.14 *[For text of subps 6 to 9, see M.R.]*

10.15 Subp. 10. **Progress notes.** Dental records must be legible and include a chronology  
10.16 of the patient's progress throughout the course of all treatment and postoperative visits. The  
10.17 chronology must include:

10.18 *[For text of items A and B, see M.R.]*

10.19 C. the treatment provider by license number, name, or initials;

10.20 D. when applicable, the identity of the collaborating dentist authorizing treatment  
10.21 by license number; and

10.22 E. administration information for nitrous oxide inhalation analgesia, including  
10.23 indication for use, dosage, duration of administration, posttreatment oxygenation period  
10.24 prior to discharge, and patient status at discharge.

11.1

*[For text of subps 11 to 14, see M.R.]*

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Rules of the Board of  
Dentistry Relating to Dentists, Dental  
Therapists, Licensed Dental Assistants,  
and Dental Hygienists

**ORDER ON REVIEW OF  
RULES UNDER  
MINN. STAT. § 14.26**

The Minnesota Board of Dentistry (Board) is seeking review and approval of the above-entitled rules, which were adopted by the agency pursuant to Minn. Stat. § 14.26 (2018). On October 3, 2018, the Office of Administrative Hearings (OAH) received the documents that must be filed by the Board under Minn. Stat. § 14.26 and Minn. R. 1400.2310 (2017). Based upon a review of the written submissions and filings, Minnesota Statutes, Minnesota Rules, and for the reasons in the Memorandum that follows,

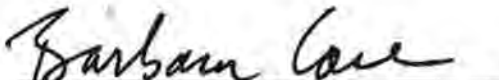
**IT IS HEREBY DETERMINED THAT:**

1. The Board has the statutory authority to adopt the rules.
2. The rules were adopted in compliance with the procedural requirements of Minn. Stat. §§ 14.001-.70 (2018), Minn. R. 1400.2000-.8612 (2017).
3. The record demonstrates the rules are needed and reasonable.

**IT IS HEREBY ORDERED THAT:**

The rules are **APPROVED**.

Dated: October 9, 2018

  
BARBARA J. CASE  
Administrative Law Judge





**Minnesota Board of Dentistry**

University Park Plaza, 2829 University Ave SE, Suite 450

Minneapolis, MN 55414-3249

Website [mn.gov/boards/dentistry](http://mn.gov/boards/dentistry)

Phone 612.617.2250 - Toll Free 888.240.4762 - Fax 612.617.2260

MN Relay Service for Hearing Impaired 800.627.3529

**Minnesota Board of Dentistry**

**CERTIFICATE OF MAILING THE DUAL NOTICE OF INTENT TO ADOPT RULES  
TO THE RULEMAKING MAILING LIST AND OF ACCURACY OF THE  
RULEMAKING MAILING LIST**

**Proposed Amendments to Permanent Rules Relating to Dentists, Dental Therapists, Dental Hygienists, and Licensed Dental Assistants, *Minnesota Rules* 3100.1160, 3100.3600, 3100.8500, 3100.8700, and 3100.9600; Revisor's ID Number 4507**

I, Kathy T. Johnson, certify that on August 22, 2018, at least 33 days before the end of the comment period, at the City of Minneapolis, County of Hennepin, State of Minnesota, I mailed notification about the: (1) Dual Notice and (2) the proposed rules to persons on the Board's rulemaking mailing list established by Minnesota Statutes, section 14.14, subdivision 1a. I accomplished this mailing by sending an electronic mailing to all persons and associations on the list.
























































I, Kathy T. Johnson, certify that the list of persons and associations who have requested under Minnesota Statutes, section 14.14, subdivision 1a, that their names be placed on the Minnesota Board of Dentistry's rulemaking mailing list is accurate, complete, and current as of August 22, 2018.

Copies of the Dual Notice, the proposed rules, and the mailing list are attached to this Certificate.

Kathy T. Johnson

Legal Analyst

Minnesota Board of Dentistry

 	FULL NAME	COMPANY	FILE AS	BUSINESS PH...	BUSINESS FAX
	Anna Malay	Representative-M...	Malay, Anna		
	Ashley Chouinard	Herzing College	Chouinard, Ashley		
	Barbara Henkemeyer	St. Cloud Technica...	Henkemeyer, Barbara		
	Beth Rynders	Century College	Rynders, Beth		
	Bonnie Crawford	Rochester Commu...	Crawford, Bonnie		
	Brenda Spanovich		Spanovich, Brenda		
	Bridgett Anderson	MN Board of Dent...	Anderson, Bridgett		
	Candy Hazen	Representative-M...	Hazen, Candy		
	Carmelo Cinqueonce	Minnesota Dental ...	Cinqueonce, Carmelo		
	Carol Larsen	Normandale Com...	Larsen, Carol		
	Cherie Fritz	Rochester Commu...	Fritz, Cherie		
	Christine Blue	U of M Dental Hyg...	Blue, Christine		
	Clare Larkin	MDH	Larkin, Clare		
	David Aafedt, Esq.	Winthrop & Weins...	Aafedt, David		
	Dawn Torrel	Hibbing Communi...	Torrel, Dawn		
	Debra Arver	Argosy University	Arver, Debra		
	Diana M. Sullivan	Dakota County Te...	Sullivan, Diana M.		
	Dick Diercks	Park Dental	Diercks, Dick		
	James Swift, D.D.S.	University of Minn...	Swift, James		
	Jeanne Anderson		Anderson, Jeanne		
	Jennifer Dumdei	South Central Coll...	Dumdei, Jennifer		
	Jo Peterson	U of M Dental Edu...	Peterson, Jo		
	Jose Rodriguez	American Dental ...	Rodriguez, Jose		
	Julie Dokken	NW Technical Coll...	Dokken, Julie		
	Julie Morgan	Central Lakes Coll...	Morgan, Julie		
	Karen Butkovich		Butkovich, Karen		
	Karri Bell	Herzing College/L...	Bell, Karri		
	Kateri Mayer	St. Cloud Technica...	Mayer, Kateri		
	Kathleen Lapham	Minneapolis Com...	Lapham, Kathleen		
	Kathy Johnson	HLB	Johnson, Kathy		
	Kent Confeld, D.D.S.		Confeld, Kent		
	Kimberly Lindquist, D.D.S.		Lindquist, Kimberly		
	Kjersta Poppe (Watt)	Lake Superior Coll...	Poppe, Kjersta		
	Kris Pladson	Minnesota State C...	Pladson, Kris		
	Leo Sinna, D.D.S.		Sinna, Leo		
	Lisa Fleck	Minnesota State U...	Fleck, Lisa		
	Lucy Shoemaker	Hennepin Technic...	Shoemaker, Lucy		
	Majda Hodzic	Minnesota Dental ...	Hodzic, Majda		
	Mandy M. Moravetz		Moravetz, Mandy M.		
	Michael Doroschak, D.D.S.		Doroschak, Michael		
	Michelle Hardesty	Alt. Rep - MN Den...	Hardesty, Michelle		
	Michelle Quade	Minneapolis Distri...	Quade, Michelle		
	Natalie Kaweckyj		Kaweckyj, Natalie		
	Nicholas Lienesch	AGO Licensing Div...	Lienesch, Nicholas		
	Nicholas Steven Geller, D.D.S.	Now Care Dental	Geller, Nicholas Steven		
	Rachel Kashani-Legler	Normandale Com...	Kashani-Legler, Rachel		
	Richard Nadeau, D.D.S.	University of Minn...	Nadeau, Richard		
	Rosemary Stokke		Stokke, Rosemary		
	<b>Rulemaking E-mailing List</b>		<b>Rulemaking E-mailing List</b>		
	Sandy Guenther	Government Affair...	Guenther, Sandy		
	Stephen R. Gulbrandsen, D....	Ridgepoint Medic...	Gulbrandsen, Stephen R.		
	Susan Thaemert	Hennepin Technic...	Thaemert, Susan		
	Teresa Noyes	Minnesota West C...	Noyes, Teresa		



**FULL NAME**

**COMPANY**

**FILE AS**

**BUSINESS PH... BUSINESS FAX**



Tracy Kuny

Century College

Kuny, Tracy

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Rules of the Board of  
Dentistry Relating to Dentists, Dental  
Therapists, Licensed Dental Assistants,  
and Dental Hygienists

**ORDER ON REVIEW  
OF ADDITIONAL NOTICE  
PLAN AND DUAL NOTICE**

This matter came before Administrative Law Judge Barbara J. Case upon the Minnesota Board Of Dentistry's request for a legal review under Minn. R. 1400.2060, .2080 (2017) of the Additional Notice Plan and Dual Notice of Intent to Adopt Rules in the above-captioned proceeding.

Under its Additional Notice Plan, the Board plans to notify:


- Minnesota Dental Association;
- Minnesota Dental Therapy Association;
- Minnesota Dental Hygienists Association; and
- Minnesota Dental Assistants Association

Based upon a review of the written submissions by the Board,

**IT IS HEREBY ORDERED:**

1. The Additional Notice Plan is **APPROVED**.
2. The Dual Notice is **APPROVED**.

Dated: August 9, 2018

  
\_\_\_\_\_  
BARBARA J. CASE  
Administrative Law Judge



**Minnesota Board of Dentistry**

University Park Plaza, 2829 University Ave SE, Suite 450  
Minneapolis, MN 55414-3249  
Website [mn.gov/boards/dentistry](http://mn.gov/boards/dentistry)  
Phone 612.617.2250 - Toll Free 888.240.4762 - Fax 612.617.2260  
MN Relay Service for Hearing Impaired 800.627.3529

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**Minnesota Board of Dentistry**

**CERTIFICATE OF GIVING ADDITIONAL NOTICE PURSUANT TO THE  
ADDITIONAL NOTICE PLAN**

**Proposed Amendments to Permanent Rules Relating to Dentists, Dental Therapists, Dental Hygienists, and Licensed Dental Assistants, *Minnesota Rules* 3100.1160, 3100.3600, 3100.8500, 3100.8700, and 3100.9600; Revisor's ID Number 4507**

I, Kathy T. Johnson, certify that, at the City of Minneapolis, County of Hennepin, State of Minnesota, I gave notice according to the Additional Notice Plan as described below. The Board's Additional Notice Plan was approved by the Office of Administrative Hearings on August 9, 2018.

1. Throughout 2016 and 2017, both the Policy and Allied Dental Education Committees of the Board have held a number of public meetings with all interested parties in attendance to thoroughly discuss and present scenarios regarding these proposed rule changes. Official notices of these public meetings were electronically sent by the Board to all licensed dental professionals, association representatives, and the general public, as well as doing a website posting of meetings. From and during those public meetings, these proposed rules were drafted, distributed, and reviewed by all individuals in attendance and input has been encouraged from all attendees. Thereafter, all proposed changes to rules were heard before the Board and the Board gave approval to proceed with the rulemaking process.

2. On January 29, 2018, the Board posted a draft copy of the proposed rule changes on the Board's website at [www.mn.gov/boards/dentistry](http://www.mn.gov/boards/dentistry) making it accessible to the following individuals: all dentists; dental therapists; dental hygienists; dental assistants; state legislators; other health boards; professional associations; and members of the general public. This draft copy identified the Board rules that will be affected by the Board's proposed rule changes.

3. On January 29, 2018, the Board posted a copy of the Request for Comments for publication in the State Register on the Board's website at [www.mn.gov/boards/dentistry](http://www.mn.gov/boards/dentistry). This website is accessible to the following individuals: all dentists; dental therapists; dental hygienists; dental assistants; state legislators; other health boards; professional associations; and members of the general public.

4. On January 30, 2018, the Board mailed the Request for Comments to all persons on the Board's rulemaking mailing list by sending an electronic copy via e-mail to all persons on the list.



**CERTIFICATE OF GIVING ADDITIONAL NOTICE PURSUANT TO THE  
ADDITIONAL NOTICE PLAN**

Page 2

5. On January 30, 2018, the Board contacted the representatives of the Minnesota Dental Association (Dentists), the Minnesota Dental Therapy Association (Dental Therapists), the Minnesota Dental Hygienists Association (Dental Hygienists), and the Minnesota Dental Assistants Association (Dental Assistants) with a request to notify its members about the Board's Request for Comments period and the proposed rules.


6. On January 30, 2018, the Board sent a broadcast electronic mailing to nearly 17,000 licensees including, dentists, dental therapists, dental hygienists, and licensed dental assistants, regarding the Board's Request for Comments period and the proposed rules.

7. On February 5, 2018, the Board's Request for Comments was published in the State Register, requesting that all comments be submitted to the Board by April 6, 2018. All comments received by the Board regarding the proposed rules shall be reviewed and any suggested changes shall be considered by the Board.

8. By April 6, 2018, the end of the 60-day Request for Comments period, the Board had not received any comments in opposition to its proposed rules.

9. On April 12, 2018, the Board posted a final version of its Statement of Need and Reasonableness ("SONAR") dated April 10, 2018, on the Board's website at [www.mn.gov/boards/dentistry](http://www.mn.gov/boards/dentistry) making this information accessible to the following individuals: all dentists; dental therapists; dental hygienists; dental assistants; state legislators; other health boards; professional associations; and members of the general public.

10. Prior to publication of the Dual Notice in the State Register, the Board will send by electronic mail a copy of the Dual Notice of Intent to Adopt Rules, the Proposed Rules, and the Statement of Need and Reasonableness to the representatives of the Minnesota Dental Association (Dentists), the Minnesota Dental Therapy Association (Dental Therapists), the Minnesota Dental Hygienists Association (Dental Hygienists), and the Minnesota Dental Assistants Association (Dental Assistants).

  
Kathy T. Johnson  
Legal Analyst  
Minnesota Board of Dentistry



**Minnesota Board of Dentistry**

University Park Plaza, 2829 University Ave SE, Suite 450  
Minneapolis, MN 55414-3249  
Website [mn.gov/boards/dentistry](http://mn.gov/boards/dentistry)  
Phone 612.617.2250 - Toll Free 888.240.4762 - Fax 612.617.2260  
MN Relay Service for Hearing Impaired 800.627.3529

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**Minnesota Board of Dentistry**

**CERTIFICATE OF MAILING AN ELECTRONIC COPY OF THE STATEMENT OF  
NEED AND REASONABLENESS TO THE LEGISLATIVE REFERENCE LIBRARY**

**Proposed Amendments to Permanent Rules Relating to Dentists, Dental Therapists, Dental Hygienists, and Licensed Dental Assistants, *Minnesota Rules* 3100.1160, 3100.3600, 3100.8500, 3100.8700, and 3100.9600; Revisor's ID Number 4507**

I, Kathy T. Johnson, certify that on August 22, 2018, I mailed an electronic copy of the Board's Statement of Need and Reasonableness to the Legislative Reference Library using the e-mail address: [sonars@lrl.leg.mn](mailto:sonars@lrl.leg.mn). The copy of the Statement of Need and Reasonableness was electronically mailed to comply with Minnesota Statutes, sections 14.131 and 14.23.

A copy of the cover letter is attached to this Certificate.

Kathy T. Johnson  
Legal Analyst  
Minnesota Board of Dentistry



## Minnesota Board of Dentistry

University Park Plaza, 2829 University Ave SE, Suite 450  
Minneapolis, MN 55414-3249  
Website [mn.gov/boards/dentistry](http://mn.gov/boards/dentistry)  
Phone 612.617.2250 - Toll Free 888.240.4762 - Fax 612.617.2260  
MN Relay Service for Hearing Impaired 800.627.3529

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August 22, 2018

Legislative Reference Library  
645 State Office Building  
100 Rev. Dr. Martin Luther King Jr. Blvd.  
St. Paul, Minnesota 55155-1050  
[sonars@lrl.leg.mn](mailto:sonars@lrl.leg.mn)

**Re: Proposed Amendments to Permanent Rules Relating to Dentists, Dental Therapists, Dental Hygienists, and Licensed Dental Assistants, *Minnesota Rules* 3100.1160, 3100.3600, 3100.8500, 3100.8700, and 3100.9600; Revisor's ID Number 4507**

Dear Librarian:

The Minnesota Board of Dentistry intends to adopt rules relating to the following: simplify the documentation requirements for education regarding nitrous oxide and for CPR certification; modify some delegated procedures for licensed dental assistants, including impressions, ligature ties and arch wires, topical fluoride, and managing medications; restructure into different categories all of the delegated procedures for dental hygienists; and supplement the recordkeeping requirements for a dental/medical history and nitrous oxide in the progress notes.

We plan to publish a Dual Notice of Intent to Adopt Rules in the August 27, 2018, State Register.

The Board has prepared a Statement of Need and Reasonableness. As required by Minnesota Statutes sections 14.131 and 14.23, the Board is sending the Library an electronic copy of the Statement of Need and Reasonableness about the same time as we are mailing our Dual Notice.

If you have any questions, please contact me at (612) 548-2134.

Yours very truly,

Kathy T. Johnson  
Legal Analyst  
Minnesota Board of Dentistry

Enclosures: Statement of Need and Reasonableness



**Minnesota Board of Dentistry**

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Minneapolis, MN 55414-3249  
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**Minnesota Board of Dentistry**

**ORDER ADOPTING RULES**

**Adoption of Rules Relating to Dentists, Dental Therapists, Dental Hygienists, and Licensed Dental Assistants, *Minnesota Rules* 3100.1160, 3100.3600, 3100.8500, 3100.8700, and 3100.9600; Revisor's ID Number 4507**

**BACKGROUND INFORMATION**

1. The Board of Dentistry has complied with all notice and procedural requirements in Minnesota Statutes, chapter 14, Minnesota Rules, chapter 1400, and other applicable law. A copy of the Board's authorization to propose the rules is attached dated January 12, 2018.
2. The Board of Dentistry received no written comments and submissions on the rules. Therefore, there are not 25 or more requests for a public hearing. The Board also received no requests for notice of submission to the Office of Administrative Hearings.
3. The rules are needed and reasonable.
4. A copy of the Board's authorization to adopt the rules is attached dated September 28, 2018.

**ORDER**

The above-named rules, in the Dual Notice published in the State Register on August 27, 2018, are adopted under my authority in Minnesota Statutes, section 150A.04.

*Oct 9th 2018*

Date

BRIDGETT ANDERSON, L.D.A., M.B.A.  
Executive Director  
Board of Dentistry



**Minnesota Board of Dentistry**

University Park Plaza, 2829 University Ave SE, Suite 450

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**Minnesota Board of Dentistry**

**CERTIFICATE OF THE BOARD OF DENTISTRY; RESOLUTION ADOPTING RULES**

**Adopted Amendments to Permanent Rules Relating to Dentists, Dental Therapists, Dental Hygienists, and Licensed Dental Assistants, *Minnesota Rules* 3100.1160, 3100.3600, 3100.8500, 3100.8700, and 3100.9600; Revisor's ID Number 4507**

I, Douglas Wolff, certify that I am a member and the President of the Board of Dentistry, a board authorized under the laws of the State of Minnesota; that the following is a true, complete, and correct copy of a resolution that the Board of Dentistry adopted at a properly convened meeting on September 28, 2018; that a quorum was present; and that a majority of those present voted for the resolution, which has not been rescinded or modified.

“RESOLVED, that the Board of Dentistry approved and adopted rules relating to dentists, dental therapists, dental hygienists, and licensed dental assistants in the Revisor of Statutes draft, file number 4507, dated December 20, 2017, identified as Minnesota Rules, parts 3100.1160, 3100.3600, 3100.8500, 3100.8700, and 3100.9600, under the Board's authority under Minnesota Statutes, section 150A.04. Bridgett Anderson, the Executive Director of the Board of Dentistry, is authorized to do the following: sign the Order Adopting Rules; to modify the rules as needed to obtain the Revisor of Statutes or the Administrative Law Judge's approval of the rules; and to perform other necessary acts to give the rules the force and effect of law.”

Date: September 28, 2018

DOUGLAS WOLFF, D.D.S.

President

Board of Dentistry





**Minnesota Board of Dentistry**

University Park Plaza, 2829 University Ave SE, Suite 450  
Minneapolis, MN 55414-3249  
Website [mn.gov/boards/dentistry](http://mn.gov/boards/dentistry)  
Phone 612.617.2250 - Toll Free 888.240.4762 - Fax 612.617.2260  
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**Minnesota Board of Dentistry**

**CERTIFICATE OF SENDING THE NOTICE AND THE STATEMENT OF NEED AND  
REASONABLENESS TO LEGISLATORS AND THE LEGISLATIVE COORDINATING  
COMMISSION**

**Proposed Amendments to Permanent Rules Relating to Dentists, Dental Therapists, Dental Hygienists, and Licensed Dental Assistants, *Minnesota Rules* 3100.1160, 3100.3600, 3100.8500, 3100.8700, and 3100.9600; Revisor's ID Number 4507**

I, Kathy T. Johnson, certify that on August 22, 2018, when the Minnesota Board of Dentistry mailed the Dual Notice under Minnesota Statutes, section 14.14 or 14.22, I sent a copy of the: (1) Dual Notice; (2) Statement of Need and Reasonableness; and (3) proposed rules, to certain Legislators and the Legislative Coordinating Commission by placing these documents in the State of Minnesota's central mail system for proper postage to be affixed and subsequently placed in the United States mail. I mailed these documents to comply with Minnesota Statutes, section 14.116.

A copy of the cover letter is attached to this Certificate.

Kathy T. Johnson  
Legal Analyst  
Minnesota Board of Dentistry



## Minnesota Board of Dentistry

University Park Plaza, 2829 University Ave SE, Suite 450  
Minneapolis, MN 55414-3249  
Website [mn.gov/boards/dentistry](http://mn.gov/boards/dentistry)  
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MN Relay Service for Hearing Impaired 800.627.3529

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August 22, 2018

### COMMITTEES

**House: Health and Human Services Finance Committee**

Rep. Matt Dean and Rep. Erin Murphy

**House: Health and Human Services Reform Committee**

Rep. Joe Schomacker and Rep. Tina Liebling

**Senate: Health and Human Services Finance and Policy Committee**

Sen. Michelle Benson and Sen. Tony Lourey

**Senate: Human Services Reform Finance and Policy Committee**

Sen. Jim Abeler and Sen. Jeff Hayden

### Legislative Coordinating Commission

**Re: Proposed Amendments to Permanent Rules Relating to Dentists, Dental Therapists, Dental Hygienists, and Licensed Dental Assistants, *Minnesota Rules* 3100.1160, 3100.3600, 3100.8500, 3100.8700, and 3100.9600; Revisor's ID Number 4507**

Dear Legislators:

#### Executive Summary:

The Board's proposed rules relate to the following: simplify the documentation requirements for education regarding nitrous oxide and for CPR certification; modify some delegated procedures for licensed dental assistants, including impressions, ligature ties and arch wires, topical fluoride, and managing medications; restructure into different categories all of the delegated procedures for dental hygienists; and supplement the recordkeeping requirements for a dental/medical history and nitrous oxide in the progress notes.

Minnesota Statutes, section 14.116, states:

**"14.116 NOTICE TO LEGISLATURE.** When an agency mails notice of intent to adopt rules under section 14.14 or 14.22, the agency must send a copy of the same notice and a copy of the statement of need and reasonableness to the chairs and ranking minority party members of the legislative policy and budget committees with jurisdiction over the subject matter of the proposed rules and to the Legislative Coordinating Commission.

In addition, if the mailing of the notice is within two years of the effective date of the law granting the agency authority to adopt the proposed rules, the agency shall make reasonable efforts to send a copy of the notice and the statement to all sitting legislators who were chief house and senate authors of the bill granting the rulemaking authority. If the bill was amended to include this rulemaking authority, the agency shall make reasonable efforts to send the notice and the statement to the chief house and senate authors of the amendment granting rulemaking authority, rather than to the chief authors of the bill."

August 22, 2018  
Legislators  
Page 2

We plan to publish a Dual Notice of Intent to Adopt Rules in the August 27, 2018, State Register and are now mailing the Notice under section 14.14 or 14.22.

As required by section 14.116, the Minnesota Board of Dentistry is sending you a copy of the Dual Notice and the Statement of Need and Reasonableness. For your information, we are also enclosing a copy of the proposed rules.

If you have any questions about these rules, please contact me at (612) 548-2127 or [bridgett.anderson@state.mn.us](mailto:bridgett.anderson@state.mn.us).

Yours very truly,



Bridgett Anderson, L.D.A., M.B.A.  
Executive Director  
Minnesota Board of Dentistry

Enclosures: Dual Notice of Intent to Adopt Rules  
Statement of Need and Reasonableness  
Proposed Rules



## Office Memorandum

**Date:** 06/05/2018

**To:** Bridgett Anderson  
Executive Director  
Minnesota Board of Dentistry

**From:** Chardae Kimber  
Executive Budget Officer  
Minnesota Management & Budget

**RE: M.S.131 Review of Proposed Amendments to Permanent Rules Relating to Dentists, Dental Therapists, Dental Hygienists, and Licensed Dental Assistants, Minnesota Rules 3100**

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### Background

The Minnesota Board of Dentistry proposes amendments to Minnesota Rules 3100.3600, 3100.8500, 3100.8700, and 3100.9600 relating to simplifying documentation requirements for education and CPR certification, modifying some licensed dental assistant-delegated procedures, restructuring of dental hygienist-delegated procedures into different categories, and supplementing the recordkeeping requirements in progress notes. Pursuant to Minnesota Statutes 14.131, the Board of Dentistry has requested Minnesota Management & Budget to evaluate the proposed amendments for fiscal impact and benefits on units of local government.

### Evaluation

On behalf of the commissioner of Minnesota Management & Budget, I have reviewed the proposed rules and the Statement of Need and Reasonableness and consulted with agency staff as needed to determine the fiscal impact and benefit of the rule changes as proposed.

The proposed amendments affect all regulated dental professionals and will modify existing language by simplifying documentation requirements for education in regards to CPR certification as well as nitrous oxide inhalation analgesia. These training courses are not new requirements and are elective for those dental professionals that are interested in performing certain procedures and does not have a fiscal impact for the Board. Additionally, modifying some delegated procedures for licensed dental assistants including impressions, ligature ties and arch wires, topical fluoride, and managing medications as well as restructuring procedures for dental hygienists also do not come as a cost to the Board beyond those currently associated with operating costs.

under existing rules. There are no other units of local government that are expected to incur any fiscal impact or benefit as a result of these proposed amendments to the rules.

Based on this information, I believe the Board of Dentistry has analyzed and presented the potential costs and benefits of the proposed rule and there will be no fiscal impact on local units of government.

Cc: Angela Vogt, Minnesota Management & Budget





## Minnesota Board of Dentistry

University Park Plaza, 2829 University Ave SE, Suite 450  
Minneapolis, MN 55414-3249  
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Phone 612.617.2250 - Toll Free 888.240.4762 - Fax 612.617.2260  
MN Relay Service for Hearing Impaired 800.627.3529

April 11, 2018

Chardae Kimber  
Executive Budget Officer  
Minnesota Management and Budget  
658 Cedar Street, Suite 400  
St. Paul, MN 55155

**Re: In The Matter of the Proposed Amendments to Permanent Rules Relating to Dentists, Dental Therapists, Dental Hygienists, and Licensed Dental Assistants, *Minnesota Rules* 3100.3600, 3100.8500, 3100.8700, and 3100.9600; Revisor's ID Number 4507**

Dear Chardae Kimber:

Minnesota Statutes section 14.131, requires that an agency engaged in rulemaking consult with the Commissioner of Minnesota Management and Budget, "to help evaluate the fiscal impact and fiscal benefits of the proposed rule on units of local government."


Enclosed for your review are copies of the following documents on proposed rules relating to the following areas: simplify the documentation requirements for education regarding nitrous oxide and for CPR certification; modify some delegated procedures for licensed dental assistants, including impressions, ligature ties and arch wires, topical fluoride, and managing medications; restructure into different categories all of the delegated procedures for dental hygienists; and supplement the recordkeeping requirements for a dental/medical history and nitrous oxide in the progress notes.

1. The Governor's Office Proposed Rule and SONAR Form.
2. The December 20, 2017, Revisor's draft of the proposed rules.
3. The April 10, 2018, copy of the SONAR.

I also delivered copies of these documents to the Governor's Office on this same date.

If you or any other representative of the Commissioner of Minnesota Management and Budget has questions about the proposed rules, please call me at (612) 548-2127. Please send your correspondence about this matter to me at the following address: Bridgett Anderson, Minnesota Board of Dentistry, 2829 University Avenue SE, Suite 450, Minneapolis, MN 55414; or by e-mail: [bridgett.anderson@state.mn.us](mailto:bridgett.anderson@state.mn.us)

Yours very truly,



Bridgett Anderson, L.D.A., M.B.A.  
Executive Director

**2018 Administrative Rule  
Preliminary Proposal Form**

Revisor's ID Number: 4507

Submitting Agency: Minnesota Board of Dentistry Date: January 24, 2018

Rule Contact: Kathy T. Johnson

E-mail Address: kathy.t.johnson@state.mn.us Phone #: 612-548-2134

Type of Rule (must be one of the following):

☐ Exempt ☐ Expedited ☒ Permanent

Title: (Short descriptive title)	Proposed Permanent Rules Relating to Dentists, Dental Therapists, Dental Hygienists, and Licensed Dental Assistants
Chapter Number(s):	Minnesota Rules Chapter 3100
Supporters, opponents and possible controversies:	Supporters: Board members, statewide dental organizations and associations, and individual licensees. Opponents: Unknown. Controversies: Unknown.
Agency impact:	The proposed rules will modify existing language in the following areas: simplify the documentation requirements for education regarding nitrous oxide inhalation analgesia and for CPR certification; modify some delegated procedures for licensed dental assistants, including impressions, ligature ties and arch wires, topical fluoride, and managing medications; restructure into different categories all of the delegated procedures for dental hygienists; and supplement the recordkeeping requirements for a dental/medical history and nitrous oxide in the progress notes.
If Exempt or Expedited rule process:	Not applicable.
Describe the need for the rule and provide background information:	All licensees will benefit from the changes made to lessen the documentation requirements made by the Board related to proof of nitrous oxide education from the distant past and proof of CPR certification. Regarding the delegated procedures for licensed dental assistants, these changes will update procedures to reflect new products and technology and improve dental services to patients. The existing list of dental hygiene procedures were restructured to better meet the curriculum demands and limitations in dental hygiene programs. Additionally, the new recordkeeping requirements regarding the patient history and nitrous oxide administration info were found to be valuable components of the patient record.
Rulemaking authority and relevant statutes:	Minnesota Statutes, section 150A.04, subdivision 5, authorizes the board to adopt rules to carry out and make effective the provisions and purposes of sections 150A.01 to 150A.12, in accordance with Chapter 14.

Fiscal Impact: ☐ Yes ☐ No ☒ Undetermined

  
Executive Director's Signature

1/24/18  
Date

\*\*\* THIS SECTION TO BE COMPLETED BY THE GOVERNOR'S OFFICE \*\*\*

I have reviewed the above information and approved the concept of this administrative rule.

\_\_\_\_\_  
Governor's Policy Advisor

\_\_\_\_\_  
Date

# 2018 Administrative Rule Proposed Rule and SONAR Form

Revisor's ID Number: **4507**

Submitting Agency: Minnesota Board of Dentistry Date: April 11, 2018  
Rule Contact: Kathy T. Johnson  
E-mail Address: kathy.t.johnson@state.mn.us Phone #: 612-548-2134

Title: (Short descriptive title)	Proposed Permanent Rules Relating to Dentists, Dental Therapists, Dental Hygienists, and Licensed Dental Assistants
Chapter number(s):	Minnesota Rules Chapter 3100
Comments received during Request for Comments:	No comments received in opposition to proposed rules.
Statement of Need and Reasonableness (SONAR) Executive Summary:	The proposed rules will modify existing language in the following areas: simplify the documentation requirements for education regarding nitrous oxide inhalation analgesia and for CPR certification; modify some delegated procedures for licensed dental assistants, including impressions, ligature ties and arch wires, topical fluoride, and managing medications; restructure into different categories all of the delegated procedures for dental hygienists; and supplement the recordkeeping requirements for a dental/medical history and nitrous oxide in the progress notes.
Supporters, opponents, and possible controversies:	<i>Supporters:</i> Board Members, Minnesota Dental Association, Minnesota Dental Therapist Association, Minnesota Dental Hygienists Association, Minnesota Dental Assistants Association, and numerous individual Licensees. <i>Opponents:</i> None <i>Controversies:</i> None
List significant changes from preliminary proposal:	No significant changes from preliminary proposal.
Other:	

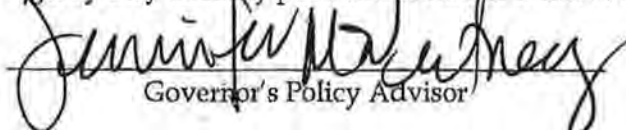
Fiscal Impact: ☐ Yes ☒ No \*If the Fiscal Impact determination has changed, please explain above.\*

AGENCY: ~~Attach draft rules and SONAR.~~

 Executive Director's Signature 4/11/18 Date

\*\*\*THIS SECTION TO BE COMPLETED BY THE GOVERNOR'S OFFICE\*\*\*

I have reviewed the above information and have approved this administrative rule. The respective Agency may formally publish a Notice of Intent to Adopt Proposed Rules.

 Governor's Policy Advisor 2/13/18 Date

**2018 Administrative Rule  
Final Rule Form**

Revisor's ID Number: **4507**

Submitting Agency: Minnesota Board of Dentistry Date: September 27, 2018  
Rule Contact: Kathy T. Johnson  
E-mail Address: kathy.t.johnson@state.mn.us Phone #: 612-548-2134

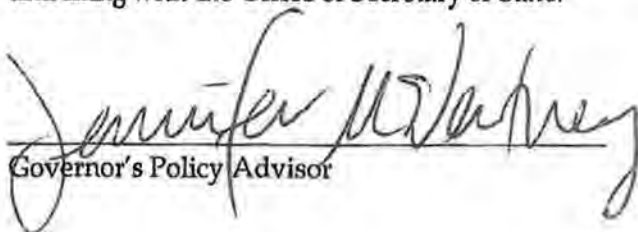
Title: (Short descriptive title)	Proposed Permanent Rules Relating to Dentists, Dental Therapists, Dental Hygienists, and Licensed Dental Assistants
Chapter number(s):	Minnesota Rules Chapter 3100
Comments/controversies received since Dual Notice of Intent to Adopt:	No comments or controversies received by the Board.
If a hearing was requested explain why and attach ALJ Report:	No hearing requests received by the Board.
List changes from draft rules proposal:	No changes to proposed rules.

  
Executive Director's Signature

9/27/18  
Date

\*\*\*THIS SECTION TO BE COMPLETED BY THE GOVERNOR'S OFFICE\*\*\*

I have reviewed the above information and have approved this administrative rule. The Agency may formally submit this rule to the Office of Administrative Hearings for approval and filing with the Office of Secretary of State.

  
Governor's Policy Advisor

10/1/18  
Date

## **Johnson, Kathy T (HLB)**

---

**From:** McNertney, Jennifer (GOV)  
**Sent:** Tuesday, October 30, 2018 1:20 PM  
**To:** Johnson, Kathy T (HLB); Carlucci, Kate (GOV)  
**Subject:** RE: Board of Dentistry Rule R-4507

Hi, Kathy:  
Yes, the 14 days have passed and the Governor will not veto the rule.  
Thanks,  
Jen McNertney

Jennifer McNertney | Senior Policy Advisor  
Office of Governor Mark Dayton  
130 State Capitol  
75 Rev. Dr. Martin Luther King Jr. Blvd.  
Saint Paul, MN 55155  
Office: 651-201-3425 | Fax: 651-797-1875

### **Working to Build a Better Minnesota**

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**From:** Johnson, Kathy T (HLB)  
**Sent:** Tuesday, October 30, 2018 1:16 PM  
**To:** Carlucci, Kate (GOV) <kate.carlucci@state.mn.us>  
**Cc:** McNertney, Jennifer (GOV) <jennifer.mcnertney@state.mn.us>  
**Subject:** RE: Board of Dentistry Rule R-4507

Kate:

Can you verify that the 14-day veto period has passed for the Governor to veto the Board's rules for Revisor's ID 4507? Thanks.

**Kathy T. Johnson, L.D.A., B.A.**  
Legal Analyst

**Minnesota Board of Dentistry**  
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Minneapolis, MN 55414  
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