

Guidance on Dentist Professional Responsibility; Professional Firms, Delegation of Duties, Dentist Employees, and Unauthorized Practice of Dentistry

The Board of Dentistry is issuing this guidance to educate dentists on current laws and rules pertaining to professional responsibilities of Minnesota licensed dentists when practicing under a professional firm, delegating duties, employing other dentists, and understanding unauthorized practice of dentistry. The Board may offer guidance to current licensees about the application of laws and rules the Board is empowered to enforce. This guidance shall not bind any court or other adjudicatory body. [214.108 HEALTH-RELATED LICENSING BOARDS; LICENSEE GUIDANCE.](#)

Background

Dental health care delivery has evolved significantly in the last decade. There has been an increase in group practices and dentist-owned practices incorporated as professional firms, many of which contract with dental support organizations and other third parties or vendors to perform business support services. This document is intended to provide guidance for common questions on areas of regulation that we received from dentists and other licensees providing dental services in professional firm settings.

The selected statutes and rules noted below are intended as convenient references for licensees to assist them in understanding their legal and professional responsibilities as Minnesota licensees. This guidance is not all inclusive of all legal requirements and each individual dental and allied dental professional licensee is fully responsible for compliance with all statutes and rules, regardless of their positions, whether as owner, partner, or employee.

PROFESSIONAL FIRMS - [319B.06 FURNISHING SERVICES.](#)

In Minnesota, dentists may make an election under the Professional Firms Act (319B) to furnish dental professional services. **Example: 123 Smiles LLC, owned by Dr. Number, a Minnesota licensee**

- Dentists can employ other dentists and licensed dental professionals to work under the professional firm.
- Professional firm may not adopt, implement, or follow a policy, procedure, or practice that would give a Board grounds for disciplinary action against a professional who follows, agrees to, or acquiesces in the policy, procedure, or practice.

Registering and Maintaining Professional Firms with the Board of Dentistry

All dental professional firms are required to [renew firm registration](#) with the Board of Dentistry on an annual basis, pay a fee, and provide changes within the firm to the Board. For initial registration with the Board please visit our website under <https://mn.gov/boards/dentistry/current-licensee/pro-firms/>.

Inspection of Professional Firm Records [319B.11](#)

A board may inspect all books and records of a professional firm and may summon and examine under oath the owners, directors, governors, officers, managers, persons occupying a position with governance authority, and employees of the firm in all matters concerning the operations of the professional firm that are governed by sections [319B.01](#) to [319B.12](#), the rules of the board, or the professional firm's generally applicable governing law.

DENTIST RESPONSIBILITIES

- The Board of Dentistry is required to hold individual licensees accountable for competency and behaviors that influence patient care, public health and safety, and compliance with Minnesota Statutes Chapters 150A, 214, and 319B.
- However dentists choose to configure their practices, they retain the responsibility to understand how their environment applies to compliance with state law, quality of the care and appropriateness of their professional judgments.
- The method and manner of patient treatment, the means by which patients are treated, and the nature of the dentist-patient relationship are the responsibility of the individual dentist.
- Dentists are held responsible for any contracts they enter that result in the violation of the laws and rules in the state of Minnesota as they pertain to the practice of dentistry.

Practicing Dentistry in Minnesota

The Dental Practice Act, specifically in section [150A.05](#) defines the practice of dentistry in Minnesota.

ALLIED DENTAL PERSONNEL**[3100.8200 Unlawful practice by allied dental personnel.](#)**

- “Allied dental personnel who assist a dentist in practicing dentistry in any capacity other than as an employee or independent contractor, who directly or indirectly procures a licensed dentist to act as nominal owner, proprietor, or director of a dental office as a guise or subterfuge to enable the allied personnel to engage directly in acts defined by the act as the “practice of dentistry,” shall be deemed to be practicing dentistry without a license.”

[3100.8300 Responsibilities of a Licensed Dentist](#)

- Dentists employing assistants, technicians, hygienists, or dental therapists shall be fully responsible for all acts or omissions of these personnel if the acts or omissions are within the normal scope of their employment.

Delegation to Licensed and Unlicensed Allied Dental Professionals

- For licensed dental professionals, Minnesota is considered a permissive state, which means that the delegated duties for Dental Therapy, Hygiene and Assisting are specifically listed under their respective scope of practice. If the duty is not listed, then it cannot be delegated. View Delegation of Duties charts here: <https://mn.gov/boards/dentistry/current-licensee/resources/delegated-duties/>

3100.8400 Assistants without a License

- Unlicensed dental assistants can perform all delegated procedures stated under personal, general, or direct supervision according to 3100.8400. Besides these delegated procedures, an unlicensed dental assistant can also take/record vital signs such as pulse rate and blood pressure as directed by the dentist, complete preliminary charting of the oral cavity and surrounding structures except for periodontal structures, set-up and clean-up operatories and perform all sterilization processes after receiving infection control training by office, and perform all laboratory tasks like pour-up impressions, trim models, and fabricate custom-fitted trays.
- However, there are minimal requirements for compliance. Even unlicensed dental assistants must have continuous CPR certification, comply with infection control recommendations and may not perform any dental treatment or procedure on patients not otherwise authorized.

RECORDKEEPING 3100.9600

Diagnosis, Treatment Planning and Informed Consent

- The dentist is responsible for maintaining the dental record, which must include diagnosis, treatment plan, and informed consent by the treating provider.

Retention and Transfer of Patient Records

- Providers must transfer dental records, irrespective of patient account status.
- Providers must maintain records seven years beyond the time the dentist last treated the patient.
- Providers must maintain minor patient records for seven years past the age of majority (25).
- Failure to provide access and transfer is referenced in Grounds for Discipline and specifically under [3100.6200 Conduct Unbecoming a Licensee](#)

BILLING, CODING AND PATIENT REFUNDS

62Q.751 Collecting Deductibles and Coinsurance

- Pertaining to insured patients: "Overpayments by patients must be returned to the patient by the provider within 30 days of the date claim adjudication is received by the provider."

Billing using CDT Codes:

- Dentists are required to use current and accurate CDT codes for billing of dental services. The purpose of the CDT Code is to achieve uniformity, consistency and specificity in accurately documenting dental treatment. One use of the CDT Code is to provide for the efficient processing of dental claims, and another is to populate an Electronic Health Record. On August 17, 2000, the CDT Code was named as a HIPAA standard code set. Any claim submitted on a HIPAA standard electronic dental claim must use dental procedure codes from the version of the CDT Code in effect on the date of service. See [ADA- CDT Codes](#) for more information.

ADVERTISING

- Require appropriate disclosure of advertising dental fees and services [3100.6600](#).
- Requires appropriate names and addresses in advertisement [3100.6700](#).

INFECTION CONTROL

- Minnesota REQUIRES compliance with CDC Infection Control Guidelines 3100.6300. Visit the Board of Dentistry website for more information.

IDENTIFYING DENTAL PROVIDERS

150A.06. LICENSURE. Subd. 6

- Initial license and subsequent renewal certificate shall be conspicuously displayed in every office in which that person practices, in plain sight of patients.
- Name of each dentist practicing, as inscribed on the current license certificate, shall be displayed in plain sight at practice entrance.

IMPORTANCE OF PROFESSIONAL RESPONSIBILITY

Why take the time to understand the responsibilities of the provider and applicable laws and rules of the respective jurisdiction where provider practices?

- Each state can vary in the laws and rules applied to dental practice.
- Non-compliance could lead to licensure actions based on there being grounds for discipline.
- They provide framework for safe and competent dental care.

150A.08 LICENSURE AND REGISTRATION ACTIONS. Grounds for Discipline.

What are some of the matters included as grounds for discipline in Minnesota?

- fraud or deception in connection with the practice of dentistry or application for a license
- conduct unbecoming or conduct contrary to the best interest of the public
- revocation or other disciplinary action on a dental license in another jurisdiction
- failure to maintain adequate safety and sanitary conditions for a dental office
- employing, assisting, or enabling in any manner an unlicensed person to practice dentistry

150A.11 UNLAWFUL ACTS

Subdivision 1. Unlawful Practice.

"It is unlawful for any person to: enable an unlicensed person to practice dentistry; to practice or attempt to practice dentistry without a license; to practice dentistry under the name of a corporation or company; or to practice under any name that may tend to deceive the public."

- ***"No corporation shall practice dentistry or engage in it, or hold itself out as being entitled to practice dentistry, or furnish dental services or dentists, or advertise under or assume the title of dentists or dental surgeons or equivalent title. No corporation shall furnish dental advice, or advertise or hold itself out with any other person or alone, that it has or owns a dental office or can furnish dental service, dentists, or dental surgeons, or solicit, through itself, or its agents, officers, employees, directors or trustees, dental patronage for any dentist or dental surgeon."***
- ***"This section... Does not prohibit dentists from incorporating their practice of dentistry for business purposes under the special provisions of a corporate practice act for dentistry."***

- “If a dentist practices under another name, the name shall include some designation, which makes clear that the person is practicing dentistry or a specialty of dentistry; and that the names of all of the participating dentists practicing under the name be clearly identified.”
- “Any communication between dentist and patient shall clearly indicate the name of the dentist treating the patient.”
- “It shall be unlawful for any dentist to divide fees with or promise to pay a part of the dentist's fee to, or to pay a commission to, any dentist or other person who calls the dentist in consultation or who sends patients to the dentist for treatment, or operation.”

Information on penalty for violations of these and other provisions [Minn. Stat. 150A.12. VIOLATIONS AND DEFENSES.](#)