

CHAPTER 43-20

DENTAL HYGIENISTS AND ASSISTANTS

43-20-01. Name of chapter. Repealed by S.L. 2009, ch. 369, § 31.

43-20-01.1. Definitions. As used in this chapter and chapter 43-28, unless the context otherwise requires:

1. "Dental assistant" means an individual who provides dental assistance under the supervision of a dentist and within the scope of practice established by rule and section 43-20-13.
2. "Dental hygienist" means an individual licensed to practice dental hygiene.
3. "Qualified dental assistant" means an individual registered as a qualified dental assistant to provide dental assistance as established by rule.
4. "Registered dental assistant" means an individual registered as a registered dental assistant to provide dental assistance as established by rule.

43-20-01.2. Dental hygienist licensing. An individual seeking to practice dental hygiene in this state shall apply to the executive director of the board on forms prescribed by the board. The application must be verified under oath to the effect that all of the statements contained in the application are true to the applicant's own knowledge, and must be received by the executive director of the board at least thirty days before the board meeting at which the application is considered. The applicant shall enclose with the application a recent autographed picture of the applicant and an application fee established by the board by rule. The board may grant a license to practice dental hygiene to an applicant who has met all of the following requirements:

1. The applicant is a graduate of a dental hygiene school accredited by the American dental association's commission on dental accreditation.
2. The applicant has passed an examination administered by the joint commission on national dental examinations.
3. The applicant has passed a clinical competency examination administered by a regional dental testing service or a licensing jurisdiction approved by the board by rule.
4. The applicant has passed, within one year of making application, a written examination on the laws and rules governing the practice of dentistry in this state.
5. Grounds for denial of the application under section 43-20-05 do not exist.
6. The applicant has met any requirement for licensure established by the board by rule.

43-20-01.3. Licensure by credential review. Applications for licensure to practice dental hygiene by credential review must be made on forms provided by the board and submitted thirty days before the examination administered by the board. The board may issue a license and certificate of registration to practice dental hygiene to an applicant who meets all of the following requirements:

1. The applicant, for at least three years immediately preceding application, has been licensed in good standing and has been actively practicing dental hygiene in another jurisdiction where the requirements are at least substantially equivalent to those of this state.

2. Grounds for denial of the application under section 43-20-05 do not exist.
3. The applicant has paid to the board the fee established by the board by rule.
4. The applicant has delivered to the board a certificate from the examining or licensing board of every jurisdiction in which the individual is licensed to practice, certifying that the individual is a licensed and registered dental hygienist in good standing in that jurisdiction.
5. The applicant has passed a written examination on the laws and rules governing the practice of dentistry in this state administered by the board at a meeting.
6. The applicant has met any requirement for licensure established by the board by rule.

43-20-01.4. License renewal - Audit.

1. Dental hygienist licenses expire on December thirty-first of every odd-numbered year.
2. Licenses may be renewed by December thirty-first of the odd-numbered year by submitting a renewal application, a renewal fee established by the board by rule, and proof of completion of the continuing education requirements established by the board by rule, provided the dental hygienist's license is not revoked or grounds for denial under section 43-20-05 do not exist.
3. If the renewal application, renewal fee, and proof of completion of continuing education are not received by December thirty-first of the odd-numbered year, the license expires and the dental hygienist may not practice dental hygiene.
4. Within sixty days after December thirty-first of the odd-numbered year, an expired license may be renewed by submitting the renewal application, renewal fee, proof of completion of continuing education, and a late fee established by the board by rule.
5. If the renewal application, renewal fee, proof of completion of continuing education, and late fee are not received within sixty days after December thirty-first of the odd-numbered year, the license may not be renewed, and the dental hygienist must apply for and meet the requirements for licensure to be granted a license.
6. The board may extend the renewal deadlines for a dental hygienist providing proof of medical or other hardship rendering the dental hygienist unable to meet the deadline.
7. The board may select a random sample of the license renewal applications for audit of continuing education credits. Each licensee shall maintain certificates or records of continuing education activities. Upon receiving notice of an audit from the board, a licensee shall provide satisfactory documentation of attendance at, or participation in, the continuing education activities listed on the licensee's continuing education form. Failure to comply with the audit is grounds for nonrenewal of or disciplinary action against the license.

43-20-02. Dental hygienists - Qualifications - Examinations - Registration and license. Repealed by S.L. 2009, ch. 369, § 31.

43-20-02.1. Conviction not bar to licensure - Exceptions. Conviction of an offense does not disqualify a person from licensure under this chapter unless the board determines that the offense has a direct bearing upon a person's ability to serve the public as a dental hygienist, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

43-20-03. Dental hygienists - Practice by. As used in this chapter, "dental hygiene" and the practice thereof means the removal of accumulated matter from the natural and restored surfaces of teeth and from restorations in the human mouth, the polishing of such surfaces, and the topical application of drugs to the surface tissues of the mouth and to the surface of teeth if such acts are performed under the direct, modified general, or general supervision of a licensed dentist. General supervision may be used if the procedures are authorized in advance by the supervising dentist, except procedures which may only be used under direct supervision as established by the board by rule.

Only a person licensed as a dental hygienist may be referred to as a dental hygienist. Additional tasks permitted to be performed by licensed dental hygienists may be outlined by the board of dental examiners by appropriate rules.

43-20-04. License recorded - Fee. Repealed by S.L. 1991, ch. 465, § 23.

43-20-05. Licenses and registrations - Denial and discipline. The board may deny an application for or take disciplinary action against a dental hygienist's license or a registered or qualified dental assistant's registration, upon any one or more of the following grounds:

1. Gross immorality or unprofessional conduct, which includes knowingly failing to comply with commonly accepted national infection control guidelines and standards.
2. Failure, neglect, or refusal to renew a license biennially.
3. Nonobservance or violation of this chapter, or of any board rule adopted under this chapter.
4. Gross incompetency in the practice of dental hygiene.
5. Conviction of an offense determined by the board to have a direct bearing on the individual's ability to serve the public as a dental hygienist or a registered or qualified dental assistant, or the board determines, following conviction for any offense, that the individual is not sufficiently rehabilitated under section 12.1-33-02.1.
6. Been adjudged mentally ill and not judicially restored by the regularly constituted authorities.
7. Abused, is dependent on, or addicted to the use of alcohol or drugs.
8. Engaged in fraud or deceit in obtaining a dental hygiene license or dental assisting registration.
9. Disclosed confidential information.
10. Received a fee for the referral of patients to a dentist or dental hygienist.
11. Used unethical measures to draw dental patronage from the practice of another licensee.
12. Fraudulently prescribed or dispensed drugs or medications.
13. Knowingly submitted misleading, deceptive, untrue, or fraudulent information on a claim form, bill, or statement to a third party.
14. Advised or directed patients to dental laboratories or dental laboratory technicians for a dental service or advised or directed patients to deal directly with laboratories or dental laboratory technicians.
15. Violated the code of ethics adopted by the board by rule.

16. Had a registration or license suspended, revoked, or disciplined in another jurisdiction.
17. Failed to report to the board in writing within sixty days a violation of this chapter or chapter 43-28.
18. Practiced outside the scope of practice established by the board by rules and this chapter.

The procedure to be followed for taking disciplinary action must be the same as the procedure required by section 43-28-18.2.

43-20-06. Inactive status. Upon payment of a fee determined by the board, a dental hygienist may request to have the dental hygienist's license placed on inactive status. While on inactive status, the dental hygienist may not engage in the practice of dental hygiene in the state until the dental hygienist submits a renewal application, pays the renewal fee, and meets any additional requirements established by rule.

43-20-07. Licensure by credential review. Repealed by S.L. 2009, ch. 369, § 31.

43-20-08. Unlawful to practice without license or registration. A person may not practice dental hygiene or practice as a registered or qualified dental assistant in the state, without first obtaining from the board a license or registration. A person may not practice as a dental assistant outside the scope of practice established by the board by rule and section 43-20-13.

43-20-09. Violation a misdemeanor. A person violating section 43-20-08 is guilty of a class B misdemeanor.

43-20-10. State board of dental examiners - Authority - Duty. The board has the power and it is its duty to enforce the provisions of this chapter. The board has the power to make such rules and regulations, not inconsistent with this chapter, as may, in its judgment, be necessary for the proper enforcement of this chapter, and the examination of dental hygienists and registered and qualified dental assistants for their conduct and practice. For purposes of this chapter, the board has the powers set forth in section 43-28-06.

43-20-11. Practice of dental hygiene supplemental to practice of dentistry. The practice of dental hygiene is hereby declared to be supplemental and auxiliary to the practice of dentistry in North Dakota. All particulars, requirements, regulations, control, and provisions of chapter 43-28 apply with equal force wherein and so far as they may be applicable to the practice of dental hygienists, except as otherwise provided for in this chapter.

43-20-12. Dental hygienist - Scope of permitted practice. A licensed dentist may delegate to a competent dental hygienist those procedures over which the dentist exercises full responsibility, except those procedures that require professional judgment and skill such as diagnosis and treatment planning, the cutting of hard or soft tissue, or any intraoral procedure which would lead to the fabrication of any appliance that, when worn by the patient, would come in direct contact with hard or soft tissue and which could result in tissue irritation or injury. The board of dental examiners may adopt rules governing the scope of practice of dental hygienists.

43-20-12.1. Continuing educational requirement for dental hygienists. Repealed by S.L. 2009, ch. 369, § 31.

43-20-12.2. Notice to board of change of address. A licensed dental hygienist, registered dental assistant, or qualified dental assistant shall notify the executive director of the board of dental examiners of any new address within thirty days of the address change. The notice required under this section must be given by certified mail, return receipt requested. A licensed dental hygienist, registered dental assistant, or qualified dental assistant may not

practice in this state for more than thirty days after the change of address without complying with this section.

43-20-12.3. Supervised administration of anesthesia - Board rules. A licensed dentist may delegate to a dental hygienist licensed by the board the administration of block and infiltration anesthesia to a patient who is at least eighteen years old. The dental hygienist must be under the direct supervision of a dentist and the dental hygienist must complete the educational requirements as required by the commission on dental accreditation and approved by the board. The board shall adopt rules to implement this section.

43-20-13. Dental assistant - Scope of permitted practice. A dental assistant is an auxiliary to the practice of dentistry. To the extent applicable and to the extent they are not inconsistent with this chapter, the requirements and rules adopted by the board of dental examiners under chapter 43-28 apply to the practice of dental assistants. A dentist may delegate to a dental assistant who is under that dentist's direct, indirect, or general supervision procedures over which the dentist exercises full responsibility as provided by rules adopted by the board of dental examiners.

43-20-13.1. (Effective through February 28, 2010) Continuing education requirement for registered dental assistants.

1. At least thirty days before January first of each year the board of dental examiners shall send a renewal notice that includes an affidavit for continuing education reporting and an application for registration renewal to each registrant at the registrant's last place of residence as noted in the records of the board. If a registrant fails to pay the fee for the renewal of the certificate of registration on or before the due date of the payment, after thirty days' written notice of the default, the board may cancel the registration without a hearing. The board shall record the cancellation and notify the dental assistant of the cancellation. Each individual registered as a dental assistant shall provide the board evidence satisfactory to the board that the individual has attended or participated in the amount of continuing education as is required by the board. The board may establish a minimum continuing education requirement which may not be less than eight hours during a twelve-month registration. The board may accept for compliance with the continuing education requirement any of the following activities which may contribute directly to the dental education of the registrant:
 - a. Proof of attendance at a lecture, study club, college postgraduate course, or scientific session of a convention.
 - b. Proof of research, graduate study, teaching, or service as a clinician.
 - c. Proof of any other continuing education approved by the board.
2. The board may select a random sample of the registrants for audit of continuing education credits. Each registrant shall maintain certificates or records of continuing education credit. The board shall notify a registered dental assistant selected for a continuing education audit. If a registered dental assistant is selected for a continuing education audit, the dental assistant shall provide satisfactory documentation of attendance at or participation in the continuing education activities included on the registrant's sworn affidavit. The failure to comply with an audit may be grounds for nonrenewal of the registration. A dental assistant who fails to comply with the continuing education requirements may be reexamined by the board to determine the individual's competency to continue engaging in dental-assisting activities. If the board determines that the dental assistant is not qualified, the board shall suspend the registration until the individual provides acceptable evidence to the board of the individual's competency to practice as a dental assistant.

(Effective after February 28, 2010) Registration renewal.

1. All registrations of registered and qualified dental assistants expire on December thirty-first of every even-numbered year.
2. A registration may be renewed by submitting a renewal application, renewal fee established by the board by rule, and proof of completion of the continuing education requirements established by the board by rule, provided the registration is not revoked or grounds for denial under section 43-20-05 do not exist.
3. If the renewal application, renewal fee, and proof of completion of continuing education are not received by December thirty-first of the even-numbered year, the registration expires and the registered or qualified dental assistant may not practice as a registered or qualified dental assistant.
4. Within sixty days after December thirty-first of the even-numbered year, an expired registration may be renewed by submitting the renewal application, renewal fee, proof of completion of continuing education, and a late fee established by the board by rule.
5. If the renewal application, renewal fee, proof of completion of continuing education, and late fee are not received within sixty days after December thirty-first of the even-numbered year, the registration may not be renewed, and the registered or qualified dental assistant must apply for and meet the requirements for registration to be granted registration.
6. The board may extend the renewal deadline for a registered or qualified dental assistant providing proof of medical or other hardship rendering the registered or qualified dental assistant unable to meet the deadline.

43-20-13.2. Registered and qualified dental assistant registration. To be registered as a registered or qualified dental assistant, an individual shall apply and meet the requirements established by the board by rule.