

ARTICLE 20-02

DENTISTS

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20-02-01	General Requirements

CHAPTER 20-02-01 GENERAL REQUIREMENTS

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20-02-01-01. Advertising.

1. Advertising by dentists is permitted to disseminate information for the purpose of providing the public a sufficient basis upon which to make an informed selection of dentists. In the interest of protecting the public health, safety, and welfare, advertising which is false, deceptive, or misleading is prohibited.
2. All advertising must contain the legal name of the dentist, or a reasonable variation thereof. In the case of a partnership or corporation, the name used in the advertisement may be the true name of the partnership or corporation. The advertisement must also contain the location, or locations, of the dentist, partnership, or corporation.
3. A dentist engaged in general practice who wishes to announce the services available in the dentist's practice is permitted to announce the availability of those services as long as the dentist avoids using language that expresses or implies that the dentist is a specialist. If

a dentist, other than a specialist, wishes to advertise a limitation of practice, such advertisement must state that the limited practice is being conducted by a general dentist. A dentist who is a specialist may announce the dentist's specialization provided that the dentist has successfully completed an educational program accredited by the commission on accreditation of dental and dental auxiliary educational programs, two or more years in length, as specified by the commission on dental accreditation of the American dental association or be a diplomate of a nationally recognized certifying board. Such a dentist may announce that the dentist's practice is limited to the special area of dental practice in which the dentist has or wishes to announce.

4. A dentist who advertises on radio or television must retain a recorded copy of such advertising for a period of one year following the termination of the use of such advertising, and is responsible to make recorded copies of such advertising available to the North Dakota state board of dental examiners within thirty days following a request from the board for such copies.
5. No dentist may advertise the dentist, the dentist's staff, the dentist's services, or the dentist's method or methods of delivery of dental services to be superior to those of any other licensed dentist, unless such claim or claims can be substantiated by the advertiser, upon whom rests the burden of proof.
6. No advertising by a dentist may contain representations or other information contrary to the provisions of North Dakota Century Code section 43-28-18 or North Dakota Administrative Code title 20.

History: Effective September 1, 1980; amended effective February 1, 1992; October 1, 1993.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-06

20-02-01-02. Office emergency. Every dentist, dental hygienist, dental assistant, qualified dental assistant, or registered dental assistant practicing in North Dakota must have a current certificate of proficiency in cardiopulmonary resuscitation.

History: Effective February 1, 1992; amended effective October 1, 1993; May 1, 1996; August 1, 1998; January 1, 2011.

General Authority: NDCC 43-20-10, 43-28-06

Law Implemented: NDCC 43-20-01.2, 43-20-01.3, 43-20-10, 43-20-13.2, 43-28-06, 43-28-10.1, 43-28-15

20-02-01-03. Nitrous oxide. A duly licensed dentist may use nitrous oxide for treating patients only when the following conditions are met:

1. Documentation has been provided by the dentist to the board that verifies completion of fourteen hours of instruction or continuing professional education dealing specifically with the use of nitrous oxide. In the absence of documentation of classroom training, the dentist must provide proof acceptable to the board that demonstrates three years of practical experience in the use of nitrous oxide.
2. A dentist who induces a patient into a state of psychosedation or relative analgesia using nitrous oxide shall ensure that the patient will be continually and personally monitored by a dentist. A dentist may delegate the monitoring tasks to a licensed dental hygienist or a registered dental assistant utilizing direct supervision only after the patient has been stabilized at the desired level of conscious sedation or relative analgesia by the action of the dentist. The licensed dental hygienist or registered dental assistant who is assigned the monitoring task shall remain in the treatment room with the patient at all times. A dental hygienist or a dental assistant may not initiate the administration of nitrous oxide to a patient.
3. The dentist must provide and document training for the dental hygienist or registered dental assistant in the proper and safe operation of the analgesia machine being used prior to the registered dental hygienist or registered dental assistant monitoring the patient. Training shall include emergency procedures to be employed if required.

History: Effective February 1, 1992; amended effective May 1, 1996; April 1, 2000; October 1, 2007; January 1, 2011.

General Authority: NDCC 43-20-10, 43-28-06

Law Implemented: NDCC 43-20-03, 43-20-10, 43-20-12, 43-20-13, 43-28-06

20-02-01-03.1. Additional requirements for licensure by examination.

The board may grant a license to practice dentistry to an applicant who has met the requirements of North Dakota Century Code section 43-28-10.1 and all the following requirements:

1. The applicant has passed the examination administered by the joint commission on national dental examiners or the national dental examining board of Canada within five years of application.
2. The applicant has passed, within five years of application, a clinical competency examination administered by one of the following:
 - a. Central regional dental testing service.
 - b. Council of interstate testing agencies.
 - c. Northeast regional board of dental examiners, except after December 31, 2009, the examination approved by the American board of dental examiners.

- d. Southern regional testing agency, except the applicant must pass the periodontal part of an examination administered by another approved regional dental testing service.
 - e. Western regional examining board.
3. The applicant has successfully completed a cardiopulmonary resuscitation course within two years of application.
 4. The applicant has the physical health and visual acuity to enable the applicant to meet the minimum standards of professional competence.

History: Effective January 1, 2011.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-10.1

20-02-01-03.2. Additional requirements for licensure by credential review. The board may grant a license to practice dentistry to an applicant who has met the requirements of North Dakota Century Code section 43-28-15 and all the following requirements:

1. The applicant has successfully completed a cardiopulmonary resuscitation course within two years of application.
2. The applicant has the physical health and visual acuity to enable the applicant to meet the minimum standards of professional competence.
3. The applicant has completed thirty-two hours of continuing education in accordance with section 20-02-01-06 within two years of application.

History: Effective January 1, 2011.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-15

20-02-01-03.3. Additional requirements for applications. Applications must be completed within six months of filing. In addition to the application requirements of North Dakota Century Code sections 43-28-11 and 43-28-17, the board may require an application to include:

1. Proof of identity, including any name change.
2. An official transcript sent by an accredited dental school directly to the board.
3. Evidence demonstrating the applicant passed the examination administered by the joint commission on national dental examinations within five years of application.

4. Evidence demonstrating the applicant passed a clinical competency examination, approved by the board, within five years of application.
5. An interview by the board.
6. Anything necessary for a criminal history record check pursuant to North Dakota Century Code section 43-28-11.2.
7. A certification, from the licensing board of every jurisdiction in which the applicant is licensed, that the applicant is licensed in good standing.
8. Certification that the applicant has completed a cardiopulmonary resuscitation course within two years of application.
9. Verification of physical health and visual acuity.
10. For applications for licensure by credential review, the law and rules stating the requirements for licensure, when the applicant was licensed, of the jurisdiction in which the applicant is licensed.
11. For applications for licensure by credential review and reinstatement from inactive status, proof of completion of thirty-two hours of continuing education in accordance with section 20-02-01-06 within two years of application.
12. Any information required by the application forms prescribed by the board.

History: Effective January 1, 2011.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-10.1, 43-28-11, 43-28-11.2, 43-28-15, 43-28-17

20-02-01-03.4. Clinical competency examination retakes. If an applicant taking the clinical competency examination in the integrated format is unsuccessful after having exhausted all allowable retake opportunities for the failed parts, one failure is recorded. The applicant must then retake all five parts of the examination in the traditional format. If the applicant is unsuccessful in one or more parts, a second failure is recorded. If the failed parts are retaken and failed again, a third failure will be recorded. A dental applicant may take a clinical examination three times before remedial training is required. After failing the examination for a third time, and prior to the fourth attempt of the examination, an applicant shall:

1. Submit to the board a detailed plan for remedial training by an accredited dental school. The board must approve the proposed remedial training.
2. Submit proof to the board of passing the remedial training within twenty-four months of its approval by the board.

The board may grant or deny a fourth attempt of the clinical examination. A fourth attempt must occur within twelve months of the date of the board's decision. If an applicant fails any part of the examination after remedial training, the board must approve additional retakes.

History: Effective January 1, 2011.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-06, 43-28-10.1, 43-28-17

20-02-01-04. Temporary license to practice dentistry. The board may grant a nonrenewable temporary license to practice dentistry in the state of North Dakota for a period not to exceed one year. The temporary license will be issued only for special purposes that are unique and cannot be satisfied by the normal means to licensure.

1. A temporary license to practice dentistry in North Dakota may be granted to a dentist when the dentist:
 - a. Has applied to the board as prescribed in North Dakota Century Code section 43-28-11.
 - b. Has paid the nonrefundable application and license fee prescribed by the board.
 - c. Holds an active dental license in another jurisdiction, has been a full-time student or resident of a dental program accredited by the American dental association's commission on dental accreditation within the last six months, or has held a North Dakota dental license within the previous five years.
 - d. Has provided a statement from the licensing authority of all the states in which the dentist is licensed that the dentist's license is unencumbered, unrestricted, and that the dentist's professional record is free of blemish for professional misconduct, substandard care, or violations of the state's practice act.
 - e. Has certified that no disciplinary actions are pending in other states or jurisdictions.
 - f. Has authorized the board to seek information concerning the dentist's professional and personal background and agrees to hold harmless those individuals who may provide such information to the board.
2. The board may apply such restrictions as it deems appropriate to limit the scope of the practice of dentistry under the authority of the temporary license.

3. The board may restrict the licensee to engage in dental practice, as may be limited above, only at certain and specifically defined practice locations.

History: Effective February 1, 1992; amended effective October 1, 2007; January 1, 2011.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-06

20-02-01-04.1. Restricted license to practice dentistry. Repealed effective October 1, 2007.

20-02-01-04.2. Volunteer license to practice dentistry. A patient who is seen by a dentist who holds a volunteer license to practice dentistry shall not be considered a patient of record of the volunteer dentist. The dentist is not obligated to treat the patient outside of the volunteer practice setting. The board may grant a volunteer license to practice dentistry in North Dakota, renewable annually by application to the board, when the following conditions are met:

1. The applicant was formerly licensed in the state of North Dakota and is in good standing with the board.
2. The applicant agrees to provide primary health services without remuneration in a board-approved setting.
3. The applicant holds a current cardiopulmonary resuscitation course certification.
4. The applicant has completed continuing education requirements of the board.
5. The applicant has made application for a volunteer dental license in a manner prescribed by the board.
6. The applicant has paid the nonrefundable application and license fee prescribed by the board.

History: Effective April 1, 2000; amended effective January 1, 2011.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-06

20-02-01-04.3. Inactive status - License reinstatement. A dentist may, upon payment of the fee determined by the board, place the dentist's license on inactive status. A dentist on inactive status shall be excused from the payment of renewal fees, except inactive status renewal fees, and continuing education. A dentist on inactive status shall not practice in North Dakota. To reinstate a license on inactive status, the dentist shall apply on the form a prescribed by the board, pay a reinstatement fee, and meet all of the following requirements:

1. The applicant has passed a clinical competency examination administered by a regional dental testing service, approved by the board in section 20-02-01-03.1, within five years application. The board may, within the board's discretion, waive this requirement.
2. The applicant passes a written examination on the laws and rules governing the practice of dentistry in this state administered by the board at a meeting.
3. The applicant has completed thirty-two hours of continuing education in accordance with section 20-02-01-06 within two years of application.
4. The applicant has successfully completed a cardiopulmonary resuscitation course within two years of application.
5. Grounds for denial of the application under North Dakota Century Code section 43-28-18 do not exist.

History: Effective April 1, 2006; amended effective January 1, 2011.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-17

20-02-01-05. Permit for anesthesia use.

1. The rules in this chapter are adopted for the purpose of defining standards for the administration of anesthesia by dentists. The standards specified in this chapter shall apply equally to general anesthesia, deep sedation, moderate (conscious) sedation, or a combination of any of these with inhalation, but do not apply to sedation administered through inhalation alone. A dentist licensed under North Dakota Century Code chapter 43-28 and practicing in North Dakota may not use any form of sedation if the intent is beyond anxiolysis on any patient unless such dentist has a permit, currently in effect, issued by the board, initially for a period of twelve months and renewable biennially thereafter, authorizing the use of such general anesthesia, deep sedation, moderate (conscious) sedation, or minimal sedation when used in combination with inhalation.
2. An applicant may not be issued a permit initially as required in subsection 1 unless:
 - a. The board of dental examiners approves the applicant's facility after an inspection conducted by an individual or individuals designated by the dental examiners;
 - b. The board of dental examiners is satisfied that the applicant is in compliance with the American dental association's most recent policy statement: the use of sedation and general anesthesia by dentists;

- c. The initial application includes payment of a fee in the amount determined by the dental examiners; and
 - d. If the application appears to be in order, the board may issue a temporary permit prior to the site evaluation. The temporary permit may be revoked if the applicant fails the site inspection or if the applicant fails to cooperate with the timely scheduling of the site inspection.
 3. The board of dental examiners may renew such permit biennially, provided:
 - a. Requirements of the permit application have been met;
 - b. Application for renewal and renewal fee is received by the dental examiners before the date of expiration of such permit. If the renewal application and renewal fee have not been received by the expiration of the permit, late fees as determined by the board shall apply; and
 - c. An onsite evaluation of the dentist's facility may be conducted by an individual designated by the board of dental examiners, and the board of dental examiners must approve the results of each such evaluation. Each facility where anesthesia is administered must be evaluated.
 4. The board shall reevaluate the credentials, facilities, equipment, personnel, and procedures of a permitholder five years following a successful initial application.

History: Effective October 1, 1993; amended effective May 1, 1996; June 1, 2002; July 1, 2004; April 1, 2006; October 1, 2007; January 1, 2011.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-06

20-02-01-06. Continuing dental education for dentists. Each dentist shall provide evidence on forms supplied by the board that the dentist has attended or participated in continuing dental education in accordance with the following conditions:

1. Continuing education activities include publications, seminars, symposiums, lectures, college courses, and online education.
2. The continuing dental education hours will accumulate on the basis of one hour of credit for each hour spent in education. Subject matter directly related to clinical dentistry will be accepted by the board without limit.

3. The minimum number of hours required within a two-year cycle for dentists is thirty-two. Of these hours, a dentist may earn no more than sixteen hours from publications and online education. The continuing education must include:
 - a. Two hours of ethics or jurisprudence. Passing the laws and rules examination is the equivalent of two hours of ethics or jurisprudence.
 - b. Two hours of infection control.
 - c. A cardiopulmonary resuscitation course.
 - d. For anesthesia permit holders, four hours related to sedation or anesthesia.
4. Mere registration at a dental convention without specific attendance at continuing education presentations will not be creditable toward the continuing dental education requirement.
5. All dentists must hold a current cardiopulmonary resuscitation certificate. Anesthesia permit holders are required to maintain current advanced cardiac life support certification or pediatric advanced life support as specified by permit.

History: Effective October 1, 1993; amended effective May 1, 1996; August 1, 1998; June 1, 2002; April 1, 2006; October 1, 2007; January 1, 2011.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-06, 43-28-16.2

20-02-01-07. Removable dental prostheses owner identification.

1. Every complete upper and lower denture or removable dental prosthesis fabricated by a dentist or fabricated pursuant to the dentist's work order must be marked with the name of the patient for whom the prosthesis is intended. The markings must be done during the fabrication process and must be permanent, and cosmetically acceptable. The exact location of the markings and methods used to apply or implant them shall be determined by the dentist or dental laboratory fabricating the prosthesis. If in the professional judgment of the dentist or dental laboratory this identification is not practical, identification must be provided as follows:
 - a. The initials of the patient may be used if the entire name is not practical.
 - b. The identification marks may be omitted in their entirety if no form of identification is practical or clinically safe.

2. Failure of any dentist to comply with this section shall be deemed to be a violation of the rules of the board and the dentist may be liable to penalty as permitted under statute.

History: Effective October 1, 1993; amended effective April 1, 2006.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-06

20-02-01-08. Discontinuance of practice - Retirement - Discontinuance of treatment. These rules are adopted for the purpose of avoiding practice abandonment. A licensed dentist shall maintain patient records in a manner consistent with the protection of the welfare of the patient. Upon request of the patient or patient's legal guardian, the dentist shall furnish the dental records or copies of the records, including dental radiographs or copies of the radiographs. The dentist may charge a nominal fee for duplication of records, but may not refuse to transfer records for nonpayment of any fees.

1. A licensee, upon retirement, or upon discontinuation of the practice of dentistry, or upon moving from a community, shall notify all active patients in writing and by publication once a week for three consecutive weeks in a newspaper of general circulation in the community that the licensee intends to discontinue the practice of dentistry. The licensee shall make reasonable arrangements with active patients for the transfer of patient records, or copies thereof, to the succeeding licensee. In the event of a transfer of patient records to another licensee assuming the practice, written notice must be furnished to all patients as hereinbefore specified. "Active patient" is defined as a person whom the licensee has examined, treated, cared for, or otherwise consulted with during the two-year period prior to the discontinuation of the practice of dentistry by the licensee. In the event of a nontransfer of records, a licensee shall have the ongoing obligation of not less than two years to afford the licensee's prior patients access to those records not previously provided to the patient.
2. In the event of termination of a dentist-patient relationship by a licensee, notice of the termination must be provided to the patient. A dentist-patient relationship exists if a dentist has provided treatment to a patient on at least one occasion within the preceding year. The dentist who is the owner or custodian of the patient's dental records shall mail notice of the termination of the dentist's relationship to the patient, which shall provide the following:
 - a. The date that the termination becomes effective, and the date on which the dentist and patient relationship may resume, if applicable;
 - b. A location at which the patient may receive emergency dental care for at least thirty days following the termination of the dentist and patient relationship;

- c. A statement of further dental treatment required, if any; and
 - d. A means for the patient to obtain a copy of the patient's dental records.
3. If a licensee dies or becomes unable to practice dentistry due to disability, for the purpose of selling or otherwise disposing of the deceased or disabled licensee's dental practice, a person who is not licensed to practice dentistry but who is the personal representative of the estate of a deceased dentist or the personal representative of a disabled dentist may contract with a dentist to manage the dental practice for a period not to exceed twenty-four months.

History: Effective April 1, 2006.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-06

20-02-01-09. Retention of records. A dentist shall retain a patient's dental record for a minimum of six years after the patient's last examination, prescription, or treatment. Records for minors shall be retained for a minimum of either one year after the patient reaches the age of eighteen or six years after the patient's last examination, prescription, or treatment, whichever is longer. Proper safeguards shall be maintained to ensure safety of records from destructive elements. The requirements of this rule apply to electronic records as well as to records kept by any other means.

History: Effective April 1, 2006; amended effective January 1, 2011.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-06

20-02-01-10. Authorization of laboratory services. A dentist using the services of any person, not licensed to practice dentistry in this state, to construct, alter, repair, or duplicate any orthodontic or prosthetic device, must furnish the unlicensed person a written prescription which shall include all of the following:

1. The name and address of the unlicensed person.
2. The patient's name or patient number.
3. The date on which the prescription was written.
4. The description of the work to be done, with a diagram, if necessary.
5. A specification of the materials to be used if necessary.
6. The signature of the dentist and the number of the dentist's North Dakota license.

The dentist shall retain a duplicate copy of the prescription for inspection by the board or the board's agent for two years.

History: Effective January 1, 2011.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-02, 43-28-06, 43-28-18, 43-28-25