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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- DENTISTS AND DENTAL
HYGIENISTS

Introduced By: Senators Lynch, Conley, Ottiano, Jabour, and Sosnowski

Date Introduced: February 12, 2014

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 5-31.1-1, 5-31.1-2, 5-31.1-4, 5-31.1-11 and 5-31.1-31 of the
2 General Laws in Chapter 5-31.1 entitled "Dentists and Dental Hygienists" are hereby amended to
3 read as follows:

4 **5-31.1-1. Definitions.** -- As used in this chapter:

5 (1) "Board" means the Rhode Island board of examiners in dentistry or any committee or
6 subcommittee of the board.

7 (2) "Chief of the division of oral health" means, the chief of the division of oral health of
8 the Rhode Island department of health who is a licensed dentist possessing a masters degree in
9 public health or a certificate in public health from an accredited program.

10 (3) "Dental administrator" means the administrator of the Rhode Island board of
11 examiners in dentistry.

12 (4) "Dental hygienist" means a person with a license to practice dental hygiene in this
13 state under the provisions of this chapter.

14 (5) "Dentist" means a person with a license to practice dentistry in this state under the
15 provisions of this chapter.

16 (6) "Dentistry" is defined as the evaluation, diagnosis, prevention and/or treatment (non-
17 surgical, surgical or related procedures) of diseases, disorders and/or conditions of the oral cavity,
18 cranio-maxillofacial area and/or the adjacent and associated structures and their impact on the

1 human body, provided by a dentist, within the scope of his or her education, training and
2 experience, in accordance with the ethics of the profession and applicable law.

3 (7) "Department" means the Rhode Island department of health.

4 [\(7.1\) "Direct visual supervision" means supervision by an oral and maxillofacial surgeon](#)
5 [or dentist \(with a permit to administer deep and general sedation\) by verbal command and under](#)
6 [direct line of sight.](#)

7 (8) "Director" means the director of the Rhode Island department of health.

8 (9) "Health care facility" means any institutional health service provider licensed
9 pursuant to the provisions of chapter 17 of title 23.

10 (10) "Health maintenance organization" means a public or private organization licensed
11 pursuant to the provisions of chapter 17 of title 23 or chapter 41 of title 27.

12 (11) "Limited registrant" means a person holding a limited registration certificate
13 pursuant to the provisions of this chapter.

14 (12) "Nonprofit medical services corporation" or "nonprofit hospital service corporation"
15 or "nonprofit dental service corporation" means any corporation organized pursuant to chapter 19
16 or 20 of title 27 for the purpose of establishing, maintaining and operating a nonprofit medical,
17 hospital, or dental service plan.

18 (13) "Peer review board" means any committee of a state, local, dental or dental hygiene,
19 association or society, or a committee of any licensed health care facility, or the dental staff of the
20 committee, or any committee of a dental care foundation or health maintenance organization, or
21 any staff committee or consultant of a hospital, medical, or dental service corporation, the
22 function of which, or one of the functions of which is to evaluate and improve the quality of
23 dental care rendered by providers of dental care service or to determine that dental care services
24 rendered were professionally indicated or were performed in compliance with the applicable
25 standard of care or that the cost for dental care rendered was considered reasonable by the
26 providers of professional dental care services in the area and includes a committee functioning as
27 a utilization review committee under the provisions of P.L. 89-97, 42 U.S.C. section 1395 et. seq.,
28 (Medicare law) or as a professional standards review organization or statewide professional
29 standards review council under the provisions of P.L. 92-603, 42 U.S.C. section 1301 et seq.,
30 (professional standards review organizations) or a similar committee or a committee of similar
31 purpose, to evaluate or review the diagnosis or treatment of the performance or rendition of dental
32 services which are performed under public dental programs of either state or federal design.

33 (14) "Person" means any individual, partnership, firm, corporation, association, trust or
34 estate, state or political subdivision, or instrumentality of a state.

1 (15) "Practice of dental hygiene." Any person is practicing dental hygiene within the
2 meaning of this chapter who performs those services and procedures that a dental hygienist has
3 been educated to perform and which services and procedures are, from time to time, specifically
4 authorized by rules and regulations adopted by the board of examiners in dentistry. Nothing in
5 this section is construed to authorize a licensed dental hygienist to perform the following:
6 diagnosis and treatment planning, surgical procedures on hard or soft tissue, prescribe medication
7 or administer general anesthesia or injectables other than oral local anesthesia. A dental hygienist
8 is only permitted to practice dental hygiene under the general supervision of a dentist licensed
9 and registered in this state under the provisions of this chapter.

10 (A) Provided, that in order to administer local injectable anesthesia to dental patients,
11 dental hygienists must be under the supervision of a dentist and meet the requirements established
12 by regulation of the board of examiners in dentistry including payment of a permit fee.

13 (16) (i) (A) "Practice of dentistry." Any person is practicing dentistry within the meaning
14 of this chapter who:

15 (I) Uses or permits to be used, directly or indirectly, for profit or otherwise, for himself,
16 herself or for any other person, in connection with his or her name, the word "dentist" or "dental
17 surgeon," or the title "D.D.S." or "D.M.D." or any other words, letters, titles, or descriptive
18 matter, personal or not, which directly or indirectly implies the practice of dentistry;

19 (II) Owns, leases, maintains, operates a dental business in any office or other room or
20 rooms where dental operations are performed, or directly or indirectly is manager, proprietor or
21 conductor of this business;

22 (III) Directly or indirectly informs the public in any language, orally, in writing, or in
23 printing, or by drawings, demonstrations, specimens, signs, or pictures that he or she can perform
24 or will attempt to perform dental operations of any kind;

25 (IV) Undertakes, by any means or method, gratuitously or for a salary, fee, money, or
26 other reward paid or granted directly or indirectly to himself or herself or to any other person, to
27 diagnose or profess to diagnose, or to treat or profess to treat, or to prescribe for or profess to
28 prescribe for any of the lesions, diseases, disorders, or deficiencies of the human oral cavity,
29 teeth, gums, maxilla or mandible, and/or adjacent associated structures;

30 (V) Extracts human teeth, corrects malpositions of the teeth or of the jaws;

31 (VI) Except on the written prescription of a licensed dentist and by the use of
32 impressions or casts made by a licensed and practicing dentist, directly or indirectly by mail,
33 carrier, personal agent, or by any other method, furnishes, supplies, constructs, reproduces, or
34 repairs prosthetic dentures, bridges, appliances or other structures to be used and worn as

1 substitutes for natural teeth;

2 (VII) Places those substitutes in the mouth and/or adjusts them;

3 (VIII) Administers an anesthetic, either general or local in the course of any of the
4 previously stated dental procedures; or

5 (IX) Engages in any of the practices included in the curricula of recognized dental
6 colleges;

7 (B) Provided that in order to administer any form of anesthesia, other than local, dentists
8 must meet the requirements established by regulation of the board of examiners in dentistry,
9 including payment of a permit fee.

10 (ii) The board shall promulgate regulations relating to anesthesia. Those regulations shall
11 be consistent with the American Dental Association guidelines for the use of conscious sedation,
12 deep sedation and general anesthesia in dentistry. Neither the board nor any regulation
13 promulgated by the board shall require additional licensing fees for the use of nitrous oxide by
14 dentists. Prior to the adoption of those regulations, dentists shall be permitted to administer
15 anesthesia without restriction. From the proceeds of any fees collected pursuant to the provisions
16 of this chapter, there is created a restricted receipts account which is used solely to pay for the
17 administrative expenses incurred for expenses of administrating this chapter.

18 (iii) No non-dentist who operates a dental facility in the form of a licensed outpatient
19 health care center or management service organization may interfere with the professional
20 judgment of a dentist in the practice.

21 [\(17\) "Direct visual supervision" means supervision by an oral and maxillofacial surgeon](#)
22 [or dentist \(with a permit to administer deep and general sedation\) by verbal command and under](#)
23 [direct line of sight.](#)

24 **5-31.1-2. Board of examiners in dentistry -- Members -- Compensation -- Funds. --**

25 (a) There is created within the department of health the Rhode Island board of examiners in
26 dentistry, which is composed of the following members:

27 (1) Eight (8) licensed dentists, no more than three (3) shall be dental specialists as
28 recognized by the American Dental Association (ADA);

29 (2) Four (4) public members not associated with the dental field;

30 (3) Two (2) licensed dental hygienists; and

31 (4) The chief of the office of dental public health, who shall serve as an ex-officio
32 member of the board; and

33 (5) One certified dental assistant.

34 (b) The governor shall appoint the members of the board, except that prior to appointing

1 the eight (8) dentist members the governor may submit a list of all candidates to the appropriate
2 dental societies for comments as to their qualifications. No member shall be appointed for more
3 than two (2) consecutive full terms. A member appointed for less than a full term (originally or to
4 fill a vacancy) may serve two (2) full terms in addition to that part of a full term, and a former
5 member is again eligible for appointment after a lapse of one or more years. All subsequent
6 appointments to the board shall be for a term of three (3) years. Any member of the board may be
7 removed by the governor for neglect of duty, misconduct, malfeasance, or misfeasance in office
8 after being given a written statement of the charges against him or her and sufficient opportunity
9 to be heard on the charges. The director of the department of health shall appoint from the
10 members a chairperson who shall be a dentist duly licensed under the laws of the state of Rhode
11 Island, and a vice-chairperson who shall in the absence of the chairperson exercise all powers of
12 the chairperson, and secretary, who serve for one year or until their successors are appointed and
13 qualified. The board shall meet at least once a month or more often upon the call of the
14 chairperson, director of health or dental administrator, at any times and places that the
15 chairperson designates.

16 (c) Members of the board shall not be paid for the discharge of official duties.

17 (d) ~~The administration of the board shall be funded from annual fees. The director shall~~
18 ~~in consultation with the board determine the amount of the annual fee to be charged to each~~
19 ~~licensed dentist and dental hygienist, the payment of which is a condition to practicing dentistry~~
20 ~~or dental hygiene in the state.~~ The director ~~or the dental administrator~~ has the authority to suspend
21 or revoke the license of any dentist or dental hygienist who does not pay the annual fee. Monies
22 shall be received by the department and deposited in the general fund as general revenues.

23 **5-31.1-4. Powers and duties of the board of examiners in dentistry.** -- The board of
24 examiners in dentistry has the following duties and powers:

25 (1) To adopt, amend, and rescind any rules and regulations with the approval of the
26 director of the department of health that it deems necessary to carry out the provisions of this
27 chapter;

28 (2) To investigate all complaints and charges of unprofessional conduct against any
29 licensed dentist, dental hygienist, or limited registrant and to hold hearings to determine whether
30 those charges are substantiated or unsubstantiated;

31 (3) To direct the director of the department of health to license qualified applicants for
32 licensure;

33 (4) To appoint one or more dentists or dental hygienists to act for the members of the
34 board in investigating the conduct or competence of any licensed dentist, dental hygienist or

1 limited registrant;

2 (5) To direct the director to revoke, suspend or impose other disciplinary action as to
3 persons licensed or registered under this chapter;

4 (6)(i) To issue subpoenas and administer oaths in connection with any investigations,
5 hearing or disciplinary proceedings held under the authority of this chapter;

6 (ii) All subpoenas issued pursuant to this section shall only be issued by a vote of the
7 board of examiners in dentistry;

8 (A) Such subpoenas shall have attached to them written minutes disclosing the date and
9 vote of the board of examiners in dentistry demonstrating the vote to issue said subpoena;

10 (B) All subpoenas issued by the board shall be served by a disinterested party or by a
11 constable authorized by the courts to serve process;

12 (C) Subpoenas issued by the board of examiners in dentistry shall have a reasonable
13 return date that will allow the recipient an opportunity to review the subpoena, consult with
14 counsel, and prepare a response to the subpoena;

15 (D) All subpoenas shall be in compliance with the Rhode Island healthcare
16 confidentiality act and include a patient consent when the subpoena calls for the disclosure of a
17 patient record; and

18 (E) In the absence of a properly executed patient consent, subpoena requests shall only be
19 made by request of the board to a court of competent jurisdiction that may issue a court order
20 compelling production of confidentiality healthcare information of a patient.

21 (7) To take or cause depositions to be taken as needed in any investigation, hearing or
22 proceeding;

23 (8) To summon and examine witnesses during any investigation, hearing or proceeding
24 conducted by the board; and

25 (9) To adopt and publish, with the prior approval of the director, rules of procedure and
26 other regulations in accordance with the Administrative Procedure Act, chapter 35 of title 42.

27 **5-31.1-11. Complaints.** – (a) Any person, firm, corporation, or public officer may submit
28 a written complaint to the board charging the holder of a license to practice dentistry or dental
29 hygiene or a limited registrant with unprofessional conduct, specifying the grounds for the
30 charge.

31 (b) The board shall review all complaints and, in those instances where no referral is
32 made to an investigating committee, the board of examiners in dentistry shall make a written
33 finding of facts with regard to the complaint. In conducting an investigation of such complaints
34 which requires an inspection of a dental office:

1 (1) The board of examiners in dentistry shall make such finding and it must be evidenced
2 by recorded minutes showing the vote to conduct an inspection;

3 (2) The inspection team from the board of examiners in dentistry shall include a dentist
4 member of the board and a hygiene member of the board;

5 (3) The scope and manner of conducting any such inspection shall be reasonably related
6 to the written complaint received. Any dentist(s) whose practice is the subject of such inspection
7 shall be provided by the board with a copy of the complaint or a written summary of all pertinent
8 allegations prior to or at the commencement of the inspection;

9 (4) At the conclusion of the inspection and prior to leaving the dental office premises the
10 board inspectors shall provide the dentist whose office has been inspected with a copy of the
11 completed inspection form, noting areas of deficiency;

12 (5) Unless there is a real potential of imminent, unreasonable harm to patients or staff, the
13 dentist shall have ten (10) days to remedy any deficiencies found during the inspection; and

14 (6) All inspections shall be carried out so as not to interfere with direct patient care by
15 scheduling such inspections during the noon (12:00 p.m.) hour or at the end of the dental office
16 workday.

17 (c) All complaints considered by the board or an investigating committee of the board
18 shall be reported within six (6) months of the receipt of the complaint unless the board on a case
19 by case basis, for good cause shown, in writing, extends the time for consideration; provided, that
20 failure to report does not divest the board of its jurisdiction to pursue the rights and remedies
21 established in this chapter.

22 (d) If the board determines that the complaint merits consideration, or if the board, on its
23 own initiative without a formal complaint, has reason to believe that any holder of a license or
24 limited registration to practice dentistry or of a license to practice dental hygiene may be guilty of
25 unprofessional conduct, the chairperson shall designate two (2) members of the board, at least one
26 of whom is a public member, to serve as a committee to investigate, and report upon the charges
27 to the board. Upon the designation of an investigating committee by the board, written notice
28 shall be provided to the licensee notifying him or her of the establishment of an investigating
29 committee, and providing the licensee with the names of the members of the investigating
30 committee and a copy of the complaint upon which the investigation was initiated.

31 If the complaint relates to a dentist one member of the committee shall be licensed as a
32 dentist. If the complaint relates to a dental hygienist one member of the committee shall be
33 licensed as a dental hygienist.

34 (e) Investigations shall remain confidential and all initial hearings, investigatory hearings,

1 and full hearings before the board shall remain confidential.

2 (1) All referrals of matters arising out of a written complaint to the board of examiners in
3 dentistry to the director of the department of health shall only be by a vote of the majority of the
4 board of examiners in dentistry;

5 (2) The administrative staff of the board of examiners in dentistry shall not subvert the
6 statutory procedures governing the referral of a matter to the director of the department of health,
7 which may only be done pursuant to a vote of the majority of the board.

8 (f) In the event that a hearing takes place before the hearing committee of the board, all
9 decisions of the board shall present conclusions of fact and conclusions of law applicable to the
10 decision, which it has rendered.

11 (g) The board shall make public all decisions including findings of fact and conclusions
12 of law, which call for any sanction against a license holder as prescribed in section 5-31.1-17.

13 (h) Following the investigation, the committee shall present its evaluations and
14 recommendations to the board.

15 (i) The board shall review the committee's findings to determine whether to take further
16 action, but no member of the board who participated in the investigation may participate in this
17 review or any subsequent hearing or action taken by the board. The hearing committee shall
18 consist of the remaining members of the board. Four (4) members of the hearing committee
19 constitute a quorum for the transaction of business. The chairperson of the board shall preside
20 over the hearing.

21 **5-31.1-31. Dental assistant -- Definition -- Practices allowed.** -- (a) As used in this
22 chapter, a "dental assistant" is any person not licensed under the provisions of this chapter who
23 performs dental services, procedures, or duties in aid of a licensed and registered dentist.

24 (b) No dental assistant shall perform any service, procedure, or duty which constitutes
25 the practice of dentistry unless authorized by rules and regulations adopted by the board of
26 examiners in dentistry, and unless that dental service, procedure, or duty is performed under the
27 supervision of a dentist licensed and registered in this state. The board of examiners in dentistry
28 shall ~~establisheany~~ establish any classification of dental assistants that are recognized by the
29 American Dental Association, American Dental Assistants Association, and the American
30 Association of Oral and Maxillofacial Surgeons, and to each class the board applies any of the
31 rules and regulations permitted under this section that the board deems appropriate.

32 (c) Nothing in this section is construed to authorize a dental assistant to perform the
33 following: diagnosis and treatment planning, surgical procedures on hard or soft tissue, prescribe
34 medication, or administer injectable and/or general anesthesia, except as set forth in § 5-31.1-

1 31(d).

2 (d) An oral and maxillofacial surgeon and a duly licensed dentist holding a permit issued
3 by the board for the administration of general or deep sedation may employ and utilize the
4 services of an oral surgery anesthesia assistant who has met the following criteria:

5 (1) Satisfactory evidence of completion of a dental anesthesia assistant training course
6 prepared and administered by the American Association of Oral and Maxillofacial Surgeons.

7 (2) Completion of a board of examiners in dentistry-approved basic life support/cardiac
8 pulmonary resuscitation course; and

9 (3) The valid general anesthesia permit of the oral and maxillofacial surgeon or dentist
10 where the assistant will be performing his or her services is valid.

11 (e) Authorized functions - Supervision. –

12 (1) Any dental anesthesia assistant meeting the criteria of this section shall perform the
13 functions authorized in this chapter only by delegation of authority from the oral and
14 maxillofacial surgeon or dentist and under the supervision, as described in §§ 5-31.1-31(e)(2) and
15 5-31.1-31-(e)(3), and provided the oral and maxillofacial surgeon or dentist is acting within the
16 scope of his or her license. The responsibility for monitoring a patient and determining the
17 selection of the drug, dosage, and timing of all anesthetic medications rests solely with the oral
18 and maxillofacial surgeon or dentist.

19 (2) Under close supervision, the dental anesthesia assistant may:

20 (i) Discontinue an intravenous line for a patient who has received intravenous
21 medications, sedation, or general anesthesia;

22 (ii) Adjust the rate of intravenous fluids infusion only to maintain or keep the line patent
23 or open; and

24 (iii) Draw up and prepare medications.

25 (3) Under direct visual supervision, the dental anesthesia assistant may:

26 (i) Follow instructions to deliver medications into;

27 (ii) Adjust the rate of intravenous fluids infusion beyond a keep open rate;

28 (iii) Adjust an electronic device to provide medications, such as an infusion pump;

29 (iv) Administer emergency medications to a patient in order to assist the oral and
30 maxillofacial surgeon or dentist in an emergency.

31 (4) Any oral and maxillofacial surgeon or dentist delegating duties under this section
32 must have a valid general anesthesia deep sedation permit.

1 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO BUSINESSES AND PROFESSIONS -- DENTISTS AND DENTAL
HYGIENISTS

- 1 This act would amend various powers and duties relative to dentists and dental hygienists
- 2 and the administration of the rules and regulations relating thereto.
- 3 This act would take effect upon passage.

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