

## CHAPTER 20-01-02 DEFINITIONS

### Section 20-01-02-01                      Definitions

#### 20-01-02-01. Definitions.

Unless specifically stated otherwise, the following definitions are applicable throughout this title:

1. "Advertising" means any public communication, made in any form or manner, about a licensee's professional service or qualifications, for the purpose of soliciting business.
- ~~2. "Anxiolysis" means diminution or elimination of anxiety.~~
- ~~23.~~ "Basic full upper and lower denture" means replacement of all natural dentition with artificial teeth. This replacement includes satisfactory tissue adaptation, satisfactory function, and satisfactory aesthetics. Materials used in these replacements must be nonirritating in character and meet all the standards set by the national institute of health and the bureau of standards and testing agencies of the American dental association for materials to be used in or in contact with the human body.
- ~~34.~~ "Board certified" means the dentist has been certified in a specialty area in which there is a certifying body approved by the commission on dental accreditation of the American dental association.
- ~~45.~~ "Board eligible" means the dentist has successfully completed a duly accredited training program or in the case of a dentist in practice at the time of the adoption of these rules has experience equivalent to such a training program in an area of dental practice in which there is a certifying body approved by the commission on dental accreditation of the American dental association.
- ~~56.~~ "Bona fide specialties" means the specialties of dental public health, endodontics, oral and maxillofacial pathology, oral and maxillofacial radiology, oral and maxillofacial surgery, orthodontics and dentofacial orthopedics, pediatric dentistry, periodontics, and prosthodontics. The licensee has successfully completed a qualifying postdoctoral educational program in that area as set forth in section 20-02-01-01 or holds a current certification by a qualifying specialty board or organization as set forth in section 20-02-01-01.
- ~~67.~~ "Cardiopulmonary resuscitation course" means the American heart association's health care provider course, the American red cross professional rescuer course, or an equivalent course.
- ~~78.~~ "Certified dental assistant" means a dental assistant who meets the education or experience prerequisites, or both, established by the dental assisting national board and passes the dental assisting national board's certified dental assistant examination, is currently cardiopulmonary resuscitation-certified, and continues to maintain the credential by meeting the dental assisting national board requirements. A certified dental assistant must be registered by the board as a qualified dental assistant or registered dental assistant to provide any expanded duties.

8. "Clinical continuing education" means information relating to the examination and treatment of patients.
9. "Code of ethics" means the ~~January 2009~~ most recent version of the American dental association's principles of ethics and code of professional conduct.
- ~~10. "Combination inhalation-enteral conscious sedation" (combined conscious sedation) means conscious sedation using inhalation and enteral agents. When the intent is anxiolysis only, and the appropriate dosage of agents is administered, then the definition of enteral or combined inhalation-enteral conscious sedation (combined conscious sedation), or both, does not apply. Nitrous oxide/oxygen when used in combination or with sedative agents may produce anxiolysis, conscious or deep sedation, or general anesthesia.~~
1044. "Complete evaluation" means an examination, review of medical and dental history, the formulation of a diagnosis, and the establishment of a written treatment plan, documented in a written record to be maintained in the dentist's office or other treatment facility or institution.
- ~~1112. "Conscious sedation" means depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command and that is produced by a pharmacological or nonpharmacological method or a combination thereof. The drugs or technique, or both, should carry a margin of safety wide enough to render unintended loss of consciousness unlikely. Patients whose only response is reflex withdrawal from repeated painful stimuli would not be considered to be in a state of conscious sedation.~~
1243. "Contiguous supervision" means that the dentist whose patient is being treated and has personally authorized the procedures to be performed. The supervising dentist is continuously onsite and physically present in the treatment facility while the procedures are performed by the dental anesthesia auxiliary and capable of responding immediately in the event of an emergency. The term does not require a supervising dentist to be physically present in the operatory.
1344. "Coronal polishing" is the mechanical polishing of clinical crowns using a rubber cup or brush only and not to include use of any instrumentation.
- ~~1415. "Deep sedation" is an induced state of depressed consciousness accompanied by partial loss of protective reflexes. The patient may require assistance including the inability to continually maintain an airway independently or to respond purposefully to physical stimulation or verbal command, and is produced by pharmacological or nonpharmacological method, or combination thereof.~~
1546. "Direct supervision" means the dentist is in the dental office or treatment facility, personally diagnoses the condition to be treated, personally authorizes the procedures and remains in the dental office or treatment facility while the procedures are being performed by the dental hygienist or dental assistant, and before dismissal of the patient, evaluates the performance of the dental hygienist or dental assistant.
1647. "Direct visual supervision" means supervision by a dentist by verbal command and under direct line of sight.

~~17~~18. "Evaluation" means the act or process by a dentist of assessing and determining the patient's oral health status, the progress of dental therapy, or the performance of the dental hygienist or dental assistant.

18. "Final impression for digital capture" means the digital or analog image, compilation of images approved and submitted by the supervising dentist for a diagnosis or the construction of casts which is captured by the digital scanning of any hard or soft tissue bearing area, whether intra-orally or extra-orally for the purpose of fabricating a prescriptive device.

19. "Foreign practitioner" means an individual who currently holds and maintains a license in good standing to engage in an occupation or profession in a state or jurisdiction other than this state and who is not the subject of a pending disciplinary action in any state or jurisdiction.

20. "Good standing" means a foreign practitioner holds a current license that is not issued on a temporary or restricted basis, is not encumbered or on probation, and is not suspended or revoked.

~~19. "General anesthesia" means an induced state of unconsciousness accompanied by a partial or complete loss of protective reflexes, including the inability to continually maintain an airway independently and cannot respond purposefully to physical stimulation or verbal command, and is produced by a pharmacological or nonpharmacological method, or a combination thereof.~~

~~21~~20. "General supervision" means the dentist has authorized the procedures and they are carried out in accordance with the dentist's diagnosis, if necessary, and treatment plan. The dentist is not required to be in the treatment facility. A new patient who has not been examined by the authorizing dentist may be seen by a dental hygienist authorized to provide duties under general supervision. Limitations are contained in North Dakota Century Code section 43-20-03.

~~22~~21. "Inactive status" means the licensee shall not engage in the practice of dentistry or dental hygiene in the state of North Dakota. The license that is placed on inactive status remains on that status until such time as the license is reinstated.

~~23~~22. "Indirect supervision" means that a dentist is in the dental office or treatment facility, has personally diagnosed the condition to be treated, authorizes the procedures, and remains in the dental office or treatment facility while the procedures are being performed by the dental hygienist or dental assistant.

~~24~~23. "Local anesthesia" means the elimination of sensations in one part of the body by regional injection of drugs without causing the loss of consciousness.

25. "Military spouse" is a foreign practitioner who is the spouse of a member of the armed forces of the United States or a reserve component of the armed forces of the United States stationed in North Dakota in accordance with military orders or stations in North Dakota before a temporary assignment to duties outside of North Dakota.

~~26~~24. "Oral assessment" means the evaluation of data pertaining to the patient's condition to help identify dental problems leading to a professional treatment plan. The final diagnosis of disease or treatment plan is the sole responsibility of the supervising or collaborative dentist.

2725."Oral hygiene treatment planning" is a component of a comprehensive treatment plan developed by the hygienist or dentist to provide the hygienist a framework for addressing the preventative, educational, and clinical treatment needs of the patient.

2826."Patient of record" means a patient who has undergone a complete dental evaluation, has had a medical and dental history completed and evaluated performed by a licensed dentist by a dentist, or a patient who has been examined, and has had oral conditions diagnosed and a written plan developed by the licensed dentist, or dental hygiene treatment authorized by a dentist, and the patient has compensated the dentist or dental facility for a procedure.

2927."Primary practice site" means the office location that is to be considered the main location of the dental practice. This office location would be listed first on the biennial registration.

3028."Qualified dental assistant" means a dental assistant who has been employed and trained as a dental assistant and ~~has received at least six hundred fifty hours of on-the-job training,~~ has completed a board-approved infection control seminar and passed the x-ray and infection control portions of the dental assisting national board examination, and has applied to the board and paid the certificate fee and met any other requirements of section 20-03-01-05.

3129."Registered dental assistant" means a dental assistant who is a graduate of a dental assistant program accredited by the commission on dental accreditation of the American dental association or a substantially equivalent curriculum approved by the board or has been certified by the dental assistant national board, and has applied to the board and paid the registration fee and met any other requirements of section 20-03-01-05.

32. "Remedial education" means an educational intervention prescribed by the board that is designed to restore an identified practice deficiency of a licensee. Remediation may include successful demonstration by the licensee that the learned knowledge and skills have been incorporated into the licensee's practice.

3330."Satellite office" means an office, building, or location used at any time by a dentist for the practice of dentistry other than the office listed on the dentist's biennial registration certificate.

34. "Screening" means an inspection used for the early identification of individuals at potentially high risk for a specific condition or disorder and can indicate a need for further evaluation or preliminary intervention. A screening is neither diagnostic nor a definitive indication of a specific condition and does not involve making diagnoses that lead to treatment plans.

35. "Self-study" for the purposes of continuing education requirements means the licensee engages in obtaining education without direct supervision, without attendance in a classroom setting or without a proctor during online education. A certificate of completion must be obtained as proof of education.

36. "Telehealth" shall mean the Health Insurance Portability and Accountability Act [HIPPA] compliant practice of providing healthcare to a patient of record, using electronic technology or secure communication technologies between a licensee in one location and a patient in another location.

37. "Webinar" for the purposes of continuing education requirements means the licensee engages in a live web-based seminar or presentation using video conferencing software. A

webinar is interactive and has the ability to give, receive, and discuss information in real-time. A certificate of completion indicating “webinar”, or other evidence of attendance must be maintained as proof of education.

History: Effective September 1, 1980; amended effective February 1, 1992; October 1, 1993; May 1, 1996; August 1, 1998; April 1, 2000; June 1, 2002; July 1, 2004; April 1, 2006; October 1, 2007; January 1, 2011; April 1, 2015; July 1, 2017.  
General Authority: NDCC 43-20-10; 43-28-06  
Law Implemented: NDCC 43-20, 43-28

## **ARTICLE 20-02 DENTISTS**

Chapter  
20-02-01      General Requirements

### **CHAPTER 20-02-01 GENERAL REQUIREMENTS**

Section	
20-02-01-01	Advertising
20-02-01-02	Office Emergency
20-02-01-03	Nitrous Oxide
20-02-01-03.1	Additional Requirements for Licensure by Examination
20-02-01-03.2	Additional Requirements for Licensure by Credential Review
20-02-01-03.3	Additional Requirements for Applications
20-02-01-03.4	Clinical Competency Examination Retakes
20-02-01-04	Temporary License to Practice Dentistry
20-02-01-04.1	Restricted License to Practice Dentistry [Repealed]
20-02-01-04.2	Volunteer License to Practice Dentistry
20-02-01-04.3	Inactive Status - License Reinstatement
<u>20-02-01-04.4</u>	<u>Military spouses – Licensure      NEW SECTION</u>
20-02-01-05	Permit for Anesthesia Use
20-02-01-06	Continuing Dental Education for Dentists
20-02-01-07	Removable Dental Prostheses Owner Identification
20-02-01-08	Discontinuance of Practice - Retirement - Discontinuance of Treatment
20-02-01-09	Retention of Records
20-02-01-10	Authorization of Laboratory Services
20-02-01-11	Permit for the Use of Dermal Fillers and Botulinum Toxin for Dental Use
20-02-01-12	Dental Prescribers and Use of the Prescription Drug Monitoring Program
20-02-01-13	Exceptions to the Review Requirement

5

#### **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. It shall be false or misleading for a dentist to hold themselves out to the public as a specialist, or any variation of that term, in a practice area unless the dentist:

- a. Has completed a qualifying postdoctoral educational program in that area as set forth in section 3 of this rule; or
  - b. Holds a current certification by a qualifying specialty board or organization as set forth in section 3 of this rule.
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 bona fide specialty provided that the dentist has successfully completed an qualifying postdoctoral educational program accredited by an agency recognized by the U.S. department of education the commission on accreditation of dental and dental auxiliary educational programs, of full time study two or more years in length, as specified by the commission on dental accreditation of the American dental association resulting in a master of science degree or certificate from an accredited program 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. In determining whether an organization is a qualifying specialty board or organization, the Board shall consider the following standards:
  - a. Whether the organization requires completion of an educational program with didactic, clinical, and experiential requirements appropriate for the specialty or subspecialty field of dentistry in which the dentist seeks certification, and the collective didactic, clinical and experiential requirements are similar in scope and complexity to a qualifying postdoctoral educational program. Programs that require solely experiential training, continuing education classes, on-the-job training, or payment to the specialty board shall not constitute a qualifying specialty board or organization;
  - b. Whether the organization requires all dentists seeking certification to pass a written or oral examination, or both, that tests the applicant's knowledge and skill in the specialty or subspecialty area of dentistry and includes a psychometric evaluation for validation;
  - c. Whether the organization has written rules on maintenance of certification and requires periodic recertification;
  - d. Whether the organization has written by-laws and a code of ethics to guide the practice of its members;
  - e. Whether the organization has staff to respond to consumer and regulatory inquiries; and
  - f. Whether the organization is recognized by another entity whose primary purpose is to evaluate and assess dental specialty boards and organizations.
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. Nothing in this section shall be construed to prohibit a dentist who does not qualify to hold themselves out to the public as a specialist under section 3 of this rule from restricting the dental practice to one or more specific areas of dentistry or from advertising the availability of dental services, provided that such advertisements do not include the term "specialist," or any variation of that term, and must state that the services advertised are to be provided by a general dentist. 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; April 1, 2015.

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. Auxiliary who are directly involved with patient care before, during, or after sedation procedures must have a current certificate of proficiency in basic life support.

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. [amended and moved this section to 20-02-01-05]**

~~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 indirect 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. A dental hygienist or a registered dental assistant may terminate or reduce the amount of nitrous oxide previously administered by the dentist.~~
- ~~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; April 1, 2015.  
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 examinations 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 approved by the board. Required components shall include a patient-based periodontal component, a patient-based ~~restorative component~~, posterior composite or amalgam restoration, an endodontic component, and after April 1, 2021, a fixed prosthetic component.
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; amended effective April 1, 2015; July 1, 2017.  
General Authority: NDCC 43-28-06  
Law Implemented: NDCC 43-28-10.1

8

### **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. The board may require an interview with the applicant. 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. Anything necessary for a criminal history record check pursuant to North Dakota Century Code section 43-28-11.2.
6. A certification, from the licensing board of every jurisdiction in which the applicant is licensed, that the applicant is licensed in good standing.
7. Certification that the applicant has completed a cardiopulmonary resuscitation course within two years of application.
8. Verification of physical health and visual acuity.
9. 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.
10. 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.
11. Any information required by the application forms prescribed by the board.

History: Effective January 1, 2011; amended effective April 1, 2015.

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

9

#### **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. Between meetings of the board, the executive director of the board may review the temporary license application and grant a provisional license if all requirements are met.

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 that may be 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 and provides evidence of a diploma from a program accredited by the commission on dental accreditation of the American dental association and meets any other requirements to receive a license to practice dentistry under section 20-02-01-03.1, and 20-02-01-03.2, 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.
  - g. The applicant has completed thirty-two hours of continuing education in accordance with section 20-02-01-06.
  - h. The board shall require a criminal background check if the licensee anticipates practicing for a period greater than ten days.
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.
4. The board may require the North Dakota jurisprudence examination.

**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. Between meetings of the board, the executive director of the board may review the volunteer license application and grant a provisional license

if all the requirements are met. A volunteer license to practice dentistry in North Dakota, renewable annually by application to the board, may be granted when the following conditions are met:

1. The applicant was formerly licensed and actively practicing in the state of North Dakota or another jurisdiction for at least three of the five years immediately preceding application, where the requirements are at least substantially equivalent to those of this state; or
  - a. The applicant is the resident of a board-approved specialty program; or
  - b. The board determines that the applicant is qualified and satisfies the criteria specified under North Dakota Century Code section 43-28-10.1.
2. The applicant agrees to provide primary health services without remuneration directly or indirectly 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 board may collect from the applicant the nonrefundable application and license fee prescribed by the board.
7. The board may apply such restrictions as it deems appropriate to limit the scope of the practice of dentistry under the authority of the volunteer license.

#### **20-02-01-04.3. Inactive status - License reinstatement.**

11

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 of a dentist previously licensed in North Dakota or a licensee maintaining an inactive status, the dentist shall apply on the form as 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.
6. The applicant has the physical health and visual acuity to enable the applicant to meet the minimum Standards of professional competence.

## **A Creation of a New Section**

### **Section 20-02-01-04.4 is created as follows:**

#### **20-02-01-04.4 Members of the Military and Military spouses – Licensure**

##### **Applications.**

1. On each licensure application and renewal form, a board shall inquire and maintain a record of whether an applicant or licensee is a member of the military or military spouse. If an applicant self-identifies as and provides the board with satisfactory proof of being a military spouse, the board immediately shall commence the process to issue a license, provisional license, or temporary permit.
2. The board shall grant on a case-by-case basis exceptions to the board's licensing standards to allow a military spouse to practice dentistry, dental hygiene or dental assisting in the state if upon application to the board:
  - a. The military spouse demonstrates competency in the occupation or profession through methods or standards determined by the board which must include experience in the occupation or profession for at least two of the four years preceding the date of application under this section; and
  - b. The board determines the issuance of the license will not substantially increase the risk of harm to the public. A board may require an applicant to submit to a statewide and national criminal history record check under section 12-60-24.
3. A board shall issue a provisional license or temporary permit to a military spouse for which the licensure requirements under subsection 2 have been substantially met. A board may not charge a military spouse any fees for a provisional license or temporary permit under this subsection unless the applicant provides documentation of a federal provision requiring payment of fees. A provisional license or temporary permit issued under this subsection may not exceed two years and remains valid while the military spouse is making progress toward satisfying the unmet licensure requirements. A military spouse may practice under a provisional license or temporary permit issued under this subsection until any of the following occurs:
  - a. The board grants or denies the military spouse a North Dakota license under subsection 2 or grants a North Dakota license under the traditional licensure method;
  - b. The provisional license or temporary permit expires;
  - c. The military spouse fails to comply with the terms of the provisional license or temporary permit; or
  - d. The board revokes the provisional license or temporary permit based on a determination revocation is necessary to protect the health and safety of the residents of the state.
4. A board that may elect to subject the board to this chapter under subsection 1 of section 43-51-01 may issue a license, provisional license, or temporary permit to a

military spouse in the same manner as provided under subsections 2 and 3 regardless of whether the board has adopted rules to subject the board to this chapter.

5. A military spouse issued a license under this section has the same rights and duties as a licensee issued a license under the traditional licensure method.
6. If within thirty days of receipt of a completed application under subsection 2 the board does not grant or deny a license under subsection 2 or does not issue a provisional license or temporary permit under subsection 3, the board automatically shall issue a provisional license or temporary permit. A provisional license or temporary permit issued under this subsection remains valid until the board grants or denies the application for licensure under subsection 2 or issues a provisional license or temporary permit under subsection 3.

**20-02-01-05. Anesthesia and sedation Permit permit requirements for anesthesia use.**

4. The rules in this chapter are adopted for the purpose of defining standards for the administration of anesthesia and sedation by dentists or a dentist who collaborates with a qualified and licensed anesthesia or sedation provider. ~~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, and renewable biennially thereafter, authorizing the use of such general anesthesia, deep sedation, ~~or moderate (conscious) sedation, or minimal sedation when used in combination with inhalation.~~ Drugs and techniques used must carry a margin of safety wide enough to render the unintended reduction of or loss of consciousness unlikely, factoring in titration and the patient's age, weight, and ability to metabolize drugs. The qualified dentist must have the training, skills, drugs and equipment to identify and manage an occurrence until either emergency medical assistance arrives or the patient returns to the intended level of sedation without airway or cardiovascular complications.

1. For purposes of this chapter, the following definitions apply:

- a. "Aldrete Score" means a measurement of recovery after anesthesia that includes gauging consciousness, activity, respiration, and blood pressure.

ALDRETE SCORING GUIDELINES				
ACTIVITY	RESPIRATION	CIRCULATION	CONSCIOUSNESS	OXYGENATION
2 Able to move four extremities voluntarily on command and / or returned to pre-procedure level	2 Patient can cough and deep breathe on command and / or Respirations unlabored, oxygen saturation at pre-procedure level	2 B/P and HR + / - 20% of pre- sedation level and / or asymptomatic alteration	2 Fully awake (able to answer questions) or at preprocedure level	2 Able to maintain oxygen saturation > 92 or at pre-procedure level  Pink or normal skin color
1 Able to move two extremities voluntarily on command and / or moves weakly, unable to stand	1 Dyspnea or limited breathing or requires oxygen > baseline level to maintain adequate saturation	1 B/P and HR + / - 20-50% of pre-anesthetic level or mildly symptomatic alteration that requires fluid bolus intervention or	1 Arousable on calling (arousable only to calling)	1 Needs oxygen to maintain adequate oxygenation  Pale, dusky, blotchy, jaundiced, or other

		Dopamine at < 10mcg / kg/min for heart failure patients.		
0 Unable to move	0 apneic or requires airway support	0 B/P HR > 50% +/- pre-sedation levels and / or requires pharmacological intervention, or Dopamine at > 10 mcg/kg/min for heart failure patients	0 Unresponsive	0 O2 saturation < 90% adult , < 92% peds even with oxygen support.  Cyanotic
Target 2	Target 2	Target 1-2	Target 1-2	Target 2
A score of less than 8, reevaluate q 15 min/ > 8 discharge to recovery or ≥ discharge home				

- b. “Capnography” means a process to determine the presence and percent of carbon dioxide in a patient’s breathe through the use of a carbon dioxide monitor the noninvasive measurement of the partial pressure of carbon dioxide (CO2) in exhaled breath expressed as the carbon dioxide concentration over time and is graphically represented. Carbon dioxide measured at the airway can be displayed as a function of time (CO2 concentration over time) or exhaled tidal volume (CO2 concentration over volume).
- c. “Deep sedation” is an induced state of depressed consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. Cardiovascular function is usually maintained.
- d. “Dental anesthesia assistant” shall mean an individual who has successfully completed a board approved dental anesthesia assistant education and training course and is authorized to provide dental anesthesia assistant duties under the supervision of a dentist authorized by permit to provide parenteral sedation pursuant to NDAC 20-03-01-01.1 and 20-04-01-01 (35)(36).
- e. “Direct supervision of moderate sedation, deep sedation or general anesthesia” means the anesthesia or sedation permitholder is in the immediate presence of a patient while sedated or anesthesia is being administered to that patient and;
- (1) A patient under general anesthesia shall be considered “sedated” for that period of time beginning with the first administration of general anesthetic agents until that time when the patient is again conscious with a full return of protective reflexes, including the ability to respond purposely to physical stimulation and/or verbal command, when no additional agents will be administered, the dental procedures have been completed, and after the maximum effects of all agents have been experienced by the patient;
  - (2) A patient under moderate sedation shall be considered “sedated” for that period of time beginning with the first administration of sedation agents until that time when no additional agents will be administered, the dental procedures have been completed, and after the-effects of previous dosing have been fully appreciated by the patient. The dentist

is relieved of supervising the patient when the patient is considered to have recovered.

- (3) A patient shall be deemed to be “recovering from” sedation or general anesthesia from the time the patient is no longer “sedated” as defined in subsection (a) above until the dentist has evaluated the patient and has determined the patient is responsive, alert, has stable vital signs and is ambulatory and/or capable of being safely transported. Qualified dental staff may monitor the recovering patient under indirect supervision.

- f. “General anesthesia” means a drug induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to maintain ventilator function is often impaired. Patients often require assistance in maintaining patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug induced depression of neuromuscular function. Cardiovascular function may be impaired.
- g. “Incremental dosing” means administration of multiple doses of a drug until a desired effect is reached.
- h. “Maximum recommended dose” means the maximum FDA-recommended dose of a drug, as printed in the FDA-approved labeling for unmonitored home use.
- i. “Minimal sedation” means a drug induced depression of consciousness, which retains the patient's ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command. Although cognitive function and coordination may be modestly impaired, ventilatory and cardiovascular functions are unaffected. Minimal sedation may be achieved by the administration of a single drug administered in a single or divided dose not to exceed the maximum recommended dose. A permit is not required for minimal sedation.
- j. “Moderate sedation” is a drug induced depression of consciousness during which a patient responds purposefully to verbal commands either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained. Administration of sedative drugs exceeding the maximum recommended dose for unmonitored home use during a single appointment and use of nitrous oxide inhalation therapy, or use of more than one enteral drug administered, with or without concomitant use of nitrous oxide is considered moderate sedation.
- k. “Patient monitoring of minimal sedation” means that a dentist or qualified dental auxiliary responsible for patient monitoring shall be continuously in the presence of the patient in the office, operatory, and recovery area before administration or if the patient self-administered the sedative agent, immediately upon arrival, and throughout recovery until the patient is discharged by the dentist.
- l. “Patient monitoring of moderate sedation, deep sedation or general anesthesia” shall mean that a qualified dentist, anesthesiologist, or certified registered nurse anesthetist, must remain in the operatory room to monitor the patient

continuously until the patient meets the criteria pursuant to 20-02-01-05(1)(a) for recovery. When active treatment concludes and the patient recovers to a minimally sedated level, qualified dental auxiliary may be directed by the dentist to remain with the patient. The dentist must not leave the facility until the patient meets the criteria for discharge and is discharged from the facility.

m. "Pediatric patient" means a dental patient 12 years of age or younger.

n. "Time-oriented anesthesia record" - documentation at appropriate intervals of drugs, doses and physiologic data obtained during patient monitoring.

o. "Titration" means administration of incremental doses of an intravenous or inhalation drug until a desired effect is reached.

p. "Topical anesthesia" means the elimination of sensation, especially pain, in one part of the body by skin or mucous membrane surface application of a drug.

q. "Transdermal/transmucosal" means a technique of administration in which the drug is administered by patch or iontophoresis.

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 and any other facility, clinic, or mobile dental clinic where anesthesia services are provide 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.~~

2. Administration of nitrous oxide inhalation therapy - requirements. The following standards shall apply to the administration of nitrous oxide inhalation therapy:

- a. Inhalation equipment must have a fail-safe system that is appropriately checked and calibrated. The equipment must also have either a functioning device that prohibits the delivery of less than 30% oxygen or an appropriately calibrated and functioning in-line oxygen analyzer with audible alarm. A scavenging system must be available if gases other than oxygen or air are used.
- b. Patient dental records must include the concentration administered and duration of administration.
- c. A dentist may not delegate monitoring of nitrous oxide inhalation once the patient has ingested an enteral drug for the purpose of minimal sedation.



- d. Prior to authorizing a dental hygienist or registered dental assistant, the dentist must have provided and documented training in the proper and safe operation of the analgesia equipment.
- e. A patient induced into a state of relative analgesia using nitrous oxide inhalation shall be continually monitored by a dental hygienist or a registered dental assistant only after the patient has been stabilized at the desired level of conscious sedation. A dental hygienist or a registered dental assistant may terminate or reduce the amount of nitrous oxide previously administered by the dentist.
- f. The board may issue a permit authorizing the administration of nitrous oxide inhalation therapy to a dentist or dental hygienist or registered dental assistant when the following requirements are met:
  - (1) Evidence of successful completion of a twelve hour board approved course of training or course provided by a program recognized by the United States department of education, and either:
    - i. completed the course thirteen months prior to application; or
    - ii. completed the course more than thirteen months prior to application, has legally administered nitrous oxide inhalation analgesia for a period of time during the three years preceding application, and provides written documentation from a dentist that has employed or supervised the applicant, attesting to the current clinical proficiency of the applicant to administer nitrous oxide inhalation analgesia.
  - (2) Evidence of current certification in basic life support by the American heart association for the healthcare provider, or an equivalent program approved by the board;

17

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.~~

3. Administration of minimal sedation. A dentist administering minimal sedation shall comply with the following standards:

- a. An appropriate sedative record must be maintained and must contain the names and time of all drugs administered, including local anesthetics and nitrous oxide. The time and condition of the patient at discharge from the treatment area and facility requires documentation.

- b. Medications used to produce minimal sedation are limited to a single enteral drug, administered either singly or in divided doses, by the enteral route to achieve the desired clinical effect, not to exceed the maximum recommended dose in a single appointment. The administration of enteral drugs exceeding the maximum recommended dose during a single appointment is considered to be moderate sedation.
- c. Combining two or more enteral drugs, excluding nitrous oxide, prescribing or administering drugs that are not recommended for unmonitored home use, or administering any intravenous drug constitutes moderate sedation and requires that the dentist must hold a moderate sedation permit.
- d. Excluding minimal sedation by inhalation therapy alone, pre-sedation vitals including, but not limited to, blood pressure and heart rate must be obtained and recorded. Facilities and equipment must include:
  - (1) Suction equipment capable of aspirating gastric contents from the mouth and pharynx;
  - (2) Portable oxygen delivery system including full face masks and a bag-valve-mask combination with appropriate connectors capable of delivering positive pressure, oxygen enriched ventilation to the patient;
  - (3) Blood pressure cuff (or sphygmomanometer) of appropriate size;
  - (4) Automated external defibrillator (AED) or defibrillator.
  - (5) Stethoscope or equivalent monitoring device.
  - (6) The following emergency drugs must be available and maintained:
    - i. Bronchodilator;
    - ii. Sugar (or glucose);
    - iii. Aspirin;
    - iv. Antihistaminic;
    - v. Coronary artery vasodilator;
    - vi. Anti-anaphylactic agent.
- e. A dentist shall ensure that any advertisements related to the availability of antianxiety premedication, or minimal sedation clearly reflect the level of sedation provided and are not misleading.

4. ~~A North Dakota licensed anesthesia or sedation provider authorized by the board shall~~

~~reevaluate the credentials, facilities, equipment, personnel, and procedures of a permit holder within every five years following a successful initial application or renewal.~~

4. Administration of moderate sedation. Before administering moderate sedation, a dentist licensed under NDCC 43-28 must have a permit issued by the board and renewable biennially thereafter. An applicant for an initial permit must meet the following educational requirements:
  - a. Successfully completed a comprehensive 60-hour predoctoral dental school, postgraduate education or continuing education in moderate sedation with a participant-faculty ratio of not more than four-to-one. The course shall include courses in enteral and parenteral moderate sedation plus individual management of 20 live patient clinical case experiences by the intravenous route and provide certification of competence in rescuing patients from a deeper level of sedation than intended including managing the airway, intravascular or intraosseous access, and reversal medications. The formal training program shall be sponsored by or affiliated with a university, teaching hospital or other facility approved by the board or provided by a curriculum of an accredited dental school and have a provision by course director or faculty of additional clinical experience if participant competency has not been achieved in allotted time.
  - b. The course must be directed by a dentist or physician qualified by experience and training with a minimum of three years of experience including formal postdoctoral training in anxiety and pain control. The course director must possess a current permit or license to administer moderate or deep sedation and general anesthesia in at least one state.
  - c. A dentist utilizing moderate sedation must maintain currently certification in advanced cardiac life support or pediatric advanced life support and cardiopulmonary resuscitation for health professionals.
  - d. A permit holder shall not administer or employ any agents which have a narrow margin for maintaining consciousness including, but not limited to, ultra-short acting barbiturates, propofol, parenteral ketamine, or similarly acting drugs, agents, or techniques, or any combination thereof that would likely render a patient deeply sedated, generally anesthetized or otherwise not meeting the conditions of moderate sedation.
  - e. This section does not apply to a dentist who has maintained a parenteral sedation permit in North Dakota and has been administering parenteral sedation in a dental office prior to September 18, 2020.
5. Moderate sedation site evaluations. A licensed dentist utilizing moderate sedation shall be required to have an evaluation of the location(s) where sedation or anesthesia services are rendered initially and every five years thereafter and shall maintain a properly equipped facility. An initial inspection must be completed within 60 days of the approval of the initial permit application. A North Dakota licensed anesthesia or sedation provider authorized by the board shall reevaluate the

credentials, facilities, equipment, personnel, and procedures of a permit holder within every five years following a successful initial application or renewal. The purpose of the evaluation is to assess the patient's anesthetic risk and assess a site's ability to provide emergency care; therefore, the site evaluation emphasizes recognition and management of emergencies and complications associated with office administration of sedation. Requirements of the site evaluation are as follows:

a. Submit a completed permit application and permit application fee on a form provided by the board;

b. The dentist's facility must meet the requirements of this chapter and maintain the following properly operating equipment and supplies during the provision or moderate by the permit holder or physician anesthesiologist or certified registered nurse anesthetist or other qualified sedation provider;

(1) Emergency drugs as required by the Board.

(2) Positive pressure oxygen and supplemental oxygen delivery system.

(3) Stethoscope

(4) Suction equipment, including tonsillar or pharyngeal and emergency backup medical suction device

(5) Oropharyngeal and nasopharyngeal airways

(6) Pulse oximeter

(7) Auxiliary lighting

(8) Blood pressure monitor with an automated time determined capability and method for recording the data;

(9) Cardiac defibrillator or automated external defibrillator (AED)

(10) Capnography

(11) EKG

c. Maintains a staff of supervised personnel capable of handling procedures, complications, and emergency incidents, including at least one qualified auxiliary member who:

(1) Has received documented training acquired directly by an employer-dentist or by a planned sequence of instruction in an educational institution.

(2) Holds a current course completion confirmation in basic life support (BLS)

(3) Is present during the sedation procedure; and

- (4) After the procedure, monitors the patient until discharge; and
    - (5) Participates in biannual mock codes conducted by the authorizing dentist.
  - d. Maintains a current permit to prescribe and administer controlled substances in this state issued by the United States drug enforcement administration;
  - e. During moderate sedation the adequacy of ventilation shall be evaluated by continual observation of qualitative clinical signs and monitoring for the presence of exhaled carbon dioxide unless precluded or invalidated by the nature of the patient, procedure, or equipment.
  - f. Provides confirmation of completing coursework within the two years prior to submitting the permit application in one or more of the following:
    - (1) Advanced cardiac life support (ACLS) from the American heart association or another agency that follows the same procedures, standards, and techniques for training as the American heart association;
    - (2) Pediatric advanced life support (PALS) in a practice treating patients twelve years of age or under.
  - g. Maintains the patient chart to include preoperative and postoperative vital signs, drugs administered, dosage administered, anesthesia time in minutes, and monitors used. Capnography, pulse oximetry, heart rate, respiratory rate, and blood pressure must be recorded continually until the patient is fully ambulatory. The chart should contain the name of the person to whom the patient was discharged.
6. Administration of deep sedation and general anesthesia. A dentist must have a permit issued by the board and renewable biennially thereafter. An applicant for an initial permit must meet the following educational requirements:
- a. Submit a completed application and application fee on a form provided by the board.
  - b. Within the three years before submitting the permit application, provide evidence the applicant has successfully completed an advanced education program accredited by the commission on dental accreditation that provides training in deep sedation and general anesthesia and formal training in airway management, and completed a minimum of one year of advanced training in anesthesiology and related academic subjects beyond the undergraduate dental school level in a training program approved by the board; or
  - c. Be, within the three years before submitting the permit application, a diplomate of the American board of oral and maxillofacial surgeons or eligible for examination by the American board of oral and maxillofacial surgeons, a fellow of the American association of oral and maxillofacial surgeons, a fellow of the American dental society of anesthesiology, a diplomate of the national dental

board of anesthesiology, or a diplomate of the American dental board of anesthesiology; or

d. For an applicant who completed the requirements of subsections (2)(a) or (2)(b) more than three years before submitting the permit application, provide the On a form provided by the Board, a written affidavit affirming that the applicant has administered general anesthesia or deep sedation to a minimum of 25 patients within the year before submitting the permit application or 75 patients within the last five years before submitting the permit application;

(1) A copy of the general anesthesia or deep sedation permit in effect in another jurisdiction or certification of military training in general anesthesia and deep sedation from the applicant's commanding officer; and

(2) On a form provided by the Board, a written affidavit affirming the completion of 32 hours of continuing education pertaining to oral and maxillofacial surgery or general anesthesia and deep sedation taken three years prior to application.

e. Successfully completed the site evaluation required by this chapter.

7. Deep sedation and general anesthesia site evaluations. A licensed dentist authorized to administer deep sedation and general anesthesia shall be required to have an evaluation of the location(s) where sedation or anesthesia services are rendered initially and every five years thereafter and shall maintain a properly equipped facility. An initial inspection must be completed within 60 days of the approval of the initial permit application. After review of the application by the anesthesia committee, privileges to provide anesthesia services may be temporarily granted to the applicant. Prior to the final granting of approval to administer general anesthesia or moderate sedation, however, office inspection and evaluation must be scheduled for each location where sedation will be administered. The purpose of the evaluation is to assess the patient's anesthetic risk and assess a sites ability to provide emergency care; therefore, the site evaluation emphasizes recognition and management of emergencies and complications associated with office administration of sedation.

a. The dentist's facility must meet the requirements of this chapter and maintain the following properly operating equipment and supplies during the provision or sedation by the permit holder, a physician anesthesiologist, certified registered nurse anesthetist or other qualified sedation provider:

(1) Emergency drugs

(2) Electrocardiograph monitor

(3) Pulse oximeter

(4) Cardiac defibrillator or automated external defibrillator (AED)

(5) Positive pressure oxygen and supplemental oxygen

(6) Suction equipment, including endotracheal, tonsillar, or pharyngeal and emergency backup medical suction device

(7) Laryngoscope, multiple blades, backup batteries, and backup bulbs

- (8) Endotracheal tubes and appropriate connectors
    - (9) Magill forceps
    - (10) Oropharyngeal and nasopharyngeal airways
    - (11) Auxiliary lighting
    - (12) End-tidal carbon dioxide monitor
    - (13) Stethoscope; and
    - (14) Blood pressure monitoring device with an automated time determined capability and method for recording the data;
  - b. Pulse oximetry, heart rate, respiratory rate and blood pressure must be recorded continually until patient is fully ambulatory.
  - c. During general anesthesia where volatile inhalation agents or succinylcholine is used, temperature must be continually monitored.
  - d. Maintain patient charts to include preoperative and postoperative vital signs, drugs administered, dosage administered, time-oriented anesthesia record, and monitors used.
  - e. Maintains a staff of supervised personnel capable of handling procedures, complications, and emergency incidents. All personnel involved in administering and monitoring general anesthesia or deep sedation shall hold a current course completion confirmation in advanced cardiac life support or pediatric advanced life support. Qualified dental auxiliary involved in monitoring a patient during recovery from moderate sedation, deep sedation or general anesthesia shall hold a current course completion confirmation in basic life support.
  - f. Hold a current registration to prescribe and administer controlled substances in this state issued by the United States drug enforcement administration;
  - g. Provide confirmation of completing coursework within the two years prior to submitting the permit application in one or more of the following:
    - (1) Advanced cardiac life support from the American heart association or another agency that follows the same procedures, standards, and techniques for training as the American heart association;
    - (2) Pediatric advanced life support in a practice treating pediatric patients.
8. Other anesthesia providers. A dentist who is not authorized by permit to provide anesthesia or sedation services and who intends to use the services of a certified registered nurse anesthetist, anesthesiologist or another dentist authorized by permit to administer moderate sedation, deep sedation or general anesthesia, shall notify the Board prior to sedation services being provided and arrange a site evaluation with the board appointed anesthesia professional. The sedation provider shall be responsible for discharge assessment. The treating dentist shall run a mock code biannually with the sedation team and maintain a record of the mock code schedule and attendance. The anesthesia provider and the treating dentist shall remain at the facility until the

sedated patient is discharged. The treating dentist must maintain ACLS certification or PALS certification if children under 12 are being sedated.

9. Standards for all offices administering moderate sedation, deep sedation or general anesthesia.

a. Site evaluations. A facility or office where moderate sedation, deep sedation or general anesthesia are administered shall be evaluated and inspected by an individual approved by the board and meet the following standards:

(1) Prior to the onsite evaluation and inspection, the applicant shall provide a complete list of emergency medication to the evaluator not less than two weeks prior to the scheduled evaluation. The applicant is responsible with scheduling a site evaluation. A dentist must schedule a site evaluation with a board appointed anesthesia provider within 60 days of submitting to the board a permit application for authorization to administer conscious sedation or anesthesia. An applicant who has successfully completed the course may be granted a temporary permit by the board prior to the onsite inspection and evaluation. Failure to pass the inspection and evaluation shall result in the immediate and automatic termination of the temporary permit.

(2) An applicant who has failed the inspection and evaluation on the basis of a failure to demonstrate knowledge and ability in recognition and treatment of any or all of the simulated emergencies may be reevaluated only on the simulated emergencies provided the reevaluation is within 30 days.

(3) Prior to the issuance or renewal of a permit, the board may, at its discretion, require an onsite inspection and evaluation. The permit of any dentist who has failed an onsite inspection and evaluation shall be automatically suspended 30 days after the date on which the board notifies the dentist of the failure unless, within that time period, the dentist has retaken and passed an onsite inspection and evaluation.

(4) Respiratory rate, oxygen saturation, heart rate, blood pressure and cardiac rhythm shall be monitored and recorded every five minutes during the intraoperative period. When endotracheal anesthesia is used, expired carbon dioxide levels and temperatures are recorded every five minutes until extubation.

(5) Unused controlled pharmaceuticals must be secured and maintained in accordance with state and federal guidelines and must be discarded immediately with documentation of disposal in conformance with drug enforcement administration requirements.

(6) Monitoring equipment should be checked and calibrated in accordance with the manufacturer's recommendations and documented on an annual basis.

(7) Because sedation is a continuum, it is not always possible to predict how an individual patient will respond. Therefore, practitioners intending to produce a given level of sedation should be able to rescue patients whose level of sedation becomes deeper than initially intended.



Individuals administering moderate sedation/analgesia should be able to rescue patients who enter a state of deep sedation/analgesia, whereas those administering deep sedation/analgesia should be able to rescue patients who enter a state of general anesthesia.

(8) For use of nasal versed, rules of the general sedation site evaluation shall apply.

b. Renewal of permit and site evaluation. Both the sedation permit and the site evaluation are subject to renewal. All sedation and anesthesia permits must be renewed biennially, concurrent with the dentist's license renewal. The board of dental examiners may renew such permit biennially, provided:

(1) Continuing education requirements of the permit application have been met;

(2) 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 shall apply-and the dentist's sedation or anesthesia privileges are suspended.

(3) An onsite evaluation of the dentist's facility or satellite clinic conducted by an individual designated by the board of dental examiners where sedation or anesthesia services are provided by a qualified anesthesia provider must be in good standing; or

(4) A North Dakota licensed anesthesia or sedation provider authorized by the board has successfully reevaluated the credentials, facilities, equipment, personnel, and procedures of a permit holder within five years following the successful initial application or previous site evaluation.

c. Qualified dental auxiliary. For purposes moderate sedation, deep sedation and general anesthesia, qualified dental auxiliary must meet the following requirements:

(1) An authorized dental auxiliary may assist in the anesthesia and sedation duties pursuant to NDAC 20-04-01-01(35) and (36) and administer direct patient care, before, during, or after, administration of moderate sedation, deep sedation, or general anesthesia. and must have:

i. Current certification as a dental anesthesia assistant by the American association of oral and maxillofacial surgeons or certification from the American dental society of anesthesiology and holds a Class I or II permit pursuant to NDAC 20-03-01-05.1 or 20-04-01-03.1; or

ii. Appropriate medical training acquired directly by a planned sequence of instruction in an educational institution resulting in competency in monitoring the patient's blood pressure, heart rate, oxygenation and level of consciousness, assisting in direct patient care, before, during, or after administration of sedation or anesthesia.

(2) Qualified dental auxiliary must maintain basic life support for health professionals or advanced certification and participate in mock codes conducted by the authorizing dentist.

(3) Qualified dental auxiliary responsible for patient monitoring shall:

i. be continuously in the presence of the patient in the office, operatory, and recovery area;

(a) once the sedative is initiated or if the patient has self-administered a sedative agent, immediately upon arrival,

(b) throughout the administration of drugs,

(c) throughout the treatment of the patient; and

(d) throughout recovery until the patient is discharged by the dentist, and;

ii. have the patient's entire body in sight;

iii. be in close proximity so as to speak with the patient;

iv. converse with the patient to assess the patient's ability to respond;

v. closely observe the patient for coloring, breathing, level of physical activity, facial expressions, eye movement, and bodily gestures in order to immediately recognize and bring any changes in the patient's condition to the attention of the treating dentist; and

vi. read, report, and record the patient's vital signs and physiological measures;

vii. monitor pulse oximetry.

d. Patient evaluation required.

(1) The decision to administer controlled drugs for dental treatment must be based on a documented evaluation of the health history and current medical condition of the patient in accordance with the Class I through V risk category classifications of the American Society of Anesthesiologists (ASA) in effect at the time of treatment. The findings of the evaluation, the ASA risk assessment class assigned, and any special considerations must be recorded in the patient's record.

i. Any level of sedation and general anesthesia may be provided for a patient who is ASA Class I and Class II.

ii. A patient in ASA Class III shall only be provided moderate sedation, deep sedation, or general anesthesia by:

- (a) An anesthesiologist, certified registered nurse anesthetist, or independently practicing qualified anesthesia healthcare provider licensed in North Dakota; or
    - (b) An oral and maxillofacial surgeon who has performed a physical evaluation and documented the findings and the ASA risk assessment category of the patient and any special monitoring requirements that may be necessary.
  - iii. Moderate sedation, deep sedation, or general anesthesia shall not be provided in a dental office for patients in ASA Class IV and Class V.
- e. Record keeping requirements for moderate sedation, deep sedation or general anesthesia shall include:
  - (1) Notation of the patient's American society of anesthesiologists' classification;
  - (2) Review of medical history and current conditions, including the patient's weight and height or, if appropriate, the body mass index;
  - (3) Written informed consent for administration of sedation and anesthesia and for the dental procedure to be performed;
  - (4) Preoperative vital signs;
  - (5) A record of the name, dose, and strength of drugs and route of administration including the administration of local anesthetics with notations of the time sedation and anesthesia were administered;
  - (6) Monitoring records of all required vital signs and physiological measures recorded every five minutes; and time and assessment of patient at discharge.
  - (7) A list of staff participating in the administration, treatment, and monitoring including name, position, and assigned duties.
- f. Informed written consent. Prior to administration of any level of sedation or general anesthesia, the dentist shall discuss the nature and objectives of the planned level of sedation or general anesthesia along with the risks, benefits, and alternatives and shall obtain informed, written consent from the patient or other responsible party for the administration and for the treatment to be provided. The written consent must be maintained in the patient record.
- g. Pediatric patients. No sedating medication shall be prescribed for or administered to a patient 12 years of age or younger prior to his arrival at the dentist office or treatment facility.
- h. Emergency management. The licensed dentist authorized by permit to administer sedation and staff with patient care duties must be trained in emergency preparedness. Written protocols must include training requirements and procedures specific to the permit holder's equipment and

drugs for responding to emergency situations involving sedation or anesthesia, including information specific to respiratory emergencies. The permit holder shall document this review of office training or mock codes. Protocols must include the American heart association's basic life support or cardiopulmonary resuscitation and advanced cardiac life support or pediatric advanced life support for any practitioner administering moderate, deep sedation or general anesthesia.

- (1) If a patient enters a deeper level of sedation than the dentist is qualified and prepared to provide, the dentist shall stop the dental procedure until the patient returns to and is stable at the intended level of sedation.
- (2) A dentist in whose office sedation or anesthesia is administered shall have written basic emergency procedures established and staff trained to carry out such procedures.
- (3) Biannual mock codes to simulate office medical emergencies shall be documented and available during a site evaluation.

i. Authorization of duties. A dentist who authorizes the administration of general anesthesia, deep sedation, or moderate sedation in his dental office is responsible for assuring that:

- (1) The equipment for administration and monitoring is readily available and in good working order prior to performing dental treatment with anesthesia or sedation. The equipment shall either be maintained by the dentist in his office or provided by the anesthesia or sedation provider; and
- (2) The person administering the anesthesia or sedation is appropriately licensed;
- (3) The individual authorized to monitor the patient is qualified;
- (4) A physical evaluation and medical history is taken prior to administration of general anesthesia or sedation. A dentist holding a permit shall maintain records of the physical evaluation, medical history, and general anesthesia or sedation procedures;
- (5) Administration of sedation by another qualified provider requires the operating dentist to maintain advanced cardiac life support if the patient is 12 years of age or older and pediatric advanced live support if the patient is less than 12 years of age.

i. Reporting. All licensed dentists in the practice of dentistry in this state must submit a report within a period of seven days to the board office of any mortality or other incident which results in temporary or permanent physical or mental injury requiring hospitalization of the patient during, or as a result of, antianxiety premedication, nitrous oxide inhalation analgesia, or sedation. The report shall include responses to at least the following:

- (1) Description of dental procedure.

(2) Description of preoperative physical condition of patient.

(3) List of drugs and dosage administered.

(4) Description, in detail, of techniques utilized in administering the drugs utilized.

(5) Description of adverse occurrence:

i. Description, in detail, of symptoms of any complications, to include but not be limited to onset, and type of symptoms in patient.

ii. Treatment instituted on the patient.

iii. Response of the patient to the treatment.

(6) Description of the patient's condition on termination of any procedures undertaken.

k. Violations. A violation of any provision of this article constitutes unprofessional conduct and is grounds for the revocation or suspension of the dentist's permit, license, or both, or the dentist may be reprimanded or placed on probation.

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; April 1, 2015; July 1, 2017.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-06

29

#### **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 or 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 self-study. Self-study is an educational process designed to permit a participant to learn a given subject without involvement of a proctor. Cardiopulmonary resuscitation courses must provide hands-on training. All other continuing education requirements may be satisfied from 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 sedation and anesthesia permitholders, 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. General anesthesia, and moderate sedation permitholders providers are required to shall maintain current advanced cardiac life support certification or pediatric advanced life support as specified by permit. A dentist who utilizes the services of an anesthesia provider to administer moderate sedation, deep sedation or general anesthesia shall maintain current advanced cardiac life support certification. A dentist who utilizes minimal sedation shall maintain basic life support certification.
- 6. The board may audit the continuing education credits of a dentist. Each licensee shall maintain certificates or records of continuing education activities from the previous renewal cycle. 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.
- 7. A dentist who maintains a license on inactive status is not subject to continuing education requirements.

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; April 1, 2015; July 1, 2017.

General Authority: NDCC 43-28-06

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

30

#### **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 as provided by North Dakota Century Code section 23-12-14, 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. For the purposes of this section "~~Active~~ 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~~ at least 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. The dentist shall respond to a written request to examine or copy a patient's record within ten working days after receipt. A dentist shall comply with North Dakota Century Code section 23-12-14 for all patient record requests.
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.
4. If a dentist agrees to provide dental care without remuneration to underserved patients in the absence of a public health setting, the patient may not be considered a patient of record of the dentist providing the donated dental service.
5. If a licensee retires from a group practice and continuity of patient dental care will not be interrupted, the dentist is exempt from notifying active patients in writing. The licensee must notify patients 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.

History: Effective April 1, 2006; amended effective April 1, 2015.  
General Authority: NDCC 43-28-06  
Law Implemented: NDCC 43-28-06

#### **20-02-01-09. Retention of Patient records.**

Dental records must be legible and include a chronology of the patient's progress throughout the course of all treatment and postoperative visits. All entries in the patient record must be dated, initialed and handwritten in ink or computer printed. Digital radiographs shall be transferred by compact or optical disc, electronic communication, or printing on high quality photographic paper. All transferred film or digital radiographs must reveal images of diagnostic quality using proper exposure settings and processing procedures. For purposes of this section:

1. "Patient" means an individual who has received dental care services from a provider for treatment of a dental condition.

2. "Dental record" or "patient's chart" means the detailed history of the physical examination, diagnosis, treatment, patient-related communications, and management of a patient documented in chronological order. The dental record must contain the following components:

a. Personal data to include name, address, date of birth, name of patient's parent or guardian, name and telephone number of a person to contact in case of an emergency and patient's insurance information.

b. Patient's reason for visit or chief complaint.

c. Dental and physical health history.

d. Clinical examination must include record of existing oral health status, radiographs used and any other diagnostic aids used.

e. Diagnosis

f. Dated treatment plan except for routine dental care such as preventive services.

g. Informed consent must include notation of treatment options discussed with the patient including prognosis of such treatment plan, benefits and risks of each treatment; and documentation of the treatment the patient has chosen.

h. Corrections of records must be legible, written in ink, and contain no erasures or use of "white-outs." If incorrect information is placed in the record, it must be crossed out with one single line and initialed by a dental health care worker.

i. Progress notes shall include a chronology of the patient's progress throughout the course of all treatment and postoperative visits of treatment provided, medications used and materials placed, the treatment provider by name or initials, and name of collaborating dentist, administration information of nitrous oxide inhalation or any medication dispensed before during or after discharge and patient status at discharge.

j. Each patient shall have access to health provider information as it pertains to their treating doctor or potential doctors. Any entity, utilizing telehealth must provide upon request of a patient the name of the dentist, telephone number, practice address, and state license number of any dentist who was involved with



the provision of services to a patient before, prior to or during the rendering of dental services.

3. "Retention of records" shall mean that 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

#### **20-02-01-11. Permit for the use of dermal fillers and botulinum toxin for dental use.**

1. The rules in this chapter are adopted for the purpose of defining standards for the administration of dermal fillers and botulinum toxin by a dentist if the use is limited to the practice of dentistry as defined in North Dakota Century Code section 43-28-01(7). Notwithstanding a dentist who specializes in oral and maxillofacial surgery, the board may issue a permit to a dentist who applies on forms prescribed by the board and pays the initial fee or biennial renewal fee as required by section 20-05-01-01(1) to administer botulinum toxin or dermal fillers for the purpose of functional, therapeutic, and aesthetic dental treatment purposes under the following conditions:

a. The dentist provides evidence that demonstrates:

- (1) The applicant has completed a course and received satisfactory training in a residency or other educational program accredited by the commission on dental accreditation of the American dental association; or

- (2) The applicant has successfully completed a board-approved continuing education course of instruction within the previous three months of application which includes neurophysiology, including facial tissues, parasympathetic, sympathetic, and peripheral nervous systems relative to the peri-oral tissue, and facial architecture, and:
- (a) Patient assessment and consultation for botox and dermal fillers;
  - (b) Indications and contraindications for techniques;
  - (c) Proper preparation and delivery techniques for desired outcomes;
  - (d) Enhancing and finishing esthetic dentistry cases with dermal fillers;
  - (e) Botulinum neurotoxin treatment of temporomandibular joint syndrome and bruxism;
  - (f) Knowledge of adverse reactions and management and treatment of possible complications;
  - (g) Patient evaluation for best esthetic and therapeutic outcomes;
  - (h) Integrating botulinum neurotoxin and dermal filler therapy into dental therapeutic and esthetic treatment plans; and
  - (i) Live patient hands-on training, including diagnosis, treatment planning, and proper dosing and delivery of botox and dermal fillers.
- (3) The applicant has successfully completed a continuing education course of instruction substantially equivalent to the requirements of this state and provide evidence from another state or jurisdiction where the applicant legally is or was authorized to administer dermal fillers and botulinum toxin.

34

History: Effective April 1, 2015; amended effective July 1, 2017.  
General Authority: NDCC 43-28-06  
Law Implemented: NDCC 43-28-02

**20-02-01-12. Dental prescribers and use of the prescription drug monitoring program.**

Subject to the exceptions described in section 20-02-01-13, prior to the initial prescribing of any controlled substance, including samples, a dentist authorized by the drug enforcement administration to prescribe, administer, sign for, dispense, or procure pharmaceuticals shall authorize an employee to review or personally request and review the prescription drug monitoring program report for all available prescription drug monitoring program data on the patient within the previous twelve months, and shall do all of the following:

1. Assess a patient's drug monitoring program data every twelve months during the patient's treatment with a controlled substance.
2. Review the patient's prescription drug monitoring program data if the patient requests early refills or demonstrates a pattern of taking more than the prescribed dosage.
3. Review the patient's prescription drug monitoring program data if there is a suspicion of or a known drug overuse, diversion, or abuse by the patient.

4. Document the assessment of the patient's prescription drug monitoring program data.
5. Discuss the risks and benefits of the use of controlled substances with the patient, the patient's parent if the patient is an unemancipated minor child, or the patient's legal guardian or health care surrogate, including the risk of tolerance and drug dependence.
6. Request and review prescription drug monitoring program data on the patient if the practitioner becomes aware that a patient is receiving controlled substances from multiple prescribers.
7. Request and review the patient's prescription drug monitoring program data if the prescriber has a reasonable belief that the patient may be seeking the controlled substance, in whole or in part, for any reason other than the treatment of an existing medical condition.

History: Effective July 1, 2017.

General Authority: NDCC 19-03.5-09, 43-28-01(7), 43-28-06

Law Implemented: NDCC 19-03.5-09, 43-28-06

#### **20-02-01-13. Exceptions to the review requirement.**

A practitioner may not be required to review a patient's prescription drug monitoring program data if any of the following apply:

1. The controlled substance is prescribed or dispensed for a patient who is currently receiving hospice care.
2. The controlled substance is prescribed or dispensed to a patient of record as a nonrefillable prescription as part of treatment for a surgical procedure.
3. The dentist prescribes a controlled substance after the performance of oral surgery and no more than a seventy-two hour supply of the controlled substance is prescribed.
4. The dentist prescribes pre-appointment medication for the treatment of procedure anxiety.
5. The dentist obtains a report through a board-approved risk assessment tool for health care providers that accesses patient prescription information from prescription drug monitoring program databases, analyzes the data, and provides a risk-based score that includes prescription drug monitoring program data.

History: Effective July 1, 2017.

General Authority: NDCC 43-28-01(7), 43-28-06

Law Implemented: NDCC 19-03.5-09, 43-28-06(1)

**ARTICLE 20-03  
DENTAL ASSISTANTS**

Chapter  
20-03-01      Duties

**CHAPTER 20-03-01  
DUTIES**

Section	
20-03-01-01	Duties
20-03-01-01.1	Expanded Duties of Registered Dental Assistants
20-03-01-02	Prohibited Services
20-03-01-03	Annual Registration of Dental Assistants Performing Expanded Duties
[Repealed]	
20-03-01-04	Criteria for Dental Assistants Placing Sealants [Repealed]
20-03-01-05	Registration of Registered and Qualified Dental Assistants
20-03-01-05.1	Additional Expanded Duties of Registered Dental Assistants
20-03-01-06	Continuing Dental Education for Qualified and Registered Dental Assistants

**20-03-01-01. Duties.**

A dental assistant may perform the duties listed in subsections 1 through 5 6 under direct, indirect, or general supervision of a dentist as follows:

1. A dental assistant who is not registered with the board employed by a dentist may perform the following basic supportive dental duties under direct supervision:
  - a. Take and record pulse, blood pressure, and temperature.
  - b. Take and record preliminary dental and medical history for the interpretation by the dentist.
  - c. Apply topical medications and drugs to oral tissues, including topical anesthetic, but not including desensitizing or caustic agents or anticariogenic agents.
  - d. Receive removable dental prosthesis for cleaning or repair.
  - e. Take impressions for study casts.
  - f. Hold impression trays in the mouth (e.g., reversible hydrocolloids, rubber base).
  - g. Retract patient's cheek, tongue or other tissue parts during a dental procedure.
  - h. Remove such debris as is normal created in the course of treatment during or after dental procedures by vacuum devices, compressed air, mouthwashes and water.
  - i. Isolate the operative field, not to include rubber dams.
  - j. Hold a curing light for any dental procedure. Such curing lights shall not include a laser capable of cutting, burning, or damaging hard or soft tissue or for electrosurgery for tissue retraction.

36

- k. Take dental photographs including the use of intraoral cameras on a patient of record.
- 2. A qualified dental assistant may perform the duties set forth in subsection 1 and take dental radiographs on a patient of record under the direct supervision of a dentist.
- 3. A registered dental assistant may perform the duties set forth in subsection 1 and 2 and the following duties under the direct supervision of a dentist:
  - a. Place and remove arch wires or appliances that have been activated by a dentist.
  - b. Acid etch enamel surfaces prior to direct bonding of orthodontic brackets or composite restorations.
  - c. Place orthodontic brackets using an indirect bonding technique by seating the transfer tray loaded with brackets previously positioned in the dental laboratory by a licensed dentist.
  - d. Take face bow transfers.
  - e. Place and remove matrix bands and wedges.
  - f. Adjust permanent crowns outside of the mouth.
  - g. Orally transmit a prescription that has been authorized by the supervising dentist.
  - h. Administer emergency medications to a patient in order to assist the dentist in an emergency.
- 4. A registered dental assistant may perform the following duties on a patient of record under the direct or indirect supervision of a dentist:
  - a. Apply anticariogenic agents, fluoride varnish, and silver diamine fluoride topically.
  - b. Apply desensitizing solutions to the external surfaces of the teeth.
  - c. Dry root canal with paper points.
  - d. Place and remove rubber dams.
  - e. Take occlusal bite registration for study casts.
  - f. Place retraction cord in the gingival sulcus of a prepared tooth prior to the dentist taking an impression of the tooth.
  - g. Remove excess cement from inlays, crowns, bridges, and orthodontic appliances with hand instruments or a slow speed handpiece only.
  - h. Perform nonsurgical clinical and laboratory diagnosis tests, including pulp testing, for interpretation by the dentist.
  - i. Place and remove periodontal dressings, dry socket medications, and packing.

- j. Monitor a patient who has been induced by a dentist into nitrous oxide relative analgesia.
  - k. Take impressions for fixed or removable orthodontic appliances, athletic mouth guards, bleaching trays, bite splints, flippers, and removable prosthetic repairs.
  - l. Preselect and prefit orthodontic bands.
  - m. Place, tie, and remove ligature wires and elastic ties, and place orthodontic separators.
  - n. Take dental radiographs.
  - o. Apply bleaching solution, activate light source, monitor and remove bleaching materials.
  - p. Produce a final impression on a patient of record, for digital capture for review by the authorizing dentist for a prescriptive removable or permanent appliance.
  - q. Take impressions or occlusal bite registrations for study casts.
5. A registered dental assistant authorized by permit and under direct or indirect supervision may provide the following duties as set forth in administrative rule 20-02-01-05(9) as follows:
- a. Sedation procedure preparation and pre-sedation documentation.
  - b. Emergency equipment and use preparedness.
  - c. Monitor a patient discharged by a dentist once the patient is in recovery.
  - d. Documentation of patient responsiveness, vital signs including heart rate, respiratory rate, blood pressure, oxygen saturation, and expired carbon dioxide.
  - e. Auxiliary training must be documented and may be acquired directly by an employer-dentist, by a planned sequence of instruction in an educational institution or by in-office training. A qualified sedation auxiliary must maintain basic life support certification and participate in mock codes conducted by the authorizing dentist.
- ~~56.~~ A registered dental assistant may perform the following duties under the ~~direct,~~  
— ~~indirect, or~~ general supervision of a dentist:
- a. Take and record pulse, blood pressure, and temperature.
  - b. Take and record preliminary dental and medical history for the interpretation by the dentist.
  - c. Apply topical medications and drugs to oral tissues, including topical anesthetic, topical fluoride, fluoride varnish and but not including desensitizing agents or but not including caustic agents or anticariogenic agents.
  - d. Receive removable dental prosthesis for cleaning or repair.
  - ~~e. Take impressions or occlusal bite registrations for study casts.~~

- ef. Fabricate, adjust, place, recement, or remove a temporary crown, bridge, or onlay or temporary restorative material. This applies only to dentitions actively under treatment for which a permanent restoration is being fabricated.
- fg. Remove sutures.
- gh. Cut and remove arch wires or replace loose bands, loose brackets, or other orthodontic appliances for palliative treatment.
- hi. Provide oral hygiene education and instruction.
- ij. Provide an oral assessment for interpretation by the dentist.
- jk. Repack dry socket medication and packing for palliative treatment.
- kl. Apply pit and fissure sealants if the registered licensed dental assistant has provided documentation of a board-approved sealant course. Adjust sealants with slow-speed handpiece.
- lm. Polish the coronal surfaces of the teeth with a rubber cup or brush.
- mn. Polish restorations with a slow-speed handpiece.
- no. Provide screenings as defined by section 20-01-02-01(31).

History: Effective September 1, 1980; amended effective February 1, 1992; October 1, 1993; May 1, 1996; August 1, 1998; April 1, 2000; June 1, 2002; July 1, 2004; April 1, 2006; January 1, 2011; April 1, 2015; July 1, 2017.  
 General Authority: NDCC 43-20-10  
 Law Implemented: NDCC 43-20-01.1, 43-20-08, 43-20-10, 43-20-13

39

### **20-03-01-01.1. Expanded duties of registered dental assistants.**

A registered dental assistant shall apply for a permit to perform the following duties:

1. A registered dental assistant authorized by permit and under the direct supervision of a dentist may perform the following restorative functions:
  - a. Place, carve, and adjust class I, II, and class V amalgam or glass ionomer restorations with hand instruments or a slow-speed handpiece;
  - b. Adapt and cement stainless steel crowns; and
  - c. Place, contour, and adjust class I, II, and class V composite restorations where the margins are entirely within the enamel with hand instruments or a slow-speed handpiece.
2. A registered dental assistant authorized by permit and under the contiguous supervision of a dentist authorized by permit to provide parenteral sedation may provide anesthesia duties as follows:
  - a. Initiate and discontinue an intravenous line for a patient being prepared to receive intravenous medications, sedation or general anesthesia;

- b. Adjust the rate of intravenous fluids infusion only to maintain or keep the line patent or open;
  - c. Prepare anesthesia equipment and perform patient monitoring; and
  - d. Assist with emergency treatment and protocols.
- 3. A registered dental assistant authorized by permit and under the direct visual supervision of a dentist authorized by permit to provide parenteral sedation shall provide anesthesia duties as follows:
  - a. Draw up and prepare medications;
  - b. Follow instructions to deliver medication into an intravenous line upon verbal command of the supervising dentist;
  - c. Adjust the rate of intravenous fluids infusion beyond a keep-open rate upon verbal command of the supervising dentist; and
  - d. Adjust an electronic device to provide medications, such as an infusion pump upon verbal command of the supervising dentist.
- 4. A registered dental assistant authorized by permit and under the indirect supervision of a dentist may administer nitrous oxide analgesia to a patient who has not taken sedative medications prior to treatment in accordance with section 20-03-01-05(2).

History: Effective April 1, 2015; amended effective July 1, 2017.  
General Authority: NDCC 43-20-10  
Law Implemented: NDCC 43-20-01.1, 43-20-08, 43-20-10, 43-20-13

40

#### **20-03-01-02. Prohibited services.**

A dental assistant, qualified dental assistant, or registered dental assistant may not perform the following services:

- 1. Diagnosis and treatment planning.
- 2. Surgery on hard or soft tissue.
- 3. Administer local anesthetics, sedation or general anesthesia drugs or titrate local anesthetics, sedation or general anesthesia drugs without a board permit.
- 4. Any irreversible dental procedure or procedures which require the professional judgment and skill of a licensed dentist.
- 5. Adjust a crown which has been cemented by a dentist.
- 6. Activate any type of orthodontic appliance or fabricate orthodontic impressions for an individual who is not a patient of record.
- 7. Cement or bond orthodontic bands or brackets that have not been previously placed by a dentist.
- 8. Place bases or cavity liners.



9. Scaling, root planing, or gingival curettage.
10. Measure the gingival sulcus with a periodontal probe.
11. Use a high-speed handpiece inside the mouth.
12. Monitor a patient who has been induced to moderate conscious sedation or deep sedation or general anesthesia until the dentist authorized by permit to administer sedation or anesthesia determines that the patient may be discharged for recovery.

History: Effective February 1, 1992; amended effective October 1, 1993; April 1, 2000; June 1, 2002; July 1, 2004; January 1, 2011; April 1, 2015.

General Authority: NDCC 43-20-10

Law Implemented: NDCC 43-20-01.1, 43-20-08, 43-20-10, 43-20-13 20-03-01-03. Annual registration of dental assistants performing expanded duties.

Repealed effective January 1, 2011.

#### **20-03-01-04. Criteria for dental assistants placing sealants.**

Repealed effective January 1, 2011.

#### **20-03-01-05. Registration of registered and qualified dental assistants.**

An individual seeking registration as a registered or qualified dental assistant shall apply on forms prescribed by the board. The application must be notarized and include the application fee.

1. The board may grant registration as a registered dental assistant to an applicant meeting all the following requirements:

- a. The applicant meets any of the following requirements:

- (1) The applicant successfully completed a dental assisting program accredited by the commission on dental accreditation of the American dental association or approved by the board, within one year of application.
- (2) The applicant was certified by the dental assisting national board within one year of application.
- (3) The applicant successfully completed a dental assisting program, accredited by the commission on dental accreditation of the American dental association or approved by the board, and completed, within two years before application, sixteen hours of continuing education in accordance with section 20-03-01-06.
- (4) The applicant was certified by the dental assisting national board, and completed within two years before application, sixteen hours of continuing education in accordance with section 20-03-01-06.

- (5) The applicant successfully completed the exam administered by the joint commission on national dental examinations or the dental hygiene certification board of Canada and completed within two years of application sixteen hours of continuing education in accordance with section 20-03-01-06.

- b. The applicant passed a written examination on the laws and rules governing the practice of dentistry in North Dakota within one year of application.

- c. The applicant successfully completed a cardiopulmonary resuscitation course within two years of application.
  - d. Grounds for denial of the application under North Dakota Century Code section 43-20-05 do not exist.
2. The board may grant registration as a qualified dental assistant to an applicant meeting all the following requirements:
- a. The applicant meets any of the following requirements:
    - (1) The applicant passed the ~~infection control and radiation parts of~~ national entry level dental assistant certification administered by the dental assisting national board examination and completed 300 hours of on the job training within one year of application.
    - (2) The applicant passed the ~~infection control and radiation parts of~~ national entry level dental assistant certification administered by the dental assisting national board examination, 300 hours of on the job training, and completed within two years before application, sixteen hours of continuing education in accordance with section 20-03-01-06.
    - (3) The applicant successfully completed the national entry level dental assistant certification administered by the dental assisting national board and successfully completed the North Dakota State Department of Career Technical Education dental assisting education program and submits evidence of 300 hours of on the job training within one year of application.
  - ~~b. The applicant completed six hundred fifty hours of dental assistance instruction, including on-the-job training.~~
  - ~~b~~e. The applicant passed a written examination on the laws and rules governing the practice of dentistry in North Dakota within one year of application.
  - ~~c~~d. The applicant successfully completed a cardiopulmonary resuscitation course within two years of application.
  - ~~d~~e. Grounds for denial of the application under North Dakota Century Code section 43-20-05 do not exist.

---

42

History: Effective January 1, 2011.  
 General Authority: NDCC 43-20-10  
 Law Implemented: NDCC 43-20-13.2

#### **20-03-01-05.1. Additional expanded duties of registered dental assistants.**

The board may grant a permit to a registered dental assistant for the following:

- 1. The board may issue or renew a class I dental anesthesia assistant permit authorizing a registered dental assistant to provide anesthesia assistance under the supervision of a dentist authorized by permit to provide parenteral sedation, upon successful completion of the following:

- a. The applicant submits evidence of a board-approved dental anesthesia assistant education and training course.
  - b. Submits proof of current certification status from the American association of oral and maxillofacial surgeons dental anesthesia assistant national certification or a board approved competency examination.
  - c. The applicant holds current and valid certification for health care provider basic life support, or advanced cardiac life support or pediatric advanced life support; and
  - d. The applicant provides a copy of a valid North Dakota general anesthesia permit or parenteral sedation permit of the dentist where the registered dental assistant will be performing anesthesia assistant services.
2. The board may issue or renew a class II dental anesthesia assistant permit authorizing a registered dental assistant to provide anesthesia assistance under the supervision of a dentist authorized by permit to provide parenteral sedation, upon successful completion of the following:
- a. The applicant submits evidence of a board-approved dental anesthesia assistant education and training course and submitting proof of current certification status from the American association of oral and maxillofacial surgeons dental anesthesia assistant national certification or a board-approved competency examination;
  - b. The applicant has successfully completed hands-on training in intravenous access or phlebotomy that includes live experience starting and maintaining intravenous lines;
  - c. The applicant holds current and valid certification for health care provider basic life support, or advanced cardiac life support or pediatric advanced life support; and
  - d. The applicant provides a copy of a valid North Dakota general anesthesia or parenteral sedation permit of the dentist where the registered dental assistant will be performing anesthesia assistant services.
3. The board may issue or renew a permit on forms prescribed by the board authorizing a registered dental assistant under the direct supervision of a dentist to provide restorative functions under the following conditions:
- a. The applicant meets any of the following requirements:
    - (1) The applicant has successfully completed a board-approved curriculum from a program accredited by the commission on dental accreditation of the American dental association or another board-approved course and successfully passed the western regional examining board's restorative examination or other equivalent examinations approved by the board within the last five years. The board may require successful completion of the restorative function component of the dental assisting national board's certified restorative functions dental assistant certification examination; or
    - (2) The applicant has successfully passed the western regional examining

board's restorative examination or other board-approved examination over five years from the date of application and successfully completed the restorative function component of the dental assisting national board's certified restorative functions dental assistant certification examination or other board-approved examination and provide evidence from another state or jurisdiction where the applicant legally is or was authorized to perform restorative functions and certification from the supervising dentist of successful completion of at least twenty-five restorative procedures within the immediate five years from the date of application.

- b. A registered dental assistant may perform the placement and finishing of direct alloy or direct composite restorations, under the direct supervision of a licensed dentist, after the supervising dentist has prepared the dentition for restoration.
- c. The restorative functions shall only be performed after the patient has given informed consent for the placement of the restoration by a restorative functions dental assistant.
- d. Before the patient is released, the final restorations shall be checked and documented by the supervising dentist.

History: Effective April 1, 2015; amended effective July 1, 2017.  
General Authority: NDCC 43-20-10  
Law Implemented: NDCC 43-20-13.2

#### **20-03-01-06. Continuing dental education for qualified and registered dental assistants.**

44

Each qualified or registered dental assistant shall ~~provide evidence~~ maintain documentation on forms supplied by the board that the qualified or registered dental assistant 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 is sixteen. Of these hours, a qualified or registered dental assistant may earn no more than eight hours from self-study. Self-study is an educational process designed to permit a participant to learn a given subject without involvement of a proctor. Cardiopulmonary resuscitation courses must provide hands-on training. All other continuing education requirements may be satisfied from ~~online education~~ webinars or classroom style learning. 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 registered dental anesthesia assistant permitholders, two hours related to sedation or anesthesia.
  - e. For registered licensed dental restorative assistant permitholders, two hours related to restorative dentistry.
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 qualified or registered dental assistants must hold a current cardiopulmonary resuscitation certificate.
  6. The board may audit continuing education credits of a registered dental assistant. Proof of continuing education shall be maintained from the previous renewal cycle. Upon receiving notice of an audit from the board, a registered dental assistant 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 registration.

History: Effective January 1, 2011; amended effective April 1, 2015; July 1, 2017.  
 General Authority: NDCC 43-20-10  
 Law Implemented: NDCC 43-20-13.1

## ARTICLE 20-04 DENTAL HYGIENISTS

Chapter  
20-04-01      Duties

### CHAPTER 20-04-01 DUTIES

Section

- 20-04-01-01      Duties
- 20-04-01-02      Prohibited Services
- 20-04-01-03      Duties of Dental Hygienists
- 20-04-01-03.1    Duties of the Dental Hygienist Requiring a Permit
- 20-04-01-04      Additional Requirements for Licensure by Examination
- 20-04-01-04.1    Clinical Competency Examination Retakes
- 20-04-01-05      Additional Requirements for Licensure by Credential Review
- 20-04-01-05.1    NEW SECTION Refresher Course
- 20-04-01-06      Additional Requirements for Applications
- 20-04-01-07      Inactive Status - License Reinstatement
- 20-04-01-07.1    NEW SECTION Volunteer License to Practice Dental Hygiene
- 20-04-01-08      Continuing Dental Education for Dental Hygienists

#### **20-04-01-01. Duties.**

A dental hygienist may perform the following services under the general, direct, direct visual, indirect, or ~~contiguous~~ contiguous supervision of a dentist:

1. Complete prophylaxis to include removal of accumulated matter, deposits, accretions, or stains from the natural and restored surfaces of exposed teeth. The dental hygienist may also do root planing and soft tissue curettage upon direct order of the dentist.
2. Polish and smooth existing restorations with a slow-speed handpiece.
3. Apply topical applications of drugs to the surface tissues of the mouth and to exposed surfaces of the teeth, including anticariogenic agents and desensitizing solutions.
4. Take impressions for study casts on a patient of record.
5. Take and record preliminary medical and dental histories for the interpretation by the dentist.
6. Take and record pulse, blood pressure, and temperature.
7. Provide oral hygiene treatment planning after an oral assessment of dentist's diagnosis.
8. Take dental radiographs.
9. Apply therapeutic agents subgingivally for the treatment of periodontal disease.
10. Hold impression trays in the mouth after placement by a dentist (e.g., reversible hydrocolloids, rubber base, etc.).
11. Receive removable dental prosthesis for cleaning and repair.
12. Dry root canal with paper points.
13. Place and remove rubber dams.
14. Place and remove matrix bands or wedges.
15. Take occlusal bite registration for study casts.
16. Place retraction cord in the gingival sulcus of a prepared tooth prior to the dentist taking an impression of the tooth.
17. Fabricate, adjust, place, recement, or remove a temporary crown, bridge, onlay, or temporary restorative material. This applies only to dentitions actively under treatment for which a permanent restoration is being fabricated.
18. Adjust permanent crowns outside of the mouth.
19. Perform nonsurgical clinical and laboratory oral diagnostic tests for interpretation by the dentist.
20. Apply pit and fissure sealants. Adjust sealants with slow speed handpiece.
21. Place and remove periodontal dressings, dry socket medications, and packing.
22. Remove sutures.
23. Monitor a patient who has been inducted by a dentist into nitrous-oxide relative analgesia.

24. Take impressions for fixed or removable orthodontic appliances, athletic mouth guards, bleaching trays, bite splints, flippers, and removable prosthetic repairs.
25. Preselect and prefit orthodontic bands.
26. Place, tie, and remove ligature wires and elastic ties, and place orthodontic separators.
27. Place and remove arch wires or appliances that have been activated by a dentist.
28. Cut and remove arch wires or replace loose bands, loose brackets, or other orthodontic appliances for palliative treatment.
29. Acid-etch enamel surfaces prior to pit and fissure sealants, direct bonding of orthodontic brackets, or composite restorations.
30. Place orthodontic brackets using an indirect bonding technique by seating the transfer tray loaded with brackets previously positioned in the dental laboratory by a dentist.
31. Take face bow transfers.
32. Orally transmit a prescription that has been authorized by the supervising dentist.
33. Repack dry socket medication and packing for palliative treatment.
34. Administer emergency medications to a patient in order to assist the dentist.
35. Screenings as defined by 20-01-02-01(31).
36. Produce a final impression on a patient of record for digital capture for review by the authorizing dentist for a prescriptive removable or permanent appliance.
37. Apply bleaching solution, activate light source, monitor and remove bleaching materials.
38. Apply interim therapeutic restorations using the standards and protocols established by an authorizing dentist and after completion of a board approved course.
39. A dental hygienist under the direct or indirect supervision may assist a dentist authorized by permit as set forth in administrative rule 20-02-01-05(9) as follows:
  - a. Sedation procedure preparation and pre-sedation documentation including but not limited to date of procedure, nothing by mouth (NPO) status, availability of responsible adult escort, and allergies.
  - b. Emergency equipment and use preparedness.
  - c. Monitor a patient discharged by a dentist once the patient is in recovery.
  - d. Documentation of patient responsiveness, vital signs including heart rate, respiratory rate, blood pressure, oxygen saturation, and expired carbon dioxide.
  - e. Auxiliary training must be documented and may be acquired directly by an employer-dentist, by a planned sequence of instruction in an educational institution or by in-office training. A qualified sedation auxiliary must maintain basic life support certification and participate in mock codes conducted by the authorizing dentist.

4035. A dental hygienist authorized by permit and under contiguous supervision of a dentist authorized by permit to provide moderate parenteral sedation may:

- a. Initiate and discontinue an intravenous line for a patient being prepared to receive intravenous medications, sedation or general anesthesia.
- b. Adjust the rate of intravenous fluids infusion only to maintain or keep the line patent or open.
- c. Prepare anesthesia equipment and perform patient monitoring.
- d. Assist with emergency treatment and protocols.

4136. A dental hygienist authorized by permit and under direct visual supervision of a dentist authorized by permit to provide parenteral sedation may:

- a. Draw up and prepare medications;
- b. Follow instructions to deliver medication into an intravenous line upon verbal command of the supervising dentist;
- c. Adjust the rate of intravenous fluids infusion beyond a keep-open rate upon verbal command of the supervising dentist; and
- d. Adjust an electronic device to provide medications, such as an infusion pump upon the verbal command of the supervising dentist.

4237. A dental hygienist authorized by permit and under the direct supervision of a dentist may:

- a. Place, carve, and adjust class I, II, and class V amalgam or glass ionomer restorations with hand instruments or a slow-speed handpiece;
- b. Adapt and cement stainless steel crowns; and
- c. Place, contour, and adjust class I, II, and class V composite restorations where the margins are entirely within the enamel with hand instruments or a slow-speed handpiece.

43. A dental hygienist authorized by permit and under the indirect supervision of a dentist may administer nitrous oxide analgesia to a patient who has not taken sedative medications prior to or for the duration of the dental hygiene treatment in accordance with section 20-03-01-05(2).

48

History: Effective September 1, 1980; amended effective February 1, 1992; October 1, 1993; May 1, 1996; August 1, 1998; April 1, 2000; July 1, 2004; April 1, 2006; January 1, 2011; April 1, 2015; July 1, 2017.

General Authority: NDCC 43-20-10

Law Implemented: NDCC 43-20-03, 43-20-11, 43-20-12

#### **20-04-01-02. Prohibited services.**

A dental hygienist may not perform the following services:

1. Diagnosis and treatment planning.
2. Surgery on hard or soft tissue.



3. Administer anesthetics, except topical and local anesthetic, as permitted under sections 20-04-01-01 and 20-04-01-03, or titrate local anesthetics, sedation or general anesthesia drugs without a board authorized permit.
4. Monitor a patient who has been induced to moderate conscious sedation or deep sedation or general anesthesia until the dentist authorized by permit to administer sedation or anesthesia determines that the patient may be discharged for recovery.
- ~~5~~4. Any irreversible dental procedure or procedures which require the professional judgment and skill of a dentist.
- ~~6~~5. Adjust a crown which has ~~not~~ been permanently cemented by a dentist without a restorative functions permit.
- ~~7~~6. Activate any type of orthodontic appliance or fabricate impressions for an individual who is not a patient of record .
- ~~8~~7. Cement or bond orthodontic bands or brackets that have not been previously placed by a dentist.
- ~~9~~8. Place bases or cavity liners.
- ~~10~~9. Use a high-speed handpiece inside the mouth.

History: Effective February 1, 1992; amended effective October 1, 1993; July 1, 2004; January 1, 2011; April 1, 2015.  
 General Authority: NDCC 43-20-10  
 Law Implemented: NDCC 43-20-03; 43-20-11, 43-20-12, 43-20-12.3

### **20-04-01-03. Duties of dental hygienists.**

A dental hygienist may perform the following services under the direct supervision of a dentist:

1. A licensed dental hygienist may apply for ~~a permit authorization to administer local anesthesia to a patient who is at least eighteen years old,~~ under the direct supervision of a licensed dentist. Requirements for local anesthesia authorization are as follows:
  - a. Submit evidence that the ~~To be considered for a permit,~~ a hygienist must have successfully completed a didactic and clinical course in local anesthesia within the last twenty-four months sponsored by a dental or dental hygiene program accredited by the commission on dental accreditation of the American dental association resulting in the dental hygienist becoming clinically competent in the administration of local anesthesia; or
  - ~~b. A licensed dental~~ Submit evidence that the ~~hygienist applying for a local anesthesia permit who has been permitted~~ authorized to administer local anesthesia in another jurisdiction and who provide verification of clinical competency has continuously administered local anesthesia during the past three years must provide verification of the permit and continuous use to the North Dakota board of dental examiners previous twelve months. Verification may consist of the following:
    - (1) A letter from the accredited school with the school seal affixed. Photocopies will not be accepted.
    - (2) A notarized copy of the certification of the local anesthesia course ~~completed.~~

- (3) A notarized letter from a licensed dentist stating that the licensed dental hygienist has competently administered local anesthesia ~~within the last three years.~~

~~d. A notarized copy of the dental hygiene transcript with the local anesthesia course recorded.~~

- ~~c3.~~ A licensed dental hygienist requesting ~~a permit~~ authorization to administer local anesthesia who cannot provide verification as required in subsection 2 (a) must submit evidence of ~~retake and successfully pass~~ successful completion of a didactic and clinical course in local anesthesia sponsored by a dental or dental hygiene program accredited by the commission on dental accreditation of the American dental association.

History: Effective July 1, 2004.

General Authority: NDCC 43-20-10

Law Implemented: NDCC 43-20-03

#### **20-04-01-03.1. Duties of the dental hygienist requiring a permit.**

The board may issue or renew a permit to a dental hygienist for the following:

1. The board may issue or renew a class I dental anesthesia assistant permit authorizing a dental hygienist to provide anesthesia assistance under the supervision of a dentist authorized by permit to provide parenteral sedation, upon successful completion of the following:
  - a. The applicant submits evidence of a board-approved dental anesthesia assistant education and training course.
  - b. The applicant submits proof of current certification status from the American association of oral and maxillofacial surgeons dental anesthesia assistant national certification, or a board-approved competency examination;
  - c. The applicant holds current and valid certification for health care provider basic life support, or advanced cardiac life support or pediatric advanced life support; and
  - d. The applicant provides a copy of a valid North Dakota general anesthesia or parenteral permit of the dentist where the registered dental hygienist will be performing anesthesia assistant services.
2. The board may issue or renew a class II dental anesthesia assistant permit authorizing a registered dental hygienist to provide anesthesia assistance under the supervision of a dentist authorized by permit to provide parenteral sedation, upon successful completion of the following:
  - a. The applicant submits evidence of a board-approved dental anesthesia assistant education and training course and has proof of current certification status from the American association of oral and maxillofacial surgeons dental anesthesia assistant national certification or a board-approved competency examination;
  - b. The applicant has successfully completed hands-on training in intravenous access or phlebotomy that includes live experience starting and maintaining intravenous lines;

- c. The applicant holds current and valid certification for health care provider basic life support, or advanced cardiac life support or pediatric advanced life support; and
  - d. The applicant provides a copy of a valid North Dakota general anesthesia or parenteral sedation permit of the dentist where the registered dental hygienist will be performing anesthesia assistant services.
3. The board may issue or renew a permit on forms prescribed by the board authorizing a registered dental hygienist under the direct supervision of a dentist to provide restorative functions under the following conditions:
- a. The applicant meets any of the following requirements:
    - (1) The applicant has successfully completed a board-approved curriculum from a program accredited by the commission on dental accreditation of the American dental association or other board-approved course and successfully passed the western regional examining board's restorative examination or other equivalent examinations approved by the board within the last five years. The board may require successful completion of the restorative function component of the dental assisting national board's certified restorative functions dental assistant certification examination; or
    - (2) The applicant has successfully passed the western regional examining board's restorative examination or other board-approved examination over five years from the date of application and successfully completed the restorative function component of the dental assisting national board's certified restorative functions dental assistant certification examination or other board-approved examination and provided evidence from another state or jurisdiction where the applicant legally is or was authorized to perform restorative functions and certification from the supervising dentist of successful completion of at least twenty-five restorative procedures within the immediate five years before the date of application.
  - b. A dental hygienist may perform the placement and finishing of direct alloy or direct composite restorations, under the direct supervision of a licensed dentist, after the supervising dentist has prepared the dentition for restoration.
  - c. The restorative functions shall only be performed after the patient has given informed consent for the placement of the restoration by a restorative functions dental hygienist.
  - d. Before the patient is released, the final restorations shall be checked and documented by the supervising dentist.

History: Effective April 1, 2015; amended effective July 1, 2017.  
General Authority: NDCC 43-20-10  
Law Implemented: NDCC 43-20-03

#### **20-04-01-04. Additional requirements for licensure by examination.**

The board may grant a license to practice dental hygiene to an applicant who has met the requirements of North Dakota Century Code section 43-20-01.2 and all the following requirements:

1. The applicant has passed the examination administered by the joint commission on national dental examinations or the dental hygiene certification board of Canada within ~~two~~ three years of application.
2. The applicant has passed, within ~~two~~ three years of application, a clinical competency examination administered by one of the following:
  - a. Any regional dental testing service before September 17, 2009.
  - b. Central regional dental testing service.
  - c. Council of interstate testing agencies.
  - d. Western regional examining board.
  - e. American board of dental examiners.
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 43-20-10  
Law Implemented: NDCC 43-20-01.2

#### **20-04-01-04.1. Clinical competency examination retakes.**

A dental hygiene 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 hygiene 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 April 1, 2015.  
General Authority: NDCC 43-20-10  
Law Implemented: NDCC 43-20-01.2

#### **20-04-01-05. Additional requirements for licensure by credential review.**

The board may grant a license to practice dental hygiene to an applicant who has met the requirements of North Dakota Century Code section 43-20-01.3 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 sixteen hours of continuing education in accordance with section 20-04-01-08 within two years of application-; or

4. The applicant has met all requirements of North Dakota Administrative Code 20-04-01-05.1.

History: Effective January 1, 2011.  
General Authority: NDCC 43-20-10  
Law Implemented: NDCC 43-20-01.3

**NEW SECTION CREATED**

**20-04-01-05.1 Refresher course - reentry.**

An eligible dental hygienist may return to the practice of dental hygiene, upon submitting an application fee and application on a form provided by the board and providing proof of having successfully completed a refresher course approved by the board and meet the following requirements:

1. Was previously licensed to practice dental hygiene in another state or jurisdiction where the licensure requirements were substantially equivalent.
2. Grounds for denial of the application under section North Dakota Century Code 43-20-05 do not exist;
3. 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.
4. Has successfully completed a cardiopulmonary resuscitation course within the previous two years;
5. Has the physical health and visual acuity to enable the applicant to meet the minimum standards of professional competence.
6. Has practiced dental hygiene; and
7. Has successfully completed a refresher course approved by the board that meets the following minimum criteria:
  - (a) Be taught at a dental hygiene school accredited by the American dental association's commission on dental accreditation;
  - (b) consist of a minimum of 43 clock hours, including a minimum of 32 clock hours of clinical instruction;
  - (c) include didactic coursework, which may be presented in a classroom or independent study setting, or both, and clinical coursework covering the following:
    - (i) infection control and sterilization;
    - (ii) patient assessment, including the taking of health histories, an oral inspection and evaluation, and charting;
    - (iii) radiographic techniques;
    - (iv) instrumentation techniques, including periodontal procedures and instrument sharpening;

- (v) current techniques in the polishing of teeth and the application of fluoride;
  - (vi) patient education; and
  - (vii) office emergency situations.
8. A formerly licensed dental hygienist who is returning to the practice of dental hygiene, may not administer local anesthesia or nitrous oxide until having completed courses of instruction in local anesthesia and nitrous oxide approved by the board.
  9. Anything necessary for a criminal history record check pursuant to North Dakota Century Code section 43-28-11.2
  10. The applicant may be required to appear before the board.

#### **20-04-01-06. Additional requirements for applications.**

Applications must be completed within twelve months of filing. The board may require an interview with the applicant. In addition to the application requirements of North Dakota Century Code sections 43-20-01.2, 43-20-01.3, and 43-20-06, 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 two years of application.
4. Evidence demonstrating the applicant passed a clinical competency examination, approved by the board, within two years of application.
5. A certification, from the licensing board of every jurisdiction in which the applicant is licensed, that the applicant is licensed in good standing.
6. Certification that the applicant has completed a cardiopulmonary resuscitation course within two years of application.
7. Verification of physical health and visual acuity.
8. 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.
9. For applications for licensure by credential review and reinstatement from inactive status, proof of completion of sixteen hours of continuing education in accordance with section 20-04-01-08 within two years of application.
10. Any information required by the application forms prescribed by the board.

History: Effective January 1, 2011; April 1, 2015.

General Authority: NDCC 43-20-10

Law Implemented: NDCC 43-20-01.2, 43-20-01.3, 43-20-06

#### **20-04-01-07. Inactive status - License reinstatement.**

A dental hygienist may, upon payment of the fee determined by the board, place the dental hygienist's license on inactive status. A dental hygienist on inactive status shall be excused from

continuing education requirements. To the payment of renewal fees and continuing education, except inactive status renewal fees, and continuing education. Inactive status must be renewed annually by completing the inactive status renewal application and paying the renewal fee. A dental hygienist on inactive status shall not practice dental hygiene in North Dakota. To reinstate a license on inactive status, the dental hygienist shall apply on a form 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 20-04-01-04, within two years of 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 sixteen hours of continuing education in accordance with section 20-04-01-08 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 43-20-05 do not exist.

## **NEW SECTION**

### **20-04-01-07.1 Volunteer license to practice dental hygiene.**

A dental hygienist licensed to practice dental hygiene in another state or jurisdiction who has not committed, or under investigation for prosecution for any act which would constitute grounds for disciplinary action as set forth by NDCC 43-20 may apply for a volunteer license. Between meetings of the board, the executive director of the board may review the volunteer license application and grant a provisional license under the following conditions:

1. The applicant attests on a form provided by the board that dental hygiene services shall be provided without remuneration directly or indirectly in a nonprofit setting where fees for service are not collected for services rendered.
2. The applicant is licensed and has been actively practicing in another jurisdiction where the requirements are at least substantially equivalent to those of this state.
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 board may collect from the applicant the nonrefundable application and license fee prescribed by the board.
7. The board may apply such restrictions as it deems appropriate to limit the scope of the practice of dental hygiene under the authority of the volunteer license. A volunteer license is subject to all rules and laws governing dental hygiene except rules governing continuing education. Between meetings of the board, the executive

director of the board may review the volunteer license application and grant a provisional volunteer license if all the requirements are met.

History: Effective January 1, 2020????  
General Authority: NDCC 43-28-06  
Law Implemented: NDCC 43-28-06

#### **20-04-01-08. Continuing dental education for dental hygienists.**

Each dental hygienist shall provide evidence on forms supplied by the board that the dental hygienist 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 is sixteen. Of these hours, a dental hygienist may earn no more than eight hours from self-study. Self-study is an educational process designed to permit a participant to learn a given subject without involvement of a proctor. Cardiopulmonary resuscitation courses must provide hands-on training. All other continuing education requirements may be satisfied from ~~online education~~ webinars or classroom style learning. 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 registered dental anesthesia hygienist permitholders, two hours related to sedation or anesthesia.
  - e. For registered dental restorative hygienist permitholders, two hours related to restorative dentistry.
  - f. For a dental hygienist practicing under general supervision, two hours related to medical emergencies.
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 dental hygienists must hold a current cardiopulmonary resuscitation certificate.
6. A dental hygienist who maintains a license on inactive status is not subject to continuing education requirements.
7. The board may audit the continuing education credits of a dental hygienist. Each licensee shall maintain certificates or records of continuing education activities from the previous renewal cycle. 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.

History: Effective January 1, 2011; amended effective April 1, 2015; July 1, 2017.  
General Authority: NDCC 43-20-10  
Law Implemented: NDCC 43-20-01.4

## ARTICLE 20-05

# FEES

Chapter  
20-05-01 Fees

### CHAPTER 20-05-01 FEES

Section  
20-05-01-01 Fees

#### **20-05-01-01. Fees.**

57

The board shall charge the following nonrefundable fees:

1. For dentists:
  - a. License by examination application fee ~~\$440.00~~ 485.00
  - b. License by credential review application fee ~~\$1,200.00~~ 1,320.00
  - c. Renewal fee ~~\$400.00~~ 440.00
  - d. Late fee ~~\$400.00~~ 440.00
  - e. Temporary license application and license fee ~~\$250.00~~ 275.00
  - f. Volunteer license application and license fee ~~\$65.00~~ 25.00
  - g. Inactive status application fee ~~\$35.00~~ 40.00
  - h. Inactive status annual renewal fee ~~\$35.00~~ 40.00
  - i. Inactive status reinstatement fee ~~\$400.00~~ 485.00
  - j. Dermal fillers and botulinum toxin permit \$200.00
  - k. Dermal fillers and botulinum toxin permit renewal \$100.00
2. For dental hygienists:
  - a. License by examination application fee ~~\$200.00~~ 220.00
  - b. License by credential review application fee ~~\$450.00~~ 495.00
  - c. Renewal fee ~~\$150.00~~ 165.00

- d. Late fee ~~\$150.00~~165.00
- e. Inactive status application fee ~~\$35.00~~ \$42.00
- f. Volunteer license application and license fee \$25.00
- f. Inactive status annual renewal fee ~~\$35.00~~ \$40.00
- g. Inactive status reinstatement fee ~~\$150.00~~220.00
- 3. For registered and qualified dental assistants:
  - a. Application fee ~~\$130.00~~145.00
  - b. Renewal fee ~~\$100.00~~110.00
  - c. Late fee ~~\$100.00~~110.00
- 4. For general anesthesia and sedation permits:
  - a. Application fee ~~\$200.00~~ \$250
  - b. Inspection fee - actual cost
  - c. Renewal fee ~~\$200.00~~ \$250
  - d. Late fee ~~\$200.00~~ \$250
- 5. For a duplicate license, registration, or permit ~~\$45.00~~ 50.00
- 6. For an active duty military and military spouse, temporary licensing and temporary permit fees shall not be collected by the board.