

## STATE OF MAINE

—  
 IN THE YEAR OF OUR LORD  
 TWO THOUSAND AND SIXTEEN

—  
 H.P. 1086 - L.D. 1596

## An Act To Revise the Laws Regarding Dental Practices

Be it enacted by the People of the State of Maine as follows:

**Sec. 1. 5 MRSA §12004-A, sub-§10**, as amended by PL 1999, c. 687, Pt. B, §1, is repealed and the following enacted in its place:

**10.**Board of Dental PracticeLegislative per diem32 MRSA §18321board andsubcommittee members

**Sec. 2. 13 MRSA §732, sub-§4**, as amended by PL 2007, c. 620, Pt. D, §1, is further amended to read:

**4. Dentists, denturists and independent practice dental hygienists.** For the purposes of this chapter, a denturist or independent practice dental hygienist licensed under Title 32, chapter ~~46~~ 143 may organize with a dentist who is licensed under Title 32, chapter ~~46~~ 143 and may become a shareholder of a dental practice incorporated under the corporation laws. At no time may one or more denturists or independent practice dental hygienists in sum have an equal or greater ownership interest in a dental practice than the dentist or dentists have in that practice.

**Sec. 3. 13 MRSA §732, sub-§5**, as enacted by PL 2007, c. 210, §1, is further amended to read:

**5. Legal guardian or personal representative of deceased or incapacitated dentist.** For the purposes of this chapter, the legal guardian or personal representative of a dentist licensed under Title 32, chapter ~~46~~ 143 may contract with another dentist to continue the operations of the practice of the deceased or incapacitated dentist for a period of up to 24 months after the death or incapacitation of the dentist or until the practice is sold, whichever occurs first. For purposes of this subsection, "personal representative" has the same meaning as in Title 18-A, section 1-201, subsection 30.

**Sec. 4. 22 MRSA §3174-RR, sub-§1**, as reallocated by RR 2011, c. 1, §32, is amended to read:

**1. Reimbursement.** By October 1, 2012, the department shall provide for the reimbursement under the MaineCare program of independent practice dental hygienists practicing as authorized under Title 32, section ~~4094-I~~ 18375 for the following procedures:

- A. Prophylaxis performed on a person who is 21 years of age or younger;
- B. Topical application of fluoride performed on a person who is 21 years of age or younger;
- C. Provision of oral hygiene instructions;
- D. The application of sealants;
- E. Temporary fillings; and
- F. X-rays.

Reimbursement must be provided to independent practice dental hygienists directly or to a federally qualified health center pursuant to section 3174-V when an independent practice dental hygienist is employed as a core provider at the center.

**Sec. 5. 22 MRSA §3174-XX, sub-§1**, as enacted by PL 2013, c. 575, §1 and affected by §10, is amended to read:

**1. Reimbursement.** By October 1, 2015, the department shall provide for the reimbursement under the MaineCare program of dental hygiene therapists practicing as authorized under Title 32, ~~chapter 16, subchapter 3-C~~ section 18377 for the procedures identified in their scope of practice. Reimbursement must be provided to dental hygiene therapists directly or to a federally qualified health center pursuant to section 3174-V when a dental hygiene therapist is employed as a core provider at the center.

**Sec. 6. 22 MRSA §3480-A, first ¶**, as enacted by PL 2003, c. 653, §16, is amended to read:

The confidential quality of communications under section 1711-C, Title 24-A, section 4224 and Title 32, sections ~~4092-A and 7005 and 18393~~ is abrogated to the extent allowable under federal law in relation to required reporting or cooperating with the department in an investigation or other protective activity under this chapter. Information released to the department pursuant to this section must be kept confidential and may not be disclosed by the department except as provided in section 3474.

**Sec. 7. 22 MRSA §4015, first ¶**, as amended by PL 2001, c. 696, §22, is further amended to read:

The husband-wife and physician and psychotherapist-patient privileges under the Maine Rules of Evidence and the confidential quality of communication under Title 16, section 53-B; Title 20-A, sections 4008 and 6001, to the extent allowed by applicable federal law; Title 24-A, section 4224; Title 32, sections ~~4092-A and 7005 and 18393~~; and

Title 34-B, section 1207, are abrogated in relation to required reporting, cooperating with the department or a guardian ad litem in an investigation or other child protective activity or giving evidence in a child protection proceeding. Information released to the department pursuant to this section must be kept confidential and may not be disclosed by the department except as provided in section 4008.

**Sec. 8. 24 MRSA §2505, 2nd ¶**, as amended by PL 2013, c. 355, §2, is further amended to read:

Except for specific protocols developed by a board pursuant to Title 32, section ~~1073~~, 2596-A ~~or~~ 3298 or 18323, a physician or physician assistant, dentist or committee is not responsible for reporting misuse of alcohol, drugs or other substances or professional incompetence or malpractice as a result of physical or mental infirmity or by the misuse of alcohol, drugs or other substances discovered by the physician, physician assistant, dentist or committee as a result of participation or membership in a professional review committee or with respect to any information acquired concerning misuse of alcohol, drugs or other substances or professional incompetence or malpractice as a result of physical or mental infirmity or by the misuse of alcohol, drugs or other substances, as long as that information is reported to the professional review committee. This section does not prohibit an impaired physician, physician assistant or dentist from seeking alternative forms of treatment.

**Sec. 9. 24 MRSA §2904, sub-§3, ¶A**, as repealed and replaced by PL 2003, c. 438, §2, is amended to read:

A. "Dentist" means a person who practices dentistry according to the provisions of Title 32, section ~~1081~~ 18371.

**Sec. 10. 24-A MRSA §2437, first ¶**, as enacted by PL 1975, c. 345, §2, is amended to read:

Whenever the terms "physician" or "doctor" are used in any policy of health or accident insurance issued in this State, these terms ~~shall~~ include within their meaning those persons licensed under and in accordance with the laws relating to the practice of dentistry, Title 32, chapter ~~16~~ 143, in respect to any care, services, procedures or benefits covered by that policy of insurance ~~which that~~ those persons are licensed to perform, any provisions in any such policy of insurance to the contrary notwithstanding.

**Sec. 11. 24-A MRSA §2765, sub-§1**, as enacted by PL 2009, c. 307, §2 and affected by §6, is amended to read:

**1. Services provided by independent practice dental hygienist.** An insurer that issues individual dental insurance or health insurance that includes coverage for dental services shall provide coverage for dental services performed by an independent practice dental hygienist licensed under Title 32, chapter ~~16, subchapter 3-B~~ 143 when those services are covered services under the contract and when they are within the lawful scope of practice of the independent practice dental hygienist.

**Sec. 12. 24-A MRSA §2765-A, sub-§1**, as enacted by PL 2013, c. 575, §5 and affected by §10, is amended to read:

**1. Services provided by dental hygiene therapist.** An insurer that issues individual dental insurance or health insurance that includes coverage for dental services shall provide coverage for dental services performed by a dental hygiene therapist licensed under Title 32, chapter ~~16, subchapter 3-C~~ 143 when those services are covered services under the contract and when they are within the lawful scope of practice of the dental hygiene therapist.

**Sec. 13. 24-A MRSA §2847-Q, sub-§1**, as enacted by PL 2009, c. 307, §3 and affected by §6, is amended to read:

**1. Services provided by independent practice dental hygienist.** An insurer that issues group dental insurance or health insurance that includes coverage for dental services shall provide coverage for dental services performed by an independent practice dental hygienist licensed under Title 32, chapter ~~16, subchapter 3-B~~ 143 when those services are covered services under the contract and when they are within the lawful scope of practice of the independent practice dental hygienist.

**Sec. 14. 24-A MRSA §2847-U, sub-§1**, as enacted by PL 2013, c. 575, §6 and affected by §10, is amended to read:

**1. Services provided by dental hygiene therapist.** An insurer that issues group dental insurance or health insurance that includes coverage for dental services shall provide coverage for dental services performed by a dental hygiene therapist licensed under Title 32, chapter ~~16, subchapter 3-C~~ 143 when those services are covered services under the contract and when they are within the lawful scope of practice of the dental hygiene therapist.

**Sec. 15. 24-A MRSA §4257, sub-§1**, as enacted by PL 2009, c. 307, §4 and affected by §6, is amended to read:

**1. Services provided by independent practice dental hygienist.** All individual and group health maintenance organization contracts that include coverage for dental services shall provide coverage for dental services performed by an independent practice dental hygienist licensed under Title 32, chapter ~~16, subchapter 3-B~~ 143 when those services are covered services under the contract and when they are within the lawful scope of practice of the independent practice dental hygienist.

**Sec. 16. 29-A MRSA §2405, sub-§3**, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

**3. Privileged or confidential communications.** The physician-patient privileges under the Maine Rules of Evidence and the confidential quality of communication under Title 24-A, section 4224 and Title 32, section ~~4092-A~~ 18393 are abrogated in relation to required reporting or other proceeding.

**Sec. 17. 32 MRSA c. 16**, as amended, is repealed.

**Sec. 18. 32 MRSA §9852, sub-§2**, as enacted by PL 1983, c. 524, is amended to read:

**2. Dental radiographer.** "Dental radiographer" means a person, other than a licensed practitioner, whose duties include radiography of the maxilla, mandible and adjacent structures for diagnostic purposes and who is licensed under chapter ~~46~~ 143.

**Sec. 19. 32 MRSA §9854, sub-§3, ¶A**, as enacted by PL 1983, c. 524, is amended to read:

A. A dentist, dental hygienist or dental radiographer licensed under chapter ~~46~~, ~~subchapter IV~~ 143;

**Sec. 20. 32 MRSA §9854, sub-§3, ¶B**, as enacted by PL 1983, c. 524, is repealed.

**Sec. 21. 32 MRSA c. 143** is enacted to read:

## **CHAPTER 143**

### **DENTAL PROFESSIONS**

#### **SUBCHAPTER 1**

### **GENERAL PROVISIONS**

#### **§18301. Short title**

This chapter may be known and cited as "the Dental Practice Act."

#### **§18302. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Board.** "Board" means the Board of Dental Practice established in Title 5, section 12004-A, subsection 10.

**2. Charitable dentist license.** "Charitable dentist license" means the authority granted to an individual to provide free dental care as requested by a charitable or social organization within the State when resident dental services are not available.

**3. Clinical dentist educator license.** "Clinical dentist educator license" means the authority granted to an individual who is licensed as a dentist in another state or jurisdiction to participate in clinical education for individuals licensed under this chapter.

**4. Commissioner.** "Commissioner" means the Commissioner of Professional and Financial Regulation.

**5. Dental auxiliary.** "Dental auxiliary" means a dental radiographer, expanded function dental assistant, dental hygienist, independent practice dental hygienist, public health dental hygienist, dental hygiene therapist or dentist.

**6. Dental hygiene.** "Dental hygiene" means the delivery of preventative, educational and clinical services supporting total health for the control of oral disease and the promotion of oral health provided by a dental hygienist in accordance with this chapter.

**7. Dental hygiene therapist.** "Dental hygiene therapist" means a person who holds a valid license as a dental hygienist issued by the board and is authorized to practice dental hygiene therapy under this chapter.

**8. Dental hygiene therapy.** "Dental hygiene therapy" means the delivery of dental hygiene services, including performance of certain dental procedures in accordance with this chapter.

**9. Dental hygienist.** "Dental hygienist" means a person who holds a valid license as a dental hygienist issued by the board.

**10. Dental radiographer.** "Dental radiographer" means a person who holds a valid license as a dental radiographer issued by the board.

**11. Dental radiography.** "Dental radiography" means the use of ionizing radiation on the maxilla, mandible and adjacent structures of human beings for diagnostic purposes while under the general supervision of a dentist in accordance with this chapter.

**12. Dentist.** "Dentist" means a person who holds a valid dentist license issued by the board.

**13. Dentistry.** "Dentistry" means the scope of practice for a dentist as described in section 18371.

**14. Denture.** "Denture" means any removable full or partial upper or lower prosthetic dental appliance to be worn in the human mouth to replace any missing natural teeth.

**15. Denturism.** "Denturism" means the process of taking denture impressions and bite registrations for the purpose of making, producing, reproducing, constructing, finishing, supplying, altering or repairing of a denture to be fitted to an edentulous or partially edentulous arch or arches and the fitting of a denture to an edentulous or partially edentulous arch or arches, including the making, producing, reproducing, constructing, finishing, supplying, altering and repairing of dentures, without performing alteration to natural or reconstructed tooth structure, in accordance with this chapter.

**16. Denturist.** "Denturist" means a person who holds a valid denturist license issued by the board.

**17. Department.** "Department" means the Department of Professional and Financial Regulation.

**18. Direct supervision.** "Direct supervision" means the supervision required by the board by rule of those tasks and procedures requiring the physical presence of the supervisor in the practice setting at the time such tasks or procedures are being performed. In order to provide direct supervision of patient treatment, the supervisor must at least diagnose the condition to be treated, authorize the treatment procedure prior to implementation and examine the condition after treatment and prior to the patient's discharge.

**19. Expanded function dental assistant.** "Expanded function dental assistant" means a person who holds a valid expanded function dental assistant license issued by the board.

**20. Expanded function dental assisting.** "Expanded function dental assisting" means performing certain dental procedures under the supervision of a dentist in accordance with this chapter.

**21. Faculty.** "Faculty" means, when used in conjunction with a license issued under this chapter, the authority granted to an individual who is authorized to practice only within the school setting, including any satellite locations approved by the board, and who teaches dentistry, dental hygiene or denturism as part of a clinical and didactic program.

**22. General supervision.** "General supervision" means the supervision required by the board by rule of those tasks and procedures when the physical presence of the supervisor is not required in the practice setting while procedures are being performed.

**23. Independent practice dental hygienist.** "Independent practice dental hygienist" means a person who holds a valid license as a dental hygienist issued by the board and who is authorized to practice independent dental hygiene.

**24. License.** "License" means a license or permit issued by the board granting authority to an individual authorized under this chapter to perform certain services.

**25. Limited dentist.** "Limited dentist" means a dentist who has retired from the regular practice of dentistry and who holds a valid license issued by the board to practice only in a nonprofit clinic without compensation for work performed at the clinic. Services provided by a limited dentist must be in accordance with this chapter.

**26. Local anesthesia.** "Local anesthesia" means a drug, element or other material that results in a state of insensibility of a circumscribed area or the loss of sensation in some definite, localized area without inhibition of conscious processes.

**27. Nitrous oxide analgesia.** "Nitrous oxide analgesia" means a gas containing nitrous oxide used to induce a controlled state of relative analgesia with the goal of controlling anxiety.

**28. Practice setting.** "Practice setting" means the physical location where services authorized under this chapter are provided to the public.

**29. Provisional dental hygiene therapist.** "Provisional dental hygiene therapist" means a person who holds a valid license as a dental hygienist issued by the board and who is authorized to practice dental hygiene therapy under the supervision of a dentist in accordance with this chapter.

**30. Public health dental hygiene.** "Public health dental hygiene" means the delivery of certain dental hygiene services under a written supervision agreement with a dentist for the purpose of providing services in a public health setting in accordance with this chapter.

**31. Public health dental hygienist.** "Public health dental hygienist" means a person who holds a valid license as a dental hygienist issued by the board and who is authorized to practice public health dental hygiene in accordance with this chapter.

**32. Public health setting.** "Public health setting" means a place where the practice of public health dental hygiene occurs, and includes, but is not limited to, public and private schools, medical facilities, nursing homes, residential care facilities, mobile units, nonprofit organizations and community health centers.

**33. Resident dentist license.** "Resident dentist license" means the authority granted to an individual who is a graduate of an approved dental school or college, who is not licensed to practice dentistry in this State and is authorized to practice under the direct or general supervision and direction of a dentist in a board-approved setting in accordance with this chapter.

**34. Reversible intraoral procedures.** "Reversible intraoral procedures" means placing and removing rubber dams and matrices; placing and contouring amalgam, composite and other restorative materials; applying sealants; supragingival polishing; and other reversible procedures.

### **§18303. Individual license**

Only an individual may be licensed under this chapter and only a licensed individual may provide services for which a license is required under this chapter.

### **§18304. License required**

**1. Unlicensed practice.** Except as provided in section 18305 and section 18371, subsections 3 and 6, a person may not practice or profess to be authorized to practice the activities described in this chapter without a license or during any period when that person's license has expired or has been suspended or revoked.

**2. Unlawful practice.** A person may not:

**A. Practice dentistry under a false or assumed name;**

**B. Practice dentistry under the name of a corporation, company, association, parlor or trade name;**

C. While manager, proprietor, operator or conductor of a place for performing dental operations, employ a person who is not a lawful practitioner of dentistry in this State to perform dental practices as described in section 18371;

D. While manager, proprietor, operator or conductor of a place for performing dental operations, permit a person to practice dentistry under a false name;

E. Assume a title or append a prefix or letters following that person's name that falsely represent the person as having a degree from a dental college;

F. Impersonate another at an examination held by the board;

G. Knowingly make a false application or false representation in connection with an examination held by the board; or

H. Employ a person as a dental hygienist, independent practice dental hygienist, denturist or dental radiographer who is not licensed to practice.

**3. Penalties.** A person who violates this section commits a Class E crime. Violation of this section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

**4. Injunction.** The Attorney General may bring an action in Superior Court pursuant to Title 10, section 8003-C, subsection 5 to enjoin a person from violating this chapter.

### **§18305. Persons and practices not affected; exemptions**

**1. Persons and practices not affected.** Nothing in this chapter may be construed to limit, enlarge or affect the practice of persons licensed to practice medicine, osteopathy or dentistry in this State. Nothing in this chapter may be construed to prohibit a duly qualified dental surgeon or dental hygienist from performing work or services performed by a denturist licensed under this chapter to the extent those persons are authorized to perform the same services under other state law.

**2. Exemptions.** The requirement of a license under this chapter does not apply to:

A. A resident physician or a student enrolled in and attending a school or college of medicine or osteopathy;

B. A licensed physician or surgeon who practices under the laws of this State, unless that person practices dentistry as a specialty;

C. A qualified anesthetist or nurse anesthetist who provides an anesthetic for a dental operation; a certified registered nurse under the direct supervision of either a licensed dentist who holds a valid sedation or general anesthesia permit or a licensed physician who provides an anesthetic for a dental operation; a certified registered nurse under the direct supervision of a licensed dentist or physician who removes sutures, dresses wounds or applies dressings and bandages; and a certified registered nurse under the direct supervision of a licensed dentist or physician who injects drugs subcutaneously or intravenously;

D. A person serving in the United States Armed Forces or the United States Department of Health and Human Services, Public Health Service or employed by the United States Department of Veterans Affairs or other federal agency while performing official duties, if the duties are limited to that service or employment;

E. A graduate dentist or dental surgeon in the United States Army, Navy or Air Force; the United States Department of Health and Human Services, Public Health Service; the United States Coast Guard; or United States Department of Veterans Affairs who practices dentistry in the discharge of official duties;

F. A person having a current license to perform radiologic technology pursuant to section 9854 and who is practicing dental radiography under the general supervision of a dentist or physician;

G. A dentist licensed in another state or country at meetings of the Maine Dental Association or its affiliates or other like dental organizations approved by the board, while appearing as a clinician;

H. Any person, association, corporation or other entity who fills a prescription from a dentist for the construction, reproduction or repair of prosthetic dentures, bridges, plates or appliances to be used or worn as substitutes for natural teeth;

I. A dental laboratory technician constructing, altering, repairing or duplicating a denture, plate, partial plate, bridge, splint, orthodontic or prosthetic appliance with a prescription as set forth in section 18371, subsection 6;

J. A student enrolled in a board-approved dental program, dental hygiene program, dental therapy program, expanded function dental assisting program or a denturism program practicing under the direct or general supervision of that student's instructors;

K. A student participating in a board-approved externship program who is registered and practicing under direct or general supervision as set forth in section 18348, subsection 1; and

L. An individual licensed under this chapter who is registered and practicing under the direct supervision of a dentist as set forth in section 18348, subsection 2 or 3 for the purpose of obtaining clinical experience needed for meeting the requirements to administer sedation, local anesthesia or general anesthesia.

### **§18306. Fraudulent sale or alteration of diplomas or licenses**

**1. Fraudulent or altered diploma or license; bribery.** A person may not:

A. Sell or offer to sell a diploma conferring a dental degree or license granted pursuant to the laws of this State;

B. Procure a license or diploma with intent that it be used as evidence of the right to practice dentistry by a person other than the one upon whom the diploma or license was conferred;

C. With fraudulent intent alter a diploma or license to practice dentistry;

D. Use or attempt to use an altered diploma or license; or

E. Attempt to bribe a member of the board by the offer or use of money or other pecuniary reward or by other undue influence.

2. Penalty. A person who violates this section commits a Class E crime. Except as otherwise specifically provided, violation of this section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

### **§18307. Review committee immunity**

A dentist who is a member of a peer review committee of a state or local association or society composed of doctors of dentistry, a staff member of such an association or society assisting a peer review committee and a witness or consultant appearing before or presenting information to the peer review committee are immune from civil liability for, without malice, undertaking or failing to undertake any act within the scope of the function of the committee.

## **SUBCHAPTER 2**

### **BOARD OF DENTAL PRACTICE**

#### **§18321. Board creation; declaration of policy; compensation**

1. Board creation; declaration of policy. The Board of Dental Practice, as established in Title 5, section 12004-A, subsection 10, is created within this subchapter, its sole purpose being to protect the public health and welfare. The board carries out this purpose by ensuring that the public is served by competent and honest practitioners and by establishing minimum standards of proficiency in the professions regulated by the board by testing, licensing, regulating and disciplining practitioners of those regulated professions.

2. Compensation. Members of the board, the Subcommittee on Denturists under section 18326 and the Subcommittee on Dental Hygienists under section 18327 are entitled to compensation according to the provisions of Title 5, chapter 379.

#### **§18322. Board membership**

1. Membership; terms; removal. The board consists of 9 members appointed by the Governor as follows:

A. Five dentists. Each dentist member must hold a valid dental license under this chapter and must have been in the actual practice of dentistry in this State for at least 10 years immediately preceding appointment. A dentist is not eligible to serve as a member of the board while employing a dental hygienist or a denturist who is a member of the board;

B. Two dental hygienists. Each dental hygienist member must hold a valid dental hygiene license under this chapter and must have practiced in the State for at least 6 years immediately preceding appointment. A dental hygienist is not eligible to serve as a member of the board while employed by a dentist who is a member of the board;

C. One denturist. The denturist member must hold a valid denturist license under this chapter and must have practiced in the State for at least 6 years immediately preceding appointment. A denturist is not eligible to serve as a member of the board while employed by a dentist who is a member of the board; and

D. One public member. The public member must be a person who has no financial interest in the dental profession and has never been licensed, certified or given a permit in this or any other state for the dental profession.

The Governor may accept nominations from professional associations and from other organizations and individuals. A member of the board must be a legal resident of the State. A person who has been convicted of a violation of the provisions of this Act or any prior dental practice act, or who has been convicted of a crime punishable by more than one year's imprisonment, is not eligible for appointment to the board. Appointments of members must comply with Title 10, section 8009.

2. Terms. Terms of the members of the board are for 5 years. A person who has served 10 years or more on a dental examining board in this State is not eligible for appointment to the board. A member may be removed by the Governor for cause.

3. Quorum; chair; vice-chair. Notwithstanding any provision of law to the contrary, a majority of the members serving on the board constitutes a quorum. The board shall elect its chair and vice-chair annually.

#### **§18323. Powers and duties of the board**

The board has the following powers and duties in addition to all other powers and duties imposed by this chapter:

1. Hearings and procedures. The power to hold hearings and take evidence in all matters relating to the exercise and performance of the powers and duties vested in the board and the authority to subpoena witnesses, books, records and documents in hearings before the board;

2. Complaints. The duty to investigate complaints in a timely fashion on its own motion and those lodged with the board or its representatives regarding the violation of a provision of this chapter or of rules adopted by the board;

3. Fees. The authority to adopt by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$550;

4. Budget. The duty to submit to the commissioner its budgetary requirements in the same manner as is provided in Title 5, section 1665. The commissioner shall in turn transmit these requirements to the Department of Administrative and Financial Services, Bureau of the Budget without revision, alteration or change, unless alterations are mutually agreed upon by the department and the board or the board's designee. The budget submitted by the board to the commissioner must be sufficient to enable the board to comply with this chapter;

**5. Adequacy of budget, fees and staffing.** The duty to ensure that the budget submitted by the board to the commissioner pursuant to subsection 4 is sufficient, if approved, to provide for adequate legal and investigative personnel on the board's staff and that of the Attorney General to ensure that complaints pursuant to this chapter can be resolved in a timely fashion;

**6. Executive director; duties.** The power to appoint an executive director who serves at the pleasure of the board and who shall assist the board in carrying out its duties and responsibilities under this chapter. The executive director is responsible for the management of the board's affairs, including the authority to employ and prescribe the duties of personnel within the guidelines, policies and rules established by the board;

**7. Authority to delegate.** The power to delegate to staff the authority to review and approve applications for licensure pursuant to procedures and criteria established by rule;

**8. Protocols for professional review committee.** The authority to establish protocols for the operation of a professional review committee as defined in Title 24, section 2502, subsection 4-A. The protocols must include the committee reporting information the board considers appropriate regarding reports received, contracts or investigations made and the disposition of each report, as long as the committee is not required to disclose any personally identifiable information. The protocols may not prohibit an impaired licensee under this chapter from seeking alternative forms of treatment; and

**9. Authority to order a mental or physical examination.** The authority to direct a licensee, who by virtue of an application for and acceptance of a license to practice under this chapter is considered to have given consent, to submit to an examination whenever the board determines the licensee may be suffering from a mental illness or physical illness that may be interfering with competent practice under this chapter or from the use of intoxicants or drugs to an extent that prevents the licensee from practicing competently and with safety to patients. A licensee examined pursuant to an order of the board may not prevent the testimony of the examining individual or prevent the acceptance into evidence of the report of an examining individual. The board may petition the District Court for immediate suspension of a license if the licensee fails to comply with an order of the board to submit to a mental or physical examination pursuant to this subsection.

#### **§18324. Rules**

The board shall adopt rules that are necessary for the implementation of this chapter. The rules may include, but need not be limited to, requirements for licensure, license renewal and license reinstatement as well as practice setting standards that apply to individuals licensed under this chapter relating to recordkeeping, infection control, supervision and administering sedation and anesthesia. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

#### **§18325. Disciplinary action; judicial review**

**1. Disciplinary action.** The board may suspend, revoke, refuse to issue or renew a license pursuant to Title 5, section 10004. The following are grounds for an action to

refuse to issue, modify, suspend, revoke or refuse to renew the license of a person licensed under this chapter:

A. The practice of fraud, deceit or misrepresentation in obtaining a license or authority from the board or in connection with services within the scope of the license or authority;

B. Misuse of alcohol, drugs or other substances that has resulted or may result in the licensee performing services in a manner that endangers the health or safety of patients;

C. A professional diagnosis of a mental or physical condition that has resulted or may result in the licensee performing services in a manner that endangers the health or safety of patients;

D. Incompetence in the practice for which the licensee is licensed or authorized by the board. A licensee is considered incompetent in the practice if the licensee has:

(1) Engaged in conduct that evidences a lack of ability or fitness to perform the duties owed by the licensee to a client or patient or the general public; or

(2) Engaged in conduct that evidences a lack of knowledge or inability to apply principles or skills to carry out the practice for which the licensee is licensed;

E. Unprofessional conduct. A licensee is considered to have engaged in unprofessional conduct if the licensee violates a standard of professional behavior that has been established in the practice for which the licensee is licensed or authorized by the board;

F. Subject to the limitations of Title 5, chapter 341, conviction of a crime that involves dishonesty or false statement or that relates directly to the practice for which the licensee is licensed or authorized by the board, or conviction of a crime for which incarceration for one year or more may be imposed;

G. Engaging in false, misleading or deceptive advertising;

H. Aiding or abetting unlicensed practice by a person who is not licensed or authorized as required under this chapter;

I. Failure to provide supervision as required under this chapter or a rule adopted by the board;

J. Engaging in any activity requiring a license or authority under this chapter or rule adopted by the board that is beyond the scope of acts authorized by the license or authority held;

K. Continuing to act in a capacity requiring a license or authority under this chapter or a rule adopted by the board after expiration, suspension or revocation of that license or authority;

L. Noncompliance with an order of or consent agreement executed by the board;

M. Failure to produce any requested documents in the licensee's possession or under the licensee's control relevant to a pending complaint, proceeding or matter under investigation by the board;

N. Any violation of a requirement imposed pursuant to section 18352; and

O. A violation of this chapter or a rule adopted by the board.

2. **Judicial review.** Notwithstanding Title 10, section 8003, subsection 5, any nonconsensual revocation pursuant to Title 10, section 8003, subsection 5 of a license or authority issued by the board may be imposed only after a hearing conforming to the requirements of Title 5, chapter 375, subchapter 4 and is subject to judicial review exclusively in the Superior Court in accordance with Title 5, chapter 375, subchapter 7.

### **§18326. Subcommittee on Denturists**

The Subcommittee on Denturists, referred to in this section as "the subcommittee," is established as follows.

1. **Membership.** The subcommittee consists of 5 members as follows:

A. The dentist who is a member of the board;

B. Two denturists, appointed by the Governor, who are legal residents of the State and have practiced in the State for at least 6 years immediately preceding appointment; and

C. Two dentists who are members of the board, appointed by the chair of the board.

2. **Terms.** Each of the 3 members of the subcommittee who also are members of the board shall serve on the subcommittee for the duration of that member's term on the board. The term of a member of the subcommittee who is not a member of the board is 5 years.

3. **Duties.** The subcommittee shall:

A. Perform an initial review of all complaints involving denturists. Upon completion of its review of a complaint, the secretary of the subcommittee shall report to the board the subcommittee's recommended disposition of the complaint. The board shall adopt the subcommittee's recommended disposition of a complaint unless no fewer than 2/3 of the board members who are present and voting vote to reject that recommended disposition; and

B. Perform an initial review of all applications for licensure as a dentist and all submissions relating to continuing education of denturists. Upon completion of its review of an application or submission, the secretary of the subcommittee shall report to the board the subcommittee's recommended disposition of the application or submission, including issuance, renewal, denial or nonrenewal of a dentist license. The board shall adopt the subcommittee's recommended disposition of an application or submission unless no fewer than 2/3 of the board members who are present and voting vote to reject that recommended disposition.

4. **Quorum; chair; secretary.** Notwithstanding any provision of law to the contrary, a majority of the members serving on the subcommittee constitutes a quorum. The subcommittee shall annually elect its chair and secretary.

### **§18327. Subcommittee on Dental Hygienists**

The Subcommittee on Dental Hygienists, referred to in this section as "the subcommittee," is established.

**1. Membership.** The subcommittee consists of 5 members as follows:

A. A dental hygienist who is a member of the board;

B. Two dental hygienists, appointed by the Governor, who are legal residents of the State and have practiced in the State for at least 6 years immediately preceding appointment; and

C. Two dentists who are members of the board, appointed by the chair of the board.

**2. Terms.** Each of the 3 members of the subcommittee who also are members of the board shall serve on the subcommittee for the duration of that member's term on the board. The term of a member of the subcommittee who is not a member of the board is 5 years.

**3. Duties.** The subcommittee shall:

A. Perform an initial review of all complaints involving dental hygienists and dental hygienists with additional authority pursuant to section 18345, subsection 2. Upon completion of its review of a complaint, the secretary of the subcommittee shall report to the board the subcommittee's recommended disposition of the complaint. The board shall adopt the subcommittee's recommended disposition of a complaint unless no fewer than 2/3 of the board members who are present and voting vote to reject that recommended disposition; and

B. Perform an initial review of all applications for licensure as a dental hygienist or a dental hygienist with additional authority pursuant to section 18345, subsection 2 and all submissions relating to continuing education of dental hygienists. Upon completion of its review of an application or submission, the secretary of the subcommittee shall report to the board the subcommittee's recommended disposition of the application or submission, including issuance, renewal, denial or nonrenewal of a dental hygienist license. The board shall adopt the subcommittee's recommended disposition of an application or submission unless no fewer than 2/3 of the board members who are present and voting vote to reject that recommended disposition.

**4. Quorum; chair; secretary.** Notwithstanding any provision of law to the contrary, a majority of the members serving on the subcommittee constitutes a quorum. The subcommittee shall annually elect its chair and secretary.

### **SUBCHAPTER 3**

### **LICENSING QUALIFICATIONS**

**§18341. Application; fees; general qualifications**

**1. Application.** An applicant seeking an initial or a renewed license must submit an application with the fee established under section 18323 and any other materials required by the board.

**2. Age.** An applicant must be 18 years of age or older.

**3. Time limit.** An applicant has 90 days after being notified of the materials needed to complete the application to submit those materials to the board. Failure to complete the application within that 90-day period may result in a denial of the application.

**§18342. Dentist**

**1. Dentist license.** Except as provided in section 18347, an applicant for licensure as a dentist must comply with the provisions of section 18341 and must provide:

**A.** Verification of a doctoral degree in dentistry from a dental school accredited as required by board rule; and

**B.** Verification of passing all examinations required by the board.

**2. Faculty dentist license.** An applicant for a faculty dentist license must comply with section 18341 and must provide:

**A.** Verification of an active dental license in good standing issued under the laws of another state or a Canadian province; and

**B.** Credentials, satisfactory to the board, including a letter from the employing school of dentistry, dental hygiene or denturism indicating that the applicant satisfies the credentialing standards of the school and that the applicant will teach:

**(1)** Dentistry, dental hygiene or denturism in this State as part of a clinical and didactic program for professional education for dental students and dental residents accredited by the American Dental Association Commission on Dental Accreditation or a successor organization approved by the board;

**(2)** Dental hygiene in this State as part of a clinical and didactic program for professional education for dental hygiene students and dental hygiene residents accredited by the American Dental Association Commission on Dental Accreditation or a successor organization approved by the board; or

**(3)** Denturism in this State as part of a board-approved clinical and didactic program for professional education for denturism students.

**3. Limited dentist license.** An applicant for a limited dentist license must comply with section 18341 and must provide:

**A.** Verification of a doctoral degree in dentistry from a dental school accredited as required by board rule;

**B.** Verification that the applicant has been licensed as a dentist in good standing issued under the laws of this State or has an active dental license in good standing issued under the laws of another state or a Canadian province;

C. Verification of passing all examinations required by board rule; and

D. Verification that the applicant will be practicing dentistry in a nonprofit dental clinic without compensation for work performed at the clinic.

**4. Clinical dentist educator license.** An applicant for a clinical dentist educator license must comply with section 18341 and must provide:

A. Verification of an active dental license in good standing issued under the laws of another state or a Canadian province; and

B. An outline of the clinical education program to be offered to practitioners in this State.

**5. Charitable dentist license.** An applicant for a charitable dentist license must comply with section 18341 and must provide:

A. Verification of a doctoral degree in dentistry from a dental school accredited as required by board rule;

B. Verification that the applicant has been licensed as a dentist in good standing under the laws of this State or has an active dental license in good standing issued under the laws of another state or a Canadian province;

C. Verification of passing all examinations required by board rule; and

D. Verification that the purpose of the license is to offer free dental care in conjunction with a charitable or social organization.

**6. Resident dentist license.** An applicant for a resident dentist license must comply with section 18341 and must provide:

A. Verification of a doctoral degree in dentistry from a dental school accredited as required by board rule;

B. Verification of passing all examinations required by board rule;

C. Verification that the applicant will be practicing dentistry in a board-approved practice setting within the State; and

D. A statement from the sponsoring dentist that demonstrates that the level of supervision and control of the services to be performed by the applicant are adequate and that the performance of these services are within the applicant's dental knowledge and skill.

### **§18343. Dental radiographer**

**1. Dental radiographer license.** Except as provided in section 18347, an applicant for a dental radiographer license must comply with section 18341 and must provide:

A. Verification of a high school diploma or its equivalent as determined by the board; and

B. Verification of passing an examination in dental radiologic technique and safety required by board rule.

**§18344. Expanded function dental assistant**

**1. Expanded function dental assistant license.** Except as provided in section 18347, an applicant for an expanded function dental assistant license must comply with section 18341 and must provide:

- A. Verification of a high school diploma or its equivalent as determined by the board;
- B. Verification of one of the following:
  - (1) A current certificate as a certified dental assistant from a board-approved certificate program;
  - (2) An active dental hygiene license in good standing issued under the laws of this State; or
  - (3) An active dental hygiene license in good standing issued under the laws of another state or a Canadian province; and
- C. Verification of having successfully completed training in a school or program required by board rule; and
- D. Verification of passing all examinations required by board rule.

**§18345. Dental hygienist**

**1. Dental hygienist license.** Except as provided in section 18347, an applicant for a dental hygienist license must comply with section 18341 and must provide:

- A. Verification of having successfully passed all examinations required by board rule and one of the following:
  - (1) Verification of an associate degree or higher in dental hygiene from a school accredited by the American Dental Association Commission on Dental Accreditation, or its successor organization; or
  - (2) Verification of having completed at least 1/2 of the prescribed course of study in an accredited dental college as a dental student.

**2. Additional authority.** A dental hygienist licensed under this section or section 18347 who applies for additional authority must comply with section 18341 and must provide:

- A. For independent practice dental hygienist authority:
  - (1) If the applicant has a bachelor's degree or higher in dental hygiene from a dental hygiene program accredited by the American Dental Association Commission on Dental Accreditation or its successor organization, verification of 2,000 work hours of clinical practice during the 4 years preceding the application; or
  - (2) If the applicant has an associate degree in dental hygiene from a dental hygiene program accredited by the American Dental Association Commission on

Dental Accreditation or its successor organization, verification of 5,000 work hours of clinical practice during the 6 years preceding the application.

For purposes of meeting the clinical practice requirements of this paragraph, the applicant's hours in a private dental practice or nonprofit setting under the supervision of a dentist may be included as well as the applicant's hours as a public health dental hygienist or, prior to the effective date of this Act, as a dental hygienist with public health supervision status;

B. For public health dental hygienist authority:

(1) A copy of the written agreement between the applicant and a supervising dentist that outlines the roles and responsibilities of the parties, which must include, but is not limited to, the level of supervision provided by the dentist, the practice settings, the standing orders and the coordination and collaboration that each party must undertake if additional patient care is needed; and

(2) Verification that the services will be offered in a public health setting;

C. For dental hygiene therapist authority:

(1) Verification of having successfully completed a dental hygiene therapy program that:

(a) Is accredited by the American Dental Association Commission on Dental Accreditation or a successor organization;

(b) Is a minimum of 4 semesters;

(c) Is consistent with the model curriculum for educating dental hygiene therapists adopted by the American Association of Public Health Dentistry or a successor organization;

(d) Is consistent with existing dental hygiene therapy programs in other states approved by the board; and

(e) Meets the requirements for dental hygiene therapy education programs adopted by board rule;

(2) Verification of a bachelor's degree or higher in dental hygiene, dental hygiene therapy or dental therapy from a school accredited by the American Dental Association Commission on Dental Accreditation or a successor organization;

(3) Verification of passing a clinical examination and all other examinations required by board rule. The clinical examination must be a comprehensive, competency-based clinical examination approved by the board and administered independently of an institution providing dental hygiene therapy education;

(4) Verification of having engaged in 2,000 hours of supervised clinical practice under the supervision of a dentist and in conformity with rules adopted by the board, during which supervised clinical practice the applicant is authorized to practice pursuant to paragraph F.

For purposes of meeting the clinical requirements of this subparagraph, an applicant's hours of supervised clinical experience while enrolled in the dental hygiene therapy program under subparagraph (1) may be included as well as hours completed under the supervision of a dentist licensed in another state or a Canadian province, provided that the applicant was operating lawfully under the laws and rules of that state or province; and

(5) A copy of the written practice agreement and standing orders required by section 18377, subsection 3;

D. For local anesthesia authority:

(1) Verification of having successfully completed a course of study required by board rule; and

(2) Verification of passing all examinations required by board rule;

E. For nitrous oxide analgesia authority:

(1) Verification of having successfully completed a course of study required by board rule; and

(2) Verification of passing all examinations required by board rule; and

F. For provisional dental hygiene therapist authority:

(1) Verification of meeting the requirements of paragraph C, subparagraphs (1) to (3); and

(2) A copy of the written agreement between the applicant and a dentist who will provide levels of supervision consistent with the scope of practice outlined in section 18377 and in conformity with rules adopted by the board.

During the period of provisional authority the applicant may be compensated for services performed as a dental hygiene therapist. The period of provisional authority may not exceed 3 years.

**3. Faculty dental hygiene license.** An applicant for a faculty dental hygienist license must comply with section 18341 and must provide:

A. Verification of an active dental hygiene license in good standing issued under the laws of another state or a Canadian province; and

B. Credentials, satisfactory to the board, including a letter from the employing school of dentistry, dental hygiene or denturism indicating that the applicant satisfies the credentialing standards of the school and that the applicant will teach:

(1) Dental hygiene or denturism in this State as part of a clinical and didactic program for professional education for dental students and dental residents accredited by the American Dental Association Commission on Dental Accreditation or a successor organization approved by the board;

(2) Dental hygiene in this State as part of a clinical and didactic program for professional education for dental hygiene students and dental hygiene residents accredited by the American Dental Association Commission on Dental Accreditation or a successor organization approved by the board; or

(3) Denturism in this State as part of a board-approved clinical and didactic program for professional education for denturism students.

**§18346. Denturist**

**1. Denturist license.** Except as provided in section 18347, an applicant for a denturist license must comply with section 18341 and must provide:

A. Verification of a high school diploma or its equivalent as determined by the board;

B. Verification of a diploma from a board-approved denturism postsecondary institution; and

C. Verification of passing all examinations required by board rule. The content of one examination must have a clinical component and a written component concerning, but not limited to, dental materials, denture technology, United States Department of Health and Human Services, Centers for Disease Control and Prevention guidelines, basic anatomy and basic pathology.

**2. Faculty denturist license.** An applicant for a faculty denturist license must comply with section 18341 and must provide:

A. Verification of an active denturist license in good standing issued under the laws of another state or a Canadian province; and

B. Credentials, satisfactory to the board, including a letter from the employing school of dentistry, dental hygiene or denturism indicating that the applicant satisfies the credentialing standards of the school.

**§18347. Endorsement; applicants authorized to practice in another jurisdiction**

The board is authorized, at its discretion, to waive the examination requirements and issue a license or grant an authority to an applicant who is licensed under the laws of another state or a Canadian province who furnishes proof, satisfactory to the board, that the requirements for licensure under this chapter have been met. Applicants must comply with the provisions set forth in section 18341.

**1. Applicants licensed in another jurisdiction.** An applicant for licensure or seeking authority under this chapter who is licensed under the laws of another jurisdiction is governed by this subsection.

A. An applicant who is licensed in good standing at the time of application to the board under the laws of another state or a Canadian province may qualify for licensure by submitting evidence to the board that the applicant has held a substantially equivalent, valid license for at least 3 consecutive years immediately preceding the application to the board at the level of licensure applied for in this State.

B. An applicant who does not meet the requirements of paragraph A but is licensed in good standing at the time of application to the board under the laws of another state or a Canadian province may qualify for licensure by submitting evidence

satisfactory to the board that the applicant's qualifications for licensure are substantially similar to the requirements in this chapter for the relevant license.

#### **§18348. Registration requirements**

**1. Dentist externship registration.** A dentist may register under that dentist's license a student for the purpose of providing clinical supervision outside of the academic setting. A registration under this section expires one year from the date the registration is granted. An applicant must comply with section 18341 and must provide:

A. Verification that the student has an academic affiliation and good academic standing as a dental student in a school approved by the board;

B. Verification from the dental school that the student has completed satisfactory training and is ready to perform limited dental services outside of the school setting under the supervision of a dentist; and

C. A statement from the supervising dentist that outlines the level of supervision that the dentist will provide and that attests that the performance of these services by the student will add to the student's knowledge and skill in dentistry.

**2. Sedation and general anesthesia registration.** A dentist who holds a permit to administer sedation pursuant to section 18379 may register another dentist under that dentist's license for the purpose of providing clinical supervision in administering sedation or general anesthesia under direct supervision. A registration under this subsection expires one year from the date the registration is granted. Applicants must comply with section 18341 and must submit a letter from the supervising dentist describing the practice settings in which supervision will occur as well as attesting that these arrangements are commensurate with the registrant's education, training and competency.

**3. Local anesthesia/nitrous oxide analgesia registration.** A dentist may register a dentist or dental hygienist under that dentist's license for the purpose of providing clinical supervision in administering local anesthesia or nitrous oxide analgesia under direct supervision. A registration under this section expires one year from the date the registration is granted. Applicants must comply with section 18341 and must submit a letter from the supervising dentist describing the practice settings in which supervision will occur as well as attesting that these arrangements are commensurate with the registrant's education, training and competency.

**4. Denturist externship registration.** A denturist or dentist may register under that dentist's or denturist's license a student for the purpose of providing clinical supervision outside of the academic setting. A registration under this section expires one year from the date the registration is granted, but may be renewed for an additional year. An applicant must comply with section 18341 and must provide:

A. Verification that the student has an academic affiliation and good academic standing as a denturist student in a denturist program approved by the board;

B. Verification from the denturist program that the student has completed satisfactory training and is ready to perform limited denturist services outside of the school setting under the supervision of a denturist or a dentist; and

C. A letter from the supervising denturist or dentist that describes the level of supervision that the dentist will provide and that attests that the performance of these services by the student will add to the student's knowledge and skill in denturism.

#### **§18349. License renewal; reinstatement**

1. **Renewal.** Licenses under this chapter expire at such times as the commissioner may designate. In the absence of any reason or condition that might warrant the refusal of granting a license, the board shall issue a renewal license to each applicant who meets the requirements of sections 18341 and 18350.

2. **Late renewals.** Licenses may be renewed up to 90 days after the date of expiration if the applicant meets the requirements of subsection 1 and pays a late fee established by the board pursuant to section 18323, subsection 3.

3. **Reinstatement.** A person who submits an application for reinstatement more than 90 days after the license expiration date is subject to all requirements governing new applicants under this chapter, except that the board may, giving due consideration to the protection of the public, waive examination if that renewal application is received, together with the penalty fee established by the board pursuant to section 18323, subsection 3, within 2 years from the date of the license expiration.

#### **§18350. Continuing education**

As a condition of renewal of a license to practice, an applicant must have a current cardiopulmonary resuscitation certification and complete continuing education during the licensing cycle prior to application for renewal. The board may prescribe by rule the content and types of continuing education activities that meet the requirements of this section.

#### **§18351. Inactive status**

A licensee who wants to retain licensure while not practicing may apply for an inactive status license. The fee for inactive status licensure is set under section 18323, subsection 3. During inactive status, the licensee must renew the license and pay the renewal fee set under section 18323, subsection 3, but is not required to meet the continuing education requirements under section 18350. The board shall adopt rules by which an inactive status license may be reinstated.

An individual who practices under a clinical dentist educator license, a charitable dentist license or a resident dentist license or as a provisional dental hygiene therapist may not apply for inactive status.

#### **§18352. Duty to require certain information from applicants and licensees**

1. **Report in writing.** A licensee and an applicant for licensure shall report in writing to the board no later than 10 days after any of the following changes or events:

A. Change of name or address;

B. Criminal conviction;

C. Revocation, suspension or other disciplinary action taken in this State or any other jurisdiction against any occupational or professional license held by the licensee or applicant; or

D. Any material change in the conditions or qualifications set forth in the original application for licensure submitted to the board.

#### **SUBCHAPTER 4**

#### **SCOPE OF PRACTICE; SUPERVISION; PRACTICE REQUIREMENTS**

#### **§18371. Dentist**

**1. Scope of practice.** A dentist, charitable dentist, clinical dentist educator, faculty dentist, limited dentist or resident dentist may:

A. Perform a dental operation or oral surgery or dental service of any kind, gratuitously or for a salary, fee, money or other compensation paid, or to be paid, directly or indirectly to the person or to any other person or agency who is a proprietor of a place where dental operations, oral surgery or dental services are performed;

B. Take impressions of a human tooth, teeth or jaws and perform a phase of an operation incident to the replacement of a part of a tooth;

C. Supply artificial substitutes for the natural teeth and furnish, supply, construct, reproduce or repair a prosthetic denture, bridge, appliance or any other structure to be worn in the human mouth;

D. Place dental appliances or structures in the human mouth and adjust or attempt or profess to adjust the same;

E. Furnish, supply, construct, reproduce or repair or profess to the public to furnish, supply, construct, reproduce or repair a prosthetic denture, bridge, appliance or other structure to be worn in the human mouth;

F. Diagnose or profess to diagnose, prescribe for and treat or profess to prescribe for and treat disease, pain, deformity, deficiency, injury or physical condition of the human teeth or jaws or adjacent structure;

G. Extract or attempt to extract human teeth;

H. Correct or attempt to correct malformations of teeth and jaws;

I. Repair or fill cavities in the human teeth;

J. Diagnose malposed teeth and make and adjust appliances or artificial casts for treatment of the malposed teeth in the human mouth with or without instruction;

K. Use an x-ray machine for the purpose of taking dental x-rays and interpret or read or profess to interpret or read dental x-rays;

L. Use the words dentist, dental surgeon or oral surgeon and the letters D.D.S. or D.M.D. and any other words, letters, title or descriptive matter that represents that person as being able to diagnose, treat, prescribe or operate for a disease, pain, deformity, deficiency, injury or physical condition of the human teeth or jaws or adjacent structures and state, profess or permit to be stated or professed by any means or method whatsoever that the person can perform or will attempt to perform dental operations or render a diagnosis connected with dental operations;

M. Prescribe drugs or medicine and administer local anesthesia, analgesia including nitrous oxide and oxygen inhalation and, with the appropriate permit issued by the board, administer sedation and general anesthesia necessary for proper dental treatment; and

N. Take case histories and perform physical examinations to the extent the activities are necessary in the exercise of due care in conjunction with the provision of dental treatment or the administration of anesthesia. A dentist is not permitted to perform physical examinations within a hospital licensed by the Department of Health and Human Services unless this activity is permitted by the hospital.

**2. Limitations.** Individuals practicing dentistry as described in this section who possess one of the following licenses shall adhere to the restrictions in this subsection.

A. An individual with a charitable dentist license may provide dental services only in conjunction with the charitable or social organization for which the license was issued by the board and may not accept remuneration for those services. Authority to practice as a charitable dentist may not exceed one year.

B. An individual with a clinical dentist educator license may provide dental services only as part of the clinical education program under which the license was issued by the board. Authority to practice as a clinical dentist educator may not exceed 7 days in any calendar year.

C. An individual with a faculty dentist license may provide dental services only as part of the education program for which the license was issued by the board.

D. An individual with a limited dentist license may provide dental services only in the nonprofit dental clinic for which the license was issued by the board and may not accept remuneration for those services.

E. An individual with a resident dentist license may provide dental services only under the supervision of the sponsoring dentist and in accordance with the level of supervision and control for which the license was issued by the board.

**3. Delegation authorized.** A dentist may delegate to an unlicensed person the activities listed in this subsection. A dentist who delegates activities as described is legally liable for the activities of that unlicensed person and the unlicensed person in this relationship is considered the dentist's agent.

A. A dentist may delegate the following activities to an unlicensed person as long as these activities are conducted under the general supervision of the delegating dentist:

(1) Changing or replacing dry socket packets after diagnosis and treatment planned by a dentist;

- (2) For instruction purposes, demonstrating to a patient how the patient should place and remove removable prostheses, appliances or retainers;
- (3) For the purpose of eliminating pain or discomfort, removing loose, broken or irritating orthodontic appliances;
- (4) Giving oral health instructions;
- (5) Irrigating and aspirating the oral cavity;
- (6) Performing dietary analyses for dental disease control;
- (7) Placing and recementing with temporary cement an existing crown that has fallen out as long as the dental assistant promptly notifies the dentist this procedure was performed so that appropriate follow-up can occur;
- (8) Placing and removing periodontal dressing;
- (9) Pouring and trimming dental models;
- (10) Removing sutures and scheduling a follow-up appointment with the dentist within 7 to 10 days of suture removal;
- (11) Retracting lips, cheek, tongue and other tissue parts;
- (12) Taking and pouring impressions for study casts;
- (13) Taking and recording the vital signs of blood pressure, pulse and temperature;
- (14) Taking dental plaque smears for microscopic inspection and patient education; and
- (15) Taking intraoral photographs.

B. If the unlicensed person has successfully passed a certification examination administered by a national dental assisting board, the dentist may delegate to that unlicensed person the following additional activities, as long as these activities are conducted under the general supervision of the dentist:

- (1) Placing temporary fillings on an emergency basis as long as the patient is informed of the temporary nature of the fillings; and
- (2) Removing excess cement from the supragingival surfaces of teeth.

C. A dentist may delegate to an unlicensed person the following intraoral activities, which must be conducted under the direct supervision of the delegating dentist:

- (1) Applying cavity varnish;
- (2) Applying liquids, pastes and gel topical anesthetics;
- (3) Assisting a dentist who provides orthodontic services in preparation of teeth for attaching, bonding and cementing fixed appliances in a manner appropriate and according to manufacturer's directions;
- (4) Delivering, but not condensing or packing, amalgam or composite restoration material;

- (5) Fabricating temporary crowns and bridges, limiting handpiece rotary instrumentation used in the fabrication to extraoral use only, as long as the dentist checks the occlusion and fit prior to releasing the patient;
- (6) Irrigating and drying root canals;
- (7) Isolating the operative field;
- (8) Performing cold vitality testing with confirmation by the dentist;
- (9) Performing electronic vitality scanning with confirmation by the dentist;
- (10) Performing preliminary selection and fitting of orthodontic bands, with final placement and cementing in the patient's mouth by the dentist;
- (11) Placing and cementing temporary crowns with temporary cement;
- (12) Placing and removing matrix bands, rubber dams and wedges;
- (13) Placing elastics and instructing in their use;
- (14) Placing, holding or removing celluloid and other plastic strips prior to or subsequent to the placement of a filling by the dentist;
- (15) Placing or removing temporary separating devices;
- (16) Placing wires, pins and elastic ligatures to tie in orthodontic arch wires that have been fitted and approved by the dentist at the time of insertion;
- (17) Preparing tooth sites and surfaces with a rubber cup and pumice for banding or bonding of orthodontic brackets. This procedure may not be intended or interpreted as an oral prophylaxis, which is a procedure specifically reserved to be performed by dental hygienists or dentists. This procedure also may not be intended or interpreted as a preparation for restorative material. A dentist or dental hygienist shall check and approve the procedure;
- (18) Reapplying, on an emergency basis only, orthodontic brackets;
- (19) Recording readings with a digital caries detector and reporting them to the dentist for interpretation and evaluation;
- (20) Removing composite material using slow-speed instrumentation for debonding brackets, as long as the dentist conducts a final check prior to release of the patient;
- (21) Removing excess cement from the supragingival surfaces of teeth;
- (22) Removing gingival retraction cord;
- (23) Removing orthodontic arch wires and tension devices and any loose bands or bonds, but only as directed by the dentist;
- (24) Selecting and trying in stainless steel or other preformed crowns for insertion by the dentist;
- (25) Taking impressions for opposing models and retainers;
- (26) Taking impressions for single-arch athletic mouth guards, bleaching trays, custom trays and fluoride trays; and

(27) Taking intraoral measurements and making preliminary selection of arch wires and intraoral and extraoral appliances, including head gear.

**4. Delegation not authorized.** A dentist may not delegate any dental activity not listed in subsections 3 or 6 to an unlicensed person.

**5. Supervision of dental hygiene therapists.** A dentist, referred to in this section as the "supervising dentist," who employs a dental hygiene therapist shall comply with this subsection.

A. A supervising dentist shall arrange for another dentist or specialist to provide any services needed by a patient of a dental hygiene therapist supervised by that dentist that are beyond the scope of practice of the dental hygiene therapist and that the supervising dentist is unable to provide.

B. The supervising dentist is responsible for all authorized services and procedures performed by the dental hygiene therapist pursuant to a written practice agreement executed by the dentist pursuant to section 18377.

C. Revisions to a written practice agreement must be documented in a new written practice agreement signed by the supervising dentist and the dental hygiene therapist.

D. A supervising dentist who signs a written practice agreement shall file a copy of the agreement with the board, keep a copy for the dentist's own records and make a copy available to patients of the dental hygiene therapist upon request.

**6. Prescription for laboratory services.** A dentist who uses the services of a person not licensed to practice dentistry in this State to construct, alter, repair or duplicate a denture, plate, partial plate, bridge, splint, orthodontic or prosthetic appliance shall first furnish the unlicensed person with a written prescription, which must contain:

A. The name and address of the unlicensed person;

B. The patient's name or number. In the event the number is used, the name of the patient must be written upon the duplicate copy of the prescription retained by the dentist;

C. The date on which the prescription was written;

D. A description of the work to be done, with diagrams if necessary;

E. A specification of the type and quality of materials to be used; and

F. The signature of the dentist and the number of the dentist's state license.

The dentist shall retain for 2 years a duplicate copy of all prescriptions issued pursuant to this subsection for inspection by the board.

### **§18372. Dental radiographer**

**1. Scope of practice.** A licensed dental radiographer may practice dental radiography under the general supervision of a dentist.

**§18373. Expanded function dental assistant**

**1. Scope of practice; direct supervision.** An expanded function dental assistant may perform the following reversible intraoral procedures authorized under the direct supervision of a dentist:

A. Apply cavity liners and bases as long as the dentist:

(1) Has ordered the cavity liner or base;

(2) Has checked the cavity liner or base prior to the placement of the restoration;  
and

(3) Has checked the final restoration prior to patient dismissal;

B. Apply pit and fissure sealants after an evaluation of the teeth by the dentist at the time of sealant placement;

C. Apply supragingival desensitizing agents to an exposed root surface or dentinal surface of teeth;

D. Apply topical fluorides recognized for the prevention of dental caries;

E. Cement provisional or temporary crowns and bridges and remove excess cement;

F. Perform tooth vitality tests;

G. Place and contour amalgam, composite and other restorative materials prior to the final setting or curing of the material;

H. Place and remove periodontal dressing;

I. Place and remove retraction cord;

J. Record readings with a digital caries detector and report them to the dentist for interpretation and evaluation;

K. Size, place and cement or bond orthodontic bands and brackets with final inspection by the dentist;

L. Supragingival polishing. A dentist or a dental hygienist must first determine that the teeth to be polished are free of calculus or other extraneous material prior to polishing. Dentists may permit an expanded function dental assistant to use only a slow-speed rotary instrument and rubber cup. Dentists may allow an expanded function dental assistant to use high-speed, power-driven handpieces or instruments to contour or finish newly placed composite materials;

M. Take and pour impressions for bleaching trays, athletic mouth guards, provisional or temporary crowns, bridges, custom trays and fluoride trays;

N. Apply cavity varnish;

O. Apply liquids, pastes and gel topical anesthetics;

P. Assist a dentist who provides orthodontic services in preparation of teeth for attaching, bonding and cementing fixed appliances in a manner appropriate and according to the manufacturer's directions;

Q. Fabricate temporary crowns and bridges, limiting handpiece rotary instrumentation used in the fabrication to extraoral use only, as long as the dentist checks the occlusion and fit prior to releasing the patient;

R. Irrigate and dry root canals;

S. Isolate the operative field;

T. Perform cold vitality testing with confirmation by the dentist;

U. Perform electronic vitality scanning with confirmation by the dentist;

V. Place and remove matrix bands, rubber dams and wedges;

W. Place elastics and instruct in their use;

X. Place, hold or remove celluloid and other plastic strips prior to or subsequent to the placement of a filling by the dentist;

Y. Place or remove temporary separating devices;

Z. Place wires, pins and elastic ligatures to tie in orthodontic arch wires that have been fitted and approved by the dentist at the time of insertion;

AA. Prepare tooth sites and surfaces with a rubber cup and pumice for banding or bonding of orthodontic brackets. This procedure may not be intended or interpreted as an oral prophylaxis, which is a procedure specifically reserved to be performed by dental hygienists or dentists. This procedure also may not be intended or interpreted as a preparation for restorative material. A dentist or dental hygienist shall check and approve the procedure;

BB. Reapply, on an emergency basis only, orthodontic brackets;

CC. Remove composite material using slow-speed instrumentation for debonding brackets, as long as the dentist conducts a final check prior to release of the patient;

DD. Remove orthodontic arch wires and tension devices and any loose bands or bonds, but only as directed by the dentist;

EE. Select and try in stainless steel or other preformed crowns for insertion by the dentist;

FF. Take impressions for opposing models and retainers; and

GG. Take intraoral measurements and make preliminary selection of arch wires and intraoral and extraoral appliances, including head gear.

**2. Scope of practice; general supervision.** An expanded function dental assistant may perform the following procedures under the general supervision of a dentist:

A. Place temporary fillings on an emergency basis as long as the patient is informed of the temporary nature of the fillings;

B. Remove excess cement from the supragingival surfaces of teeth;

C. Change or replace dry socket packets after diagnosis and treatment planned by a dentist;

D. For instruction purposes, demonstrate to a patient how the patient should place and remove removable prostheses, appliances or retainers;

E. For the purpose of eliminating pain or discomfort, remove loose, broken or irritating orthodontic appliances;

F. Give oral health instructions;

G. Irrigate and aspirate the oral cavity;

H. Perform dietary analyses for dental disease control;

I. Place and recement with temporary cement an existing crown that has fallen out as long the dental assistant promptly notifies the dentist this procedure was performed so that appropriate follow-up can occur;

J. Place and remove periodontal dressing;

K. Pour and trim dental models;

L. Remove sutures and schedule a follow-up appointment with the dentist within 7 to 10 days of suture removal;

M. Retract lips, cheek, tongue and other tissue parts;

N. Take and pour impressions for study casts;

O. Take and record the vital signs of blood pressure, pulse and temperature;

P. Take dental plaque smears for microscopic inspection and patient education; and

Q. Take intraoral photographs.

**3. Procedures not authorized.** An expanded function dental assistant may not engage in the following activities:

A. Complete or limited examination, diagnosis or treatment planning;

B. Surgical or cutting procedures of hard or soft tissue;

C. Prescribing drugs, medicaments or work authorizations;

D. Pulp capping, pulpotomy or other endodontic procedures;

E. Placement and intraoral adjustments of fixed or removable prosthetic appliances;  
or

F. Administration of local anesthesia, parenteral or inhalation sedation or general anesthesia.

#### **§18374. Dental hygienist**

**1. Scope of practice; direct supervision.** A dental hygienist and faculty dental hygienist may perform the following procedures under the direct supervision of a dentist:

A. Administer local anesthesia or nitrous oxide analgesia, as long as the dental hygienist or faculty dental hygienist has authority to administer the relevant medication pursuant to section 18345, subsection 2, paragraph D or E;

B. Irrigate and dry root canals;

C. Record readings with a digital caries detector and report them to the dentist for interpretation and evaluation;

D. Remove socket dressings;

E. Take cytological smears as requested by the dentist; and

F. Take impressions for nightguards and occlusal splints as long as the dentist takes all measurements and bite registrations.

**2. Scope of practice; general supervision.** A dental hygienist and faculty dental hygienist may perform the following procedures under the general supervision of a dentist:

A. Prescribe, dispense or administer anticavity toothpastes or topical gels with 1.1% or less sodium fluoride and oral rinses with 0.05%, 0.2%, 0.44% or 0.5% sodium fluoride, as well as chlorhexidine gluconate oral rinse;

B. Apply cavity varnish;

C. Apply desensitizing agents to teeth;

D. Apply fluoride to control caries;

E. Apply liquids, pastes or gel topical anesthetics;

F. Apply sealants, as long as a licensed dentist first makes the determination and diagnosis as to the surfaces on which the sealants are applied;

G. Cement pontics and facings outside the mouth;

H. Change or replace dry socket packets after diagnosis and treatment planned by a dentist;

I. Deliver, but not condense or pack, amalgam or composite restoration material;

J. Expose and process radiographs;

K. Fabricate temporary crowns and bridges, limiting handpiece rotary instrumentation used in the fabrication to extraoral use only, as long as the dentist checks the occlusion and fit prior to releasing the patient;

L. For instruction purposes, demonstrate to a patient how the patient should place and remove removable prostheses, appliances or retainers;

M. For the purpose of eliminating pain or discomfort, remove loose, broken or irritating orthodontic appliances;

N. Give oral health instruction;

O. Interview patients and record complete medical and dental histories;

P. Irrigate and aspirate the oral cavity;

Q. Isolate operative fields;

R. Obtain bacterial sampling when treatment is planned by the dentist;

- S. Perform all procedures necessary for a complete prophylaxis, including root planing;
- T. Perform cold vitality testing with confirmation by the dentist;
- U. Perform complete periodontal and dental restorative charting;
- V. Perform dietary analyses for dental disease control;
- W. Perform electronic vitality scanning with confirmation by the dentist;
- X. Perform oral inspections, recording all conditions that should be called to the attention of the dentist;
- Y. Perform postoperative irrigation of surgical sites;
- Z. Perform preliminary selection and fitting of orthodontic bands, as long as final placement and cementing in the patient's mouth are done by the dentist;
- AA. Place and recement temporary crowns with temporary cement;
- BB. Place and recement with temporary cement an existing crown that has fallen out;
- CC. Place and remove gingival retraction cord without vasoconstrictor;
- DD. Place and remove matrix bands, periodontal dressing, rubber dams and wedges;
- EE. Place elastics or instruct in their use;
- FF. Place, hold or remove celluloid and other plastic strips prior to or subsequent to the placement of a filling by the dentist;
- GG. Place localized delivery of chemotherapeutic agents when treatment is planned by the dentist;
- HH. Place or remove temporary separating devices;
- II. Place wires, pins and elastic ligatures to tie in orthodontic arch wires that have been fitted and approved by the dentist at the time of insertion;
- JJ. Place temporary restorations as an emergency procedure, as long as the patient is informed of the temporary nature of the restoration;
- KK. Pour and trim dental models;
- LL. Prepare tooth sites and surfaces with a rubber cup and pumice for banding or bonding of orthodontic brackets. This procedure may not be interpreted as a preparation for restorative material;
- MM. Reapply, on an emergency basis only, orthodontic brackets;
- NN. Remove composite material using slow-speed instrumentation for debonding brackets, as long as the dentist conducts a final check prior to release of the patient;
- OO. Remove excess cement from the supragingival surfaces of teeth;
- PP. Remove orthodontic arch wires and tension devices and any loose bands or bonds, but only as directed by the dentist;
- QQ. Remove sutures;

RR. Retract lips, cheek, tongue and other tissue parts;

SS. Select and try in stainless steel or other preformed crowns for insertion by the dentist;

TT. Smooth and polish amalgam restorations;

UU. Take and record the vital signs of blood pressure, pulse and temperature;

VV. Take and pour impressions for study casts, athletic mouth guards, custom trays, bleaching trays, fluoride trays, opposing models, retainers and stents;

WW. Take dental plaque smears for microscopic inspection and patient education;

XX. Take intraoral measurements and make preliminary selection of arch wires and intraoral and extraoral appliances, including head gear; and

YY. Take intraoral photographs.

**3. Limitation.** An individual with a faculty dental hygienist license may provide the services described in this section only as part of the education program for which the license was issued by the board.

### **§18375. Independent practice dental hygienist**

**1. Scope of practice.** An independent practice dental hygienist may perform only the following duties without supervision by a dentist:

A. Interview patients and record complete medical and dental histories;

B. Take and record the vital signs of blood pressure, pulse and temperature;

C. Perform oral inspections, recording all conditions that should be called to the attention of a dentist;

D. Perform complete periodontal and dental restorative charting;

E. Perform all procedures necessary for a complete prophylaxis, including root planing;

F. Apply fluoride to control caries;

G. Apply desensitizing agents to teeth;

H. Apply topical anesthetics;

I. Apply sealants;

J. Smooth and polish amalgam restorations, limited to slow-speed application only;

K. Cement pontics and facings outside of the mouth;

L. Take impressions for athletic mouth guards and custom fluoride trays;

M. Place and remove rubber dams;

N. Place temporary restorations in compliance with the protocol adopted by the board;

O. Apply topical antimicrobials, including fluoride but excluding antibiotics, for the purposes of bacterial reduction, caries control and desensitization in the oral cavity. The independent practice dental hygienist shall follow current manufacturer's instructions in the use of these medicaments;

P. Expose and process radiographs, including but not limited to vertical and horizontal bitewing films, periapical films, panoramic images and full-mouth series, under protocols developed by the board as long as the independent practice dental hygienist has a written agreement with a licensed dentist that provides that the dentist is available to interpret all dental radiographs within 21 days from the date the radiograph is taken and that the dentist will sign a radiographic review and findings form; and

Q. Prescribe, dispense or administer anticavity toothpastes or topical gels with 1.1% or less sodium fluoride and oral rinses with 0.05%, 0.2%, 0.44% or 0.5% sodium fluoride, as well as chlorhexidine gluconate oral rinse. For the purposes of this paragraph, "topical" includes superficial and intraoral application.

**2. Practice standards.** An independent practice dental hygienist has the duties and responsibilities set out in this subsection with respect to each patient seen in an independent capacity.

A. Prior to an initial patient visit, an independent practice dental hygienist shall obtain from the patient or the parent or guardian of a minor patient written acknowledgment of the patient's or parent's or guardian's understanding that the independent practice dental hygienist is not a dentist and that the service to be rendered does not constitute restorative care or treatment.

B. An independent practice dental hygienist shall provide to a patient or the parent or guardian of a minor patient a written plan for referral to a dentist for any necessary dental care. The referral plan must identify all conditions that should be called to the attention of the dentist.

### **§18376. Public health dental hygienist**

**1. Scope of practice.** A public health dental hygienist may perform the following procedures in a public health setting under a supervision agreement with a dentist that outlines the roles and responsibilities of the collaboration:

A. Prescribe, dispense or administer anticavity toothpastes or topical gels with 1.1% or less sodium fluoride and oral rinses with 0.05%, 0.2%, 0.44% or 0.5% sodium fluoride, as well as chlorhexidine gluconate oral rinse;

B. Apply cavity varnish;

C. Apply desensitizing agents to teeth;

D. Apply fluoride to control caries;

E. Apply liquids, pastes or gel topical anesthetics;

F. Apply sealants;

G. Apply topical antimicrobials, including fluoride but excluding antibiotics, for the purposes of bacterial reduction, caries control and desensitization in the oral cavity. The public health dental hygienist shall follow current manufacturer's instructions in the use of these medicaments. For the purposes of this paragraph, "topical" includes superficial and intramuscular application;

H. Cement pontics and facings outside the mouth;

I. Expose and process radiographs upon written standing prescription orders from a dentist who is available to interpret all dental radiographs within 21 days and who will complete and sign a radiographic review and findings form;

J. For instruction purposes, demonstrate to a patient how the patient should place and remove removable prostheses, appliances or retainers;

K. For the purposes of eliminating pain or discomfort, remove loose, broken or irritating orthodontic appliances;

L. Give oral health instruction;

M. Interview patients and record complete medical and dental histories;

N. Irrigate and aspirate the oral cavity;

O. Isolate operative fields;

P. Perform all procedures necessary for a complete prophylaxis, including root planing;

Q. Perform complete periodontal and dental restorative charting;

R. Perform dietary analyses for dental disease control;

S. Perform temporary filling procedures without a dentist present under protocols adopted by board rule;

T. Perform oral inspections, recording all conditions that should be called to the attention of the dentist;

U. Perform pulp tests pursuant to the direction of a dentist;

V. Place and remove gingival retraction cord without vasoconstrictor;

W. Place and remove matrix bands for purposes of fabricating or placing temporary restorations;

X. Place and remove rubber dams;

Y. Place and remove wedges for purposes of fabricating or placing temporary restorations;

Z. Place temporary restorations in compliance with the protocol adopted by board rule;

AA. Remove excess cement from the supragingival surfaces of teeth;

BB. Retract lips, cheek, tongue and other tissue parts;

CC. Smooth and polish restorations, limited to slow-speed application only;

DD. Take and record the vital signs of blood pressure, pulse and temperature;

EE. Take dental plaque smears for microscopic inspection and patient education;

FF. Take impressions for and deliver athletic mouth guards and custom fluoride trays; and

GG. Take intraoral photographs.

### **§18377. Dental hygiene therapist**

**1. Scope of practice.** A dental hygiene therapist may perform the following procedures in limited practice settings, if authorized by a written practice agreement with a dentist licensed in this State pursuant to subsection 3.

A. To the extent permitted in a written practice agreement, a dental hygiene therapist may provide the care and services listed in this paragraph only under the direct supervision of the supervising dentist:

(1) Perform oral health assessments, pulpal disease assessments for primary and young teeth, simple cavity preparations and restorations and simple extractions;

(2) Prepare and place stainless steel crowns and aesthetic anterior crowns for primary incisors and prepare, place and remove space maintainers;

(3) Provide referrals;

(4) Administer local anesthesia and nitrous oxide analgesia;

(5) Perform preventive services;

(6) Conduct urgent management of dental trauma, perform suturing, extract primary teeth and perform nonsurgical extractions of periodontally diseased permanent teeth if authorized in advance by the supervising dentist;

(7) Provide, dispense and administer anti-inflammatories, nonprescription analgesics, antimicrobials, antibiotics and anticaries materials;

(8) Administer radiographs; and

(9) Perform other related services and functions authorized by the supervising dentist and for which the dental hygiene therapist is trained.

B. To the extent permitted in a written practice agreement, a dental hygiene therapist may provide the care and services listed in section 18374, subsections 1 and 2 under the general supervision of the supervising dentist.

**2. Supervision responsibilities.** A dental hygiene therapist may be delegated a dentist's responsibility to supervise up to 2 dental hygienists and 3 unlicensed persons in any one practice setting through a written practice agreement pursuant to subsection 3.

**3. Practice requirements.** A dental hygiene therapist must comply with the following practice limitations.

A. A dental hygiene therapist may provide services only in a hospital; a public school, as defined in Title 20-A, section 1, subsection 24; a nursing facility licensed

under Title 22, chapter 405; a residential care facility licensed under Title 22, chapter 1663; a clinic; a health center reimbursed as a federally qualified health center as defined in 42 United States Code, Section 1395x(aa)(4) (1993) or that has been determined by the federal Department of Health and Human Services, Centers for Medicare and Medicaid Services to meet the requirements for funding under Section 330 of the Public Health Service Act, 42 United States Code, Section 254(b); a federally qualified health center licensed in this State; a public health setting that serves underserved populations as recognized by the federal Department of Health and Human Services; or a private dental practice in which at least 50% of the patients who are provided services by that dental hygiene therapist are covered by the MaineCare program under Title 22 or are underserved adults.

B. A dental hygiene therapist may practice only under the direct supervision of a dentist through a written practice agreement signed by both parties. A written practice agreement is a signed document that outlines the functions that the dental hygiene therapist is authorized to perform, which may not exceed the scopes of practice specified in subsections 1 and 2. A dental hygiene therapist may practice only under the standing order of the supervising dentist, may provide only care that follows written protocols and may provide only services that the dental hygiene therapist is authorized to provide by the written practice agreement.

C. A written practice agreement between a supervising dentist and a dental hygiene therapist must include the following elements:

- (1) The services and procedures and the practice settings for those services and procedures that the dental hygiene therapist may provide, together with any limitations on those services and procedures;
- (2) Any age-specific and procedure-specific practice protocols, including case selection criteria, assessment guidelines and imaging frequency;
- (3) Procedures to be used with patients treated by the dental hygiene therapist for obtaining informed consent and for creating and maintaining dental records;
- (4) A plan for review of patient records by the supervising dentist and the dental hygiene therapist;
- (5) A plan for managing medical emergencies in each practice setting in which the dental hygiene therapist provides care;
- (6) A quality assurance plan for monitoring care, including patient care review, referral follow-up and a quality assurance chart review;
- (7) Protocols for administering and dispensing medications, including the specific circumstances under which medications may be administered and dispensed;
- (8) Criteria for providing care to patients with specific medical conditions or complex medical histories, including requirements for consultation prior to initiating care; and

(9) Specific written protocols, including a plan for providing clinical resources and referrals, governing situations in which the patient requires treatment that exceeds the scope of practice or capabilities of the dental hygiene therapist.

D. Revisions to a written practice agreement must be documented in a new written practice agreement signed by the supervising dentist and the dental hygiene therapist.

E. A dental hygiene therapist shall file a copy of a written practice agreement with the board, keep a copy for the dental hygiene therapist's own records and make a copy available to patients of the dental hygiene therapist upon request.

F. A dental hygiene therapist shall refer patients in accordance with a written practice agreement to another qualified dental or health care professional to receive needed services that exceed the scope of practice of the dental hygiene therapist.

G. A dental hygiene therapist who provides services or procedures beyond those authorized in a written agreement engages in unprofessional conduct and is subject to discipline pursuant to section 18325.

**4. Dental coverage and reimbursement.** Notwithstanding Title 24-A, section 2752, any service performed by a dentist, dental assistant or dental hygienist licensed in this State that is reimbursed by private insurance, a dental service corporation, the MaineCare program under Title 22 or the Cub Care program under Title 22, section 3174-T must also be covered and reimbursed when performed by a dental hygiene therapist authorized to practice under this chapter.

#### **§18378. Denturist**

**1. Scope of practice.** A denturist and faculty denturist may:

A. Take denture impressions and bite registrations for the purpose of or with a view to the making, producing, reproducing, construction, finishing, supplying, altering or repairing a denture to be fitted to an edentulous or partially edentulous arch or arches;

B. Fit a denture to an edentulous or partially edentulous arch or arches, including by making, producing, reproducing, constructing, finishing, supplying, altering or repairing dentures without performing alteration to natural or reconstructed tooth structure. A denturist may perform clinical procedures related to the fabrication of a removable tooth-borne partial denture, including cast frameworks;

C. Perform procedures incidental to the procedures specified in paragraphs A and B, as specified by board rule; and

D. Make, place, construct, alter, reproduce or repair nonorthodontic removable sports mouth guards and provide teeth whitening services, including by fabricating whitening trays, providing whitening solutions determined to be safe for public use and providing any required follow-up care and instructions for use of the trays and solutions at home.

**2. Limitation.** An individual with a faculty denturist license may provide the services described in this section only as part of the education program for which the license was issued by the board.

### **§18379. Sedation and general anesthesia permits**

The board shall adopt by rule the qualifications a dentist must have to obtain a permit from the board authorizing the administration of sedation and general anesthesia. The board shall also adopt the guidelines for such administration, including but not limited to practice setting requirements.

## **SUBCHAPTER 5**

### **PRACTICE STANDARDS**

#### **§18391. Amalgam brochures; posters**

**1. Brochure; poster.** The Director of the Bureau of Health within the Department of Health and Human Services shall develop a brochure that explains the potential advantages and disadvantages to oral health, overall human health and the environment of using mercury or mercury amalgam in dental procedures. The brochure must describe what alternatives are available to mercury amalgam in various dental procedures and what potential advantages and disadvantages are posed by the use of those alternatives. The brochure may also include other information that contributes to the patient's ability to make an informed decision when choosing between the use of mercury amalgam or an alternative material in a dental procedure, including, but not limited to, information on the durability, cost, aesthetic quality or other characteristics of the mercury amalgam and alternative materials. The director shall also develop a poster that informs patients of the availability of the brochure.

The Director of the Bureau of Health shall, in consultation with the Department of Environmental Protection, adopt the brochure and the poster described in this subsection through major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

**2. Display.** A dentist who uses mercury or a mercury amalgam in any dental procedure shall display the poster adopted by the Department of Health and Human Services, Bureau of Health under this section in the public waiting area of the practice setting and shall provide each patient a copy of the brochure adopted by the bureau under this section. The Department of Health and Human Services shall also post on its publicly accessible website a copy of the brochure that is suitable for downloading and printing by dentists, patients and other interested parties.

#### **§18392. Removable dental prosthesis; owner identification**

**1. Identification required.** Every complete upper and lower denture and removable dental prosthesis fabricated by a dentist or denturist, or fabricated pursuant to the dentist's or denturist's work order or under the dentist's or denturist's direction or supervision, must be marked with the name and social security number of the patient for whom the prosthesis is intended. The markings must be made during fabrication and must be permanent, legible and cosmetically acceptable. The exact location of the markings and the methods used to apply or implant the markings must 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 social security number of the patient may be omitted if the name of the patient is shown;

B. The initials of the patient may be shown alone, if use of the name of the patient is impracticable; or

C. The identification marks may be omitted in their entirety if none of the forms of identification specified in paragraphs A and B are practicable or clinically safe.

**2. Applicability.** A removable dental prosthesis in existence prior to September 23, 1983 that was not marked in accordance with subsection 1 at the time of its fabrication must be marked in accordance with subsection 1 at the time of a subsequent rebasing.

**3. Violation.** Failure of a dentist or denturist to comply with this section constitutes grounds for discipline pursuant to section 18325, as long as the dentist or denturist is charged with the violation within 2 years of initial insertion of the dental prosthetic device.

### **§18393. Confidentiality**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Confidential communication" means a communication not intended to be disclosed to 3rd persons other than those present to further the interest of the patient in the consultation, examination or interview or persons who are participating in the diagnosis and treatment under the direction of the dentist, including members of the patient's family.

B. "Patient" means a person who consults or is examined or interviewed by a dentist or dental auxiliary.

**2. General rule of privilege.** A patient has a privilege to refuse to disclose and to prevent another person from disclosing confidential communications made for the purpose of diagnosis or treatment of the patient's physical, mental or emotional conditions, including alcohol or drug addiction, among the patient, the patient's dentist and persons who are participating in the diagnosis or treatment under the direction of the dentist, including members of the patient's family.

**3. Who may claim the privilege.** The privilege under subsection 2 may be claimed by the patient, by the patient's guardian or conservator or by the personal representative of a deceased patient. The dentist or dental auxiliary at the time of the communication is presumed to have authority to claim the privilege, but only on behalf of the patient.

**4. Exceptions.** Notwithstanding any other provision of law, the following are exceptions to the privilege under subsection 2.

A. If the court orders an examination of the physical, mental or emotional condition of a patient, whether a party or a witness, communications made in the course of the examination are not privileged under this section with respect to the particular purpose for which the examination is ordered unless the court orders otherwise.

B. There is not any privilege under this section as to communications relevant to an issue of the physical, mental or emotional condition of a patient in a proceeding in which the condition of the patient is an element of the claim or defense of the patient or of a party claiming through or under the patient or because of the patient's condition or claiming as a beneficiary of the patient through a contract to which the patient is or was a party or, after the patient's death, in a proceeding in which a party puts the condition in issue.

C. There is not any privilege under this section as to information regarding a patient that is sought by the Chief Medical Examiner or the Chief Medical Examiner's designee in a medical examiner case, as defined by Title 22, section 3025, in which the Chief Medical Examiner or the Chief Medical Examiner's designee has reason to believe that information relating to dental treatment may assist in determining the identity of a deceased person.

D. There is not any privilege under this section as to disclosure of information concerning a patient when that disclosure is required by law, and nothing in this section may modify or affect the provisions of Title 22, sections 4011-A to 4015 and Title 29-A, section 2405.

**Sec. 22. 36 MRSA §5219-DD, sub-§1, ¶A**, as enacted by PL 2009, c. 141, §2, is amended to read:

A. "Eligible dentist" means a person licensed as a dentist under Title 32, chapter ~~14~~, ~~chapter 3~~ 143 who, after January 1, 2009:

- (1) First begins practicing dentistry in the State by joining an existing dental practice in an underserved area or establishing a new dental practice or purchasing an existing dental practice in an underserved area;
- (2) Agrees to practice full time for at least 5 years in an underserved area; and
- (3) Is certified under subsection 3 to be eligible by the oral health program.

**Sec. 23. Maine Revised Statutes amended; revision clause.** Wherever in the Maine Revised Statutes the words "Maine board of dental examiners" appear or reference is made to those words, they are amended to read and mean "board of dental practice" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. 24. Transition provisions.** The following provisions apply to the transition of the former Board of Dental Examiners to the Board of Dental Practice.

1. The Board of Dental Practice is the successor in every way to the powers, duties and functions of the former Maine Board of Dental Examiners.

2. Members of the Board of Dental Examiners, the Subcommittee on Dental Hygienists and the Subcommittee on Denturists serving immediately prior to the effective date of this Act continue to serve on the Board of Dental Practice, the Subcommittee on Dental Hygienists and the Subcommittee on Denturists for the remainder of the members' terms.

3. All licenses and permits issued by the Maine Board of Dental Examiners and in effect on the effective date of this Act remain in effect and are considered licenses issued by the Board of Dental Practice under the Maine Revised Statutes, Title 32, chapter 143 until the date of expiration specified in the license or permit.

4. Except to the extent that they conflict with the language of this Act, all rules adopted by the Maine Board of Dental Examiners and in effect on the effective date of this Act remain in effect. All rules adopted by the Department of Health and Human Services pursuant to Title 32, section 1094-C and in effect on the effective date of this Act remain in effect and are considered rules adopted pursuant to Title 32, section 18391.

5. Except to the extent that they conflict with the language of this Act, all procedures adopted by the Maine Board of Dental Examiners or any of its administrative units or officers in effect on the effective date of this Act remain in effect.

6. All contracts, agreements and compacts in effect immediately prior to the effective date of this Act with regard to the Maine Board of Dental Examiners continue in effect.

7. Any positions authorized and allocated subject to the personnel laws to the former Maine Board of Dental Examiners are transferred to the Board of Dental Practice and continue to be authorized.

8. All records, property and equipment previously belonging to or allocated for the use of the former Maine Board of Dental Examiners become, on the effective date of this Act, the property of the Board of Dental Practice.

9. All forms, licenses, letterheads and similar items bearing the name of or referring to the Maine Board of Dental Examiners may be used by the Board of Dental Practice until existing supplies of those items are exhausted.

**Sec. 25. Board of Dental Practice to study the dental practice laws and recommend changes.** The Board of Dental Practice, in consultation with interested parties, shall conduct a study of the Maine Revised Statutes, Title 32, chapter 143 and any rules adopted by the board and recommend changes to the scopes of practice of dental practitioners, practice settings and delivery models and any other dental practice issues. The board shall report its recommendations to the joint standing committee of the Legislature having jurisdiction over labor, commerce, research and economic development matters on or before March 1, 2017. The joint standing committee may report out a bill to the Second Regular Session of the 128th Legislature related to the board's report.