

(d) If the facilities of the clinic are used in any way in the illegal practice of dentistry and offenders are found guilty, the Director shall be held equally responsible and liable to prosecution.

(e) All names of persons employed and titles of employment are to be furnished to the Board at the time of request for annual renewal permit. Branch office or main office registration information shall be included with each name.

(f) Dental hygienists shall be limited by State Laws and statutes regarding the type of services and supervision.

(g) Director shall furnish to the Board the method of operation as to control, direction and authority in dental matters including:

1. To whom the Director is responsible; and
2. Type of service rendered.

(h) All matters pertaining to the operation of a dental clinic shall be determined by the Dental Director.

SUBCHAPTER 5. STANDARDS FOR APPROVAL OF DENTAL SCHOOLS

13:30-5.1 Requisites for dental schools

(a) The Board will accept for licensure only graduates of dental schools approved by the Commission on Dental Accreditation.

(b) For purposes of granting limited teaching certificates, the Board will accept graduates of dental schools approved by the Commission on Dental Accreditation or graduates of dental schools approved at the discretion of the Board.

Repeal and New Rule: R.1990 d.205, effective April 2, 1990.
See: 22 N.J.R. 149(b), 22 N.J.R. 1145(a).

13:30-5.2 (Reserved)

Repealed by R.1990 d.205, effective April 2, 1990.
See: 22 N.J.R. 149(b), 22 N.J.R. 1145(a).

13:30-5.3 (Reserved)

Repealed by R.1990 d.205, effective April 2, 1990.
See: 22 N.J.R. 149(b), 22 N.J.R. 1145(a).

13:30-5.4 (Reserved)

Repealed by R.1990 d.205, effective April 2, 1990.
See: 22 N.J.R. 149(b), 22 N.J.R. 1145(a).

13:30-5.5 (Reserved)

Repealed by R.1990 d.205, effective April 2, 1990.
See: 22 N.J.R. 149(b), 22 N.J.R. 1145(a).

13:30-5.6 (Reserved)

Repealed by R.1990 d.205, effective April 2, 1990.
See: 22 N.J.R. 149(b), 22 N.J.R. 1145(a).

13:30-5.7 (Reserved)

Repealed by R.1990 d.205, effective April 2, 1990.
See: 22 N.J.R. 149(b), 22 N.J.R. 1145(a).

13:30-5.8 (Reserved)

Repealed by R.1990 d.205, effective April 2, 1990.
See: 22 N.J.R. 149(b), 22 N.J.R. 1145(a).

13:30-5.9 (Reserved)

Repealed by R.1990 d.205, effective April 2, 1990.
See: 22 N.J.R. 149(b), 22 N.J.R. 1145(a).

13:30-5.10 (Reserved)

Repealed by R.1990 d.205, effective April 2, 1990.
See: 22 N.J.R. 149(b), 22 N.J.R. 1145(a).

13:30-5.11 (Reserved)

Repealed by R.1990 d.205, effective April 2, 1990.
See: 22 N.J.R. 149(b), 22 N.J.R. 1145(a).

13:30-5.12 (Reserved)

Repealed by R.1990 d.205, effective April 2, 1990.
See: 22 N.J.R. 149(b), 22 N.J.R. 1145(a).

13:30-5.13 (Reserved)

Repealed by R.1990 d.205, effective April 2, 1990.
See: 22 N.J.R. 149(b), 22 N.J.R. 1145(a).

13:30-5.14 (Reserved)

Repealed by R.1990 d.205, effective April 2, 1990.
See: 22 N.J.R. 149(b), 22 N.J.R. 1145(a).

SUBCHAPTER 6. STANDARDS FOR APPROVAL OF SCHOOLS OF ORAL HYGIENE

13:30-6.1 General requirements

All dental hygiene schools must be approved by the Commission on Dental Accreditation.

Repeal and New Rule: R.1990 d.205, effective April 2, 1990.
See: 22 N.J.R. 149(b), 22 N.J.R. 1145(a).

13:30-6.2 (Reserved)

Petition for Rulemaking: Amend section.
See: 18 N.J.R. 1844(a).
Amended by R.1987 d.419, effective October 19, 1987.
See: 19 N.J.R. 849(a), 19 N.J.R. 1909(b).
Substantially amended.
Repealed by R.1990 d.205, effective April 2, 1990.
See: 22 N.J.R. 149(b), 22 N.J.R. 1145(a).

13:30-6.3 (Reserved)

Repealed by R.1990 d.205, effective April 2, 1990.

See: 22 N.J.R. 149(b), 22 N.J.R. 1145(a).

13:30-6.4 (Reserved)

Repealed by R.1990 d.205, effective April 2, 1990.

See: 22 N.J.R. 149(b), 22 N.J.R. 1145(a).

13:30-6.5 (Reserved)

Amended by R.1987 d.419, effective October 19, 1987.

See: 19 N.J.R. 849(a), 19 N.J.R. 1909(b).

Substantially amended.

Repealed by R.1990 d.205, effective April 2, 1990.

See: 22 N.J.R. 149(b), 22 N.J.R. 1145(a).

13:30-6.6 (Reserved)

Repealed by R.1987 d.419, effective October 19, 1987.

See: 19 N.J.R. 849(a), 19 N.J.R. 1909(b).

Section was dormitories.

13:30-6.7 (Reserved)

Repealed by R.1990 d.205, effective April 2, 1990.

See: 22 N.J.R. 149(b), 22 N.J.R. 1145(a).

13:30-6.8 (Reserved)

Repealed by R.1990 d.205, effective April 2, 1990.

See: 22 N.J.R. 149(b), 22 N.J.R. 1145(a).

13:30-6.9 (Reserved)

Petition for Rulemaking: Amend section.

See: 18 N.J.R. 1844(a).

Amended by R.1987 d.419, effective October 19, 1987.

See: 19 N.J.R. 849(a), 19 N.J.R. 1909(b).

Deleted (a), renumbered (b)-(c) to (a)-(b).

Administrative correction to (b)5.

See: 21 N.J.R. 2386(a).

Repealed by R.1990 d.205, effective April 2, 1990.

See: 22 N.J.R. 149(b), 22 N.J.R. 1145(a).

13:30-6.10 (Reserved)

Administrative correction to (a).

See: 21 N.J.R. 2386(a).

Repealed by R.1990 d.205, effective April 2, 1990.

See: 22 N.J.R. 149(b), 22 N.J.R. 1145(a).

SUBCHAPTER 7. FORMS

13:30-7.1 (Reserved)

Repealed by R.1987 d.12, effective January 5, 1987.

See: 17 N.J.R. 2851(b), 19 N.J.R. 131(a).

Section was "Uniform penalty letter".

SUBCHAPTER 8. GENERAL PROVISIONS

13:30-8.1 Fee schedules

(a) The application fees charged by the Board of Dentistry shall be the following:

1. Dentists \$125.00
2. Dentists Hygienists \$ 75.00
3. Registered Dental Assistants and Limited
Registered Dental Assistants \$ 35.00
4. Supervisor of three-month internship pro-
gram for training of registered dental
assistants \$35.00

(b) The biennial registration fees charged by the Board of Dentistry shall be the following:

1. Dentists:
 - i. Initial registration fee:
 - (1) If paid during the first year of a
biennial renewal period \$100.00
 - (2) If paid during the second year of
a biennial renewal period \$50.00
 - ii. Active registration renewal \$100.00
 - iii. Inactive registration renewal \$40.00
 - iv. Initial branch office registration, den-
tist:
 - (1) If paid during the first year of a
biennial renewal period \$25.00
 - (2) If paid during the second year of
a biennial renewal period \$12.50
 - v. Branch office registration renewal,
dentist \$25.00
2. Dental Hygienists:
 - i. Initial registration fee:
 - (1) If paid during the first year of a
biennial renewal period \$30.00
 - (2) If paid during the second year of
a biennial renewal period \$15.00
 - ii. Active registration renewal \$30.00
 - iii. Inactive registration renewal \$15.00
 - iv. Initial branch office registration, den-
tal hygienists
 - (1) If paid during the first year of a
biennial renewal period \$15.00
 - (2) If paid during the second year of
a biennial renewal period \$7.50
 - v. Branch office renewal registration,
dental hygienists \$15.00
3. Registered Dental Assistants:
 - i. Initial registration fee:
 - (1) If paid during the first year of a
biennial renewal period \$30.00
 - (2) If paid during the second year of
a biennial renewal period \$15.00
 - ii. Active registration renewal \$30.00
- (c) Late fee for dentists, dental hygienists, regis-
tered dental assistants and limited registered
dental assistants \$100.00
- (d) Reinstatement fee for dentists, dental hygien-
ists, registered dental assistants and limited
registered dental assistants \$200.00
- (e) Other fees:
 1. Limited teaching certificate
 - i. Application \$125.00
 - ii. Annual renewal \$ 80.00
 2. Resident permit \$ 10.00
 3. Registration of dentists by reciprocity--ap-
plication fee \$250.00
 4. Registration of dental hygienists by cre-
dentials--application fee \$125.00
 5. Verification of licensure \$ 25.00
 6. Duplicate wall certificate \$ 50.00

7. Duplicate license\$ 50.00
 8. Change of address\$ 10.00

(f) Except for the fee herein established, other fees prescribed by statute shall continue to be assessed by the Board in the lawful amount.

New Rule, R.1975 d.259, effective August 25, 1975.

See: 7 N.J.R. 482(b).

Amended by R.1976 d.11, effective January 14, 1976.

See: 7 N.J.R. 508(a), 8 N.J.R. 84(a).

Repeal and New Rule, R.1980 d.527, effective December 4, 1980.

See: 11 N.J.R. 453(a), 13 N.J.R. 41(d).

Section was "Fee schedule".

Amended by R.1985 d.196, effective April 15, 1985.

See: 17 N.J.R. 378(a), 17 N.J.R. 972(a).

Amended by R.1986 d.168, effective May 5, 1986.

See: 18 N.J.R. 398(a), 18 N.J.R. 995(b).

Fees raised; new (b); old (b) recodified to (c).

Amended by R.1989 d.581, effective November 20, 1989.

See: 21 N.J.R. 2466(a), 21 N.J.R. 3670(a).

Fees increased throughout. Added new (a); relettered old (a)-(c) as new (b)-(d), with new (b)2ii and (c)2ii.

Amended by R.1990 d.205, effective April 2, 1990.

See: 22 N.J.R. 149(b), 22 N.J.R. 1145(a).

New (d) added regarding other fees, (d) recodified to (e).

Amended by R.1993 d.598, effective November 15, 1993.

See: 25 N.J.R. 3927(a), 25 N.J.R. 5352(d).

Amended by R.1995 d.502, effective September 5, 1995.

See: 27 N.J.R. 2369(a), 27 N.J.R. 3363(a).

Amended by R.1995 d.504, effective September 5, 1995.

See: 27 N.J.R. 2367(a), 27 N.J.R. 3362(a).

Amended by R.1997 d.44, effective January 21, 1997.

See: 28 N.J.R. 4719(a), 29 N.J.R. 367(a).

Amended by R.1997 d.492, effective November 17, 1997.

See: 29 N.J.R. 3108(a), 29 N.J.R. 4859(a).

Added (a)4.

Amended by R.1998 d.115, effective March 2, 1998.

See: 29 N.J.R. 5049(a), 30 N.J.R. 859(a).

In (b), changed dollar amounts throughout; and in (e), added 8.

Case Notes

Board obligated to refund monies collected in excess of statutory authority pursuant to former fee regulation judicially invalidated. In *Re Fees of the State Bd. of Dentistry*, 84 N.J. 582, 423 A.2d 640 (1980).

Former rule held invalid as establishing fees in excess of those required to defray Board's proper expenses. In *re Increase in Fees by the New Jersey State Bd. of Dentistry*, 166 N.J.Super. 219, 399 A.2d 665 (App.Div.1979), reversed on other grounds 84 N.J. 582, 423 A.2d 640 (1980).

13:30-8.2 Parenteral conscious sedation

(a) The use of parenteral conscious sedation (hereinafter referred to as "PCS") by a dentist without first having met the minimum standards of training and procedure as stated herein shall constitute a deviation from the normal standards of practice required of a licensee.

(b) Parenteral conscious sedation is defined as a depressed level of consciousness produced by the parenteral administration of pharmacologic substances that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command. This modality includes administration of medications via all parenteral routes, that is, intravenous,

intramuscular, subcutaneous, submucosal, or inhalation, but does not include nitrous-oxide inhalation analgesia.

(c) No dentist shall use PCS for dental patients unless such dentist possesses a PCS permit issued by the State Board of Dentistry. The dentist holding such permit shall be subject to review, and such permit shall be renewed biennially.

(d) Any dentist who wishes to obtain a Board permit to employ PCS shall complete an application as provided by the Board office and shall provide certified or verifiable proof that the dentist has completed a minimum of 100 hours of continuing education in didactic training and 100 hours in clinical training in PCS within three years preceding the application.

(e) Every applicant for a permit to use PCS shall obtain emergency training by completing "Basic Life Support: Course C" of the American Heart Association or its equivalent and shall maintain current certification in the course. The applicant shall furnish proof of this training and certification to the Board upon application for a permit and proof of recertification upon biennial renewal of the permit.

(f) Every applicant for a permit to use PCS additionally shall certify to the Board that the dentist employs no fewer than two persons who will be present in the office, at least one of whom will assist in monitoring the patient whenever PCS is employed. The applicant shall further certify that these persons are trained in and capable of monitoring vital signs and of assisting in emergency procedures and that they maintain current certification in "Basic Life Support: Course C" or its equivalent.

(g) Every applicant for a permit to use PCS shall certify as part of the application that he or she possesses basic equipment and supplies to deal with emergency situations. The permit holder's facility shall contain the following readily accessible and properly operating equipment: emergency drug kit; positive pressure oxygen; stethoscope; suction; nasopharyngeal tubes; oropharyngeal tubes; and a blood pressure monitoring device.

(h) Any licensee who holds a current general anesthesia permit issued by the Board of Dentistry shall be authorized to use PCS and shall not be required to make application for a permit pursuant to this section.

(i) Any dentist who utilizes the services of a PCS permit holder or an M.D. or D.O. who is a member of the anesthesiology staff of an accredited hospital shall not be deemed to be practicing PCS, provided that such permit holder or anesthesiologist must remain present and bears full responsibility during the entire procedure and until any patient has recovered fully and has been dismissed. Any permit holder invited by a dentist to provide PCS services shall bear full responsibility for compliance with all terms

and conditions of this rule including, but not limited to, the minimum requirements for equipment and assisting staff.

(j) Prior to the administration of a PCS agent for the purpose of controlling pain, a physical evaluation shall be made by the permit holder and a complete medical history shall be obtained which shall include previous medications, allergies and sensitivities. Said history shall be maintained in the files of each dentist for a period of not less than seven years. Specific records on the use of PCS shall be kept as part of every patient chart and shall include the type of agent, the dosage and the duration of sedation.

(k) Every licensee who holds a PCS permit shall present satisfactory proof to the Board upon biennial renewal that the holder has completed at least 20 credit hours during the previous two year period in continuing education courses devoted to PCS and presented by an accepted program in a suitable institution. Satisfactory credit hours to fulfill this continuing education requirement may be obtained from the following:

1. Professional service review organizations;
2. Teaching;
3. Lectures;
4. Seminars; or
5. Other methods approved by the Board.

(l) Any designee of the Board shall be authorized during ordinary business hours to enter and inspect any dental office for the purpose of enforcing the provisions of this rule.

(m) Any licensee who administers PCS without first having obtained a permit from the Board or any licensee who fails to comply with the rules set forth herein, shall be deemed to have engaged in professional misconduct and/or gross malpractice or negligence and may be subjected to appropriate disciplinary action including an action for the suspension or revocation of the licensee's license to practice dentistry in the State of New Jersey.

New Rule, R.1976 d.353, eff. November 10, 1976.

See: 8 N.J.R. 199(a), 8 N.J.R. 561(a).

Repealed by R.1987 d.419, effective October 19, 1987.

See: 19 N.J.R. 849(a), 19 N.J.R. 1909(b).

Section was "Additional dental hygiene functions".

New Rule, R.1990 d.174, effective March 19, 1990.

See: 21 N.J.R. 3060(a), 22 N.J.R. 976(a).

Amended by R.1995 d.191, effective April 3, 1995.

See: 27 N.J.R. 293(a), 27 N.J.R. 1424(b).

13:30-8.3 Use of general anesthesia

(a) The use or employment of general anesthesia by a dentist without first having met the minimum standards of training and procedure as stated herein shall constitute a deviation from the normal standards of practice required of a licensee.

(b) General anesthesia consists of the deliberate use of any drug, combination of drugs, element or other material with the specified intent to induce a loss of sensation and consciousness.

(c) No dentist shall employ or use general anesthesia on an outpatient basis for dental patients unless such dentist possesses a permit or authorization issued by the State Board of Dentistry. The dentist holding such permit shall be subject to review, and such permit shall be renewed biennially.

(d) In order to receive such a permit, the dentist shall apply on an official application form and submit certified or verifiable proof that he or she:

- i. Has completed a minimum of three years post-doctoral training in oral surgery, or a minimum one-year training course in anesthesiology; or
- ii. Is a diplomate in oral surgery or is Board-eligible in oral surgery; or
- iii. Is a fellow of the American Dental Society of Anesthesiology, or is a member of the American Society of Oral Surgeons and/or is a member of the New Jersey Society of Oral Surgeons.

(e) Every applicant for a general anesthesia permit must certify that he or she employs no fewer than two persons who must be present in the office, at least one of whom shall assist in monitoring the patient under general anesthesia. Such personnel shall be certified by the permit holder as being trained in and capable of monitoring vital signs, and of assisting in emergency procedures.

(f) Every applicant for a general anesthesia permit must certify that he or she possesses basic equipment and supplies to deal with emergency situations, which equipment and supplies shall be readily accessible and in good order. This shall consist of no less than the list that shall be supplied by the Board.

(g) The dental facility of any permit holder shall be inspected and approved by the State Board of Dentistry or its designee, once every six years.

(h) This permit shall be renewed biennially upon satisfactory proof being submitted to the Board that the holder has completed at least 20 hours during the previous two year period in continuing education courses devoted to general anesthesia and approved by the Board.

(i) Satisfactory credit hours to fulfill the continuing education requirement may be obtained in any one of the following areas:

1. Professional service review organizations;
2. Teaching;
3. Lectures;

4. Seminars; or
5. Other methods approved by the Board.

(j) Prior to the administration of an anesthetic agent for the purpose of controlling pain, a physical evaluation shall be made by the permit holder and a complete medical

history which shall include previous medications, allergies and sensitivities shall be obtained. Said history shall be maintained in the files of each dentist for a period of not less than seven years succeeding the taking of same. Specific records on use of general anesthesia shall be kept and shall include type of agent, dosage and duration.

1. The course is offered in a subject matter and in a format permissible pursuant to the provisions of this section;

2. The course is conducted by a qualified instructor or discussion leader; and

3. The course is at least one hour in length.

(g) Applications for pre-approval of continuing education programs must be submitted by the program sponsor on the form provided by the Board at least 45 days prior to the date the continuing education program is to be offered. Incomplete applications shall be returned to the sponsor and may result in a failure to grant prior approval of the program. Although failure to obtain prior approval shall not preclude acceptance of the program, there shall be no assurance that the Board will grant approval retroactively.

(h) A licensee may select from any of the areas of study listed below, except that for purposes of obtaining continuing education credits towards the mandatory requirement the licensee may not exceed the maximum number of hours permitted in each category for each biennial period.

1. Educational and scientific courses:

i. A licensee may obtain all of the required continuing education hours in this category.

ii. The following shall satisfy the entire continuing education requirement (40 hours) for a biennial registration period:

(1) Completion of an accredited one-year dental residency program; or

(2) Attendance at, or completion of, an approved advanced education program leading to specialty certification in endodontics, oral surgery, oral pathology, orthodontics, pediatric dentistry, periodontics, prosthodontics or public health.

iii. A maximum of six hours of continuing education credit shall be given to a student or an instructor for basic C.P.R. courses.

iv. A maximum of 10 hours of continuing education credit shall be given for videotape, audiotape or correspondence courses. The course must include a written post-test in order to be eligible for credit, and such test shall be retained by the licensee as an additional record of completion of the course.

v. A maximum of seven hours of continuing education credit shall be given for practice management/managed care courses.

2. Papers, publications and scientific presentations:

i. A licensee may obtain a maximum of 20 hours of continuing education credit in this category.

ii. A maximum of 10 hours of continuing education credit shall be given for each original scientific paper

authored by the licensee and published in a refereed journal. At the discretion of the Board, these 10 hours may be divided among all co-authors.

iii. For each original presentation of a paper, essay or formal lecture to a recognized group of fellow professionals, the presenter shall receive two hours of continuing education credit for every hour of presentation.

3. Teaching and research appointments:

i. A licensee involved in teaching or research activities at least one full day or the equivalent of one full day per week per academic year and who holds at least a part-time faculty or research appointment shall receive four hours of continuing education credit annually for each full day or two hours annually for each half day.

ii. A licensee may obtain a maximum of 20 continuing education credit hours in this category in a biennial period.

4. Table clinics and scientific exhibits:

i. A licensee may obtain a maximum of eight continuing education hours in this category.

ii. The original presentation of a table clinic or scientific exhibit at a professional meeting will provide a maximum of one hour of continuing education credit per clinic or exhibit for each two hours of presentation.

(i) Those licensees who complete 20 hours of continuing education credit in accordance with the requirements for parenteral conscious sedation and/or general anesthesia permit holders pursuant to N.J.A.C. 13:30-8.2 and 8.3 shall be given credit for all 20 hours towards fulfilling the general requirement for professional continuing education under this section so long as the credits otherwise comply with the provisions of this section.

(j) A maximum of seven continuing education credits completed by a licensee in excess of the requirement as herein provided may be credited to the subsequent registration period.

(k) Any continuing education courses directed or ordered by the Board as a remedial measure shall not be eligible to fulfill the general mandatory continuing education requirement.

(l) The Board may, in its discretion, waive all or a portion of the requirements for continuing dental education on an individual basis for reasons of hardship such as illness or disability or other good cause. Any licensee seeking a waiver of the continuing education requirement must apply to the Board in writing and set forth with specificity the reasons for requesting the waiver. The licensee also shall provide the Board with such additional information as it may reasonably request in support of the application.

New Rule, R.1993 d.413, effective August 16, 1993.
 See: 25 N.J.R. 1344(a), 25 N.J.R. 3837(b).
 Amended by R.1994 d.621, effective December 19, 1994.
 See: 26 N.J.R. 1948(a), 26 N.J.R. 5032(b).
 Amended by R.1998 d.165, effective April 6, 1998.
 See: 29 N.J.R. 5046(b), 30 N.J.R. 1293(a).
 Rewrote the section.

13:30-8.19 through 13:30-8.20 (Reserved)

13:30-8.21 Divestiture of interest in professional corporations by disqualified licensees

(a) As used in this section, the following terms have the following meanings unless the context indicates otherwise:

1. "Board" means the New Jersey State Board of Dentistry.
2. "Disqualify" means to prohibit a licensee from engaging in professional practice and from deriving income from that practice as a result of a revocation, permanent surrender, with or without prejudice, or active suspension of licensure of one year or more. As used in this section, a licensee shall not be deemed disqualified if he or she is permitted to practice dentistry in a limited fashion, is the subject of an order of suspension which is stayed or if the duration of a suspension is less than one year.
3. "Divest" means to relinquish interest of all shares or equity interest in a professional corporation.
4. "Licensee" means any person licensed by the Board to engage in the practice of dentistry.
5. "Professional practice" means that activity which is defined as "practicing dentistry" pursuant to N.J.S.A. 45:6-19.
6. "Professional corporation" means a corporation comprised of one or more persons, each of whom is duly licensed by the Board, which has been organized pursuant to the Professional Service Corporation Act (N.J.S.A. 14A:17 et seq.) for the purpose of engaging in professional practice.

(b) A licensee disqualified pursuant to Board order shall divest his or her interest in each professional corporation for which the holding of a license issued by the Board is a prerequisite. The licensee shall complete such divestiture within 90 days of the entry of the Board order and shall furnish proof of divestiture to the Board.

(c) If all shareholders of a professional corporation are disqualified pursuant to Board order, the employees of the professional corporation shall cease to engage in professional practice in the professional corporation until the professional corporation is restructured in membership and in a format authorized to engage in professional practice pursuant to N.J.S.A. 14A:17-13.

(d) Transfer of any shares or equity interest to a member of the licensee's immediate family shall not be deemed a divestiture as required in (b) above unless:

1. The immediate family member held an interest in the professional corporation prior to the licensee's disqualification; and
2. The immediate family member was actively engaged in the practice of dentistry within the professional corporation prior to the licensee's disqualification.

New Rule, R.1998 d.286, effective June 1, 1998.
 See: 30 N.J.R. 516(d), 30 N.J.R. 2049(a).

13:30-8.22 Validity of diagnostic tests for traumatically induced temporomandibular dysfunction

(a) As used in this section, the following terms shall have the following meanings, unless the context clearly indicates otherwise.

"Board" means the New Jersey State Board of Dentistry.

"Clinically supported" means that a licensee, prior to selecting, performing or ordering the administration of a diagnostic test, has:

1. Personally performed a physical examination, making an assessment of any current and/or historical subjective complaints, observations, and objective findings;
2. Considered any and all previously performed tests relating to the patient's injury; and
3. Documented in the patient record positive and negative findings, observations and clinical indications to justify the test.

"Conservative treatment" means therapy which is not considered aggressive; avoiding the utilization of invasive procedures until such procedures are clearly indicated.

"Diagnostic test" means a service or procedure intended to assist in establishing a dental diagnosis for the purpose of recommending a course of treatment to be implemented by the treating dentist or by the consultant.

"Medically necessary" means that the treatment is consistent with the symptoms or diagnosis, and treatment of the injury:

1. Is not primarily for the convenience of the injured person or provider;
2. Is the most appropriate standard or level of service which is in accordance with standards of good practice and standard professional treatment protocols, as such protocols may be recognized or designated by the Commissioner of Banking and Insurance, in consultation with the Commissioner of Health and Senior Services or with a professional licensing or certifying board in the Division of Consumer Affairs in the Department of Law and Public Safety, or by a nationally recognized professional organization; and
3. Does not involve unnecessary diagnostic testing.

(b) A licensee may charge the patient or bill a third party for the following diagnostic tests to determine the presence of temporomandibular dysfunction (TMD) resulting from traumatic injury, which tests have been determined to have value in the evaluation of traumatic injuries and the diagnosis and development of a treatment plan, when medically necessary and consistent with clinically supported findings:

1. Diagnostically acceptable panoramic x-ray or transcranial temporomandibular joint x-ray: This diagnostic test may be repeated post surgery.

2. Magnetic resonance imaging (MRI): Where there are clinical signs of internal derangement such as nonself-induced clicking, deviation, limited opening, and pain with a history of trauma to the lower jaw, an MRI is allowable to show displacement of the condylar disc, such procedure following a panoramic or transcranial x-ray and six to eight weeks of conservative treatment. This diagnostic test may be repeated post surgery and/or post appliance therapy.

3. Tomography: Where there are clinical signs of degenerative joint disease as a result of traumatic injury of the temporomandibular joint, tomograms may not be performed sooner than 12 months following traumatic injury.

(c) A licensee shall not charge the patient or bill a third party for the following diagnostic tests to determine the presence of temporomandibular dysfunction (TMD) result-

ing from traumatic injury, as these tests fail to yield data of sufficient value, not otherwise available from a comprehensive clinical examination and/or tests listed in (b) above, which would alter or influence the development, evaluation, or implementation, of a plan of treatment for injuries sustained as a result of trauma:

1. Mandibular tracking;
2. Surface EMG;
3. Sonography;
4. Doppler ultrasound;
5. Needle EMG;
6. Electroencephalogram (EEG);
7. Thermograms/thermographs;
8. Video fluoroscopy;
9. Reflexology.

(d) Notwithstanding the limitations set forth in (c) above, a licensee may perform such enumerated diagnostic tests for which there shall be no charge to the patient or third party payor only after obtaining written informed consent from the patient.

New Rule, R.1999 d.69, effective March 1, 1999.
See: 30 N.J.R. 3748(b), 31 N.J.R. 651(a).