

CHAPTER 30

NEW JERSEY BOARD OF DENTISTRY

Authority

N.J.S.A. 45:6-1 et seq.

Source and Effective Date

R.2000 d.147, effective March 10, 2000.
See: 32 N.J.R. 215(a), 32 N.J.R. 1221(a).

Executive Order No. 66(1978) Expiration Date

Chapter 30, New Jersey Board of Dentistry, expires on March 10, 2005.

Chapter Historical Note

Chapter 30, New Jersey Board of Dentistry, was filed and became effective prior to September 1, 1969.

Subchapter 7, Forms, was repealed by R.1987 d.12, effective January 5, 1987. See: 17 N.J.R. 2851(b), 19 N.J.R. 131(a).

Pursuant to Executive Order No. 66(1978), Chapter 30, New Jersey Board of Dentistry, was readopted as R.1990 d.205, effective March 12, 1990. See: 22 N.J.R. 149(b), 22 N.J.R. 1145(a).

Pursuant to Executive Order No. 66(1978), Chapter 30, New Jersey Board of Dentistry, was readopted as R.1995 d.191, effective March 10, 2000, and Subchapter 2, Applicants for License to Practice Dental Hygiene, was repealed and Subchapter 2, Applicants for License and Standards for Practice for Dental Auxiliaries, was adopted as new rules by R.1995 d.191, effective April 3, 1995. See: 27 N.J.R. 293(a), 27 N.J.R. 1424(b).

Petition for Rulemaking. See: 28 N.J.R. 4531(a).

Subchapter 2A, Registered Dental Assistant and Limited Registered Dental Assistant Three-Month Internship Programs, was adopted as R.1997 d.44, effective January 21, 1997. See: 28 N.J.R. 4719(a), 29 N.J.R. 367(a).

Petition for Rulemaking. See: 29 N.J.R. 3745(a), 29 N.J.R. 4202(a).

Pursuant to Executive Order No. 66(1978), Chapter 30, New Jersey Board of Dentistry, was readopted as R.2000 d.147, effective March 10, 2000, and Subchapter 2, Applicants for License and Standards for Practice for Dental Auxiliaries, Subchapter 5, Standards for Approval of Dental Schools, and Subchapter 6, Standards for Approval of Schools of Oral Hygiene, were repealed and Subchapter 1A, Dental Hygienists, Subchapter 2, Dental Assistants, Subchapter 5, Continuing Education, and Subchapter 6, Advertising, were adopted as new rules by R.2000 d.147, effective April 3, 2000. See: Source and Effective Dates. See, also, section annotations.

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SUBCHAPTER 1. LICENSURE TO PRACTICE DENTISTRY

13:30-1.1 Purpose and scope

(a) The rules in this chapter implement the provisions of N.J.S.A. 45:6-1 et seq., the Dental Practice Act, and regulate the practice of dentistry in the State of New Jersey.

(b) The provisions of this chapter shall apply to all licensed dentists, licensed registered dental hygienists, registered dental assistants, limited registered dental assistants, and holders of dental clinic permits, and all applicants seeking licensure to engage in the practice of dentistry, dental hygiene, and dental assisting, and applicants seeking permits to operate dental clinics.

(c) Noncompliance with the rules in this chapter may be deemed professional misconduct and may subject the licensee, registrant or permit holder to disciplinary action pursuant to the provisions of N.J.S.A. 45:1-14 et seq.

New Rule, R.2000 d.147, effective April 3, 2000.

See: 32 N.J.R. 215(a), 32 N.J.R. 1221(a).

Former N.J.A.C. 13:30-1.1, Qualifications of applicants, recodified to N.J.A.C. 13:30-1.2.

13:30-1.2 Application for licensure to practice dentistry

(a) All persons desiring to practice dentistry in New Jersey shall secure a license from the Board.

(b) To qualify as a candidate for dental licensure, an applicant shall submit a completed application to the Board which shall contain the following information and materials:

1. A certification by the secretary or dean of a dental school, college or department of a university approved by the Commission on Dental Accreditation verifying that the applicant has obtained a dental degree from such institution;

2. A passport size photograph of the applicant certified by the secretary or dean of the dental school, college or department of the university from which the applicant has obtained a dental degree;

3. Results from the successful completion of the Northeast Regional Board Examination. If an applicant fails any portion of the Northeast Regional Board Examination three consecutive times, the Board may require the applicant to sit for and pass a remedial course in the subject area at a dental school, college or department of a university approved by the Commission on Dental Accreditation. The Board shall recognize successful completion of the Northeast Regional Board examination for up to five years. After five years, the Board shall review each request on a case-by-case basis consistent with the following:

i. The Board may recognize successful completion of the Northeast Regional Board Examination after five years. As part of its review, the Board shall consider and evaluate any prior record of disciplinary action or pending disciplinary action against the candidate or investigation of the candidate in any other state and the applicant's complete professional employment history.

4. Results from the successful completion of the New Jersey Jurisprudence examination taken within one year of the date of application;

5. Results of the successful completion of parts I and II of the National Board Dental Examination;

6. A certification by the board of dentistry in every state or jurisdiction in which the applicant holds a dental license verifying that the applicant's license in that state or jurisdiction is in good standing;

7. An affidavit of good moral character; and

8. The application fee as set forth in N.J.A.C. 13:30-8.1.

(c) Notwithstanding the provisions of (b) above, an applicant for licensure to practice dentistry who graduated from a dental school more than two years prior to the date of application, shall submit a certification verifying the completion of 40 hours of continuing education within two years prior to application, consistent with the requirements of N.J.A.C. 13:30-5.1.

(d) An applicant for dental licensure who graduated from a dental school that has not been approved by the Commission on Dental Accreditation shall have completed at least two years of study at a dental school, college or department of a university approved by the Commission of Dental Accreditation, with a dental degree having been conferred by such institution.

8. The suppression, omission or concealment of any material fact under circumstances which a licensee knows or should know that the omission is improper or prohibits a prospective patient from making a full and informed judgment, on the basis of the information set forth in the advertisement; and

9. Any print, language or format which directly or indirectly obscures a material fact.

(d) The Board may require a licensee to substantiate the truthfulness of any objective assertion or representation set forth in an advertisement.

(e) All advertisements shall contain the licensee's name and the phrase "General Dentist," or, if the licensee holds a specialty permit pursuant to N.J.A.C. 13:30-6.1, the phrase "N.J. Specialty Permit No. _____" and the specialty for which the permit is granted.

(f) If a dentist, other than a specialist granted a specialty permit by the Board, wishes to advertise services in one or more of the special areas of dentistry in N.J.A.C. 13:30-6.1(c), such advertisement shall contain the licensee's name and the phrase "General Dentist" immediately preceding or following each specialty area claim in a type size and style at least as prominent as any service described as being offered in the practice. The advertisement shall not use the terms "specialist," "specialty," "specializing," "practice limited to," or any other word or phrase connoting that the licensee is a specialist. The advertisement of services exclusively in one specialty area shall be limited to those licensees who practice that specialty at all times and in all locations.

(g) If a dentist advertises under a banner heading for any of the special areas of dentistry in N.J.A.C. 13:30-6.1(c) in any directory (for example, telephone book yellow pages), such advertisement shall contain the licensee's name, and either the phrase "General Dentist" or "N.J. Specialty Permit No. _____" and the specialty in which the permit is granted.

(h) If a dentist wishes to advertise services in an area of dentistry other than the recognized special areas of dentistry in N.J.A.C. 13:30-6.1(c), such advertisement shall not use the term "specialist," "specialty," "specializing," "practice limited to," or any other word or phrase connoting that the licensee is a specialist or that the area of dentistry is a recognized specialty.

(i) If a licensee advertises that he or she has obtained master, member, fellow or diplomate status in any dental organization, the advertisement shall disclose the licensee's status as either a general dentist or as the holder of a specialty permit pursuant to N.J.A.C. 13:30-6.1, the name of the dental organization, and if the advertisement concerns an area of practice not recognized as a specialty pursuant to

N.J.A.C. 13:30-6.1(c), that the services provided are not a recognized dental specialty.

(j) A licensee may use a patient's photograph as part of an advertisement provided the licensee obtains the patient's written permission to do so. A licensee may use a photograph of a model as part of an advertisement to represent services that may be performed by the licensee provided the licensee discloses in the advertisement that the photograph does not represent services actually performed by the licensee.

(k) A licensee shall not engage in uninvited, in-person solicitation of actual or potential patients who, because of their particular circumstances, are vulnerable to undue influence. This subsection shall not prohibit the offering of services by a licensee to any bona fide representative of prospective patients including employers, labor union representatives, or insurance carriers.

(l) Advertising making reference to setting forth a fee or the provision of a free service shall contain a fixed or a stated range of fees for a specifically described professional service.

1. Such advertisements shall disclose all the relevant variables and considerations which are ordinarily included in such a service so that the fees will not be misunderstood, including the actual components of the specific professional service described, and any other services that are recommended as part of advertised professional service for which a fee may be charged. In the absence of such a disclosure, the stated fees shall be presumed to include everything ordinarily required for such a service.

(m) Offers of discounts or fee reductions or free services shall indicate the advertiser's fixed or stated range of fees against which the discount is to be made and/or the value of the free service.

1. The fixed or stated range of fees or value of free service shall mean and be established on the basis of the advertiser's most commonly charged fee for the stated service within the most recent 60 days prior to, or to be charged in the first 60 days following, the effective date of the advertisement.

2. Offers of across-the-board discounts shall include a representative list of services and the fixed or stated range of fees against which discounts are to be made for these services. The list for general dentistry shall include a sampling of the advertiser's most frequently performed services from the areas of preventive, diagnostic, restorative, endodontic, periodontic, prosthodontic (fixed and removable) dentistry, and oral surgery.

i. "Across-the-board discounts" shall mean the offer of a specified discount on an undefined class of services or the offer of a specified discount to a defined class of patients (for example, "15 percent discount during

April on all dental services” or “15 percent discount to senior citizens on all dental services”).

ii. Example of Representative List of Services:

	<u>Regular Fee</u>	<u>Discount Fee</u>
	\$	\$
Prophylaxis		
Examination		
Complete X-Rays		
One Surface Filling		
Root Canal		
Crown		
Periodontal services		
Complete Denture		
Simple Extraction		

3. The effective period during which a fee or discount shall remain in effect shall be set forth on the face of the advertisement. In the absence of such disclosure and solely for the purposes of enforcement, the effective period shall be deemed to be 30 days from the date of the advertisement’s initial publication.

4. A licensee who holds a specialty permit, as permitted by N.J.A.C. 13:30-6.1, shall in a manner similar to that in (m)2 above, include a representative list of the most frequently performed services in the advertiser’s office.

(n) All licensee advertisements shall contain the name, address and telephone number of the licensee, professional service corporation or trade name under which the practice is conducted and shall also set forth the names of all licensees who are principals, partners, or officers in the professional service facility identified in the advertisement.

(o) A licensee shall be presumed to have approved and shall be personally responsible for the form and contents of an advertisement which contains the licensee’s name, office address, or telephone number or which is published or caused to be published by an entity to which the licensee has paid a fee or when the licensee has agreed to have his or her name listed as a participant pursuant to (p) below. A licensee who employs or allows another to employ for his benefit an intermediary source or other agent in the course of advertising shall be personally responsible for the form and contents of said advertisement.

(p) Two or more licensees who are not associates, as defined in N.J.A.C. 13:30-8.13, may collectively advertise dental services. If the design of the collective advertisement could reasonably have the appearance to the public of being a dental referral service, the advertisement shall be accompanied by the phrase, prominently displayed in capital letters, in type no smaller than the smallest type in the advertisement, and in no event less than 10 point type: “THIS IS AN ADVERTISEMENT PAID FOR BY THE PARTICIPATING DENTISTS—IT IS NOT A DENTIST REFERRAL SERVICE.” Whenever such advertisement has an audio component, the phrase shall be recited by the narrator at least once prior to the conclusion of the advertisement at decibel level equal to the highest decibel level used in the advertisement and at a speed equal to or slower than any other statement contained in the advertisement.

1. An advertisement shall contain the name, address, telephone number and license number of at least one licensee who is a participant in the collective advertising program. A licensee whose name, address, telephone number and license number appears in a collective advertisement shall provide a list of all other program participants to the Board or a member of the public upon oral or written request. If more than 50 percent of the patients who respond to a collective advertisement are directed to one licensee or one dental practice, disclosure of that fact shall be made clearly and unambiguously in all advertisements.

(q) A licensee shall be required to keep copies of all advertisements for a period of three years and such copies shall be made available to the Board upon request. A video or audio tape of every advertisement communicated by electronic media, or a printed copy of an advertisement communicated on the Internet, shall also be retained by the licensee. All copies of advertisements in the licensee’s possession shall indicate the date and place of publication.

SUBCHAPTER 7. (RESERVED)

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 program 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 \$170.00
 - (2) If paid during the second year of a biennial renewal period \$85.00
 - ii. Active registration renewal \$170.00
 - iii. Inactive registration renewal \$70.00
 - iv. Initial branch office registration, dentist:
 - (1) If paid during the first year of a biennial renewal period \$44.00

- (2) If paid during the second year of a biennial renewal period \$22.00
- v. Branch office registration renewal, dentist \$44.00
- 2. Dental Hygienists:
 - i. Initial registration fee:
 - (1) If paid during the first year of a biennial renewal period \$50.00
 - (2) If paid during the second year of a biennial renewal period \$25.00
 - ii. Active registration renewal \$50.00
 - iii. Inactive registration renewal \$26.00
 - iv. Initial branch office registration, dental hygienists
 - (1) If paid during the first year of a biennial renewal period \$26.00
 - (2) If paid during the second year of a biennial renewal period \$13.00
 - v. Branch office renewal registration, dental hygienists \$26.00
- 3. Registered Dental Assistants:
 - i. Initial registration fee:
 - (1) If paid during the first year of a biennial renewal period \$50.00
 - (2) If paid during the second year of a biennial renewal period \$25.00
 - ii. Active registration renewal \$50.00
- (c) Late fee for dentists, dental hygienists, registered dental assistants and limited registered dental assistants \$100.00
- (d) Reinstatement fee for dentists, dental hygienists, 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--application fee \$250.00
 - 4. Registration of dental hygienists by credentials--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 \$ 15.00
 - 9. Dental clinic permit:
 - i. Application \$100.00
 - ii. Annual renewal \$ 50.00

(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.
 Amended by R.1999 d.283, effective August 16, 1999.
 See: 31 N.J.R. 1457(a), 31 N.J.R. 2359(b).
 In (b), increased fees throughout; and in (e), increased the fee in 8, and added 9.

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. Specif-

ic records on use of general anesthesia shall be kept and shall include type of agent, dosage and duration.

(k) Any dentist who utilizes the services of a 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 general anesthesia provided that such permit holder or anesthesiologist remains present and bears full responsibility during the entire procedure and until any patient regains consciousness. Any permit holder invited by a dentist to provide general anesthesia 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.

(l) Every applicant for a permit to use general anesthesia must obtain emergency training by completing the "Basic Life Support: Course C" of the American Heart Association or its equivalent and must maintain current certification in said course. This training also shall be required of all persons who assist in monitoring a patient under general anesthesia. The permit applicant must furnish proof of said training and certification to the Board.

(m) 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.

(n) Any licensee who administers general anesthesia 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.367, eff. November 19, 1976.

See: 8 N.J.R. 198(b), 8 N.J.R. 561(b).

Amended by R.1977 d.206, eff. June 9, 1977.

See: 9 N.J.R. 128(c), 9 N.J.R. 346(a).

Amended by R.1978 d.120, eff. April 6, 1978.

See: 9 N.J.R. 483(a), 10 N.J.R. 203(b).

Amended by R.1980 d.423, eff. September 30, 1980.

See: 12 N.J.R. 430(a), 12 N.J.R. 672(b).

(c)3 added; (d) amended to include last sentence concerning penalty.

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.1985 d.548, effective November 4, 1985.

See: 17 N.J.R. 1864(b), 17 N.J.R. 2669(a).

Amended by R.1990 d.173, effective March 19, 1990.

See: 21 N.J.R. 3062(a), 22 N.J.R. 975(a).

In (a), use of anesthesia without meeting training standards shall constitute deviation of practice. Stylistic and codification revisions to (c)-(h). Deleted old (f) and (h). Added new (l)-(n).

13:30-8.4 (Reserved)

Repealed by R.2000 d.147, effective April 3, 2000.

See: 32 N.J.R. 215(a), 32 N.J.R. 1221(a).

Section was "Announcement of practice in a special area of dentistry".

13:30-8.5 Complaint review procedures

(a) Complaints to the Board shall be in writing.

1. The complaint shall specify the name and address of the licensee(s) involved, the name and telephone number of the complainant, the date(s) of the alleged misconduct, and a brief but detailed explanation of the grounds for the complaint.

2. The Executive Director of the Board shall review all complaints for sufficiency. When insufficient information is given, he or she shall notify the complainant to supply the needed information without delay. Complaints may be received by telephone, but shall be confirmed in writing as indicated above.

(b) The Executive Director shall then forward the completed complaint to the licensee(s) involved with a request for all records, X-rays, models, and any other pertinent materials as well as a complete narrative in response to allegations contained in the complaint. Should sensitive material be contained in the complaint, the Executive Director may, with the consent of the Board, withhold all or part of said complaint from forwarding to the licensee(s).

1. The Executive Director shall review all responses for sufficiency. When insufficient information is given, he or she shall notify the licensee(s) to supply the information without delay.

(c) All completed complaints along with the responses of the licensee(s) shall then be forwarded to a dentist member of the Board for review and to report for consideration at the next scheduled Board meeting concerning review of complaints.

(d) The Board shall review each complaint in order to make one or more of the following determinations:

1. That the information contained in the complaint and/or the response is insufficient. In such cases, the Board shall notify the complainant or the licensee(s) to provide the needed information without delay;

2. That the information contained in the complaint and/or response is insufficient and requires information from a subsequent treating licensee(s). In such cases, the Board shall request needed information from said subsequent treating licensee(s) without delay;

3. That the complaint is of a nature that requires the complainant to be directly examined by another dentist to determine the state of the patient's dental health and the quality of the services which are the subject matter of the complaint;

4. That the complaint requires an investigative hearing as provided by N.J.S.A. 45:1-18; and/or

5. That the complaint is of a nature that requires referral for investigative purposes to the appropriate governmental agency.

(e) Upon completion of its review of a complaint the Board shall make one of the following determinations:

1. No cause for Board action;

2. Probable cause for action with attendant offer of settlement by mutual consent;

3. Referral to the Division of Law for action pursuant to N.J.S.A. 45:1-14 et seq.; and/or

4. Other direction or informal resolution as the Board shall deem appropriate.

New Rule, R.1976 d.422, effective December 17, 1976.

See: 8 N.J.R. 248(a), 9 N.J.R. 41(a).

Amended by R.1989 d.63, effective February 6, 1989.

See: 20 N.J.R. 2680(a), 21 N.J.R. 338(a).

Repealed (a)3.

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

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

(b)-(g) deleted, new (b)-(e) added.

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

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

Case Notes

Telephone complaints permitted, but must be confirmed in writing; Board secretary required to maintain complaint log book; complainant's identity and complaint contents may be withheld during investigation, but professional has a right to disclosure of that information upon completion of the investigation. *Grodjesk v. Faghani*, 198 N.J.Super. 449, 487 A.2d 759 (App.Div.1985) modified and remanded 104 N.J. 89, 514 A.2d 1328 (1986).

13:30-8.6 (Reserved)

Repealed by R.2000 d.147, effective April 3, 2000.

See: 32 N.J.R. 215(a), 32 N.J.R. 1221(a).

Section was "Professional advertising".

13:30-8.7 Patient records

(a) A contemporaneous, permanent patient record shall be prepared and maintained by a licensee for each person seeking or receiving dental services, regardless of whether any treatment is actually rendered or whether any fee is charged. Licensees also shall maintain records relating to charges made to patients and third party carriers for professional services. All treatment records, bills and claim forms shall accurately reflect the treatment or services rendered. Such records shall include, at a minimum:

1. The name, address, and date of birth of the patient and, if a minor, the name of the parent or guardian;

2. The patient's medical history;

3. A record of results of a clinical examination where appropriate or an indication of the patient's chief complaint;

4. A treatment plan;

5. The dates of each patient visit and a description of the treatment or services rendered at each visit;

(b) Dentists may engage in the practice of dentistry in any permissible business format in which they are not shielded from liability for their own breaches of professional duties, they retain responsibility for the quality of care and the appropriateness of their professional judgments, and they are assured access to information and involvement in issues pertaining to quality of care, professional judgment, recordkeeping, advertising practices, and the finances of the permissible business format.

(c) Dentists may be employed by a permissible business format which includes one or more closely allied health care professionals, including at least one licensed dentist, provided their professional practice is not supervised and evaluated by a professional who is not a dentist.

(d) Dentists shall not receive, solicit, offer or pay any remuneration as an inducement to make a referral or as compensation for a referral of a patient for a service, product, drug or device or to purchase, prescribe or recommend a product, drug or device. Nothing contained in this section shall prohibit a licensee from paying the reasonable costs of any advertisement permitted pursuant to N.J.A.C. 13:30-6.1 and 6.2.

(e) Dentists shall not participate in any arrangement or agreement, with any person other than an associate, whereby any remuneration received by that person in payment for the provision of space, facilities, equipment, personnel, marketing or management services used by the dentist is to be determined or calculated as a fixed percentage of, or otherwise dependent upon, the income or receipts derived from the practice of dentistry. Nothing in this section, however, shall preclude a dentist from entering into a bona fide profit sharing plan or retaining the services of a collection agency.

New Rule, R.1987 d.158, effective April 6, 1987.

See: 18 N.J.R. 2419(a), 19 N.J.R. 552(a).

Recodified from N.J.A.C. 13:30-8.15 by R.1990 d.205, effective April 2, 1990.

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

Repeal and New Rule, R.1999 d.68, effective March 1, 1999.

See: 30 N.J.R. 1898(a), 31 N.J.R. 649(a).

Section was "Referral fees".

Amended by R.2000 d.147, effective April 3, 2000.

See: 32 N.J.R. 215(a), 32 N.J.R. 1221(a).

In (d), added a second sentence; and deleted a former (f).

13:30-8.14 Dental X-rays; lead shields

Every licensee, as well as any employee or agent of such licensee duly licensed by the Department of Environmental Protection pursuant to N.J.S.A. 26:2D-24 et seq. shall use a lead shield to provide protection to the greatest extent possible to the torso and thyroid areas of patients during all dental X-ray procedures.

New Rule, R.1987 d.98, effective February 2, 1987.

See: 18 N.J.R. 2113(c), 19 N.J.R. 296(b).

Recodified from N.J.A.C. 13:30-8.16 by R.1990 d.205, effective April 2, 1990.

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

Amended by R.2000 d.147, effective April 3, 2000.

See: 32 N.J.R. 215(a), 32 N.J.R. 1221(a).

Inserted N.J.S.A. reference.

13:30-8.15 Dentist of record; fee reimbursement

(a) Each patient shall have a dentist of record who shall remain primarily responsible for assuring the proper implementation of the dental treatment plan on such patient regardless of whether the treatment is rendered by the dentist of record, by another dentist or by a dental hygienist rendering such treatment in conjunction with, in the employ of, at the direction or request of, or under the supervision of such dentist of record.

(b) The name of the dentist of record shall be conspicuously identified on the patient record. If the dentist of record is not identified on the patient record, it shall be presumed that the dentist of record is the owner(s) of the practice in which the patient was treated.

(c) Each dentist or dental hygienist shall sign or initial each entry on the patient record pertaining to the treatment he or she rendered. If no such entry appears on the patient record, it shall be presumed that such treatment was rendered by the dentist of record, unless the latter shall establish, to the satisfaction of the Board, the identity of the individual who rendered such treatment.

(d) In a multi-dentist practice, the dentists of record shall not change unless the subsequent treating dentist acknowledges in writing in the patient record that he or she is currently the dentist of record for the patient. The dentist of record shall be changed when the licensee leaves the practice where treatment was provided and the patient elects to continue treatment in the facility in which treatment began.

(e) A new dentist of record shall be presumed to have obtained or reviewed the patient's medical history and dental records, examined the patient, and either developed a new treatment plan or concurred with the continuance of the pre-existing treatment plan.

(f) A licensee found to have rendered deficient treatment and the owner of the facility in which the licensee rendered the deficient treatment shall be jointly and severally responsible for the reimbursement to the patient and/or third party payor of any fees as may be directed by the Board.

New Rule, R.1988 d.81, effective February 16, 1988.

See: 19 N.J.R. 1629(a), 20 N.J.R. 403(c).

Recodified from N.J.A.C. 13:30-8.17 by R.1990 d.205, effective April 2, 1990.

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

Amended by R.2000 d.147, effective April 3, 2000.

See: 32 N.J.R. 215(a), 32 N.J.R. 1221(a).

In (f), inserted a reference to third party payors.

13:30-8.16 Opportunity to be heard

Prior to any suspension, revocation or refusal to renew a license, the licensee shall have an opportunity to be heard consistent with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

New Rule, R.1990 d.205, effective April 2, 1990.
See: 22 N.J.R. 149(b), 22 N.J.R. 1145(a).
Amended by R.2000 d.147, effective April 3, 2000.
See: 32 N.J.R. 215(a), 32 N.J.R. 1221(a).

Substituted "an opportunity to be heard consistent with" for "the right to request a hearing which shall be conducted pursuant to" following "shall have".

13:30-8.17 Delegation of physical modalities to unlicensed dental assistants

(a) A dentist may direct an unlicensed assistant to administer to the dentist's patients certain physical modalities in the limited circumstances set forth in this section.

(b) Physical modalities, for the purpose of this section, shall be limited to heat, cold, ultrasound, and electrogalvanic stimulation. An unlicensed assistant shall not be permitted to perform any rehabilitative exercise programs. No other physical modalities including transcutaneous electrical nerve stimulation ("T.E.N.S.") and phonophoresis, shall be performed by an unlicensed assistant.

(c) A dentist may direct the administration of the physical modalities by the unlicensed assistant provided all of the following conditions are satisfied:

1. The dentist shall examine the patient to ascertain the nature of the dental condition or disease; to determine whether the application of a physical modality will encourage the alleviation of dentally related pain and the promotion of healing; to assess the risks of the modality for a given patient and the diagnosed condition, injury or disease, and to decide that the anticipated benefits are likely to outweigh those risks.

2. The dentist shall examine the patient prior to each visit and shall determine all components of the treatment to be performed. This determination shall include all types of modalities to be employed, a delineation of the precise area to which the application of each modality shall be limited, the dosage, wattage, or other applicable setting, the length of the treatment, and any and all other factors peculiar to the risks of that modality such as strict avoidance of certain parts of the body or static placement of the applicator. This information shall be written on the patient's chart prior to each patient's treatment after the dentist has examined the patient, and it shall be made available at all times to the unlicensed assistant who is responsible for administering the modality. A dentist who employs unlicensed assistants shall submit written notice to the Board of such employment prior to permitting an unlicensed assistant to perform physical modalities as provided in this section.

3. The dentist shall provide instruction to and shall ascertain a satisfactory level of education, competence and comprehension of each unlicensed assistant in regard to all modalities used in that office prior to the use of any modality by an unlicensed assistant. The dentist shall prepare and maintain a written document listing the names of all such unlicensed assistants and outlining the instructions given to each unlicensed assistant. The dentist shall submit such document to the Board upon request.

4. The dentist shall evaluate the patient prior to any subsequent scheduled application of the modality to ascertain that continued treatment is appropriate and that no contraindications to treatment have become apparent.

5. The dentist shall be physically present in the dental office at all times that treatment orders are being carried out by the unlicensed assistant and shall be within reasonable proximity to the treatment room.

(d) On a health insurance claim form pertaining to physical modalities and requiring certification by the dentist, the dentist shall identify the specific modality applied and shall not generically identify the treatment as physical therapy.

New Rule, R.1991 d.351, effective July 15, 1991.
See: 23 N.J.R. 2647(b), 23 N.J.R. 2159(a).
Amended by R.2000 d.147, effective April 3, 2000.
See: 32 N.J.R. 215(a), 32 N.J.R. 1221(a).

In (b), substituted "physical modalities including" for "modalities including, but not limited to," following "other" in the second sentence; in (c)2, deleted "at the present patient visit" following "performed" in the first sentence, and substituted "who is responsible for administering modality" for "carrying out the instruction" at the end of the third sentence; deleted a former (d); and recodified former (e) as (d), and substituted "physical modalities" for "such service" following "pertaining to".

13:30-8.18 (Reserved)

Repealed by R.2000 d.147, effective April 3, 2000.
See: 32 N.J.R. 215(a), 32 N.J.R. 1221(a).

Section was "Continuing dental education; requirements; exceptions; resumption of practice".

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 shall have the following meanings unless the context indicates otherwise:

"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.

"Divest" means to relinquish interest of all shares or equity interest in a professional corporation or other permissible business format, as defined in N.J.A.C. 13:30-8.13.

"Licensee" means any person licensed by the Board to engage in the practice of dentistry.

"Professional practice" means that activity which is defined as "practicing dentistry" pursuant to N.J.S.A. 45:6-19.

(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).
Amended by R.2000 d.147, effective April 3, 2000.
See: 32 N.J.R. 215(a), 32 N.J.R. 1221(a).
Rewrote (a).
Administrative correction.
See: 32 N.J.R. 2908(b).

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.

"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) resulting 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).

Administrative correction.

See: 31 N.J.R. 2360(a).

Amended by R.2000 d.147, effective April 3, 2000.

See: 32 N.J.R. 215(a), 32 N.J.R. 1221(a).

In (a), deleted "Board".