

R156. Commerce, Occupational and Professional Licensing.

R156-69. Dentist and Dental Hygienist Practice Act Rule.

R156-69-101. Title.

This rule is known as the "Dentist and Dental Hygienist Practice Act Rule."

R156-69-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 69, as used in Title 58, Chapters 1 and 69 or this rule:

- (1) "ACLS" means Advanced Cardiac Life Support.
- (2) "ADA" means the American Dental Association.
- (3) "ADA CERP" means American Dental Association Continuing Education Recognition Program.
- (4) "ADA Teaching Guidelines" means the Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students published by the American Dental Association, as adopted by the ADA House of Delegates, October 2016, which is incorporated by reference.
- (5) "ADA Use Guidelines", means the Guidelines for the Use of Sedation and General Anesthesia by Dentists published by the American Dental Association, as adopted by the ADA House of Delegates, October 2016, which is incorporated by reference.
- (6) "ADEX" means American Board of Dental Examiners.
- (7) "Advertising or otherwise holding oneself out to the public as a dentist" means representing or promoting oneself as a dentist through any of the following or similar methods:
 - (a) business names;
 - (b) business signs;
 - (c) door or window lettering;
 - (d) business cards;
 - (e) letterhead;
 - (f) business announcements;
 - (g) flyers;
 - (h) mailers;
 - (i) promotions;
 - (j) advertisements;
 - (k) radio or television commercials;
 - (l) listings in printed or online telephone directories; or
 - (m) any other type of advertisement or promotional communication.
- (8) "Analgesia" means the same as defined in the ADA Use Guidelines.
- (9) "Anesthesiology" means the science of administration of anesthetics and the condition of the patient while under anesthesia.
- (10) "ADHA" means the American Dental Hygienists' Association.
- (11) "BCLS" means Basic Cardiac Life Support.
- (12) "BLS" means Basic Life Support.
- (13) "CDCA" means Commission on Dental Competency Assessments.
- (14) "CITA" means Council of Interstate Testing Agencies, Inc.
- (15) "CDEL" means the Council on Dental Education and Licensure.
- (16) "CPR" means cardiopulmonary resuscitation.
- (17) "CRDTS" means the Central Regional Dental Testing Service, Inc.
- (18) "CODA" means the Commission on Dental Accreditation.
- (19) "Competency" means displaying special skill or knowledge derived from training and experience.
- (20) "DANB" means the Dental Assisting National Board, Inc.
- (21) "Deep sedation" means the same as defined in the ADA Use Guidelines.
- (22) "Discharge criteria" means the minimum requirements for a patient to be safely discharged from the care of a dentist.
- (23) "General anesthesia" means the same as defined in the ADA Use Guidelines.
- (24) "Local anesthesia" means the same as defined in the ADA Use Guidelines.
- (25) Maximum recommended dose (MRD) is the maximum FDA recommended dose of a drug, as printed in FDA approved labeling for unmonitored home use.
- (26) "Minimal sedation" means the same as defined in the ADA Use Guidelines.
- (27) "Moderate sedation" means the same as defined in the ADA Use Guidelines.
- (28) "PALS" means Pediatric Advanced Life Support.
- (29) "Practice of dentistry" in regard to administering sedation or anesthesia is further defined as follows:
 - (a) a Class A permit allows administration of, or supervision of the administration of, local anesthesia in compliance with the ADA Use Guidelines.
 - (b) a Class B permit allows administration of, or supervision of the administration of, minimal sedation induced by nitrous oxide in compliance with the ADA Use Guidelines.
 - (c) a Class C permit allows administration of minimal sedation via nitrous oxide/oxygen with or without the administration of a single enteral drug, in compliance with the ADA Use Guidelines.

(d) a Class D permit allows administration of, or supervision of the administration of, moderate sedation via any route of administration, in compliance with the ADA Use Guidelines.

(e) a Class E permit allows administration of, or supervision of the administration of, deep sedation and general anesthesia in compliance with the ADA Use Guidelines.

(30) "Prominent disclaimer" means a disclaimer as described in and as required by Subsection R156-69-502(2)(b) that:

(a) if in writing, is in the same size of lettering as the largest lettering otherwise contained in an advertisement, publication, or other communication in which the disclaimer appears; or

(b) if not in writing, is in the same volume and speed as the slowest speed and highest volume otherwise included in a radio or television commercial or other oral advertisement or promotion in which the disclaimer appears.

(31) "Route of administration" means the technique of administering agents, and includes the following, as defined in the ADA Use Guidelines:

(a) enteral;

(b) parenteral;

(c) transdermal;

(d) transmucosal; and

(e) inhalation.

(32) "Specialty area" means an area of dentistry in which the dentist has completed a specialty post-doctoral program in a specialty area of dentistry consisting of at least two full time years and which is accredited by an accreditation agency that is recognized by the U.S. Department of Education.

(33) "SRTA" means Southern Regional Testing Agency, Inc.

(34) "Unprofessional conduct," as defined in Title 58 Chapters 1 and 69, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-69-502.

(35) "UDA" means Utah Dental Association.

(36) "UDHA" means Utah Dental Hygienists' Association.

(37) "WREB" means the Western Regional Examining Board.

R156-69-103. Authority - Purpose.

This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 69.

R156-69-104. Organization - Relationship to Rule R156-1.

The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.

R156-69-201. Classifications of Anesthesia and Analgesia Permits - Dentist.

In accordance with Subsection 58-69-301(4)(a), a dentist may be issued an anesthesia and analgesia permit in the following classifications:

(1) class A permit;

(2) class B permit;

(3) class C permit;

(4) class D permit; or

(5) class E permit.

R156-69-202. Qualifications for Anesthesia and Analgesia Permits - Dentist.

In accordance with Subsection 58-69-301(4)(b), the qualifications for dentist anesthesia and analgesia permits are:

(1) for a class A permit current CPR or BCLS/BLS certification;

(2) for a class B permit:

(a) current BCLS/BLS certification; and

(b) completion of training in the administration of nitrous oxide that:

(i) conforms to the ADA Teaching Guidelines; or

(ii) is the substantial equivalent of the ADA Teaching Guidelines provided in a continuing education format by an ADA accredited school;

(3) for a class C permit compliance with Subsections (1) and (2) above:

(a) evidence of successful completion of training in pharmacological methods of minimal sedation that:

(i) conforms to the ADA Teaching Guidelines; or

(ii) is the substantial equivalent of the ADA Teaching Guidelines provided in a continuing education format by an ADA accredited school;

(b) evidence of holding a current Utah controlled substance license in good standing and a current Drug Enforcement Administration (DEA) registration in good standing;

(4) for a class D permit:

(a) compliance with Subsection (3)(b) above;

(b) current ACLS or PALS certification; and

(c) completion of:

(i)(A) a comprehensive predoctoral or postdoctoral training in the administration of moderate sedation that conforms to the ADA Teaching Guidelines, including a letter from the course director documenting competency in performing conscious sedation; and

(B) 60 hours of didactic education in sedation and successful completion of 20 cases; or

(ii) the substantial equivalent of Subsection (4)(c)(i) provided in a continuing education format by an ADA accredited school;

(5) for a class E permit:

(a) compliance with Subsections (4)(a) and (b) above;

(b) if treating pediatric patients, current PALS certification;

(c) completion of advanced training in the administration of general anesthesia and deep sedation, consisting of at least one year in a program which conforms to the ADA Teaching Guidelines, including a letter from the course director documenting competency in performing general anesthesia and deep sedation.

R156-69-203. Classification of Anesthesia and Analgesia Permits - Dental Hygienist.

In accordance with Subsection 58-69-301(4)(a), a dental hygienist may be issued an anesthesia and analgesia permit in the classification of dental hygienist with local anesthesia.

R156-69-204. Qualifications for Anesthesia and Analgesia Permits - Dental Hygienist.

In accordance with Subsection 58-69-301(4)(b), the qualifications for a dental hygienist with local anesthesia permit are the following:

(1)(a) current Utah licensure as a dental hygienist; or

(b) documentation of meeting all Utah requirements for licensure as a dental hygienist;

(2) completion of a program of training in the administration of local anesthesia, including nitrous oxide, that:

(a)(i) is accredited by the CODA; or

(ii) is the substantial equivalent of Subsection (2)(a)(i) provided in a continuing education format by an ADA accredited school; and

(b) documentation of successful completion of the program by a letter from the program director, or equivalent; and

(3)(a) a passing score on the WREB, CDCA, or SRTA written anesthesia examination; or

(b) a current, active in good standing license to administer local anesthesia in another state in the United States; and

(4) current CPR or BCLS/BLS certification.

R156-69-302b. Qualifications for Licensure - Examination Requirements - Dentist.

In accordance with Subsections 58-69-302(1)(f) and (g), the examination requirements for licensure as a dentist include the periodontics, endodontics, operative, class 2 restoration, class 3 restoration, and prosthodontics sections and are established as the following:

(1) the WREB examination with a passing score as established by the WREB;

(2) the CDCA examination with a passing score as established by the CDCA;

(3) the SRTA examination with a passing score as established by the SRTA;

(4) the CRDTS examination with a passing score as established by the CRDTS; or

(5) the CITA examination with a passing score as established by the CITA.

R156-69-302c. Qualifications for Licensure - Examination Requirements - Dental Hygienist.

In accordance with Subsections 58-69-302(3)(f) and (g), the examination requirements for licensure as a dental hygienist are established as the following:

(1) the WREB examination with a passing score as established by the WREB;

(2) the NERB examination with a passing score as established by the NERB;

(3) the SRTA examination with a passing score as established by the SRTA; or

(4) the CRDTS examination with a passing score as established by the CRDTS.

R156-69-303. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 69, is established by rule in Section R156-1-308a.

(2) Renewal procedures shall be in accordance with Section R156-1-308c.

R156-69-304a. Continuing Education - Dentist and Dental Hygienist.

In accordance with Section 58-69-304, qualified continuing professional education requirements are established as follows:

(1) All licensed dentists and dental hygienists shall complete at least 30 hours of qualified continuing professional education during each two-year licensure period, to include:

(a) for class C anesthesia permit holders, at least two hours of CPE specific to the administration of enteral anesthesia/pharmacology;

(b) for class D anesthesia permit holders:

- (i) at least four anesthesia-specific CPE didactic hours; and
- (ii) attestation of successful completion of at least ten sedation cases; and
- (c) for class E anesthesia permit holders:
 - (i) at least eight anesthesia-specific CPE didactic hours; and
 - (ii) attestation of successful completion of at least 30 sedation cases.
- (2) Qualified continuing professional education hours for licensees who have not been licensed for the entire two-year period shall be prorated from the date of licensure.
 - (3) Continuing education under this section shall:
 - (a) be relevant to the licensee's professional practice;
 - (b) be prepared and presented by individuals who are qualified by education, training and experience to provide dental and dental hygiene continuing education; and
 - (c) have a method of verification of attendance and completion.
 - (4) Credit for continuing education shall be recognized as follows:
 - (a) unlimited hours for continuing education completed in blocks of time of not less than 50 minutes in formally established classroom courses, seminars, lectures, conferences, or training sessions which meet the criteria listed in Subsection (3) above, and which are approved by, conducted by or under sponsorship of:
 - (i) a government agency, including the Division of Occupational and Professional Licensing;
 - (ii) recognized universities and colleges, or an accredited dental, dental hygiene, or dental postgraduate program;
 - (iii) professional associations, societies, and organizations representing a licensed profession whose program objectives relate to the practice of dentistry and dental hygiene; or
 - (iv) the ADA or any subgroup thereof, the ADHA or any subgroup thereof, a recognized health care professional association or a peer study club;
 - (b) a maximum of ten hours per two-year period may be recognized for teaching continuing education relevant to dentistry and dental hygiene;
 - (c) a maximum of 15 hours per two-year period may be recognized for continuing education that is provided via Internet or through home study which provides an examination and a completion certificate;
 - (d) a maximum of three hours per two-year period may be recognized for continuing education in practice and office management.
 - (5) A licensee may fulfill up to 15% of the licensee's continuing professional education requirement by providing direct patient care volunteer services at a qualified location, in accordance with Section 58-13-3. For every four documented hours of such volunteer services, the licensee may earn one hour of continuing education.
 - (6) Hours for recertification in CPR, BCLS, ACLS, and PALS may not count as continuing education.
 - (7) A licensee shall maintain competent records of the licensee's completed qualified continuing professional education for a period of four years after close of the two-year licensure period. It is the responsibility of the licensee to demonstrate that their continuing professional education meets the requirements of this section.
 - (8) The Division may defer or waive continuing professional education requirements for a licensee as provided in Section R156-1-308d.

R156-69-502. Unprofessional Conduct.

- "Unprofessional Conduct" includes the following:
- (1) for any patient under any level of sedation, including nitrous oxide:
 - (a) failing to provide continuous in-operative observation by a trained dental patient care staff member until the patient continuously and independently maintains their airway and may be safely discharged; or
 - (b) failing to record the discharge time and the person discharging the patient in the patient's records;
 - (2) advertising or otherwise holding oneself out to the public as a dentist or dental group that practices in a specialty area unless:
 - (a) each dentist has successfully completed an advanced educational program accredited by the ADA's Commission on Dental Accreditation (or its equivalent if completed prior to 1967) of two or more years in length, as specified by the Council on Dental Education and Licensure;
 - (b) as specified in Subsection 58-69-502(2)(b), the advertisement or other method of holding oneself out to the public as a dentist or dental group includes a prominent disclaimer that the dentist or dentists performing services are licensed as general dentists or that the specialty services will be provided by a general dentist;
 - (c) the advertisement or other method of holding oneself out to the public as a dentist or dental group that practices in a specialty area includes a prominent disclaimer that the dentist or dentists performing services is a specialist, but not qualified as a specialist in the specialty area being advertised; or
 - (d) otherwise advertising in a specialty area by representing that a dentist has attained any education, training or certification in the specialty area when the dentist has not met the criteria;
 - (3) advertising in any form that is misleading, deceptive, or false; including the display of any credential, education, or training that is inaccurate, or the making of any unsubstantiated claim of superiority in training, skill, experience, or any other quantifiable aspect;
 - (4) prescribing treatments and medications outside the scope of dentistry;
 - (5) prescribing for oneself any Schedule II or III controlled substance;

(6) engaging in practice as a dentist or dental hygienist without prominently displaying a copy of the current Utah license;

(7)(a) failing to personally maintain current CPR, BCLS/BLS, ACLS, or PALS certification as required by the licensee's anesthesia permit; or

(b) employing patient care staff who fail to maintain current CPR or BCLS/BLS certification;

(8) providing consulting or other dental services under anonymity;

(9) engaging in unethical or illegal billing practices or fraud, including:

(a) reporting an incorrect treatment date for the purpose of obtaining payment;

(b) reporting charges for services not rendered;

(c) incorrectly reporting services rendered for the purpose of obtaining payment;

(d) generally representing a charge to a third party that is different from that charged to the patient;

(10) failing to establish and maintain appropriate dental records;

(11) failing to maintain patient records for a period of seven years;

(12) failing to provide copies of x-rays, reports or records to a patient or the patient's designee upon written request and payment of a nominal fee for copies regardless of the payment status of the services reflected in the record; and

(13) failing to submit a complete report to the Division within 30 calendar days concerning an incident, in which any anesthetic or sedative drug was administered to any patient, which resulted in, either directly or indirectly, the death or adverse event resulting in patient admission to a hospital; and

(14) failing to discuss the risks of using an opiate with a patient or the patient's guardian before issuing an initial opiate prescription in accordance with Section 58-37-19.

R156-69-601. Scope of Practice - Anesthesia and Analgesia Permits.

In accordance with Subsection 58-69-301(4)(a), the scope of practice permitted under each classification of anesthesia and analgesia permit includes the following:

(1) A dentist with a class A permit may administer, or supervise the administration of, minimal sedation using local anesthesia in compliance with the ADA Use Guidelines.

(2) A dentist with a class B permit:

(a) may exercise all of the privileges of a Class A permit; and

(b) administer, or supervise the administration of, nitrous oxide induced minimal sedation in compliance with the ADA Use Guidelines.

(3) A dentist with a class C permit:

(a) may exercise all of the privileges of a Class B permit; and

(b) may administer, or supervise the administration of, minimal sedation via nitrous oxide/oxygen with or without the administration of a single enteral drug in compliance with the ADA Use Guidelines.

(4) A dentist with a class D permit:

(a) may exercise all of the privileges of a Class C permit;

(b) may administer, or supervise the administration of, moderate sedation in compliance with the ADA Use Guidelines;

and

(c) shall comply with Section 58-69-502.5 if administering sedation or anesthesia intravenously in an outpatient setting that is not an emergency department.

(5) A dentist with a class E permit:

(a) may exercise all of the privileges of a Class D permit;

(b) may administer, or supervise the administration of, general anesthesia or deep sedation in compliance with the ADA Use Guidelines; and

(c) shall comply with Section 58-69-502.5 if administering sedation or anesthesia intravenously in an outpatient setting that is not an emergency department.

(6) A dentist who practices facial cosmetic dentistry utilizing the neurotoxin clostridium botulinum or injectable dermal fillers shall demonstrate competency by completing a minimum of eight hours of PACE or CERP training, which shall include a hands-on component.

R156-69-602. Practice of Dental Hygiene.

In accordance with Subsection 58-69-102(6)(a)(ix), other practices of dental hygiene include performing:

(1) laser bleaching; and

(2) laser periodontal debridement.

R156-69-603. Use of Unlicensed Individuals as Dental Assistants.

In accordance with Section 58-69-803, the standards regulating the use of unlicensed individuals as dental assistants are that an unlicensed individual shall not, under any circumstance:

(1) render definitive treatment diagnosis;

(2) place, condense, carve, finish or polish restorative materials, or perform final cementation;

(3) cut hard or soft tissue or extract teeth;

(4) remove stains, deposits, or accretions, except as is incidental to polishing teeth coronally with a rubber cup;

(5) initially introduce nitrous oxide and oxygen to a patient for the purpose of establishing and recording a safe plane of analgesia for the patient, except under the direct supervision of a licensed dentist after a baseline percentage and flow rate suitable for the patient is established and documented by a licensed dentist holding the appropriate permit;

(6) remove bonded materials from the teeth with a rotary dental instrument or use any rotary dental instrument within the oral cavity except to polish teeth coronally with a rubber cup;

(7) take jaw registrations or oral impressions for supplying artificial teeth as substitutes for natural teeth, including electronic imaging, except for diagnostic or opposing models for the fabrication of temporary or provisional restorations or appliances;

(8) correct or attempt to correct the malposition or malocclusion of teeth, or make an adjustment that will result in the movement of teeth upon an appliance which is worn in the mouth;

(9) perform sub-gingival instrumentation;

(10) render decisions concerning the use of drugs, their dosage or prescription;

(11) expose radiographs without meeting the following criteria:

(a) completing a dental assisting course accredited by the ADA Commission on Dental Accreditation; or

(b) passing one of the following examinations:

(i) the DANB Radiation Health and Safety Examination (RHS); or

(ii) a radiology exam approved by the Board that meets the criteria established in Section R156-69-604;

(12) work without a current CPR or BCLS certification; or

(13) provide injections of any substance.

R156-69-604. Radiology Course for Unlicensed Individuals as Dental Assistants.

In accordance with Section 58-69-803 and Subsection 58-54-306(2), the radiology course in Subsection R156-69-603(11) shall include radiology theory consisting of:

(1) orientation to radiation technology;

(2) terminology;

(3) radiographic dental anatomy and pathology (cursory);

(4) radiation physics (basic);

(5) radiation protection to patient and operator;

(6) radiation biology including interaction of ionizing radiation on cells, tissues and matter;

(7) factors influencing biological response to cells and tissues to ionizing radiation and cumulative effects of x-radiation;

(8) intraoral and extraoral radiographic techniques;

(9) processing techniques including proper disposal of chemicals;

(10) infection control in dental radiology; and

(11) use of portable and handheld x-ray devices.

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