

CHAPTER 150A

DENTISTRY

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150A.01 DEFINITIONS.

Subdivision 1. **Applicability.** As used in sections 150A.01 to 150A.12, the following terms shall have the meanings given them.

Subd. 2. **Board.** "Board" means the state board of dentistry.

Subd. 3. **Dental technician.** "Dental technician" means a person performing acts authorized under section 150A.10, subdivision 3.

Subd. 4. **Dental hygienist.** "Dental hygienist" means a person licensed pursuant to sections 150A.01 to 150A.12 to perform the services authorized pursuant to section 150A.10, subdivision 1, or any other services authorized by sections 150A.01 to 150A.12.

Subd. 5. **Dental assistant.** "Dental assistant" means a person performing acts authorized under section 150A.10, subdivision 2.

Subd. 6. **Dentist.** "Dentist" means a dentist licensed pursuant to sections 150A.01 to 150A.12.

Subd. 6a. **Faculty dentist.** "Faculty dentist" means a person who is licensed to practice dentistry as a faculty member of a school of dentistry.

Subd. 7. **Person.** "Person" includes an individual, corporation, partnership, association or any other legal entity.

Subd. 8. **Registered dental assistant.** "Registered dental assistant" means a person registered pursuant to section 150A.06.

Subd. 8a. **Resident dentist.** "Resident dentist" means a person who is licensed to practice dentistry as an enrolled graduate student or student of an advanced education program accredited by the American Dental Association Commission on Accreditation.

Subd. 9. **State.** "State," when used in reference to a state other than Minnesota, means any other state of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

History: 1969 c 974 s 1; 1976 c 263 s 1; 1983 c 70 s 2; 1993 c 84 s 1,2

150A.02 BOARD OF DENTISTRY.

Subdivision 1. There is hereby created a board of dentistry whose duty it shall be to carry out the purposes and enforce the provisions of sections 150A.01 to 150A.12. The board shall consist of two public members as defined by section 214.02, five qualified resident dentists, one qualified resident registered dental assistant, and one qualified resident dental hygienist appointed by the governor. Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214.07 to 214.09. The provision of staff, administrative services and office space; the review and processing of board complaints; the setting of board fees; and other provisions relating to board operations shall be as provided in chapter 214. Each board member who is a dentist, registered dental assistant, or dental hygienist shall have been lawfully in active practice in this state for five years immediately preceding appointment; and no board member shall be eligible for appointment to more than two consecutive four-year terms, and members serving on the board at the time of the enactment hereof shall be eligible to reappointment provided they shall not have served more than nine consec-

utive years at the expiration of the term to which they are to be appointed. At least 90 days prior to the expiration of the terms of dentists, registered dental assistants, or dental hygienists, the Minnesota dental association, Minnesota dental assistants association, or the Minnesota state dental hygiene association shall recommend to the governor for each term expiring not less than two dentists, two registered dental assistants, or two dental hygienists, respectively, who are qualified to serve on the board, and from the list so recommended the governor may appoint members to the board for the term of four years, the appointments to be made within 30 days after the expiration of the terms. Within 60 days after the occurrence of a dentist, registered dental assistant or dental hygienist vacancy, prior to the expiration of the term, in the board, the Minnesota dental association, the Minnesota dental assistants association, or the Minnesota state dental hygiene association shall recommend to the governor not less than two dentists, two registered dental assistants, or two dental hygienists, who are qualified to serve on the board and from the list so recommended the governor, within 30 days after receiving such list of dentists, may appoint one member to the board for the unexpired term occasioned by such vacancy. Any appointment to fill a vacancy shall be made within 90 days after the occurrence of such vacancy. The first four-year term of the dental hygienist and of the registered dental assistant shall commence on the first Monday in January, 1977

Subd. 2. [Repealed, 1975 c 136 s 77]

History: 1969 c 974 s 2; 1973 c 638 s 25; 1975 c 136 s 25; 1976 c 222 s 73; 1976 c 239 s 57; 1976 c 263 s 2; 1986 c 444; 1991 c 199 art 1 s 44

150A.03 OFFICERS; SALARIES; EQUIPMENT AND SUPPLIES.

Subdivision 1. **Officers.** The board shall elect from its members a president, a vice-president, and a secretary. The board shall have a common seal. It may hold meetings at such times as may be necessary and as it may determine. The board may affiliate and participate, both in and out-of-state, with regional and national testing agencies for the purpose of conducting examinations for licensure and registration. The fee charged by such an agency for conducting the examination may be in addition to the application fee established by the board pursuant to section 150A.06.

Subd. 2. **Executive secretary; funds.** The board shall appoint an executive secretary who shall not be a member of the board and who shall be in the unclassified civil service. The board may accept any funds which may be made available to the board from any source. All funds received by the board under sections 150A.01 to 150A.12 shall be paid to the executive secretary thereof. The expenses of administering sections 150A.01 to 150A.12 shall be paid from the appropriation made to the board of dentistry.

Subd. 3. **Expenses, national associations.** The board may expend the necessary funds for its offices and furniture, fixtures, and supplies. The board may affiliate with the American Association of Dental Examiners as an active member and pay regular annual dues to this association, and send members of the board as delegates to the meetings of the American Association of Dental Examiners.

History: 1969 c 974 s 3; 1973 c 507 s 45; 1973 c 638 s 26; 1975 c 136 s 26-28; 1976 c 222 s 74; 1978 c 770 s 1

150A.04 RULES OF THE BOARD.

Subdivision 1. [Repealed, 1976 c 222 s 209]

Subd. 2. [Repealed, 1976 c 222 s 209]

Subd. 3. [Repealed, 1976 c 222 s 209]

Subd. 4. [Repealed, 1976 c 222 s 209]

Subd. 5. **Rules.** The board may promulgate rules as are necessary to carry out and make effective the provisions and purposes of sections 150A.01 to 150A.12, in accordance with chapter 14. The rules may specify training and education necessary for administering general anesthesia and intravenous conscious sedation.

History: 1969 c 974 s 4; 1976 c 222 s 75; 1982 c 424 s 130; 1984 c 491 s 1; 1985 c 248 s 70; 1995 c 233 art 2 s 56; 1997 c 187 art 5 s 20

150A.05 LICENSED DENTAL PRACTICE.

Subdivision 1. **Practice of dentistry.** A person shall be deemed to be practicing dentistry within the meaning of sections 150A.01 to 150A.12:

(1) who uses a dental degree, or designation, or card, device, directory, sign, or other media whereby the person represents an ability to diagnose, treat, prescribe, or operate for any disease, pain, deformity, deficiency, injury, or physical condition of the human tooth, teeth, alveolar process, gums or jaw, or adjacent or associated structures;

(2) who is a manager, proprietor, operator or conductor of a place where dental operations are performed;

(3) who performs dental operations of any kind gratuitously, or for a fee, gift, compensation or reward, paid or to be paid, to any person or agency;

(4) who uses a roentgen or X-ray machine for dental treatment, roentgenograms or for dental diagnostic purposes;

(5) who extracts a human tooth or teeth, or corrects or attempts to correct malpositions of the human teeth or jaws;

(6) who offers and undertakes, by any means or method, to diagnose, treat or remove stains or accretions from human teeth or jaws;

(7) who takes impressions of the human tooth, teeth, or jaws or performs any phase of any operation incident to the replacement of a part of a tooth, a tooth, teeth or associated tissues by means of a filling, a crown, a bridge, a denture or other appliance;

(8) who furnishes, supplies, constructs, reproduces, repairs, or offers to furnish, supply, construct, reproduce or repair prosthetic dentures or plates, bridges or other substitutes for natural teeth, to the user or prospective user thereof; or

(9) who performs any clinical operation included in the curricula of recognized dental schools and colleges.

Subd. 1a. **Practice of dental hygienists.** A person shall be deemed to be practicing as a dental hygienist within the meaning of sections 150A.01 to 150A.12:

(1) who provides care that is educational, preventive, and therapeutic through observation, assessment, evaluation, counseling, and therapeutic services to establish and maintain oral health;

(2) who evaluates patient health status through review of medical and dental histories, assesses and plans dental hygiene care needs, performs a prophylaxis including complete removal of calciferous deposits, accretions and stains by scaling, polishing, and performs root planing and debridement;

(3) who administers local anesthesia and nitrous oxide inhalation analgesia; or

(4) who provides other related services as permitted by the rules of the board.

Subd. 2. **Exemptions and exceptions of certain practices and operations.** Sections 150A.01 to 150A.12 do not apply to:

(1) the practice of dentistry or dental hygiene in any branch of the armed services of the United States, the United States Public Health Service, or the United States Veterans Administration;

(2) the practice of dentistry, dental hygiene, or dental assisting by undergraduate dental students, dental hygiene students, and dental assisting students of the University of Minnesota, schools of dental hygiene, or schools of dental assisting approved by the board, when acting under the direction and supervision of a licensed dentist or a licensed dental hygienist acting as an instructor;

(3) the practice of dentistry by licensed dentists of other states or countries while appearing as clinicians under the auspices of a duly approved dental school or college, or a reputable dental society, or a reputable dental study club composed of dentists;

(4) the actions of persons while they are taking examinations for licensure or registration administered or approved by the board pursuant to sections 150A.03, subdivision 1, and 150A.06, subdivisions 1, 2, and 2a;

(5) the practice of dentistry by dentists and dental hygienists licensed by other states during their functioning as examiners responsible for conducting licensure or registration

examinations administered by regional and national testing agencies with whom the board is authorized to affiliate and participate under section 150A.03, subdivision 1, and the practice of dentistry by the regional and national testing agencies during their administering examinations pursuant to section 150A.03, subdivision 1;

(6) the use of X-rays or other diagnostic imaging modalities for making radiographs or other similar records in a hospital under the supervision of a physician or dentist or by a person who is credentialed to use diagnostic imaging modalities or X-ray machines for dental treatment, roentgenograms, or dental diagnostic purposes by a credentialing agency other than the board of dentistry; or

(7) the service, other than service performed directly upon the person of a patient, of constructing, altering, repairing, or duplicating any denture, partial denture, crown, bridge, splint, orthodontic, prosthetic, or other dental appliance, when performed according to a written work order from a licensed dentist in accordance with section 150A.10, subdivision 3.

History: 1969 c 974 s 5; 1981 c 102 s 1; 1983 c 29 s 1; 1983 c 70 s 3; 1986 c 444; 1993 c 84 s 3; 1996 c 273 s 1

150A.06 LICENSURE.

Subdivision 1: **Dentists.** A person of good moral character not already a licensed dentist of the state, having submitted an application and fee as prescribed by the board and the diploma or equivalent awarded to the person by a dental college approved by the board may be examined by the board or by an agency pursuant to section 150A.03, subdivision 1, in a manner to test the applicant's fitness to practice dentistry. In the case of examinations conducted pursuant to section 150A.03, subdivision 1, applicants may take the examination prior to applying to the board for licensure. The examination shall include an examination of the applicant's knowledge of the laws of Minnesota relating to dentistry and the rules of the board. An applicant is ineligible to retake the clinical examination required by the board after failing it twice until further education and training are obtained as specified by the board by rule. A separate, nonrefundable fee may be charged for each time a person applies. An applicant who passes the examination in compliance with subdivision 2b and meets all other requirements of the board shall be licensed to practice dentistry and supplied with a license by the board.

Subd. 1a. **Faculty dentists.** Faculty members of a school of dentistry must be licensed or registered in order to practice dentistry as defined in section 150A.05. The board may issue to members of the faculty of a school of dentistry a license designated as a "faculty license" entitling the holder to practice dentistry within the school and its affiliated teaching facilities, but only for the purposes of instructing or conducting research. The practice of dentistry at a school facility for purposes other than instruction or research is not allowed unless the faculty member is licensed under subdivision 1 or is a faculty member on August 1, 1993. The dean of the school of dentistry shall certify to the board those members of the school's faculty who practice dentistry but are not licensed to practice dentistry in Minnesota. A faculty member who practices dentistry as defined in section 150A.05, before beginning duties in the school of dentistry, shall apply to the board for a faculty license. The license expires the next July 1 and may, at the discretion of the board, be renewed on a yearly basis. The faculty applicant shall pay a nonrefundable fee set by the board for issuing and renewing the faculty license. The faculty license is valid during the time the holder remains a member of the faculty of a school of dentistry and subjects the holder to this chapter. This subdivision takes effect on September 1 following the date that the rules adopted under this subdivision become effective.

Subd. 1b. **Resident dentists.** A person who is a graduate of a dental school and is an enrolled graduate student or student of an accredited advanced dental education program and who is not licensed to practice dentistry in the state shall obtain from the board a license to practice dentistry as a resident dentist. The license must be designated "resident dentist license" and authorizes the licensee to practice dentistry only under the supervision of a licensed dentist. A resident dentist license must be renewed annually pursuant to the board's rules. An applicant for a resident dentist license shall pay a nonrefundable fee set by the board for issuing and renewing the license. The requirements of sections 150A.01 to 150A.21 apply to resident dentists except as specified in rules adopted by the board. A resident dentist

license does not qualify a person for licensure under subdivision 1. This subdivision takes effect on September 1 following the date that the rules adopted under this subdivision become effective.

Subd. 1c. **Specialty dentists.** (a) The board may grant a specialty license in the following areas of dentistry:

- (1) endodontics;
- (2) oral and maxillofacial surgery;
- (3) oral pathology;
- (4) orthodontics;
- (5) pediatric dentistry;
- (6) periodontics;
- (7) prosthodontics; and
- (8) public health.

(b) Notwithstanding section 147.081, subdivision 3, a person practicing in the specialty area of oral and maxillofacial surgery must either be licensed by the board under subdivision 1, or have a specialty license in the oral and maxillofacial surgery specialty area. Notwithstanding paragraph (c), an oral and maxillofacial surgery specialty license may be issued to a person not licensed under subdivision 1.

(c) An applicant for a specialty license shall:

- (1) have successfully completed an advanced education program approved by the commission on accreditation in one of the specialty areas;
- (2) have announced a limitation of practice before 1967; or
- (3) have been certified by a specialty examining board approved by the board.

The board shall also require the applicant to be licensed under subdivision 1 or have an equivalent license in another state as determined by the board, meet all other requirements prescribed by the board, and pay a nonrefundable fee set by the board.

(d) A dentist with an equivalent license in another state and a specialty license in Minnesota is limited in Minnesota to practicing only in the specialty license area as defined by the board.

Subd. 2. **Dental hygienists.** A person of good moral character not already a licensed dental hygienist of this state, who has graduated from a dental hygiene program established in an institution that is accredited by an accrediting agency recognized by the United States Department of Education to offer college-level programs may apply for licensure. The dental hygiene program must provide a minimum of two academic years of dental hygiene curriculum and be accredited by the American Dental Association Commission on Dental Accreditation. The applicant must submit an application and fee as prescribed by the board and a diploma or certificate of dental hygiene. Prior to being licensed, the applicant must pass the National Board of Dental Hygiene Examination and a board approved examination designed to determine the applicant's clinical competency. In the case of examinations conducted pursuant to section 150A.03, subdivision 1, applicants may take the examination before applying to the board for licensure. The applicant must also pass an examination testing the applicant's knowledge of the laws of Minnesota relating to the practice of dentistry and of the rules of the board. An applicant is ineligible to retake the clinical examination required by the board after failing it twice until further education and training are obtained as specified by the board by rule. A separate, nonrefundable fee may be charged for each time a person applies. An applicant who passes the examination in compliance with subdivision 2b and meets all the other requirements of the board shall be licensed as a dental hygienist and supplied with a license by the board.

Subd. 2a. **Registered dental assistant.** A person of good moral character, who has submitted an application and fee as prescribed by the board and the diploma or equivalent awarded to the person by a training school for dental assistants or its equivalent approved by the board, may be examined by the board or by an agency pursuant to section 150A.03, subdivision 1, in a manner to test the applicant's fitness to perform as a registered dental assistant. In the case of examinations conducted pursuant to section 150A.03, subdivision 1, applicants may take the examination before applying to the board for registration. The examination

shall include an examination of the applicant's knowledge of the laws of Minnesota relating to dentistry and the rules of the board. An applicant is ineligible to retake the clinical examination required by the board after failing it twice until further education and training are obtained as specified by the board by rule. A separate, nonrefundable fee may be charged for each time a person applies. An applicant who passes the examination in compliance with subdivision 2b and meets all the other requirements of the board shall be registered as a dental assistant. The examination fee set by the board in rule is the application fee until the board amends, repeals, or otherwise changes the rules pursuant to chapter 14.

Subd. 2b. Examination. When board members administer the examination for licensure or registration, only those board members qualified for the particular examination may administer it. An examination which the board requires as a condition of licensure or registration must have been taken within the five years before the board receives the application for licensure or registration.

Subd. 3. Waiver of examination. All or any part of the examination for dentists or dental hygienists, except that pertaining to the law of Minnesota relating to dentistry and the rules of the board, may, at the discretion of the board, be waived for an applicant who presents a certificate of qualification from the national board of dental examiners or evidence of having maintained an adequate scholastic standing as determined by the board, in dental school as to dentists, or dental hygiene school as to dental hygienists.

Subd. 4. Licensure by credentials. Any person who is lawfully practicing dentistry or dental hygiene in another state or Canadian province having and maintaining a standard of examination for licensure and of laws regulating the practice within that state or Canadian province, substantially equivalent to Minnesota's, as determined by the board, who is a reputable dentist or dental hygienist of good moral character, and who deposits, in person, with the board of dentistry a certificate from the board of dentistry of the state or Canadian province in which the applicant is licensed, certifying to the fact of licensure and that the applicant is of good moral character and professional attainments, shall, upon payment of the fee established by the board, be interviewed by the board. The interview shall consist of assessing the applicant's knowledge of dental subjects. If the applicant does not demonstrate the minimum knowledge in dental subjects required for licensure under subdivisions 1 and 2, the application shall be denied. When denying a license, the board may notify the applicant of any specific course that the applicant could take which, if passed, would qualify the applicant for licensure. The denial shall not prohibit the applicant from applying for licensure under subdivisions 1 and 2. If the applicant demonstrates the minimum knowledge in dental subjects required for licensure under subdivisions 1 and 2 and meets the other requirements of this subdivision, a license shall be granted to practice in this state, if the applicant passes an examination on the laws of Minnesota relating to dentistry and the rules of the board of dentistry.

Subd. 4a. Appeal of denial of application. A person whose application for licensure by credentials has been denied may appeal the decision to the board. The board shall establish an appeals process and inform a denied candidate of the right to appeal and the process for filing the appeal.

Subd. 5. Fraud in securing licenses. Every person implicated in employing fraud or deception in applying for or securing a license to practice dentistry or dental hygiene or in applying for or securing a registration to practice dental assisting or in annually registering a license or registration under sections 150A.01 to 150A.12 is guilty of a gross misdemeanor.

Subd. 6. Display of name and certificates. The name, license certificate, and annual registration certificate of every licensed dentist, dental hygienist, or registered dental assistant shall be conspicuously displayed in every office in which that person practices, in plain sight of patients. If there is more than one dentist, dental hygienist, or registered dental assistant practicing or employed in any office, the manager or proprietor of the office shall display in plain sight the name, license certificate and annual registration certificate of each dentist, dental hygienist, or registered dental assistant practicing or employed there. Near or on the entrance door to every office where dentistry is practiced, the name of each dentist practicing there, as inscribed on the license certificate and annual registration certificate of each dentist, shall be displayed in plain sight.

Subd. 7. [Repealed, 1989 c 285 s 7]

History: 1969 c 974 s 6; 1976 c 222 s 76; 1976 c 263 s 3-5; 1978 c 770 s 2-5; 1979 c 50 s 15; 1980 c 596 s 1-3; 1982 c 424 s 130; 1983 c 70 s 4; 1986 c 444; 1989 c 285 s 3; 1993 c 84 s 4-7; 1996 c 273 s 2

150A.07 [Repealed, 1976 c 222 s 209]

150A.08 SUSPENSION, REVOCATION, LIMITATION, MODIFICATION OR DENIAL OF LICENSE.

Subdivision 1. **Grounds.** The board may refuse or by order suspend or revoke, limit or modify by imposing conditions it deems necessary, any license to practice dentistry or dental hygiene or the registration of any dental assistant upon any of the following grounds:

- (1) Fraud or deception in connection with the practice of dentistry or the securing of a license or annual registration certificate;
- (2) Conviction, including a finding or verdict of guilt, an admission of guilt, or a no contest plea, in any court of a felony or gross misdemeanor reasonably related to the practice of dentistry as evidenced by a certified copy of the conviction;
- (3) Conviction, including a finding or verdict of guilt, an admission of guilt, or a no contest plea, in any court of an offense involving moral turpitude as evidenced by a certified copy of the conviction;
- (4) Habitual overindulgence in the use of intoxicating liquors;
- (5) Improper or unauthorized prescription, dispensing, administering, or personal or other use of any legend drug as defined in chapter 151, of any chemical as defined in chapter 151, or of any controlled substance as defined in chapter 152;
- (6) Conduct unbecoming a person licensed to practice dentistry or dental hygiene or registered as a dental assistant, or conduct contrary to the best interest of the public, as such conduct is defined by the rules of the board;
- (7) Gross immorality;
- (8) Any physical, mental, emotional, or other disability which adversely affects a dentist's, dental hygienist's, or registered dental assistant's ability to perform the service for which the person is licensed or registered;
- (9) Revocation or suspension of a license, registration, or equivalent authority to practice, or other disciplinary action or denial of a license or registration application taken by a licensing, registering, or credentialing authority of another state, territory, or country as evidenced by a certified copy of the licensing authority's order, if the disciplinary action or application denial was based on facts that would provide a basis for disciplinary action under this chapter and if the action was taken only after affording the credentialed person or applicant notice and opportunity to refute the allegations or pursuant to stipulation or other agreement;
- (10) Failure to maintain adequate safety and sanitary conditions for a dental office in accordance with the standards established by the rules of the board;
- (11) Employing, assisting, or enabling in any manner an unlicensed person to practice dentistry;
- (12) Failure or refusal to attend, testify, and produce records as directed by the board under subdivision 7;
- (13) Violation of, or failure to comply with, any other provisions of sections 150A.01 to 150A.12, the rules of the board of dentistry, or any disciplinary order issued by the board, section 144.335 or 595.02, subdivision 1, paragraph (d), or for any other just cause related to the practice of dentistry. Suspension, revocation, modification or limitation of any license shall not be based upon any judgment as to therapeutic or monetary value of any individual drug prescribed or any individual treatment rendered, but only upon a repeated pattern of conduct;
- (14) Knowingly providing false or misleading information that is directly related to the care of that patient unless done for an accepted therapeutic purpose such as the administration of a placebo; or

(15) Aiding suicide or aiding attempted suicide in violation of section 609.215 as established by any of the following:

(i) a copy of the record of criminal conviction or plea of guilty for a felony in violation of section 609.215, subdivision 1 or 2;

(ii) a copy of the record of a judgment of contempt of court for violating an injunction issued under section 609.215, subdivision 4;

(iii) a copy of the record of a judgment assessing damages under section 609.215, subdivision 5; or

(iv) a finding by the board that the person violated section 609.215, subdivision 1 or 2. The board shall investigate any complaint of a violation of section 609.215, subdivision 1 or 2.

Subd. 2. [Repealed, 1976 c 222, s 209]

Subd. 3. **Reinstatement.** Any licensee or registrant whose license or registration has been suspended or revoked may have the license or registration reinstated or a new license or registration issued, as the case may be, when the board deems the action is warranted. The board may require the licensee or registrant to pay all costs of proceedings resulting in the suspension or revocation of license or registration and reinstatement or new license and the fee for reinstatement established by the board. Any licensee or registrant who has been disciplined by the board in a manner other than by suspension or revocation may be required by the board to pay all costs of proceedings resulting in the disciplinary action.

Subd. 4. **Records.** The executive secretary of the board shall keep a record of all licenses and registration certificates issued, suspended, or revoked.

Subd. 5. **Medical examinations.** If the board has probable cause to believe that a dentist, dental hygienist, registered dental assistant, or applicant engages in acts described in subdivision 1, clause (4) or (5), or has a condition described in subdivision 1, clause (8), it shall direct the dentist, dental hygienist, assistant, or applicant to submit to a mental or physical examination or a chemical dependency assessment. For the purpose of this subdivision, every dentist, hygienist, or assistant licensed or registered under this chapter or person submitting an application for a license or registration is deemed to have given consent to submit to a mental or physical examination when directed in writing by the board and to have waived all objections in any proceeding under this section to the admissibility of the examining physician's testimony or examination reports on the ground that they constitute a privileged communication. Failure to submit to an examination without just cause may result in an application being denied or a default and final order being entered without the taking of testimony or presentation of evidence, other than evidence which may be submitted by affidavit, that the licensee, registrant, or applicant did not submit to the examination. A dentist, dental hygienist, registered dental assistant, or applicant affected under this section shall at reasonable intervals be afforded an opportunity to demonstrate ability to start or resume the competent practice of dentistry or perform the duties of a dental hygienist or registered dental assistant with reasonable skill and safety to patients. In any proceeding under this subdivision, neither the record of proceedings nor the orders entered by the board is admissible, is subject to subpoena, or may be used against the dentist, dental hygienist, registered dental assistant, or applicant in any proceeding not commenced by the board. Information obtained under this subdivision shall be classified as private pursuant to the Minnesota Government Data Practices Act.

Subd. 6. **Medical records.** Notwithstanding contrary provisions of sections 13.42 and 144.651 or any other statute limiting access to medical or other health data, the board may obtain medical data and health records of a licensee, registrant, or applicant without the licensee's, registrant's, or applicant's consent if the information is requested by the board as part of the process specified in subdivision 5. The medical data may be requested from a provider, as defined in section 144.335, subdivision 1, clause (b), an insurance company, or a government agency, including the department of human services. A provider, insurance company, or government agency shall comply with any written request of the board under this subdivision and shall not be liable in any action for damages for releasing the data requested by the board if the data are released pursuant to a written request under this subdivision, unless the information is false and the provider giving the information knew, or had

reason to believe, the information was false. Information obtained under this subdivision shall be classified as private under the Minnesota Government Data Practices Act.

Subd. 7. Self-incrimination. No person is excused from attending and testifying at any proceeding initiated by the board or from producing any document before the board on the ground that the testimony or evidence required may tend to incriminate the person; but no person may be prosecuted for any crime related to the matter about which the person testifies or produces evidence required or requested by the board if the person first claims a privilege against self-incrimination. This immunity from criminal prosecution does not apply to prosecution for perjury or contempt committed in testifying or producing the evidence.

Subd. 8. Suspension of license. In addition to any other remedy provided by law, the board may, through its designated board members pursuant to section 214.10, subdivision 2, temporarily suspend a license or registration without a hearing if the board finds that the licensee or registrant has violated a statute or rule which the board is empowered to enforce and continued practice by the licensee or registrant would create an imminent risk of harm to others. The suspension shall take effect upon written notice to the licensee or registrant served by first class mail specifying the statute or rule violated, and the time, date, and place of the hearing before the board. If the notice is returned by the post office, the notice shall be effective upon reasonable attempts to locate and serve the licensee or registrant. Within ten days of service of the notice, the board shall hold a hearing before its own members on the sole issue of whether there is a reasonable basis to continue, modify, or lift the suspension. Evidence presented by the board, licensee, or registrant, shall be in affidavit form only. The licensee or registrant or counsel of the licensee or registrant may appear for oral argument. Within five working days after the hearing, the board shall issue its order and, if the suspension is continued, the board shall schedule a disciplinary hearing to be held pursuant to the Administrative Procedure Act within 45 days of issuance of the order. The administrative law judge shall issue a report within 30 days of the closing of the contested case hearing record. The board shall issue a final order within 30 days of receiving that report. The board may allow a person who was licensed by any state to practice dentistry and whose license has been suspended to practice dentistry under the supervision of a licensed dentist for the purpose of demonstrating competence and eligibility for reinstatement.

Subd. 9. Tax clearance certificate. (a) In addition to the grounds provided in subdivision 1 and notwithstanding subdivision 3, the board may not issue or renew a license to practice dentistry if the commissioner of revenue notifies the board and the licensee or applicant for a license that the licensee or applicant owes the state delinquent taxes in the amount of \$500 or more. The board may issue or renew the license only if (1) the commissioner of revenue issues a tax clearance certificate and (2) the commissioner of revenue or the licensee or applicant forwards a copy of the clearance to the board. The commissioner of revenue may issue a clearance certificate only if the licensee or applicant does not owe the state any uncontested delinquent taxes.

(b) For purposes of this subdivision, the following terms have the meanings given.

(1) "Taxes" are all taxes payable to the commissioner of revenue, including penalties and interest due on those taxes.

(2) "Delinquent taxes" do not include a tax liability if (i) an administrative or court action that contests the amount or validity of the liability has been filed or served, (ii) the appeal period to contest the tax liability has not expired, or (iii) the licensee or applicant has entered into a payment agreement to pay the liability and is current with the payments.

(c) In lieu of the notice and hearing requirements of subdivision 8, when a licensee or applicant is required to obtain a clearance certificate under this subdivision, a contested case hearing must be held if the licensee or applicant requests a hearing in writing to the commissioner of revenue within 30 days of the date of the notice provided in paragraph (a). The hearing must be held within 45 days of the date the commissioner of revenue refers the case to the office of administrative hearings. Notwithstanding any law to the contrary, the licensee or applicant must be served with 20 days' notice in writing specifying the time and place of the hearing and the allegations against the licensee or applicant. The notice may be served personally or by mail.

(d) The board shall require all licensees or applicants for a license to practice dentistry to provide their social security number and Minnesota business identification number on all license applications. Upon request of the commissioner of revenue, the board must provide to the commissioner of revenue a list of all licensees and applicants for a license to practice dentistry including the name and address, social security number, and business identification number. The commissioner of revenue may request a list of the licensees and applicants no more than once each calendar year.

History: 1969 c 974 s 8; 1976 c 222 s 77; 1976 c 263 s 6; 1978 c 770 s 6; 1983 c 70 s 5-10; 1984 c 608 s 1; 1984 c 640 s 32; 1984 c 654 art 5 s 58; 1986 c 444; 1Sp1986 c 1 art 7 s 9; 1989 c 184 art 2 s 6; 1992 c 559 art 1 s 5; 1992 c 577 s 4; 1993 c 84 s 8

150A.081 ACCESS TO MEDICAL DATA.

Subdivision 1. **Access to data on licensee or registrant.** When the board has probable cause to believe that a licensee's or registrant's condition meets a ground listed in section 150A.08, subdivision 1, clause (4) or (8), it may, notwithstanding sections 13.42, 144.651, or any other law limiting access to medical data, obtain medical or health records on the licensee or registrant without the licensee's or registrant's consent. The medical data may be requested from a provider, as defined in section 144.335, subdivision 1, paragraph (b), an insurance company, or a government agency. A provider, insurance company, or government agency shall comply with a written request of the board under this subdivision and is not liable in any action for damages for releasing the data requested by the board if the data are released under the written request, unless the information is false and the entity providing the information knew, or had reason to believe, the information was false.

Subd. 2. **Access to data on patients.** The board has access to medical records of a patient treated by a licensee or registrant under review if the patient signs a written consent permitting access. If the patient has not given consent, the licensee or registrant must delete data from which a patient may be identified before releasing medical records to the board.

Subd. 3. **Data classification; release of certain health data not required.** Information obtained under this section is classified as private data on individuals under chapter 13. Under this section, the commissioner of health is not required to release health data collected and maintained under section 13.38.

History: 1992 c 559 art 1 s 6; 1996 c 440 art 1 s 39

150A.09 REGISTRATION OF LICENSES AND REGISTRATION CERTIFICATES.

Subdivision 1. **Registration information and procedure.** On or before the license or registration certificate expiration date every licensed dentist, dental hygienist, and registered dental assistant shall transmit to the executive secretary of the board, pertinent information required by the board, together with the fee established by the board. At least 30 days before a license or registration certificate expiration date, the board shall send a written notice stating the amount and due date of the fee and the information to be provided to every licensed dentist, dental hygienist, and registered dental assistant.

Subd. 2. [Repealed, 1976 c 222 s 209]

Subd. 3. **Current address, change of address.** Every dentist, dental hygienist, and registered dental assistant shall maintain with the board a correct and current mailing address. For dentists engaged in the practice of dentistry, the address shall be that of the location of the primary dental practice. Within 30 days after changing addresses, every dentist, dental hygienist, and registered dental assistant shall provide the board written notice of the new address either personally or by first class mail.

Subd. 4. **Duplicate certificates.** Duplicate licenses or duplicate annual certificates of license renewal may be issued by the board upon satisfactory proof of the need for the duplicates and upon payment of the fee established by the board.

Subd. 5. **Late fee.** A late fee established by the board shall be paid if the information and fee required by subdivision 1 is not received by the executive secretary of the board on or before the registration or license renewal date.

Subd. 6. **Continuing education sponsorship fee.** The board may establish an application and renewal fee to be paid by any person who applies to be approved as a continuing dental education sponsor.

History: 1969 c 974 s 9; 1976 c 222 s 78,79; 1976 c 263 s 7,8; 1978 c 674 s 16; 1978 c 770 s 7,8; 1980 c 596 s 4; 1983 c 70 s 11

150A.10 ALLIED DENTAL PERSONNEL.

Subdivision 1 **Dental hygienists.** Any licensed dentist, public institution, or school authority may obtain services from a licensed dental hygienist. Such licensed dental hygienist may provide those services defined in section 150A.05, subdivision 1a. Such services shall not include the establishment of a final diagnosis or treatment plan for a dental patient. Such services shall be provided under supervision of a licensed dentist. Any licensed dentist who shall permit any dental service by a dental hygienist other than those authorized by the board of dentistry, shall be deemed to be violating the provisions of sections 150A.01 to 150A.12, and any such unauthorized dental service by a dental hygienist shall constitute a violation of sections 150A.01 to 150A.12.

Subd. 2. **Dental assistants.** Every licensed dentist who uses the services of any unlicensed person for the purpose of assistance in the practice of dentistry shall be responsible for the acts of such unlicensed person while engaged in such assistance. Such dentist shall permit such unlicensed assistant to perform only those acts which are authorized to be delegated to unlicensed assistants by the board of dentistry. Such acts shall be performed under supervision of a licensed dentist. The board may permit differing levels of dental assistance based upon recognized educational standards, approved by the board, for the training of dental assistants. The board may also define by rule the scope of practice of registered and nonregistered dental assistants. The board by rule may require continuing education for differing levels of dental assistants, as a condition to their registration or authority to perform their authorized duties. Any licensed dentist who shall permit such unlicensed assistant to perform any dental service other than that authorized by the board shall be deemed to be enabling an unlicensed person to practice dentistry, and commission of such an act by such unlicensed assistant shall constitute a violation of sections 150A.01 to 150A.12.

Subd. 3. **Dental technicians.** Every licensed dentist who uses the services of any unlicensed person, other than under the dentist's supervision and within such dentist's own office, for the purpose of constructing, altering, repairing or duplicating any denture, partial denture, crown, bridge, splint, orthodontic, prosthetic or other dental appliance, shall be required to furnish such unlicensed person with a written work order in such form as shall be prescribed by the rules of the board; said work order shall be made in duplicate form, a duplicate copy to be retained in a permanent file in the dentist's office for a period of two years, and the original to be retained in a permanent file for a period of two years by such unlicensed person in that person's place of business. Such permanent file of work orders to be kept by such dentist or by such unlicensed person shall be open to inspection at any reasonable time by the board or its duly constituted agent.

History: 1969 c 974 s 10; 1976 c 263 s 9; 1986 c 444; 1996 c 273 s 3,4

150A.11 UNLAWFUL ACTS.

Subdivision 1. **Unlawful practice.** It is unlawful for any person to: enable an unlicensed person to practice dentistry; to practice or attempt to practice dentistry without a license; to practice dentistry under the name of a corporation or company; or to practice under any name that may tend to deceive the public or imply professional superiority to or greater skill than that possessed by another dentist. If a dentist practices under the dentist's own name, any public display or cards shall include the initials of the dentist's dental degree, such as D.D.S. or D.M.D., following the name. If a dentist practices under another name, the name shall include some designation which makes clear that the person is practicing dentistry or a specialty of dentistry; and that the names of all of the participating dentists practicing under the name be clearly identified on letterheads and building or office signs that display a name other than the dentist's own name. Any communication between dentist and patient shall clearly indicate the name of the dentist treating the patient. The board may promulgate rules

regarding the name under which a dentist may practice. No corporation shall practice dentistry or engage in it, or hold itself out as being entitled to practice dentistry, or furnish dental services or dentists, or advertise under or assume the title of dentists or dental surgeons or equivalent title. No corporation shall furnish dental advice, or advertise or hold itself out with any other person or alone, that it has or owns a dental office or can furnish dental service, dentists, or dental surgeons, or solicit, through itself, or its agents, officers, employees, directors or trustees, dental patronage for any dentist or dental surgeon. This section:

(1) Does not apply to any licensee while acting as an instructor in or under the University of Minnesota, the Mayo Foundation, or any other school in the state recognized by the state board of dentistry;

(2) Does not prohibit dentists from incorporating their practice of dentistry for business purposes under the special provisions of a corporate practice act for dentistry;

(3) Shall not be construed to change or amend the right of licensed dentists to provide dental care under any form of organization that is lawful under the laws of this state, or to contract to sell their services in any manner that is lawful under the laws of this state.

Subd. 2. **Professional advertising.** Public advertising by dentists may be controlled by reasonable rules of the board. Such rules shall include permission for such things as publication of a professional card, reasonable signs on or about the place of business, announcements of changes or opening of offices and telephone listings.

Subd. 3. **Advertising or use of dental services and appliances.** No person shall advertise in any manner the sale, supply, furnishing, construction, reproduction, relining, or repair without a written work order by a licensed dentist of prosthetic dentures, bridges, plates or other appliances to be used or worn as substitutes for natural teeth, or for the regulation thereof. All such advertisements shall contain the words "A written work order from a licensed dentist is required" in at least 10-point type size. Except for advertising permitted under this subdivision, a person not licensed to practice dentistry in this state shall not sell or offer any such service or products to other than the dental profession or its ancillary trades, provided, however that the mere delivery of such products to an ultimate consumer or person acting in the consumer's behalf for the purpose of transporting such products to the licensed dentist who provided the work order shall not violate this subdivision. This subdivision shall not apply to mailings, displays, and advertisements the primary distribution of which is to the dental profession or its ancillary trades.

Subd. 4. **Dividing fees.** It shall be unlawful for any dentist to divide fees with or promise to pay a part of the dentist's fee to, or to pay a commission to, any dentist or other person who calls the dentist in consultation or who sends patients to the dentist for treatment, or operation, but nothing herein shall prevent licensed dentists from forming a bona fide partnership for the practice of dentistry, nor to the actual employment by a licensed dentist of a licensed dental hygienist or another licensed dentist.

History: 1969 c 974 s 11; 1980 c 596 s 5; 1983 c 29 s 2; 1985 c 248 s 70; 1986 c 444

150A.12 VIOLATION AND DEFENSES.

Every person who violates any of the provisions of sections 150A.01 to 150A.12 for which no specific penalty is provided herein, shall be guilty of a gross misdemeanor; and, upon conviction, punished by a fine of not more than \$3,000 or by imprisonment in the county jail for not more than one year or by both such fine and imprisonment. In the prosecution of any person for violation of sections 150A.01 to 150A.12, it shall not be necessary to allege or prove lack of a valid license to practice dentistry or dental hygiene but such matter shall be a matter of defense to be established by the defendant.

History: 1969 c 974 s 12; 1984 c 628 art 3 s 11

150A.21 REMOVABLE DENTAL PROSTHESES; OWNER IDENTIFICATION.

Subdivision 1. Every complete upper and lower denture and removable dental prosthesis fabricated by a dentist licensed under section 150A.06, or fabricated pursuant to the dentist's work order, shall be marked with the name and social security number of the patient for

whom the prosthesis is intended. The markings shall be done during fabrication and shall be permanent, legible and cosmetically acceptable. The exact location of the markings and the methods used to apply or implant them shall be determined by the dentist or dental laboratory fabricating the prosthesis. If in the professional judgment of the dentist or dental laboratory, this identification is not practicable, identification shall be provided as follows:

(a) The social security number of the patient may be omitted if the name of the patient is shown;

(b) The initials of the patient may be shown alone, if use of the name of the patient is impracticable;

(c) The identification marks may be omitted in their entirety if none of the forms of identification specified in clauses (a) and (b) are practicable or clinically safe.

Subd. 2. Any removable dental prosthesis in existence prior to August 1, 1978, which was not marked in accordance with subdivision 1 at the time of its fabrication, shall be so marked at the time of any subsequent rebasing.

Subd. 3. The commissioner of health shall provide technical assistance for marking methods and materials and other matters necessary to effectuate the provisions of this section.

Subd. 4. Failure of any dentist to comply with this section shall be deemed to be a violation for which the dentist may be subject to proceedings pursuant to section 150A.08, provided the dentist is charged with the violation within two years of initial insertion of the dental prosthetic device.

History: 1978 c 716 s 1; 1986 c 444