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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- DENTISTS AND DENTAL
HYGIENISTS

Introduced By: Representatives McNamara, Mattiello, Giarrusso, Guthrie, and Tomasso

Date Introduced: February 06, 2014

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 5-31.1-1, 5-31.1-2, 5-31.1-3, 5-31.1-4, 5-31.1-6, 5-31.1-7, 5-31.1-
2 8, 5-31.1-9, 5-31.1-10, 5-31.1-11, 5-31.1-17, 5-31.1-18, 5-31.1-19, 5-31.1-20, 5-31.1-21 and 5-
3 31.1-31 of the General Laws in Chapter 5-31.1 entitled "Dentists and Dental Hygienists" are
4 hereby amended to read as follows:

5 **5-31.1-1. Definitions.** -- As used in this chapter:

6 (1) "Board" means the Rhode Island board of examiners in dentistry or any committee or
7 subcommittee of the board.

8 (2) "Chief of the division of oral health" means, the chief of the division of oral health of
9 the Rhode Island department of health who is a licensed dentist possessing a masters degree in
10 public health or a certificate in public health from an accredited program.

11 (3) "Dental administrator" means the administrator of the Rhode Island board of
12 examiners in dentistry.

13 (4) "Dental hygienist" means a person with a license to practice dental hygiene in this
14 state under the provisions of this chapter.

15 (5) "Dentist" means a person with a license to practice dentistry in this state under the
16 provisions of this chapter.

17 (6) "Dentistry" is defined as the evaluation, diagnosis, prevention, and/or treatment (non-
18 surgical, surgical, or related procedures) of diseases, disorders, and/or conditions of the oral

1 cavity, cranio-maxillofacial area, and/or the adjacent and associated structures and their impact on
2 the human body, provided by a dentist, within the scope of his or her education, training, and
3 experience, in accordance with the ethics of the profession and applicable law.

4 (7) "Department" means the Rhode Island department of health.

5 (7.1) "Direct visual supervision" means supervision by an oral and maxillofacial surgeon
6 (with a permit to administer deep sedation and general anesthesia) by verbal command and under
7 direct line of sight.

8 (8) "Director" means the director of the Rhode Island department of health.

9 (9) "Health care facility" means any institutional health service provider licensed
10 pursuant to the provisions of chapter 17 of title 23.

11 (10) "Health maintenance organization" means a public or private organization licensed
12 pursuant to the provisions of chapter 17 of title 23 or chapter 41 of title 27.

13 (11) "Limited registrant" means a person holding a limited registration certificate
14 pursuant to the provisions of this chapter.

15 (12) "Nonprofit medical services corporation" or "nonprofit hospital service corporation"
16 or "nonprofit dental service corporation" means any corporation organized pursuant to chapter 19
17 or 20 of title 27 for the purpose of establishing, maintaining and operating a nonprofit medical,
18 hospital, or dental service plan.

19 (13) "Peer review board" means any committee of a state, local, dental or dental hygiene,
20 association or society, or a committee of any licensed health care facility, or the dental staff of the
21 committee, or any committee of a dental care foundation or health maintenance organization, or
22 any staff committee or consultant of a hospital, medical, or dental service corporation, the
23 function of which, or one of the functions of which, is to evaluate and improve the quality of
24 dental care rendered by providers of dental care service or to determine that dental care services
25 rendered were professionally indicated or were performed in compliance with the applicable
26 standard of care or that the cost for dental care rendered was considered reasonable by the
27 providers of professional dental care services in the area and includes a committee functioning as
28 a utilization review committee under the provisions of P.L. 89-97, 42 U.S.C. section 1395 et. seq.,
29 (Medicare law) or as a professional standards review organization or statewide professional
30 standards review council under the provisions of P.L. 92-603, 42 U.S.C. section 1301 et seq.,
31 (professional standards review organizations) or a similar committee or a committee of similar
32 purpose, to evaluate or review the diagnosis or treatment of the performance or rendition of dental
33 services ~~which are~~ performed under public dental programs of either state or federal design.

34 (14) "Person" means any individual, partnership, firm, corporation, association, trust or

1 estate, state or political subdivision, or instrumentality of a state.

2 (15) "Practice of dental hygiene." Any person is practicing dental hygiene within the
3 meaning of this chapter who performs those services and procedures that a dental hygienist has
4 been educated to perform and which services and procedures are, from time to time, specifically
5 authorized by rules and regulations adopted by the board of examiners in dentistry. Nothing in
6 this section is construed to authorize a licensed dental hygienist to perform the following:
7 diagnosis and treatment planning, surgical procedures on hard or soft tissue, prescribe medication
8 or administer general anesthesia or injectables other than oral local anesthesia. A dental hygienist
9 is only permitted to practice dental hygiene under the general supervision of a dentist licensed
10 and registered in this state under the provisions of this chapter.

11 (A) Provided, that in order to administer local injectable anesthesia to dental patients,
12 dental hygienists must be under the supervision of a dentist and meet the requirements established
13 by regulation of the board of examiners in dentistry including payment of a permit fee.

14 (16) (i) (A) "Practice of dentistry." Any person is practicing dentistry within the meaning
15 of this chapter who:

16 (I) Uses or permits to be used, directly or indirectly, for profit or otherwise, for himself,
17 herself, or for any other person, in connection with his or her name, the word "dentist" or "dental
18 surgeon," or the title "D.D.S." or "D.M.D." or any other words, letters, titles, or descriptive
19 matter, personal or not, ~~which~~ that directly or indirectly implies the practice of dentistry;

20 (II) Owns, leases, maintains, operates a dental business in any office or other room or
21 rooms where dental operations are performed, or directly or indirectly is manager, proprietor or
22 conductor of this business;

23 (III) Directly or indirectly informs the public in any language, orally, in writing, or in
24 printing, or by drawings, demonstrations, specimens, signs, or pictures that he or she can perform
25 or will attempt to perform, dental operations of any kind;

26 (IV) Undertakes, by any means or method, gratuitously, or for a salary, fee, money, or
27 other reward paid or granted directly or indirectly to himself or herself, or to any other person, to
28 diagnose or profess to diagnose, or to treat or profess to treat, or to prescribe for, or profess to
29 prescribe for, any of the lesions, diseases, disorders, or deficiencies of the human oral cavity,
30 teeth, gums, maxilla or mandible, and/or adjacent associated structures;

31 (V) Extracts human teeth, corrects malpositions of the teeth or of the jaws;

32 (VI) Except on the written prescription of a licensed dentist and by the use of
33 impressions or casts made by a licensed and practicing dentist, directly or indirectly by mail,
34 carrier, personal agent, or by any other method, furnishes, supplies, constructs, reproduces, or

1 repairs prosthetic dentures, bridges, appliances, or other structures to be used and worn as
2 substitutes for natural teeth;

3 (VII) Places those substitutes in the mouth and/or adjusts them;

4 (VIII) Administers an anesthetic, either general or local, in the course of any of the
5 previously stated dental procedures; or

6 (IX) Engages in any of the practices included in the curricula of recognized dental
7 colleges;

8 (B) Provided, that in order to administer any form of anesthesia, other than local, dentists
9 must meet the requirements established by regulation of the board of examiners in dentistry,
10 including [training in advanced cardiac life support and pediatric advanced life support, and](#)
11 payment of a permit fee.

12 (ii) The board shall promulgate regulations relating to anesthesia. Those regulations shall
13 be consistent with the American Dental Association guidelines for the use of conscious sedation,
14 deep sedation, and general anesthesia in dentistry. Neither the board, nor any regulation
15 promulgated by the board, shall require additional licensing fees for the use of nitrous oxide by
16 dentists. Prior to the adoption of those regulations, dentists shall be permitted to administer
17 anesthesia without restriction. From the proceeds of any fees collected pursuant to the provisions
18 of this chapter, there is created a restricted receipts account ~~which~~ [that](#) is used solely to pay for
19 the administrative expenses incurred for expenses of administrating this chapter.

20 (iii) No non-dentist who operates a dental facility in the form of a licensed outpatient
21 health care center or management service organization may interfere with the professional
22 judgment of a dentist in the practice.

23 [\(17\) "Direct visual supervision" means supervision by an oral and maxillofacial surgeon](#)
24 [\(with a permit to administer deep sedation and general anesthesia\) by verbal command and under](#)
25 [direct line of sight.](#)

26 **5-31.1-2. Board of examiners in dentistry -- Members -- Compensation -- Funds. --**

27 (a) There is created within the department of health the Rhode Island board of examiners in
28 dentistry, ~~which is~~ composed of the following members:

29 (1) Eight (8) licensed dentists, no more than three (3) shall be dental specialists as
30 recognized by the American Dental Association (ADA);

31 (2) Four (4) public members not associated with the dental field;

32 (3) Two (2) licensed dental hygienists; and

33 (4) The chief of the office of dental public health, who shall serve as an ex-officio
34 member of the board; and

1 (5) One certified dental assistant.

2 (b) The governor shall appoint the members of the board, except that prior to appointing
3 the eight (8) dentist members, the governor may submit a list of all candidates to the appropriate
4 dental societies for comments as to their qualifications. No member shall be appointed for more
5 than two (2) consecutive full terms. A member appointed for less than a full term (originally or to
6 fill a vacancy) may serve two (2) full terms in addition to that part of a full term, and a former
7 member is again eligible for appointment after a lapse of one or more years. All subsequent
8 appointments to the board shall be for a term of three (3) years. Any member of the board may be
9 removed by the governor for neglect of duty, misconduct, malfeasance, or misfeasance in office
10 after being given a written statement of the charges against him or her and sufficient opportunity
11 to be heard on the charges. The director of the department of health shall appoint from the
12 members a chairperson who shall be a dentist duly licensed under the laws of the state of Rhode
13 Island, and a vice-chairperson who shall in the absence of the chairperson exercise all powers of
14 the chairperson, and secretary, who serve for one year or until their successors are appointed and
15 qualified. The board shall meet at least once a month or more often upon the call of the
16 chairperson, director of health or dental administrator, at any times and places that the
17 chairperson designates.

18 (c) Members of the board shall not be paid for the discharge of official duties.

19 (d) ~~The administration of the board shall be funded from annual fees. The director shall~~
20 ~~in consultation with the board determine the amount of the annual fee to be charged to each~~
21 ~~licensed dentist and dental hygienist, the payment of which is a condition to practicing dentistry~~
22 ~~or dental hygiene in the state.~~ The director ~~or the dental administrator~~ has the authority to suspend
23 or revoke the license of any dentist or dental hygienist who does not pay the annual fee. Monies
24 shall be received by the department and deposited in the general fund as general revenues.

25 **5-31.1-3. Examining committees.** -- (a) The chairperson shall appoint two (2) licensed
26 dentist members of the board and one public member to serve as an examining committee for
27 applicants applying for licensure as dentists. The examining committee for dentists shall
28 recommend to the full board, ~~who~~ which shall recommend to the director, applicants for licensure
29 to practice dentistry who meet all the requirements for licensure prescribed in this chapter, and
30 other applicable sections and regulations adopted under this chapter.

31 (b) The chairperson shall also appoint three (3) members of the board, one of whom is a
32 licensed dentist, one of whom is a public member, and one of whom is a licensed dental
33 hygienist, to serve as an examining committee for applicants applying for licensure as dental
34 hygienists. The examining committee for dental hygienists shall recommend to the full board.

1 ~~who~~ which shall recommend to the director, applicants for licensure to practice dental hygiene
2 who meet the requirements for licensure prescribed in this chapter, other applicable sections, and
3 the regulations adopted under this chapter.

4 (c) The members of the examining committees shall serve for a term of one year and
5 may be reappointed.

6 (d) The chairperson shall also appoint three (3) members of the board, one of whom is a
7 licensed dentist, one of whom is a public member, and one of whom is a certified dental assistant,
8 to serve as an examining committee for applicants applying for licensure as Dental Anesthesia
9 Assistants National Certification Examination (DAANCE) certified maxillofacial surgery
10 assistants. The examining committee for DAANCE certified maxillofacial surgery assistants shall
11 recommend to the full board, which shall recommend to the director, applicants for licensure to
12 practice as DAANCE certified maxillofacial surgery assistants who meet the requirements for
13 licensure prescribed in this chapter, other applicable sections, and the regulations adopted under
14 this chapter.

15 **5-31.1-4. Powers and duties of the board of examiners in dentistry. --** The board of
16 examiners in dentistry has the following duties and powers:

17 (1) To adopt, amend, and rescind any rules and regulations, with the approval of the
18 director of the department of health, that it deems necessary to carry out the provisions of this
19 chapter;

20 (2) To investigate all complaints and charges of unprofessional conduct against any
21 licensed dentist, dental hygienist, DAANCE-certified maxillofacial surgery assistant, or limited
22 registrant and to hold hearings to determine whether those charges are substantiated or
23 unsubstantiated;

24 (3) To direct the director of the department of health to license qualified applicants for
25 licensure;

26 (4) To appoint one or more dentists or dental hygienists or certified dental assistant to act
27 for the members of the board in investigating the conduct or competence of any licensed dentist,
28 dental hygienist, DAANCE-certified maxillofacial surgery assistant, or limited registrant;

29 (5) To direct the director to revoke, suspend, or impose other disciplinary action as to
30 persons licensed or registered under this chapter;

31 (6)(i) To issue subpoenas and administer oaths in connection with any investigations,
32 hearing, or disciplinary proceedings held under the authority of this chapter;

33 (ii) All subpoenas issued pursuant to this section shall only be issued by a vote of either
34 the investigative committee or the full board of examiners in dentistry;

1 (A) All subpoenas issued by the board, or the investigative committee shall be served by
2 a disinterested party or by a constable authorized by the courts to serve process;

3 (B) Subpoenas issued by either the investigative committee or the full board of examiners
4 in dentistry shall have a reasonable return date that will allow the recipient an opportunity to
5 review the subpoena, consult with counsel, and prepare a response to the subpoena; and

6 (C) All subpoenas shall be in compliance with the Rhode Island healthcare confidentiality
7 act.

8 (7) To take or cause depositions to be taken as needed in any investigation, hearing, or
9 proceeding;

10 (8) To summon and examine witnesses during any investigation, hearing, or proceeding
11 conducted by the board; and

12 (9) To adopt and publish, with the prior approval of the director, rules of procedure and
13 other regulations in accordance with the Administrative Procedure Act, chapter 35 of title 42.

14 **5-31.1-6. License to practice -- Qualifications of applicants -- Fee -- Reexamination. -**

15 (a) Authority to practice dentistry or dental hygiene under this chapter is by a license, issued by
16 the director of the department of health, to any reputable dentist, ~~or~~ dental hygienist or
17 DAANCE-certified maxillofacial surgery assistant who intends to practice dentistry, ~~or~~ dental
18 hygiene or DAANCE-certified maxillofacial surgery assisting in this state, and who meets the
19 requirements for licensure prescribed in this chapter and regulations established by the board or
20 the director.

21 (b) Applicants for licensure as dentists shall:

22 (1) Present satisfactory evidence of graduation from a school of dentistry accredited by
23 the American Dental Association Commission on Dental Accreditation, or its designated agency,
24 and approved by the board;

25 (2) Meet any other requirements that the board or director by regulation establishes; and

26 (3) Pass in a satisfactory manner any examinations that the board requires.

27 (c) Applicants for licensure as dental hygienists shall:

28 (1) Present satisfactory evidence of graduation from a school for dental hygiene
29 accredited by the American Dental Association Commission on Dental Auxiliary Accreditation or
30 its designated agency and approved by the board;

31 (2) Meet any other requirements that the board or director by regulation establishes; and

32 (3) Pass in a satisfactory manner any examination that the board requires.

33 (d) Any dentist and any dental hygienist or DAANCE-certified maxillofacial surgery
34 assistant applying for licensure shall pay an application fee as set forth in ~~section~~ §23-1-54.

1 Application fees shall in no case be returned. Applicants requiring reexamination for dentistry,
2 ~~and~~ for dental hygiene or for DAANCE-certified maxillofacial surgery assisting shall submit fees
3 as set forth in ~~section~~ §23-1-54 for each reexamination.

4 (e) (1) Notwithstanding any other provision of law, the board of dental examiners may
5 issue a special license to qualifying dentists and dental hygienists under the terms and conditions
6 set forth in this section and pursuant to requirements ~~which~~ that may be set forth in the rules and
7 regulations of the board. The special license may only be issued to a person who is retired from
8 the practice of dentistry or dental hygiene and not currently engaged in such practice either full-
9 time or part-time and has, prior to retirement, maintained full licensure in good standing in
10 dentistry or dental hygiene in any state.

11 (2) The special licensee shall be permitted to practice dentistry or dental hygiene only in
12 the non-compensated employ of public agencies or institutions, not-for-profit agencies, not-for-
13 profit institutions, nonprofit corporations, or not-for-profit associations ~~which~~ that provide
14 dentistry or dental hygiene services only to indigent patients in areas ~~which are~~ underserved by
15 dentists or dental hygienists or critical need population areas of the state.

16 (3) The person applying for the special license under this section shall submit to the
17 board a notarized statement from the employing agency, institution, corporation, association, or
18 health care program, on a form prescribed by the board, whereby he or she agrees unequivocally
19 not to receive compensation for any dentistry or dental hygiene services he or she may render
20 while in possession of the special license.

21 (4) Any application fees and all licensure and renewal fees shall be waived for the holder
22 of the special license under this section.

23 (5) A dentist or dental hygienist licensed pursuant to this section shall comply with the
24 continuing education requirements established by the board of dental examiners in this state.

25 (f) Applicants for licensure as certified maxillofacial surgical assistants shall:

26 (1) Present satisfactory evidence of completion of the DAANCE oral surgery assistant
27 training course prepared and administered by the American Association of Oral and Maxillofacial
28 Surgeons or its designated agency and approved by the board;

29 (2) Meet any other requirements that the board or director by regulation establishes;

30 (3) Pass, in a satisfactory manner, any examination that the board requires; and

31 (4) Complete a board of examiners in dentistry-approved advanced cardiac life support
32 course and current certification.

33 **5-31.1-7. Recertification -- Continuing dental education. --** (a) Effective beginning in
34 the calendar year 2006, every dentist, ~~or~~ dental hygienist, or DAANCE-certified maxillofacial

1 [surgery assistant](#) licensed to practice within this state, on or before the first day of May in each
2 even numbered year, shall apply to the Rhode Island board of examiners in dentistry for a
3 biennial license with the board. The applicant shall include satisfactory evidence to the board of
4 examiners in dentistry that, in the preceding two years, the practitioner has completed a
5 prescribed course of continuing dental or dental hygiene education established by the appropriate
6 dental or dental hygiene association and approved by rule or regulation of the director or by the
7 board of examiners in dentistry. If the applicant submits satisfactory evidence to the board that he
8 or she has completed a prescribed course of continuing dental education, ~~or~~ dental hygiene, or
9 [DAANCE-certified maxillofacial surgery assisting](#) education and has complied with the
10 provisions of ~~section~~ [§5-31.1-6](#), the board shall issue the applicant a license registration for a two-
11 year [\(2\)](#) period commencing on July 1. The board may extend for only one six-~~(6)~~ month [\(6\)](#)
12 period those educational requirements if the board is satisfied that the applicant has suffered
13 hardship; ~~which~~ [that](#) prevented meeting the educational requirement. No license to practice
14 dentistry or dental hygiene in this state shall be refused, nor any license suspended or revoked,
15 except as:

- 16 (1) Provided for in this chapter; and
17 (2) For failure to provide satisfactory evidence of continuing dental, ~~or~~ dental hygiene, or
18 [DAANCE-certified maxillofacial surgery assisting](#) education as provided for in this section.

19 (b) Licensees shall apply for recertification by submitting evidence of continuing dental,
20 ~~or~~ dental hygiene, or [DAANCE-certified maxillofacial surgery assisting](#) education on a biennial
21 basis. Application for biennial registration shall continue as provided in this section and ~~section~~
22 [§5-31.1-21](#).

23 **5-31.1-8. Refusal of licensure.** -- (a) The director, upon recommendation from the board,
24 after notice and hearing in accordance with the procedures prescribed in this chapter, shall refuse
25 to grant the original license provided for in this chapter to any dentist, dental hygienist,
26 [DAANCE-certified maxillofacial surgery assistant](#), and/or applicant who is not of good moral
27 character; who does not meet the requirements for licensure prescribed in this chapter and
28 regulations established by the board or director; who has violated any law involving moral
29 turpitude or affecting the ability of any dentist, dental hygienist, [DAANCE-certified maxillofacial](#)
30 [surgery assistant](#), and/or applicant to practice dentistry, ~~or~~ dental hygiene, or [DAANCE-certified](#)
31 [maxillofacial surgery assisting](#); or who has been found guilty in another state of conduct ~~which~~
32 [that](#) if committed in Rhode Island, would constitute unprofessional conduct as defined in ~~section~~
33 [§5-31.1-10](#) and regulations adopted under these chapters.

34 (b) The director shall serve a copy of his or her decision or ruling upon any person

1 whose original certificate has been refused.

2 **5-31.1-9. Immunity from suit.** -- (a) The director of the department of health, dental
3 administrator, board members, their agents or [their](#) employees are immune from suit in any
4 action, civil or criminal, based upon any disciplinary proceeding or other official act performed in
5 good faith in the course of their duties under this chapter. There is no civil liability on the part of,
6 or cause of action of any nature against, the board, director, dental administrator, their agents, or
7 their employees or against any organization or its members, peer-review board or its members, or
8 other witnesses and parties to board proceedings for any statements made by them in any reports,
9 communications, or testimony concerning an investigation of the conduct or competence of a
10 licensed dentist, dental hygienist, or limited registrant.

11 (b) No licensed health care provider, dentist, dental hygienist, [DAANCE-certified](#)
12 [maxillofacial surgery assistant](#) or limited registrant shall discharge, threaten, or discriminate
13 against an employee, staff member, or any other person for making a report to, giving testimony
14 to, or providing any other communication to the board of examiners in dentistry, a peer-review
15 organization, or any appropriate supervisory personnel concerning the unprofessional conduct or
16 incompetence or negligence of a dentist, dental hygienist, [DAANCE-certified maxillofacial](#)
17 [surgery assistant](#), or limited registrant; provided, that the report, testimony or other
18 communication was made in good faith.

19 **5-31.1-10. Unprofessional conduct.** -- The term "unprofessional conduct" as used in this
20 chapter includes, but is not limited to, the following items or any combination of them and may
21 be defined by regulations established by the board with the approval of the director:

22 (1) Fraudulent or deceptive procuring or use of a license or limited registration;

23 (2) All advertising of dental, ~~or~~ dental hygiene, [or DAANCE-certified maxillofacial](#)
24 [surgery assisting](#) business which is intended, or has a tendency, to deceive the public or a dentist
25 advertising as a specialty in an area of dentistry unless the dentist:

26 (i) Is a diplomat of or a fellow in a specialty board accredited or recognized by the
27 American Dental Association; or

28 (ii) Has completed a post-graduate program approved by the Commission on Dental
29 Accreditation of the American Dental Association;

30 (3) Conviction of a crime involving moral turpitude; conviction of a felony; conviction
31 of a crime arising out of the practice of dentistry, ~~or of~~ dental hygiene [or DAANCE-certified](#)
32 [maxillofacial surgery assisting](#);

33 (4) Abandonment of patient;

34 (5) Dependence upon controlled substances, habitual drunkenness or rendering

1 professional services to a patient while the dentist, ~~or~~ dental hygienist, [DAANCE-certified](#)
2 [maxillofacial surgery assisting](#), or limited registrant is intoxicated or incapacitated by the use of
3 drugs;

4 (6) Promotion by a dentist, dental hygienist, [DAANCE-certified maxillofacial surgery](#)
5 [assistant](#), or limited registrant of the sale of drugs, devices, appliances, or goods or services
6 provided for a patient in a manner as to exploit the patient for the financial gain of the dentist,
7 dental hygienist, or [DAANCE-certified maxillofacial surgery assistant](#) limited registrant;

8 (7) Immoral conduct of a dentist, dental hygienist, [DAANCE-certified maxillofacial](#)
9 [surgery assistant](#), or limited registrant in the practice of dentistry, ~~or~~ dental hygiene, [or](#)
10 [DAANCE-certified maxillofacial surgery assisting](#);

11 (8) Willfully making and filing false reports or records in the practice of dentistry or
12 dental hygiene;

13 (9) Willful omission to file or record, or willfully impeding or obstructing a filing or
14 recording, or inducing another person to omit to file or record dental or other reports as required
15 by law;

16 (10) Failure to furnish details of a patient's dental record to succeeding dentists, ~~or~~ dental
17 care facility upon proper request pursuant to this chapter;

18 (11) Solicitation of professional patronage by agents or persons or profiting from acts of
19 those representing themselves to be agents of the licensed dentist, dental hygienist, or limited
20 registrant;

21 (12) Division of fees, ~~or~~ agreeing to split or divide the fees, ~~received~~ for professional
22 services for any person for bringing to or referring a patient;

23 (13) Agreeing with clinical or bio-analytical laboratories to accept payments from those
24 laboratories for individual tests or test series for patients, or agreeing with dental laboratories to
25 accept payment from those laboratories for work referred;

26 (14) Willful misrepresentation in treatments;

27 (15) Practicing dentistry with an unlicensed dentist or practicing dental hygiene with an
28 unlicensed dental hygienist [or practicing DAANCE-certified maxillofacial surgery assisting with](#)
29 [an unlicensed DAANCE-certified maxillofacial surgery assistant](#), except in an accredited training
30 program, or with a dental assistant in accordance with the rules and regulations of the board or
31 aiding or abetting those unlicensed persons in the practice of dentistry or dental hygiene;

32 (16) Gross and willful overcharging for professional services, including filing of false
33 statements for collection of fees for which services are not rendered, ~~or~~ willfully making or
34 assisting in making a false claim or deceptive claim or misrepresenting a material fact for use in

- 1 determining rights to dental care or other benefits;
- 2 (17) Offering, undertaking, or agreeing to cure or treat disease by a secret method,
3 procedure, treatment, or medicine;
- 4 (18) Professional or mental incompetence;
- 5 (19) Incompetent, negligent, or willful misconduct in the practice of dentistry, ~~or~~ dental
6 hygiene, or DAANCE-certified maxillofacial surgery assisting, ~~which includes including~~ the
7 rendering of unnecessary dental services and any departure from, or the failure to conform to, the
8 minimal standards of acceptable and prevailing dental, ~~or~~ dental hygiene or DAANCE-certified
9 maxillofacial surgery assisting practice in his or her area of expertise as is determined by the
10 board. The board does not need to establish actual injury to the patient in order to adjudge a
11 dentist, dental hygienist, DAANCE-certified maxillofacial surgery assistant or limited registrant
12 guilty of the previously named misconduct;
- 13 (20) Failure to comply with the provisions of chapter 4.7 of title 23;
- 14 (21) Revocation, suspension, surrender, or limitation of privilege based on quality of
15 care provided or any other disciplinary action against a license to practice dentistry, ~~or~~ dental
16 hygiene, or DAANCE-certified maxillofacial surgery assisting in another state or jurisdiction, or
17 revocation, suspension, surrender, or other disciplinary action as to membership on any dental
18 staff or in any dental or professional association or society for conduct similar to acts or conduct
19 ~~which that~~ would constitute grounds for action as prescribed in this chapter;
- 20 (22) Any adverse judgment, settlement, or award arising from a dental liability claim
21 related to acts or conduct similar to acts or conduct ~~which that~~ would constitute grounds for
22 action as defined in this chapter or regulations adopted under this chapter;
- 23 (23) Failure to furnish the board, its dental administrator, investigator, or representatives,
24 information legally requested by the board;
- 25 (24) Violation of any provision or provisions of this chapter or the rules and regulations
26 of the board or any rules and regulations promulgated by the director or of an action, stipulation,
27 or agreement of the board;
- 28 (25) Cheating on or attempting to subvert the licensing examination;
- 29 (26) Violating any state or federal law or regulation relating to controlled substances;
- 30 (27) Failure to maintain standards established by peer-review boards, including, but not
31 limited to, standards related to proper utilization of services, and use of non-accepted procedure
32 and/or quality of care;
- 33 (28) Malpractice as defined in ~~section~~ §5-37-1(8).
- 34 (29) No person licensed to practice dentistry in the state of Rhode Island may permit a

1 non-dentist who operates a dental facility in the form of a licensed out patient health care center
2 or management service organization to interfere with the professional judgment of the dentist in
3 the practice.

4 **5-31.1-11. Complaints.** – (a) Any person, firm, corporation, or public officer may submit
5 a written complaint to the board charging the holder of a license to practice dentistry or dental
6 hygiene or a limited registrant with unprofessional conduct, specifying the grounds for the
7 charge.

8 (b) The board shall review all complaints and, in those instances where no referral is
9 made to an investigating committee, the board of examiners in dentistry shall make a written
10 finding of facts with regard to the complaint. In conducting an investigation of such complaints
11 that requires an inspection of a dental office:

12 (1) Either the investigative committee or the full board of examiners in dentistry shall
13 make such finding and it must be evidenced by recorded minutes showing the vote to conduct an
14 inspection;

15 (2) The scope and manner of conducting any such inspection shall be reasonably related
16 to the written complaint received. Any dentist(s) whose practice is the subject of such inspection
17 shall be provided by either the investigative committee or the full board with a copy of the
18 complaint or a written summary of all pertinent allegations prior to or at the commencement of
19 the inspection;

20 (3) At the conclusion of the inspection and prior to leaving the dental office premises the
21 board inspectors shall provide the dentist whose office has been inspected with a copy of the
22 completed inspection form, noting areas of deficiency or follow-up;

23 (4) Unless there is a real potential of imminent, unreasonable harm to patients or staff, the
24 dentist shall have ten (10) days to remedy any deficiencies found during the inspection; and

25 (5) All inspections shall be carried out so as not to interfere with direct patient care.

26 (c) All complaints considered by the board or an investigating committee of the board
27 shall be reported within six (6) months of the receipt of the complaint unless the board on a case-
28 by-case basis, for good cause shown, in writing, extends the time for consideration; provided, that
29 failure to report does not divest the board of its jurisdiction to pursue the rights and remedies
30 established in this chapter.

31 (d) If the board determines that the complaint merits consideration, or if the board, on its
32 own initiative without a formal complaint, has reason to believe that any holder of a license or
33 limited registration to practice dentistry or of a license to practice dental hygiene or of a license to
34 practice DAANCE-certified maxillofacial surgery assisting may be guilty of unprofessional

1 conduct, the chairperson shall designate no less than two (2) members of the board, at least one of
2 whom is a public member, to serve as a committee to investigate, and report upon the charges to
3 the board.

4 If the complaint relates to a dentist, one member of the committee shall be licensed as a
5 dentist. If the complaint relates to a dental hygienist, one member of the committee shall be
6 licensed as a dental hygienist. If the complaint relates to a DAANCE-certified maxillofacial
7 surgery assistant, one member of the committee shall be licensed as a dental hygienist or certified
8 dental assistant.

9 (e) Investigations shall remain confidential and all initial hearings, investigatory hearings,
10 and full hearings before the board shall remain confidential.

11 (f) In the event that a hearing takes place before the hearing committee of the board, all
12 decisions of the board shall present conclusions of fact and conclusions of law applicable to the
13 decision, ~~which~~ that it has rendered.

14 (g) The board shall make public all decisions, including findings of fact and conclusions
15 of law, ~~which~~ that call for any sanction against a license holder as prescribed in ~~section~~ §5-31.1-
16 17.

17 (h) Following the investigation, the committee shall present its evaluations and
18 recommendations to the board.

19 (i) The board shall review the committee's findings to determine whether to take further
20 action, but no member of the board who participated in the investigation may participate in this
21 review or any subsequent hearing or action taken by the board. The hearing committee shall
22 consist of the remaining members of the board. Four (4) members of the hearing committee
23 constitute a quorum for the transaction of business. The chairperson of the board shall preside
24 over the hearing.

25 **5-31.1-17. Sanctions. --** If the accused is found guilty of unprofessional conduct as
26 defined in ~~section~~ §5-31.1-10, the director, at the direction of the board, shall impose one or more
27 of the following conditions:

28 (1) Administer a reprimand;

29 (2) Suspend, limit, or restrict his or her license or limited registration to practice
30 dentistry or license to practice dental hygiene or license to practice DAANCE-certified
31 maxillofacial surgery assisting;

32 (3) Require him or her to serve a period of probation subject to certain conditions and
33 requirements including, where appropriate, sanctions or restitution;

34 (4) Revoke, indefinitely, his or her license or limited registration to practice dentistry or

1 ~~a~~ license to practice dental hygiene [or license to practice DAANCE-certified maxillofacial](#)
2 [surgery assisting](#);

3 (5) Require him or her to submit to the care, counseling, or treatment of a physician or
4 program acceptable to the board;

5 (6) Require him or her to participate in a program of continuing dental, ~~or~~ dental
6 hygiene, [or DAANCE-certified maxillofacial surgery assisting](#) education the area or areas in
7 which he or she has been judged deficient;

8 (7) Require him or her to practice under the direction of a dentist in a public institution,
9 public, or private health care program, or private practice for a period of time specified by the
10 board;

11 (8) Assess against the dentist, ~~or~~ dental hygienist [or DAANCE-certified maxillofacial](#)
12 [surgery assistant](#) the administrative costs of the proceedings instituted against the dentist, ~~or~~
13 dental hygienist [or DAANCE-certified maxillofacial surgery assisting](#) under this chapter;
14 provided, that the assessment does not exceed ten thousand dollars (\$10,000); or

15 (9) Any other condition, conditions, or restrictions deemed appropriate under the
16 circumstances.

17 **5-31.1-18. Appeal from the decision of the director of the department of health. --** (a)

18 Any person whose license or limited registration to practice dentistry or license to practice dental
19 hygiene [or license to practice DAANCE-certified maxillofacial surgery assisting](#) has been
20 revoked or suspended by the board and/or director or is aggrieved by the decision of the board
21 and/or director shall have the right of judicial review of the board's and director's decision. That
22 review is initiated by serving on the director a notice of appeal and filing this notice of appeal
23 with a complaint in accordance with the Rules of Civil Procedure in the superior court within
24 thirty (30) days after the decision of the director.

25 (b) The director shall, within twenty (20) days after the service of the notice of appeal,
26 transmit to the clerk of the superior court to which the appeal is taken a transcript of the record of
27 the board, certified under the seal of the board, together with a certified copy of the board's
28 written findings, all of which is admissible as evidence.

29 (c) The findings of the board and/or director are final and conclusive, subject to review
30 in the superior court pursuant to the Administrative Procedures Act, chapter 35 of title 42. Any
31 appeal taken to the superior court has precedence on the calendar, is considered an emergency
32 matter and, when practicable, shall be heard in any event not later than thirty (30) days from the
33 date of appeal. There is no stay pending this appeal of any sanction imposed by the director
34 unless it is determined that the matter cannot be placed on the court's docket within the specified

1 time. Except as provided in this chapter, appeals follow the procedures ~~stated~~ [set forth](#) in the
2 Administrative Procedures Act, chapter 35 of title 42.

3 **5-31.1-19. Grounds for discipline without hearing.** -- The director may, temporarily,
4 suspend the license of a dentist, ~~or~~ dental hygienist, [DAANCE-certified maxillofacial surgery](#)
5 [assistant](#), or limited registrant without a hearing if the director finds that evidence in his or her
6 possession indicates that a dentist, ~~or~~ dental hygienist, [DAANCE-certified maxillofacial surgery](#)
7 [assistant](#), or limited registrant continuing in practice would constitute an immediate danger to the
8 public. In the event that the director temporarily suspends the license of a dentist, ~~or~~ dental
9 hygienist, [DAANCE-certified maxillofacial surgery assistant](#), or limited registrant without a
10 hearing, a hearing by the board must be held within ten (10) days after the suspension has
11 occurred.

12 **5-31.1-20. Reports relating to professional conduct and capacity -- Regulations --**
13 **Confidentiality -- Immunity.** -- (a) The board, with the approval of the director, may adopt
14 regulations requiring any person, including, but not limited to, corporations, health care facilities,
15 health maintenance organizations, organizations, ~~and~~ federal, state, or local governmental
16 agencies, or peer review boards to report to the board any conviction, determination, or finding
17 that a licensed dentist, ~~or~~ dental hygienist, [or DAANCE-certified maxillofacial surgery assistant](#)
18 has committed unprofessional conduct as defined by ~~section~~ [§5-31.1-10](#), or to report information
19 ~~which~~ [that](#) indicates that a licensed dentist, ~~or~~ dental hygienist, [or DAANCE-certified](#)
20 [maxillofacial surgery assistant](#) may not be able to practice dentistry, ~~or~~ dental hygiene [or](#)
21 [DAANCE-certified maxillofacial surgery assisting](#) with reasonable skill and safety to patients as
22 the result of any mental or physical condition. The regulations include the reporting requirements
23 prescribed in subdivisions (b)(1), (2), and (3) of this section.

24 (b) The following reports, in writing, shall be filed with the board:

25 (1) Every insurer providing professional liability insurance to a dentist, ~~or~~ dental
26 hygienist, [or DAANCE-certified maxillofacial surgery assistant](#) licensed under the provisions of
27 this chapter must send a complete report to the board as to any formal notice of any claim,
28 settlement of any claim or cause of actions, or final judgment rendered in any cause of action for
29 damages for death or personal injury caused by a dentist's, ~~or~~ dental hygienist's, [or DAANCE-](#)
30 [certified maxillofacial surgery assistant's](#) negligence, error, or omission in practice or his or her
31 rendering of unauthorized professional services. This report shall be sent within thirty (30) days
32 after service of the complaint or notice, settlement, judgment, or arbitration award on the parties.
33 All of those reports shall present an in-depth, factual summary of the claim in question.

34 (2) All hospital and licensed health care facilities including, but not limited to, nursing

1 homes and health maintenance organizations and the director of the department of health must
2 report to the board, within thirty (30) days of the action, any action, disciplinary or otherwise,
3 taken for any reason, ~~which~~ that limits, suspends, or revokes a dentist's or dental hygienist's
4 privilege to practice or requires supervision of a dentist, either through formal action by the
5 institution or faculty or through any voluntary agreement with the dentist.

6 (3) Within ten (10) days after a judgment by a court of this state that a dentist or dental
7 hygienist licensed under the provisions of this chapter has been convicted of a crime or is civilly
8 liable for any death or personal injury caused by his or her negligence, error, or omission in his or
9 her practice or his or her rendering unauthorized professional services, the clerk of the court
10 ~~which~~ that rendered the judgment shall report the judgment to the board.

11 (c) The board shall report any changes of privileges of which it is aware to the board of
12 trustees or other appropriate body of all licensed hospitals and health maintenance organizations
13 within thirty (30) days.

14 (d) The contents of any report file are confidential and exempt from public disclosure,
15 except that it may be reviewed:

16 (1) By the licensee involved, or his or her counsel or authorized representative, who may
17 submit any additional exculpatory or explanatory statements or other information, which
18 statements or other information are included in the file; or

19 (2) By the dental administrator, a representative of the board, or an investigator for the
20 board, who has been assigned to review the activities of a licensed dentist, ~~or~~ dental hygienist or
21 DAANCE-certified maxillofacial surgery assistant.

22 (e) Upon determination that a report is without merit, the board's records may be purged
23 of information relating to the report.

24 (f) If any person refuses to furnish a required report, the board may petition the superior
25 court of any county in which that person resides or is found, and the superior court shall issue to
26 the court's person an order to furnish the required report. Any failure to comply with that order
27 constitutes civil contempt.

28 (g) Every individual, dental association, dental society, dental hygiene association,
29 dental auxiliary association hospital, health care facility, health maintenance organizations, peer
30 review board, dental service bureau, health insurance carrier or agent, professional standards
31 review organization, and the agency of the federal, state, or local government is immune from
32 civil liability, whether direct or derivative, for providing information to the board in good faith
33 pursuant to this statute or the regulations outlined in subsection (a) of this section or requirements
34 of subsection (b) of this section.

1 (h) Nondisclosure agreements are prohibited insofar as they forbid parties from making
2 reports regarding competency and/or unprofessional conduct to the board of examiners in
3 dentistry.

4 (i) The board of examiners in dentistry, with the approval of the director, shall
5 promulgate rules and regulations establishing standards for hospital or health maintenance
6 organization supervision of dentists or dental hygienists by peer-review committees. Those
7 regulations, including without limiting their generality, shall require that each hospital or health
8 maintenance organization report annually to the board the activities findings, studies, and
9 determination of its peer-review committees.

10 **5-31.1-21. Biennial registration.** -- (a) Effective beginning in the calendar year 2006, on
11 or before the first day of May in each even-numbered year, the board shall mail an application for
12 biennial registration to every person to whom a license to practice dentistry, ~~or~~ dental hygiene, or
13 DAANCE-certified maxillofacial surgery assisting in this state has been granted by the
14 constituted licensing authority in the state. Every licensed person who intends to engage in the
15 practice of his or her profession during the ensuing two (2) years shall register his or her license
16 by filing with the board that application, executed together with any registration form and fee that
17 is established by regulation by the director, on or before the first day of June in each even-
18 numbered year. Upon receipt of that application and fee, the board shall issue a registration
19 certificate, effective July 1 and expiring two (2) years following June 30, and that registration
20 certificate shall render its holder a registered practitioner of dentistry or dental hygiene for that
21 registration period.

22 (b) The registration certificate of all dentists, ~~or~~ dental hygienists, or DAANCE-certified
23 maxillofacial surgery assistants whose renewals, accompanied by the prescribed fee, are not filed
24 on or before the first day of July automatically expire. The board may, in its discretion and upon
25 the payment by the dentist, ~~or~~ dental hygienist, or DAANCE-certified maxillofacial surgery
26 assistant of the current registration fee, plus an additional fee as set forth in ~~section~~ §23-1-54,
27 reinstate any certificate expired under the provisions of this section. All unexpended monies in
28 the account of the board of dentistry are transferred to the new board of dentistry as created by
29 this section as of June 2, 1988.

30 (c) Dentists, ~~and~~ dental hygienists and DAANCE-certified maxillofacial surgery
31 assistants not intending to practice in this state may request, on a biennial basis, to be placed on
32 inactive status. Those requests must be made, in writing, to the dental administrator and must be
33 accompanied by fees as set forth in ~~section~~ §23-1-54. Persons on inactive status may be reinstated
34 by paying the current, annual-registration fee and must meet any requirements established by this

1 chapter and as are further prescribed by the rules and regulations.

2 **5-31.1-31. Dental assistant -- Definition -- Practices allowed.** -- (a) As used in this
3 chapter, a "dental assistant" is any person not licensed under the provisions of this chapter who
4 performs dental services, procedures, or duties in aid of a licensed and registered dentist.

5 (b) No dental assistant shall perform any service, procedure, or duty ~~which~~ that
6 constitutes the practice of dentistry unless authorized by rules and regulations adopted by the
7 board of examiners in dentistry, and unless that dental service, procedure, or duty is performed
8 under the supervision of a dentist licensed and registered in this state. The board of examiners in
9 dentistry shall establish any classification of dental assistants that are recognized by the American
10 Dental Association, American Dental Assistants Association, and the American Association of
11 Oral and Maxillofacial Surgeons, and to each class the board applies any of the rules and
12 regulations permitted under this section that the board deems appropriate.

13 (c) Nothing in this section is construed to authorize a dental assistant to perform the
14 following: diagnosis and treatment planning, surgical procedures on hard or soft tissue, prescribe
15 medication, or administer injectable and/or general anesthesia, except as set forth in subsection
16 (d) of this section.

17 (d) An oral and maxillofacial surgeon holding a permit issued by the board for the
18 administration of general anesthesia/deep sedation may employ and utilize the services of a
19 DAANCE-certified maxillofacial surgery assistant in accordance with following criteria:

20 (1) Satisfactory evidence of completion of a DAANCE-certified maxillofacial surgery
21 assistant training course prepared and administered by the American Association of Oral and
22 Maxillofacial Surgeons and recertification in the DAANCE training program every five (5) years;

23 (2) Completion of a board of examiners in dentistry-approved advanced cardiac life
24 support course and recertification in advanced cardiac life support every two (2) years;

25 (3) The valid general anesthesia permit by the oral and maxillofacial surgeon where the
26 assistant will be performing his or her services;

27 (4) Direct supervision by an oral and maxillofacial surgeon holding a valid general
28 anesthesia/deep sedation permit;

29 (5) The oral and maxillofacial surgeon shall remain immediately available in the facility
30 for the patient, and the DAANCE certified maxillofacial surgery assistant for evaluation and
31 treatment until the patient meets discharge criteria;

32 (6) The member of the surgical team who is assigned to monitoring the patient may not
33 have any other responsibilities while monitoring the patient under general anesthesia/deep
34 sedation;

1 (7) The licensed provider will be responsible for the patient's recovery;

2 (8) Peri-operative monitoring consisting of at least continuous electrocardiogram,
3 monitoring of blood pressure, pulse oximetry, and end tidal carbon dioxide consistent with
4 published national standards adopted by the American Association of Oral and Maxillofacial
5 Surgeons in conjunction with the American Society of Anesthesiologists;

6 (9) The conclusion of the peri-operative monitoring period shall be at the discretion of the
7 licensed provider, using the modified Aldrete scale/scoring system. The patient may then be
8 transferred to a discharge area and shall no longer require continuous monitoring.

9 (e) Authorized functions - Supervision. –

10 (1) Any DAANCE-certified maxillofacial surgery assistant meeting the criteria of this
11 section shall perform the functions authorized in this chapter only by delegation of authority from
12 the oral and maxillofacial surgeon and under the supervision, as described in subsection (e)(1)
13 and (e)(2) of this section, and provided the oral and maxillofacial surgeon is acting within the
14 scope of his or her license. The responsibility for monitoring a patient and determining the
15 selection of the drug, dosage, and timing of all anesthetic medications rests solely with the oral
16 and maxillofacial surgeon.

17 (2) Under direct supervision, the DAANCE-certified maxillofacial surgery assistant may:

18 (i) Discontinue an intravenous line for a patient who has received intravenous
19 medications, sedation, or general anesthesia;

20 (ii) Adjust the rate of intravenous fluids infusion only to maintain or keep the line patent
21 or open; and

22 (iii) Make medications readily available for review, inspection, and use by the oral and
23 maxillofacial surgeon.

24 (3) Under direct visual supervision, the DAANCE-certified maxillofacial surgery
25 assistant may:

26 (i) Follow instructions to prepare and assist in the administration of medications;

27 (ii) Adjust the rate of intravenous fluids infusion beyond a keep-open rate;

28 (iii) Adjust an electronic device to provide medications, such as an infusion pump; and

29 (iv) Assist with preparation/delivery/infusion/administration of emergency medications to
30 a patient in order to assist the oral and maxillofacial surgeon in an emergency.

31 (4) Any oral and maxillofacial surgeon delegating duties under this section must have a
32 valid general anesthesia/deep sedation permit.

33 SECTION 2. This act shall take effect upon passage.

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LC004074/SUB A/2
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO BUSINESSES AND PROFESSIONS -- DENTISTS AND DENTAL
HYGIENISTS

1 This act would license and regulate maxillofacial surgery assistants, and would increase
2 the disciplinary and oversight powers of the board of examiners in dentistry relating to dentists,
3 dental hygienists and maxillofacial surgery assistants.

4 This act would take effect upon passage.

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LC004074/SUB A/2
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