AN ACT
RELATING TO BUSINESSES AND PROFESSIONS -- DENTISTS AND DENTAL HYGIENISTS

Introduced By: Senators Lynch, Conley, Ottiano, Jabour, and Sosnowski

Date Introduced: February 12, 2014

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

SECTION 1. Sections 5-31.1-1, 5-31.1-2, 5-31.1-4, 5-31.1-11 and 5-31.1-31 of the General Laws in Chapter 5-31.1 entitled "Dentists and Dental Hygienists" are hereby amended to read as follows:

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

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

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

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

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

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

(6) "Dentistry" is defined as the evaluation, diagnosis, prevention and/or treatment (nonsurgical, surgical or related procedures) of diseases, disorders and/or conditions of the oral cavity, cranio-maxillofacial area and/or the adjacent and associated structures and their impact on the
human body, provided by a dentist, within the scope of his or her education, training and
experience, in accordance with the ethics of the profession and applicable law.

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

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

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

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

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

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

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

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

(14) "Person" means any individual, partnership, firm, corporation, association, trust or
estate, state or political subdivision, or instrumentality of a state.
(15) "Practice of dental hygiene." Any person is practicing dental hygiene within the meaning of this chapter who performs those services and procedures that a dental hygienist has been educated to perform and which services and procedures are, from time to time, specifically authorized by rules and regulations adopted by the board of examiners in dentistry. Nothing in this section is construed to authorize a licensed dental hygienist to perform the following: diagnosis and treatment planning, surgical procedures on hard or soft tissue, prescribe medication or administer general anesthesia or injectables other than oral local anesthesia. A dental hygienist is only permitted to practice dental hygiene under the general supervision of a dentist licensed and registered in this state under the provisions of this chapter.

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

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

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

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

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

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

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

(VI) Except on the written prescription of a licensed dentist and by the use of impressions or casts made by a licensed and practicing dentist, directly or indirectly by mail, carrier, personal agent, or by any other method, furnishes, supplies, constructs, reproduces, or repairs prosthetic dentures, bridges, appliances or other structures to be used and worn as
substitutes for natural teeth;

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

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

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

(B) Provided that in order to administer any form of anesthesia, other than local, dentists must meet the requirements established by regulation of the board of examiners in dentistry, including payment of a permit fee.

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

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

(17) "Direct visual supervision" means supervision by an oral and maxillofacial surgeon or dentist (with a permit to administer deep and general sedation) by verbal command and under direct line of sight.

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

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

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

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

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

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

(5) One certified dental assistant.

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

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

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

531.1-4. Powers and duties of the board of examiners in dentistry. -- The board of
examiners in dentistry has the following duties and powers:

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

(2) To investigate all complaints and charges of unprofessional conduct against any
licensed dentist, dental hygienist, or limited registrant and to hold hearings to determine whether
those charges are substantiated or unsubstantiated;

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

(4) To appoint one or more dentists or dental hygienists to act for the members of the
board in investigating the conduct or competence of any licensed dentist, dental hygienist or
limited registrant;

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

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

(ii) All subpoenas issued pursuant to this section shall only be issued by a vote of the
board of examiners in dentistry;

(A) Such subpoenas shall have attached to them written minutes disclosing the date and
vote of the board of examiners in dentistry demonstrating the vote to issue said subpoena;

(B) All subpoenas issued by the board shall be served by a disinterested party or by a
constable authorized by the courts to serve process;

(C) Subpoenas issued by the board of examiners in dentistry shall have a reasonable
return date that will allow the recipient an opportunity to review the subpoena, consult with
counsel, and prepare a response to the subpoena;

(D) All subpoenas shall be in compliance with the Rhode Island healthcare
confidentiality act and include a patient consent when the subpoena calls for the disclosure of a
patient record; and

(E) In the absence of a properly executed patient consent, subpoena requests shall only be
made by request of the board to a court of competent jurisdiction that may issue a court order
compelling production of confidentiality healthcare information of a patient.

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

(8) To summon and examine witnesses during any investigation, hearing or proceeding
carried out by the board; and

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

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

(b) The board shall review all complaints and, in those instances where no referral is
made to an investigating committee, the board of examiners in dentistry shall make a written
finding of facts with regard to the complaint. In conducting an investigation of such complaints
which requires an inspection of a dental office:
(1) The board of examiners in dentistry shall make such finding and it must be evidenced by recorded minutes showing the vote to conduct an inspection;

(2) The inspection team from the board of examiners in dentistry shall include a dentist member of the board and a hygiene member of the board;

(3) The scope and manner of conducting any such inspection shall be reasonably related to the written complaint received. Any dentist(s) whose practice is the subject of such inspection shall be provided by the board with a copy of the complaint or a written summary of all pertinent allegations prior to or at the commencement of the inspection;

(4) At the conclusion of the inspection and prior to leaving the dental office premises the board inspectors shall provide the dentist whose office has been inspected with a copy of the completed inspection form, noting areas of deficiency;

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

(6) All inspections shall be carried out so as not to interfere with direct patient care by scheduling such inspections during the noon (12:00 p.m.) hour or at the end of the dental office workday.

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

(d) If the board determines that the complaint merits consideration, or if the board, on its own initiative without a formal complaint, has reason to believe that any holder of a license or limited registration to practice dentistry or of a license to practice dental hygiene may be guilty of unprofessional conduct, the chairperson shall designate two (2) members of the board, at least one of whom is a public member, to serve as a committee to investigate, and report upon the charges to the board. Upon the designation of an investigating committee by the board, written notice shall be provided to the licensee notifying him or her of the establishment of an investigating committee, and providing the licensee with the names of the members of the investigating committee and a copy of the complaint upon which the investigation was initiated.

If the complaint relates to a dentist one member of the committee shall be licensed as a dentist. If the complaint relates to a dental hygienist one member of the committee shall be licensed as a dental hygienist.

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

(1) All referrals of matters arising out of a written complaint to the board of examiners in dentistry to the director of the department of health shall only be by a vote of the majority of the board of examiners in dentistry:

(2) The administrative staff of the board of examiners in dentistry shall not subvert the statutory procedures governing the referral of a matter to the director of the department of health, which may only be done pursuant to a vote of the majority of the board.

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

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

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

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

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

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

(c) Nothing in this section is construed to authorize a dental assistant to perform the following: diagnosis and treatment planning, surgical procedures on hard or soft tissue, prescribe medication, or administer injectable and/or general anesthesia, except as set forth in § 5-31.1-
31(d).

(d) An oral and maxillofacial surgeon and a duly licensed dentist holding a permit issued by the board for the administration of general or deep sedation may employ and utilize the services of an oral surgery anesthesia assistant who has met the following criteria:

(1) Satisfactory evidence of completion of a dental anesthesia assistant training course prepared and administered by the American Association of Oral and Maxillofacial Surgeons.

(2) Completion of a board of examiners in dentistry-approved basic life support/cardiac pulmonary resuscitation course; and

(3) The valid general anesthesia permit of the oral and maxillofacial surgeon or dentist where the assistant will be performing his or her services is valid.

(e) Authorized functions - Supervision.

(1) Any dental anesthesia assistant meeting the criteria of this section shall perform the functions authorized in this chapter only by delegation of authority from the oral and maxillofacial surgeon or dentist and under the supervision, as described in §§ 5-31.1-31(e)(2) and 5-31.1-31(e)(3), and provided the oral and maxillofacial surgeon or dentist is acting within the scope of his or her license. The responsibility for monitoring a patient and determining the selection of the drug, dosage, and timing of all anesthetic medications rests solely with the oral and maxillofacial surgeon or dentist.

(2) Under close supervision, the dental anesthesia assistant may:

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

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

(iii) Draw up and prepare medications.

(3) Under direct visual supervision, the dental anesthesia assistant may:

(i) Follow instructions to deliver medications into;

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

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

(iv) Administer emergency medications to a patient in order to assist the oral and maxillofacial surgeon or dentist in an emergency.

(4) Any oral and maxillofacial surgeon or dentist delegating duties under this section must have a valid general anesthesia deep sedation permit.
SECTION 2. This act shall take effect upon passage.
EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO BUSINESSES AND PROFESSIONS -- DENTISTS AND DENTAL HYGIENISTS

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1 This act would amend various powers and duties relative to dentists and dental hygienists
2 and the administration of the rules and regulations relating thereto.
3 This act would take effect upon passage.

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