

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
NOTICE OF PUBLIC HEARING

September 26, 2022
10:00 a.m. Central Time
Nebraska State Office Building – Lower Level A
301 Centennial Mall South, Lincoln, Nebraska
Phone call information: 888-820-1398; Participant code: 3213662#

The purpose of this hearing is to receive comments on the adoption of amendments to the following regulations:

Title 172 NAC 53 – *Unlicensed Dental Assistants and the Licensure of Dental Assistants*

The proposed changes set the requirements for obtaining a license based on reciprocity; and set out the requirements for documenting residency.

Title 172 NAC 56 – *Licensure of Dentists; Minimal, Moderate, or General Anesthesia/Deep Sedation*

The proposed changes set the requirements for obtaining a license based on reciprocity; set out the requirements for documenting residency; update examination for licensing requirements; update the standards of operation, care, and treatment requirements; and correct punctuation and renumber the regulatory chapter.

Title 172 NAC 57 – *Licensure of Dental Hygienists*

The proposed changes set the requirements for obtaining a license based on reciprocity; set out the requirements for documenting residency; add clarification language; and correct typographical errors.

Title 172 NAC 58 – *Dental Faculty Licenses*

The proposed changes set the requirements for obtaining a license based on reciprocity; set out the requirements for documenting residency; establish requirements for additional education in lieu of license or post graduate education; revise requirements for examination from an accredited or non-accredited dental education institution; update continuing education requirements; update unprofessional conduct provisions; correct typographical errors; and renumber the regulatory chapter.

Authority for these regulations is found in Neb. Rev. Stat. § 81-3117(7).

To encourage participation in this public hearing, a phone conference line will be set up for any member of the public to call in and provide oral comments. Interested persons may provide verbal comments in person or by participating via phone conference line by calling 888-820-1398; Participant code: 3213662#.

Interested persons may attend the hearing and provide verbal or written comments, or mail, fax or email written comments, no later than the day of the hearing to: DHHS Legal Services, PO Box 95026, Lincoln, NE 68509-5026, (402) 742-2382 or dhhs.regulations@nebraska.gov, respectively.

A copy of the proposed changes is available online at <http://www.sos.ne.gov>, or by contacting DHHS at the mailing address or email above, or by phone at (402) 471-8417. The fiscal impact statement for these proposed changes may be obtained at the office of the Secretary of State, Regulations Division, 1201 N Street, Suite 120, Lincoln, NE 68508, or by calling (402) 471-2385.

Auxiliary aids or reasonable accommodations needed to participate in a hearing can be requested by calling (402) 471-8417. Individuals who are deaf or hard of hearing may call DHHS via the Nebraska Relay System at 711 or (800) 833-7352 TDD at least 2 weeks prior to the hearing.

FISCAL IMPACT STATEMENT

Agency: Department of Health and Human Services	
Title: 172	Prepared by: Jesse Cushman
Chapter: 53	Date prepared: 4/11/2022
Subject: Unlicensed Dental Assistants and the Licensure of dental Assistants	Telephone: 402-471-4915

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(<input checked="" type="checkbox"/>)	(<input checked="" type="checkbox"/>)	(<input checked="" type="checkbox"/>)
Increased Costs	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Decreased Costs	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Increased Revenue	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Decreased Revenue	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Indeterminable	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)

Provide an Estimated Cost & Description of Impact:

State Agency:

Political Subdivision:

Regulated Public:

If indeterminable, explain why:

FISCAL IMPACT STATEMENT

Agency: Department of Health and Human Services	
Title:172	Prepared by:Jesse Cushman
Chapter:56	Date prepared: 4/11/2022
Subject: Licensure Of Dentists; Minimal, Moderate, Or General Anesthesia / Deep Sedation	Telephone: (402) 471-4915

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(<input checked="" type="checkbox"/>)	(<input checked="" type="checkbox"/>)	(<input checked="" type="checkbox"/>)
Increased Costs	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Decreased Costs	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Increased Revenue	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Decreased Revenue	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Indeterminable	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)

Provide an Estimated Cost & Description of Impact:

State Agency:

Political Subdivision:

Regulated Public:

If indeterminable, explain why:

FISCAL IMPACT STATEMENT

Agency: Department of Health and Human Services	
Title: 172	Prepared by: Jesse Cushman
Chapter: 57	Date prepared: 4/11/2022
Subject: Dental Hygienists	Telephone: 402-471-4915

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(<input checked="" type="checkbox"/>)	(<input checked="" type="checkbox"/>)	(<input checked="" type="checkbox"/>)
Increased Costs	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Decreased Costs	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Increased Revenue	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Decreased Revenue	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Indeterminable	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)

Provide an Estimated Cost & Description of Impact:

State Agency:

Political Subdivision:

Regulated Public:

If indeterminable, explain why:

FISCAL IMPACT STATEMENT

Agency: Department of Health and Human Services	
Title: 172	Prepared by: Jesse Cushman
Chapter: 58	Date prepared: 4/11/2022
Subject: Dental Faculty License	Telephone: (402) 471-4915

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(<input checked="" type="checkbox"/>)	(<input checked="" type="checkbox"/>)	(<input checked="" type="checkbox"/>)
Increased Costs	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Decreased Costs	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Increased Revenue	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Decreased Revenue	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Indeterminable	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)

Provide an Estimated Cost & Description of Impact:

State Agency:

Political Subdivision:

Regulated Public:

If indeterminable, explain why:

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 53 UNLICENSED DENTAL ASSISTANTS AND THE LICENSURE OF
DENTAL ASSISTANTS

001. SCOPE AND AUTHORITY. These regulations govern the licensure of dental assistants and the practice of licensed and unlicensed dental assistants under Nebraska Revised Statutes (Neb. Rev. Stats.) §§ 38-1101 to 38-1152 of the Dentistry Practice Act, and the Uniform Credentialing Act (UCA).

002. DEFINITIONS. Definitions set out in the Dentistry Practice Act, the Uniform Credentialing Act, Title 172 Nebraska Administrative Code (NAC) 10, and the following apply to this chapter.

002.01 IMPRESSION. Techniques used to produce a three-dimensional record of an anatomic structure.

002.01(A) FINAL IMPRESSION. A type of oral impression from which a positive reproduction (cast or model) can be formed to enable fabrication of a fixed or removable dental prosthesis.

002.01(B) PRELIMINARY IMPRESSION. A type of oral impression from which a positive reproduction (cast or model) can be formed to fabricate stints, stents, splints, bleaching trays, mouth guards, custom trays, orthodontic appliances and devices, and therapeutic appliances or for direct (intraoral) fabrication of a provisional fixed prostheses. A preliminary impression may not be used for indirect fabrication of a fixed or removable prosthesis.

002.02 ORTHODONTIC APPLIANCES. Braces, brackets, tubes, wires, ties, and similar material used in realigning teeth.

002.03 ORTHODONTIC DEVICES. Devices used to correct or maintain tooth position or occlusal relationship. Such devices include retainers, space maintainers, expanders, clear aligners, and similar functional devices.

002.04 PROSTHESIS. Artificial replacement of any part of the body related to teeth, jaws, or related structures.

002.04(A) DEFINITIVE REMOVABLE PROSTHESIS. Prosthesis which is used over an extended period of time.

002.04(B) DENTAL PROSTHESIS. Any device or appliance that replaces one or more missing teeth or associated structures. It includes crowns, inlays or onlays, bridges, dentures, obturators, or gingival prostheses.

002.04(C) FIXED PROSTHESIS. Non-removable dental prosthesis which is solidly attached to abutment teeth, roots, or implants.

002.04(D) FIXED REMOVABLE PROSTHESIS. Combined prosthesis, one or more parts of which are fixed, and the other(s) attached by devices which allow their detachment, removal, and reinsertion by the dentist only.

002.04(E) INTERIM PROSTHESIS. A prosthesis designed for use over a limited period of time.

002.04(F) REMOVABLE PROSTHESIS. Complete or partial prosthesis which can be removed and reinserted by the consumer.

002.05 RESTORATION.

002.05(A) SIMPLE RESTORATION FOR ONE SURFACE. A restoration that involves single surfaces of a tooth as in Class I, Class V, and Class VI restorations.

002.05(A)(i) CLASS I RESTORATION. Restoration of a lesion or cavity that occurs in pits and fissures on the facial, lingual, and occlusal surfaces of molars and premolars and lingual surfaces of maxillary anterior teeth.

002.05(A)(ii) CLASS V RESTORATION. Restoration of a lesion or cavity that occurs in smooth facial and lingual surfaces in the gingival third of a tooth.

002.05(A)(iii) CLASS VI RESTORATION. Restoration of a lesion or cavity that occurs on the incisal edges of anterior teeth or cusp tips of posterior teeth.

002.05(B) COMPLEX RESTORATION FOR MULTIPLE SURFACES. Restoration of a tooth that involves multiple surfaces of the tooth, as in Class II, Class III, and Class IV restorations.

002.05(B)(i) CLASS II RESTORATION. Restoration of a lesion or cavity that occurs in the proximal surfaces of the posterior teeth (molars and premolars).

002.05(B)(ii) CLASS III RESTORATION. Restoration of a lesion or cavity that occurs in the proximal surfaces of anterior teeth and do not involve an incisal angle.

002.05(B)(iii) CLASS IV RESTORATION. Restoration of a lesion or cavity that occurs in the proximal surfaces of the anterior teeth that involves an incisal angle.

002.06 OBJECTIVE STANDARD SETTING METHOD. A criterion-referenced standard setting method which is used for pre-determining an absolute standard based on the difficulty of the items.

002.07 THERAPEUTIC DENTAL APPLIANCE. An appliance designed to treat a dental condition or used as a surgical stent or radiographic guide.

003. LICENSE REQUIREMENTS. To obtain a license, an individual must submit a complete application provided by the Department, provide documentation demonstrating that the applicant meets the licensing requirements set out in Neb. Rev. Stats. §§ 38-1118.02 to 38-1118.03, 172 NAC 10, and this chapter.

003.01 EXPERIENCE. Submit employment records or a letter from a licensed dentist showing that the applicant has met the required one thousand five hundred hours of experience assisting a dentist; or

003.02 EDUCATION. Submit an official transcript, sent directly from the issuing institution, verifying graduation from an accredited dental assisting program.

003.03 EXAMINATION. All applicants must:

- (A) Demonstrate passage of the Certified Dental Assistant examination administered by the Dental Assisting National Board with a passing score as established using the Objective Standard Setting method; and
- (B) Pass the jurisprudence examination with a score of 75 or above.

003.04 RECIPROCITY. To obtain a license based on reciprocity, an applicant must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets the requirements of Neb. Rev. Stat. § 38-129.02, 172 NAC 10, and this chapter.

003.05 RESIDENCY. All applicants receiving a license pursuant to 172 NAC 53 must submit documentation of establishing residency in Nebraska as required by Neb. Rev. Stat. § 38-129.02. Such documentation must be submitted within 90 days of establishment of residency and consist of a rental or lease agreement with the signature of the owner or landlord and the applicant, a deed or title to residential real property with the name of the applicant as an owner, or documents with the name and address of the applicant such as mortgage bills, home utility bills, medical or employee documents or similar documents that show the applicant residing in Nebraska.

004. REMEDIAL COURSE. Any applicant who has failed on two occasions to pass any part of the practical examination will be required to complete a remedial course in accordance with Neb. Rev. Stat. § 38-1119. To receive approval of a remedial course an applicant must submit a complete application and the following:

- (A) Description of the subject matter of the remedial course. The subject matter for the remedial course must cover the content of the section(s) of the regional or state practical examination that the applicant failed;
- (B) Name, title, and qualifications (vitae or resume) of faculty member providing the remedial instruction;
- (C) Number of hours of didactic instruction, number of hours of clinical instruction, number of hours under direct supervision, and total number of hours in the remedial course. A remedial course must include a minimum of 15 hours of didactic and clinical instruction,

- of which at least 10 hours must be under the direct supervision of the faculty member providing the remedial instruction;
- (D) A written plan of evaluation for the course, indicating the method of evaluation;
 - (E) A statement bearing the school seal from the institution providing the remedial course indicating that the course meets the criteria for approval; and
 - (F) The signature of the faculty member providing course and the date signed.

005. RENEWAL, WAIVER OF CONTINUING EDUCATION, AND INACTIVE STATUS. The applicant must meet the requirements set out in 172 NAC 10. All licenses and permits expire on March 1 of each odd-numbered year.

006. CONTINUING EDUCATION. On or before March 1 of each odd-numbered year, each licensed dental assistant must complete at least 30 hours of acceptable continuing education hours during the preceding 24-month period. Each licensee is responsible for maintaining certificates or records of continuing education.

006.01 ACCEPTABLE CONTINUING EDUCATION TOPICS AND ACTIVITIES. The following are acceptable continuing education topics and activities:

- (A) State and national meetings of the local, state, or American Dental Association; local, state, or American Dental Assistants Association; local, state, or American Dental Hygiene Association; or educational programs sponsored by the recognized specialty groups of the American Dental Association;
- (B) Nebraska Dental Assistant Association state, local, and study club meetings;
- (C) Formal education courses which relate directly to the practice of dentistry, dental assisting or expanded function dental assisting as applicable to the license or permit;
- (D) College or University-sponsored courses in continuing education in dental assisting;
- (E) Licensee acting as table clinician or lecturer to licensed dental assistants or licensee attending table clinics;
- (F) Home study with a testing mechanism. If there is no testing mechanism or certificate of completion, the licensee must submit an abstract or summary of the material covered to the Board of Dentistry. The abstract or summary must be written by only the licensee and will be reviewed. Interactive webinars which include the ability of the participant to interact with the presenter are not considered home study;
- (G) Direct clinical observation;
- (H) Initial cardiopulmonary resuscitation (CPR) certification or cardiopulmonary resuscitation recertification;
- (I) Faculty overseeing student dental assistant or expanded function dental assisting clinics;
- (J) Dental public health continuing education;
- (K) Well-being or substance abuse continuing education;
- (L) Infection control continuing education;
- (M) Practice management continuing education;
- (N) Presentation or development of a continuing education program for dental assistants by a licensee;
- (O) Expanded functions for which a permit is held by the licensee; or
- (P) Participating in a volunteer activity such as Mission of Mercy or equivalent.

006.02 NO PRE-APPROVAL. The Board of Dentistry does not pre-approve continuing education programs or activities.

006.03 CONTINUING EDUCATION WORKSHOP, ACTIVITY, OR PROGRAM CRITERIA. To be considered acceptable for continuing education, a workshop, activity, or program must meet the following criteria:

- (A) Be at least 50 minutes in duration;
- (B) Objectives must relate to the practice of dentistry, dental assisting, or expanded function dental assisting as applicable to the license;
- (C) Presenters of programs must be qualified by education, experience, or training;
- (D) Must be open to all dental assistants licensed by Nebraska who meet the prerequisites for the program; and
- (E) The provider must have a process for verifying attendance and issue a certificate of attendance. Each certificate must include the following:
 - (i) Program name;
 - (ii) Name of the participant and license number;
 - (iii) Provider's name;
 - (iv) Date the program began and ended; and
 - (v) Number of hours received by the licensee.

006.04 CRITERIA FOR A HOME STUDY PROGRAM. To be considered acceptable, a home study program must meet the following criteria:

- (A) Objectives must relate to the practice of dentistry, dental assisting, or expanded function dental assisting as applicable to the license;
- (B) Must have a post-test or other method of assessment which verifies that the licensee completed the program; and
- (C) Author(s) of home study programs must meet the following qualifications:
 - (i) Have experience in the content and subject matter;
 - (ii) Have expertise in teaching and instructional methods suitable to subject presented; and
 - (iii) Have suitable academic qualifications, certification credentials, or experience for subject presented.

006.05 CREDIT HOUR CALCULATIONS. Subject to the credit number limitations and requirements set out in this regulation a licensed dental assistant may receive credit for acceptable continuing education activities. Credits earned in excess of 30 hours in a 24-month renewal period do not carry over into the following period.

- (A) A maximum of 10 hours each in the renewal period, may be obtained
 - (i) Through home study; or
 - (ii) Initial cardiopulmonary resuscitation (CPR) certification.
- (B) A maximum of 2 hours each in the renewal period, may be obtained
 - (i) As a table clinician;
 - (ii) A lecturer; or
 - (iii) For direct clinical observation.
- (C) A maximum of 4 hours each in the renewal period, may be obtained
 - (i) For cardiopulmonary resuscitation (CPR) re-certification; or
 - (ii) For practice management continuing education.
- (D) A maximum of 5 hours each in the renewal period may be obtained

- (i) For faculty overseeing student dental assistant or expanded function dental assisting clinics;
 - (ii) For dental public health continuing education;
 - (iii) For well-being or substance abuse continuing education;
 - (iv) For ethics and professionalism continuing education; or
 - (v) For participating in a volunteer activity such as Mission of Mercy or equivalent.
- (E) Credit may be claimed only for actual time in attendance and only for the time which meets the criteria for a continuing education activity.
- (F) A licensee who is a presenter of a continuing education program may receive a maximum of 2 hours for the creation of a presentation, and a maximum of 2 hours for the initial presentation of the program during a renewal period. Credit will not be given to the licensee for subsequent presentations of the same program.
- (G) A minimum of 2 hours in the renewal period must be obtained in infection control continuing education.
- (H) A minimum of 2 hours in the renewal period must be obtained in each area for which a licensee holds an expanded function permit.

007. UNPROFESSIONAL CONDUCT. Unprofessional conduct is set out in Neb. Rev. Stat. § 38-179 and includes the following:

- (A) Exercising influence on the consumer in such a manner as to exploit the patient or client for the financial gain of the applicant, credential holder or permit holder, or of a third party, which includes, but is not limited to, the promotion or sale of services, goods, appliances, or drugs;
- (B) Refusing to provide professional service to a consumer because of such consumer's race, creed, color, sex, national origin, disability, or familial status;
- (C) Providing dental assisting or expanded function dental assisting services contrary to the current statutes and regulations;
- (D) Any departure from or failure to conform to the ethics of the "AMERICAN DENTAL ASSISTANT ASSOCIATION (ADAA) PRINCIPLES OF ETHICS AND CODE OF CONDUCT" as published in 2013;
- (E) Misrepresentation of material facts in applying for or procuring a renewal of a credential or permit;
- (F) Misrepresenting the material facts of one's credentials in an application submitted to a healthcare facility, insurance company, or prospective employer; or
- (G) Disruptive behavior as manifested by the credential holder's aberrant behavior which interferes with consumer care or could reasonably be expected to interfere with consumer care, including, but not limited to, the following:
 - (i) Outbursts of rage or violent behavior;
 - (ii) Throwing of instruments, records, or objects;
 - (iii) Insulting comments to a consumer, consumer's family, dental staff, or other healthcare professionals;
 - (iv) Striking or assaulting a consumer, consumer's family member, dental staff, or other healthcare professionals; or
 - (v) Poor hygiene.

008. COURSE APPROVAL CRITERIA. The following criteria must be met to obtain approval for all courses except for simple restoration for one surface, complex restorations for multiple surfaces, and coronal polishing:

- (A) Be part of an accredited dental assisting training program or offered as a separate course by a program accredited by the American Dental Association Commission on Dental Accreditation or a substantially equivalent accrediting organization;
- (B) Be led by an instructor of the course who is qualified by education and experience; and
- (C) Provide the attendee with written verification of demonstrated competency upon completion of the course.

008.01 DENTAL X-RAY. To obtain approval as a dental x-ray course the course must include a minimum of 16 hours of classroom instruction on dental x-ray.

008.02 FIXED PROSTHODONTICS. To obtain approval as a fixed prosthodontics course the course must include both written and practical examinations to determine whether the student has demonstrated the necessary knowledge and proficiency to complete final impressions and records for fixed prostheses.

008.03 FINAL DENTAL IMPRESSIONS AND MINOR ADJUSTMENTS FOR REMOVABLE PROSTHESES. To obtain approval as a final dental impressions and minor adjustments course the course must include both written and practical examinations to determine whether the student has demonstrated the necessary knowledge and proficiency to complete final impressions and records for and to make minor adjustments to definitive prostheses.

008.04 CEMENTING PREFABRICATED FIXED PROSTHESES ON PRIMARY TEETH. To obtain approval as a cementing prefabricated fixed prostheses on primary teeth course the course must include both written and practical examinations to determine whether the student has demonstrated the necessary knowledge and proficiency to fit and cement primary crowns.

008.05 MONITORING AND ADMINISTERING NITROUS OXIDE ANALGESIA. To obtain approval as a monitoring and administering nitrous oxide analgesia course the course must include both written and practical examinations to determine whether the student has demonstrated the necessary knowledge and proficiency to monitor and administer nitrous oxide.

008.06 SIMPLE RESTORATION FOR ONE SURFACE. To obtain approval as a simple restoration for one surface course the course must:

- (A) Be offered as a separate course by a program accredited by the American Dental Association Commission on Dental Accreditation or a substantially equivalent accrediting organization;
- (B) Be led by an instructor of the course who is qualified by education and experience;
- (C) Provide the attendee with written verification of demonstrated competency upon completion of the course; and
- (D) Include both written and practical examinations to determine whether the student has acquired the necessary knowledge and proficiency to place simple restorations for one surface which can include Class I, Class V, or Class VI.

008.07 COMPLEX RESTORATIONS FOR MULTIPLE SURFACES. To obtain approval as a complex restorations for multiple surfaces course the course must:

- (A) Be offered as a separate course by a program accredited by the American Dental Association Commission on Dental Accreditation or a substantially equivalent accrediting organization;
- (B) Be led by an instructor of the course who is qualified by education and experience;
- (C) Provide the attendee with written verification of demonstrated competency upon completion of the course; and
- (D) Include both written and practical examinations to determine whether the student has acquired the necessary knowledge and proficiency to place complex restorations for multiple surfaces which can include Class II, Class III, or Class IV.

008.08 CORONAL POLISHING. To obtain approval as a coronal polishing course, the course must.

- (A) Be offered at an accredited college or institution;
- (B) Be led by an instructor of the course who is qualified by education and experience; and
- (C) Contain a minimum of 14 contact hours of coronal polishing instruction which include at least 10 hours of didactic instruction and 4 hours of clinical participation.

008.09 COURSE CHANGES. All entities with approved courses shall keep the Board of Dentistry informed of any changes in course objectives and content at the time such change occurs.

008.10 CONDITIONS OF APPROVAL. Courses that fail to meet or continue to meet criteria for approval of a course may be denied or rescinded upon recommendation by the Board of Dentistry.

009. EXPANDED FUNCTION PERMIT. To obtain a permit to practice an expanded function, an individual must submit a completed application provided by the Department and meet the requirements of Neb. Rev. Stat. § 38-1118.03, Neb. Rev. Stat. § 38-1135, and the following:

009.01 EDUCATION. Provide to the Department:

- (A) Employment or staffing records or other reports from an employer(s) demonstrating 1,500 hours of experience as a licensed dental assistant;
- (B) Documentation of successful completion, after obtaining an initial license to practice dental assisting, of an approved course for the expanded function permit that has been requested; and
- (C) Score reports sent directly to the Department from the issuing institution showing successful completion of one or both examinations taken after 1500 hours of work experience, for simple restoration for one surface or complex restoration for multiple surfaces with a score of 75 or above to demonstrate meeting the requirements of this chapter.

009.02 EXAMINATION.

- (A) An applicant for a permit to perform simple restoration for one surface must pass the practical examination on simple restoration for one surface administered by the Central Regional Dental Testing Service or any other comparable regional or state practical examination approved by the Board of Dentistry with a score of 75 or above;

- (B) An applicant for a permit to perform complex restoration on multiple surfaces must pass the practical examination on complex restoration for multiple surfaces administered by the Central Regional Dental Testing Service or another comparable regional or state practical examination approved by the Board of Dentistry with a score of 75 or above;
- (C) Pass the jurisprudence exam specific to expanded functions with a score of 75 or above; and
- (D) Scores from any of the practical examinations approved by the board are good for up to five years from the date the examination was passed.

010. CORONAL POLISHING. Dental assistants may under indirect supervision of a licensed dentist, polish all exposed tooth surface with a rubber cup or brush driven by a conventional slow-speed hand piece, after meeting the requirements of Dentistry Practice Act and the following:

010.01 REQUIREMENTS. The following requirements must be met prior to providing coronal polishing procedures.

- (A) EDUCATION. Have graduated from a dental assisting training program which is accredited and includes a coronal polishing course; or
- (B) EXPERIENCE. Have 1 year (a minimum of 1,500 hours) of clinical work experience as a dental assistant and have successfully completed a course in polishing procedures which is approved by the Board and the Department.

011. ADDITIONAL PROCEDURES. Additional allowed dental procedures are set out in Neb. Rev. Stat. § 38-1135 and this chapter.

011.01 MONITORING NITROUS OXIDE. To monitor nitrous oxide a dental assistant must hold current certification in healthcare cardiopulmonary resuscitation (CPR) from a course accredited by the American Heart Association, American Red Cross, or an equivalent certification approved by the Board of Dentistry.

011.02 ADDITIONAL DUTIES AS ASSIGNED. A dental assistant under the supervision of a licensed dentist may perform the following:

- (A) Provide infection control practices which meet the national standards for dental facilities as outlined by the Centers for Disease Control Summary of Infection Prevention Practices In Dental Settings as published October of 2016; and
- (B) Complete any task or procedure, that does not require the professional skill or judgment of a licensed dentist or licensed hygienist, except the following;
 - (i) Cutting of hard and soft tissue;
 - (ii) Irreversible procedures;
 - (iii) Restorative dentistry;
 - (iv) Making a dental diagnosis; or
 - (v) Fabricating a treatment plan.

012. REINSTATEMENT. For reinstatement, the applicant must meet the requirements set out in 172 NAC 10.

013. LICENSE FEES. The initial and renewal fees for dental assistant licenses are \$95 each.

DRAFT
04-12-2022

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 53

013.01 EXPANDED FUNCTION PERMIT. The initial and renewal fees for expanded function permits are \$25 each.

013.02 ADDITIONAL PROCEDURES. Fees to add additional procedures to a license that require proof of education and examination are \$10 per application.

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 56 LICENSURE OF DENTISTS; MINIMAL, MODERATE, OR GENERAL ANESTHESIA / DEEP SEDATION

001. SCOPE AND AUTHORITY. These regulations govern the licensure of dentistry under Nebraska Revised Statutes (Neb. Rev. Stats.) §§ 38-1101 to 38-1152 of the Dentistry Practice Act and the Uniform Credentialing Act.

002. DEFINITIONS. Definitions set out in the Dentistry Practice Act, the Uniform Credentialing Act, Title 172 Nebraska Administrative Code (NAC) 10, 172 NAC 53, and 172 NAC 57 apply to this chapter.

003. LICENSE REQUIREMENTS. To obtain a temporary license or an initial license, an individual must submit a complete application provided by the Department, provide documentation demonstrating that the applicant meets the licensing requirements of Neb. Rev. Stat. §§ 38-1117 or 38-1120, Neb. Rev. Stat. § 38-131, 172 NAC 10, and these regulations.

003.01 EXPERIENCE. Applicants applying for an initial license or a temporary license on the basis of a credential in another jurisdiction must provide direct source verification of certification of a credential to practice dentistry submitted to the Department by the jurisdiction.

003.02 EXAMINATION. Applicants must:

- (A) Demonstrate passage of the licensure examination with a score of 75 or above on Part I and Part II of the National Board Dental Examinations, the Integrated National Board Dental Examination given by the Joint Commission on National Dental Examinations (JCNDE), or equivalent as approved by the Board;
- (B) Demonstrate passage of the practical examination with the score of 75 or above on each part of the examination within the past 5 years; and
- (C) Demonstrate passage of a jurisprudence examination with a score of 75 or above.

003.03 RECIPROCITY. To obtain a license based on reciprocity, an applicant must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets the requirements of Neb. Rev. Stat. § 38-129.02, 172 NAC 10, and this chapter.

003.04 RESIDENCY. All applicants receiving a license pursuant to 172 NAC 56 must submit documentation of establishing residency in Nebraska as required by Neb. Rev. Stat. § 38-129.02. Such documentation must be submitted within 90 days of establishment of residency and consist of a rental or lease agreement with the signature of the owner or landlord and the applicant, a deed or title to residential real property with the name of the applicant as an owner,

or documents with the name and address of the applicant such as mortgage bills, home utility bills, medical or employee documents or similar documents that show the applicant residing in Nebraska.

004. DENTAL LOCUM TENENS. A dental locum tenens license may be issued under the following circumstances:

- (A) The unavailability of a Nebraska licensed dentist due to vacation, sickness or hospitalization, or other similar leaves of absence;
- (B) A public health emergency in the state of Nebraska such as incidents of widespread disease, natural or manmade disaster, or similar causes; or
- (C) For volunteer dental services such as the Mission of Mercy Program.

004.01 DENTAL LOCUM TENENS REQUIREMENTS. To receive a dental locum tenens license, an applicant must submit a completed application provided by the Department and meet all requirements set in Neb. Rev. Stat. §§ 38-1122 and the requirements in this chapter.

005. REMEDIAL COURSE. Any applicant who has failed on two occasions to pass any part of the practical examination will be required to complete a remedial course in accordance with Neb. Rev. Stat. § 38-1119. To receive approval of a remedial course an applicant must submit a complete application and the following:

- (A) Description of the subject matter of the remedial course. The subject matter for the remedial course must cover the content of the section(s) of the regional or state practical examination that the applicant failed;
- (B) Name, title, and qualifications (vitae or resume) of faculty member providing the remedial instruction;
- (C) Number of hours of didactic instruction, number of hours of clinical instruction, number of hours under direct supervision, and total number of hours in the remedial course. A remedial course must include a minimum of 15 hours of didactic and clinical instruction, of which at least 10 hours must be under the direct supervision of the faculty member providing the remedial instruction;
- (D) A written plan of evaluation for the course, indicating the method of evaluation;
- (E) A statement bearing the school seal from the institution providing the remedial course indicating that the course meets the criteria for approval; and
- (F) The signature of the faculty member providing course and the date signed.

006. RENEWAL, WAIVER OF CONTINUING EDUCATION, AND INACTIVE STATUS. The applicant must meet the requirements set out in 172 NAC 10. All dentistry licenses and permits expire on March 1 of each odd-numbered years.

007. CONTINUING EDUCATION. On or before March 1 of each odd-numbered year, each dentist holding an active license must complete at least 30 hours of acceptable continuing education during the preceding 24-month period. Each licensee is responsible for maintaining certificates or records of continuing education. A dentist holding a dental locum tenens license is not required to meet continuing education requirements. Temporary dental licenses will expire 1 year from the date of issuance, or when the postgraduate or residency program ends and are not required to meet continuing education requirements.

007.01 ACCEPTABLE CONTINUING EDUCATION TOPICS AND ACTIVITIES. The following are acceptable continuing education sources and activities:

- (A) State and national meetings of the local, state, or American Dental Association, local, state, or National Dental Association, or educational programs sponsored by the recognized specialty groups in dentistry of the American Dental Association;
- (B) Attendance at district meetings and study clubs;
- (C) Formal education courses which relate directly to the practice of dentistry;
- (D) College or University-sponsored courses in continuing education in dentistry;
- (E) Licensee acting as table clinician or lecturer to licensed dentists, licensed dental hygienists, licensed or unlicensed dental assistants or licensee attending table clinics;
- (F) Home study with a testing mechanism. If there is not a testing mechanism or certificate of completion, the licensee must submit an abstract or summary of the material covered to the Board of Dentistry. The abstract or summary must be written by only the licensee and will be reviewed. Interactive webinars which include the ability of the participant to interact with the presenter are not considered home study;
- (G) Direct clinical observation;
- (H) Initial cardiopulmonary resuscitation (CPR) certification or cardiopulmonary resuscitation recertification;
- (I) Faculty overseeing dental clinic education of students;
- (J) Dental public health continuing education;
- (K) Ethics and professionalism continuing education;
- (L) Well-being or substance abuse continuing education;
- (M) Infection control continuing education;
- (N) Practice management continuing education;
- (O) Administration and management of anesthesia or sedation for the dental office continuing education;
- (P) Prescribing opiates and the prescription drug monitoring program continuing education; or
- (Q) Participating in a volunteer activity such as Mission of Mercy or equivalent.

007.02 CONTINUING EDUCATION CRITERIA. To be considered acceptable for continuing education, the activity must meet the following criteria:

- (A) Be at least 50 minutes in duration;
- (B) Objectives must relate to the practice of dentistry;
- (C) Presenters must be qualified by education, experience, or training;
- (D) Must be open to all licensed dentists who meet the pre-requisites for the activity; and
- (E) The provider must have a process for verifying attendance and issue a certificate of attendance for each participant. Each certificate must include the following:
 - (i) Program name;
 - (ii) Name of the participant and the participant's license number;
 - (iii) Provider's name;
 - (iv) Dates the activity began and ended; and
 - (v) Number of hours attended by the licensee.

007.03 CRITERIA FOR A HOME STUDY PROGRAM. To be considered acceptable for continuing education, a home study program must meet the following criteria:

- (A) Objectives must relate to the practice of dentistry;

- (B) Must have a post-test or other method of assessment which verifies that the licensee completed the program; and
- (C) The authors(s) or developer(s) of the program must meet the following qualifications:
 - (i) Experience in the content and subject matter of the program;
 - (ii) Expertise in teaching and instructional methods suitable to the subject presented; and
 - (iii) Suitable academic qualifications, certification credentials, or experience for or in the subject of the program.

007.04 CREDIT HOUR CALCULATIONS. Credits earned in excess of thirty hours in a 24 month renewal period do not carry over into the following period. A dentist may receive credit for acceptable continuing education activities, subject to the credit number limitations and requirements set out below:

- (A) A maximum of 10 hours each in a renewal period may be obtained through home study or for initial cardiopulmonary resuscitation (CPR) certification;
- (B) A maximum of 2 hours each in a renewal period may be obtained as a table clinician or lecturer or for direct clinical observation;
- (C) A maximum of 4 hours each in a renewal period may be obtained for cardiopulmonary resuscitation (CPR) re-certification or practice management continuing education;
- (D) A maximum of 5 hours in a renewal period may be obtained for faculty overseeing dental clinic education of students;
- (E) A minimum of 2 hours in a renewal period must be obtained in infection control continuing education;
- (F) If the licensee prescribes controlled substances, continuing education that meets the requirements set in Neb. Rev. Stat. § 38-145;
- (G) A minimum of 6 hours in a renewal period must be obtained in general anesthesia or sedation administration and management for the dental office continuing education for licensees holding any level of sedation permit;
- (H) A licensee who is a presenter of a continuing education program may receive a maximum of 2 hours for the creation of a presentation, and a maximum of 2 hours for the initial presentation of the program during a renewal period. Credit will not be given to the licensee for subsequent presentations of the same program; or
- (I) A maximum of 5 hours in a renewal period for participating in a volunteer activity such as Mission of Mercy or equivalent.

008. UNPROFESSIONAL CONDUCT. Unprofessional conduct is set out in Neb. Rev. Stat. § 38-179 and includes the following:

- (A) Failure to keep written dental records and medical history records justifying the course of treatment of the consumer including, but not limited to, patient histories, examination results, test results, and X-rays, if taken;
- (B) Exercising influence on the consumer in such a manner as to exploit the consumer for the financial gain of the applicant, credential holder or permit holder, or of a third party, which includes, but is not limited to, the promotion or sale of services, goods, appliances, or drugs;
- (C) Refusing to provide professional service to a consumer because of such consumer's race, creed, color, sex, national origin, disability, or familial status;
- (D) Prescribing, selling, administering, or distributing any drug legally classified as a prescription drug other than for accepted dental therapeutic purposes;

- (E) Use of nitrous oxide or inhalants for other than dental therapeutic purposes;
- (F) Giving fraudulent prescriptions;
- (G) Maintaining fraudulent controlled substance records;
- (H) Failure to furnish the Board or Department, their inspectors or representatives, information legally requested by the Board or the Department;
- (I) Failure to submit a written report to the Board as required by Neb. Rev. Stat. § 38-1147;
- (J) Allowing a dental hygienist, licensed dental assistant, or a dental assistant to provide or perform services contrary to the statutes or regulations;
- (K) Any departure from or failure to conform to the American Dental Association's (ADA) Principles of Ethics and Code of Professional Conduct as published in November, 2018 excluding section 4.A. Patient Selection;
- (L) Misrepresenting the material facts of an individual's credential(s) in an application submitted to a healthcare facility, insurance company, or prospective employer;
- (M) Prescribing drugs to an individual based solely on answers to questions provided by tele-dentistry without first establishing a proper dentist-patient relationship;
- (N) Disruptive behavior such as:
 - (i) Outbursts of rage or violent behavior;
 - (ii) Throwing of instruments, records, or objects;
 - (iii) Striking, assaulting, or using insulting comments to a consumer, consumer's family member, dental staff, or other healthcare professionals; or
 - (iv) Poor hygiene;
- (O) Refusal to cooperate or failure to furnish requested information during any investigation by the Department;
- (P) Failure to ensure that the location requirements in this chapter for a general anesthesia or deep sedation permit or moderate sedation permit are met when the anesthesia or sedation for dental procedures at the location is provided by the dentist or an individual other than the dentist;
- (Q) Failure to exercise appropriate supervision over persons who are authorized to practice only under the supervision of a dentist; or
- (R) Advertising as an American Dental Association Specialist without having completed a post-doctoral program in a specialty area of dentistry consisting of at least 2 full-time years and which is accredited by an accreditation agency that is recognized by the United States Department of Education.

009. INITIAL ANESTHESIA OR SEDATION PERMIT. To receive a permit to administer general anesthesia or deep sedation, moderate sedation or minimal sedation at a location, an individual must submit a complete application for each location and meet all statutory requirements and the requirements in this chapter.

009.01 EDUCATION. An applicant must demonstrate the following:

- (A) For a general anesthesia or deep sedation permit:
 - (i) Fellowship in the American Dental Society of Anesthesiology; or
 - (ii) Successful completion of an advanced education program that is equivalent to that required for obtaining a fellowship as approved by the Board.
- (B) For a moderate sedation permit:
 - (i) Fellowship in the American Dental Society of Anesthesiology; or

- (ii) Successful completion of an advance education program approved by the Board that has at least 60 combined didactic and clinical hours of comprehensive and appropriate training necessary to administer and manage moderate sedation.
- (C) For a minimal sedation permit:
 - (i) Successful completion of an advanced education program approved by the Board that has at least 16 hours of comprehensive and appropriate training necessary to administer and manage minimal sedation;
 - (ii) Training to the level of competency in minimal sedation consistent with the standards set by the American Dental Association for providing such sedation or approved by the board as substantially equivalent to such training; or
 - (iii) A comprehensive training program in minimal sedation approved by the Board.

009.02 CERTIFICATION. An applicant must demonstrate the following:

- (A) For a general anesthesia or deep sedation permit:
 - (i) Current certification in basic life-support skills for health care providers from the American Heart Association or from a substantially equivalent course as approved by the Board;
 - (ii) Current certification in a hands on advanced cardiac life support from the American Heart Association; or
 - (iii) Successful completion of an emergency management course for anesthesia and dental sedation approved by the Board as substantially equivalent to the course in this chapter.
- (B) For a moderate sedation permit:
 - (i) Current certification in basic life-support skills for health care providers from the American Heart Association or from a substantially equivalent course as approved by the Board; and
 - (ii) Successful completion of an emergency management course for anesthesia and dental sedation approved by the Board as substantially equivalent to the course in this chapter.
- (C) For a minimal sedation permit:
 - (i) Meet the requirements set out in this chapter; and
 - (ii) If sedation will be provided to individuals 12 years of age and under, have current certification in pediatric advanced life support from the American Heart Association or from a substantially equivalent course as approved by the Board.

009.03 FACILITY REQUIREMENTS. An applicant must demonstrate the following:

- (A) For a general anesthesia or deep sedation permit or for a moderate sedation permit, each location must have the following:
 - (i) An operating room large enough to accommodate a patient on a table or in an operating chair and to allow an operating team consisting of at least 3 individuals to freely move about the patient;
 - (ii) An operating table or chair which permits a patient to be positioned so the operating team can maintain an airway, quickly alter a patient's position in an emergency and provide a firm platform for the management of cardiopulmonary resuscitation (CPR);
 - (iii) A lighting system which permits evaluation of a patient's skin and mucosal color and a backup lighting system which is battery powered or on-site generator

- powered and of an intensity to permit completion of any operation underway at the time of a general power failure;
- (iv) Suction equipment which permits aspiration of the oral and pharyngeal cavities. A backup suction device must be available;
 - (v) An oxygen delivery system with full face masks and connectors that is capable of delivering 100% oxygen to a patient under positive pressure, together with a backup system;
 - (vi) A recovery area that has oxygen, lighting, suction, and electrical outlets. The recovery area can be the operating room. A member of the staff must be able to observe the patient at all times during the recovery period;
 - (vii) Ancillary equipment, which includes the following:
 - (1) Laryngoscope complete with selection of blades and spare batteries and bulb;
 - (2) Endotracheal tubes and connectors;
 - (3) Oral airways;
 - (4) Endotracheal tube forceps;
 - (5) Pulse oximeter;
 - (6) Carbon Dioxide (CO₂) monitor (general anesthesia or deep sedation and either (6) or (7) for moderate sedation);
 - (7) Precordial stethoscope (general anesthesia or deep sedation and either (6) or (7) for moderate sedation; and
 - (8) Electrocardiogram (EKG) (general anesthesia and deep sedation only);
 - (viii) Drugs with current dates available for treatment of the following medical emergencies:
 - (1) Laryngospasm and myocardial infarction (general anesthesia or deep sedation only);
 - (2) Bronchospasm;
 - (3) Angina pectoris;
 - (4) Hypotension;
 - (5) Hypertension;
 - (6) Cardiac arrest (general anesthesia or deep sedation only);
 - (7) Convulsions; and
 - (8) Respiratory arrest;
 - (ix) Drugs for the reversal of anesthesia or sedation agents; and
 - (x) Written procedures for the following:
 - (1) Preoperative evaluation of patients;
 - (2) Management of medical at-risk patients;
 - (3) Technique and method of administration of general anesthesia or deep sedation or moderate sedation, as applicable; and
 - (4) Management of emergencies; and
- (B) For a minimal sedation permit, each location must:
- (i) Have an operating room large enough to accommodate a patient on a table or in an operating chair and to permit an operating team consisting of at least 2 individuals to freely move about the patient; and
 - (ii) Meet the requirements of this chapter and have oral pharyngeal airway(s), sphygmomanometer, pulse oximeter and a stethoscope.

009.04 STANDARDS OF OPERATION, CARE, AND TREATMENT. The permit holder for each location has the responsibility for the total operation of the location and administration of anesthesia. The permit holder responsibilities include:

- (A) Ensuring compliance with all applicable state statutes and relevant rules and regulations;
- (B) Verifying the current licensure, certification, registration, or other credentials of staff prior to the staff assuming job responsibilities and must have implement procedures for verifying that such credentials are maintained;
- (C) Ensuring that each location maintains compliance with the requirements of this chapter, as applicable to the type of permit held; ~~and~~
- (D) Ensure all sedation medications are administered per manufacturers labeled instructions; and
- (DE) Ensuring the following documentation is kept:
 - (i) For a general anesthesia or deep sedation permit or for a moderate sedation permit, each location must maintain records which include the following:
 - (1) Medical history and physical evaluation records for each patient;
 - (2) Anesthesia records for each patient, which must include blood pressure, pulse, drugs and amounts administered, length of the procedure, and any complications of anesthesia;
 - (3) Name of and documentation verifying any person who assists a dentist in the administration of general or deep sedation or moderate sedation for each procedure; and
 - (4) Documentation that each staff member assisting the permit holder during a procedure has a current certification in basic life-support for health care providers and the permit-holder performing a procedure has current certification in either advanced cardiac life support or has successfully completed an approved emergency management course for anesthesia and dental sedation.
 - (ii) For a minimal sedation permit, each location must maintain records which include the following:
 - (1) Medical history prior to the administration of minimal sedation and physical evaluation records for each patient;
 - (2) Documentation of the medication and dosage administered for each patient;
 - (3) Name of the permit holder and any person who assists the permit holder after the administration of minimal sedation for each procedure; and
 - (4) Documentation verifying that the permit holder and any person who assists the permit holder after the administration of minimal sedation has a current certification as set out in this chapter, as applicable.

010. ADDITIONAL PROCEDURES. A dentist may only delegate duties to a dental assistant, a licensed dental assistant or expanded function dental assistant, a dental hygienist or expanded function dental hygienist as provided by Neb. Rev. Stats. § 38-1135, § 38-1136, § 38-1152, 172 NAC 53, and 172 NAC 57.

011. REINSTATEMENT. For reinstatement, the applicant must meet the requirements set out in 172 NAC 10.

012. FEES. Fees are set out in 172 NAC 2 and these regulations.

DRAFT
04-12-2022

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 56

012.01 ANESTHESIA PERMIT FEES. The initial and renewal fees for all anesthesia permits is \$200.

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 57 LICENSURE OF DENTAL HYGIENISTS

001. SCOPE AND AUTHORITY. These regulations govern the licensure of dental hygienists under Nebraska Revised Statutes (Neb. Rev. Stats.) §§ 38-1101 to 38-1152 of the Dentistry Practice Act and the Uniform Credentialing Act.

002. DEFINITIONS. Definitions set out in the Dentistry Practice Act, the Uniform Credentialing Act, Title 172 Nebraska Administrative Code (NAC) 10, and the following apply to this chapter.

002.01 IMPRESSION. Techniques used to produce a three dimensional record of an anatomic structure.

002.01(A) FINAL IMPRESSION. A type of oral impression from which a positive reproduction (cast or model) can be formed to enable fabrication of a fixed or removable dental prosthesis.

002.01(B) PRELIMINARY IMPRESSION. A type of oral impression from which a positive reproduction (cast or model) can be formed to fabricate stints, stents, splints, bleaching trays, mouth guards, custom trays, orthodontic appliances and devices and therapeutic appliances or for direct (intraoral) fabrication of a provisional fixed prostheses. A preliminary impression may not be used for indirect fabrication of a fixed or removable prosthesis.

002.02 ORTHODONTIC APPLIANCES. Braces, brackets, tubes, wires, ties, and similar material used in realigning teeth.

002.03 ORTHODONTIC DEVICES. Devices used to correct or maintain tooth position or occlusal relationship. Such devices include retainers, space maintainers, expanders, clear aligners, and similar functional devices.

002.04 PROSTHESIS. Artificial replacement of any part of the body related to teeth, jaws, or related structures.

002.04(A) DEFINITIVE REMOVABLE PROSTHESIS. Prosthesis which is used over an extended period of time.

002.04(B) DENTAL PROSTHESIS. Any device or appliance that replaces one or more missing teeth or associated structures. It includes crowns, inlays or onlays, bridges, dentures, obturators, or gingival prostheses.

002.04(C) FIXED PROSTHESIS. Non-removable dental prosthesis which is solidly attached to abutment teeth, roots, or implants.

002.04(D) FIXED REMOVABLE PROSTHESIS. Combined prosthesis, one or more parts of which are fixed, and the other(s) attached by devices which allow their detachment, removal and reinsertion by the dentist only.

002.04(E) INTERIM PROSTHESIS. A prosthesis designed for use over a limited period of time.

002.04(F) REMOVABLE PROSTHESIS. Complete or partial prosthesis which can be removed and reinserted by the consumer.

002.05 RESTORATION.

002.05(A) SIMPLE RESTORATION FOR ONE SURFACE. A restoration that involves single surfaces of a tooth as in Class I, Class V, and Class VI restorations.

002.05(A)(i) CLASS I RESTORATION. Restoration of a lesion or cavity that occurs in pits and fissures on the facial, lingual, and occlusal surfaces of molars and premolars and lingual surfaces of maxillary anterior teeth.

002.05(A)(ii) CLASS V RESTORATION. Restoration of a lesion or cavity that occurs in smooth facial and lingual surfaces in the gingival third of a tooth.

002.05(A)(iii) CLASS VI RESTORATION. Restoration of a lesion or cavity that occurs on the incisal edges of anterior teeth or cusp tips of posterior teeth.

002.05(B) COMPLEX RESTORATION FOR MULTIPLE SURFACES. Restoration of a tooth that involves multiple surfaces of the tooth, as in Class II, Class III, and Class IV restorations.

002.05(B)(i) CLASS II RESTORATION. Restoration of a lesion or cavity that occurs in the proximal surfaces of the posterior teeth (molars and premolars).

002.05(B)(ii) CLASS III RESTORATION. Restoration of a lesion or cavity that occurs in the proximal surfaces of anterior teeth and do not involve an incisal angle.

002.05(B)(iii) CLASS IV RESTORATION. Restoration of a lesion or cavity that occurs in the proximal surfaces of the anterior teeth that involves an incisal angle.

002.06 THERAPEUTIC DENTAL APPLIANCE. An appliance designed to treat a dental condition or used as a surgical stent or radiographic guide.

003. LICENSE REQUIREMENTS. To obtain a license, an individual must submit a complete application provided by the Department, provide documentation demonstrating that the applicant meets the licensing requirements set out in Neb. Rev. Stat. §§ 38-1118 to §§ 38-1118.01, 172 NAC 10, and this chapter.

003.01 EXAMINATION. The applicant must be able to demonstrate completion of all of the following:

- (A) Pass the licensure examination given by the Joint Commission on National Board Dental Hygiene Examinations (JCNBDHE) with a score of 75 or above;
- (B) Pass the practical examination administered by the Central Regional Dental Testing Services (CRDTS) with a score of 75 or above or any other regional or state practical examination that the Board of Dentistry determines is substantially equivalent to such practical examination. Scores from any of the licensure practical examinations approved by the Board are accepted for up to 5 years from the date the examination was passed; and
- (C) Pass the jurisprudence examination with a score of 75 or above.

003.02 RECIPROCITY. To obtain a license based on reciprocity, an applicant must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets the requirements of Neb. Rev. Stat. § 38-129.02, 172 NAC 10, and this chapter.

003.03 RESIDENCY. All applicants receiving a license pursuant to 172 NAC 57 must submit documentation of establishing residency in Nebraska as required by Neb. Rev. Stat. § 38-129.02. Such documentation must be submitted within 90 days of establishment of residency and consist of a rental or lease agreement with the signature of the owner or landlord and the applicant, a deed or title to residential real property with the name of the applicant as an owner, or documents with the name and address of the applicant such as mortgage bills, home utility bills, medical or employee documents or similar documents that show the applicant residing in Nebraska.

004. REMEDIAL COURSE. Any applicant who has failed on two occasions to pass any part of the practical examination will be required to complete a remedial course in accordance with Neb. Rev. Stat. § 38-1119. To receive approval of a remedial course an applicant must submit a complete application and the following:

- (A) Description of the subject matter of the remedial course. The subject matter for the remedial course must cover the content of the section(s) of the regional or state practical examination that the applicant failed;
- (B) Name, title, and qualifications (vitae or resume) of faculty member providing the remedial instruction;
- (C) Number of hours of didactic instruction, number of hours of clinical instruction, number of hours under direct supervision, and total number of hours in the remedial course. A remedial course must include a minimum of 15 hours of didactic and clinical instruction, of which at least 10 hours must be under the direct supervision of the faculty member providing the remedial instruction;
- (D) A written plan of evaluation for the course, indicating the method of evaluation;

- (E) A statement bearing the school seal from the institution providing the remedial course indicating that the course meets the criteria for approval; and
- (F) The signature of the faculty member providing course and the date signed.

005. RENEWAL, WAIVER OF CONTINUING EDUCATION, AND INACTIVE STATUS. The applicant must meet the requirements set out in 172 NAC 10. All dental hygiene licenses and permits expire on March 1 of each odd-numbered year.

006. CONTINUING EDUCATION. On or before March 1 of each odd-numbered year, each dental hygienist holding an active license must complete at least 30 hours of acceptable continuing education hours during the preceding 24-month period. Each licensee is responsible for maintaining certificates or records of continuing education.

006.01 ACCEPTABLE CONTINUING EDUCATION TOPICS AND ACTIVITIES. The following are acceptable continuing education topics and activities:

- (A) Attendance at meetings of the local, state, or national American Dental Association or local, state, or national American Dental Hygiene Association; local, state, or national American Dental Assistants Association; or educational programs sponsored by the recognized specialty groups in dentistry of the American Dental Association;
- (B) Attendance at district meetings and study clubs;
- (C) Formal education courses which relate directly to the practice of dentistry or dental hygiene;
- (D) College or University-sponsored courses in continuing education in dentistry or dental hygiene;
- (E) Licensee acting as table clinician or lecturer to licensed dentists, licensed dental hygienists, licensed or unlicensed dental assistants or licensee attending table clinics;
- (F) Home study with a testing mechanism. If there is not a testing mechanism or certificate of completion, the licensee must submit an abstract or summary of the material covered to the Board of Dentistry. The abstract or summary must be written by only the licensee and will be reviewed. Interactive webinars which include the ability of the participant to interact with the presenter are not considered home study;
- (G) Direct clinical observation;
- (H) Initial cardiopulmonary resuscitation (CPR) certification or cardiopulmonary resuscitation recertification;
- (I) Faculty overseeing dental clinic education of students;
- (J) Dental public health continuing education;
- (K) Ethics and professionalism continuing education;
- (L) Well-being or substance abuse continuing education;
- (M) Infection control continuing education;
- (N) Practice management continuing education;
- (O) Presentation or development of a continuing education program for dental hygienists by a licensee;
- (P) Expanded functions for which the licensee holds a permit; or
- (Q) Participating in a volunteer activity such as Mission of Mercy or equivalent.

006.02 NO PRE-APPROVAL. The Board of Dentistry does not pre-approve continuing education programs or activities.

006.03 CONTINUING EDUCATION CRITERIA. To be considered acceptable for continuing education, the activity must meet the following criteria:

- (A) Be at least 50 minutes in duration;
- (B) Objectives must relate to the practice of dental hygiene;
- (C) Presenters must be qualified by education, experience, or training;
- (D) Must be open to all licensed dental hygienists who meet the pre-requisites for the activity; and
- (E) The provider must have a process for verifying attendance and issue a certificate of attendance for each participant. Each certificate must include the following:
 - (i) Program name;
 - (ii) Name of the participant and the participant's license number;
 - (iii) Provider's name;
 - (iv) Dates the activity began and ended; and
 - (v) Number of hours attended by the licensee.

006.04 CRITERIA FOR A HOME STUDY PROGRAM. To be considered acceptable for continuing education, a home study program must meet the following criteria;

- (A) Objectives must relate to the practice of dental hygiene;
- (B) Must have a post-test or other method of assessment which verifies that the licensee completed the program; and
- (C) The authors(s) or developer(s) of the program must meet the following qualifications:
 - (i) Experience in the content and subject matter of the program;
 - (ii) Expertise in teaching and instructional methods suitable to the subject presented; and
 - (iii) Suitable academic qualifications, certification credentials, or experience for or in the subject of the program.

006.05 CREDIT HOUR CALCULATIONS. Credits earned in excess of thirty hours in a 24-month renewal period do not carry over into the following period. A dental hygienist may receive credit for acceptable continuing education activities, subject to the credit number limitations and requirements set out below:

- (A) A maximum of 10 hours each in a renewal period may be obtained through home study or for initial cardiopulmonary resuscitation (CPR) certification;
- (B) A maximum of 2 hours each in a renewal period may be obtained as a table clinician or lecturer or for direct clinical observation;
- (C) A maximum of 4 hours each in a renewal period may be obtained for cardiopulmonary resuscitation (CPR) re-certification or practice management continuing education;
- (D) A maximum of 5 hours each in a renewal period may be obtained for faculty overseeing student dental hygiene or expanded function dental hygiene clinics, dental public health continuing education activities, well-being or substance abuse continuing education activities or ethics and professionalism continuing education;
- (E) A minimum of 2 hours in a renewal period must be obtained in infection control continuing education;
- (F) A minimum of 2 hours in a renewal period must be obtained in each area for which a licensee holds an expanded function permit;
- (G) A licensee who is a presenter of a continuing education program may receive a maximum of 2 hours for the creation of a presentation, and a maximum of 2 hours for

- the initial presentation of the program during a renewal period. Credit will not be given to the licensee for subsequent presentations of the same program; or
- (H) A maximum of 5 hours in a renewal period for participating in a volunteer activity such as Mission of Mercy or equivalent.

007. UNPROFESSIONAL CONDUCT. Unprofessional conduct is set out in Neb. Rev. Stat. § 38-179 and includes the following:

- (A) Exercising influence on the consumer in such a manner as to exploit the consumer for the financial gain of the applicant, credential holder or permit holder, or of a third party, which includes, but is not limited to, the promotion or sale of services, goods, appliances, or drugs;
- (B) Refusing to provide professional service to a consumer because of such consumer's race, creed, color, sex, national origin, disability, or familial status;
- (C) Prescribing, selling, administering, or distributing any drug legally classified as a prescription drug other than for accepted dental therapeutic purposes;
- (D) Giving fraudulent prescriptions;
- (E) Failure to furnish or refusal to cooperate with the Board or Department, their inspectors or representatives, information legally requested by the Board or the Department;
- (F) Any departure from or failure to conform to the CODE OF ETHICS FOR DENTAL HYGIENISTS of the "AMERICAN DENTAL HYGIENIST ASSOCIATION (ADHA) BYLAWS & CODE OF ETHICS" as published on June 25, 2018;
- (G) Misrepresentation of a material fact(s) in applying for or procuring a renewal of a credential or permit;
- (H) Misrepresenting the material facts of one's credential(s) in an application submitted to a healthcare facility, insurance company, or prospective employer; or
- (I) Disruptive behavior such as:
 - (i) Outbursts of rage or violent behavior;
 - (ii) Throwing of instruments, records, or objects;
 - (iii) Striking, assaulting, or using insulting comments to a consumer, consumer's family member, dental staff, or other healthcare professionals; or
 - (iv) Poor hygiene.

008. COURSE APPROVAL CRITERIA. The following criteria must be met to obtain approval for all courses except for simple restoration for one surface, complex restorations for multiple surfaces:

- (A) Be part of an accredited dental hygiene training program or be provided as a separate course by a program accredited by the American Dental Association Commission on Dental Accreditation or a substantially equivalent accrediting organization;
- (B) Be taught by an instructor who is qualified by education and experience; and
- (C) Provide the attendee with written verification of demonstrated competency upon completion of the course.

008.01 INTERIM THERAPEUTIC RESTORATION TECHNIQUE. To obtain approval as a course on interim therapeutic restoration technique the course must include both written and practical examinations to determine whether a student has demonstrated the necessary knowledge and proficiency to perform interim therapeutic restoration technique.

008.02 WRITING PRESCRIPTIONS FOR MOUTH RINSES AND FLUORIDE PRODUCTS.

To obtain approval as a course on writing prescriptions for mouth rinses and fluoride products the course must include written examinations to determine whether the student has demonstrated the necessary knowledge and proficiency to write prescriptions for mouth rinses and fluoride products.

008.03 ADMINISTERING AND TITRATING NITROUS OXIDE ANALGESIA.

To obtain approval as a course on administering and titrating nitrous oxide analgesia the course must include both written and practical examinations to determine whether a student has acquired the necessary knowledge and proficiency to administer and titrate nitrous oxide analgesia.

008.04 MINOR DENTURE ADJUSTMENTS.

To obtain approval as a course on minor denture adjustments the course must include both written and practical examinations to determine whether a student has acquired the necessary knowledge and proficiency to perform minor denture adjustments.

008.05 SIMPLE RESTORATION FOR ONE SURFACE.

To obtain approval as a simple restoration for one surface course the course must:

- (A) Be offered as a separate course by a program accredited by the American Dental Association Commission on Dental Accreditation or a substantially equivalent accrediting organization;
- (B) Be led by an instructor of the course who is qualified by education and experience;
- (C) Provide the attendee with written verification of demonstrated competency upon completion of the course; and
- (D) Include both written and practical examinations to determine whether the student has acquired the necessary knowledge and proficiency to place simple restorations for one surface which can include Class I, Class V, or Class VI.

008.06 COMPLEX RESTORATIONS FOR MULTIPLE SURFACES.

To obtain approval as a complex restorations for multiple surfaces course the course must:

- (A) Be offered as a separate course by a program accredited by the American Dental Association Commission on Dental Accreditation or a substantially equivalent accrediting organization;
- (B) Be led by an instructor of the course who is qualified by education and experience;
- (C) Provide the attendee with written verification of demonstrated competency upon completion of the course; and
- (D) Include both written and practical examinations to determine whether a student has acquired the necessary knowledge and proficiency to perform complex restorations for multiple surfaces which can include Class II, Class III, or Class IV.

008.07 ADMINISTERING LOCAL ANESTHESIA.

To obtain approval as a course on administering local anesthesia the course must:

- (A) Be offered by a program accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education; and
- (B) Meet the requirements set out in Neb. Rev. Stat. § 38-1132(2).

008.08 COURSE CHANGES.

All entities with approved courses must inform the Board of any changes in course objectives and content at the time such change occurs.

008.09 CONDITIONS OF APPROVAL. Courses that fail to meet the criteria for approval may be denied approval or have the approval rescinded by the Board or Department, as applicable.

009. EXPANDED FUNCTION PERMITS. To receive a permit to practice an expanded function an individual must submit a completed application and meet the requirements set forth in Neb. Rev. Stats. §§ 38-1118.01, 38-1130, 38-1132, and 38-1152, as applicable, and these regulations.

009.01 EDUCATION. Provide to the Department:

- (A) Employment or staffing records or other reports from an employer(s) demonstrating 1,500 hours of experience as a licensed dental hygienist in Nebraska or any United States jurisdiction with substantially similar standards or a combination of such experience as allowed by law;
- (B) Documentation of successful completion, after obtaining an initial license to practice dental hygiene, of an approved course for the expanded function permit that has been requested; and
- (C) Score reports sent directly to the Department from the issuing institution showing successful completion of one or both examinations taken after 1500 hours of work experience, for simple restoration for one surface or complex restoration for multiple surfaces with a score of 75 or above to demonstrate meeting the requirements of this chapter.

009.02 EXAMINATION.

- (A) An applicant for a permit to perform simple restoration for one surface must pass the practical examination on simple restoration for one surface administered by the Central Regional Dental Testing Service or any other comparable regional or state practical examination approved by the Board of Dentistry with a score of 75 or above;
- (B) An applicant for a permit to perform complex restoration on multiple surfaces must pass the practical examination on complex restoration for multiple surfaces administered by the Central Regional Dental testing Service or another comparable regional or state practical examination approved by the Board of Dentistry with a score of 75 or above;
- (C) Pass the jurisprudence exam specific to Expanded Functions with a score of 75 or above; and
- (D) Scores from any of the practical examinations approved by the board are good for up to five years from the date the examination was passed.

010. LOCAL ANESTHESIA PERMIT. To obtain a local anesthesia permit an individual must submit a completed application provided by the Department and meet the requirements set forth in Neb. Rev. Stat. § 38-1132.

011. PUBLIC HEALTH AUTHORIZATION. To obtain a public health authorization an individual must submit a completed application provided by the Department and meet the requirements set forth in Neb. Rev. Stat. § 38-1130.

012. ADDITIONAL PROCEDURES. In addition to those permitted by Neb. Rev. Stat. § 38-1133, and Neb. Rev. Stat. § 38-1136(5) a licensed dental hygienist under the supervision of a licensed dentist may perform the following:

- (A) Complete any task or procedure that does not require the professional skill or judgment of a licensed dentist except the following;
 - (i) Cutting of hard and soft tissue;
 - (ii) Irreversible procedures;
 - (iii) Restorative dentistry;
 - (iv) Making a dental diagnosis; or
 - (v) Fabricating a **dental** treatment plan; or
- (B) Provide infection control practices which meet the national standards for dental facilities as outlined by the Centers for Disease Control Summary of Infection Prevention Practices In Dental Settings as published October of 2016.

013. REINSTATEMENT. For reinstatement, the applicant must meet the requirements set out in 172 NAC 10.

014. FEES. Fees are set out in 172 NAC 2 and this chapter.

014.01 EXPANDED FUNCTION PERMIT. The initial and renewal fees for expanded function permits are \$25 each.

014.02 ADDITIONAL PROCEDURES. Fees to add additional procedures to a license that require proof of education and examination are \$10.

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 58 DENTAL FACULTY LICENSES

001. SCOPE AND AUTHORITY. These regulations govern the licensure of dental faculty under the Nebraska Revised Statutes (Neb. Rev. Stats. §§ 38-1101 to 38-1152) of the Dentistry Practice Act and the Uniform Credentialing Act.

001.01 In addition to the requirements of 172 NAC 58, all dental faculty licensees are subject to 172 Nebraska Administrative Code (NAC) 56-009 Initial Anesthesia or Sedation Permit; and 172 NAC 10.

002. DEFINITIONS. Definitions are set out in the Dentistry Practice Act, the Uniform Credentialing Act, and these regulations.

002.01 ACCREDITED DENTAL EDUCATION INSTITUTION. A school or college of dentistry that is accredited by the Commission on Dental Accreditation of the American Dental Association, The Commission on Dental Accreditation of Canada, or similar organization as determined by the Board.

002.02 NON-ACCREDITED DENTAL EDUCATION INSTITUTION. A school or college of dentistry that is not accredited by the Commission on Dental Accreditation of the American Dental Association, The Commission on Dental Accreditation of Canada, or similar organization as determined by the Board.

002.03 OFFICIAL TRANSCRIPT. A transcript issued by and under the original seal of the educational institution.

002.04 POSTGRADUATE EDUCATION. Advanced dental education programs accredited by the Commission on Dental Accreditation of the American Dental Association, The Commission on Dental Accreditation of Canada, or similar organization as determined by the Board, which includes dental specialties, general practice residencies, and advanced education in general dentistry.

003. LICENSE REQUIREMENTS. To obtain a license an individual must submit a completed application provided by the Department and provide documentation demonstrating the applicant meets the requirements of Neb. Rev. Stat. §§ 38-1124, 172 NAC 10, and these regulations.

003.01 EDUCATION.

- (A) An official transcript from an accredited dental education institution showing the graduation date must be sent directly to the Department by the originating program or institution; or
- (B) Verification of graduation from a non-accredited dental education institution, sent directly from the originating program or institution to the Department and verification of completing two years of postgraduate education at an accredited dental education institution sent directly from the originating program or institution directly to the Department.

003.01(i) ADDITIONAL EDUCATION IN LIEU OF LICENSE OR POST GRADUATE EDUCATION. Applicants seeking licensure based, in part, on Neb. Rev. Stat. § 38-1124(4)(a)(iii) must submit a portfolio as required by Neb. Rev. Stat. § 38-1124(6).

003.02 EXAMINATION FROM AN ACCREDITED DENTAL EDUCATION INSTITUTION. Applicants seeking licensure based on graduation from an accredited dental education institution must:

- (A) Request certification be sent to the Department directly from the issuing jurisdiction for all licenses held by the applicant; and
- (AB) Pass the jurisprudence examination administered by the Board of Dentistry that relates to the statutes and regulations that govern dentistry with an ~~n~~-average score of 75 or above.

003.03 EXAMINATION FROM A NON-ACCREDITED DENTAL EDUCATION INSTITUTION. Applicants seeking licensure based on graduation from a non-accredited dental education institution must:

- (A) Pass the licensure examination Part I and Part II or the Integrated National Board Dental Examination given by the Joint Commission on National Dental Examinations (JCNDE) or equivalent as determined by the Board of Dentistry with a score of 75 or above on each part of the examination; or
- (B) Submit proof of one of the following:
 - (i) Pass a specialty board as recognized by the National Commission on Recognition of Dental Specialties and Certifying Boards; or
 - (ii) Certification from the institution at which such clinical specialty was practiced per Neb. Rev. Stat. § 38-1124(1); or
- (C) Submit proof of passing an examination administered by the National Dental Examining Board of Canada; and
- (BD) Pass the jurisprudence examination administered by the Board of Dentistry that relates to the statutes and regulations that govern dentistry with an ~~n~~ average score of 75 or above.; and
- (E) Request certification be sent to the Department of all licenses held by the applicant directly from the issuing jurisdiction.

003.04 RECIPROCITY. To obtain a license based on reciprocity, an applicant must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets the requirements of Neb. Rev. Stat. § 38-129.02, 172 NAC 10, and this chapter.

003.05 RESIDENCY. All applicants receiving a license pursuant to 172 NAC 58 must submit documentation of establishing residency in Nebraska as required by Neb. Rev. Stat. § 38-129.02. Such documentation must be submitted within 90 days of establishment of residency and consist of a rental or lease agreement with the signature of the owner or landlord and the applicant, a deed or title to residential real property with the name of the applicant as an owner, or documents with the name and address of the applicant such as mortgage bills, home utility bills, medical or employee documents or similar documents that show the applicant residing in Nebraska.

004. RENEWAL, WAIVER OF CONTINUING EDUCATION, AND INACTIVE STATUS. The applicant must meet the requirements set out in 172 NAC 10 and this chapter.

004.01 ADDITIONAL INFORMATION. Applicants must submit any other information as requested by the Board or Department.

005. CONTINUING EDUCATION. On or before March 1 of odd-numbered years dental faculty licensees must meet continuing education requirements found in 172 NAC 56-007 and 172 NAC 10, and submit proof of continued employment directly from the accredited school or college in accordance with Neb. Rev. Stat. § 38-1124(5).

006. GROUNDS FOR ACTION AGAINST A CREDENTIAL. A dental faculty license may be denied, refused renewal, or have other disciplinary measures taken against it for grounds specified in Neb. Rev. Stat. § 38-178, 172 NAC 10, or for unprofessional conduct.

007. UNPROFESSIONAL CONDUCT. Unprofessional conduct is set out in Neb. Rev. Stat. § 38-179, and 172 NAC 56, and this chapter:-

(A) Practicing a clinical discipline for which the licensee has not been approved.

008. REINSTATEMENT. For reinstatement, the applicant must meet the requirements set out in 172 NAC 10.

009. FEES. Fees are set out in 172 NAC 2.