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NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 56

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 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.

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 and
 - (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) 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.

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