

234 CMR: BOARD OF REGISTRATION IN DENTISTRY

234 CMR 2.00: PURPOSE, AUTHORITY, DEFINITIONS

Section

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2.01: Purpose

234 CMR 2.00 governs the licensure and practice of dentistry, dental hygiene and dental assisting in Massachusetts by establishing the eligibility and licensure requirements and by establishing the standards for the practice of dentistry, dental hygiene and dental assisting in the Commonwealth.

2.02: Authority

The Board of Registration in Dentistry adopts 234 CMR 2.00 under authority of M.G.L. c. 13, §§ 9, 19 and M.G.L. c. 112, §§ 43 through 53, and pursuant to M.G.L. c. 30A, § 3.

2.03: Definitions

The following definitions apply to all parts of 234 CMR.

ADA means the American Dental Association.

ADAA means the American Dental Assistants Association.

ADHA means the American Dental Hygienists' Association.

Address of Record means the address of an individual licensed, registered or permitted by the Board as provided by the applicant/licensee and maintained by the Board and where the Board will send written communication(s) to the individual.

Adjudicatory Hearing means an administrative hearing held by the Board to determine the truth and validity of the allegations contained in a complaint filed against a licensee, registrant or permit holder of the Board. The hearing is held in accordance with M.G.L. c. 30A, the *State Administrative Procedure Act*, and 801 CMR 1.00: *Standard Adjudicatory Rules of Practice and Procedure*.

Advanced Cardiac Life Support (ACLS) Certification means that an individual has successfully completed an advanced cardiac life support course offered by the American Heart Association or other entity approved by the Board.

Advertising means a representation or other notice given to the public or members thereof, directly or indirectly, by a dentist on behalf of himself or herself, his or her facility, his or her partner or associate, or any dentist affiliated with the dentist or his or her facility by any means or method for the purpose of inducing purchase, sale or use of dental methods, services, treatments, operations, procedures or products or to promote continued or increased use of such dental methods, treatments, operations, procedures or products.

Basic Life Support (BLS) Certification means that an individual has successfully completed a

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course in basic life support for health care providers offered by the American Heart Association or other entity approved by the Board.

Board means the Board of Registration in Dentistry or any committee or subcommittee thereof established in the Massachusetts Department of Public Health pursuant to the provisions of M.G.L. c. 13, §§ 9, 19, c. 112, §§ 43 through 53 and c. 30A.

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Cardiopulmonary Resuscitation/Automated External Defibrillation (CPR/AED) Certification means that an individual has successfully completed a cardiopulmonary resuscitation course for professional rescuers offered by the American Red Cross or other entity approved by the Board.

CDC Guidelines means *Guidelines for Infection Control in Dental Health-Care Settings - 2003*, United States Centers for Disease Control and Prevention.

Chapters 69- and 74-approved Program means a program that has obtained the approval, pursuant to M.G.L. c. 69 and c. 74, for specific secondary or vocational-technical programs by the Commissioner of the Massachusetts Department of Elementary and Secondary Education.

Chapter 112-approved Program means a program that has obtained the approval, pursuant to M.G.L. c. 112, § 263 for specific private occupational school programs by the Massachusetts Division of Professional Licensure.

CMR means the Code of Massachusetts Regulations published by the Regulations Division of the Massachusetts Office of the Secretary of the Commonwealth.

CODA means the Commission on Dental Accreditation of the American Dental Association.

Collaborative Agreement means a written agreement that complies with 234 CMR 5.08: *Written Collaborative Agreement (WCA) with a Public Health Dental Hygienist* and is between a public health dental hygienist and a local or state government agency or institution or with a licensed dentist who holds a valid license issued pursuant to M.G.L. c. 112, § 45 who agrees to provide the appropriate level of communication and consultation with the public health dental hygienist to ensure patient health and safety.

Community Health Center means a non-profit agency licensed by the Department of Public Health under M.G.L. c. 111, § 51.

Complaint means a communication to, or other information obtained by, the Board or the Division of Health Professions Licensure which alleges that an individual, person or entity subject to regulation by the Board has engaged in conduct that violates any law, regulation, or both, related to dentistry and/or dental practice.

Consent Agreement means a legally binding document reflecting the agreement, including specified terms and conditions, entered into by an individual licensed, registered or permitted by the Board and the Board in resolution of any complaint against such licensee.

Continuing Education Unit (CEU) means a minimum of 50 minutes of education and/or experience as set forth in 234 CMR 8.00: *Continuing Education*.

Conviction shall include any guilty verdict or finding of guilt and any admission to or finding of sufficient facts to warrant a finding of guilt, a continuance without a finding, and any plea of guilty or *nolo contendere* which has been accepted by the court, whether or not sentence has been imposed. A conviction of any person licensed by the Board shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against that licensee based upon the conviction.

Dental Assistant means a person qualified by education, training or experience who, under the

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supervision of a licensed dentist, aids or assists the dentist in the performance of procedures or duties related to the provision of dental care in accordance with the provisions in 234 CMR 2.00. A dental assistant may be classified in four categories:

- (a) Certified Assistant (CA) means a person certified by the Dental Assisting National Board, Inc., or other Board-approved, certifying body, as a dental assistant.
- (b) Dental Assistant Trained on the job (OJT) means a person trained on the job by a dentist licensed to practice dentistry in the Commonwealth who has completed the training pursuant to M.G.L. c. 112, § 51½.

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(c) Expanded Function Dental Assistant (EFDA) means a person who is currently certified by the Dental Assisting National Board, Inc., or other Board-approved, certifying body, and has completed a formal program in expanded functions that provides, at a minimum, training in the delegable duties pursuant to 234 CMR 5.11: *Delegable Procedures*, at a program accredited by the CODA.

(d) Formally Trained Dental Assistant (FTDA) means a person who is a graduate of a school or program that meets requirements for licensure pursuant to 234 CMR 4.11(3).

DANB means Dental Assisting National Board, Inc.

DANB-RHS means the DANB Radiation Health and Safety Examination.

DANB-ICE means the DANB Infection Control Examination.

Dental Auxiliary Personnel means a dental hygienist or a dental assistant.

Dentist means any person licensed under the provisions of M.G.L. c. 112, § 45 or § 45A.

Dentistry A person shall be deemed to be practicing dentistry if he or she holds himself or herself out as being able to diagnose, treat, operate or prescribe for any disease, pain, injury, deficiency, deformity or other condition of the human teeth, alveolar process, gums or jaws, and associated parts, intra-orally or extra-orally, or if he/she either offers or undertakes by any method to diagnose, treat, operate or prescribe for any disease, pain, injury, deficiency, deformity or other condition of the same; or if he/she, except on the written prescription of a registered dentist and by the use of impressions made by a registered dentist, directly or indirectly by mail, carrier, personal agent, or by any other method, supplies, constructs, reproduces, relines, repairs, adds or directs the application of any substance, of a durable nature, to dentures, bridges, appliances or other structures to be used and worn as substitutes for natural teeth or solicits or advertises, except as permitted in M.G.L. c. 112 § 52A, to supply, construct, reproduce, repair, reline, add or direct the application of any substance, of a durable nature, to dentures, bridges, appliances or other structures to be used and worn as substitutes for natural teeth; or if he or she places such substitutes in the mouth or adjusts the same; or if he or she, except on the written prescription of a registered dentist, observes a patient's natural dentition for purposes of matching coloration or other aesthetic characteristic to aid in the fabrication or repair of a prescribed restorative appliance.

Faculty means an individual appointed to the faculty of a CODA-accredited dental college, dental hygiene, or dental assisting program. Faculty may include full or part-time assistant or associate clinical instructors, adjunct instructors, assistant or associate professors, teachers, post-doctoral fellows, visiting lecturers and graduate assistants.

Final Decision and Order means the written findings of fact, conclusions of law, and order for sanction or other disposition issued to a licensee by the Board following the final adjudication of a complaint.

Good Moral Character means those virtues of a person which are generally recognized as beneficial to the public health, safety and welfare.

HIPDB means Healthcare Integrity and Protection Data Bank.

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Homebound means an individual "confined to his or her home" if the individual has a condition, due to an illness or injury, that restricts the ability of the individual to leave his or her home except with the assistance of another individual or the aid of a supportive device (such as crutches, a cane, a wheelchair, or a walker), or if the individual has a condition such that leaving his or her home is medically contraindicated. While an individual does not have to be bedridden to be considered "confined to his home", the condition of the individual should be such that there exists a normal inability to leave home and that leaving home requires a considerable and taxing effort by the individual. Any absence of an individual from the home attributable to the need to receive health care treatment, including regular absences for the purpose of participating in therapeutic, psychosocial, or medical treatment in an adult day-care program that is licensed or

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certified by a state, or accredited, to furnish adult day care services in the state shall not disqualify an individual from being considered to be "confined to his or her home". Any other absence of an individual from the home shall not so disqualify an individual if the absence is of infrequent or of relatively short duration. For purposes of the preceding sentence, any absence for the purpose of attending a religious service shall be deemed to be an absence of infrequent or short duration. [42 USC 1395n(a)(2)(F)]

Impaired means the inability to practice dentistry, dental hygiene, or dental assisting with reasonable judgment, skill, and safety by reason of alcohol or drug abuse, use of other substances, a physical or mental illness or condition, or by any combination of the foregoing

Institutional Facility means any entity that hosts an MDF or PDO including, but not limited to a school, long term care facility, residential home, residential treatment facility or correctional institution.

Jurisdiction means any municipality, state, territory or country, including the Commonwealth of Massachusetts.

Legal Representative means an individual who has either been appointed by a court or who is named under a written agreement with the patient to serve as the patient's representative, including, but not limited to, guardian, conservator, health care agent, or power of attorney.

License as used in 234 CMR is synonymous with registration, permit or the right to renew said license, registration or permit.

Licensee means a person registered as holding or having held any type of license, registration, and/or permit issued pursuant to M.G.L. c. 112, §§ 43 through 53 and 234 CMR, whether or not such license is expired, surrendered, suspended, or revoked.

Limited Licensee means a person licensed to practice dentistry under the provisions of M.G.L. c. 112, § 45A. A limited licensee may be a dental intern or a full-time faculty member.

(a) Limited License Dental Intern means an individual granted a limited license to practice dentistry in the Commonwealth, pursuant to M.G.L. c. 112, § 45A, who has graduated from a reputable dental college, pursuant to M.G.L. c. 112, § 46, and who practices in a hospital or other institution maintained by the state, a county or municipality, or hospital or dental infirmary incorporated under the laws of the Commonwealth. A limited license dental intern shall not practice dentistry in a private dental office or private dental clinic and may only practice at institution(s) specified in the dental intern's license application. A person who has been issued a limited license shall work under the direction of a registered dentist who is licensed by the Board, pursuant to M.G.L. c. 112, § 45, and is employed by the institution.

(b) Limited License Faculty means an individual granted a limited license to practice dentistry in the Commonwealth, pursuant to M.G.L. c. 112, § 45A, who has graduated from a reputable dental college, pursuant to M.G.L. c. 112, § 46, who is employed as a full-time member of the faculty of a CODA accredited dental college and who works under the direction of a registered dentist who is licensed by the Board, pursuant to M.G.L. c. 112, § 45 and is employed by said dental college. A person who has been issued a limited license faculty license shall not practice dentistry in a private dental office or private dental clinic, except that a full-time faculty member may participate in an intramural group practice which is operated, managed and physically located within a nonprofit dental educational or research

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institution and their affiliated hospitals in which the limited license full-time faculty member is employed.

MDF or PDO Director means a dentist who is currently licensed to practice dentistry in the Commonwealth pursuant to M.G.L. c. 112, § 45, or a dental hygienist practicing pursuant to M.G.L. c. 112, § 51, for the purposes of providing dental hygiene services in public health settings who is responsible for dental services provided by the MDF or PDO.

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MDF or PDO Permit Holder means a dentist who is currently licensed to practice dentistry in the Commonwealth pursuant to M.G.L. c. 112, § 45, or a public health dental hygienist in whose name the MDF and/or PDO Facility Permit is issued. Where the MDF or PDO is not wholly owned by a dentist(s) or public health dental hygienist licensed to practice in the Commonwealth, the owner(s) shall apply for a license to operate as a clinic pursuant to M.G.L. c. 111, § 51, unless the entity is exempt from such licensure pursuant to M.G.L. c. 111, § 52.

M.G.L. means Massachusetts General Laws.

Mobile Dental Facility (MDF) means any self-contained facility where dentistry will be practiced which may be driven, moved, towed, or transported from one location to another. *See* related definition under Portable Dental Operation.

NERB means the Northeast Regional Board of Dental Examiners, Inc. qualifying examinations for dentists and dental hygienists.

NPDB means National Practitioner Data Bank.

Order to Show Cause means a notice issued by the Board to a licensee of the Board containing allegations that the licensee engaged in conduct that violates any law or regulation, or both related to the practice of dentistry or dental hygiene. The Order to Show Cause may also order the licensee to appear at an adjudicatory hearing held by the Board to "show cause" why the Board should not take disciplinary action against a license or the right to renew such license. *See* 801 CMR 1.01(6)(a).

OSHA means General Industry Standards at 29 CFR, United States Occupational Safety and Health Administration.

Patient, includes a parent or legal representative.

Portable Dental Operation (PDO) means any non-facility where dental equipment utilized in the practice of dentistry, is transported to and utilized on a temporary basis at an out-of-office location. *See* related definitions under 234 CMR 2.03: Mobile Dental Facility (MDF).

Public Health Dental Hygienist (PHDH) means a registered dental hygienist who holds a valid license to practice in the Commonwealth issued pursuant to M.G.L. c. 112, § 51, who has three years of full-time or an equivalent 4,500 hours of clinical experience and has the appropriate training pursuant to 234 CMR 5.07(2): *Educational Requirements for Public Health Dental Hygiene Practice* and who works in a public health setting pursuant to a written collaborative agreement with a local or state government agency or institution or a licensed dentist who holds a valid license issued pursuant to M.G.L. c. 112, § 45.

Public Health Setting includes, but is not limited to, residences of the homebound, schools, Head Start programs, nursing homes and long-term care facilities licensed pursuant to M.G.L. c. 111, § 71, clinics, community health centers, and hospitals licensed pursuant to M.G.L. c. 111, § 51, medical facilities, prisons, residential treatment facilities, federal, state or local public health programs, mobile dental facilities and portable dental programs which are permitted by the Board pursuant to 234 CMR 7.00: *Mobile and Portable Dentistry* or licensed

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or certified by the Department pursuant to M.G.L. c. 111, § 51, and other facilities or programs deemed appropriate by the Board and the Department.

Reactivation means the renewal of an expired license to practice dentistry, dental hygiene, or dental assisting.

Registered Dental Hygienist (RDH) or Dental Hygienist means a person who has been successfully examined by the Board or its designee and who has been licensed by the Board to practice dental hygiene in the Commonwealth pursuant to M.G.L. c. 112, § 51.

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Reinstatement means the issuance of a license to practice dentistry, dental hygiene, or dental assisting which has been suspended or revoked.

Substance Abuse means a dysfunctional pattern of human response characterized by excessive, inappropriate, or unhealthy use of chemical substances including alcohol or drugs, or both.

Supervision includes three types of supervision as follows:

(a) General Supervision means supervision of dental procedures based on instructions given by a licensed dentist but not requiring the physical presence of a supervising dentist during the performance of those procedures. A public health dental hygienist may perform all delegated duties permitted under general supervision as described in 234 CMR 5.00: *Requirements for the Practice of Dentistry and Dental Hygiene* provided the public health dental hygienist has entered into a collaborative agreement with a dentist who holds a valid license issued pursuant to M.G.L. c. 112, § 45 or with an appropriate municipal or state agency or institution to ensure the public health and safety.

(b) Direct Supervision means supervision of dental procedures based on instructions given by a licensed dentist who remains in the dental facility while the procedures are being performed by the auxiliary.

(c) Immediate Supervision means the supervision of dental procedures by a licensed dentist, who remains in the dental facility, personally diagnoses the condition to be treated, personally authorizes the procedures, and before dismissal of the patient, evaluates the treatment rendered.

Valid License means a license to engage in the practice of dentistry, dental hygiene, or dental assisting in the Commonwealth properly issued to a licensee by the Board on the basis of truthful information related to qualifications for licensure and which license is not expired, surrendered, suspended, or revoked.

Written Collaborative Agreement (WCA) means a written agreement that complies with 234 CMR 5.08: *Written Collaborative Agreement (WCA) with a Public Health Dental Hygienist* and is between a public health dental hygienist and a local or state government agency or institution or with a licensed dentist who holds a valid license issued pursuant to M.G.L. c. 112, § 45 who agrees to provide the appropriate level of communication and consultation with the public health dental hygienist to ensure patient health and safety.

REGULATORY AUTHORITY

234 CMR 2.00: M.G.L. c. 13, § 19; c. 112, §§ 43 through 53 and 61.