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From: Frank Ps [ftparris@hotmail.com]
Sent: Saturday, September 20, 2008 9:28 PM
To: IRRC
Cc: jaclyngleber@comcast.net
Subject: Support Proposed Changes To Dental Hygiene Regulations

2008 SEP 22 AM 9:09

INDEPENDENT REGULATORY
REVIEW COMMISSION

Dear Sir

Please review the attached documents.

One attachment contains proposed changes to Dental Hygiene Regulations. The other contains my letter to Peter Grovich Esq. SBoFD Strongly supporting the proposed changes.

Respectfully Yours

Frank T. Parris, Jr. RDH, BSDH.
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Christopher Grovich, Esq.
State Board of Dentistry
PO Box 2649
Harrisburg, PA 17105-2649

September 20, 2008

Dear Mr. Grovich,

I urgently request that you support the changes to Dental Hygiene Regulations and allow the RDH better access to PA consumers via these changes. In my work and interview experience, the dentist controls, by the nature of his small business, the type care any RDH may deliver to his patients, and the time of day it can be rendered. With the proposed changes, an RDH can work a full day's schedule while the dentist "Floats" between his two offices and keep more staff busy and expand RDH access to the patient before and after Dentist's hours. Also, while all dentists expect quality service, some dentists stress quantity a great deal more.

An RDH needs to be viewed more like an RN and less like a dental assistant with a license. There is no "Civil Service" status for the RDH as exists for Dentists and Assistants in Public Dental Health Care. Dental Assistants are promoting Polishing Teeth and Fluoride Treatments in recent petitions to the State Board of Dentistry. Polishing Teeth provides no aspect of "Health to the Gums" and the Benefits and Hazards of Fluoride is understood in the level of Dental Hygiene education.

In conclusion, the DH regulations need to be revised to allow greater interaction between Dentists, Hygienists and PA Dental Consumers. The Public Health Dental Hygiene Practitioner Concept is LONG OVERDUE and we need "Dental" to be included in Health Care Reform.

Sincerely,

Frank T. Parris, Jr. RDH, BSDH.
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Philadelphia, PA 19128
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PROPOSED RULEMAKING

STATE BOARD OF DENTISTRY

[49 PA. CODE CH. 33]

Dental Hygiene Scope of Practice; Local Anesthesia

[38 Pa.B. 4777]

[Saturday, August 30, 2008]

The State Board of Dentistry (Board) proposes to amend §§ 33.1, 33.3, 33.102, 33.205, 33.301, 33.302 and 33.402 and add §§ 33.115, 33.116 and 33.205b (relating to local anesthesia permit; certification of public health dental hygiene practitioners; and practice as a public health dental hygiene practitioner) to read as set forth in Annex A.

Effective Date

The proposed rulemaking will be effective upon publication of the final-form rulemaking in the *Pennsylvania Bulletin*.

Statutory Authority

Under section 3(d), (j.2) and (o) of the Dental Law (law) (63 P. S. § 122(d), (j.2) and (o)), the Board has authority to adopt, promulgate and enforce regulations for the general supervision, scope of practice and continuing education of dental hygienists. The law requires amendments to the regulations to implement a new class of certificate for "public health dental hygiene practitioners."

Background and Purpose

The Board has been considering expanding the scope of practice of dental hygienists to include the administration of local anesthesia since 2002, when the Pennsylvania Dental Hygienists' Association provided testimony on the subject at the January 18, 2002, Board meeting. At that time, 27 states permitted dental hygienists to administer local anesthesia. Today, 39 states and the District of Columbia permit the administration of local anesthesia by dental hygienists. Since 2002, an ongoing dialog has continued within the dental community in this Commonwealth regarding this proposal. In 2005, a draft of this proposed rulemaking was sent out to over 150 organizations, schools and individuals to solicit input from the regulated community and other interested parties. The proposal received overwhelming support from the dental hygiene community. In addition, the dental community was generally supportive of the proposal provided that dental hygienists receive adequate education and are properly supervised. The proposal was revised based on the comments received by the Board.

Some parties to this dialog objected to permitting dental hygienists to administer local anesthesia through both block and infiltration techniques. Essentially, when a nerve is anesthetized along the nerve trunk before it branches, block anesthesia occurs. A block is used to anesthetize the entire area of the nerve's

innervation. When a branch of a nerve is anesthetized by depositing the anesthetic solution in the area of the nerve branch so that the solution filters through the underlying bone to reach the nerve, infiltration anesthesia occurs. Initially, the Board considered restricting dental hygienists to infiltration injections only. The Board reviewed the regulations of the 39 states that permit dental hygienists to administer local anesthesia. Of these, 37 states permit both infiltration and block techniques and have not reported significant problems relating to dental hygienists administering local anesthesia. Ultimately, the Board determined that dental hygienists who meet the education requirements being proposed and are properly supervised could safely perform infiltration injections and intraoral nerve blocks limited to the second (maxillary) and third (mandibular) divisions of the trigeminal nerve. Under this proposal, a dental hygienist must meet the educational requirements to obtain a local anesthesia permit. In addition, a dental hygienist who holds a local anesthesia permit may administer local anesthesia only under the direct on-premises supervision of a licensed dentist. Direct supervision requires the dentist to examine the patient, authorize the procedure to be performed, be physically present in the dental facility and available during performance of the procedure and examine and take full responsibility for the completed procedure. This proposal would permit a dental hygienist to administer local anesthesia only as authorized by the supervising dentist. A supervising dentist exercising the dentist's professional judgment may choose not to authorize it, authorize it by infiltration only, or authorize it by both infiltration and nerve block techniques.

While these discussions continued, the Board's Regulations Review Committee (Committee) proposed other changes relating to the scope of practice of dental hygienists, specifically with regard to the supervision and continuing education requirements. The Committee suggested that the requirement that routine dental hygiene services (for example, scaling, root planing and polishing) be provided under direct supervision in all cases except for ASA class I patients was unduly restrictive. ASA class I patients are currently defined in § 33.1 (relating to definitions) as those that are without systemic disease. The Committee proposed expanding this exception to provide for general supervision with regard to ASA Class I and II patients. ASA Class II patients are defined as those with mild systemic disease. The Committee also proposed an expansion in the definition of general supervision to permit a dental hygienist to provide dental hygiene services, as authorized by a licensed dentist, within 1 year of an examination by the dentist. Currently the regulations provide a standard of 90 days. Finally, the Committee proposed a change in the continuing education requirements for dental hygienists to permit dental hygienists to complete up to 3 of the required 20 hours of continuing education in the area of communication skills. The Committee made this proposal in recognition of the fact that the education of the patient with regard to oral hygiene care is an important function of a dental hygienist and that effective communication skills are essential to that function.

A draft of the Committee's proposal was also circulated within the regulated community and other interested parties in 2005. Input provided from the dental and dental hygiene communities was, again, generally supportive of the proposal. Some concerns were raised by the dental community regarding the expansion of general supervision to extend to dental hygiene services to be performed within 1 year of a dental examination. The Board, however, believes that this proposal establishes a minimum standard and that each individual dentist is responsible for exercising the dentist's professional judgment in authorizing dental hygiene services to be provided to patients based on each patient's condition and treatment plan. Patients with chronic conditions may need more frequent exams, while patients who are generally healthy and who have good oral hygiene may need less frequent exams. Other commentators agreed that communication skills are essential for dental hygienists, however they objected to any reduction in the number of clinical continuing education hours required and suggested that the Board require 3 additional hours of continuing education be completed in the area of communication skills. The Board, however, does not have the statutory authority to increase the total number of hours of continuing education required beyond the statutorily mandated 20 hours. This proposal would permit, but not require, a dental hygienist to complete up to 3 hours of continuing education in communication skills.

As a result, the Board prepared a prior version of this proposed rulemaking to implement these changes to the scope of practice of dental hygienists. However, before the Board was able to publish the proposed rulemaking, Act 51 was enacted on July 20, 2007. Act 51 made three major amendments to the law which

affected this proposal. First, Act 51 created a new classification of certificate for "public health dental hygiene practitioners." Second, Act 51 created a "hierarchy" relating to the provision of radiological procedures in a dental office, with public health dental hygiene practitioners able to take X-rays without supervision, dental hygienists able to take X-rays under general supervision, and other auxiliary staff able to take X-rays only under direct supervision. Finally, section 5 of Act 51 abrogated the Board's regulations relating to the supervision of dental hygienists in § 33.205(d)(1) (relating to practice as a dental hygienist), requiring that section to be completely redrafted.

Description of Proposed Amendments

The definition of "general supervision" in § 33.1 would be amended to extend general supervision to dental hygiene services to be performed within 1 year of an examination by a dentist, instead of the current standard of 90 days. Section 33.1 would also be amended to define the term "local anesthesia" as "the elimination of sensations, especially pain, in one part of the body by regional injection of an anesthetic agent." As regards dental hygienists administration of local anesthesia under a permit issued by the Board, the term would include local infiltration anesthesia and intraoral nerve block anesthesia limited to the second (maxillary) and third (mandibular) divisions of the trigeminal nerve. Finally, a definition of "public health dental hygiene practitioner" would be added to comport to Act 51.

Section 33.3 (relating to fees) would be amended to include the fees necessary for processing applications for and biennial renewal of local anesthesia permits and public health dental hygiene practitioner certificates.

Section 33.102 (relating to professional education) would be amended to comport with changes made by Act 51.

Section 33.115 would be added to set forth the requirement for a dental hygienist to secure a permit prior to administering local anesthesia. This section also sets forth the qualifications required by the Board for a dental hygienist to both secure and maintain a local anesthesia permit. First, a dental hygienist must hold a current license in good standing to practice as a dental hygienist in this Commonwealth. Second, a dental hygienist must maintain certification in basic life support (BLS). Finally, a dental hygienist must take one of three alternate educational paths prior to applying for a local anesthesia permit. The first is graduation, within the 5 years immediately preceding the filing of the application for a local anesthesia permit, from a dental hygiene school accredited by the American Dental Association's Commission on Dental Accreditation (CODA) which included the successful completion of a didactic and clinical course in the administration of local anesthesia. The second option is the successful completion, within the 5 years immediately preceding the filing of the application for local anesthesia permit, of a course consisting of a minimum of 30 hours of didactic and clinical instruction in the administration of local anesthesia sponsored by a dental or dental hygiene education program accredited by CODA. The third avenue is for dental hygienists who are licensed in other jurisdictions that permit dental hygienists to administer local anesthesia. The Board will issue permits to these dental hygienists provided that the other jurisdiction required completion of a course in the administration of local anesthesia accredited by CODA or by the Commission on Dental Accreditation of Canada (CDAC) prior to obtaining the authority to administer local anesthesia; the dental hygienist actively engaged in the administration of local anesthesia under a current license or permit within the 5 years immediately preceding the filing of the application for a local anesthesia permit; and the dental hygienist certifies that he at all times administered local anesthesia in accordance with all applicable rules and regulations of the other jurisdiction and provides a letter or certificate of good standing indicating that there has been no disciplinary action taken against the dental hygienist relating to the administration of local anesthesia.

The Board is also proposing a requirement for biennial renewal of the local anesthesia permit. To maintain the local anesthesia permit, a dental hygienist shall submit a renewal application and renewal fee and maintain certification in BLS.

Section 33.116 would be added to implement the provisions of Act 51. Subsection (a) would require a dental hygienist who desires to obtain a certification as a public health dental hygiene practitioner to submit an application and fee to the Board. Subsection (b) sets forth the qualifications for a public health dental hygiene practitioner certificate to include a current license in good standing to practice as a dental hygienist in this Commonwealth; 3,600 hours of practice as a licensed dental hygienist under the supervision of a license dentist; and professional liability insurance. The Board determined the minimum amount of \$1 million per occurrence and \$3 million per annual aggregate in consultation with the Pennsylvania Dental Hygienists' Association as well as by surveying a number of insurance providers licensed to issue this coverage in this Commonwealth.

Subsection (c) provides for the expiration and biennial renewal of the public health dental hygiene practitioner's certificate.

Section 33.205 would be amended to make some minor changes to the description of certain dental hygiene services. Subsection (a)(1) would be amended to replace the more specific "placement of antimicrobial cord," with a more general alternative "placement of subgingival agents." The Board makes this proposal because the existing description is outdated. Therapeutic and technological advances in the delivery of oral health care occur rapidly, while the regulatory process can take years. Dental hygienists are qualified to place a variety of subgingival agents, including antimicrobials, antibiotics, antiseptics or anesthetics, and they may be delivered by a variety of methods, including pastes, ointments, gels, fibers, strips, spheres, discs or chips.

In addition, subsection (a)(2) provides that a dental hygienist may engage in "periodontal probing, scaling, root planing, polishing or another procedure required to remove calculus deposits, accretions, excess or flash restorative materials and stains from the exposed surfaces of the teeth and beneath the free margin of the gingiva to the base of the junctional epithelium." The Board proposes to replace the histological reference "beneath the free margin of the gingiva to the base of the junctional epithelium" with "beneath the gingiva." The gingiva is the tissue (covered by mucous membranes) that surrounds the bases of the teeth, commonly referred to as the gums. The "junctional epithelium" is defined as "a circular arrangement of epithelial cells occurring at the base of the gingival sulcus and attached to both the tooth and the subepithelial connective tissue." In layman's terms, the junctional epithelium is a grouping of cells that attach the gums to the teeth. Realistically, the only way to determine "the base of the junctional epithelium" is with a microscope. The fact is that a dental hygienist provides the listed services both above and below the gum line. In fact, root planing, by definition, must be done beneath the gingiva (gums). The current description is overly technical and serves no practical regulatory purpose.

Subsection (a)(7) is added to include the administration of local anesthesia by regional injection within the scope of practice of a dental hygienist in accordance with § 33.115.

Subsection (d)(1) pertaining to supervision requirements for dental hygienists in dental offices would be amended in its entirety as a result of Act 51, which abrogated the existing language. In its place, the text provides that the placement of subgingival agents, some of which require a prescription by a dentist, would be permitted only under direct supervision, unless the dentist has reviewed the patient's dental records and medical history and has written a prescription or given an order for the placement of subgingival agents by the dental hygienist, in which case general supervision is required. Scaling, root planing, polishing, and the like, may be provided under general supervision if the patient is relatively free of systemic disease or suffers only mild systemic disease, as determined by the dentist. Otherwise, if the patient suffers from systemic disease that is severe, incapacitating or life threatening, these services may only be provided under direct supervision. The provision of local anesthesia services may only be provided under direct supervision under a permit issued by the Board. All other dental hygiene services may be provided under general supervision.

Section 33.205(d)(2), pertaining to supervision requirements for dental hygienists (who are not public

health dental hygiene practitioners) in public and private institutions and institutions under the jurisdiction of Federal, State or local health agencies, would be amended to provide similar supervision requirements relating to the placement of subgingival agents and local anesthesia by regional injection. All other dental hygiene services would be provided under general supervision.

The Board also proposes to add § 33.205b to set forth the standards for public health dental hygiene practitioners in accordance with Act 51. Subsection (a) addresses the scope of practice of public health dental hygiene practitioners. A public health dental hygiene practitioner would be permitted to perform the dental hygiene services set forth in § 33.205(a)(2)--(6) without supervision of a dentist. However, placement of subgingival agents (antimicrobials, antibiotics, anesthetics, and the like) would require a prescription or order of a dentist, and administration of local anesthesia would require direct supervision pursuant to a permit issued by the Board. Although Act 51 provides for a public health dental hygiene practitioner to practice generally "without the authorization, assignment or examination by a dentist," the General Assembly could not have anticipated the expansion of the scope of practice to include the placement of all subgingival agents and the administration of local anesthesia because these provisions had not yet been proposed by the Board.

Subsection (b) would incorporate the requirement of referral set forth in Act 51. Subsection (c) would establish the practice settings in which a public health dental hygiene practitioner would be authorized to practice without supervision. In subsection (d), the Board proposes minimum standards for recordkeeping by public health dental hygiene practitioners. The Board's existing recordkeeping regulation in § 33.209 (relating to preparing, maintaining and retaining patient records) places the onus on the dentist to assure that dental records are properly maintained. Public health dental hygiene practitioners are authorized to practice in public health settings without supervision, so the onus must fall on them to maintain proper records.

The Board also proposes to amend its regulations relating to the performance of radiologic procedures in Subchapter D. Section 33.301 (relating to definitions) would be amended to establish the Radiation Health and Safety examination administered by the Dental Assisting National Board (DANB) as the required examination for auxiliary personnel who wish to administer ionizing radiation in a dental office. Section 33.302 (relating to auxiliary personnel performing radiologic procedures) would also be amended to comport with changes made by Act 51. The result is that public health dental hygiene practitioners may perform radiologic procedures without the supervision of a dentists; dental hygienists may do so under general supervision, as defined in Act 51, and all other auxiliary personnel who have passed the examination may do so under direct supervision.

Finally, the Board proposes an amendment to § 33.402 (relating to continuing education subject areas) to permit dental hygienists to complete no more than 3 of the required 20 hours of continuing education in courses relating to communication skills; to require public health dental hygiene practitioners to complete 5 of the required 20 hours in public health-related courses; and to permit public health dental hygiene practitioners who are also certified educational specialists by the Department of Education to submit evidence of compliance with section 1205.2 of the Public School Code (24 P. S. § 12-1205.2) meet the 20-hour continuing education requirement.

Fiscal Impact and Paperwork Requirements

The proposed rulemaking should have no fiscal impact on the Commonwealth or its political subdivisions because the costs associated with processing the local anesthesia permits and public health dental hygiene practitioner certificates will be borne by applicants. Dental hygienists who apply for local anesthesia permits will incur some costs associated with the permit application and renewal fees and possibly the costs of completing a local anesthesia course. Dental hygienists who wish to obtain certification as public health dental hygiene practitioners will incur costs associated with the permit application and biennial renewal fees. There are currently approximately 7,904 licensed dental hygienists

in this Commonwealth. The Board has no way of knowing how many dental hygienists will apply for the local anesthesia permit or the public health dental hygiene practitioner certificate.

The proposed rulemaking will require the Board to develop applications for the local anesthesia permit, public health dental hygiene practitioner certificate, and biennial renewal forms for each of these credentials, but should not result in any additional legal, accounting or reporting requirements for the Commonwealth or the regulated community.

Sunset Date

The Board continuously monitors the cost effectiveness of its regulations. Therefore, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 18, 2008, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review of comments, recommendations and objections by the Board, the Governor and the General Assembly, prior to final publication of the rulemaking.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments to Christopher P. Grovich, Counsel, State Board of Dentistry, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days following publication of this proposed rulemaking.

JOHN V. REITZ, D.D.S.,
Chairperson

Fiscal Note: 16A-4617. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 33. STATE BOARD OF DENTISTRY

Subchapter A. GENERAL PROVISIONS

§ 33.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

General supervision--In a dental facility, supervision by a dentist who examines the patient, develops a treatment plan, authorizes the performance of dental hygiene services to be performed within [90 days] 1 year of the examination, and takes full professional responsibility for the performance of the dental hygienist. In facilities identified in § 33.205(c)(2) and (3) (relating to practice as a dental hygienist), general supervision is defined in § 33.205(d)(2).

* * * * *

Local anesthesia--The elimination of sensations, especially pain, in one part of the body by regional injection of an anesthetic agent. For the purposes of § 33.115 (relating to local anesthesia permit), the term includes local infiltration anesthesia and intraoral nerve block anesthesia limited to the 2nd (maxillary) and 3rd (mandibular) divisions of the trigeminal nerve.

* * * * *

Public health dental hygiene practitioner--A licensed dental hygienist who is certified by the Board as having met the requirements of section 11.9 of the act (63 P. S. § 130j), and who is authorized to perform dental hygiene services in accordance with § 33.205b (relating to practice as a public health dental hygiene practitioner) without the authorization, assignment or examination of a dentist.

* * * * *

§ 33.3. Fees.

(a) Following is the schedule of fees charged by the Board:

* * * * *

Application fee--certificate of public health dental hygiene practitioner \$20

Application fee--local anesthesia permit \$20

* * * * *

Biennial renewal fee--certificate of public health dental hygiene practitioner \$40

Biennial renewal fee--local anesthesia permit \$40

* * * * *

Subchapter B. LICENSURE OF DENTISTS AND DENTAL HYGIENISTS

§ 33.102. Professional education.

* * * * *

(b) *Dental hygienists.*

(1) Candidates for licensure as dental hygienists shall show compliance with section 3(d) of the act by submitting certification of graduation from a dental hygiene school accredited or provisionally accredited by **an approved United States Department of Education-recognized regional accrediting agency or the Commission on Dental Accreditation (CODA) of the American Dental Association**, if the school's dental hygiene course of study comprises a minimum of 2 years of at least 32 weeks of at least 30 hours each week or its equivalent.

* * * * *

§ 33.115. Local anesthesia permit.

(a) *Permit required.* A dental hygienist shall possess a current permit issued by the Board under this section before administering local anesthesia to a patient in a dental office.

(b) *Application.* A dental hygienist who desires to obtain a permit to administer local anesthesia shall submit an application on a form provided by the Board, pay the permit fee prescribed in § 33.3 (relating to fees) and meet the qualifications for the permit as prescribed in this section.

(c) *Qualifications.* To obtain a local anesthesia permit, a dental hygienist shall:

(1) Hold a current license in good standing to practice as a dental hygienist in this Commonwealth.

(2) Hold current certification in Basic Life Support (BLS).

(3) Provide to the Board acceptable documentation evidencing one of the following:

(i) Graduation, within the 5 years immediately preceding the filing of the application for local anesthesia permit, from a dental hygiene program that meets the following criteria:

(A) The dental hygiene program is accredited by the American Dental Association's Commission on Dental Accreditation (CODA).

(B) The dental hygiene program included the successful completion of a didactic and clinical course in the administration of local anesthesia.

(ii) Successful completion, within the 5 years immediately preceding the filing of the application for local anesthesia permit, of a course consisting of a minimum of 30 hours of didactic and clinical instruction in the administration of local anesthesia sponsored by a dental or dental hygiene education program accredited by CODA.

(iii) Possession of a current license or permit issued by the proper licensing authority of another state, territory or district, or by Canada, where the dental hygienist is authorized under the laws of that jurisdiction to administer local anesthesia, provided that the following conditions are met:

(A) The jurisdiction where the dental hygienist is so licensed or permitted requires completion of a course in the administration of local anesthesia accredited by CODA or by the Commission on Dental Accreditation of Canada (CDAC) prior to obtaining certification, endorsement or other such authority.

(B) The dental hygienist actively engaged in the administration of local anesthesia under a current

license or permit within the 5 years immediately preceding the filing of the application for local anesthesia permit.

(C) The dental hygienist certifies that, at all times prior to filing the application for local anesthesia permit, the dental hygienist administered local anesthesia in accordance with all applicable laws and regulations of the jurisdiction where the dental hygienist is so licensed or permitted.

(D) The jurisdiction where the dental hygienist is so licensed or permitted provides a letter or certificate of good standing indicating that there has been no disciplinary action taken against the dental hygienist relating to the administration of local anesthesia.

(d) *Expiration and biennial renewal.* A local anesthesia permit issued by the Board under this section will expire at the same time as the permit holder's dental hygiene license but may be renewed biennially at the same time the dental hygiene license is renewed. A dental hygienist who desires to renew a local anesthesia permit shall submit the following:

- (1) A renewal application on a form provided by the Board.
- (2) The permit renewal fee set forth in § 33.3.
- (3) Proof of current certification in BLS.

§ 33.116. Certification of public health dental hygiene practitioners.

(a) *Application.* A licensed dental hygienist who desires to obtain certification as a public health dental hygiene practitioner shall submit an application on a form provided by the Board, pay the application fee prescribed in § 33.3 (relating to fees) and meet the qualifications for certification as prescribed in this section.

(b) *Qualifications.* To qualify for certification as a public health dental hygiene practitioner, a dental hygienist shall:

- (1) Hold a current license in good standing to practice as a dental hygienist in this Commonwealth.
- (2) Provide to the Board acceptable documentation demonstrating that the dental hygienist has completed 3,600 hours of practice as a licensed dental hygienist under the supervision of a licensed dentist.
- (3) Provide to the Board acceptable documentation demonstrating that the dental hygienist has obtained professional liability insurance in the minimum amount of \$1,000,000 per occurrence and \$3 million per annual aggregate.

(c) *Expiration and biennial renewal.* A certificate issued by the Board under this section will expire at the same time as the certificate holder's dental hygiene license but may be renewed biennially at the same time the dental hygiene license is renewed. A dental hygienist who desires to renew a local anesthesia permit shall submit the following:

- (1) A renewal application on a form provided by the Board.
- (2) The permit renewal fee set forth in § 33.3.

Subchapter C. MINIMUM STANDARDS OF CONDUCT AND PRACTICE

§ 33.205. Practice as a dental hygienist.

(a) *Scope of professional practice.* A dental hygienist may offer to perform or perform services that involve:

(1) Placement of **[antimicrobial cord] subgingival agents.**

(2) Periodontal probing, scaling, root planing, polishing or another procedure required to remove calculus deposits, accretions, excess or flash restorative materials and stains from the exposed surfaces of the teeth and beneath the **[free margin of the] gingiva [to the base of the junctional epithelium].**

* * * * *

(7) **Administration of local anesthesia by regional injection in accordance with § 33.115 (relating to local anesthesia permit).**

* * * * *

(d) *Supervision.*

(1) **[In subsection (c)(1) practice sites, the following apply:**

(i) A dental hygienist may provide the professional service identified in subsection (a)(1) to patients in any ASA Class under the direct supervision of a dentist.

(ii) A dental hygienist may provide the professional services identified in subsection (a)(2) to ASA Class I patients under the general supervision of a dentist.

(iii) A dental hygienist may provide the professional services identified in subsection (a)(2) to ASA Class II--ASA Class V patients under the direct supervision of a dentist.

(iv) A dental hygienist may provide the professional services identified in subsection (a)(3)--(6) to patients in any ASA Class under the general supervision of a dentist.]

In subsection (c)(1) practice sites (dental facilities), a dental hygienist shall provide professional services as follows:

(i) A dental hygienist may provide the professional services identified in subsection (a)(1) under the direct supervision of a dentist, except that these services may be provided under general supervision if the dentist has reviewed the patient's dental records and medical history and has written a prescription or given an order for the placement of subgingival agents by the dental hygienist.

(ii) A dental hygienist may provide the professional services identified in subsection (a)(2) under the general supervision of a dentist when the patient is free of systemic disease or suffers from mild systemic disease, as determined by the dentist upon review of the patient's medical history.

(iii) A dental hygienist may provide the professional services identified in subsection (a)(2) under the direct supervision of a dentist when the patient is suffering from systemic disease which is severe, incapacitating, or life threatening, as determined by the dentist upon review of the patient's medical

history.

(iv) A dental hygienist may provide the professional services identified in subsection (a)(3)--(6) under the general supervision of a dentist.

(v) A dental hygienist may provide the professional services identified in subsection (a)(7) only under the direct supervision of a dentist.

(2) In subsection (c)(2) and (3) practice sites (public and private institutions and institutions under the jurisdiction of Federal, State or local health agencies), a dental hygienist shall provide professional services as follows:

(i) A dental hygienist may provide the professional services identified in subsection (a)(1) under the direct supervision of a dentist, except that these services may be provided under general supervision if a dentist has reviewed the patient's dental records and medical history and has written a prescription or given an order for the placement of subgingival agents by the dental hygienist.

(ii) A dental hygienist may provide the professional services identified in subsection (a)(2)--(6) under the general supervision of a dentist. For the purposes of this paragraph, general supervision is defined as supervision by a dentist who authorizes and takes full professional responsibility for the provision of the services. A single authorization may, when appropriate, apply to one or more classes or categories of students/patients.

(iii) A dental hygienist may provide the professional service identified in subsection (a)(7) only under the direct supervision of a dentist.

(3) For professional services not identified in subsection (a)(1)--[(6)] (7) or § 33.302 (relating to auxiliary personnel performing radiologic procedures), the dentist shall compare the listed services and the supervision required with the unlisted service and utilize the appropriate supervision. Supervision for noncomparable services shall be determined by the Board on a modality basis.

* * * * *

§ 33.205b. Practice as a public health dental hygiene practitioner.

(a) *Scope of professional practice.* A public health dental hygiene practitioner may perform the dental hygiene services set forth in § 33.205(a)(2)--(6) (relating to practice as a dental hygienist) in the practice settings identified in subsection (c) without the authorization, assignment or examination by a dentist. A public health dental hygiene practitioner may perform the dental hygiene services set forth in § 33.205(a)(1) and (7) in accordance with § 33.205(d).

(b) *Requirement of referral.* A public health dental hygiene practitioner shall refer each patient to a licensed dentist on an annual basis. Documentation of the referral must be maintained in the patient's dental record. The failure of the patient to see a dentist as referred does not prevent the public health dental hygiene practitioner from continuing to provide dental hygiene services to the patient within the scope of professional practice set forth in subsection (a).

(c) *Practice settings.* A public health dental hygiene practitioner may perform dental hygiene services without the supervision of a dentist in the following practice settings:

(1) Schools.

(2) Correctional facilities.

(3) **Health care facilities, as defined in section 802.1 of the Health Care Facilities Act (35 P. S. § 448.802a).**

(4) **Personal care homes, as defined in section 1001 of the Public Welfare Code (62 P. S. § 1001).**

(5) **Domiciliary care facilities, as defined in section 2202-A of The Administrative Code of 1929 (71 P. S. § 581-2).**

(6) **Older adult daily living centers, as defined in section 2 of the Older Adult Daily Living Centers Licensing Act (62 P. S. § 1511.2).**

(7) **Continuing-care provider facilities, as defined in section 3 of the Continuing-Care Provider Registration and Disclosure Act (40 P. S. § 3203).**

(8) **Federally qualified health centers.**

(9) **Public or private institutions under the jurisdiction of a Federal, State or local agency.**

(d) **Recordkeeping.** A public health dental hygiene practitioner shall maintain a dental record which accurately, legibly and completely reflects the dental hygiene services provided to the patient. The dental record shall be retained at least 5 years from the date of the last treatment entry. The dental record must include, at a minimum, the following:

(1) **The name and address of the patient and, if the patient is a minor, the name of the patient's parents or legal guardian.**

(2) **The date dental hygiene services are provided.**

(3) **A description of the treatment or services rendered at each visit.**

(4) **The date and type of radiographs taken, if any, and documentation demonstrating the necessity or justification for taking radiographs, as well as the radiographs themselves.**

(5) **Documentation of the annual referral to a dentist.**

Subchapter D. PERFORMANCE OF RADIOLOGIC PROCEDURES BY AUXILIARY PERSONNEL

§ 33.301. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Radiologic procedure examination--[An examination adopted by the Board for auxiliary personnel performing radiologic procedures in the office of a licensed dentist in this Commonwealth] The Radiation Health and Safety examination administered by The Dental Assisting National Board, Inc. (DANB).

§ 33.302. Auxiliary personnel performing radiologic procedures.

[The following auxiliary personnel may perform radiologic procedures on the premises of a dentist under the direct supervision of the dentist. These procedures include applying ionizing radiation on the maxilla, mandible and adjacent structures of human beings for diagnostic purposes. The dentist shall be on the premises when a radiologic procedure is being performed. The dentist is not required to personally observe performance of the procedure.

(1) Dental hygienists currently licensed in this Commonwealth.

(2) Auxiliary personnel who have passed the radiologic procedure examination adopted by the Board.]

(a) Public health dental hygiene practitioners may perform radiologic procedures in those settings set forth in § 33.205b(c) (relating to practice as a public health dental hygiene practitioner) without the supervision of a dentist.

(b) Dental hygienists may perform radiologic procedures in any setting under the general supervision of a licensed dentist. For the purposes of this subsection, "general supervision" means supervision by a dentist who examines the patient, develops a dental treatment plan, authorizes the performance of the radiologic services to be performed within 1 year of the examination, and takes full professional responsibility for performance of the dental hygienist.

(c) Auxiliary personnel who have passed the radiologic procedure examination adopted by the Board may perform radiologic procedures on the premises of a dentist under the direct supervision of a dentist. The dentist shall be on the premises when a radiologic procedure is performed, but is not required to personally observe performance of the procedure.

Subchapter F. CONTINUING DENTAL EDUCATION

§ 33.402. Continuing education subject areas.

(a) [The] Except as provided in subsections (c), (d) and (e), the required credit hours shall be completed in subjects which contribute directly to the maintenance of clinical competence of a dentist, dental hygienist, **public health dental hygiene practitioner** or expanded function dental assistant. Examples of acceptable subjects include:

* * * * *

(b) Credit hours will not be awarded in nonclinical subjects, including:

* * * * *

(5) Communication skills, except as provided in subsection (c).

(c) A dental hygienist may complete no more than 3 of the required 20 hours of continuing education in courses relating to communication skills.

(d) A public health dental hygiene practitioner shall complete 5 of the required 20 hours of continuing education in public health-related courses.

(e) A school dental hygienist who is certified as a public health dental hygiene practitioner and who, as a certified educational specialist is required to obtain continuing professional education under the act and under section 1205.2 of the Public School Code of 1949 (24 P. S. § 12-1205.2) may

submit evidence of the completion of education courses approved for certification by the school district to meet the 20-hour continuing education requirement.

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