

DENTIST AND DENTAL HYGIENIST PRACTICE ACT

Part 1 - General Provisions

58-69-101. Title.

This chapter is the "Dentist and Dental Hygienist Practice Act."

58-69-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

- (1) "Board" means the Dentist and Dental Hygienist Licensing Board created in Section 58-69-201.
- (2) "Dental assistant" means an unlicensed individual who engages in, directly or indirectly, supervised acts and duties as defined by division rule made in collaboration with the board.
- (3) "Direct supervision" means the supervising dentist is present and available for face-to-face communication with the person being supervised when and where professional services are being provided.
- (4) "General supervision" means that the supervising dentist is available for consultation regarding work the supervising dentist has authorized, without regard as to whether the supervising dentist is located on the same premises as the person being supervised.
- (5) "Indirect supervision" means that the supervising dentist is present within the facility in which the person being supervised is providing services and is available to provide immediate face-to-face communication with the person being supervised.
- (6) "Practice of dentistry" means the following, regarding humans:
 - (a) to offer, undertake, or represent that a person will undertake by any means or method to:
 - (i) examine, evaluate, diagnose, treat, operate, or prescribe therapy for any disease, pain, injury, deficiency, deformity, or any other condition of the human teeth, alveolar process, gums, jaws, or adjacent hard and soft tissues and structures in the maxillofacial region;
 - (ii) take an appropriate history and physical consistent with the level of professional service to be provided and the available resources in the facility in which the service is to be provided;
 - (iii) take impressions or registrations;
 - (iv) supply artificial teeth as substitutes for natural teeth;
 - (v) remove deposits, accumulations, calculus, and concretions from the surfaces of teeth; and
 - (vi) correct or attempt to correct malposition of teeth;
 - (b) to administer anesthetics necessary or proper in the practice of dentistry only as allowed by an anesthesia permit obtained from the division;
 - (c) to administer and prescribe drugs related to and appropriate in the practice of dentistry;
 - (d) to supervise the practice of a dental hygienist or dental assistant as established by division rule made in collaboration with the board; or
 - (e) to represent oneself by any title, degree, or in any other way that one is a dentist.
- (7) "Practice of dental hygiene" means, regarding humans:
 - (a) under the general supervision of a dentist to:
 - (i) perform preliminary clinical examination of human teeth and gums;
 - (ii) make preliminary instrumental examination of patients' teeth;
 - (iii) expose dental radiographs;

- (iv) assess dental hygiene status and collaborate with the supervising dentist regarding a dental hygiene treatment plan for a patient;
 - (v) remove deposits, accumulations, calculus, and concretions from the surfaces of human teeth;
 - (vi) remove toxins and debris from subgingival surfaces;
 - (vii) provide dental hygiene care in accordance with a dentist's treatment plan for a patient;
 - (viii) take impressions of teeth or jaws except for impressions or registrations to supply artificial teeth as substitutes for natural teeth; or
 - (ix) engage in other practices of dental hygiene as defined by division rule;
- (b) under the indirect supervision of a dentist to administer in accordance with standards and ethics of the professions of dentistry and dental hygiene:
- (i) local anesthesia; or
 - (ii) nitrous oxide analgesia;
- (c) to represent oneself by any title, degree, or in any other way as being a dental hygienist; or
- (d) to direct a dental assistant when the supervising dentist is not on the premises.
- (8) "Supervising dentist" means a licensed dentist who has agreed to provide supervision of a dental hygienist or unlicensed individual in accordance with the provisions of this chapter.
- (9) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-69-501.
- (10) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-69-502 and as may be further defined by rule.

Part 2 - Board

58-69-201.

Board.

- (1) There is created the Dentist and Dental Hygienist Licensing Board, consisting of six licensed dentists, two licensed dental hygienists, and one member of the general public.
- (2) The board shall be appointed and serve in accordance with Section 58-1-201.
- (3) (a) The duties and responsibilities of the board shall be in accordance with Sections 58-1-202 and 58-1-203.
- (b) In addition, the board shall designate one of its members on a permanent or rotating basis to:
 - (i) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and
 - (ii) advise the division with respect to the conduct of investigations of these complaints.
- (4) A board member who has, under Subsection (3), reviewed a complaint or advised in its investigation may be disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.
- (5) Board members may serve as examiners for licensing examinations established under Section 58-69-302 when requested by the examining body.
- (6) Board members serving as examiners shall be compensated in accordance with Subsection 58-1-201(4), but may not be compensated for per diem or allowable expenses if they are eligible to receive compensation from the examining body.

Part 3 - Licensing

58-69-301. License required - License classifications - Anesthesia and analgesia permits.

- (1) A license is required to engage in the practice of dentistry or dental hygiene except as specifically provided in Section 58-69-306 or 58-1-307.
- (2) The division shall issue to individuals qualified under the provisions of this chapter a license in the classification:
 - (a) dentist; or
 - (b) dental hygienist.
- (3) A permit is required to engage in administration of anesthesia or analgesia in the practice of dentistry or dental hygiene.
- (4) The division in collaboration with the board shall establish by rule:
 - (a) the classifications of anesthesia and analgesia permits and the scope of practice permitted under each permit; and
 - (b) the qualifications for each classification of anesthesia and analgesia permit.

58-69-302. Qualifications for licensure.

- (1) An applicant for licensure as a dentist, except as set forth in Subsection (2), shall:
 - (a) submit an application in a form as prescribed by the division;
 - (b) pay a fee as determined by the department under Section 63J-1-504;
 - (c) be of good moral character;
 - (d) provide satisfactory documentation of having successfully completed a program of professional education preparing an individual as a dentist as evidenced by having received an earned doctor's degree in dentistry from a dental school accredited by the Commission on Dental Accreditation of the American Dental Association;
 - (e) pass the National Board Dental Examinations as administered by the Joint Commission on National Dental Examinations of the American Dental Association;
 - (f) pass any one of the regional dental clinical licensure examinations unless the division, in collaboration with the board determines that:
 - (i) the examination is clearly inferior to the Western Regional Examination Board; and
 - (ii) reliance upon the examination poses an unjustifiable threat to public health and safety;
 - (g) pass any other examinations regarding applicable law, rules, or ethics as established by division rule made in collaboration with the board;
 - (h) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board; and
 - (i) meet with the board if requested by the board or division for the purpose of examining the applicant's qualifications for licensure.
- (2) An applicant for licensure as a dentist qualifying under the endorsement provision of Section 58-1-302 shall:
 - (a) be currently licensed in good standing in another jurisdiction set forth in Section 58-1-302;
 - (b) (i) document having met all requirements for licensure under Subsection (1) except, an applicant having received licensure in another state or jurisdiction prior to the year when the National Board Dental Examinations were first administered, shall document having passed a state administered examination acceptable to the division in collaboration with the board; or

- (ii) document having obtained licensure in another state or jurisdiction upon which licensure by endorsement is based by meeting requirements which were equal to licensure requirements in Utah at the time the applicant obtained licensure in the other state or jurisdiction; and
 - (c) document having been successfully engaged in practice as a dentist for not less than 6,000 hours in the five years immediately preceding the date of application for licensure.
- (3) An applicant for licensure as a dental hygienist, except as set forth in Subsection (4), shall:
 - (a) submit an application in a form as prescribed by the division;
 - (b) pay a fee as determined by the department pursuant to Section 63J-1-504;
 - (c) be of good moral character;
 - (d) be a graduate holding a certificate or degree in dental hygiene from a school accredited by the Commission on Dental Accreditation of the American Dental Association;
 - (e) pass the National Board Dental Hygiene Examination as administered by the Joint Commission on National Dental Examinations of the American Dental Association;
 - (f) pass an examination consisting of practical demonstrations in the practice of dental hygiene and written or oral examination in the theory and practice of dental hygiene as established by division rule made in collaboration with the board;
 - (g) pass any other examinations regarding applicable law, rules, and ethics as established by rule by division rule made in collaboration with the board;
 - (h) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board; and
 - (i) meet with the board if requested by the board or division for the purpose of examining the applicant's qualifications for licensure.
- (4) An applicant for licensure as a dental hygienist qualifying under the endorsement provision of Section 58-1-302 shall:
 - (a) be currently licensed in another jurisdiction set forth in Section 58-1-302;
 - (b)
 - (i) document having met all requirements for licensure under Subsection (3) except, an applicant having received licensure in another state or jurisdiction prior to 1962, the year when the National Board Dental Hygiene Examinations were first administered, shall document having passed a state administered examination acceptable to the division in collaboration with the board; or
 - (ii) document having obtained licensure in another state or jurisdiction upon which licensure by endorsement is based by meeting requirements which were equal to licensure requirements in Utah at the time the applicant obtained licensure in the other state or jurisdiction; and
 - (c) document having been successfully engaged in practice as a dental hygienist for not less than 2,000 hours in the two years immediately preceding the date of application for licensure.

58-69-303.

Term of license - Expiration - Renewal.

- (1) (a) The division shall issue each license and permit under this chapter in accordance with a two-year renewal cycle established by division rule.

- (b) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.
- (2) At the time of renewal, the licensee shall show compliance with continuing education renewal requirements.
- (3) Each license expires on the expiration date shown on the license unless renewed in accordance with Section 58-1-308.

58-69-304. Continuing education.

During each two-year licensure cycle or other cycle defined by rule, a licensee under this chapter shall complete qualified continuing professional education requirements established by division rule made in collaboration with the board.

58-69-305. Repealed.

58-69-306. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307:

- (1) a person performing mechanical work on inert matter in a laboratory pursuant to a written prescription from a licensed dentist may engage in acts and practices included in the practice of dentistry or dental hygiene without being licensed under this chapter; and
- (2) a person licensed in good standing as a dentist in another state, with no licensing action pending and no less than ten years of professional experience, may engage in the practice of dentistry without being licensed under this chapter if:
 - (a) the services are rendered as a public service and for a noncommercial purpose;
 - (b) no fee or other consideration of value is charged, received, expected, or contemplated for the services rendered beyond an amount necessary to cover the proportionate cost of malpractice insurance; and
 - (c) the individual does not otherwise engage in unlawful or unprofessional conduct.

58-69-307. Status of licenses held on the effective date of this chapter.

An individual holding a current license or permit as a dentist or dental hygienist that was issued under any prior state law is considered to hold a current license or permit in the same classification under this chapter.

Part 4 - License Denial and Discipline

58-69-401. Grounds for denial of license - Disciplinary proceedings.

Grounds for division action regarding the following are under Section 58-1-401:

- (1) refusing to issue a license to an applicant or refusing to renew the license of a licensee;
- (2) revoking, suspending, restricting, or placing on probation the license of a licensee;
- (3) issuing a public or private reprimand to a licensee; and
- (4) issuing a cease and desist order.

Part 5 - Unlawful and Unprofessional Conduct - Penalties

58-69-501. Unlawful conduct.

- "Unlawful conduct" includes, in addition to the definition in Section 58-1-501:
- (1) administering anesthesia or analgesia in the practice of dentistry or dental hygiene if the individual does not hold a current permit issued by the division authorizing that individual to administer the type of anesthesia or analgesia used;
 - (2) practice of dental hygiene by a licensed dental hygienist when not under the supervision of a dentist in accordance with the provisions of this chapter; or
 - (3) directing or interfering with a licensed dentist's judgment and competent practice of dentistry.

58-69-502. Unprofessional conduct.

- (1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:
 - (a) sharing professional fees with an unlicensed person or paying any person for sending or referring a patient;
 - (b) making an unsubstantiated claim of superiority in training or skill as a dentist or dental hygienist or in the performance of professional services;
 - (c) refusing authorized agents of the division or state or local health authorities access to the facilities related to the practice of dentistry or dental hygiene during normal business hours for the purpose of inspection; and
 - (d) failing to maintain facilities, instruments, equipment, supplies, appliances, or other property or conditions related to the practice of dentistry in a sanitary condition consistent with the standards and ethics of the professions of dentistry or dental hygiene.
- (2) For purposes of Subsection (1)(b), an unsubstantiated claim of superiority:
 - (a) includes for the practice of dentistry:
 - (i) advertising or otherwise holding oneself out to the public as practicing a dental specialty in which the dentist has not successfully completed the education specified for the dental specialty as defined by the American Dental Association; and
 - (ii) using the following words in advertising "Endodontist," "Orthodontist," "Oral and Maxillofacial Surgeon," "Specialist," "Board Certified," "Diplomat," "Practice Limited to," "pediatric dentist," "periodontist," or "Limited to Specialty of" when the dentist has not successfully completed the education specified for the dental specialty as defined by the American Dental Association; and
 - (b) does not include a dentist who advertises as being qualified in a recognized specialty area of dental practice so long as each such advertisement, regardless of form, contains a prominent disclaimer that the dentist is licensed as a general dentist or that the specialty services will be provided by a general dentist.

58-69-503. Penalty for unlawful conduct.

- (1) Any person who violates the unlawful conduct provisions of Subsection 58-1-501(1)(a) and Section 58-69-501 with regard to the practice of dentistry is guilty of a third degree felony.
- (2) Any person who violates the unlawful conduct provisions of Subsection 58-1-501(1)(a) with regard to the practice of dental hygiene is guilty of a class A misdemeanor.

Part 6 - Impaired Licensee

58-69-601. Mentally incompetent or incapacitated dentist or dental hygienist.

- (1) As used in this section:
 - (a) "Incapacitated person" has the same definition as in Section 75-1-201.
 - (b) "Mentally ill" has the same definition as in Section 62A-15-602.
- (2) If a court of competent jurisdiction determines a dentist or dental hygienist is an incapacitated person or that the dentist or hygienist is mentally ill and unable to safely engage in the practice of dentistry or dental hygiene, the director shall immediately suspend the license of the dentist or dental hygienist upon the entry of the judgment of the court, without further proceedings under Title 63G, Chapter 4, Administrative Procedures Act, regardless of whether an appeal from the court's ruling is pending. The director shall promptly notify the dentist or dental hygienist, in writing, of the suspension.
- (3)
 - (a) If the division and a majority of the board find reasonable cause to believe a dentist or dental hygienist, who is not determined judicially to be an incapacitated person or to be mentally ill, is incapable of practicing dentistry or dental hygiene with reasonable skill regarding the safety of patients, because of illness, excessive use of drugs or alcohol, or as a result of any mental or physical condition, the board shall recommend that the director file a petition with the division, and cause the petition to be served upon the dentist or dental hygienist with a notice of hearing on the sole issue of the capacity of the dentist or dental hygienist to competently and safely engage in the practice of dentistry or dental hygiene.
 - (b) The hearing shall be conducted under Section 58-1-109 and Title 63G, Chapter 4, Administrative Procedures Act, except as provided in Subsection (4).
- (4)
 - (a) Every dentist or dental hygienist who accepts the privilege of being licensed under this chapter gives consent to:
 - (i) submitting at the dentist or dental hygienist's own expense to an immediate mental or physical examination when directed in writing by the division and a majority of the board to do so; and
 - (ii) the admissibility of the reports of the examining practitioner's testimony or examination, and waives all objections on the ground the reports constitute a privileged communication.
 - (b) The examination may be ordered by the division, with the consent of a majority of the board, only upon a finding of reasonable cause to believe:
 - (i) the dentist or dental hygienist is mentally ill or incapacitated or otherwise unable to practice dentistry or dental hygiene with reasonable skill and safety; and
 - (ii) immediate action by the division and the board is necessary to prevent harm to the dentist's or dental hygienist's patients or the general public.

- (c) (i) Failure of a dentist or dental hygienist to submit to the examination ordered under this section is a ground for the division's immediate suspension of the dentist's or dental hygienist's license by written order of the director.
- (ii) The division may enter the order of suspension without further compliance with Title 63G, Chapter 4, Administrative Procedures Act, unless the division finds the failure to submit to the examination ordered under this section was due to circumstances beyond the control of the dentist or dental hygienist and was not related directly to the illness or incapacity of the dentist or dental hygienist.
- (5) (a) A dentist or dental hygienist whose license is suspended under Subsection (2) or (3) has the right to a hearing to appeal the suspension within ten days after the license is suspended.
- (b) The hearing held under this subsection shall be conducted in accordance with Sections 58-1-108 and 58-1-109 for the sole purpose of determining if sufficient basis exists for the continuance of the order of suspension in order to prevent harm to the dentist's or dental hygienist's patients or the general public.
- (6) A dentist or dental hygienist whose license is revoked, suspended, or in any way restricted under this section may request the division and the board to consider, at reasonable intervals, evidence presented by the dentist or dental hygienist, under procedures established by division rule, regarding any change in the dentist's or dental hygienist's condition, to determine whether:
 - (a) the dentist or dental hygienist is or is not able to safely and competently engage in the practice of dentistry or dental hygiene; and
 - (b) the dentist or dental hygienist is qualified to have the dentist or dental hygienist's licensure to practice under this chapter restored completely or in part.

Part 7 - Immunity Provisions

58-69-701. Immunity provisions apply.

The provisions of Chapter 12, Part 4, apply to licensees under this chapter.

Part 8 - Practice Standards

58-69-801. Dental hygienist - Limitations on practice.

- A dental hygienist licensed under this chapter may only practice dental hygiene:
- (1) in an accredited dental or dental hygienist school to teach and demonstrate the practice of dental hygiene;
 - (2) for a public health agency;
 - (3) under the supervision of a dentist, for an employee leasing company or temporary personnel service company providing employees to a dentist or other person lawfully providing dental services:
 - (a) under the indirect supervision of a dentist licensed under this chapter at any time the dental hygienist is administering an anesthetic or analgesia as permitted under this chapter or division rules made under this chapter;
 - (b) under the general supervision of a dentist licensed under this chapter within the office of the supervising dentist and upon patients of record of the supervising dentist; and
 - (c) under the general supervision of a dentist licensed under this chapter,

and the practice is conducted outside of the office of the supervising dentist, if:

- (i) the dental hygiene work performed is authorized by the supervising dentist as a part of and in accordance with the supervising dentist's current treatment plan for the patient;
- (ii) no anesthetic or analgesia is used;
- (iii) the supervising dentist has determined the patient's general health and oral health are so that the dental hygiene work can be performed under general supervision and with an acceptable level of risk or injury as determined by the supervising dentist;
- (iv) the supervising dentist accepts responsibility for the dental hygiene work performed under general supervision; and
- (v) (A) the dental hygienist's work is performed on a patient who is homebound or within a hospital, nursing home, or public health agency or institution; and
(B) the patient is the supervising dentist's patient of record and the dentist has examined the patient within six months prior to the patient's receiving treatment from a dental hygienist under this subsection.

58-69-802. Practice within limits of law, education, training, experience, and competency.

Each individual licensed under this chapter shall confine his practice to those acts or practices:

- (1) permitted by law; and
- (2) in which the individual is competent by education, training, and experience.

58-69-803. Use of unlicensed individuals.

The standards regulating the use of unlicensed individuals as dental assistants shall be established by division rule made in collaboration with the board.

58-69-804. Form of practice.

- (1) A dentist licensed under this chapter may engage in practice as a dentist, or in the practice of dentistry only as an individual licensee, but as an individual licensee, he may be:
 - (a) an individual operating as a business proprietor;
 - (b) an employee of another person;
 - (c) a partner in a lawfully organized partnership;
 - (d) a lawfully formed professional corporation;
 - (e) a lawfully organized limited liability company;
 - (f) a lawfully organized business corporation; or
 - (g) any other form of organization recognized by the state which is not prohibited by rule adopted by division rules made in collaboration with the board.
- (2) Regardless of the form in which a licensee engages in the practice of dentistry, the licensee may not permit another person who is not licensed in Utah as a dentist and is not otherwise competent to engage in the practice of dentistry to direct, or in any other way participate in, or interfere in the licensee's practice of dentistry.

58-69-805.

Disclosure of financial interest by licensee.

- (1) Licensees under this chapter may not refer patients to any clinical laboratory or health care facility in which the licensee or a member of the licensee's immediate family has any financial relationship as that term is described in 42 U.S.C. 1395nn, unless the licensee at the time of making the referral discloses that relationship, in writing, to the patient.
- (2) The written disclosure under Subsection (1) shall also state the patient may choose any facility or laboratory for the work or treatment.

**DENTIST AND DENTAL HYGIENIST
PRACTICE ACT**

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