

DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
PROPOSED RULE OR CHANGE

DOPL-FM-025 REV 07/15/2016

Title of Rule or Section: R156-69 Dentist and Dental Hygienist Practice Act Rule

Contact Person: Larry Marx, Bureau Manager (801) 530-6254
lmarx@utah.gov

Hearing Date and Time (if any): September 8, 2016

Date proposed amendments approved by Board/Committee: June 2, 2016

Purpose of or reason for the filing: These amendments to the rule update references to testing organizations and to materials incorporated by reference, and implement legislative changes made by H.B. 186 (2016) to continuing education requirements.

Summary of the filing:

Section R156-69-102: Adds "ADEX," "CDCA," and "CITA" definitions, and replaces "NERB" definition with "CDCA" definition.

Section R156-69-202: Updates the reference to the Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students.

Subsections R156-69-204(3)(a), R156-69-302b(2), and R169-69-302c(2): Replace all references to "NERB" with "CDCA."

Subsections R156-69-204(3)(a) and R156-69-302b(5): Add references to the CITA examination and CITA organization.

Section R156-69-304a: To implement H.B. 186 (2016), Volunteer Health Care Continuing Education Credit, this rule specifies that a dentist or dental hygienist may fulfill a portion of their continuing education requirement by providing volunteer health care services in a qualified health care facility. For every four hours of volunteer health care services, the licensee may receive one hour of continuing education credit, up to 15% of the required continuing education.

Cost or saving impact of filing (Aggregate Impact):

State Budget: The Division will incur minimal costs of approximately \$75 to print and distribute the rule once the proposed amendments are made effective.

Local Government:

The proposed changes and amendments apply only to those persons who are required to be licensed as a dentist or dental hygienist and choose to earn continuing education credit by providing volunteer services. The volunteer services provided could possibly benefit a local government by increasing the health of any population it serves that would otherwise go without dental care for financial reasons.

Small Business (less than 50 employees):

Health care professionals who operate small businesses may be impacted by the cost of recordkeeping and lost revenue if they substitute billable time for time spent providing volunteer health care services. However, these health care professionals will also save on the cost of attendance at a continuing education course, and they may receive "goodwill" advertising benefits in their community from their volunteer services. The amount of the cost or savings cannot be estimated, as it will vary from business to business depending on the amount of volunteer services provided.

It is unknown how many small businesses currently provide continuing education training to dentists and dental hygienists, but there is a potential that this rule could result in a loss of revenue to this type of small business if dentists or dental hygienists provide volunteer services instead of purchasing training. This impact cannot be estimated as it would vary depending on the amount of volunteer services provided.

Other Persons:

The licensee will bear the cost of the services provided relative to their time spent providing the service. The uninsured, underserved, and indigent populations will benefit from increased availability of health care services and improved opportunity for dental health.

Compliance costs for affected persons (Individual Impact):

Licensees will need to document services provided for audit by the Division to ensure compliance.

Reviewed By: (Initial and Date)

_____ Larry Marx ___/___/___

___ DDB ___ Deborah Blackburn 9/2/2016

_____ W. Ray Walker ___/___/___

_____ Mark B. Steinagel ___/___/___

_____ Administrative Law Judge ___/___/___

R156-69-101. Title.

This rule is known as the "Dentist and Dental Hygienist Practice Act Rule."

R156-69-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 69, as used in Title 58, Chapters 1 and 69 or this rule:

(1) "ACLS" means Advanced Cardiac Life Support.

(2) "ADA" means the American Dental Association.

(3) "ADA CERP" means American Dental Association Continuing Education Recognition Program.

(4) "ADEX" means American Board of Dental Examiners.

(~~4~~5) "Advertising or otherwise holding oneself out to the public as a dentist" means representing or promoting oneself as a dentist through any of the following or similar methods:

(a) business names;

(b) business signs;

(c) door or window lettering;

(d) business cards;

(e) letterhead;

(f) business announcements;

(g) flyers;

(h) mailers;

(i) promotions;

(j) advertisements;

(k) radio or television commercials;

(l) listings in printed or online telephone directories; or

(m) any other type of advertisement or promotional communication.

(~~5~~6) "BCLS" means Basic Cardiac Life Support.

(~~6~~7) "ADHA" means the American Dental Hygienists' Association.

(8) "CDCA" means Commission on Dental Competency Assessment.

(9) "CITA" means Council of Interstate Testing Agencies, Inc.

(~~7~~10) "CPR" means cardiopulmonary resuscitation.

(~~8~~11) "CRDTS" means the Central Regional Dental Testing Service, Inc.

[[9]12) "Competency" means displaying special skill or knowledge derived from training and experience.

[[10]13) "Conscious sedation" means a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal command, produced by a pharmacologic or non-pharmacologic method, or a combination thereof.

[[11]14) "DANB" means the Dental Assisting National Board, Inc.

[[12]15) "Deep sedation" means a controlled state of depressed consciousness, accompanied by partial loss of protective reflexes, including inability to respond purposefully to verbal command, produced by a pharmacologic or non-pharmacologic method, or combination thereof.

[[13]16) "General anesthesia" means a controlled state of unconsciousness accompanied by partial or complete loss of protective reflexes, including inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, produced by a pharmacologic or non-pharmacologic method or a combination thereof.

[[14) "~~NERB~~" means ~~Northeast Regional Board of Dental Examiners, Inc.~~]

[[15]17) "PALS" means Pediatric Advanced Life Support.

[[16]18) "Practice of dentistry" in regard to administering anesthesia is further defined as follows:

(a) a Class I permit allows for local anesthesia which is the elimination of sensation, especially pain, in one part of the body by the topical application or regional injection of a drug;

(b) a Class II permit allows for minimal sedation which is a minimally depressed level of consciousness induced by nitrous oxide, or by a pharmacological method, or by both, that retains the patient's ability to independently and consciously maintain an airway and respond normally to tactile stimulation and verbal command. Although cognitive function and coordination may be modestly impaired, ventilatory and cardiovascular functions are unaffected;

(c) a Class III permit allows for moderate sedation in which a drug-induced depression of consciousness occurs during which a patient responds purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patient's airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained; and

(d) a Class IV permit allows for deep sedation in which a drug-induced depression of consciousness occurs from which a patient cannot be easily aroused, but responds purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. A patient may require assistance in maintaining an airway and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.

[[17]19) "Prominent disclaimer" means a disclaimer as described in and as required by Subsection R156-69-502(2)(ii) that:

(a) If in writing, is in the same size of lettering as the largest lettering otherwise contained in an advertisement, publication, or other communication in which the disclaimer appears; or

(b) If not in writing, is in the same volume and speed as the slowest speed and highest volume otherwise included in a radio or television commercial or other oral advertisement or promotion in which the disclaimer appears.

([18]20) "Specialty area" means an area of dentistry proposed in a formal application by a sponsoring organization to the Council on Dental Education and Licensure and formally approved by the ADA as meeting the "Requirements for Recognition of Dental Specialists". Specialty areas include the following:

- (a) orthodontics;
- (b) oral and maxillofacial surgery;
- (c) oral and maxillofacial pathology;
- (d) pediatric dentistry;
- (e) periodontics;
- (f) endodontics;
- (g) prosthodontics;
- (h) dental public health; and
- (i) oral and maxillofacial radiology.

([19]21) "SRTA" means Southern Regional Testing Agency, Inc.

([20]22) "Unprofessional conduct," as defined in Title 58 Chapters 1 and 69, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-69-502.

([21]23) "UDA" means Utah Dental Association.

([22]24) "UDHA" means Utah Dental Hygienists' Association.

([23]25) "WREB" means the Western Regional Examining Board.

R156-69-103. Authority - Purpose.

This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 69.

R156-69-104. Organization - Relationship to Rule R156-1.

The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.

R156-69-201. Classifications of Anesthesia and Analgesia Permits - Dentist.

In accordance with Subsection 58-69-301(4)(a), a dentist may be issued an anesthesia and analgesia permit in the following classifications:

- (1) class I permit;
- (2) class II permit;
- (3) class III permit; and

(4) class IV permit.

R156-69-202. Qualifications for Anesthesia and Analgesia Permits - Dentist.

In accordance with Subsection 58-69-301(4)(b), the qualifications for anesthesia and analgesia permits are:

(1) for a class I permit:

- (a) current licensure as a dentist in Utah; and
- (b) documentation of current CPR or BCLS certification;

(2) for a class II permit:

- (a) current licensure as a dentist in Utah;
- (b) documentation of current BCLS certification;
- (c) evidence of successful completion of training in the administration of nitrous oxide and pharmacological methods of conscious sedation that:

(i) conforms to the Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students, published by the American Dental Association, as adopted by the October 2012 ADA House of Delegates [October 2007], which is incorporated by reference; or

(ii) is the substantial equivalent of Subsection (2)(c)(i) provided in a continuing education format offered by an American Dental Association accredited school; and

(d) certification that the applicant will comply with the scope of practice as set forth in Subsection R156-69-601(2);

(3) for a class III permit:

- (a) compliance with Subsections (1)(a) and (2) above;
- (b) evidence of current Advanced Cardiac Life Support (ACLS) certification;
- (c) evidence of holding a current Utah controlled substance license in good standing and a current Drug Enforcement Administration (DEA) Registration in good standing;
- (d) evidence of successful completion of:

(i)(A) a comprehensive predoctoral or post doctoral training in the administration of conscious sedation that conforms to the Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students, published by the American Dental Association, as adopted by the October 2012 ADA House of Delegates [October 2007], including a letter from the course director documenting competency in performing conscious sedation; and

(B) 60 hours of didactic education in sedation and successful completion of 20 cases; or

(ii) the substantial equivalent of Subsection (3)(d)(i) provided in a continuing education format offered by an American Dental Association accredited school; and

(e) certification that the applicant will comply with the scope of practice as set forth in Subsection R156-69-601(3); and

(4) for a class IV permit:

(a) compliance with Subsections (1), (2), and (3) above;

(b) evidence of current ACLS certification;

(c) evidence of having successfully completed advanced training in the administration of general anesthesia and deep sedation consisting of not less than one year in a program which conforms to the Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students, published by the American Dental Association, as adopted by the October 2012 ADA House of Delegates [October 2007], and a letter from the course director documenting competency in performing general anesthesia and deep sedation;

(d) documentation of successful completion of advanced training in obtaining a health history, performing a physical examination and diagnosis of a patient consistent with the administration of general anesthesia or deep sedation; and

(e) certification that the applicant will comply with the scope of practice as set forth in Subsection R156-69-601(4).

R156-69-203. Classification of Anesthesia and Analgesia Permits - Dental Hygienist.

In accordance with Subsection 58-69-301(4)(a), a dental hygienist may be issued an anesthesia and analgesia permit in the classification of local anesthesia.

R156-69-204. Qualifications for Anesthesia and Analgesia Permits - Dental Hygienist.

In accordance with Subsection 58-69-301(4)(b), the qualifications for a local anesthesia permit are the following:

(1) current Utah licensure as a dental hygienist or documentation of meeting all requirements for licensure as a dental hygienist;

(2) successful completion of a program of training in the administration of local anesthetics that:

(i) is accredited by the Commission on Dental Accreditation of the ADA; or

(ii) is the substantial equivalent of Subsection (2)(i) provided in a continuing education format offered by an American Dental Association accredited school; and

(3)(a) a passing score on the WREB, [NERB,] SRTA, CDCA, CITA, or CRDTS anesthesia examination; or

(b) documentation of having a current, active license to administer local anesthesia in another state in the United States; and

(4) documentation of current CPR or BCLS certification.

R156-69-302b. Qualifications for Licensure - Examination Requirements - Dentist.

In accordance with Subsections 58-69-302(1)(f) and (g), the examination requirements for licensure as a dentist include the periodontics section and are established as the following:

- (1) The WREB examination with a passing score as established by the WREB;
- (2) The [NERB] CDCA examination with a passing score as established by the [NERB] CDCA;
- (3) The SRТА examination with a passing score as established by the SRТА; [or]
- (4) The CRDTS examination with a passing score as established by the CRDTS[-]; or
- (5) The CITA examination with a passing score as established by the CITA.

R156-69-302c. Qualifications for Licensure - Examination Requirements - Dental Hygienist.

In accordance with Subsections 58-69-302(3)(f) and (g), the examination requirements for licensure as a dental hygienist are established as the following:

- (1) The WREB examination with a passing score as established by the WREB;
- (2) The [NERB] CDCA examination with a passing score as established by the [NERB] CDCA;
- (3) The SRТА examination with a passing score as established by the SRТА; [or]
- (4) The CRDTS examination with a passing score as established by the CRDTS[-]; or
- (5) The CITA examination with a passing score as established by the CITA.

R156-69-303. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 69, is established by rule in Section R156-1-308a.

(2) Renewal procedures shall be in accordance with Section R156-1-308c.

R156-69-304a. Continuing Education - Dentist and Dental Hygienist.

In accordance with Section 58-69-304, qualified continuing professional education requirements are [established] as [the following] follows:

(1) All licensed dentists and dental hygienists shall complete 30 hours of qualified continuing professional education during each two-year period of licensure.

(2) Qualified continuing professional education hours for licensees who have not been licensed for the entire two-year period will be prorated from the date of licensure.

(3) Continuing education under this section shall:

- (a) be relevant to the licensee's professional practice;
- (b) be prepared and presented by individuals who are qualified by education, training, and experience to provide dental and dental hygiene continuing education; and
- (c) have a method of verification of attendance and completion.

(4) Credit for continuing education shall be recognized in accordance with the following:

(a) unlimited hours shall be recognized for continuing education completed in blocks of time of not less than 50 minutes in formally established classroom courses, seminars, lectures,

conferences, or training sessions which meet the criteria listed in Subsection (3) above, and which are approved by, conducted by, or under sponsorship of:

(i) the Division of Occupational and Professional Licensing;

(ii) recognized universities and colleges;

(iii) professional associations, societies, and organizations representing a licensed profession whose program objectives relate to the practice of dentistry and dental hygiene; or

(iv) the ADA or any subgroup thereof, the ADHA or any subgroup thereof, an accredited dental, dental hygiene or dental postgraduate program, a government agency, a recognized health care professional association, or a peer study club;

(b) a maximum of ten hours per two-year period may be recognized for teaching continuing education relevant to dentistry and dental hygiene;

(c) a maximum of 15 hours per two-year period may be recognized for continuing education that is provided via Internet or through home study which provides an examination and a completion certificate;

~~[(d) a maximum of six hours per two-year period may be recognized for continuing education provided by the Division of Occupational and Professional Licensing; and]~~

~~[(e)d a maximum of three hours per two-year period may be recognized for continuing education [Qualified continuing professional education may include up to three hours] in practice and office management.~~

(5) Licensees may fulfill up to 15% of their continuing education requirement by providing volunteer services within the scope of their license at a qualified location, in accordance with Section 58-13-3. For every four documented hours of such volunteer services, the licensee may earn one hour of continuing education.

~~[(5)6] If properly documented that a licensee is engaged in full-time activities or is subjected to circumstances which prevent that licensee from meeting the continuing education requirements established under this section, the licensee may be excused from the requirement for a period of up to three years. However, it is the responsibility of the licensee to document the reasons and justify why the requirement could not be met.~~

~~[(6)7] Hours for recertification in CPR, BCLS, ACLS, and PALS do not count as continuing education.~~

~~[(7)8] A licensee shall [be responsible for maintaining] maintain competent records of their completed qualified continuing professional education for a period of four years after close of the two-year licensure period [to which the records pertain]. It is the responsibility of the licensee to [maintain such information with respect to qualified continuing professional education] to demonstrate [~~it~~] that their continuing professional education meets the requirements [~~under~~] of this section.~~