

R156. Commerce, Occupational and Professional Licensing.

R156-69. Dentist and Dental Hygienist Practice Act Rule.

R156-69-101. Title.

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

R156-69-502. Unprofessional Conduct.

"Unprofessional Conduct" includes the following:

(1) failing to provide continuous in-operatory observation by a trained dental patient care staff member for any patient under nitrous oxide administration;

(2) advertising or otherwise holding oneself out to the public as a dentist or dental group that practices in a specialty area unless:

(i) each dentist has successfully completed an advanced educational program accredited by the ADA's Commission on Dental Accreditation (or its equivalent if completed prior to 1967) of two or more years in length, as specified by the Council on Dental Education and Licensure;

(ii) as specified in Subsection 58-69-502(2)(b), the advertisement or other method of holding oneself out to the public as a dentist or dental group includes a prominent disclaimer that the dentist or dentists performing services are licensed as general dentists or that the specialty services will be provided by a general dentist;

(iii) the advertisement or other method of holding oneself out to the public as a dentist or dental group that practices in a specialty area includes a prominent disclaimer that the dentist or dentists performing services is a specialist, but not qualified as a specialist in the specialty area being advertised; or

(iv) otherwise advertising in a specialty area by representing that a dentist has attained any education, training or certification in the specialty area when the dentist has not met the criteria;

(v) In accordance with 58-69-807 teledentistry services provided by an individual, partnership, corporation or other entity must be advertised in a transparent manner according to current state advertising regulation, and any advertisement or platform for teledentistry must include information identifying the treating dentist involved in the teledentistry, including his or her name, dental office address, telephone number, and any other licensed provider information required for dental advertising in Utah.

(3) advertising in any form that is misleading, deceptive, or false; including the display of any credential, education, or training that is inaccurate, or the making of any unsubstantiated claim of superiority in training, skill, experience, or any other quantifiable aspect;

(4) prescribing treatments and medications outside the scope of dentistry;

(5) prescribing for oneself any Schedule II or III controlled

substance;

(6) engaging in practice as a dentist or dental hygienist without prominently displaying a copy of the current Utah license;

(7) failing to personally maintain current CPR or BCLS certification, or employing patient care staff who fail to maintain current CPR or BCLS certification;

(8) providing consulting or other dental services under anonymity;

(9) engaging in unethical or illegal billing practices or fraud, including:

(a) reporting an incorrect treatment date for the purpose of obtaining payment;

(b) reporting charges for services not rendered;

(c) incorrectly reporting services rendered for the purpose of obtaining payment;

(d) generally representing a charge to a third party that is different from that charged to the patient;

(10) failing to establish and maintain appropriate dental records;

(11) failing to maintain patient records for a period of seven years;

(12) failing to provide copies of x-rays, reports or records to a patient or the patient's designee upon written request and payment of a nominal fee for copies regardless of the payment status of the services reflected in the record; and

(13) failing to submit a complete report to the Division within 30 calendar days concerning an incident, in which any anesthetic or sedative drug was administered to any patient, which resulted in, either directly or indirectly, the death or adverse event resulting in patient admission to a hospital.

R156-69-603. Use of Unlicensed Individuals as Dental Assistants.

In accordance with Section 58-69-803, the standards regulating the use of unlicensed individuals as dental assistants are that an unlicensed individual shall not, under any circumstance:

(1) render definitive treatment diagnosis;

(2) place, condense, carve, finish or polish restorative materials, or perform final cementation;

(3) cut hard or soft tissue or extract teeth;

(4) remove stains, deposits, or accretions, except as is incidental to polishing teeth coronally with a rubber cup;

(5) initially introduce nitrous oxide and oxygen to a patient for the purpose of establishing and recording a safe plane of analgesia for the patient, except under the direct supervision of a licensed dentist after a baseline percentage and flow rate suitable for the patient is established and documented by a licensed dentist holding the appropriate permit;

(6) remove bonded materials from the teeth with a rotary dental instrument or use any rotary dental instrument within the oral cavity except to polish teeth coronally with a rubber cup;

(7) take jaw registrations or oral impressions for supplying artificial teeth as substitutes for natural teeth, including electronic imaging, except for diagnostic or opposing models for

the fabrication of temporary or provisional restorations or appliances;

(8) correct or attempt to correct the malposition or malocclusion of teeth, or make an adjustment that will result in the movement of teeth upon an appliance which is worn in the mouth;

(9) perform sub-gingival instrumentation;

(10) render decisions concerning the use of drugs, their dosage or prescription;

(11) expose radiographs without meeting the following criteria:

(a) completing a dental assisting course accredited by the ADA Commission on Dental Accreditation; or

(b) passing one of the following examinations:

(i) the DANB Radiation Health and Safety Examination (RHS); or

(ii) a radiology exam approved by the Board that meets the criteria established in Section R156-69-604;

(12) work without a current CPR or BCLS certification; or

(13) provide injections of any substance; or

(14) convert a denture into a fixed implant prosthesis (otherwise known as a conversion); or

(15) adjust any prosthetic, removable or fixed, that is worn or will be worn by a patient, whether it be a temporary or permanent prosthetic.

R156-69-605. Teledentistry - Definitions. In addition to the definitions in Section 58-69-102 and 26-60-102 the following:

(1) "Asynchronous" means transmission of recorded health information including, radiographs, photographs, video, digital impressions and photomicrographs of patients through a secure electronic communications system to a practitioner, who uses the information to evaluate a patient's condition or render a service outside of a real-time or live interaction.

(2) "Distant site" means the same as defined in Subsection 26-60-102(2).

(3) Mobile health (mHealth) means health care and public health practice and education supported by mobile communication devices such as cell phones, tablet computers, and personal digital assistants (PDA).

(4) "Originating site" means the same as defined in Subsection 26-60-102(3).

(5) "Patient" means the same as defined in Subsection 26-60-102(4).

(6) "Patient Encounter" means any encounter where dental treatment and/or evaluation and management services are provided. For purposes of this rule.

(7) "Provider" may include multiple providers obtaining informed consent and providing care as a team, consistent with the standards of practice applicable to a broader practice model found in traditional health care settings.

(8) "Remote patient monitoring" (RPM) means personal health and medical data collection from an individual in one location via electronic communication technologies, which is transmitted to a provider in a different location for use in care and related support of care.

(9) "Standards of Practice" means those standards of practice applicable in a traditional dental care setting, as provided in Subsection 58-69-802.

(10) "Synchronous technology" means the same as defined in Subsection 58-69-102(11) and includes live, two-way interaction between a person (patient, caregiver, or provider) and a provider using audiovisual telecommunications technology.

R156-69-606. Teledentistry - Scope of Teledentistry Practice.

(1) This rule is not intended to alter or amend the applicable standard of practice for dentistry. The provider shall be held to the same standards of practice including maintaining patient confidentiality and recordkeeping that would apply to the provision of dentistry in an in-person setting.

(2) In accordance with Section 26-60-103, Subsection 26-60-104(1), Section 58-69-102, Section 58-69-802 and Section 58-69-807 a provider offering teledentistry services shall, prior to each patient encounter:

(a) verify the patient's identity and originating site;
(b) obtain informed consent to the use of teledentistry services by clear disclosure of:

(i) additional fees for teledentistry services, if any, and how payment is to be made for those additional fees if they are charged separately from any fees for face-to-face services provided to the patient in combination with the teledentistry services;

(ii) to whom patient health information may be disclosed and for what purpose, including clear reference to any patient consent governing release of patient-identifiable information to a third-party;

(iii) the rights of patients with respect to patient health information;

(iv) appropriate uses and limitations of the site, including emergency health situations;

(v) information:

(A) affirming that the teledentistry services meet industry security and privacy standards, and comply with all laws referenced in Subsection 26-60-102(9)(b)(ii);

(B) warning of potential risks to privacy notwithstanding the security measures;

(C) warning that information may be lost due to technical failures, and clearly referencing any patient consent to hold the provider harmless for such loss; and

(D) disclosing the website owner/operator, location, and contact information; and

(c) allow the patient an opportunity to select their provider

rather than being assigned a provider at random, to the extent possible;

(d) ensure that the online site from which the provider offers teledentistry services does not restrict a patient's choice to select a specific pharmacy for pharmacy services.

(3) In accordance with Subsection 26-60-103(1) (c), a provider offering teledentistry services shall be available to the patient for subsequent care related to the initial telemedicine services, by:

(a) providing the patient with a clear mechanism to:

(i) access, supplement, and amend patient-provided personal health information;

(ii) contact the provider for subsequent care;

(iii) obtain upon request an electronic or hard copy of the patient's medical record documenting the telemedicine services, including the informed consent provided; and

(iv) request a transfer to another provider of the patient's medical record documenting the telemedicine services;

(b) if the provider recommends that the patient needs to be seen in person, such as where diagnosis requires a physical examination, lab work, or imaging studies:

(i) arranging to see the patient in person, or directing the patient to the patient's regular provider, or if none, to an appropriate provider; and

(ii) documenting the recommendation in the patient's medical record; and

(c) upon patient request, electronically transferring to another provider the patient's dental record documenting the teledentistry services, within a reasonable time frame allowing for timely care of the patient by that provider.

(4) In settings and circumstances where an established provider-patient relationship is not present, a provider offering teledentistry services shall establish a provider-patient relationship during the patient encounter, in a manner consistent with standards of practice including providing the provider's licensure and credentials.

(7) Nothing in this section shall prohibit electronic communications consistent with standards of practice applicable in traditional health care settings, including those:

(a) between a provider and a patient with a preexisting provider-patient relationship;

(b) between a provider and another provider concerning a patient with whom the other provider has a provider-patient relationship;

(c) in on-call or cross coverage situations in which the provider has access to patient records;

(d) in broader practice models where multiple providers provide care as a team, including, for example:

(i) within an existing organization; or

(ii) within an emergency department; or

(e) in an emergency, which as used in this section means a situation in which there is an occurrence posing an imminent threat of a life-threatening condition or severe bodily harm.

(8)A teledental exam may be utilized as a preparatory or problem

focused exam in order to screen or prepare for a surgical dental procedure (including soft tissues, teeth, or bone) or the movement of teeth; but it is not a substitute for the comprehensive in-person examination of a patient that should be performed by a dental professional prior to performing surgical services or the movement of teeth. Prior to the performance of a dental surgical procedure or the movement of teeth, an in-person comprehensive dental exam by a Utah licensed dentist is required."

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