North Dakota DENTAL ASSOCIATION

Physical Address: 1720 Burnt Boat Drive, Suite 201
Mailing Address: P.O. Box 1332, Bismarck, ND 58502-1332
T: 701.223.8870 | F: 701.892.7068

This is NOT an official statement from the NDDA – This is a compilation of comments from Dental Practitioners, Dental Assistants and Dental Hygienists from across the State regarding the proposed regulation changes to the Dental Practice Act

- General note – it is poorly written/phrased, includes unnecessary cross references and at points is contradictory. Would recommend looking at simpler language – like that adopted by Oregon in 2019.

- Pg. 1, paragraph 5 – Rather than listing out the specific specialties, the definition should read "'Bona fide specialties' means those specialties meeting the qualifications set forth in section 20-02-01-01." This eliminates the need for laundry list specialties, which are already out of date and inconsistent with the requirements of 20-02-01-01.

- Pg. 6, paragraph 2a and 2b – No need for the split subparagraphs. Rephrase to "It shall be false or misleading for a dentist to hold themself out to the public as a specialist, or any variation of that term, in a practice area unless the dentist meets the criteria of section 3 of this rule."

- Pg. 6, paragraph 3 should be amended as follows The language currently provided is weak and essentially if a national board of teeth whitening was established and recognized by any other organization, it could be deemed a dental specialty. The following language is based on language adopted in Oregon, which has support of the dental specialty community and has been deemed to be flexible enough to allow for legal protections.

3. A dentist engaged in general practice who wishes to announce the services available in the dentist's practice is permitted to announce the availability of those services as long as the dentist avoids using language that expresses or implies that the dentist is a specialist. If a dentist, other than a specialist, wishes to advertise a limitation of practice, such advertisement must state that the limited practice is being conducted by a general dentist. A dentist who is a specialist may announce the dentist's bona fide specialty provided that the dentist has successfully completed ~~a~~n qualifying postdoctoral ~~educational program~~ advanced dental education program of at least two years in length accredited by an agency recognized by the U.S. department of education, a post-doctoral residency program of at least two years in length accredited by the Commission on Dental Accreditation or its successor organization, ~~the commission on accreditation of dental and dental auxiliary educational programs~~, or is a specialist as defined by the National Commission on Recognition of Dental Specialties and Certifying Boards, or its successor organization. ~~of full time study two or more years in length, as specified by the commission on dental accreditation of the American dental association resulting in a master of science degree or certificate from an accredited program or be a diplomate of a nationally recognized certifying board.~~ Such a dentist may announce that the dentist's practice is limited to the special area of dental practice in which the dentist has or wishes to announce. ~~In determining whether an organization is a qualifying specialty board or organization, the Board shall consider the following standards:~~
~~a. Whether the organization requires completion of an educational program with didactic, clinical, and experiential requirements appropriate for the specialty or subspecialty field of dentistry in which the dentist seeks certification, and the collective didactic, clinical and experiential requirements are similar in scope and complexity to a qualifying postdoctoral educational program. Programs that require solely experiential training, continuing education classes, on-the-job training, or payment to the specialty board shall not constitute a qualifying specialty board or organization;~~

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~~b. Whether the organization requires all dentists seeking certification to pass a written or oral examination, or both, that tests the applicant's knowledge and skill in the specialty or subspecialty area of dentistry and includes a psychometric evaluation for validation;~~
~~c. Whether the organization has written rules on maintenance of certification and requires periodic recertification;~~
~~d. Whether the organization has written by-laws and a code of ethics to guide the practice of its members;~~
~~e. Whether the organization has staff to respond to consumer and regulatory inquiries; and~~
~~f. Whether the organization is recognized by another entity whose primary purpose is to evaluate and assess dental specialty boards and organizations.~~

Anesthesia

- Support elimination of enteral/parenteral sedation terminology and use of "conscious sedation" terminology.

- Pg. 13, paragraph 1a – no other state currently included the Aldrete Score in state statutes or regulations, rather they utilize the ADA or ASA definitions of varying levels of anesthesia. Would propose only using the ASA/ADA definitions rather than this chart. Also, later in the regulation (pg. 26) ASA classification levels are used but not defined in the regulation.

- Pg. 13, paragraphs 1e(1) and 1(e)(2) – confused by the inclusion of these subparagraphs with the definition of "direct supervision of moderate sedation." These would appear better served to be included under the definitions of moderate sedation and general anesthesia or under their own section entirely. Note – deep sedation is not included/accounted for in this section, creating a hole in the law.

- Pg. 16, paragraph 1m – would prefer pediatric patient to be defined as 8 years of age or younger.

- Pgs. 15 and 16 – unclear why the need for both definition of "incremental dosing" and "titration." Believe only one should be used and favor titration. Same with "topical anesthesia" and "transdermal/transmucosal."

- Pg. 19 – while the 60 hour/20 patient educational threshold is relatively standard for moderate sedation – and included in the ADA's standard – Please check AAOMS standards as I believe they typically advocate for a higher threshold.

- Pg. 19, paragraph 4c – typo and certification should be patient-specific. Should be corrected to:

c. A dentist utilizing moderate sedation must be maintain ~~currently~~ current certification in advanced cardiac life support if treating adult patients or pediatric advanced life support if treating pediatric patients and must maintain cardiopulmonary resuscitation for health professionals.

- Pg. 21, paragraph 5f is repetitive and does not include 4c's requirement for CPR. Would call to eliminate paragraph 5f and maintain 4c with the above amendment.

- Pg. 19. the grandfathering clause paragraph 4e is common.

- Pg. 20, paragraph 5b – would include language to ensure properly sized equipment, especially when treating pediatric patients.

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- Pg. 21, paragraph 6 – numbering/style for b-d is very awkward. Would create new structure as follows:

b. Meet one of the following requirements:
1) Within the three years before submitting the permit application, provide evidence the applicant has successfully completed an advanced education program accredited by the commission on dental accreditation that provides training in deep sedation and general anesthesia and formal training in airway management, and completed a minimum of one year of advanced training in anesthesiology and related academic subjects beyond the undergraduate dental school level in a training program approved by the board; or

2) Be, within the three years before submitting the permit application, a diplomate of the American board of oral and maxillofacial surgeons or eligible for examination by the American board of oral and maxillofacial surgeons, a fellow of the American association of oral and maxillofacial surgeons, a fellow of the American dental society of anesthesiology, a diplomate of the national dental board of anesthesiology, or a diplomate of the American dental board of anesthesiology; or

3) For an applicant who completed the requirements of subsections ~~(2)(a) or (2)(b)~~ b(1) or b(2) more than three years before submitting the permit application, provide ~~the On~~ on a form provided by the Board, a written affidavit affirming that the applicant has administered general anesthesia or deep sedation to a minimum of 25 patients within the year before submitting the permit application or 75 patients within the last five years before submitting the permit application and the following documentation;

(A) A copy of the general anesthesia or deep sedation permit in effect in another jurisdiction or certification of military training in general anesthesia and deep sedation from the applicant's commanding officer; and

(B) On a form provided by the Board, a written affidavit affirming the completion of 32 hours of continuing education pertaining to oral and maxillofacial surgery or general anesthesia and deep sedation taken within three years prior to application.

- Pg. 23, paragraph 7a – Amend as follows and would also include specification about properly sized equipment for pediatric patients. Would also remain consistent in use of "end-tidal carbon dioxide monitor" (in deep sedation/ general anesthesia section) vs. capnography (in moderate sedation section):

a. The dentist's facility must meet the requirements of this chapter and maintain the following ~~properly operating~~ functioning equipment and supplies during the provision or sedation by the permit holder, a physician anesthesiologist, certified registered nurse anesthetist or other qualified sedation provider:

- Pg. 23, paragraph 7e – would again specify the need for ACLS vs. PALS based on patient population. Combine with requirement in paragraph 7g. Note – this section does not specify the number of auxiliary personnel required to be present for deep sedation/general anesthesia.

- Pg. 23, paragraph 8 – would prefer the dentist be required to hold a sedation/anesthesia permit. Could be an access to care issue in a rural state, so the need to at least register with the dental board, run mock codes and have a site evaluation is a reasonable compromise.

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- Pg. 24, paragraphs 9a(4)–9a(8) are important but I do not believe should be included under the "site evaluation" section, at least not in the current context.

- Pg. 24, paragraph 9c – this section on qualified dental auxiliaries needs to be updated to reflect revised citations (appears to just be copy/paste of current language). It also only specifies BLS for assistants, yet previous provisions mentioned ACLS and PALS. Given this is an escalation in requirements, the Board should establish a phased in process for ACLS or PALS for assistants.

- Pg. 27, paragraph 9d(1)(iii) specifies that ASA IV and V patients cannot be sedated in the dental office. Believe this is appropriate but wanted to highlight.

Other

- Pg. 4, paragraph 36 – the Health Insurance Portability and Accountability Act's abbreviation should be HIPAA not HIPPA.