

LEGISLATIVE MANAGEMENT'S ADMINISTRATIVE RULES COMMITTEE  
WEDNESDAY, 9:00 AM, JUNE 14, 2017  
ROUGH RIDER ROOM, STATE CAPITOL  
TESTIMONY PRESENTED BY RITA SOMMERS, EXECUTIVE DIRECTOR  
NORTH DAKOTA BOARD OF DENTAL EXAMINERS

Good Morning Chairman Devlin, and Members of the Committee. My name is Rita Sommers, Executive Director of the North Dakota Board of Dental Examiners and I am here today to provide the Board's summary of proposed amendments to Title 20 of the North Dakota Administrative Rules.

With the exception of adopted rules which pertain to the ND Prescription Drug Monitoring Program, no other rules were a result from statutory changes made by the Legislative Assembly. The North Dakota Board of Dental Examiners (NDBDE) is authorized to adopt administrative rules under the authority delegated by the legislative assembly. The NDBDE adopted, amended and repealed its various rules under the guidance of the Board's Assistant Attorney General, John Tyler, and in conformity with N.D.C.C. § 28-32. The Board followed public notice requirements for rulemaking procedures as per N.D.C.C., section 28-32-10(1). Proposed rules were available to anyone requesting a copy. The proposed rules were printed in the NDBDE newsletters and posted to the NDBDE website.

Written and/or oral concerns, and objections were considered and each concern was addressed by the Board during its public meetings. The Board's consideration, amendments after consideration of the comments with regard to these rules is shown in **EXHIBIT A**. An explanation of the subject matter of the rules and the reasons for adopting each rule is summarized in **EXHIBIT B**.

The approximate cost of giving public notice and holding any hearing on the rules in addition to the approximate cost (not including staff time) of developing and adopting the rules was approximately \$5000, which includes conference calls, public hearing, newspaper publications, attorney fees and printing costs.

A regulatory analysis was not required by North Dakota Century Code (NDCC) Section 28-32-08. The proposed rules do not have an impact on the regulated community in excess of \$50,000.4. A regulatory analysis or economic impact statement of impact on small entities was not required by NDCC Section 28-32-08.1. The proposed rules have no fiscal effect on state revenues and expenditures, including any effect on funds controlled by your agency. A takings assessment pursuant to Chapter 28-32-09 is not required in

the amendment process of Title 20, North Dakota Administrative Rules, considered at public hearing July 26, 2016, in that the proposed rules do not limit in any way the use of real property. Rules adopted were not emergency (interim final) rules under NDCC Section 28-32-03.

The proposed rules include amendments which further define the rules in areas where the Board has incurred misinterpretation by licensees or licensees have been unable to locate specific rules readily.

For example amendments to definitions; the board added clarification to differentiate between a qualified dental assistant and a registered dental assistant [page 3 number 8 “certified dental assistant and page 5, number 28-29].

The Board amended requirements for licensure by examination [see page 7]. As clinical regional boards continue to evolve, it became more evident that the public would be better served by requiring a patient based exam which included specific components relative to the most utilized procedures. There is sufficient expert opinion, statistics and literature to support the clinical board examinations and empirical data relating to the validity of patient-based exams. Therefore the issue is no longer which exam is “the best exam” but rather what are the procedures that meet the needs to assure the citizens of North Dakota receive competent, safe dental care? The Board stands firm in its foundation for best ensuring minimal competency; the triad of the national board exam, patient based clinical board examination and accredited education.

The Board clarified temporary license requirements [page 8] to alleviate the circumstances in which the temporary license application may be used as a means to avoid application for a full license or a delay of full license. The Board will no longer waive the background check unless the applicant for licensure intends to practice 10 days or less. This clause anticipates efforts such as the Mission of Mercy project or other projects that are conducted to address the oral health needs of underserved communities.

Rules for a permit for anesthesia use were modified to include any general dentist who collaborates with an anesthesia provider. Many practitioners who use sedation are now employing certified registered nurse anesthetists (CRNA) for sedation and anesthesia for their patients rather than pursuing sedation education and permits required to provide these services themselves. The amendment is inclusive of any general dentists who choose to use other professionals and the standards for site evaluations and inspection still

apply. The standard for the permit application is based on the education and training of the provider and is pursuant to laws governing anesthesia/sedation providers in North Dakota.

The amendment which received the most discussion was related to continuing education (CE) requirements [page 10]. The Board's motive was to ensure quality CE and recognize that today's technology provides practical options for practitioners as they seek to meet CE requirements for the renewal of license while maintaining subject matter that is pertinent to their private practice.

The intent and purpose of the new section [page 12-13] for dental prescribers is to protect the public from drug diversion and misuse by providing prescribers or any employee of a prescriber, authorization to request data related to a patient suspected of substance abuse or a patient at high risk for abuse who could benefit from early intervention. The initiative from the ND Board of Pharmacy to provide state-level intervention to improve assurance of appropriate opioid prescribing while protecting patients at risk for abuse and should prove to be a promising strategy in addressing the opioid misuse and overdose epidemic.

Chapter 20-03-01 and 20-04-01 contains amendments which expand duties for both registered dental assistants and registered dental hygienists. Rules previously adopted authorized registered dental assistants and dental hygienists to expand their scope of practice to include placement of restorative materials and provide much needed assistance in the delivery of surgical dental procedures. The new rules and amendments have practical implications and provide potential to increase the efficiency and productivity of care while providing flexibility with regard to who performs certain tasks or procedures.

## EXHIBIT A

Comment number	Amendment to Title 20	Submitted by
A. Requesting language to include 'air abrasion	Section 20-04-01-01(20). Duties.	Carla Schempp, RDH
B. Regarding CE credits for charitable activities	Section 20-02-01-06. Continuing education for dentists.	Omar Chahal, DDS, ND Dental Association
C. Comments regarding online CE	Section 20-02-01-06. Continuing education for dentists, hygienists, and registered dental assistants)	Omar Chahal, DDS, ND Dental Association; Marsha Krumm, RDA, CDA, LDA, ND Dental Assistants' Association; ND Dental Hygienists' Association
D. Referencing DANB	20-03-01-05.1 subsection 3.a. and 20-04-01-03.1 subsection 3.a.	Katherine Landsberg, Dental Assisting National Board, Inc.
E. Request update or corrections to #19	Chapter 20-01-02-01 subsection 19	Rita Sommers, Executive Director
F. Clarification regarding temp license requirements	Chapter 20-02-01-04 subsection 1.c.	Rita Sommers, Executive Director
G. Comments addressing 11 sections.	Section 20-01-02-01 (29). Definitions; 20-02-01-03.1 Additional requirements for licensure; 20-02-01-04 Temporary license to practice dentistry; 20-02-01-05 Permit for anesthesia use; 20-02-01-06 Continuing education for dentist; 20-02-01-13 Exceptions to the review requirement; 20-03-01-05.1 Additional expanded duties of registered dental assistants; 20-03-01-06 Continuing dental education for qualified and registered dental assistants; 20-04-01-03.1 Duties of the dental hygienist requiring a permit; 20-04-01-08 CE for dental hygienists.	ND Dental Hygienists' Association

## EXHIBIT B

### COMMENTS AND BOARD'S SUMMARY

#### A. Comment submitted by Carla Schempp

##### Section 20-04-01-01. Duties.

20. Apply pit and fissure sealants. Adjust sealants with slow speed handpiece. Utilize air abrasion prior to application of sealants.

**Summary:** The Board rejected the amendment to add <sup>1</sup>air abrasion language to subsection 20-04-01-01(20). Dr. Goebel spoke against the amendment stating he no longer uses air abrasion because it is too aggressive and can easily remove too much tooth tissue and can be as damaging as a high speed hand piece. Dr. Evanoff utilizes air abrasion in the lab and air abrasion can cut through metal; it is very technique sensitive and concurred with Dr. Goebel. Dr. Keim added that because air abrasion (a non-rotary method of cutting and removing dental hard tissue) is an irreversible procedure he would be opposed.

*[<sup>1</sup>Air abrasion removes tooth structure using a stream of aluminium oxide particles generated from compressed air or bottled carbon dioxide or nitrogen gas. The abrasive particles strike the tooth with high velocity and remove small amounts of tooth structure. Efficiency of removal is relative to the hardness of the tissue or material being removed and the operating parameters of the air abrasion device. A number of parameters such as the amount of air pressure, particle size, quantity of particles passing through the nozzle, nozzle diameter of the handpiece, angulation of nozzle of the handpiece, distance from object, and time of exposure to the object vary the quantity of tooth removal and depth of penetration.]*

#### B. Comment submitted by Dr. Chahal

##### Section 20-02-01-06.

Addition to Ch. **20-02, 20-03 and 20-04, the continuing education sections.** Dr. Chahal requested continuing education be awarded for participation in charitable events. Dr. Chahal is the President of the North Dakota Dental Association.

**Summary:** The Board rejected Dr. Chahal's request to grant continuing education credit for volunteer or charitable projects/activities. The Board concurred that charitable acts do not necessarily provide any specific educational opportunities and, they are intended to be charitable and not a means to obtain a reward – monetarily or otherwise.

#### C. Comments submitted by Dr. Chahal, NDDA & Comment by Marsha Krumm, RDA, NDDAA

##### Section 20-02-01-06. Continuing education for dentists.

3. The minimum number of hours required within a two-year cycle for dentists is thirty-two. ~~Of these hours, a dentist may earn no more than sixteen hours from publications and online education~~ Cardiopulmonary resuscitation courses must provide hands-on training. All other continuing education requirements may be satisfied from online courses. The continuing education must include....

**Summary:** A comment submitted by the ND Dental Association and the same concern from the ND Dental Assistants' Association was related to online continuing education. Administrative rules for dentists, hygienists and registered dental assistants currently state up to one-half of CE credits required for renewal of license may be obtained from publications or online education. Dr. Dohm commented that meetings of the membership organizations, mostly the NDDHA (dental hygienists) and NDDAA (dental assistants) are partially funded by fees for continuing education. These organizations have concern that attendance (and therefore a portion of the organizations' revenue) could be adversely affected if all continuing education could be obtained online. The ND Dental Association includes the cost of meetings into membership fees

therefore would not be effected. Dr. Evanoff commented that the Board's position should be to enable practitioners to easily obtain quality education which satisfies their educational needs and that the Board's mission is not to support membership organizations. Bev Marsh commented that practitioners could potentially falsify completion of on-line CE. However, the same falsification could be true for classroom settings where attendees may merely sign in yet not attend. Dr. Evanoff also commented that practitioners may be inclined to take CE that is relevant to the individual needs and if the Board authorizes half of education to be online then the Board ought to be comfortable with all of the required education being online. Dr. Keim and Dr. Goebel commented that there may be value in attending meetings, given the social aspect. Other Board comments: if the meetings are good meetings practitioners will attend them; nurses and physicians may obtain all CE online; costs of attending meetings is expensive to hygienists and dental assistants, given time away from work, travel and hotel expenses on top of meeting costs; employers do not always pay for auxiliary to attend meetings. Ms. Sommers commented that the Board does not currently track numbers or hours of online vs. classroom courses taken by practitioners.

In further discussion, the Board amended language (in 20-02-01-06; 20-03-01-06; and 20-04-01-08), and requires classroom CE. Based on the opinion of the members experience with webinars, the intent of the motion is to include webinars as classroom style education. The Board determined that a webinar is equivalent to classroom education where CE is concerned. Tim Mehlhoff, CPA, commented that live webcasts or webinar presentations, presented live or otherwise, provide access to the best speakers in the world and should not be considered equivalent to online-self-study education. Webinars are not considered online/self-study education; webinars are interactive in some way, and by the nature of the experience, that is the existence of a third party and the inclusion of proof of attendance. The clarification should be posted to the website. Ms. Marsh added that self-study is where there is no verification, such as pre-recorded content CE, or reading an article online. Ms. Marsh provided the definition; "the study of something by oneself, as through books, records, etc., without direct supervision or attendance in a class". Dr. Dohm concurred and **amended his motion** to limit acceptance of self-study to 50% to be defined by the board.

**AMENDED Section 20-02-01-06. Continuing education for dentists.**

3. The minimum number of hours required within a two-year cycle for dentists is thirty-two. Of these hours, a dentist may earn no more than sixteen hours from self-study. Self-study is an educational process designed to permit a participant to learn a given subject without involvement of a proctor. Cardiopulmonary resuscitation courses must provide hands-on training. All other continuing education requirements may be satisfied from publications and online education. The continuing education must include:
  - a. Two hours of ethics or jurisprudence. Passing the laws and rules examination is the equivalent of two hours of ethics or jurisprudence.
  - b. Two hours of infection control.
  - c. A cardiopulmonary resuscitation course.
  - d. For anesthesia permitholders, four hours related to sedation or anesthesia.
4. Mere registration at a dental convention without specific attendance at continuing education presentations will not be creditable toward the continuing dental education requirement.
5. All dentists must hold a current cardiopulmonary resuscitation certificate. Anesthesia permitholders are required to maintain current advanced cardiac life support certification or pediatric advanced life support as specified by permit.
6. The board may audit the continuing education credits of a dentist. Each licensee shall maintain certificates or records of continuing education activities from the previous renewal cycle. Upon receiving notice of an audit from the board, a licensee shall provide satisfactory documentation of attendance at, or participation in the continuing education activities listed on the licensee's continuing education form. Failure to comply with the audit is grounds for nonrenewal of or disciplinary action against the license. A dentist who maintains a license on inactive status is not subject to continuing education requirements.

**D. Comment submitted by Katherine Landsberg**

[Yellow highlighting inserted by K. Landsberg denoting areas of concern.]

**Section 20-03-01-05.1. Additional expanded duties of registered dental assistants.**

3. The board may issue or renew a permit on forms prescribed by the board authorizing a registered dental assistant under the direct supervision of a dentist to provide restorative functions under the following conditions:

a. The applicant meets any of the following requirements:

(1) The applicant has successfully completed a board-approved curriculum from a program accredited by the commission on dental accreditation of the American dental association or other board-approved course and successfully passed the western regional examining board's restorative examination or other equivalent examinations approved by the board within the last five years, ~~and successfully complete.~~ The board may require successful completion of the restorative function component of the dental assisting national board's certified restorative functions dental assistant certification examination; or

(2) The applicant has successfully passed the western regional examining board's restorative examination or other board-approved examination over five years from the date of application and successfully completed the restorative function component of the dental assisting national board's certified restorative functions dental assistant certification examination or other board-approved examination and provide evidence from another state or jurisdiction where the applicant legally is or was authorized to perform restorative functions and certification from the supervising dentist of successful completion of at least twenty-five restorative procedures within the immediate five years from the date of application.

**And; Section 20-04-01-03.1. Duties of the dental hygienist requiring a permit.**

3. The board may issue or renew a permit on forms prescribed by the board ~~to authorize~~ authorizing a registered dental hygienist assistant under the direct supervision of a dentist to provide restorative functions under the following conditions:

a. The applicant meets any of the following requirements:

(1) The applicant has successfully completed a board-approved curriculum from a program accredited by the commission on dental accreditation of the American dental association or other board-approved course and successfully passed the western regional examining board's restorative examination or other equivalent examinations approved by the board within the last five years, ~~and successfully complete.~~ The board may require successful completion of the restorative function component of the dental assisting national board's certified restorative functions dental assistant certification examination; or

(2) The applicant has successfully passed the western regional examining board's restorative examination or other board-approved examination over five years from the date of application and successfully completed the restorative function component of the dental assisting national board's certified restorative functions dental assistant certification examination or other board-approved examination and provide evidence from another state or jurisdiction where the applicant legally is or was authorized to perform restorative functions and certification from the supervising dentist of successful completion of at least twenty-five restorative procedures within the immediate five years from the date of application.

**Summary:** The Board accepted the **amendments** for **20-04-01-03.1. Duties of the dental hygienist requiring a permit** and section **20-03-01-05.1. Additional expanded duties of registered dental assistants**. Submitted by Katherine Landsberg, Assistant Director of Government Relations of the Dental Assisting National Board, Inc.

In addition, the Board corrected the clerical error in **20-04-01-03.1. Duties of the dental hygienist requiring a permit**; subsection 3, "hygienist assistant" by removing the strike out on the word "hygienist" and deleting the word "assistant."

## E. Comment submitted by Rita Sommers

### Section 20-01-02-01. Definitions.

~~19.~~ 18. "Evaluation" means the act or process by a dentist of assessing and determining the significance, quality ~~of~~ of work ~~of~~ of something such as the patient's oral health status, the progress of dental therapy, or the performance of the dental hygienist or dental assistant.

Summary: The Board **amended** subsection 19; the section needed clarification as follows:

~~19.~~ 18. "Evaluation" means the act or process by a dentist of assessing and determining ~~the~~ significance, quality ~~of~~ of work ~~of~~ of something such as the patient's oral health status, the progress of dental therapy, or the performance of the dental hygienist or dental assistant.

## F. Comment submitted by Rita Sommers

### 20-02-01-04. Temporary license to practice dentistry.

1. A temporary license to practice dentistry in North Dakota may be granted to a dentist when the dentist:
  - a. Has applied to the board as prescribed in North Dakota Century Code section 43-28-11.
  - b. Has paid the nonrefundable application and license fee that may be prescribed by the board.
  - c. Holds an active dental license in another jurisdiction, has been a full-time student or resident of a dental program accredited by the American dental association's commission on dental accreditation within the last six months and provides evidence of a diploma from a dental program accredited by the commission on dental accreditation of the American dental association and any other requirements of a license by examination, or has held a North Dakota dental license within the previous five years.
  - d. Has provided a statement from the licensing authority of all the states in which the dentist is licensed that the dentist's license is unencumbered, unrestricted, and that the dentist's professional record is free of blemish for professional misconduct, substandard care, or violations of the state's practice act.
  - e. Has certified that no disciplinary actions are pending in other states or jurisdictions.
  - f. Has authorized the board to seek information concerning the dentist's professional and personal background and agrees to hold harmless those individuals who may provide such information to the board.
2. The board may apply such restrictions as it deems appropriate to limit the scope of the practice of dentistry under the authority of the temporary license.
3. The board may restrict the licensee to engage in dental practice, as may be limited above, only at certain and specifically defined practice locations.
4. The board may require the North Dakota jurisprudence examination.

Summary: The Board approved the amendment and added an additional **amendment** as follows:

- c. Holds an active dental license in another jurisdiction, has been a full-time student or resident of a dental program accredited by the American dental association's commission on dental accreditation within the last six months and provides evidence of a diploma from a dental program accredited by the American dental association's commission on dental accreditation of the American dental association and meets any other requirements to receive a license by examination to practice dentistry in North Dakota under section 20-02-01-03.1, or 20-02-01-03.2., or has held a North Dakota dental license within the previous five years.

## G. North Dakota Dental Hygienists' Association Comments regarding 11 Sections

[Yellow highlighting inserted by the NDDHA denoting areas of concern.]

### Section 20-01-02-01. Definitions.

29. "Registered dental assistant" means a dental assistant who is a graduate of a dental assistant

program accredited by the commission on dental accreditation of the American dental association or approved by the board or has been certified by the dental assistant national board, and has applied to the board and paid the registration fee and met any other requirements of section 20-03-01-05.

**20-02-01-03.1. Additional requirements for licensure by examination.**

The applicant has passed, within five years of application, a clinical competency Examination approved by the board. Required ~~component~~ components shall include a patient-based periodontal component, a patient-based restorative component, and an endodontic component, ~~administered by one or more of the following:~~

- ~~a. Central regional dental testing service.~~
- ~~b. Council of interstate testing agencies.~~
- ~~c. Northeast regional examining board.~~
- ~~d. Southern regional testing agency.~~
- ~~e. Western regional examining board.~~

**Summary:** 20-01-02-01. Definitions; and, 20-02-01-03.1

Board comments regarding the NDDHA's concerns regarding "arbitrary" language throughout the document "approved by the board" or "board-approved" consisted of identical language which can also be found in every professional board's North Dakota statutes and rules. Dr. Evanoff commented that it would be difficult to define every circumstance that comes to the Board. The legislature has delegated these responsibilities to each board because of the expertise of the appointed members; therefore boards are permitted some latitude. The question then becomes if the board remains consistent in its findings when making decisions when granted authority to do so. Board findings are based on guidance from past procedural findings and methodologies and are therefore not deemed arbitrary or capricious. "Board-approved" denotes a finding based on subsequent review of an educational program identified, listed or referred to in statute or rule, or a determination based on rules that may list specific qualifications for examinations, duties, or levels of education. The "board-approved" subject is, therefore, in the opinion of the Board, substantially equivalent to aforementioned requirements and are not randomly determined. As pointed out by the Board's Assistant Attorney General, "if the language were to be omitted from Title 20, the Board of Dental Examiners would be held to a different standard than other professional boards".

**Section 20-02-01-04**

- e. Has certified that no disciplinary actions are pending in other states or jurisdictions. The board may require a criminal background check.
- f. Has authorized the board to seek information concerning the dentist's professional and personal background and agrees to hold harmless those individuals who may provide such information to the board.
- g. The applicant has completed thirty-two hours of continuing education in accordance with section 20-02-01-06.
- h. The board may require a criminal background check if the licensee anticipates practicing under the license practice according to the temporary license for a period of 10 days.

**Summary:** 20-02-01-04: The triggering event or criteria and intent of the Board is to require a criminal background check for all new applicants. The Board **amended** Section 20-02-01-04 (1.e.),(1.h.) as follows:

- e. Has certified that no disciplinary actions are pending in other states or jurisdictions. The board may require a criminal background check.
- h. The board may shall require a criminal background check if the licensee anticipates practicing under the license practice according to the temporary license for a period greater than 10 days.

#### **Section 20-02-01-05. Permit for anesthesia use.**

1. The rules in this chapter are adopted for the purpose of defining standards for the administration of anesthesia by dentists or a dentist who collaborates with a **qualified and licensed anesthesia or sedation provider**. The standards specified in this chapter shall apply equally to general anesthesia, deep sedation, moderate (conscious) sedation, or a combination of any of these with inhalation, but do not apply to sedation administered through inhalation alone. A dentist licensed under North Dakota Century Code chapter 43-28 and practicing in North Dakota may not use any form of sedation if the intent is beyond anxiolysis on any patient unless such dentist has a permit, currently in effect, issued by the board, and renewable biennially thereafter, authorizing the use of such general anesthesia, deep sedation, moderate (conscious) sedation, or minimal sedation when used in combination with inhalation.
4. ~~The A North Dakota **licensed anesthesia or sedation provider** authorized by the board shall reevaluate the credentials, facilities, equipment, personnel, and procedures of a permit holder within every five years following a successful initial application or renewal.~~

**Summary:** The Board's general consensus was to leave the language as is. Standards for anesthesia and sedation permitting, authorization and requirements of for use of sedation and anesthesia use are addressed at length in subsections 1, 2 and 3. Additional definition is not required and would be redundant.

#### **Section 20-02-01-06. Continuing education for dentist.**

6. The board **may** audit the continuing education credits of a dentist. Each licensee shall maintain certificates or records of continuing education activities from the previous renewal cycle. Upon receiving notice of an audit from the board, a licensee shall provide satisfactory documentation of attendance at, or participation in the continuing education activities listed on the licensee's continuing education form. Failure to comply with the audit is grounds for nonrenewal of or disciplinary action against the license.

**Summary:** 20-02-01-06. (6) The board's general consensus was to leave the existing language as is. The Board has limited staff. Board members are called upon to audit and randomly select practitioners depending on the renewal period. No amendments were previously or otherwise proposed for Section 20-02-01-06.

#### **New Section 20-02-01-13. Exceptions to the review requirement.**

A practitioner shall not be required to review a patient's prescription drug monitoring program data if any of the following apply:

1. The controlled substance is prescribed or dispensed for a patient who is currently receiving hospice care.
2. The controlled substance is prescribed or dispensed to a patient of record as a non-refillable prescription as part of treatment for a surgical procedure.
3. The dentist prescribes a controlled substance after the performance of oral surgery and no more than a 72 hour supply of the controlled substance is prescribed.
4. The dentist prescribes pre-appointment medication for the treatment of procedure anxiety.
5. The dentist obtains a report through a board-approved risk assessment tool for health care providers that accesses patient prescription information from prescription drug monitoring program databases, analyzes the data, and provides a risk based score that includes prescription drug monitoring program data.

**Summary:** 20-02-01-13. Exceptions to the review requirement. The Board believes there is a differentiation between numbers 2 and 3 of Section 20-02-01-13. The language was previously recommended by the ND Board of Pharmacy. The general consensus of the board was to leave the language as is.

### Section 20-03-01-05.1 Additional expanded duties of registered dental assistants.

The board may grant a permit to a registered dental assistant for the following:

1. The board may issue or renew a class I dental anesthesia assistant permit authorizing a registered dental assistant to provide anesthesia assistance under the supervision of a dentist ~~who specializes in oral and maxillofacial surgery, and meets the following requirements authorized by permit to provide parenteral sedation, upon successful completion of the following:~~
  - a. The applicant submits evidence ~~on forms prescribed by the board that the applicant meets any of the following requirements:~~
    - (1) ~~The applicant has completed of a board-approved~~ dental anesthesia assistant education and training course.
    - b. ~~within one year of application and has~~ Submits proof of current certification status from the American association of oral and maxillofacial surgeons dental anesthesia assistant national certification or a board-approved competency examination.
    - ~~(2) The applicant has completed a board-approved dental anesthesia assistant education and training course and has proof of current certification status from a board-approved competency examination.~~
2. The board may issue or renew a class II dental anesthesia assistant permit authorizing a registered dental assistant to provide anesthesia assistance under the supervision of a dentist authorized by permit to provide parenteral sedation, upon successful completion of the following:
  - a. The applicant submits evidence of a board-approved dental anesthesia assistant education and training course and submitting proof of current certification status from the American association of oral and maxillofacial surgeons dental anesthesia assistant national certification or a board-approved competency examination;
  - b. The applicant has successfully completed hands-on training in intravenous access or phlebotomy that includes live experience starting and maintaining intravenous lines;
  - c. The applicant holds current and valid certification for health care provider basic life support, or advanced cardiac life support or pediatric advanced life support; and
  - d. The applicant provides a copy of a valid North Dakota general anesthesia or parenteral sedation permit of the ~~oral and maxillofacial surgeon dentist~~ where the registered dental assistant will be performing anesthesia assistant services.

~~2.3.~~ The board may issue or renew a permit on forms prescribed by the board authorizing a registered dental assistant under the direct supervision of a dentist to provide restorative functions under the following conditions:

- a. The applicant meets any of the following requirements:
  - (1) The applicant has successfully completed a board-approved curriculum from a program accredited by the commission on dental accreditation of the American dental association or other board-approved course and successfully passed the western regional examining board's restorative examination or other equivalent examinations approved by the board within the last five years, and successfully completed. The board may require successful completion of the restorative function component of the dental assisting national board's certified restorative functions dental assistant certification examination; or
  - (2) The applicant has successfully passed the western regional examining

board's restorative examination or other board-approved examination over five years from the date of application and successfully completed the restorative function component of the dental assistant certification examination or other board-approved examination and provide evidence from another state or jurisdiction where the applicant legally is or was authorized to perform restorative functions and certification from the supervising dentist of successful completion of at least twenty-five restorative procedures within the immediate five years from the date of

**Summary:** 20-03-01-05.1. The language differentiates class I and class II permits for a dental anesthesia assistant. The section provides details for the requirements of each permit. Defining what the permit authorizes provides a definition of each permit. The board's general consensus was to leave language as is. Repetition in other sections is not required. The Board did not agree that the level of required supervision should be decreased for the new procedures. No motion was heard make any change regarding the level of supervision to indirect supervision rather than direct supervision.

**Section 20-03-01-06. Continuing dental education for qualified and registered dental assistants.**

6. The board may audit continuing education credits of a registered dental assistant. Proof of continuing education shall be maintained from the previous renewal cycle. Upon receiving notice of an audit from the board, a registered dental assistant shall provide satisfactory documentation of attendance at, or participation in, the continuing education activities listed on the licensee's continuing education form. Failure to comply with the audit is grounds for nonrenewal of or disciplinary action against the registration.

**Summary:** 20-03-01-06. The board's general consensus was to leave the language as is. The Board has limited staff. Board members are called upon to audit and randomly select practitioners depending on the renewal period. No amendments were previously or otherwise proposed for Section 20-03-01-06.

**Section 20-04-01-03.1 Duties of the dental hygienist requiring a permit. [Comments for this section have the same language as above Section 20-03-01-05.1 Additional expanded duties of registered dental assistants.]**

**Section 20-04-01-08. Continuing education for dental hygienists.**

7. The board may audit the continuing education credits of a dental hygienist. Each licensee shall maintain certificates or records of continuing education activities from the previous renewal cycle. Upon receiving notice of an audit from the board, a licensee shall provide satisfactory documentation of attendance at, or participation in the continuing education activities listed on the licensee's continuing education form. Failure to comply with the audit is grounds for nonrenewal of or disciplinary action against the license.

**Summary:** 20-04-01-08. Although audit is currently addressed in the North Dakota Century Code, Chapter 43-20, the Board determined that including the language as written in two other sections (dentist, dental assistant) would provide a consistent reference having all audit information presented in the administrative rules.

Thank you for the opportunity to testify this morning and with that, I would be happy to answer any questions you may have.