



# North Dakota State Board of Dental Examiners

Administrative Office • P.O. Box 7246, Bismarck, ND 58507-7246 • 701-258-8600 • Fax 701-224-9824 • ndsbde@aptnd.com • <http://www.nddentalboard.org>

## Chairman Klein and Members of the Administrative Rules Committee:

I am Rita Sommers, Executive Director of the North Dakota Board of Dental Examiners (NDSBDE) and am here today speaking on behalf of the NDSBDE regarding the adoption of the amendments to Title 20 of the North Dakota Administrative Rules.

Most of the rules resulted from statutory changes made by the Legislative Assembly (**Exhibit A**). For instance the definitions of general supervision [see 43-20-03], advertising [see 43-28-18(10) and code of ethics [see 43-28-18(27)]. Proposed requirements for license and registration are also referenced in the N.D.C.C. [see 43-28-10.1(6) and 43-20-01(6) and 43-20-13].

The proposed rules are not related to any federal statute or regulation.

Rulemaking procedures followed during adoption were in compliance with Chapter 28-32, the Administrative Agencies Practice Act. Abbreviated notice of the proposed adoption, amendments and repeal of Title 20 was published August 9, 2010 thru August 16, 2010 by the North Dakota Newspaper Association. The approximate cost of giving public notice and holding hearings on the rules was sixteen hundred fifty dollars. Reasonable opportunity was provided for any and all stakeholders to submit views orally during the hearing process or in written form concerning the proposed rules. An oral hearing was held; comments were received by the NDSBDE and accepted as part of the record at the conclusion of the public hearing for a period of ten days and were considered by the NDSBDE. A summary of comments received by the NDSBDE is attached (**Exhibit B**).

**Comments were minor and were openly addressed by the Board during a public meeting where stakeholders could elaborate on previously submitted written comments. Stakeholders requested modifications in two areas (See Exhibit B):**

1. A concern regarding Section 20-02-01-01(2) related to advertising was alleviated by adding language "upon request." With the inserted language dentists who advertise need only submit copy of the advertisement upon request. The Board adopted the proposed change in language.
2. Further consideration was also given regarding proposed language in 20-03-01-05(1)(a)(3)(4) and 20-03-01-05(2) (see **EXHIBIT C** page 53). The concern being that language may be misinterpreted to mean that the applicant must complete a dental assisting program within two years of application, which may prevent those who have been away from the profession longer than two years from applying for the registration. The intent was to ensure that those applying would provide proof of continuing education in the period of two years prior to the application in accordance with Section 20-03-01-06. The amendment as drafted states: (3) The applicant successfully completed a dental assisting program, accredited by the commission on dental accreditation of the American dental association or approved by the board, and completed sixteen hours of continuing education in accordance with section 20-03-01-06 within two years of application. The adopted amendment would move the phrase "within two years of application" to immediately follow "completed". The same change implemented in 20-03-01-



05(2) and Section 20-03-01-05(4). In addition the word "before" replaces the word "of" in both sections to state (2)(a)(2) The applicant passed the infection control and radiation parts of the dental assisting national board examination and completed, within two years before application, sixteen hours of continuing education in accordance with section 20-03-01-06. Discussion also encompassed Subsection 4; amending "is" to "was" allows a dental assistant who passed the dental assisting national board to qualify for registration even though he/she may not currently be registered with the organization. (4) The applicant is was certified by the dental assisting national board, and completed, within two years before application, sixteen hours of continuing education in accordance with section 20-03-01-06. The proposed changes clarify the intent of the NDSBDE and will continue to allow qualified dental assistants who provide proof of continuing education to enter the workforce. The Board unanimously adopted the amendments.

**EXPLANATION OF SUBJECT MATTER OF THE PROPOSED RULE:** The content and structure of Title 20 has been overhauled considerably. Although the Board has very methodically reorganized rules, addressed adjunct services such as anesthesia and advertising, included language to enforce principles of ethics, an underlying theme exists; protection of the public. Toward this end the NDSBDE has adopted this rules change because it:

1. Reorganizes Title 20 and establishes requirements that were otherwise addressed administratively.
2. Updates definitions some of which are referenced in Chapter 43-28 and 43-20 of the N.D.C.C. and language used in Title 20 (i.e. general supervision). Previous amendments to statute are enhanced by the proposed amending language to the definition of general supervision. The Board believes that the initiative will assist those entities (such as the Ronald McDonald Care Mobile, safety net dental clinics and public health employees) which address barriers to care issues; these entities seek to remove barriers for the underserved population.
3. Creates new sections describing requirements for licensure by examination, licensure by credential review, and additional requirements for application, license reinstatement, anesthesia permit application requirements; administrative procedures used to license and register dentists, registered dentists who apply for anesthesia privileges, dental hygienists, registered dental assistants, and qualified dental assistants; referenced in Chapter 43-28 and 43-20 of the N.D.C.C. Dental assistant requirements for registration and renewal are referenced in statute and more clearly defined in rule.
4. Modifies continuing education requirements for dentists, dental hygienists, registered dental assistants, and qualified dental assistants. Includes requirement for ethics and jurisprudence and anesthesia permit holders and clarifies the definition of cardiopulmonary resuscitation.
5. Removes or repeals language that has been moved to Chapter 43-28 and 43-20 of the N.D.C.C.
6. Amends allowable duties, such as the transmission of a prescription, and prohibited services for the dental hygienist and the dental assistant, referenced in Chapter 43-28 and 43-20 of the N.D.C.C.
7. Clarifies the fee schedule and amends the schedule to reflect a biennial registration for the registered dental assistant as referenced in Chapter 43-20 of the N.D.C.C.
8. Chapter 20-21-01-03.2 p.66 of copy sent by Legislative Council: Error. [See page 39 or 20-02-01-03.2]. Duplicate language erroneously placed in document sent by Legislative Council.

No regulatory analysis was prepared because no written request for regulatory analysis was requested by any member of the Legislative Assembly or by the Governor's office. Regarding the economic impact statement of impact on small entities, the North Dakota State Board of Dental Examiners is a professional licensing Board and as such is not required to file a Small Entity Economic Impact Statement [pursuant to N.D.C.C. § 38-32-08.1-3]. The proposed rule, amendments, and repeal of sections of Title 20 do not have any impact on the regulated community in excess of \$50,000. With regard to N.D.C.C. § 28-32-09, which requires an agency to prepare a written assessment of the constitutional takings implications of a proposed rule if the proposed rule may limit the use of private real property; the proposed rules changes do not contribute any type of limitation of the use of any real property, therefore no takings assessment has been prepared.

This rules change was carried over for consideration from your January 2011 meeting. Thank you for your time and for providing this opportunity to discuss the Board's adopted rules.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Rita Sommers", with a long horizontal flourish extending to the right.

Rita Sommers, Executive Director  
North Dakota State Board of Dental Examiners



**Exhibit A**  
**Administrative Rules Hearing**  
**March 10, 2011**

Rules which resulted from statutory changes (NDCC 43-28 & 43-20)			
Page #	Rule	Referenced Statute	Description
31	20-01-02-01(1)	43-28-18(10)	defines advertising
32	20-01-02-01(9)	43-28-18(27)	code of ethics referenced
32	20-01-02-01(11)	43-20	DA scope of practice rather than definition moved to statute
33	20-01-02-01(12)	43-20	RDH scope of practice rather than definition moved to statute
33	20-01-02-01(19)	43-20-03	general supervision amended
34	20-01-02-01(21)(24)(26)(27)		removed; definitions are obsolete
36	20-02-01-01	43-28-18(27)	an advertising rules violation is grounds for disciplinary action
36,37	20-02-01-01(2)(3)(5)(6)	43-28-18(10)(22)	cannot mislead, practice within the scope of license
38	20-02-01-03.1	43-28-10.1	Rule adds and further defines referenced requirements for license by examination
39	20-02-01-03.2	43-28-15	Rule adds and further defines referenced requirements for license by credential
39	20-02-01-03.3	43-28-11; 43-28-17	application fee and inactive status requirements
40	20-02-01-03.4	43-28-13	describes when re examination is required
42	20-02-01-04.3	43-28-17	inactive status and license reinstatement described
46	20-02-01-10	43-28-25	moved from statute; authorization of lab services except as provided for by rule
48	20-03-01-01	43-20-13	defines dental assistants duties
49	20-03-01-01(31)	pharmacy statute	refers to duty to orally transmit prescription
50	20-03-01-02(3)	43-20-05(12)(18)	misuse of anesthesia drugs, refers to grounds for disciplinary action
52	20-03-01-04 repealed	43-20-13	regulates duty of application of sealants
52	20-03-01-05	43-20-13	requirements of registration
54	20-03-01-06	43-20-13.1	requirements of renewal of registration; continuing education of dental assistant
57	20-04-01-01(24) deleted	43-20-13.3	anesthesia moved to statute and described in 20-04-01-03
58	20-04-01-04	43-20-01.2	additional requirements for license by examination
59	20-04-01-05	43-20-01.3(6)	additional requirements for license by credential review
59	20-04-01-06	43-20-01.2 and 43-20-01.3	additional requirements for applications
60	20-04-01-07	43-20-06	describes inactive status
61	20-04-01-08	43-20-01.4	continuing education for license renewal
66	error		



# Administrative Rules Committee

March 10, 2011

Sections repealed from 43-28 and 43-20 and moved to Title 20	
Section	Name
43-28-12	Examination. Subjects covered
43-28-12.1	Regional Exams
43-28-12.2	Continuing Education for dentists - audit
43-28-14	Re examination fee additional education
43-28-22	Reinstatement of license renewal
43-20-02	Dental hygienists qualifications examination registration and license
43-20-07	License by credential review
43-20-12.1	Continuing Education for dental hygienists





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## Exhibit B

### Comment Period:

### Written Comments Regarding Title 20 Proposed Rules

1. Comment received from Kathy Keiser, Executive Director of the Ronald McDonald House Charities: Ms. Keiser spoke in support of Section 20-01-02-01 (19), related to the general supervision of dental hygienists. The Board adopted the amendment as follows:

47-19. "General supervision" means the dentist has authorized the procedures and they are carried out in accordance with the dentist's diagnosis, if necessary, and treatment plan. The dentist is not required to be in the treatment facility. Limitations are contained in North Dakota Century Code section 43-20-03.

2. Comments received from Rita Sommers, Executive Director of the NDSBDE: The comment regarding Section 20-02-01-01(2) related to advertising was proposed as follows:

2 4. A dentist who advertises on radio or television must retain a recorded copy of such advertising for a period of one year following the termination of the use of such advertising, and is responsible to make recorded copies of such advertising available to the ~~North Dakota state board of dental examiners within thirty days following a requires from the board for~~ such copies.

Discussion: The clarification may prevent practitioners from sending in advertisement copy which has not been requested by the NDSBDE. The modification does not alter the intent of the amendment. The amendment was adopted as follows:

2 4. A dentist who advertises on radio or television must retain a recorded copy of such advertising for a period of one year following the termination of the use of such advertising, and is responsible to make recorded copies of such advertising available to the North Dakota state board of dental examiners upon request ~~within thirty days following a requires from the board for~~ such copies.

Ms. Sommers comment further addressed the registration requirements for registered and qualified dental assistants, Section 20-03-01-05. The NDSBDE moved to adopt the comment. Discussion: Further clarification may benefit therefore, the motion was withdrawn. Moved and seconded to substitute the previous comment by Ms. Sommers for the following amended portions in bold italicized font:

**Section 20-03-01-05 is created:**



**Registration of registered and qualified dental assistants.** An individual seeking registration as a registered or qualified dental assistant shall apply on forms prescribed by the board. The application must be notarized and include the application fee.

1. The board may grant registration as a registered dental assistant to an applicant meeting all the following requirements:
  - a. The applicant meets any of the following requirements:
    - (1) The applicant successfully completed a dental assisting program, accredited by the commission on dental accreditation of The American dental association or approved by the board, within one year of application.
    - (2) The applicant was certified by the dental assisting national board within one year of application.
    - (3) The applicant successfully completed a dental assisting program, accredited by the commission on dental accreditation of the American dental association or approved by the board, and completed, **within two years before** application, sixteen hours of continuing education in accordance with section 20-03-01-06.
    - (4) The applicant **was** certified by the dental assisting national board, and completed, **within two years before** application, sixteen hours of continuing education in accordance with section 20-03-01-06.
  - b. The applicant passed a written examination on the laws and rules governing the practice of dentistry in North Dakota within one year of application.
  - c. The applicant successfully completed a cardiopulmonary resuscitation course within two years of application.
  - d. Grounds for denial of the application under North Dakota Century Code section 43-20-05 do not exist.
2. The board may grant registration as a qualified dental assistant to an applicant meeting all the following requirements:
  - a. The applicant meets any of the following requirements:
    - (1) The applicant passed the infection control and radiation parts of the dental assisting national board examination within one year of application.
    - (2) The applicant passed the infection control and radiation parts of the dental assisting national board examination and completed, **within two years before application**, sixteen hours of continuing education in accordance with section 20-03-01-06.
  - b. The applicant completed six hundred fifty hours of dental assistance instruction, including on the job training.
  - c. The applicant passed a written examination on the laws and rules governing the practice of dentistry in North Dakota within one year of application.
  - d. The applicant successfully completed a cardiopulmonary resuscitation course within two years of application.
  - e. Grounds for denial of the application under North Dakota Century Code section 43-20-05 do not exist.



Discussion: The proposed language of 20-03-01-05(1)(a)(3)(4) and 20-03-01-05(2) may be misinterpreted to mean that the applicant must complete a dental assisting program within two years of application, which may prevent those who have been away from the profession longer than two years from applying for the registration. The intent was to ensure that those applying would provide proof of continuing education in the period of two years prior to the application in accordance with Section 20-03-01-06. The amendment as drafted states: (3) The applicant successfully completed a dental assisting program, accredited by the commission on dental accreditation of the American dental association or approved by the board, and completed sixteen hours of continuing education in accordance with section 20-03-01-06 within two years of application. The adopted amendment would move the phrase "within two years of application" to immediately follow "completed". The same change implemented in 20-03-01-05(2) and Section 20-03-01-05(4). In addition the word "before" replaces the word "of" in both sections to state (2)(a)(2) The applicant passed the infection control and radiation parts of the dental assisting national board examination and completed, within two years before application, sixteen hours of continuing education in accordance with section 20-03-01-06. Discussion also encompassed Subsection 4; amending "is" to "was" allows a dental assistant who passed the dental assisting national board to qualify for registration even though he/she may not currently be registered with the organization. (4) The applicant is was certified by the dental assisting national board, and completed, within two years before application, sixteen hours of continuing education in accordance with section 20-03-01-06. The proposed changes clarify the intent of the NDSBDE and will continue to allow qualified dental assistants who provide proof of continuing education to enter the workforce.

3. A comment submitted by Carla Schneider, CDA, RDA, representing the North Dakota Dental Assistants Association: The previously adopted amendment addresses the issue regarding provisions for continuing education. Ms Schneider's second proposal suggests that within three years from previous certification by DANB (Dental Assistants National Board) a qualified dental assistant must apply for registration. Moved and seconded to make no changes in response to the comments of Carla Schneider. Discussion: The definitive time frame is too restrictive. Although currently and under the proposed rules, the NDSBDE recognizes the DANB examination as a means of determining minimal competency, ND registration requirements should not be delegated to, or hinge on the DANB certification, past or present. Continuing education requirements for dental assistants exist under Section 20-03-01-06 adopted by the NDSBDE. The NDSBDE acknowledges successful completion of DANB exam as one of four opportunities for ND dental assistant registration.

A written comment in support of previous written comments (sent by Carla Schneider) was received from Sharyl Jacobs, CDA, RDA, BS, Lucinda Johnson, CDA, RDA, Tyler J. Winter, CDA, RDA, President of the North Dakota Dental Assistants Association:

No further comments were received by the NDSBDE.

## EXHIBIT C

### Adopted rules completed

JANUARY 2011

#### CHAPTER 20-01-01

##### 20-01-01-01. Organization and functions of board of dental examiners.

1. **History and functions.** In 1895 a five-member board of dental examiners was created to examine dentists as to their qualifications and to license and register qualified dentists.
2. **Board membership.** The board consists of seven members appointed by the governor. Five members must be licensed dentists, one member must be a licensed hygienist, and one member must be a consumer. Members of the board serve five-year terms. No member may serve more than ten years or two 5-year terms of office.
3. **Board members.** Members of the board are elected by the board to fill the individual positions of president, president-elect, and secretary-treasurer. The position of executive director has been created to assist the secretary-treasurer.
4. **Per diem.** Each member of the board shall receive as compensation for each day actually engaged in the duties of the office per diem in the amount of two hundred dollars.
5. **Inquiries.** Inquiries regarding the board may be addressed to the executive director of the board:

Rita M. Sommers, RDH, B.A. MBA  
North Dakota Board of Dental Examiners  
Box 7246  
Bismarck, ND 58507-7246  
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701-258-8600

**History:** Amended effective October 1, 1988; November 1, 1988; July 1, 1993; May 1, 1996; June 1, 2002; July 1, 2004; April 1, 2006; January 1, 2011.

**General Authority:** NDCC ~~28-32-02.4~~ 28-32-02, 43-28-06

**Law Implemented:** NDCC ~~28-32-02.4~~ 28-32-02, 43-28-05

## CHAPTER 20-01-02

**20-01-02-01. Definitions.** Unless specifically stated otherwise, the following definitions are applicable throughout this title:

1. "Advertising" means any public communication, made in any form or manner, about a licensee's professional service or qualifications, for the purpose of soliciting business. 43-28-18 (10)
2. "Anxiolysis" means diminution or elimination of anxiety.
- ~~2-~~ 3. "Basic full upper and lower denture" means replacement of all natural dentition with artificial teeth. This replacement includes satisfactory tissue adaptation, satisfactory function, and satisfactory aesthetics. Materials used in these replacements must be nonirritating in character and meet all the standards set by the national institute of health and the bureau of standards and testing agencies of the American dental association for materials to be used in or in contact with the human body.
- ~~3-~~ 4. "Board certified" means the dentist has been certified in a specialty area in which there is a certifying body approved by the commission on dental accreditation of the American dental association.
- ~~4-~~ 5. "Board eligible" means the dentist has successfully completed a duly accredited training program or in the case of a dentist in practice at the time of the adoption of these rules has experience equivalent to such a training program in an area of dental practice in which there is a certifying body approved by the commission on dental accreditation of the American dental association.
6. "Bona fide specialties" means the specialties of dental public health, endodontics, oral and maxillofacial pathology, oral and maxillofacial radiology, oral and maxillofacial surgery, orthodontics and dentofacial orthopedics, pediatric dentistry, periodontics, and prosthodontics.
7. "Cardiopulmonary resuscitation course" means the American heart association's health care provider course, the American red cross professional rescuer course, or an equivalent course.
- ~~5-~~ 8. "Certified dental assistant" means a dental assistant who meets the education or experience prerequisites, or both, established by the dental assisting national board and passes the dental assisting national board's certified dental assistant examination (including radiation health and safety, infection control, and general chairside components), is currently cardiopulmonary resuscitation-certified, and continues to maintain the credential by meeting the dental assisting national board requirements.



9. "Code of ethics" means the January 2009 version of the American dental association's principles of ethics and code of professional conduct.

6- 10. "Combination inhalation - enteral conscious sedation" (combined conscious sedation) means conscious sedation using inhalation and enteral agents.

When the intent is anxiolysis only, and the appropriate dosage of agents is administered, then the definition of enteral or combined inhalation-ental conscious sedation (combined conscious sedation), or both, does not apply.

Nitrous oxide/oxygen when used in combination or with sedative agents may produce anxiolysis, conscious or deep sedation, or general anesthesia.

7- 11. "Complete evaluation" means an examination, review of medical and dental history, the formulation of a diagnosis, and the establishment of a written treatment plan, documented in a written record to be maintained in the dentist's office or other treatment facility or institution.

8- 12. "Conscious sedation" means depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command and that is produced by a pharmacological or nonpharmacological method or a combination thereof. The drugs or technique, or both, should carry a margin of safety wide enough to render unintended loss of consciousness unlikely. Patients whose only response is reflex withdrawal from repeated painful stimuli would not be considered to be in a state of conscious sedation.

9- 13. "Coronal polishing" is the mechanical polishing of clinical crowns using a rubber cup or brush only and not to include any instrumentation. Examination for calculus and instrumentation must be done by the dentist or hygienist.

40- 14. "Deep sedation" is an induced state of depressed consciousness accompanied by partial loss of protective reflexes, including the inability to continually maintain an airway independently or to respond purposefully to physical stimulation or verbal command, and is produced by pharmacological or nonpharmacological method, or combination thereof.

41- ~~"Dental assistant" means a person who under the direct supervision of a dentist renders assistance to a dentist or dental hygienist as described in article 20-03.~~

42. ~~"Dental hygienist" means any person who is a graduate of a school of dental hygiene with a minimum of two academic years of dental hygiene curriculum approved or provisionally approved by the commission on dental accreditation of the American dental association and who is registered and licensed by the North Dakota board of dental examiners.~~
43. 15. "Dental technician" means any individual who offers or undertakes to perform the fabrication or repair of corrective or prosthetic dental devices according to the written instructions of a licensed dentist. A certified dental technician is an individual who is specifically qualified through education and experience and who has successfully completed the written and practical certification examinations administered by the national board for certification, and who further maintains certification through compliance with continuing education requirements as stipulated by the national board for certification.
44. 16. "Direct supervision" means the dentist is in the dental office or treatment facility, personally diagnoses the condition to be treated, personally authorizes the procedures and remains in the dental office or treatment facility while the procedures are being performed by the dental hygienist or dental assistant, and before dismissal of the patient, evaluates the performance of the dental hygienist or dental assistant.
45. 17. "Evaluation" means the act or process by a dentist of assessing and determining the significance, quality or work 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.
46. 18. "General anesthesia" means an induced state of unconsciousness accompanied by a partial or complete loss of protective reflexes, including the inability to continually maintain an airway independently and respond purposefully to physical stimulation or verbal command, and is produced by a pharmacological or nonpharmacological method, or a combination thereof.
47. 19. "General supervision" means the dentist has authorized the procedures and they are carried out in accordance with the dentist's diagnosis, if necessary, and treatment plan. The dentist is not required to be in the treatment facility. Limitations are contained in North Dakota Century Code section 43-20-03.
48. 20. "Inactive status" means the licensee shall not engage in the practice of dentistry or dental hygiene in the state of North Dakota. The license that is placed on inactive status remains on that status until such time as the license is reinstated.
49. 21. "Indirect supervision" means that a dentist is in the dental office or treatment facility, has personally diagnosed the condition to be treated, authorizes the procedures, and remains in the dental office



or treatment facility while the procedures are being performed by the dental hygienist or dental assistant.

20. ~~22.~~ "Local anesthesia" means the elimination of sensations in one part of the body by regional injection of drugs without causing the loss of consciousness.
- ~~21.~~ "Modified general supervision" means ~~that the dentist must personally evaluate the patient, diagnose the conditions to be treated, and plan and authorize treatment. The dentist must personally evaluate the patient at each visit, but need not be present when treatment is initiated or remain until procedures are completed on a patient of record who has been seen in the office in the previous twelve months.~~
22. ~~23.~~ "Oral hygiene treatment planning" means the process of assessing and determining, by the dentist and the hygienist, the services the dental hygienist will perform, including preventative, educational, and instrumentation. This treatment plan is an organized sequence of events that is a part of the dentist's total treatment plan. The total treatment plan and diagnosis are to be determined by the dentist.
23. ~~24.~~ "Patient of record" means a patient who has undergone a complete dental evaluation performed by a licensed dentist.
- ~~24.~~ "Personal supervision" means ~~a level of supervision indicating that the dentist or dental hygienist is personally treating a patient and authorizes the dental hygienist or dental assistant to aid the treatment by concurrently performing a supportive procedure.~~
25. "Primary practice site" means the office location that is to be considered the main location of the dental practice. This office location would be listed first on the biennial registration.
26. "Qualified dental assistant" means ~~a dental assistant who has received on-the-job training or instruction totaling at least six hundred fifty hours, has completed a board-approved infection control seminar and passed the x-ray and infection control portions of the dental assisting national board examination, and has applied to the board and paid the certificate fee determined by the board.~~
27. "Registered dental assistant" means ~~a dental assistant who is a graduate of a dental assistant program approved or provisionally approved by the commission on dental accreditation of the American dental association, or who has received at least three thousand two hundred hours of dental assisting instruction including on-the-job training as a dental assistant and has completed dental assistant national boards, or who has completed a course in dental assisting which is approved by the North Dakota board of dental examiners, and who is registered by the North Dakota board of dental examiners.~~

28. "Satellite office" means an office, building, or location used at any time by a dentist for the practice of dentistry other than the office listed on the dentist's biennial registration certificate.

**History:** Effective September 1, 1980; amended effective February 1, 1992; October 1, 1993; May 1, 1996; August 1, 1998; April 1, 2000; June 1, 2002; July 1, 2004; April 1, 2006; October 1, 2007; January 1, 2011.

**General Authority:** NDCC 43-20-10; 43-28-06

**Law Implemented:** NDCC ~~43-20-02, 43-20-12, 43-28-06~~ 43-20, 43-28



## CHAPTER 20-02-01

### 20-02-01-01. Advertising.

1. ~~Advertising by dentists is permitted to disseminate information for the purpose of providing the public a sufficient basis upon which to make an informed selection of dentists. In the interest of protecting the public health, safety, and welfare, advertising which~~ In addition to violations of the code of ethics, the following is false, deceptive, or misleading is prohibited: advertising:
  - a. Advertising containing a material, objective representation, whether express or implied, that the advertised services are superior in quality to those of other dentists.
  - b. Advertising using a name for a practice other than the legal name of the dentist or business entity or the registered trade name.
  - c. Advertising describing combination inhalation - enteral conscious sedation, conscious sedation, or local anesthesia by terms such as sleep or snooze dentistry or twilight sleep.
  - d. Advertising stating a range of fees for a service if the fee charged is fixed or is usually in the higher half of the range.
2. ~~All advertising must contain the legal name of the dentist, or a reasonable variation thereof. In the case of a partnership or corporation, the name used in the advertisement may be the true name of the partnership or corporation. The advertisement must also contain the location, or locations, of the dentist, partnership, or corporation.~~
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 specialization provided that the dentist has successfully completed an educational program accredited by the commission on accreditation of dental and dental auxiliary educational programs, two or more years in length, as specified by the commission on dental accreditation of the American dental association 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.~~

4. A dentist who advertises on radio or television must retain a recorded copy of such advertising for a period of one year following the termination of the use of such advertising, and is responsible to make recorded copies of such advertising available to the North Dakota state board of dental examiners within thirty days following a request from the board for such copies upon request.
5. ~~No dentist may advertise the dentist, the dentist's staff, the dentist's services, or the dentist's method or methods of delivery of dental services to be superior to those of any other licensed dentist, unless such claim or claims can be substantiated by the advertiser, upon whom rests the burden of proof.~~
6. ~~No advertising by a dentist may contain representations or other information contrary to the provisions of North Dakota Century Code section 43-28-18 or North Dakota Administrative Code title 20.~~
3. Each dentist, with an ownership interest in the practice being advertised, is responsible for the advertisement of the practice for the purposes of a disciplinary action or denial of an application.

**History:** Effective September 1, 1980; amended effective February 1, 1992; October 1, 1993; January 1, 2011.

**General Authority:** NDCC 43-28-06

**Law Implemented:** NDCC ~~43-28-06~~ 43-28-18

**20-02-01-02. Office emergency.** Every dentist, dental hygienist, dental assistant, qualified dental assistant, or registered dental assistant practicing in North Dakota must have a current certificate of proficiency in cardiopulmonary resuscitation.

**History:** Effective February 1, 1992; amended effective October 1, 1993; May 1, 1996; August 1, 1998; January 1, 2011.

**General Authority:** NDCC 43-20-10, 43-28-06

**Law Implemented:** NDCC 43-20-01.2, 43-20-01.3, 43-20-10, 43-20-13.2, 43-28-06, 43-28-10.1, 43-28-15

**20-02-01-03. Nitrous oxide.** A duly licensed dentist may use nitrous oxide for treating patients only when the following conditions are met:

1. Documentation has been provided by the dentist to the board that verifies completion of fourteen hours of instruction or continuing professional education dealing specifically with the use of nitrous oxide. In the absence of documentation of classroom training, the dentist must provide proof acceptable to the board that demonstrates three years of practical experience in the use of nitrous oxide.
2. A dentist who induces a patient into a state of psychosedation or relative analgesia using nitrous oxide shall ensure that the patient



will be continually and personally monitored by a dentist. A dentist may delegate the monitoring tasks to a licensed dental hygienist or a registered dental assistant utilizing direct supervision only after the patient has been stabilized at the desired level of conscious sedation or relative analgesia by the action of the dentist. The licensed dental hygienist or registered dental assistant who is assigned the monitoring task shall remain in the treatment room with the patient at all times. A dental hygienist or a dental assistant may not initiate the administration of nitrous oxide to a patient.

3. The dentist must provide and document training for the dental hygienist or registered dental assistant in the proper and safe operation of the analgesia machine being used, including the prior to the registered dental hygienist or registered dental assistant monitoring the patient. Training shall include emergency procedures to be employed if required.

**History:** Effective February 1, 1992; amended effective May 1, 1996; April 1, 2000; October 1, 2007; January 1, 2011.

**General Authority:** NDCC 43-20-10, 43-28-06

**Law Implemented:** NDCC 43-20-03, 43-20-10, 43-20-12, 43-20-13, 43-28-06

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

The board may grant a license to practice dentistry to an applicant who has met the requirements of North Dakota Century Code section 43-28-10.1 and all the following requirements:

1. The applicant has passed the examination administered by the joint commission on national dental examiners or the national dental examining board of Canada within five years of application.
2. The applicant has passed, within five years of application, a clinical competency examination administered by one of the following:
  - a. Central regional dental testing service.
  - b. Council of interstate testing agencies.
  - c. Northeast regional board of dental examiners, except after December 31, 2009, the examination approved by the American board of dental examiners.
  - d. Southern regional testing agency, except the applicant must pass the periodontal part of an examination administered by another approved regional dental testing service.
  - e. Western regional examining board.

3. The applicant has successfully completed a cardiopulmonary resuscitation course within two years of application.
4. The applicant has the physical health and visual acuity to enable the applicant to meet the minimum standards of professional competence.

**History:** Effective January 1, 2011.

**General Authority:** NDCC 43-28-06

**Law Implemented:** NDCC 43-28-10.1

**20-02-01-03.2. Additional requirements for licensure by credential review.** The board may grant a license to practice dentistry to an applicant who has met the requirements of North Dakota Century Code section 43-28-15 and all the following requirements:

1. The applicant has successfully completed a cardiopulmonary resuscitation course within two years of application.
2. The applicant has the physical health and visual acuity to enable the applicant to meet the minimum standards of professional competence.
3. The applicant has completed thirty-two hours of continuing education in accordance with section 20-02-01-06 within two years of application.

**History:** Effective January 1, 2011.

**General Authority:** NDCC 43-28-06

**Law Implemented:** NDCC 43-28-15

**20-02-01-03.3. Additional requirements for applications.** Applications must be completed within six months of filing. In addition to the application requirements of North Dakota Century Code sections 43-28-11 and 43-28-17, the board may require an application to include:

1. Proof of identity, including any name change.
2. An official transcript sent by an accredited dental school directly to the board.
3. Evidence demonstrating the applicant passed the examination administered by the joint commission on national dental examinations within five years of application.
4. Evidence demonstrating the applicant passed a clinical competency examination, approved by the board, within five years of application.
5. An interview by the board.
6. Anything necessary for a criminal history record check pursuant to North Dakota Century Code section 43-28-11.2.



7. A certification, from the licensing board of every jurisdiction in which the applicant is licensed, that the applicant is licensed in good standing.
8. Certification that the applicant has completed a cardiopulmonary resuscitation course within two years of application.
9. Verification of physical health and visual acuity.
10. For applications for licensure by credential review, the law and rules stating the requirements for licensure, when the applicant was licensed, of the jurisdiction in which the applicant is licensed.
11. For applications for licensure by credential review and reinstatement from inactive status, proof of completion of thirty-two hours of continuing education in accordance with section 20-02-01-06 within two years of application.
12. Any information required by the application forms prescribed by the board.

**History:** Effective January 1, 2011.

**General Authority:** NDCC 43-28-06

**Law Implemented:** NDCC 43-28-10.1, 43-28-11, 43-28-11.2, 43-28-15, 43-28-17

**20-02-01-03.4. Clinical competency examination retakes.** If an applicant taking the clinical competency examination in the integrated format is unsuccessful after having exhausted all allowable retake opportunities for the failed parts, one failure is recorded. The applicant must then retake all five parts of the examination in the traditional format. If the applicant is unsuccessful in one or more parts, a second failure is recorded. If the failed parts are retaken and failed again, a third failure will be recorded. A dental applicant may take a clinical examination three times before remedial training is required. After failing the examination for a third time, and prior to the fourth attempt of the examination, an applicant shall:

1. Submit to the board a detailed plan for remedial training by an accredited dental school. The board must approve the proposed remedial training.
2. Submit proof to the board of passing the remedial training within twenty-four months of its approval by the board.

The board may grant or deny a fourth attempt of the clinical examination. A fourth attempt must occur within twelve months of the date of the board's decision. If an applicant fails any part of the examination after remedial training, the board must approve additional retakes.

**History:** Effective January 1, 2011.

**General Authority:** NDCC 43-28-06

**Law Implemented:** NDCC 43-28-06, 43-28-10.1, 43-28-17

**20-02-01-04. Temporary license to practice dentistry.** The board may grant a nonrenewable temporary license to practice dentistry in the state of North Dakota for a period not to exceed one year. The temporary license will be issued only for special purposes that are unique and cannot be satisfied by the normal means to licensure.

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 ~~43-28-12~~ 43-28-11.
  - b. Has paid the nonrefundable application and license fee prescribed by the board.
  - c. Holds an active dental license in another ~~state or~~ 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, 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.

**History:** Effective February 1, 1992; amended effective October 1, 2007; January 1, 2011.

**General Authority:** NDCC 43-28-06

**Law Implemented:** NDCC 43-28-06



**20-02-01-04.2. Volunteer license to practice dentistry.** A patient who is seen by a dentist who holds a volunteer license to practice dentistry shall not be considered a patient of record of the volunteer dentist. The dentist is not obligated to treat the patient outside of the volunteer practice setting. The board may grant a volunteer license to practice dentistry in North Dakota, renewable annually by application to the board, when the following conditions are met:

1. The dentist ~~is~~ applicant was formerly licensed in the state of North Dakota and is in good standing with the board.
2. The dentist applicant agrees to provide primary health services without remuneration in a board-approved setting.
3. The dentist applicant holds a current CPR cardiopulmonary resuscitation course certification.
4. The dentist applicant has completed continuing education requirements of the board.
5. The dentist applicant has made application for a volunteer dental license in a manner prescribed by the board.
6. The dentist applicant has paid the nonrefundable application and license fee prescribed by the board.

**History:** Effective April 1, 2000; amended effective January 1, 2011.

**General Authority:** NDCC 43-28-06

**Law Implemented:** NDCC 43-28-06

**20-02-01-04.3. Inactive status - License reinstatement.** Any person who holds a dental or dental hygiene license A dentist may elect, upon payment of the fee determined by the board, to place that person's the dentist's license on an inactive status and shall, subject to the rules of the board, A dentist on inactive status shall be excused from the payment of renewal fees until that person notifies the board in writing of that person's desire to resume active status, except inactive status renewal fees, and continuing education. Any licensee whose license is in an A dentist on inactive status shall not practice in the state of North Dakota. To reinstate a license on inactive status, the dentist shall apply on the form a prescribed by the board, pay a reinstatement fee, and meet all of the following requirements:

1. The applicant has passed a clinical competency examination administered by a regional dental testing service, approved by the board in section 20-02-01-03.1, within five years application. The board may, within the board's discretion, waive this requirement.
2. The applicant passes a written examination on the laws and rules governing the practice of dentistry in this state administered by the board at a meeting.

3. The applicant has completed thirty-two hours of continuing education in accordance with section 20-02-01-06 within two years of application.
4. The applicant has successfully completed a cardiopulmonary resuscitation course within two years of application.
5. Grounds for denial of the application under North Dakota Century Code section 43-28-18 do not exist.

**History:** Effective April 1, 2006; amended effective January 1, 2011.

**General Authority:** NDCC 43-28-06

**Law Implemented:** NDCC 43-28-06 43-28-17

**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. 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, initially for a period of twelve months 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.
2. An applicant may not be issued a permit initially as required in subsection 1 unless:
  - a. The board of dental examiners approves the applicant's facility after an inspection conducted by an individual or individuals designated by the dental examiners;
  - b. The board of dental examiners is satisfied that the applicant is in compliance with the American dental association's most recent policy statement: ~~THE USE OF SEDATION AND GENERAL ANESTHESIA BY DENTISTS~~ the use of sedation and general anesthesia by dentists; and
  - c. The initial application includes payment of a fee in the amount determined by the dental examiners; and
  - d. If the application appears to be in order, the board may issue a temporary permit prior to the site evaluation. The temporary permit may be revoked if the applicant fails the site inspection or if the



applicant fails to cooperate with the timely scheduling of the site inspection.

3. The board of dental examiners may renew such permit biennially, provided:
  - a. Requirements of the permit application have been met;
  - b. Application for renewal and renewal fee is received by the dental examiners before the date of expiration of such permit. If the renewal application and renewal fee have not been received by the expiration of the permit, late fees as determined by the board shall apply; and
  - c. ~~Payment of a renewal fee in the amount to be determined by the board of dental examiners is received with such application; and~~
  - d. An onsite evaluation of the dentist's facility may be conducted by an individual designated by the board of dental examiners, and the board of dental examiners must approve the results of each such evaluation. Each facility where anesthesia is administered must be evaluated.
4. The board shall reevaluate the credentials, facilities, equipment, personnel, and procedures of a permitholder five years following a successful initial application.

**History:** Effective October 1, 1993; amended effective May 1, 1996; June 1, 2002; July 1, 2004; April 1, 2006; October 1, 2007; January 1, 2011.

**General Authority:** NDCC 43-28-06

**Law Implemented:** NDCC 43-28-06

**20-02-01-06. Continuing dental education for dentists, ~~dental hygienists, and dental assistants.~~** Each dentist, ~~dental hygienist, or dental assistant~~ licensed or registered in this state shall provide evidence on forms supplied by the board that the ~~person~~ dentist has attended or participated in continuing dental education in accordance with the following conditions:

1. Continuing education activities include publications, seminars, symposiums, lectures, college courses, and online education.
2. The continuing dental education hours will accumulate on the basis of one hour of credit for each hour spent in ~~actual teaching sessions~~ education. Subject matter directly related to clinical dentistry will be accepted by the board without limit. ~~Limits are established for nonclinical subjects and home study courses.~~
2. 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

~~six sixteen~~ hours in nonclinical subjects relating to the dental profession and no more than ten hours through home study courses.

- ~~3. The minimum number of hours required within a two-year cycle for dental hygienists is sixteen. Of these hours, a dental hygienist may earn no more than three hours in nonclinical subjects relating to the dental profession and no more than five hours through home study courses.~~
- ~~4. The minimum number of hours for a registered dental assistant and a qualified dental assistant is eight hours annually. Of these hours, a registered dental assistant or qualified dental assistant may earn no more than three hours in nonclinical subjects relating to the dental profession and no more than two hours through home study courses.~~
- ~~5. Nonclinical subjects relating to the dental profession are those which cover skills relating to dental services in general which are not related to, but are nevertheless supportive of, the provision of clinical dental services. Examples of nonclinical subjects relating to the dental profession are patient management, the legal and ethical responsibilities of the dental profession, and stress management.~~
- ~~6. Examples of nonclinical subjects that will not be creditable to the continuing education requirement are those that deal with estate planning, financial planning, marketing, investments, and personal health: 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.~~
- ~~7. 4. Mere registration at a dental convention without specific attendance at continuing education presentations will not be creditable toward the continuing dental education requirement.~~
- ~~8. The infection control continuing education requirement for dentists, dental hygienists, registered dental assistants, and qualified dental assistants practicing in North Dakota is two hours biennially and is a requirement for renewal of the biennial certificate of registration. This training may be accomplished in an office setting or at a sponsored course.~~



- 9: 5. All dentists, ~~registered dental hygienists, dental assistants, qualified dental assistants, and registered dental assistants~~ must hold a current cardiopulmonary resuscitation certificate ~~of registration or its equivalent, to practice dentistry, dental hygiene, or dental assisting in the state of North Dakota (equivalent means basic life support or advanced care life support).~~ Anesthesia permitholders are required to maintain current advanced cardiac life support certification or pediatric advanced life support as specified by permit.

**History:** Effective October 1, 1993; amended effective May 1, 1996; August 1, 1998; June 1, 2002; April 1, 2006; October 1, 2007; January 1, 2011.

**General Authority:** NDCC 43-28-06

**Law Implemented:** NDCC 43-20-12.1, 43-28-06, 43-28-12.2 43-28-16.2

**20-02-01-09. Retention of records.** A dentist shall ~~maintain~~ retain a patient's dental record for a minimum of six years after the ~~date of patient's last examination, prescription, or treatment.~~ Records for minors shall be ~~maintained~~ retained for a minimum of either one year after the patient reaches the age of eighteen or six years after the patient's last examination, prescription, or treatment, whichever is longer. Proper safeguards shall be maintained to ensure safety of records from destructive elements. The requirements of this rule apply to electronic records as well as to records kept by any other means.

**History:** Effective April 1, 2006; amended effective January 1, 2011.

**General Authority:** NDCC 43-28-06

**Law Implemented:** NDCC 43-28-06

**20-02-01-10. Authorization of laboratory services.** A dentist using the services of any person, not licensed to practice dentistry in this state, to construct, alter, repair, or duplicate any orthodontic or prosthetic device, must furnish the unlicensed person a written prescription which shall include all of the following:

1. The name and address of the unlicensed person.
2. The patient's name or patient number.
3. The date on which the prescription was written.
4. The description of the work to be done, with a diagram, if necessary.
5. A specification of the materials to be used if necessary.
6. The signature of the dentist and the number of the dentist's North Dakota license.

*from  
43-28-25*

The dentist shall retain a duplicate copy of the prescription for inspection by the board or the board's agent for two years.

**History:** Effective January 1, 2011.

**General Authority:** NDCC 43-28-06

**Law Implemented:** NDCC 43-28-02, 43-28-06, 43-28-18, 43-28-25



## CHAPTER 20-03-01

**20-03-01-01. Duties.** A dental assistant may perform the ~~services~~ duties listed in subsections 1 through 6 under direct supervision of a ~~licensed~~ dentist. A qualified dental assistant may perform duties set forth in subsections 1 through 7 under direct supervision of a dentist. A registered dental assistant may perform the duties set forth in subsections 1 through 24 under ~~direct or indirect~~ supervision of a ~~licensed~~ dentist; ~~a. A registered dental assistant may perform duties set forth in subsections 25 through 30 31 under the direct supervision of a licensed dentist and. A registered dental assistant may perform duties set forth in subsections 31 32 and 32 33 under the general supervision of a licensed dentist. A qualified dental assistant may perform the duties set out in subsections 1 through 7 under the direct supervision of a licensed dentist.~~

1. Take and record pulse, blood pressure, and temperature.
2. Take and record preliminary dental and medical history for the interpretation by the dentist.
3. Apply topical medications and drugs to oral tissues, including topical anesthetic, but not including desensitizing or caustic agents or anticariogenic agents.
4. Receive removable dental prosthesis for cleaning or repair.
5. Take impressions for study casts.
6. Hold impression trays in the mouth (e.g., reversible hydrocolloids, rubber base).
7. Take dental radiographs.
8. Apply anticariogenic agents topically.
9. Apply desensitizing solutions to the external surfaces of the teeth.
10. Dry root canal with paper points.
11. Place and remove rubber dams.
12. Take occlusal bite registration for study casts.
13. Place retraction cord in the gingival sulcus of a prepared tooth prior to the dentist taking an impression of the tooth.
14. Remove excess cement from inlays, crowns, bridges, and orthodontic appliances with hand instruments only.

15. Perform nonsurgical clinical and laboratory oral diagnosis tests, including pulp testing, for interpretation by the dentist.
16. Apply pit and fissure sealants if ~~criteria set out in section 20-03-01-04 of these rules are met~~ the registered dental assistant has provided documentation of a board-approved sealant course. Adjust sealants with slow-speed handpiece.
17. Polish the coronal surfaces of the teeth with a rubber cup or brush only after necessary scaling by a hygienist or dentist.
18. Polish restorations.
19. Place and remove periodontal dressings, dry socket medications, and packing.
20. Remove sutures.
21. Monitor a patient who has been inducted by a dentist into nitrous-oxide relative analgesia.
22. Take impressions for fixed or removable orthodontic appliances, athletic mouth guards, bleaching trays, bite splints, flippers, and removable prosthetic repairs.
23. Preselect and prefit orthodontic bands.
24. Place, tie, and remove ligature wires and elastic ties, and place orthodontic separators.
25. Place and remove arch wires or appliances that have been activated by a dentist.
26. Acid-etch enamel surfaces prior to direct bonding of orthodontic brackets or composite restorations.
27. Place orthodontic brackets using an indirect bonding technique by seating the transfer tray loaded with brackets previously positioned in the dental laboratory by a licensed dentist.
28. Take face bow transfers.
29. Place and remove matrix bands and wedges.
30. Adjust permanent crowns outside of the mouth.
31. Orally transmit a prescription that has been authorized by the supervising dentist.



32. Fabricate, adjust, place, recement, or remove a temporary crown, bridge, or onlay or temporary restorative material. This applies only to dentitions actively under treatment for which a permanent restoration is being fabricated.

~~32.~~ 33. Cut and remove arch wires or replace loose bands, loose brackets, or other orthodontic appliances for palliative treatment.

**History:** Effective September 1, 1980; amended effective February 1, 1992; October 1, 1993; May 1, 1996; August 1, 1998; April 1, 2000; June 1, 2002; July 1, 2004; April 1, 2006; January 1, 2011.

**General Authority:** NDCC 43-20-10

**Law Implemented:** NDCC ~~43-20-12~~ 43-20-01.1, 43-20-08, 43-20-10, 43-20-13

**20-03-01-02. Prohibited services.** A dental assistant, qualified dental assistant, or registered dental assistant may not perform the following services:

1. Diagnosis and treatment planning.
2. Surgery on hard or soft tissue.
3. ~~Administering of~~ Administer or titrate local ~~or general~~ anesthetics, sedation or general anesthesia drugs.
4. Any irreversible dental procedure or procedures which require the professional judgment and skill of a licensed dentist.
5. Placing a final restoration.
6. Contouring a final restoration, excluding a crown which has not been cemented by a dentist.
7. Activating any type of orthodontic appliance.
8. Cementing or bonding orthodontic bands or brackets that have not been previously placed by a dentist.
9. Placing bases or cavity liners.
10. Scaling, root planing, or gingival curettage.
11. Measuring the gingival sulcus with a periodontal probe.

**History:** Effective February 1, 1992; amended effective October 1, 1993; April 1, 2000; June 1, 2002; July 1, 2004; January 1, 2011.

**General Authority:** NDCC 43-20-10

**Law Implemented:** NDCC ~~43-20-12~~ 43-20-01.1, 43-20-08, 43-20-10, 43-20-13

**20-03-01-03. Annual registration of dental assistants performing expanded duties. Repealed effective January 1, 2011.**

- ~~1. Any individual engaged in performing expanded duties in the practice of dental assisting in the state of North Dakota (those duties set out in subsections 7 through 32 of section 20-03-01-01) must register with the board of dental examiners by submitting an application accompanied by a fee determined by the board. Thereafter, on a yearly basis, before expiration, every dental assistant performing expanded duties shall transmit to the board a registration fee determined by the board and evidence of completion of continuing education requirements, together with other pertinent information as required. At least thirty days before the certificate of registration expiration date, the executive director of the board shall send to every dental assistant performing expanded duties a written notice stating the amount and due date of the fee. A late fee determined by the board shall be assessed if the registration renewal application and fee are not received by the board before expiration.~~
- ~~2. An initial certificate of registration may be issued by the board to a dental assistant when:
  - ~~a. The dental assistant has applied to the board and paid the registration fee determined by the board; and~~
  - ~~b. The dental assistant possesses one of the following professional qualifications:
    - ~~(1) The dental assistant is currently dental assistant certified by the dental assisting national board and has received at least three thousand two hundred hours of dental assisting instruction, including on-the-job training;~~
    - ~~(2) The dental assistant has completed a course in dental assisting from a school of dental assisting accredited by the commission on dental accreditation of the American dental association; or~~
    - ~~(3) The dental assistant has completed a course in dental assisting which is approved by the North Dakota board of dental examiners.~~~~~~
- ~~3. Every registered dental assistant performing expanded duties shall provide the board a current mailing address. A registered dental assistant may not practice in this state for more than thirty days after a change of address without providing the board with written notice of the new address by first-class mail.~~



4. ~~Each year registered dental assistants performing expanded duties shall submit to the board with the annual registration evidence of attendance or participation in continuing dental education acceptable to the board. To remain in good standing, a registered dental assistant performing expanded duties must complete at least eight hours of continuing education each year. The board shall suspend the registration of any person who fails to comply with this section.~~
5. ~~An initial certificate of qualification to take dental radiographs (allows subsections 1 through 7 in section 20-03-01-01) may be issued by the board to a dental assistant when:~~
  - a. ~~The dental assistant has applied to the board and paid the certificate fee determined by the board.~~
  - b. ~~The dental assistant has received six hundred fifty hours of dental assisting instruction, including on-the-job training, and been employed and trained as a dental assistant for at least six months working at least twenty-four hours per week.~~
  - c. ~~The dental assistant has completed a board-approved infection control seminar and passed the x-ray and infection control portions of the dental assisting national board examination.~~
6. ~~A dental assistant who is not registered or qualified may, at the direction of a licensed dentist, perform only basic dental assisting services listed in subsections 1 through 6 of section 20-03-01-01.~~
7. ~~Current certification in cardiopulmonary resuscitation and infection control shall be required for registration of all dental assistants.~~

**History:** ~~Effective October 1, 1993; amended effective May 1, 1996; July 1, 1998; April 1, 2000; June 1, 2002; July 1, 2004; April 1, 2006; October 1, 2007.~~

**General Authority:** ~~NDCC 43-28-06~~

**Law Implemented:** ~~NDCC 43-28-06~~

**20-03-01-04. Criteria for dental assistants placing sealants. Repealed effective January 1, 2011.** ~~A dental assistant may place sealants, if the dental assistant is currently registered with the North Dakota board of dental examiners and has provided documentation of a board-approved sealant course.~~

**History:** ~~Effective June 1, 2002; amended effective April 1, 2006; October 1, 2007.~~

**General Authority:** ~~NDCC 43-28-06~~

**Law Implemented:** ~~NDCC 43-28-06~~

**20-03-01-05. Registration of registered and qualified dental assistants.** An individual seeking registration as a registered or qualified dental assistant shall apply on forms prescribed by the board. The application must be notarized and include the application fee.

1. The board may grant registration as a registered dental assistant to an applicant meeting all the following requirements:
  - a. The applicant meets any of the following requirements:
    - (1) The applicant successfully completed a dental assisting program, accredited by the commission on dental accreditation of the American dental association or approved by the board, within one year of application.
    - (2) The applicant was certified by the dental assisting national board within one year of application.
    - (3) The applicant successfully completed a dental assisting program, accredited by the commission on dental accreditation of the American dental association or approved by the board, and completed, within two years before application, sixteen hours of continuing education in accordance with section 20-03-01-06.
    - (4) The applicant was certified by the dental assisting national board, and completed, within two years before application, sixteen hours of continuing education in accordance with section 20-03-01-06.
  - b. The applicant passed a written examination on the laws and rules governing the practice of dentistry in North Dakota within one year of application.
  - c. The applicant successfully completed a cardiopulmonary resuscitation course within two years of application.
  - d. Grounds for denial of the application under North Dakota Century Code section 43-20-05 do not exist.
2. The board may grant registration as a qualified dental assistant to an applicant meeting all the following requirements:
  - a. The applicant meets any of the following requirements:
    - (1) The applicant passed the infection control and radiation parts of the dental assisting national board examination within one year of application.
    - (2) The applicant passed the infection control and radiation parts of the dental assisting national board examination and completed, within two years before application, sixteen hours of continuing education in accordance with section 20-03-01-06.



- b. The applicant completed six hundred fifty hours of dental assistance instruction, including on-the-job training.
- c. The applicant passed a written examination on the laws and rules governing the practice of dentistry in North Dakota within one year of application.
- d. The applicant successfully completed a cardiopulmonary resuscitation course within two years of application.
- e. Grounds for denial of the application under North Dakota Century Code section 43-20-05 do not exist.

**History:** Effective January 1, 2011.

**General Authority:** NDCC 43-20-10

**Law Implemented:** NDCC 43-20-13.2

**20-03-01-06. Continuing dental education for qualified and registered dental assistants.** Each qualified or registered dental assistant shall provide evidence on forms supplied by the board that the qualified or registered dental assistant has attended or participated in continuing dental education in accordance with the following conditions:

- 1. Continuing education activities include publications, seminars, symposiums, lectures, college courses, and online education.
- 2. The continuing dental education hours will accumulate on the basis of one hour of credit for each hour spent in education. Subject matter directly related to clinical dentistry will be accepted by the board without limit.
- 3. The minimum number of hours required within a two-year cycle is sixteen. Of these hours, a qualified or registered dental assistant may earn no more than eight hours 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.
- 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 qualified or registered dental assistants must hold a current cardiopulmonary resuscitation certificate.

**History:** Effective January 1, 2011.

**General Authority:** NDCC 43-20-10

**Law Implemented:** NDCC 43-20-13.1



## CHAPTER 20-04-01

**20-04-01-01. Duties.** A dental hygienist may perform the following services under the general, direct, or indirect, ~~or modified general~~ supervision of a dentist:

1. Complete prophylaxis to include removal of accumulated matter, deposits, accretions, or stains from the natural and restored surfaces of exposed teeth. The dental hygienist may also do root planing and soft tissue curettage upon direct order of the dentist.
2. Polish and smooth existing restorations.
3. Apply topical applications of drugs to the surface tissues of the mouth and to exposed surfaces of the teeth, including anticariogenic agents and desensitizing solutions.
4. Take impressions for study casts.
5. Take and record preliminary medical and dental histories for the interpretation by the dentist.
6. Take and record pulse, blood pressure, and temperature.
7. Provide oral hygiene treatment planning.
8. Take dental radiographs.
9. Apply therapeutic agents subgingivally for the treatment of periodontal disease.
10. Hold impression trays in the mouth after placement by a dentist (e.g., reversible hydrocolloids, rubber base, etc.).
11. Receive removable dental prosthesis for cleaning and repair.
12. Dry root canal with paper points.
13. Place and remove rubber dams.
14. Place and remove matrix bands or wedges.
15. Take occlusal bite registration for study casts.
16. Place retraction cord in the gingival sulcus of a prepared tooth prior to the dentist taking an impression of the tooth.
17. Fabricate, adjust, place, recement, or remove a temporary crown, bridge, onlay, or temporary restorative material. This applies only to

dentitions actively under treatment for which a permanent restoration is being fabricated.

18. Adjust permanent crowns outside of the mouth.
19. Perform nonsurgical clinical and laboratory oral diagnostic tests for interpretation by the dentist.
20. Apply pit and fissure sealants. Adjust sealants with slow speed handpiece.
21. Place and remove periodontal dressings, dry socket medications, and packing.
22. Remove sutures.
23. Monitor a patient who has been inducted by a dentist into nitrous-oxide relative analgesia.
24. ~~Administer local anesthesia under the direct supervision of a dentist if criteria in section 20-04-01-03 are met.~~
25. Take impressions for fixed or removable orthodontic appliances, athletic mouth guards, bleaching trays, bite splints, flippers, and removable prosthetic repairs.
- ~~26.~~ 25. Preselect and prefit orthodontic bands.
- ~~27.~~ 26. Place, tie, and remove ligature wires and elastic ties, and place orthodontic separators.
- ~~28.~~ 27. Place and remove arch wires or appliances that have been activated by a dentist.
- ~~29.~~ 28. Cut and remove arch wires or replace loose bands, loose brackets, or other orthodontic appliances for palliative treatment.
- ~~30.~~ 29. Acid-etch enamel surfaces prior to pit and fissure sealants, direct bonding of orthodontic brackets, or composite restorations.
- ~~31.~~ 30. Place orthodontic brackets using an indirect bonding technique by seating the transfer tray loaded with brackets previously positioned in the dental laboratory by a ~~licensed~~ dentist.
- ~~32.~~ 31. Take face bow transfers.



32. Orally transmit a prescription that has been authorized by the supervising dentist.

**History:** Effective September 1, 1980; amended effective February 1, 1992; October 1, 1993; May 1, 1996; August 1, 1998; April 1, 2000; July 1, 2004; April 1, 2006; January 1, 2011.

**General Authority:** NDCC 43-20-10

**Law Implemented:** NDCC 43-20-03, 43-20-11, 43-20-12

**20-04-01-02. Prohibited services.** A dental hygienist may not perform the following services:

1. Diagnosis and treatment planning.
2. Surgery on hard or soft tissue.
3. ~~Administering~~ Administer or titrate anesthetics, except topical and local anesthetic, as permitted under ~~these rules~~ sections 20-04-01-01 and 20-04-01-03.
4. Any irreversible dental procedure or procedures which require the professional judgment and skill of a licensed dentist.
5. Place a final restoration.
6. Contour a final restoration, excluding a crown which has not been cemented by a dentist.
7. Activating any type of orthodontic appliance.
8. Cementing or bonding orthodontic bands or brackets that have not been previously placed by a dentist.
9. Placing bases or cavity liners.

**History:** Effective February 1, 1992; amended effective October 1, 1993; July 1, 2004; January 1, 2011.

**General Authority:** NDCC 43-20-10

**Law Implemented:** NDCC 43-20-03; 43-20-11, 43-20-12, 43-20-12.3

**20-04-01-04. Additional requirements for licensure by examination.**

The board may grant a license to practice dental hygiene to an applicant who has met the requirements of North Dakota Century Code section 43-20-01.2 and all the following requirements:

1. The applicant has passed the examination administered by the joint commission on national dental examinations or the dental hygiene certification board of Canada within two years of application.

2. The applicant has passed, within two years of application, a clinical competency examination administered by one of the following:
  - a. Any regional dental testing service before September 17, 2009.
  - b. Central regional dental testing service.
  - c. Council of interstate testing agencies.
  - d. Western regional examining board.
3. The applicant has successfully completed a cardiopulmonary resuscitation course within two years of application.
4. The applicant has the physical health and visual acuity to enable the applicant to meet the minimum standards of professional competence.

**History:** Effective January 1, 2011.

**General Authority:** NDCC 43-20-10

**Law Implemented:** NDCC 43-20-01.2

**20-04-01-05. Additional requirements for licensure by credential review.** The board may grant a license to practice dental hygiene to an applicant who has met the requirements of North Dakota Century Code section 43-20-01.3 and all the following requirements:

1. The applicant has successfully completed a cardiopulmonary resuscitation course within two years of application.
2. The applicant has the physical health and visual acuity to enable the applicant to meet the minimum standards of professional competence.
3. The applicant has completed sixteen hours of continuing education in accordance with section 20-04-01-08 within two years of application.

**History:** Effective January 1, 2011.

**General Authority:** NDCC 43-20-10

**Law Implemented:** NDCC 43-20-01.3

**20-04-01-06. Additional requirements for applications.** Applications must be completed within twelve months of filing. In addition to the application requirements of North Dakota Century Code sections 43-20-01.2, 43-20-01.3, and 43-20-06, the board may require an application to include:

1. Proof of identity, including any name change.
2. An official transcript sent by an accredited dental school directly to the board.



3. Evidence demonstrating the applicant passed the examination administered by the joint commission on national dental examinations within two years of application.
4. Evidence demonstrating the applicant passed a clinical competency examination, approved by the board, within two years of application.
5. An interview by the board.
6. A certification, from the licensing board of every jurisdiction in which the applicant is licensed, that the applicant is licensed in good standing.
7. Certification that the applicant has completed a cardiopulmonary resuscitation course within two years of application.
8. Verification of physical health and visual acuity.
9. For applications for licensure by credential review, the law and rules stating the requirements for licensure, when the applicant was licensed, of the jurisdiction in which the applicant is licensed.
10. For applications for licensure by credential review and reinstatement from inactive status, proof of completion of sixteen hours of continuing education in accordance with section 20-04-01-08 within two years of application.
11. Any information required by the application forms prescribed by the board.

**History:** Effective January 1, 2011.

**General Authority:** NDCC 43-20-10

**Law Implemented:** NDCC 43-20-01.2, 43-20-01.3, 43-20-06

**20-04-01-07. Inactive status - License reinstatement.** A dental hygienist may, upon payment of the fee determined by the board, place the dental hygienist's license on inactive status. A dental hygienist on inactive status shall be excused from the payment of renewal fees, except inactive status renewal fees, and continuing education. A dental hygienist on inactive status shall not practice in North Dakota. To reinstate a license on inactive status, the dental hygienist shall apply on a form prescribed by the board, pay a reinstatement fee, and meet all of the following requirements:

1. The applicant has passed a clinical competency examination administered by a regional dental testing service, approved by the board in section 20-04-01-04, within two years of application. The board may, within the board's discretion, waive this requirement.

2. The applicant passes a written examination on the laws and rules governing the practice of dentistry in this state administered by the board at a meeting.
3. The applicant has completed sixteen hours of continuing education in accordance with section 20-04-01-08 within two years of application.
4. The applicant has successfully completed a cardiopulmonary resuscitation course within two years of application.
5. Grounds for denial of the application under North Dakota Century Code section 43-20-05 do not exist.

**History:** Effective January 1, 2011.

**General Authority:** NDCC 43-20-10

**Law Implemented:** NDCC 43-20-06

**20-04-01-08. Continuing dental education for dental hygienists.** Each dental hygienist shall provide evidence on forms supplied by the board that the dental hygienist has attended or participated in continuing dental education in accordance with the following conditions:

1. Continuing education activities include publications, seminars, symposiums, lectures, college courses, and online education.
2. The continuing dental education hours will accumulate on the basis of one hour of credit for each hour spent in education. Subject matter directly related to clinical dentistry will be accepted by the board without limit.
3. The minimum number of hours required within a two-year cycle is sixteen. Of these hours, a dental hygienist may earn no more than eight hours 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.
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 dental hygienists must hold a current cardiopulmonary resuscitation certificate.

**History:** Effective January 1, 2011.

**General Authority:** NDCC 43-20-10

**Law Implemented:** NDCC 43-20-01.4

## CHAPTER 20-05-01

**20-05-01-01. Fees.** The board shall charge the following nonrefundable fees apply to the services listed:

- ~~1. The nonrefundable fee to process an initial application for a license to practice for an applicant who has completed a clinical board examination within the time period allowed by the state board of dental examiners is four hundred forty dollars for a dentist and two hundred dollars for a dental hygienist. The nonrefundable initial application for the registration of a registered or qualified dental assistant is sixty-five dollars.~~
- ~~2. The nonrefundable fee to process an application for a license by a review of the applicant's professional credentials without additional clinical examination is one thousand two hundred dollars for a dentist and four hundred fifty dollars for a dental hygienist.~~
- ~~3. The nonrefundable annual fee to process an application for a temporary license to practice dentistry is two hundred fifty dollars.~~
- ~~4. The fee for annual registration for registered or qualified dental assistants is fifty dollars. The certificate of registration biennial renewal fee is four hundred dollars for a dentist and one hundred fifty dollars for a dental hygienist. The board may charge an administrative fee for hard copy license or registration renewal.~~
- ~~5. In addition to the fee for renewal, the penalty for late renewal of the biennial certificate of registration is four hundred dollars for dentists, one hundred fifty dollars for dental hygienists, and fifty dollars for late renewal of the annual certificate of registration for dental assistants.~~
- ~~6. The fee to replace or provide a duplicate copy of a dental or dental hygiene license is forty-five dollars.~~
- ~~7. The fee to reactivate a retired or inactive dental or dental hygiene license is the sum of each year's annual renewal fee since the license was retired plus one hundred dollars, not to exceed one thousand two hundred dollars for dentists or four hundred fifty dollars for hygienists.~~
- ~~8. The fee for an onsite facility inspection to obtain a permit for anesthesia use will be the sole responsibility of the anesthesia permit applicant and shall be determined as the cost incurred by the board for the site evaluation process.~~
- ~~9. The fee for a volunteer dental license is thirty-five dollars annually.~~
- ~~10. The fee for inactive license status is thirty-five dollars annually.~~

1. For dentists:

a.	<u>License by examination application fee</u>	<u>\$440.00</u>
b.	<u>License by credential review application fee</u>	<u>\$1,200.00</u>
c.	<u>Renewal fee</u>	<u>\$400.00</u>
d.	<u>Late fee</u>	<u>\$400.00</u>
e.	<u>Temporary license application and license fee</u>	<u>\$250.00</u>
f.	<u>Volunteer license application and license fee</u>	<u>\$65.00</u>
g.	<u>Inactive status application fee</u>	<u>\$35.00</u>
h.	<u>Inactive status renewal fee</u>	<u>\$35.00</u>
i.	<u>Inactive status reinstatement fee</u>	<u>\$400.00</u>

2. For dental hygienists:

a.	<u>License by examination application fee</u>	<u>\$200.00</u>
b.	<u>License by credential review application fee</u>	<u>\$450.00</u>
c.	<u>Renewal fee</u>	<u>\$150.00</u>
d.	<u>Late fee</u>	<u>\$150.00</u>
e.	<u>Inactive status application fee</u>	<u>\$35.00</u>
f.	<u>Inactive status renewal fee</u>	<u>\$35.00</u>
g.	<u>Inactive status reinstatement fee</u>	<u>\$150.00</u>

3. For registered and qualified dental assistants:

a.	<u>Application fee</u>	<u>\$130.00</u>
b.	<u>Renewal fee</u>	<u>\$100.00</u>
c.	<u>Late fee</u>	<u>\$100.00</u>

4. For anesthesia permits:

a.	<u>Application fee</u>	<u>\$200.00</u>
b.	<u>Inspection fee</u>	<u>actual cost</u>
c.	<u>Renewal fee</u>	<u>\$200.00</u>



d. <u>Late fee</u>	<u>\$200.00</u>
5. <u>For a duplicate license, registration, or permit</u>	<u>\$45.00</u>

**History:** Effective May 1, 1992; amended effective October 1, 1993; May 1, 1996; August 1, 1998; April 1, 2000; June 1, 2002; July 1, 2004; April 1, 2006; January 1, 2008; January 1, 2011.

**General Authority:** NDCC 43-20-10, 43-28-06

**Law Implemented:** NDCC 43-20-01.2, 43-20-01.3, 43-20-01.4, 43-20-06, 43-20-13.1, 43-20-13.2, 43-28-11, 43-28-16.2, 43-28-17, 43-28-24, 43-28-27

## CHAPTER 20-21-01

**20-21-01-03.2. Additional requirements for licensure by credential review.** The board may grant license to practice dentistry to an applicant who has met the requirements of North Dakota Century Code section 43-28-15 and all the following requirements:

1. The applicant has successfully completed a cardiopulmonary resuscitation course within two years of application.
2. The applicant has the physical health and visual acuity to enable the applicant to meet the minimum standards of professional competence.
3. The applicant has completed thirty-two hours of continuing education in accordance with section 20-02-01-06 within two years of application.

**History:** Effective January 1, 2011.

**General Authority:** NDCC 43-28-06

**Law Implemented:** NDCC 43-28-15

See  
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