

Title 17 District of Columbia Municipal Regulations

**DISTRICT OF
COLUMBIA
MUNICIPAL
REGULATIONS
for
DENTISTRY**

CHAPTER 42 DENTISTRY

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4200 GENERAL PROVISIONS

- 4200.1 This chapter shall apply to applicants for and holders of a license to practice dentistry.
- 4200.2 Chapters 40 (Health Occupations: General Rules), 41 (Health Occupations: Administrative Procedures), and 43 (Dental Hygiene) of this title shall supplement this chapter.

4201 TERM OF LICENSE

- 4201.1 Subject to § 4201.2, a license issued pursuant to this chapter shall expire at 12:00 midnight of December 31st of each odd-numbered year.

- 4201.2 If the Director changes the renewal system pursuant to § 4006.3 of chapter 40 of this title, a license issued pursuant to this chapter shall expire at 12:00 midnight of the last day of the month of the birthdate of the holder of the license, or other date established by the Director.

4202 EDUCATIONAL REQUIREMENTS

- 4202.1 All applicants without exception shall furnish proof satisfactory to the Board that the applicant has:
 - (a) Successfully completed an educational program in the practice of dentistry at an institution recognized by the Commission on Dental Accreditation of the American Dental Association (ADA) at the time the applicant graduated in accordance with § 504(d) of the Act, D.C. Official Code § 3-1205.04(d) (1985); and
 - (b) Received a U.S., including U.S. territories, or Canadian issued Doctor of Dental Surgery (DDS) or Doctor of Dental Medicine (DMD) degree.

4202.2 An applicant shall submit an official certificate of graduation in a sealed envelope from the educational institution to the Board with the completed application.

4202.3 If a document required by this chapter is in a language other than English, an applicant shall arrange for its translation into English by a translation service acceptable to the Board and shall submit a translation signed by the translator attesting to its accuracy.

4203 DENTISTS LICENSED IN OTHER STATES

4203.1 A dentist shall not be qualified to apply for initial licensure, reinstatement or renewal of licensure to practice in the District of Columbia if any dental license(s) he or she holds, or has ever held, in another state or jurisdiction(s) is revoked or suspended or otherwise not in good standing as determined by the Board, until such time as the dental license(s) is restored to good standing in the jurisdiction(s) where the disciplinary action(s) took place.

4204 LICENSURE BY EXAMINATION

4204.1 To qualify for a license by examination, an applicant shall:

(a) Meet the education requirements set forth under § 4202 of this chapter; and

(b) Receive a passing score on the following:

(1) Part I and Part II of the examination of the Joint Commission on National Dental Examinations;

(2) The Northeast Regional Board (NERB) examination; and

(3) The District of Columbia Dental Law Examination.

4204.2 To apply for a license by examination, an applicant shall:

(a) Submit a completed application to the Board on the required forms and include:

(1) The applicant's social security number on the application; and

(2) Two (2) recent passport-type photographs of the applicant's face measuring two inches by two inches (2" x 2") which clearly expose the area from the top of the forehead to the bottom of the chin.

(b) Submit an official certificate of graduation in a sealed envelope from the educational institution(s) to the Board, which shall verify that the applicant meets the educational requirements set forth under § 4202 of this chapter;

(c) Submit the applicant's examination results, which have been certified or validated by the NERB and the Joint Commission of National Dental Examinations;

(d) Pass the District of Columbia Dental Law Examination; and

(e) Pay all required fees.

4204.3 The passing scores on the examination shall be those established by the Joint Commission on National Dental Examinations and NERB on each test that forms a part of the examination.

4204.4 An applicant who has successfully completed the NERB examination ten (10) or more years prior to the date of receipt by the Board of the application for licensure shall be required to retake the NERB examination, unless the applicant is applying for licensure by endorsement pursuant to § 4209 of this chapter.

4205 DISTRICT OF COLUMBIA DENTAL LAW EXAMINATION

4205.1 To qualify for a license under this chapter, all applicants without exception shall receive a passing score on a written examination developed by the Board on laws and rules pertaining to the practice of dentistry (the District of Columbia Dental Law Examination).

4205.2 Repealed.

4205.3 The District of Columbia Dental Law Examination may consist of questions on general District laws pertaining to dentistry and dental hygiene including the Act, this chapter, and chapters 40, 41, and 43 of this title.

4206 CONTINUING EDUCATION REQUIREMENTS

4206.1 This section shall apply to applicants for the renewal, reactivation, or reinstatement of a license, subject to section 4206.2, beginning with the renewal period ending December 31, 2007, and for subsequent terms.

4206.2 This section shall not apply to applicants for an initial license by examination or endorsement, nor does it apply to applicants for the first renewal of a license granted by examination.

4206.3 A continuing education credit shall be valid only if it is part of a program or activity approved by the Board in accordance with § 4207.

4206.4 An applicant for renewal of a license shall submit proof pursuant to § 4206.9 of having completed twenty-five (25) hours of credit, which shall include current cardiopulmonary resuscitation certification for health care providers (“CPR certification”) and four (4) hours of infection control in approved continuing education programs within the two-year (2) period preceding the date the license expires.

4206.5 Not more than eight (8) continuing education units (“CEUs”) for approved internet continuing education courses may be accepted in any renewal period, or for reinstatement or reactivation of a license.

4206.6 Internet courses and programs shall not be used to satisfy the continuing education CPR certification requirement.

4206.7 To qualify for a license, a person in inactive status within the meaning of § 511 of the Act, D.C. Official Code § 3-1205.11 (2001) who submits an application to reactivate a license shall submit proof pursuant to § 4206.9 of having completed twenty-five (25) hours of approved continuing education credit, which shall include current CPR certification and four (4) hours of infection control, obtained within the two (2) year period preceding the date of the application for reactivation of that applicant’s license and an additional twelve (12) hours of approved continuing education credit for each additional year that the applicant was inactive status beginning with the third year.

4206.8 To qualify for a license, an applicant for reinstatement of a license shall submit proof pursuant to § 4206.9 of having completed twenty-five (25) hours of approved continuing education credit, which shall include current CPR certification and four (4) hours of infection control, obtained within the two (2) year period preceding the date of the application for reinstatement of the applicant’s license and an additional twelve (12) hours of approved continuing education credit for each additional year that the license was expired beginning with the third year.

4206.9 An applicant under this section shall prove completion of required continuing education credits by submitting with the application the following information with respect to each program:

- (a) The name and address of the sponsor of the program;
- (b) The name of the program, its location, a description of the subject matter covered, and the names of the instructors;
- (c) The dates on which the applicant attended the program;
- (d) The hours of credit claimed; and

(e) Verification by the sponsor of completion, by signature or stamp.

4206.10 An applicant for renewal of a license who fails to submit proof of having completed continuing education requirements by the date the license expires may renew the license up to sixty (60) days after expiration by submitting this proof pursuant to § 4206.9 and by paying the required additional late fee.

4206.11 Upon submitting proof of having completed continuing education requirements and paying the late fee, the applicant shall be deemed to have possessed a valid license during the period between the expiration of the license and the submission of the required documentation and payment of the late fee.

4206.12 If an applicant for renewal of a license fails to submit proof of completion of continuing education requirements or pay the late fee within sixty (60) days after the expiration of applicant's license, the license shall be considered to have lapsed on the date of expiration.

4206.13 The Board may, in its discretion, grant an extension of the sixty (60) day period to renew after expiration if the applicant's failure to submit proof of completion was for good cause. As used in this section, "good cause" includes the following: (a) Serious and protracted illness of the applicant; and

(b) The death or serious and protracted illness of a member of the applicant's immediate family.

4206.14 Unless otherwise specifically stated in this chapter, the Board shall not grant continuing education credits for:

(a) Work done in the course of an applicant's normal occupation or incident to the performance of his or her regular professional duties, such as teaching didactic courses, research, or course preparation in the case of a teacher or professor;

(b) Meetings and activities not related to the administrative or clinical practice of dentistry; or

(c) Other activities, which are not of the type of activities approved by the Board.

4207 APPROVED CONTINUING EDUCATION PROGRAMS AND ACTIVITIES

4207.1 The Board, in its discretion, may approve continuing education programs and activities that contribute to the growth of an applicant in professional competence in the practice of dentistry and which meet the other requirements of this section.

4207.2 The Board may approve the following types of continuing education programs, if the program meets the requirements of § 4207.3:

- (a) An undergraduate or graduate course given at an accredited college or university;
- (b) A seminar or workshop;
- (c) An educational program given at a conference or convention; and
- (d) In-service training.

4207.3 To qualify for approval by the Board, a continuing education program shall do the following:

- (a) Be current in its subject matter;
- (b) Be developed and taught by qualified individuals; and
- (c) Meet one of the following requirements:
 - (1) Be administered or approved by a recognized national, state, or local dentistry organization; health care organization; accredited health care facility; or an accredited college or university; or
 - (2) Be submitted by the program sponsors to the Board for review no less than sixty (60) days prior to the date of the presentation and be approved by the Board.

4207.4 The Board may issue and update a list of approved continuing education programs.

4207.5 An applicant shall have the burden of verifying whether the Board pursuant to this section prior to attending the program approves a program.

4207.6 The Board may approve the following continuing education activities by an applicant:

- (a) Serving as an instructor or speaker at a conference, seminar, workshop, or in-service training;
- (b) Publication of an article in a professional journal or publication of a book or a chapter in a book or publication of a book review in a professional journal or bulletin;
- (c) Serving as a clinical instructor for students of dentistry or dental residents; and

(d) Participation in research as a principal investigator or research assistant.

4208 CONTINUING EDUCATION CREDITS

4208.1 The Board may grant continuing education credit for whole hours only, with a minimum of fifty (50) minutes constituting one (1) credit hour.

4208.2 For approved undergraduate or graduate courses, each semester hour of credit shall constitute fifteen (15) hours of continuing education credit, and each quarter hour of credit shall constitute ten (10) hours of continuing education credit.

4208.3 The Board may grant a maximum of thirteen (13) continuing education credits per year to an applicant who attends a full time post-graduate education program.

4208.4 The Board may grant credit to an applicant who serves as an instructor or speaker at an acceptable program for both preparation and presentation time, subject to the following restrictions:

(a) The maximum amount of credit which may be granted for preparation time is twice the amount of the associated presentation time;

(b) The maximum amount of credit which may be granted pursuant to this subsection is fifty percent (50%) of an applicant's continuing education requirement; and

(c) The presentation shall have been completed during the period for which credit is claimed.

4208.5 The Board may grant an applicant who is an author or editor of a published book twenty-five (25) continuing education credits, if the book has been published or accepted for publication during the period for which credit is claimed, and the applicant submits proof of this fact in the application.

4208.6 The Board may grant an applicant who is an author of a published original paper five (5) continuing education credits, subject to the same restrictions set forth for books in § 4208.5.

4208.7 The Board may grant an applicant who is the sole author of a published book review, review paper, or abstract, two (2) continuing education credits, subject to the same restrictions set forth for books in § 4208.5.

4209 LICENSURE BY ENDORSEMENT

4209.1 An applicant is eligible to apply for licensure by endorsement in the District of Columbia if the applicant:

- (a) Meets the education requirements set forth under § 4202 of this chapter;
- (b) Has successfully completed Part I and Part II of the examination of the Joint Commission on National Dental Examinations;
- (c) Is currently licensed, in good standing, to practice dentistry in another state of the United States; and
- (d) Has passed the NERB examination;
- (e) Has passed a regional board examination, other than the NERB examination, and meets the active practice requirements set forth in § 4209.3(f) of this chapter; or
- (f) Has passed a state dental examination determined by the Board to be substantially equivalent, and meets the active practice requirements set forth in § 4209.3(f) of this chapter.

4209.2 An applicant, holding an active license to practice dentistry in any other state, who has passed the NERB examination, shall apply for licensure by endorsement as follows:

- (a) Submit a completed application to the Board on the required forms and include:
 - (1) The applicant's social security number on the application; and
 - (2) Two (2) recent passport-type photographs of the applicant's face measuring two inches by two inches (2" x 2") which clearly expose the area from the top of the forehead to the bottom of the chin.
- (b) Submit a copy of his or her current license with the application;
- (c) Obtain verification from each state in which the applicant holds or has ever held a professional health occupation license, that the license is current and in good standing, or if the license is no longer active, that it was in good standing immediately prior to its expiration. The licensure verification form must be sent directly to the Board, by the verifying Board;
- (d) Submit the applicant's NERB examination results, which have been certified or validated by the NERB;
- (e) Submit the applicant's examination results which have been certified or validated by the Joint Commission of National Dental Examinations;

- (f) Pass the District of Columbia Dental Law Examination; and
- (g) Pay all required fees.

4209.3 An applicant, holding an active license to practice dentistry in any other state, who has passed a regional board examination, other than the NERB examination, shall apply for licensure by endorsement as follows:

- (a) Submit a completed application to the Board on the required forms and include:

- (1) The applicant's social security number on the application; and
- (2) Two (2) recent passport-type photographs of the applicant's face measuring two inches by two inches (2" x 2") which clearly expose the area from the top of the forehead to the bottom of the chin.

- (b) Submit a copy of his or her current license with the application;

- (c) Obtain verification from each state in which the applicant holds or has ever held a professional health occupation license, that the license is current and in good standing, or if the license is no longer active, that it was in good standing immediately prior to its expiration. The licensure verification form must be sent directly to the Board, by the verifying Board;

- (d) Submit the applicant's regional board examination results, which have been certified or validated by the regional board;

- (e) Submit the applicant's examination results, which have been certified or validated by the Joint Commission of National Dental Examinations;

- (f) Submit evidence satisfactory to the Board establishing that the applicant has been actively engaged in the practice of dentistry, in another U.S. state, in good standing, for the five (5) years immediately preceding the application, and has at least eight hundred and fifty (850) hours of active dental practice. The practice of dentistry in the armed forces, state and federal programs, and intern and residency programs may be counted toward the required hours of active practice;

- (g) Pass the District of Columbia Dental Law Examination; and

- (h) Pay all required fees.

4209.4 In addition to the requirements set forth in this section, the Board may, in its discretion, require an applicant for licensure by endorsement to take and successfully complete a competency examination, or any portion thereof deemed necessary by the Board, as a prerequisite to licensure if the applicant's licensure in any state was ever denied, revoked, or suspended for incompetency or inability to practice in a safe manner.

4209.5 An application that remains incomplete for ninety (90) days or more from the date of submission shall be considered abandoned, and closed by the Board. The applicant shall thereafter be required to reapply, submit the required documents and completed forms, and pay the required fees.

4209.6 Nothing in this section shall be construed to prohibit the Board from utilizing other authorized databases to verify an applicant's current licensure standing in other jurisdictions of the U.S. or to review disciplinary records.

4210-4211 [RESERVED]

4212 REQUIREMENTS FOR ADMINISTRATION OF ANESTHESIA

4212.1 To be qualified to administer general anesthesia, a dentist shall meet the following requirements prior to administering general anesthesia:

- (a) Hold an active license to practice dentistry in the District of Columbia;
- (b) Have obtained appropriate training as follows:
 - (1) Successfully complete a minimum of one (1) year of training in anesthesiology beyond the undergraduate dental school level or its equivalent, sponsored by an accredited hospital recognized by the Board or an institution recognized by the American Dental Association Commission on Dental Accreditation and approved by the Board;
 - (2) Be certified, or eligible to take the examination for certification as a fellow in general anesthesia of the American Society of Dental Anesthesiologists (ASDA) according to the standards as of January 1, 1982;
 - (3) Be a diplomate of the American Dental Society of Anesthesiology (ADSA) through the examination administered by the National Dental Board of Anesthesiology (NDBA);
 - (4) Be a diplomate of the American Board of Oral & Maxillofacial Surgery (ABOMS); or
 - (5) Be a fellow of the American Association of Oral & Maxillofacial Surgery (AAOMS), or successfully complete an oral and maxillofacial

surgery training program approved by the American Dental Association (ADA);

(c) Maintain current certification in cardiopulmonary resuscitation for health care providers as evidenced by a certificate;

(d) Maintain current Drug Enforcement Administration (“DEA”) and District of Columbia controlled substance registrations; and

(e) Conspicuously display proof of meeting the requirements set forth in this section next to his or her dental license in any and all places of business or employment where he or she administers general anesthesia.

4212.2 To be qualified to administer intravenous sedation, a dentist shall meet the following requirements prior to administering intravenous sedation:

(a) Hold an active license to practice dentistry in the District of Columbia;

(b) Successfully complete a postgraduate training program or course sponsored by an accredited hospital recognized by the Board or institution recognized by the American Dental Association Commission on Dental Accreditation and approved by the Board, consisting of a minimum of sixty (60) hours of didactic instruction plus the management of at least twenty (20) patients per participant demonstrating competency and clinical experience in intravenous sedation;

(c) Maintain current certification in cardiopulmonary resuscitation for health care providers as evidenced by a certificate;

(d) Maintain current DEA and District of Columbia controlled substance registrations; and

(e) Conspicuously display proof of meeting the requirements set forth in this section next to his or her dental license in any and all places of business or employment where he or she administers intravenous sedation.

4212.3 To be qualified to administer nitrous oxide alone, or nitrous oxide in combination with a single oral drug, a dentist shall meet the following requirements prior to administering nitrous oxide:

(a) Hold an active license to practice dentistry in the District of Columbia;

(b) Have successfully completed a training program or course in nitrous oxide consisting of a minimum of forty (40) hours of either undergraduate dental school or postgraduate instruction at an accredited institution recognized by the American Dental Association Commission on Dental Accreditation or in a program approved by the Board. This training shall include actual experience with the administration of nitrous oxide.

(c) Maintain current certification in cardiopulmonary resuscitation for health care providers as evidenced by a certificate;

(d) Maintain current DEA and District of Columbia controlled substance registrations; and

(e) Conspicuously display proof of meeting the requirements set forth in this section next to his or her dental license in any and all places of business or employment where he or she administers nitrous oxide.

4212.4 A dentist who is qualified to administer general anesthesia pursuant to § 4212.1 of this chapter, shall be deemed qualified to administer intravenous sedation and nitrous oxide.

4212.5 A dentist who administers any form of anesthesia pursuant to this chapter, including local anesthesia, shall report to the Board any death, substantially disabling incident, or hospitalization caused by the administration of any form of anesthesia, by the dentist or a dental hygienist authorized by the Board of Dentistry to administer local anesthesia and nitrous oxide acting under his supervision, within thirty (30) days after the occurrence.

4213 STANDARDS OF CONDUCT

4213.1 A dentist shall not accept or perform professional responsibilities which the dentist knows or has reason to know that the dentist is not competent to perform.

4213.2 A dentist shall not abandon or neglect a patient under and in need of immediate professional care, without making reasonable recommendations for the continuation of such care.

4213.3 A dentist shall not willfully harass, abuse, or intimidate a patient either physically or verbally.

4213.4 A dentist shall maintain a record for each patient which shall:

(a) Accurately reflect the evaluation and treatment of the patient and which may include the following:

(1) Patient's name and the date of treatment;

(2) Updated health history;

(3) Treatment plan;

- (4) Informed consent document(s);
- (5) Clinical Findings, diagnosis and treatment rendered;
- (6) List of drugs prescribed, administered, dispensed and the quantity;
- (7) Radiographs;
- (8) Patient financial/billing records;
- (9) Name of dentist and/or dental hygienist providing service(s); and
- (10) Laboratory work orders; and

(b) Be kept for three (3) years after last seeing the patient or three (3) years after a minor patient reaches eighteen (18) years of age.

4213.5 Upon request of a patient or the patient's representative, a dentist shall make available to the patient or the patient's representative a copy of the patient's record in accordance with the following:

(a) A dentist shall provide to a patient or the patient's representative a copy of the patient's record within thirty (30) days of the request; and

(b) A dentist may charge a reasonable fee for duplicating records and the fee may be required prior to providing the records in non-emergency situations, but a dentist shall not refuse to provide the records on the basis of the patient owing payment for dental services.

4213.6 A dentist shall respect a patient's rights to self-determination and treat the patient according to the patient's desires, within the bounds of accepted treatment.

4213.7 A dentist shall inform a patient of the proposed treatment, and any reasonable alternatives, in a manner that allows the patient to become involved in treatment decisions.

4213.8 A dentist shall protect the confidentiality of patient records and maintain patient records in a manner consistent with the protection of the welfare of the patient and all applicable District of Columbia and federal laws.

4213.9 A dentist shall make every effort to refrain from harming the patient.

4213.10 A dentist shall keep his or her knowledge of dentistry and skills current while he or she is engaging in clinical practice of dentistry.

4213.11 A dentist shall know his or her own limitations and shall refer a patient to a specialist or other health care professional whenever the welfare of a patient will be safeguarded or advanced by utilizing those who have special skills, knowledge, and experience.

4213.12 A dentist shall seek consultation with a specialist or other health care professional, if possible, whenever it would be in the patient's best interest.

4213.13 When patients visit or are referred to specialists or consulting dentists for consultation:

(a) The specialists or consulting dentists shall, upon completion of their care, return the patient, unless the patient expressly reveals a different preference, to the referring dentist or, if none, to the dentist of record for future care; and

(b) When there is no referring dentist, the specialists shall upon completion of their treatment, inform the patient when there is a need for further dental care.

4213.14 A dentist who is called upon to render a second opinion regarding a diagnosis or treatment plan recommended by a patient's treating dentist, shall not have a vested interest in that recommendation.

4213.15 A dentist shall know when and under what circumstances delegation of patient care to auxiliaries is appropriate.

4213.16 A dentist shall only assign to qualified auxiliaries those duties which can be legally delegated.

4213.17 A dentist shall prescribe and supervise the patient care provided by all auxiliary personnel working under his or her direction.

4213.18 A dentist shall not practice dentistry while abusing or using controlled substances, alcohol, or any other chemical agents, which impair the ability to practice.

4213.19 A dentist shall urge chemically impaired colleagues to seek treatment, if possible.

4213.20 A dentist with first-hand knowledge that a colleague is practicing dentistry when impaired by controlled substances, alcohol, or any other chemical agents shall report such evidence to the professional assistance committee of a dental society or the Board of Dentistry.

4213.21 A dentist or auxiliary who contracts any disease, has a mental or physical impairment which affects his or her ability to safely practice, or becomes impaired in any way that might endanger patients or dental staff shall, with consultation and advice from a qualified physician or other authority, limit the activities of his or her practice to those areas that do not endanger patients or dental staff.

4213.22 A dentist who has been advised to limit the activities of his or her dental practice shall monitor the disease or impairment and make additional limitations to the activities of his or her dental practice as indicated.

4213.23 A dentist, regardless of his or her bloodborne pathogen status, shall immediately inform any patient who may have been exposed to blood or other potentially infectious material in the dental office of the need for post-exposure evaluation and follow-up and shall immediately refer the patient to a qualified health care practitioner who can provide post-exposure services.

4213.24 In the event of an exposure incident as discussed in § 4213.23, a dentist shall provide information concerning his or her own bloodborne pathogen status to the evaluating health care practitioner, if the dentist is the source of the possible exposure, and submit to testing that will assist in the evaluation of the patient. If a staff member or other third person not regulated by the District of Columbia Board of Dentistry is the source of the possible exposure, the dentist shall encourage that person to cooperate as needed for the patient's evaluation.

4213.25 Once a dentist has undertaken a course of treatment to provide services to a patient, the dentist shall not discontinue that treatment without first giving the patient adequate notice and the opportunity to obtain the services of another dentist and ensuring that the patient's oral health will not be jeopardized in the process.

4213.26 A dentist shall not engage in interpersonal relationships with patients that could impair his or her professional judgment or risk the possibility of exploiting the confidence placed in him or her by a patient.

4213.27 A dentist shall provide competent and timely delivery of dental care.

4213.28 A dentist shall conduct himself or herself in a professional manner.

4213.29 A dentist shall make the results and benefits of his or her research and development investigative efforts available to all when such are useful in safeguarding or promoting the health of the public.

4213.30 A dentist shall not use patents or copyrights to restrict research or practice.

4213.31 A dentist shall become familiar with the signs of abuse and neglect and report suspected cases to the proper authorities consistent with District of Columbia and federal laws.

4213.32 While dentists, in serving the public, may exercise reasonable discretion in selecting patients for their practices, a dentist shall not refuse to accept patients into their practice or deny dental service to patients because of the patient's race, creed, color, sex, national origin, or sexual preference.

4213.33 A dentist shall not refuse to provide treatment to an individual based solely on the fact that the individual is infected with Human Immunodeficiency Virus, Hepatitis B Virus, Hepatitis C Virus, or another bloodborne pathogen.

4213.34 A dentist shall make reasonable arrangements for the emergency care of his or her patients of record.

4213.35 A dentist shall, when consulted in an emergency by patients with whom he does not have an established patient-practitioner relationship, make reasonable arrangements for their emergency care. If treatment is provided, the dentist, upon completion of treatment, shall return the patient to his or her regular dentist unless the patient expressly reveals a different preference.

4213.36 A dentist shall report to the District of Columbia Board of Dentistry known instances of gross or continual faulty treatment by other dentists.

4213.37 A dentist shall inform patients of their present oral health status without making disparaging comments about prior services.

4213.38 When informing a patient of the status of his or her oral health, a dentist shall make comments that are truthful, informed and justifiable.

4213.39 A dentist issuing a public statement with respect to the profession shall believe as well as have a reasonable basis to believe that the comments made are true.

4213.40 A dentist may provide expert testimony when that testimony is essential to a just and fair disposition of a judicial or administrative action.

4213.41 A dentist shall not agree to a fee contingent upon the favorable outcome of the litigation in exchange for testifying as a dental expert.

4213.42 A dentist shall not accept or tender rebates or split fees.

4213.43 A dentist shall not represent the care being rendered, or that is needed, to a patient in a false or misleading manner.

4213.44 A dentist shall not remove amalgam restorations containing mercury from patients who are not allergic to mercury for the alleged purpose of removing toxic substances from the body, when such treatment is performed solely at the recommendation or suggestion of the dentist.

4213.45 A dentist shall not remove sound or serviceable amalgam restorations containing mercury, at the request of a patient who is not allergic to mercury, without first obtaining appropriate informed consent from the patient, which includes but is not limited to advising the patient that:

(a) The National Institutes of Health has determined that there are no verifiable systemic health benefits resulting from the removal of mercury amalgam restorations; and (b) The removal of sound or serviceable mercury amalgam restorations may significantly affect the integrity of the tooth.

4213.46 A dentist shall not represent that dental treatment or diagnostic techniques recommended or performed by the dentist have the capacity to diagnose, cure or alleviate diseases, infections or other conditions, when such representations are not based upon accepted scientific knowledge or research.

4213.47 A dentist shall not represent the fees being charged for providing care in a false or misleading manner.

4213.48 A dentist shall not increase a fee charged to a patient solely because the patient is covered under a dental benefits plan.

4213.49 A dentist shall not misrepresent treatment dates for the purpose of assisting a patient in obtaining benefits under a dental plan which benefits would otherwise be disallowed.

4213.50 A dentist shall not misrepresent the dental procedures performed to receive a greater payment or reimbursement or to make a non-covered procedure appear to be a covered procedure.

4213.51 A dentist shall not recommend or perform unnecessary dental services or procedures.

4213.52 A dentist who presents educational or scientific information in an article, seminar or other program shall disclose to the readers or participants any monetary or other special interest the dentist may have with a company whose products are promoted or endorsed in the presentation. Disclosure shall be made in any promotional material and in the presentation itself.

4213.53 A dentist who, in the regular conduct of his or her practice, engages in or employs auxiliaries in the marketing or sale of products or procedures to his or her patients shall not exploit the trust inherent in the dentist-patient relationship for his or her own financial gain.

4213.54 A dentist shall not induce his or her patients to purchase products or undergo procedures by misrepresenting the product's value, the necessity of the procedure or the dentist's professional expertise in recommending the product or procedure.

4213.55 In the case of a health-related product used by or recommended by a dentist, it is not enough for the dentist to rely on the manufacturer's or distributor's representations about the product's safety and efficacy. The dentist shall inquire into the truth and accuracy of such claims and verify that they are founded on accepted scientific knowledge or research.

4213.56 A dentist shall disclose to his or her patients all relevant information the patient needs to make an informed purchase decision, including whether the product is available elsewhere and whether there are any financial incentives for the dentist to recommend the product that would not be evident to the patient.

4213.57 A dentist shall not advertise or solicit patients in any form of communication in a manner that is false or misleading in any material respect.

4213.58 A general dentist who wishes to announce the services available in his or her practice may announce the availability of those services but shall not express or imply specialization.

4213.59 A dentist shall not announce available services in any way that would be false or misleading in any material respect.

4213.60 A dentist shall follow the Center for Disease Control's (CDC) guidelines on infection control and on universal precautions as they may be amended or republished from time to time.

4213.61 A dentist shall not willfully harass, abuse, intimidate, insult, degrade, or humiliate a patient physically, verbally, or by any form of communication.

4213.62 A dentist shall use a lead apron or its equivalent on all patients receiving an x-ray or radiograph, and when appropriate a thyroid collar shall also be used.

4213.63 Whenever an entire dental practice or office moves to a new location or ceases operation, the owner or responsible dentist shall not later than 30 days after the change or closing:

(a) Notify the patients of the change of address or closing by U.S. Mail, a note posted conspicuously on the door of the office that is closing for at least 30 consecutive days, telephone message on the office number activated for at least 30 consecutive days, or any combination of the above, and

(b) Notify the patients as to how they may obtain copies of their complete dental files, radiographs, and models, by any of the means set forth in subparagraph (a).

4214 SUPERVISION OF DENTAL HYGIENISTS

4214.1 Except as provided by § 4214.2, a dentist shall not supervise more than two (2) dental hygienists at the same time.

4214.2 Pursuant to § 201(f) of the Act, D.C. Official Code § 3-1202.01(f)(2001), the limitation under this section shall not apply to a dentist who is an employee of, or operating pursuant to a contract with, the District or federal government and/or who is supervising dental hygienists who are employed by or operating pursuant to a contract with the District or federal government.

4215 DELEGATION OF DUTIES

4215.1 The following duties shall only be performed by a dentist licensed under the Act and shall not be delegated to a dental hygienist or auxiliary:

- (a) Performing final diagnosis and treatment planning;
- (b) Performing surgical or cutting procedures on hard or soft tissue;
- (c) Prescribing or parenterally administering drugs or medications;
- (d) Administering or monitoring general anesthetics and conscious sedation;
- (e) Administering inhalants or inhalation conscious sedation agents;
- (f) Administering or monitoring nitrous oxide or local anesthesia except as permitted in Chapter 43 § 4310.2 of this Title;
- (g) Authorizing work orders for any appliance or prosthetic device or restoration to be inserted into a patient's mouth;
- (h) Operating high speed rotary instruments in the mouth;
- (i) Performing pulp capping procedures;
- (j) Condensing, contouring or adjusting any final, fixed or removable prosthodontic appliance or restoration in the mouth;
- (k) Final positioning of orthodontic bonds and bands;
- (l) Orthodontic arch wire activation with the exception of minor adjustments to eliminate pain or discomfort;
- (m) Taking impressions for master casts to be used for prosthetic restoration of teeth or oral structures;

(n) Final cementation of crowns, bridges, inlays, onlays, posts and cores, and insertion of final prosthesis;

(o) Placing sutures;

(p) Flushing root canals;

(q) Temporary wire ligation;

(r) Application of cavity liners and bases;

(s) Placing, carving, or finishing of amalgam restorations; and

(t) Placing and finishing of composite resin/silicate restorations.

4215.2 Except as provided in § 4215.3 of this chapter, no person unless otherwise licensed by the Board shall place or expose dental x-ray film unless he or she has:

(a) Satisfactorily completed a radiation course or examination recognized by the American Dental Association Continuing Education Recognition Program (CERP);

(b) Been certified by the American Registry of Radiologic Technologists; or

(c) Satisfactorily completed a radiation course and passed an examination given by the Dental Assisting National Board.

4215.3 For the time period beginning from the effective date of these regulations and ending December 31, 2011, a dentist may permit an auxiliary who does not meet the requirements under § 4215.2 to place or expose dental x-ray film if the auxiliary has completed in-office training and demonstrated competency to perform the task to the supervising dentist's satisfaction.

4215.4 Except as provided in § 4215.1 of this chapter, a dentist may delegate to a dental hygienist licensed under the Act those procedures which are appropriate to the training and experience of the dental hygienist, the type of practice of the supervising dentist, and to be performed under the direct or general supervision of the dentist.

4215.5 Except as provided in § 4215.6 a dentist may delegate to an auxiliary those procedures which are:

(a) Appropriate to the training and experience of the auxiliary, and the practice of the supervising dentist;

(b) Reversible; and

(c) To be performed under the direct or general supervision of the dentist.

4215.6 Except as provided in § 4215.7 of this chapter, the following dental procedures shall only be delegated to an auxiliary who has:

(a) Satisfactorily completed training in a CERP approved program, a training program or course recognized by the American Dental Association Commission on Dental Accreditation (CODA), or by the Dental Assisting National Board; and

(b) Who performs the tasks under direct supervision with the supervising dentist checking and approving the completed task prior to dismissal of the patient from the office:

(1) Placement of retraction cord;

(2) Placement or removal of matrices;

(3) The application of a medicinal agent to a tooth for a prophylactic purpose;

(4) Placement of periodontal dressings;

(5) Removal of temporary restorations without the use of a rotary instrument;

(6) Removal of sutures; and

(7) Bleaching.

4215.7 A dentist may delegate performance of the tasks set forth in § 4215.6 of this chapter to an auxiliary who does not meet the training requirements in § 4215.6(a), if the auxiliary had been performing the tasks for at least three (3) months prior to the effective date of these regulations and has demonstrated competency to perform the tasks to the supervising dentist's satisfaction.

4215.8 A dentist shall not delegate to an auxiliary any of the following procedures:

(a) Those procedures excluded by § 4215.1 of this chapter;

(b) A preliminary dental examination; a complete prophylaxis, including the removal of any deposits, diseased crevicular tissue, accretion, or stain from the surface of a tooth or a restoration; the intraoral polishing of a tooth or a restoration;

- (c) The charting of cavities during preliminary examination, prophylaxis, or polishing, however a dentist may permit an auxiliary to record the charting of cavities as dictated by the dentist or dental hygienist during the course of an examination or dental procedure;
- (d) The instruction of individuals or groups of individuals in oral health care, unless it is in the dental office and done as instructed by the dentist;
- (e) The application of pit and fissure sealants;
- (f) The performing of a diagnostic screening to identify indications of oral abnormalities;
- (g) Administration of local anesthesia with board identified criteria and certification;
- (h) Administration of nitrous oxide with board identified criteria and certification; or
- (i) Placement of temporary restorations.

4215.9 In all instances, the licensed dentist assumes ultimate responsibility for determining, on the basis of his or her diagnosis, the specific treatment the patient will receive and which aspects of treatment will be delegated to qualified personnel in accordance with this chapter and the Act.

4216 ADVERTISING

4216.1 A dentist licensed under the Act shall include the dentist's name as the name appears on his or her District of Columbia dental license in any advertisement of dental services appearing in any newspaper, airwave transmission, telephone directory or other advertising medium in the District of Columbia.

4216.2 A dentist may not, on behalf of himself or herself, his or her partner, or his or her associate, or for any other dentist affiliated with him or her, use or participate in the use of any form of public communication, which contains a deceptive or misleading statement or claim.

4216.3 For purposes of this section, deceptive or misleading statements or claims are those that:

- (a) Contain a material misrepresentation of fact;
- (b) Fail to state any fact necessary to make the statement not misleading;
- (c) Are intended or are likely to create unjustified expectations;

(d) State or imply superior service;

(e) Contain a representation or implication that is likely to cause an ordinary prudent person to misunderstand or to be deceived, or that fails to contain reasonable warnings or disclaimers necessary to make a representation or implication not deceptive;

(f) Contain statistical data or other information based on past performance coupled with an explicit representation that the data or information indicates a likelihood of future success;

(g) Contain or imply any guarantee of satisfaction, except the guarantee to return a fee if the patient is not satisfied with the treatment rendered;

(h) Use electronic media, including television, radio, internet, and motion pictures, in a manner inconsistent with these regulations and the following criteria:

(1) Broadcast advertising shall be communicated to the public only over radio or television stations that are approved by the Federal Communications Commission or over cable television,

(2) Broadcast advertisements shall be prerecorded, and approved for broadcast by the advertising dentist, and

(3) A recording of the actual transmission shall be retained by the advertising dentist for a period of 3 years;

(i) Fail to include the name of a responsible licensed dentist who provides dental services at the location advertised;

(j) Falsely state or imply that a dentist is a certified or recognized specialist recognized by the American Dental Association Commission on Dental Accreditation;

(k) Claims to be a specialist or uses any of the terms to designate a dental specialty unless he or she is entitled to such specialty designation under the guidelines or requirements for specialties approved by the American Dental Association, or such guidelines or requirements as subsequently amended and approved by the board, or other such organization recognized by the board.

(l) State or imply that a dentist practices in an area of dental specialty unless the dentist:

(1) Is recognized by the Board as a specialist in the area advertised,

(2) Includes in the advertisement a disclaimer that the dentist is not recognized by the Board as a specialist in the area of practice advertised, or

(3) Includes in the advertisement a statement that the dentist is a general dentist; and

(m) State that the dentist practices or advocates "mercury-free" dentistry or removes mercury amalgams for replacement of nonmercury containing materials, unless that advertisement includes a readable disclaimer which states: "The National Institutes of Health has determined that there are no verifiable systemic health benefits resulting from the removal of mercury amalgams."

4216.4 A general dentist who limits his or her practice shall state in conjunction with his or her name that he or she is a general dentist providing only certain services, e.g., orthodontic services.

4216.5 Except as provided in § 4216.6 of this chapter, a dentist shall not:

(a) State or imply that another dentist practices at a dental office or location who in fact does not practice at that site; or

(b) State or imply an affiliation with a dentist with whom the dentist does not have a legal affiliation.

4216.6 For one year following the dissolution of a partnership, affiliation or professional arrangement, a dentist may continue to use advertising containing the name of the former partner or dentist with whom he or she was affiliated, if the other dentist has expressly consented to such use, or is deceased.

4216.7 A statement regarding fees shall be considered deceptive or misleading if the dentist:

(a) Renders the service at more than the fees advertised; or

(b) Fails to offer the service at the fee advertised for a reasonable period of time following the advertisement unless a specific time limit is included in the original advertisement.

4216.8 Any statement specifying a fee for a dental service which does not include the cost of all related procedures, services, and products which, to a substantial likelihood, will be necessary for the completion of the advertised services as it would be understood by an ordinarily prudent person shall be deemed to be

deceptive or misleading. Where reasonable disclosure of all relevant variables and considerations is made, a statement of a range of fees for specifically described dental services shall not be deemed to be deceptive or misleading.

4216.9 Discount offers for a dental service are permissible for advertising only when the nondiscounted or full fee and the final discounted fee are also disclosed in the advertisement. The dentist shall maintain documented evidence to substantiate the discounted fee.

4216.10 A dentist shall be responsible for an advertisement of service regardless of whether the advertising has been generated by him or her personally, by his or her employees, or by a proprietorship, partnership, corporation, union, public school clinic, state institution, or charitable institution which uses his or her services.

4216.11 A dentist shall:

(a) Retain a copy of all advertising, in the form in which it was published, for a period of 3 years from the date of publication or transmission; and

(b) Make the copy available for inspection and copying when requested by the Board.

4216.12 Within thirty (30) days of receiving a request from the Board, a dentist shall submit documentation, video or audio recordings, or other evidence to substantiate the truthfulness of any assertion or representation of material fact set forth in an advertisement. If the dentist fails or refuses to comply with the request, the Board may draw an adverse inference from such failure or refusal in any subsequent hearing or disciplinary action on the substance of the complaint or investigation, should such a hearing or action occur.

4217 UNAUTHORIZED PRACTICE

4217.1 A dentist shall not engage in any treatment, therapy, or testing in the District of Columbia that is not:

(a) Within the scope of the practice of dentistry pursuant to D.C. Official Code § 3-1201.02(5)(2001);

(b) Commonly used in dental practice in the United States; and

(c) Currently taught in United States dental schools or dental residency programs accredited by the American Dental Association Commission on Dental Accreditation.

4217.2 A dentist shall not perform any extraoral aesthetic or cosmetic procedures in the District of Columbia including but not limited to laser hair removal, skin resurfacing, skin refirming, skin tightening, skin rejuvenation, or injection of substances into the body for the purpose of wrinkle-removal, unless he or she:

- (a) Holds an active District of Columbia dental license in good standing;
- (b) Has successfully completed an oral and maxillofacial surgery residency program accredited by the American Dental Association Commission on Dental Accreditation;
- (c) Only performs aesthetic or cosmetic procedures above the clavicle or within the head and neck region of the body; and
- (d) Only performs those procedures which are appropriate to his or her training and experience.

4217.3 A dentist shall not employ, contract with, supervise, or otherwise aid or assist another individual in the performance of extraoral aesthetic or cosmetic procedures in the District of Columbia including but not limited to laser hair removal, skin resurfacing, dermabrasion, skin refirming, skin tightening, skin rejuvenation, or injection of substances into the body for the purpose of wrinkle-removal unless the individual actually performing the procedures meets the requirements set forth in § 4217.2 of this chapter or is otherwise licensed and authorized under the Act to perform such procedures.

4217.4 A dentist shall not employ, contract with, supervise, or otherwise aid or assist another individual in the performance of general spa services and procedures in the District of Columbia including but not limited to massage therapy, facials, tooth bleaching, cosmetic tattooing, manicures, or pedicures, unless the individually actually performing the procedures is duly licensed or otherwise authorized under applicable District of Columbia law to perform the procedures.

4299 DEFINITIONS

4299.1 As used in this chapter, the following terms and phrases shall have the meanings ascribed:

Act- The District of Columbia Health Occupation Revision Act of 1985 (“Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 et seq.)

Applicant – a person applying for a license to practice dentistry under this chapter.

Auxiliary- means a person who may perform dental supportive procedures authorized by District of Columbia law or regulations under the specified supervision of a licensed dentist.

Bleaching- external tooth whitening procedures.

Bloodborne pathogen- means pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV), hepatitis C virus (HCV) and human immunodeficiency virus (HIV).

Board – the Board of Dentistry, established by § 201 of the Act, D.C. Official Code § 3-1202.01 (2001).

Dental hygienist – a person licensed to practice dental hygiene under the Act.

Dentist – a person licensed to practice dentistry under the Act.

NERB Examination—the examination in dentistry offered by the North East Regional Board of Dental Examiners, Inc.; or its successor.

NERB- the North East Regional Board of Dental Examiners, Inc.

Passed a Regional Board- means that an applicant has earned a score of seventy-five (75%) in each discipline, clinical skill, procedure, or knowledge that is tested on the NERB examination using the internal weighting and scoring methods the NERB uses to score the NERB's examination of dentistry or dental hygiene as applicable.

Regional Board—the examination in dentistry offered by any of the following dental examination organizations:

- (a) The Central Regional Dental Testing Service;
- (b) The North East Regional Board of Dental Examiners, Inc.;
- (c) The Southern Regional Testing Agency, Inc.; and
- (d) The Western Regional Examining Board, Inc.

Universal precautions- means blood and body fluid precautions as defined by the Center for Disease Control.

4299.2 The definitions in § 4099 of Chapter 40 of this title are incorporated by reference into and are applicable to this chapter.