

Dear Senators VANORDEN, Zuiderveld, Wintrow, and
Representatives VANDER WOUDE, Erickson, Chew:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Division of Occupational and Professional Licenses - Dentistry, Idaho State Board of:
IDAPA 24.31.01 - Rules of the Idaho State Board of Dentistry (ZBR Chapter Rewrite, Fee Rule) -
Proposed Rule (Docket No. 24-3101-2301).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 10/30/2023. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/27/2023.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Terri Kondoff
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee
FROM: Division Manager - Matt Drake
DATE: October 11, 2023
SUBJECT: Division of Occupational and Professional Licenses - Dentistry, Idaho State Board of

IDAPA 24.31.01 - Rules of the Idaho State Board of Dentistry (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule (Docket No. 24-3101-2301)

Summary and Stated Reasons for the Rule

The Division of Occupational and Professional Licenses - Idaho State Board of Dentistry submits notice of proposed rulemaking at Docket No. 24-3101-2301. The Division notes that this is a Zero-Based Regulation ("ZBR") chapter rewrite pursuant to Executive Order 2020-01. Accordingly, the Division states that this rulemaking is intended to streamline and simplify existing rules that were previously submitted to and reviewed by the Legislature. The Division also states that the rulemaking reflects a comprehensive review of the chapter in collaboration with the public to streamline the rules, use plain language, and to update the rules to comply with statute. The Division states that no fees are being increased and no new fees are being imposed by the rulemaking.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted. The rulemaking is not anticipated to have a fiscal impact.

Statutory Authority

This rulemaking appears to be authorized pursuant to sections 54-912 and 67-2614, and Idaho Code.

cc: Division of Occupational and Professional Licenses - Dentistry, Idaho State Board of
Katie Stuart

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

Paul Headlee, Deputy Director Matt Drake, Manager Keith Bybee, Manager April Renfro, Manager Norma Clark, Manager
Legislative Services Office Research & Legislation Budget & Policy Analysis Legislative Audits Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

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IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.31.01 – RULES OF THE IDAHO STATE BOARD OF DENTISTRY

DOCKET NO. 24-3101-2301 (ZBR CHAPTER REWRITE, FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, and Sections 54-902, 54-902A, 54-903, 54-906, 54-906A, 54-912, 54-915, 54-916, 54-918, 54-920, 54-924, 54-936, 67-2614, 67-9406, and 67-9409, Idaho Code.

PUBLIC HEARING SCHEDULE: The public hearing concerning this rulemaking will be held as follows:

Thursday, September 14, 2023, 9:00 a.m. MT
Division of Occupational and Professional Licenses Chinden Campus Building 4 11341 W. Chinden Blvd., Bldg. #4 Boise, ID 83714
Telephone and web conferencing information will be posted on: https://dopl.idaho.gov/calendar/ and https://townhall.idaho.gov/

The hearing site will be accessible to persons with disabilities, if needed. Requests for accommodation must be made not later than five (5) days prior to the meeting to the agency address below.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho Board of Dentistry is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter and to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

The fees for applications, licenses, and reinstatement as designated in Rule 400 of these proposed rules are authorized in Section 54-916, Idaho Code. None of these fees are being changed as a result of this rulemaking or since being previously reviewed by the Idaho legislature.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking:

This rulemaking is not anticipated to have any negative fiscal impact on the State General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-ZBRR-2301. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 5, 2023 Idaho Administrative Bulletin, [Vol. 23-4, pp. 42-46](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

- Office Anesthesia Evaluation Manual, published by the American Association of Oral and Maxillofacial Surgeons (AAOMS);
- Guidelines for Infection Control in Dental Health-Care Settings, published by the Centers for Disease Control and Prevention (CDC);
- Guidelines for Use of Sedation and General Anesthesia by Dentists, published by the American Dental Association (ADA);
- Principles of Ethics, Code of Professional Conduct, and Advisory Opinions, published by the American Dental Association (ADA);
- Standards for Clinical Dental Hygiene Practice, published by the American Dental Hygienists Association (ADHA).

The materials cited are incorporated by reference because they would be unduly cumbersome, expensive, or otherwise inexpedient to republish whole or in part. The materials cited are codes, standards, or rules adopted by nationally recognized organizations or associations.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this proposed rule, contact Katie Stuart, Bureau Chief, at (208) 577-2489. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 4th day of August, 2023.

Katie Stuart
Bureau Chief
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2489
Email: katie.stuart@dopl.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 24-3101-2301
(ZBR Chapter Rewrite)

**Note – Due to extensive reorganization of this ZBR chapter, the rule text below is presented as clean text without showing amendments in legislative format. A redline copy provided by the agency has been included at the end of the docket for transparency and can be utilized to track all edits used to formulate the proposed rule.*

24.31.01 – RULES OF THE IDAHO STATE BOARD OF DENTISTRY

000. LEGAL AUTHORITY.

This Chapter is adopted under the legal authority of Chapter 9, Title 54, Idaho Code. ()

001. SCOPE.

The rules constitute the minimum requirements for licensure and regulation of dentists, dental hygienists, and dental

therapists. ()

002. INCORPORATION BY REFERENCE.

Pursuant to Section 67-5229, Idaho Code, this chapter incorporates by reference the most recent and updated documents available on the Board's website: ()

01. Professional Standards. ()

a. AAOMS, Office Anesthesia Evaluation Manual. ()

b. CDC, Guidelines for Infection Control in Dental Health-Care Settings. ()

c. ADA, Guidelines for Use of Sedation and General Anesthesia by Dentists. ()

d. ADA, Principles of Ethics, Code of Professional Conduct and Advisory Opinions, January 2009. ()

e. ADHA Hygienists' Association, Standards for Clinical Dental Hygiene Practice, 2016. ()

003. ABBREVIATIONS.

01. ADA. American Dental Association. ()

02. ADHA. American Dental Hygienists Association. ()

03. AAOMS. American Association of Oral and Maxillofacial Surgeons. ()

04. BLS. Basic Life Support. ()

05. CDC. Centers for Disease Control and Prevention. ()

06. CODA. Commission on Dental Accreditation. ()

07. INBDE. Integrated National Board Dental Examination. ()

08. NBDHE. National Board Dental Hygiene Examination. ()

004. -- 099. (RESERVED)

100. LICENSURE

01. Requirements For Licensure. ()

a. Applicants for licensure must furnish proof of graduation from a program in dentistry, dental hygiene, or dental therapy accredited by CODA at the time of applicant's graduation. ()

b. Applicants for initial licensure will provide proof of current BLS certification. Practicing licensees must maintain current BLS certification. ()

02. Examinations For Licensure. ()

a. Written Examination. Applicants for dentistry and dental hygiene are required to pass the INBDE or NBDHE. Dental therapists must successfully complete a board-approved written examination. ()

b. Clinical Examination. Applicants for general dentistry, dental hygiene or dental therapy are required to pass a Board-approved clinical examination upon such subjects as specified by the Board. Applicants for dental hygiene and dental therapy must pass a board-approved clinical local anesthesia examination. Clinical

examination results will be valid for licensure by examination for a period of (5) five years from the date of successful completion of the examination. ()

03. Dental Hygienists – License Endorsements. The Board may grant license endorsements to qualified dental hygienists as follows: ()

a. Restorative Endorsement. Notwithstanding any other provision of these rules, a qualified dental hygienist holding a restorative endorsement may perform specified restorative functions under the direct supervision of a dentist. Permissible restorative functions under this endorsement are limited to the placement of a direct restoration into a tooth prepared by a dentist and the carving, contouring and adjustment of the contacts and occlusion of the restoration. Upon application, the Board may grant a restorative endorsement to a person holding an unrestricted active status dental hygienist's license issued by the Board who provides satisfactory proof that the following requirements are met: ()

i. The person has successfully completed a clinical restorative examination approved by the Board; and ()

ii. The person has not been disciplined by the Board or another licensing authority. ()

b. Renewal. A person meeting all other requirements for renewal of a license to practice dental hygiene is also entitled to renewal of a license endorsement for the effective period of the license. An endorsement immediately expires and is cancelled at such time as a person no longer holds an unrestricted active status dental hygienist's license issued by the Board. ()

04. Licensure Of Dental Specialists. ()

a. Requirements for Specialty Licensure. Each applicant for specialty licensure must have graduated from a CODA accredited dental school and successfully completed a CODA accredited postdoctoral advanced dental education program of at least two full-time academic years. ()

b. Examination. Examination requirements for applicants who have met the requirements for licensure as a specialist: ()

i. Passed a general licensure examination acceptable to the Board or, ()

ii. If passed a general licensure examination not acceptable to the Board, passed a specialty examination or, ()

iii. Be certified by the American Board of that particular specialty as of the date of application for specialty licensure. ()

05. Moderate Sedation, General Anesthesia And Deep Sedation. Dentists licensed in the state of Idaho may administer moderate sedation, general anesthesia, or deep sedation following the ADA guidelines incorporated by reference pursuant to these rules once they have obtained a permit from the Board. A dentist may not administer moderate sedation to children under sixteen (16) years of age and one hundred (100) pounds unless they have qualified for and been issued a moderate parenteral sedation permit. A moderate enteral sedation permit authorizes dentists to administer sedation by either enteral or combination inhalation-enteral routes of administration. A moderate parenteral, general anesthesia, or deep sedation permit authorizes a dentist to administer sedation by any route of administration. The qualified dentist is responsible for the sedative management, adequacy of the facility and staff, diagnosis and treatment of emergencies related to the administration of moderate sedation, general anesthesia, or deep sedation and providing the equipment, drugs and protocol for patient rescue. ()

a. Training Requirements. For Moderate Sedation Permits, completion of training in the administration of moderate sedation to a level consistent with requirements established by the Board within the five (5) year period immediately prior to the date of application. For General Anesthesia and Deep Sedation Permits, completion of an advanced education program accredited by CODA that affords comprehensive training necessary to administer and manage deep sedation or general anesthesia within the five (5) year period immediately preceding the

date of application. The five (5) year requirement is not applicable to applicants who hold an equivalent permit in another state which has been in effect for the twelve (12) month period immediately prior to the application date. Qualifying training courses must be sponsored by or affiliated with a dental school accredited by CODA, or be approved by the Board. ()

b. Permit Renewal. Before the expiration date of a permit, the board will provide notice of renewal to the licensee. Failure to timely submit a renewal application and permit fee shall result in expiration of the permit and termination of the licensee's right to administer sedation. Failure to submit a complete renewal application and permit fee within thirty (30) days of expiration of the permit shall result in cancellation of the permit. Renewal of the permit will be required every five (5) years. Proof of a minimum of twenty-five (25) continuing education credit hours in sedation which may include training in medical/office emergencies will be required to renew a permit. ()

c. Reinstatement. A dentist may apply for reinstatement of a canceled or surrendered permit issued by the Board within five (5) years of the date of the permit's cancellation or surrender. Applicants for reinstatement of a sedation permit must satisfy the facility and personnel requirements and verify they have obtained an average of five (5) continuing education credit hours in sedation for each year subsequent to the date upon which the permit was canceled or surrendered. A fee for reinstatement will be assessed. ()

06. Continuing Education Requirements. A licensee renewing an active status license shall report 30 oral health/health-related continuing education hour credits to the Board of verifiable CE or volunteer practice. ()

101. -- 199. (RESERVED)

200. PRACTICE STANDARDS.

01. Dental Hygienists – Practice. Dental hygienists are authorized under the supervision of a licensed dentist, at the supervision level set by the dentist, to perform dental hygiene services for which they are trained unless prohibited by these rules. ()

02. Dental Hygienists – Prohibited Practice. ()

a. Diagnosis and Treatment. Definitive diagnosis and dental treatment planning. ()

b. Operative Preparation. The operative preparation of teeth for the placement of restorative materials. ()

c. Intraoral Placement or Carving. The intraoral placement or carving of restorative materials unless authorized by issuance of an extended access restorative endorsement. ()

d. Anesthesia. Administration of any general anesthesia or moderate sedation. ()

e. Final Placement. Final placement of any fixed or removable appliances. ()

f. Final Removal. Final removal of any fixed appliance. ()

g. Cutting Procedures. Cutting procedures utilized in the preparation of the coronal or root portion of the tooth, or cutting procedures involving the supportive structures of the tooth. ()

h. Root Canal. Placement of the final root canal filling. ()

i. Occlusal Equilibration Procedures. Occlusal equilibration procedures for any prosthetic restoration, whether fixed or removable. ()

j. Other Final Placement. Final placement of prefabricated or cast restorations or crowns. ()

03. Dental Assistants – Practice. Dental assistants are authorized to perform dental services for which

they are trained unless prohibited by these rules. Dental assistants must be directly supervised by a dentist when performing intraoral procedures except when providing palliative care as directed by the supervising dentist. ()

- a.** Prohibited Duties. A dental assistant is prohibited from performing the following duties: ()
 - i.** The intraoral placement or carving of permanent restorative materials. ()
 - ii.** Any irreversible procedure. ()
 - iii.** The administration of any sedation or local injectable anesthetic. ()
 - iv.** Removal of calculus. ()
 - v.** Use of an air polisher. ()
 - vi.** Any intra-oral procedure using a high-speed handpiece, except for the removal of orthodontic cement or resin. ()
 - vii.** Any dental hygiene prohibited duty. ()

04. Dental Therapists – Practice. Dental therapists are authorized to perform activities specified by the supervising dentist who practices in the same practice setting in conformity with a written collaborative practice agreement at the supervision levels set forth in the agreement. ()

05. Dental Therapists – Prohibited Practice. ()

a. Sedation. Administration of minimal, moderate or deep sedation or general anesthesia except as otherwise allowed by these rules; ()

b. Cutting Procedures. Cutting procedures involving the supportive structures of the tooth including both the soft and hard tissues. ()

c. Periodontal Therapy. Periodontal scaling and root planing, including the removal of subgingival calculus. ()

d. All Extractions with Exception. All extractions except: ()

i. Under direct supervision. ()

ii. Non-surgical extractions. ()

e. Under general supervision or as specified in Section 035. ()

i. Removal of periodontally diseased teeth with class III mobility. ()

ii. Removal of coronal remnants of deciduous teeth. ()

f. Root Canal Therapy. ()

g. All Fixed and Removable Prosthodontics (except stainless steel crowns). ()

h. Orthodontics. ()

06. Limitation of Practice. No dentist may announce or otherwise hold himself out to the public as a specialist unless he has been issued a specialty license. Any individual granted a specialty license must limit his practice to the specialty(s) in which he is licensed. ()

07. Specialty Advertising. The specialty advertising rules are intended to allow the public to be informed about dental specialties and to require appropriate disclosures to avoid misperceptions on the part of the public. An advertisement may not state that a licensee is a specialist unless the licensee has been granted a license in that specialty area of dental practice by the Board. A licensee who has not been granted a specialty license by the Board may advertise as being qualified in a recognized specialty area of dental practice so long as each such advertisement, regardless of form, contains a prominent, clearly worded disclaimer that the licensee is “licensed as a general dentist”. A licensee may not advertise as being a specialist in or as specializing in any area of dental practice which is not a Board recognized and licensed specialty area unless the advertisement, regardless of form, contains a prominent, clearly worded disclaimer that the advertised area of dental practice is not recognized as a specialty area of dental practice by the Idaho Board of Dentistry. Any disclaimer in a written advertisement shall be in the same font style and size as that in the listing of the specialty area. ()

08. Patient Records. A record must be maintained for each person receiving dental services, regardless of whether any fee is charged. Records must be in the form of an acronym such as “PARQ” (Procedure, Alternatives, Risks and Questions) or “SOAP” (Subjective Objective Assessment Plan) or their equivalent. Patient records must be maintained for no less than seven (7) years from the date of last entry unless: the patient requests the records be transferred to another dentist who will maintain the records, the dentist gives the records to the patient, or the dentist transfers the dentist's practice to another dentist who will maintain the records. ()

09. Infection Control. Licensees and dental assistants must comply with current CDC infection control guidelines related to personal protective equipment, instrument sterilization, sterilizing device testing, disinfection of non-critical and clinical contact surfaces, and contaminated waste disposal. Heat sterilizing devices must be tested each calendar week in which patients are treated. Testing results must be retained by the licensee for the current calendar year and the two preceding calendar years. ()

10. Emergency Medications Or Drugs. The following emergency medications or drugs are required in all sites where anesthetic agents of any kind are administered: anti-anaphylactic agent, antihistaminic, aspirin, bronchodilator, coronary artery vasodilator, and glucose. ()

11. Local Anesthesia. Dental offices in which local anesthesia is administered to patients shall, at a minimum, have and maintain suction equipment capable of aspirating gastric contents from the mouth and pharynx, a portable oxygen delivery system including full face masks and a bag-valve mask combination capable of delivering positive pressure, oxygen-enriched ventilation to the patient, a blood pressure cuff of appropriate size and a stethoscope. ()

12. Nitrous Oxide/Oxygen. Persons licensed to practice and dental assistants trained in accordance with these rules may administer nitrous oxide/oxygen to patients. Dental offices where nitrous oxide/oxygen is administered to patients must have the following: a fail-safe nitrous oxide delivery system that is maintained in working order; a scavenging system; and a positive-pressure oxygen delivery system suitable for the patient being treated. ()

13. Minimal Sedation. Persons licensed to practice dentistry may administer minimal sedation to patients of sixteen (16) years of age or older following the ADA guidelines as incorporated by reference pursuant to these rules. When the intent is minimal sedation, the appropriate dosing of a single enteral drug is no more than the maximum FDA-recommended dose for unmonitored home use. In cases where the patient weighs less than one hundred (100) pounds, or is under the age of sixteen (16) years, minimal sedation may be administered without a permit by use of nitrous oxide, or with a single enteral dose of a sedative agent administered in the dental office. ()

14. Use Of Other Anesthesia Personnel. A dentist who does not hold a sedation permit may perform dental procedures in a dental office on a patient who receives sedation induced by an anesthesiologist, a certified registered nurse anesthetist, or another dentist with a sedation permit. The qualified sedation provider who induces sedation will monitor the patient's condition until the patient is discharged. The sedation record must be maintained in the patient's dental record and is the responsibility of the dentist who is performing the dental procedures. A dentist who intends to use the services of a qualified sedation provider must notify the Board in writing of his intent. Such notification need only be submitted once every licensing period. ()

15. Incident Reporting. Dentists must report to the Board, in writing, within seven (7) days after the death or transport to a hospital or emergency center for medical treatment for a period exceeding twenty-four (24) hours of any patient. ()

201. -- 299. (RESERVED)

300. DISCIPLINE.

01. Suspension, Revocation Or Restriction Of Sedation Permit. The Board may, at any time and for just cause, institute proceedings to revoke, suspend, or otherwise restrict a sedation permit. If the Board determines that emergency action is necessary to protect the public, summary suspension may be ordered pending further proceedings. Proceedings to suspend, revoke or restrict a permit shall be subject to applicable statutes and rules governing administrative procedures before the Board. ()

02. Unprofessional Conduct. A licensee shall not engage in unprofessional conduct in the course of his practice. Unprofessional conduct by a person licensed under the provisions of Title 54, Chapter 9, Idaho Code, is defined as, but not limited to, any of the following: ()

a. Fraud. Obtaining fees by fraud or misrepresentation, or over-treatment either directly or through an insurance carrier. ()

b. Unlicensed Practice. Employing directly or indirectly any suspended or unlicensed individual as defined in Title 54, Chapter 9, Idaho Code. ()

c. Unlawful Practice. Aiding or abetting licensed persons to practice unlawfully. ()

d. Dividing Fees. A dentist shall not divide a fee for dental services with another party, who is not a partner or associate with him in the practice of dentistry, unless: ()

i. The patient consents to employment of the other party after a full disclosure that a division of fees will be made; ()

ii. The division is made in proportion to the services performed and responsibility assumed by each dentist or party. ()

e. Prescription Drugs. Prescribing or administering prescription drugs not reasonably necessary for, or within the scope of, providing dental services for a patient. A dentist may not prescribe or administer prescription drugs to himself. A dentist shall not use controlled substances as an inducement to secure or maintain dental patronage or aid in the maintenance of any person's drug addiction by selling, giving or prescribing prescription drugs. ()

f. Harassment. The use of threats or harassment to delay or obstruct any person in providing evidence in any possible or actual disciplinary action, or other legal action; or the discharge of an employee primarily based on the employee's attempt to comply with the provisions of Title 54, Chapter 9, Idaho Code, or the Board's Rules, or to aid in such compliance. ()

g. Discipline in Other States. Conduct himself in such manner as results in a suspension, revocation or other disciplinary proceedings with respect to his license in another state. ()

h. Altering Records. Alter a patient's record with intent to deceive. ()

i. Office Conditions. Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental profession in the state of Idaho and CDC guidelines as incorporated by reference in these rules. ()

j. Abandonment of Patients. Abandonment of patients by licensees before the completion of a phase of treatment, as such phase of treatment is contemplated by the customary practice and standards of the dental

profession in the state of Idaho, without first advising the patient of such abandonment and of further treatment that is necessary. ()

k. Use of Intoxicants. Practicing while under the influence of an intoxicant or controlled substance where the same impairs the licensee's ability to practice with reasonable and ordinary care. ()

l. Mental or Physical Condition. The inability to practice with reasonable skill and safety to patients by reason of age, illness, or as a result of any mental or physical condition. ()

m. Consent. Revealing personally identifiable facts, data or information obtained in a professional capacity without prior consent of the patient, except as authorized or required by law. ()

n. Scope of Practice. Practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities that the licensee knows or has reason to know that he or she is not competent to perform. ()

o. Delegating Duties. Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows, or with the exercise of reasonable care and control should know, that such a person is not qualified by training or by licensure to perform them. ()

p. Unauthorized Treatment. Performing professional services that have not been authorized by the patient or his legal representative. ()

q. Supervision. Failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of a licensed professional. ()

r. Legal Compliance. Failure to comply with any provisions of federal, state or local laws, statutes, rules, and regulations governing or affecting the practice of dentistry, dental hygiene, or dental therapy. ()

s. Exploiting Patients. Exercising undue influence on a patient in such manner as to exploit a patient for the financial or personal gain of a practitioner or of a third party. ()

t. Misrepresentation. Willful misrepresentation of the benefits or effectiveness of dental services. ()

u. Disclosure. Failure to advise patients or their representatives in understandable terms of the treatment to be rendered, alternatives, the name and professional designation of the provider rendering treatment, and disclosure of reasonably anticipated fees relative to the treatment proposed. ()

v. Sexual Misconduct. Making suggestive, sexual or improper advances toward any person or committing any lewd or lascivious act upon or with any person in the course of dental practice. ()

w. Patient Management. Use of unreasonable and/or damaging force to manage patients, including but not limited to hitting, slapping or physical restraints. ()

x. Compliance Professional Standards. Failure to comply with professional standards applicable to the practice of dentistry, dental hygiene, or dental therapy as incorporated by reference in this chapter. ()

y. Failure to Provide Records to a Patient or Patient's Legal Guardian. Refusal or failure to provide a patient or patient's legal guardian with records within five (5) business days. A patient or patient's legal guardian may not be denied a copy of his records for any reason, regardless of whether the person has paid for the dental services rendered. A person may be charged for the actual cost of providing the records but in no circumstances may a person be charged an additional processing or handling fee or any charge in addition to the actual cost. ()

z. Failure to Cooperate with Authorities. Failure to cooperate with authorities in the investigation of any alleged misconduct or interfering with a Board investigation by willful misrepresentation of facts, willful failure to provide information upon request of the Board, or the use of threats or harassment against any patient or witness to

prevent them from providing evidence. ()

aa. Advertising. Advertise in a way that is false, deceptive, misleading or not readily subject to verification. ()

301. – 399. (RESERVED)

400. FEES.

01. Application and License Fees. Fees are as follows:

License/Permit Type	Application Fee	License/Permit Fee
Dentist/Dental Specialist	\$300	Active Status: \$375 Inactive Status: \$160
Dental Hygienist	\$150	Active Status: \$175 Inactive Status: \$85
Dental Therapist	\$200	Active Status: \$250 Inactive Status: \$125
Sedation Permit	\$300	\$300

()

401. -- 999. (RESERVED)

[Agency redlined courtesy copy]

24.31.01 – RULES OF THE IDAHO STATE BOARD OF DENTISTRY

000. LEGAL AUTHORITY.

This Chapter is adopted under the legal authority of Chapter 9, Title 54, Idaho Code.()

001. SCOPE.

The rules constitute the minimum requirements for licensure and regulation of dentists, dental hygienists, and dental therapists. ()

002. INCORPORATION BY REFERENCE.

Pursuant to Section 67-5229, Idaho Code, this chapter incorporates by reference the most recent and updated following documents available on the Board's website:()

01. Professional Standards.()

a. AAOMS, Office Anesthesia Evaluation Manual, ~~8th Edition, 2012~~.()

b. CDC, Guidelines for Infection Control in Dental Health-Care Settings, ~~2003~~.()

c. ADA, Guidelines for Use of Sedation and General Anesthesia by Dentists.

~~ed.~~ ADA, Principles of Ethics, Code of Professional Conduct and Advisory Opinions, January 2009.
()

~~d.~~ ADHA Hygienists' Association, Standards for Clinical Dental Hygiene Practice, 2016.()

~~003.—009.(RESERVED)~~

~~010~~**003. DEFINITIONS AND ABBREVIATIONS.**

~~01. ACLS. Advanced Cardiovascular Life Support or Pediatric Advanced Life Support.(—)~~

~~02~~**01.** ADA. American Dental Association.()

~~03~~**02.** ADHA. American Dental Hygienists Association.()

~~04~~**03.** AAOMS. American Association of Oral and Maxillofacial Surgeons.()

~~05~~**04.** BLS. Basic Life Support.()

~~06~~**05.** CDC. Centers for Disease Control and Prevention.()

~~07~~**06.** CODA. Commission on Dental Accreditation.()

~~07.~~ INBDE. Integrated National Board Dental Examination

~~08. **Deep Sedation.** A drug induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilator function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.(—)~~

~~09. **Enteral.** Administration of a drug in which the agent is absorbed through the gastrointestinal tract or mucosa.(—)~~

~~10. **EPA.** United States Environmental Protection Agency.(—)~~

~~11. **General Anesthesia.** A drug induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilator function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug induced depression of neuromuscular function. Cardiovascular function may be impaired.(—)~~

~~12. **Inhalation.** Administration of a gaseous or volatile agent introduced into the lungs and whose primary effect is due to absorption through the gas/blood interface.(—)~~

~~13. **Local Anesthesia.** The elimination of sensation, especially pain, in one (1) part of the body by the topical application or regional injection of a drug.(—)~~

~~14. **Minimal Sedation.** A minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command. Although cognitive function and coordination may be modestly impaired, ventilator and cardiovascular functions are unaffected. In accord with this particular definition, the drugs and/or techniques used should carry a margin of safety wide enough never to render unintended loss of consciousness. Further, patients whose only response is reflex withdrawal from repeated painful stimuli would not be considered to be in a state of minimal sedation.(—)~~

~~15. **Moderate Sedation.** A drug induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained.(—)~~

~~16. **Monitor or Monitoring.** The direct clinical observation of a patient during the administration of sedation by a person trained to observe the physical condition of the patient and capable of assisting with emergency or other procedures.(—)~~

~~17. **NBDE.** National Board Dental Examination.(—)~~

~~1808. **NBDHE.** National Board Dental Hygiene Examination.()~~

~~19. **Operator.** The supervising dentist or another person who is authorized by these rules to induce and administer sedation.(—)~~

~~20. **Parenteral.** Administration of a drug which bypasses the gastrointestinal tract [i.e., intramuscular, intravenous, intranasal, submucosal, subcutaneous, intraosseous].(—)~~

~~21. **Sedation.** The administration of minimal, moderate, and deep sedation and general anesthesia.(—)~~

004. – 099.(Reserved)

011. APPLICATION AND LICENSE FEES.

Application fees are not refunded. A license shall not be issued or renewed unless fees have been paid. License fees are prorated from date of initial licensure to the next successive license renewal date. The application fees and license fees are as follows:

License/Permit Type	Application Fee	License/Permit Fee
Dentist/Dental Specialist	\$300	Active Status: \$375 Inactive Status: \$160
Dental Hygienist	\$150	Active Status: \$175 Inactive Status: \$85
Dental Therapist	\$200	Active Status: \$250 Inactive Status: \$125
Sedation Permit	\$300	\$300

()

012. EXAMINATIONS FOR LICENSURE.

01. Written Examination. ~~Successful completion of the NBDE may be required of all applicants for a license to practice dentistry or a dental specialty. Successful completion of the NBDHE may be required of all applicants for a license to practice dental hygiene. Applicants for dentistry and dental hygiene are required to pass the INBDE or NBDHE.~~ Dental therapists must successfully complete a board-approved written examination. ~~Any other written examination will be specified by the Board.()~~

02. Clinical Examination. ~~All~~ applicants for a license to practice general dentistry, dental hygiene or dental therapy are required to pass a Board-approved clinical examination upon such subjects as specified by the Board. Applicants for dental hygiene and dental therapy licensure must pass a board-approved clinical local anesthesia examination. Clinical examination results will be valid for licensure by examination for a period of (5) five years from the date of successful completion of the examination.()

013. REQUIREMENTS FOR LICENSURE.

Applicants for licensure ~~to practice dentistry~~ must furnish proof of graduation from a ~~school of dentistry~~ **program in dentistry, dental hygiene, or dental therapy** accredited by CODA at the time of applicant's graduation. ~~Applicants for licensure to practice dental hygiene must furnish proof of graduation from a dental hygiene program accredited by CODA at the time of applicant's graduation. Applicants for licensure to practice dental therapy must furnish proof of graduation from a dental therapy program accredited by CODA at the time of applicant's graduation.~~(—)

014. REQUIREMENT FOR BLS.

Applicants for initial licensure will provide proof of current BLS certification. Practicing licensees must maintain current BLS certification.()

015. CONTINUING EDUCATION REQUIREMENTS.

A licensee renewing an active status license shall report 30 oral health/health-related continuing education hour credits to the Board of verifiable CE or volunteer practice.()

~~016.—020.(RESERVED)~~

~~021. PROVISIONAL LICENSURE.~~

~~This type of license may be granted at the Board's discretion to applicants with active practice within the previous (2) years, current license in good standing in another state, and evidence of not failing an exam given by the Board.~~
(—)

~~022. VOLUNTEER DENTAL HYGIENE SERVICES.~~

~~A person holding an unrestricted active status dental hygiene license issued by the Board may provide dental hygiene services in an extended access oral health care setting without being issued an extended access license endorsement. The dental hygiene services performed are limited to oral health screening and patient assessment, preventive and oral health education, preparation and review of health history, non surgical periodontal treatment, oral prophylaxis, the application of caries preventive agents including fluoride, the application of pit and fissure sealants with recommendation that the patient will be examined by a dentist;~~(—)

023. DENTAL HYGIENISTS – LICENSE ENDORSEMENTS.

The Board may grant license endorsements to qualified dental hygienists as follows:()

~~01. Extended Access Endorsement. Upon application, the Board may grant an extended access endorsement to a person holding an unrestricted active status dental hygienist's license issued by the Board who provides satisfactory proof that all of the following requirements are met:~~(—)

~~a. The person has been licensed as a dental hygienist during the two (2) year period immediately prior to the date of application for an extended access endorsement;~~(—)

~~b. For a minimum of one thousand (1000) total hours within the previous two (2) years, the person has either been employed as a dental hygienist in supervised clinical practice or has been engaged as a clinical practice educator in an approved dental hygiene school;~~(—)

~~e. The person has not been disciplined by the Board or another licensing authority upon grounds that bear a demonstrable relationship to the ability of the dental hygienist to safely and competently practice under general supervision in an extended access oral health care setting; and~~(—)

~~d. Any person holding an unrestricted active status dental hygienist's license issued by the Board who is employed as a dental hygienist in an extended access oral health care setting in this state may be granted an extended access endorsement without being required to satisfy the experience requirements specified in this rule.~~
(—)

02. Extended Access Restorative Endorsement. Notwithstanding any other provision of these rules, a qualified dental hygienist holding an **extended access** restorative endorsement may perform specified restorative functions under the direct supervision of a dentist ~~in an extended access oral health care setting~~. Permissible restorative functions under this endorsement are limited to the placement of a **direct** restoration into a tooth prepared by a dentist and the carving, contouring and adjustment of the contacts and occlusion of the restoration. Upon

application, the Board may grant an ~~extended access~~ restorative endorsement to a person holding an unrestricted active status dental hygienist's license issued by the Board who provides satisfactory proof that the following requirements are met: ()

a. The person has successfully completed ~~the Western Regional Examining Board's~~ a clinical restorative examination ~~or an equivalent restorative examination~~ approved by the Board; and ()

b. The person has not been disciplined by the Board or another licensing authority ~~upon grounds that bear a demonstrable relationship to the ability of the dental hygienist to safely and competently practice under in an extended access oral health care setting.~~ ()

03. Renewal. ~~Upon payment of the appropriate license fee and completion of required CE credits specified for a license endorsement, A~~ person meeting all other requirements for renewal of a license to practice dental hygiene is also entitled to renewal of a license endorsement for the effective period of the license. An endorsement immediately expires and is cancelled at such time as a person no longer holds an unrestricted active status dental hygienist's license issued by the Board ~~or upon a person's failure to complete the required CE.~~ ()

024. LICENSURE OF DENTAL SPECIALISTS.

01. Requirements for Specialty Licensure. Each applicant for specialty licensure must have graduated from a CODA accredited dental school ~~and hold a license to practice general dentistry in the state of Idaho or another state. The Board may grant licensure in specialty areas of dentistry for which a dentist has~~ and successfully completed a CODA accredited postdoctoral advanced dental education program of at least two full-time academic years. ()

02. Examination. ~~Specialty licensure in those specialties recognized may be granted solely at the discretion of the Board. An examination covering the applicant's chosen field may be required and, if so, will be conducted by the Board or a testing agent. Examination requirements for a~~ Applicants who have met the requirements for licensure as a specialist ~~may be required to pass an examination as follows:~~ ()

a. ~~Applicants who have P~~ passed a general licensure examination acceptable to the Board ~~may be granted specialty licensure by Board approval.~~ or ()

b. ~~Applicants who have I~~ If passed a general licensure examination not acceptable to the Board, ~~may be required to pass~~ ed a specialty examination: or ()

c. ~~Applicants who are B~~ Be certified by the American Board of that particular specialty as of the date of application for specialty licensure ~~may be granted specialty licensure by Board approval.~~ ()

03. Limitation of Practice. No dentist may announce or otherwise hold himself out to the public as a specialist unless he has ~~first complied with the requirements established by the Board for such specialty and has~~ been issued a specialty license ~~authorizing him to do so.~~ Any individual granted a specialty license must limit his practice to the specialty(s) in which he is licensed. ()

025. SPECIALTY ADVERTISING.

The specialty advertising rules are intended to allow the public to be informed about dental specialties and to require appropriate disclosures to avoid misperceptions on the part of the public. (—)

01. Recognized Specialty License. An advertisement may not state that a licensee is a specialist unless the licensee has been granted a license in that specialty area of dental practice by the Board. ~~Use of words or terms in advertisements such as "Specialist," "Board Certified," "Diplomate," "Practice Limited To," and "Limited To Specialty Of" shall be prima facie evidence that the licensee is holding himself out to the public as a licensed specialist in a specialty area of dental practice.~~ (—)

02. Disclaimer. A licensee who has not been granted a specialty license by the Board may advertise as being qualified in a recognized specialty area of dental practice so long as each such advertisement, regardless of form, contains a prominent, clearly worded disclaimer that the licensee is "licensed as a general dentist" ~~or that the~~

~~specialty services “will be provided by a general dentist.” Any disclaimer in a written advertisement must be in the same font style and size as that in the listing of the specialty area. (——)~~

~~**03. Unrecognized Specialty.** A licensee may not advertise as being a specialist in or as specializing in any area of dental practice which is not a Board recognized and licensed specialty area unless the advertisement, regardless of form, contains a prominent, clearly worded disclaimer that the advertised area of dental practice is not recognized as a specialty area of dental practice by the Idaho Board of Dentistry. Any disclaimer in a written advertisement shall be in the same font style and size as that in the listing of the specialty area. ()~~

026. PATIENT RECORDS.

A record must be maintained for each person receiving dental services, regardless of whether any fee is charged. Records must be in the form of an acronym such as “PARQ” (Procedure, Alternatives, Risks and Questions) or “SOAP” (Subjective Objective Assessment Plan) or their equivalent. Patient records must be maintained for no less than seven (7) years from the date of last entry unless: the patient requests the records be transferred to another dentist who will maintain the records, the dentist gives the records to the patient, or the dentist transfers the dentist's practice to another dentist who will maintain the records. ()

~~**027.— 030.(RESERVED)**~~

031. INFECTION CONTROL.

~~In determining what constitutes unacceptable patient care with respect to infection control, the Board may consider current infection control guidelines such as those of the CDC. Additionally, L~~icensees and dental assistants must comply with the following requirements: [current CDC infection control guidelines related to personal protective equipment, instrument sterilization, sterilizing device testing, disinfection of non-critical and clinical contact surfaces, and contaminated waste disposal. Heat sterilizing devices must be tested each calendar week in which patients are treated. Testing results must be retained by the licensee for the current calendar year and the two preceding calendar years.](#) ()

~~**01. Gloves, Masks, and Eyewear.** Disposable gloves must be worn whenever placing fingers into the mouth of a patient or when handling blood or saliva contaminated instruments or equipment. Appropriate hand hygiene must be performed prior to gloving. Masks and protective eyewear or chin-length shields must be worn when spattering of blood or other body fluids is likely. (——)~~

~~**02. Instrument Sterilization.** Between each patient use, instruments and other equipment that come in contact with body fluids must be sterilized. (——)~~

~~**03. Sterilizing Devices Testing.** Heat sterilizing devices must be tested for proper function by means of a biological monitoring system that indicates micro organisms kill. Devices must be tested each calendar week in which scheduled patients are treated. Testing results must be retained by the licensee for the current calendar year and the two (2) preceding calendar years. (——)~~

~~**04. Non-Critical Surfaces.** Environmental surfaces that are contaminated by blood or saliva must be disinfected with an EPA registered hospital disinfectant. (——)~~

~~**05. Clinical Contact Surfaces.** Impervious backed paper, aluminum foil, or plastic wrap should be used to cover surfaces that may be contaminated by blood or saliva. The cover must be replaced between patients. If barriers are not used, surfaces must be cleaned and disinfected between patients by using an EPA registered hospital disinfectant. (——)~~

~~**06. Disposal.** All contaminated wastes and sharps must be disposed of according to any governmental requirements. (——)~~

032. EMERGENCY MEDICATIONS OR DRUGS.

The following emergency medications or drugs are required in all sites where anesthetic agents of any kind are administered: anti-anaphylactic agent, antihistaminic, aspirin, bronchodilator, coronary artery vasodilator, and glucose. ()

033. DENTAL HYGIENISTS – PRACTICE.

Dental hygienists are ~~hereby authorized to perform the activities specified below;~~ under the supervision of a licensed dentist, at the supervision level set by the dentist, to perform dental hygiene services for which they are trained unless prohibited by these rules.()

~~01. General Supervision. A dental hygienist may perform specified duties under general supervision as follows: ()~~

~~a. Oral prophylaxis (removal of stains and plaque biofilm and if present, supragingival and/or subgingival calculus);()~~

~~b. Medical history assessments and intra-oral and extra-oral assessments (including charting of the oral cavity and surrounding structures, taking case histories and periodontal assessment);()~~

~~e. Developing patient care plans for prophylaxis, non-surgical periodontal therapy and supportive and evaluative care in accordance with the treatment parameters set by supervising dentist;()~~

~~d. Root planing;()~~

~~e. Non-surgical periodontal therapy;()~~

~~f. Closed subgingival curettage;()~~

~~g. Administration of local anesthesia;()~~

~~h. Removal of marginal overhangs (use of high speed handpieces or surgical instruments is prohibited); ()~~

~~i. Application of topical antibiotics or antimicrobials (used in non-surgical periodontal therapy); ()~~

~~j. Provide patient education and instruction in oral health education and preventive techniques; ()~~

~~k. Placement of antibiotic treated materials pursuant to dentist authorization;()~~

~~l. Administration and monitoring of nitrous oxide/oxygen; and()~~

~~m. All duties which may be performed by a dental assistant.()~~

~~02. Direct Supervision. A dental hygienist may perform specified duties under direct supervision as follows: ()~~

~~a. Use of a laser restricted to gingival curettage and bleaching.()~~

034. DENTAL HYGIENISTS – PROHIBITED PRACTICE.

01. Diagnosis and Treatment. Definitive diagnosis and dental treatment planning.()

02. Operative Preparation. The operative preparation of teeth for the placement of restorative materials. ()

03. Intraoral Placement or Carving. The intraoral placement or carving of restorative materials unless authorized by issuance of an extended access restorative endorsement.()

04. Anesthesia. Administration of any general anesthesia or moderate sedation.()

- 05. **Final Placement.** Final placement of any fixed or removable appliances.()
- 06. **Final Removal.** Final removal of any fixed appliance.()
- 07. **Cutting Procedures.** Cutting procedures utilized in the preparation of the coronal or root portion of the tooth, or cutting procedures involving the supportive structures of the tooth.()
- 08. **Root Canal.** Placement of the final root canal filling.()
- 09. **Occlusal Equilibration Procedures.** Occlusal equilibration procedures for any prosthetic restoration, whether fixed or removable.()
- 10. **Other Final Placement.** Final placement of prefabricated or cast restorations or crowns.()

035. DENTAL THERAPISTS – PRACTICE.

Dental therapists are authorized to perform activities specified by the supervising dentist who practices in the same practice setting in conformity with a written collaborative practice agreement at the supervision levels set forth in the agreement. ()

036. DENTAL THERAPISTS – PROHIBITED PRACTICE.

- 01. **Sedation.** Administration of minimal, moderate or deep sedation or general anesthesia except as otherwise allowed by these rules;()
- 02. **Cutting Procedures.** Cutting procedures involving the supportive structures of the tooth including both the soft and hard tissues.()
- 03. **Periodontal Therapy.** Periodontal scaling and root planing, including the removal of subgingival calculus.()
- 04. **All Extractions with Exception.** All extractions except:()
 - a. Under direct supervision.()
 - i. Non-surgical extractions.()
 - b. Under general supervision or as specified in Section 035.()
 - i. Removal of periodontally diseased teeth with class III mobility.()
 - ii. Removal of coronal remnants of deciduous teeth.()
- 05. **Root Canal Therapy.**()
- 06. **All Fixed and Removable Prosthodontics** (except stainless steel crowns).()
- 07. **Orthodontics.**()

037. DENTAL ASSISTANTS – PRACTICE.

Dental assistants are authorized to perform dental services for which they are trained unless prohibited by these rules. Dental assistants must be directly supervised by a dentist when performing intraoral procedures except when providing palliative care as directed by the supervising dentist.()

- 01. **Prohibited Duties.** A dental assistant is prohibited from performing the following duties:()
 - a. The intraoral placement or carving of permanent restorative materials.()

- b. Any irreversible procedure.()
- c. The administration of any sedation or local injectable anesthetic.()
- d. Removal of calculus.()
- e. Use of an air polisher.()
- f. Any intra-oral procedure using a high-speed handpiece, except for the removal of orthodontic cement or resin. ()
- g. Any dental hygiene prohibited duty.()

~~038. 040.(RESERVED)~~

041. LOCAL ANESTHESIA.

Dental offices in which local anesthesia is administered to patients shall, at a minimum, have and maintain suction equipment capable of aspirating gastric contents from the mouth and pharynx, a portable oxygen delivery system including full face masks and a bag-valve mask combination capable of delivering positive pressure, oxygen-enriched ventilation to the patient, a blood pressure cuff of appropriate size and a stethoscope.()

042. NITROUS OXIDE/OXYGEN.

Persons licensed to practice and dental assistants trained in accordance with these rules may administer nitrous oxide/oxygen to patients.(~~---~~)

~~01. Patient Safety. A dentist must evaluate the patient to ensure the patient is an appropriate candidate for nitrous oxide/oxygen; ensure that any patient under nitrous oxide/oxygen is continually monitored; and ensure that a second person is in the practice setting who can immediately respond to any request from the person administering the nitrous oxide/oxygen.(~~---~~)~~

~~02. Required Facilities and Equipment. Dental offices where nitrous oxide/oxygen is administered to patients must have the following: a fail-safe nitrous oxide delivery system that is maintained in working order; a scavenging system; and a positive-pressure oxygen delivery system suitable for the patient being treated.(~~---~~)~~

~~03. Personnel. For nitrous oxide/oxygen administration, personnel shall include an operator and an assistant currently certified in BLS.()~~

043. MINIMAL SEDATION.

Persons licensed to practice dentistry may administer minimal sedation to patients of sixteen (16) years of age or older following the ADA guidelines as incorporated by reference pursuant to these rules. When the intent is minimal sedation, the appropriate dosing of a single enteral drug is no more than the maximum FDA-recommended dose for unmonitored home use. In cases where the patient weighs less than one hundred (100) pounds, or is under the age of sixteen (16) years, minimal sedation may be administered without a permit by use of nitrous oxide, or with a single enteral dose of a sedative agent administered in the dental office.()

~~01. Patient Safety. The administration of minimal sedation is permissible so long as it does not produce an alteration of the state of consciousness in a patient to the level of moderate sedation, general anesthesia, or deep sedation. A dentist must qualify for and obtain a permit from the Board to be authorized to sedate patients to the level of moderate sedation, general anesthesia, or deep sedation. Nitrous oxide/oxygen may be used in combination with a single enteral drug in minimal sedation, except as described in Section 043 of these rules. Notwithstanding any other provision in these rules, a dentist must initiate and regulate the administration of nitrous oxide/oxygen when used in combination with minimal sedation.(~~---~~)~~

~~02. Personnel. At least one (1) additional person currently certified in BLS must be present in addition to the dentist.(~~---~~)~~

044. MODERATE SEDATION, GENERAL ANESTHESIA AND DEEP SEDATION.

Dentists licensed in the state of Idaho ~~cannot may~~ administer moderate sedation, general anesthesia, or deep sedation ~~in the practice of dentistry unless following the ADA guidelines incorporated by reference pursuant to these rules once~~ they have obtained a permit from the Board. ~~A moderate sedation permit may be either enteral or parenteral.~~ A dentist may not administer moderate sedation to children under sixteen (16) years of age and one hundred (100) pounds unless they have qualified for and been issued a moderate parenteral sedation permit. A moderate enteral sedation permit authorizes dentists to administer sedation by either enteral or combination inhalation-ental routes of administration. A moderate parenteral, general anesthesia, or deep sedation permit authorizes a dentist to administer sedation by any route of administration. ~~To qualify for a moderate, general anesthesia, or deep sedation permit, a dentist must provide proof of the following:()~~

01. Training Requirements. For Moderate Sedation Permits, completion of training in the administration of moderate sedation to a level consistent with requirements established by the Board within the five (5) year period immediately prior to the date of application. For General Anesthesia and Deep Sedation Permits, completion of an advanced education program accredited by CODA that affords comprehensive training necessary to administer and manage deep sedation or general anesthesia within the five (5) year period immediately preceding the date of application. The five (5) year requirement is not applicable to applicants who hold an equivalent permit in another state which has been in effect for the twelve (12) month period immediately prior to the application date. Qualifying training courses must be sponsored by or affiliated with a dental school accredited by CODA, or be approved by the Board.()

~~**02. ACLS.** Verification of current certification in ACLS or PALS, whichever is appropriate for the patient being sedated.()~~

~~**03. Office Inspection.** The qualified dentist is responsible for the sedative management, adequacy of the facility and staff, diagnosis and treatment of emergencies related to the administration of moderate sedation, general anesthesia, or deep sedation and providing the equipment, drugs and protocol for patient rescue. Evaluators appointed by the Board will inspect the adequacy of the facility and competence of the sedation team prior to issuance of a moderate, general anesthesia, or deep sedation permit and at intervals not to exceed five (5) years. For general anesthesia and deep sedation, the Board adopts the standards incorporated by reference in these rules, as set forth by the AAOMS in their office anesthesia evaluation manual.()~~

~~**a. Facility, Equipment and Drug Requirements.** The following facilities, equipment and drugs must be available for immediate use during the sedation and recovery phase:()~~

~~i. An operating room large enough to adequately accommodate the patient on an operating table or in an operating chair and to allow an operating team of at least two (2) individuals to freely move about the patient;()~~

~~ii. An operating table or chair that permits the patient to be positioned so the operating team can maintain the patient's airway, quickly alter the patient's position in an emergency, and provide a firm platform for the administration of basic life support;()~~

~~iii. A lighting system that permits evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit completion of any operation underway in the event of a general power failure;()~~

~~iv. Suction equipment that permits aspiration of the oral and pharyngeal cavities and a backup suction device which will function in the event of a general power failure;()~~

~~v. An oxygen delivery system with adequate full face mask and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate backup system;()~~

~~vi. A recovery area that has available oxygen, adequate lighting, suction and electrical outlets. The recovery area can be the operating room()~~

~~vii. A sphygmomanometer, pulse oximeter, oral and nasopharyngeal airways, supraglottic airway~~

~~devices, and automated external defibrillator (AED); and (—)~~

~~viii. Emergency drugs including, but not limited to, pharmacologic antagonists appropriate to the drugs used, bronchodilators, and antihistamines. (—)~~

~~ix. Additional emergency equipment and drugs required for moderate parenteral sedation permits include precordial/pretracheal stethoscope or end-tidal carbon dioxide monitor, intravenous fluid administration equipment, vasopressors, and anticonvulsants. (—)~~

~~x. Additional emergency equipment and drugs required for general anesthesia and deep sedation permits include precordial/pretracheal stethoscope and end-tidal carbon dioxide monitor, intravenous fluid administration equipment, vasopressors, and anticonvulsants. (—)~~

~~**b.** Personnel (—)~~

~~i. For moderate sedation, the minimum number of personnel is two (2) including: the operator and one (1) additional individual currently certified in BLS. (—)~~

~~ii. For general anesthesia or deep sedation, the minimum number of personnel is three (3) including: the operator and two (2) additional individuals currently certified in BLS. When the same individual administering the general anesthesia or deep sedation is performing the dental procedure one (1) of the additional individuals must be designated for patient monitoring. (—)~~

~~iii. Auxiliary personnel must have documented training in BLS, will have specific assignments, and shall have current knowledge of the emergency cart inventory. The dentist and all office personnel must participate in documented periodic reviews of office emergency protocol, including simulated exercises, to assure proper equipment function and staff interaction. (—)~~

~~**e.** Pre sedation Requirements. Before inducing moderate sedation, general anesthesia, or deep sedation a dentist must: (—)~~

~~i. Evaluate the patient's medical history and document, using the American Society of Anesthesiologists Patient Physical Status Classifications, that the patient is an appropriate candidate for moderate sedation, general anesthesia, or deep sedation; (—)~~

~~ii. Give written preoperative and postoperative instructions to the patient or, when appropriate due to age or psychological status of the patient, the patient's guardian; (—)~~

~~iii. Obtain written informed consent from the patient or patient's guardian for the sedation; and (—)~~

~~iv. Maintain a sedation record and enter the individual patient's sedation into a case/drug log. (—)~~

~~**d.** Patient Monitoring. Patients must be monitored as follows: (—)~~

~~i. For moderate sedation the patient must be continuously monitored using pulse oximetry. For general anesthesia or deep sedation, the patient must be continuously monitored using pulse oximetry and end-tidal carbon dioxide monitors. (—)~~

~~ii. The patient's blood pressure, heart rate, and respiration must be recorded every five (5) minutes during the sedation and then continued every fifteen (15) minutes until the patient meets the requirements for discharge. These recordings must be documented in the patient record. The record must also include documentation of preoperative and postoperative vital signs, all medications administered with dosages, time intervals and route of administration. If this information cannot be obtained, the reasons must be documented in the patient's record. (—)~~

~~iii. During the recovery phase, the patient shall be monitored by an individual trained to monitor~~

~~patients recovering from sedation; ()~~

~~iv. A dentist will not release a patient who has undergone sedation except to the care of a responsible third party; ()~~

~~v. The dentist will assess the patient's responsiveness using preoperative values as normal guidelines and discharge the patient only when the following criteria are met: vital signs are stable, patient is alert and oriented, and the patient can ambulate with minimal assistance; and ()~~

~~vi. A discharge entry will be made by the dentist in the patient's record indicating the patient's condition upon discharge and the name of the responsible party to whom the patient was discharged. ()~~

~~e. Sedation of Other Patients. The permit holder must not initiate sedation on another patient until the previous patient is in a stable monitored condition and in the recovery phase following discontinuation of their sedation. ()~~

045. SEDATION PERMIT RENEWAL.

01. Permit Renewal. Before the expiration date of a permit, the board will provide notice of renewal to the licensee. Failure to timely submit a renewal application and permit fee shall result in expiration of the permit and termination of the licensee's right to administer sedation. Failure to submit a complete renewal application and permit fee within thirty (30) days of expiration of the permit shall result in cancellation of the permit. Renewal of the permit will be required every five (5) years. Proof of a minimum of twenty-five (25) continuing education credit hours in sedation which may include training in medical/office emergencies will be required to renew a permit. ~~In addition to the continuing education credit hours, a dentist must: ()~~

~~a. For a moderate enteral sedation permit, maintain current certification in BLS or ACLS. ()~~

~~b. For a moderate parenteral, general anesthesia, or deep sedation permit, maintain current certification in ACLS. ()~~

02. Reinstatement. A dentist may apply for reinstatement of a canceled or surrendered permit issued by the Board within five (5) years of the date of the permit's cancellation or surrender. Applicants for reinstatement of a sedation permit must satisfy the facility and personnel requirements and verify they have obtained an average of five (5) continuing education credit hours in sedation for each year subsequent to the date upon which the permit was canceled or surrendered. A fee for reinstatement will be assessed. ()

046. SUSPENSION, REVOCATION OR RESTRICTION OF SEDATION PERMIT.

The Board may, at any time and for just cause, institute proceedings to revoke, suspend, or otherwise restrict a sedation permit ~~issued pursuant to Section 044 of these rules~~. If the Board determines that emergency action is necessary to protect the public, summary suspension may be ordered pending further proceedings. Proceedings to suspend, revoke or restrict a permit shall be subject to applicable statutes and rules governing administrative procedures before the Board. ()

~~**047. DETERMINATION OF DEGREE OF SEDATION BY THE BOARD.**~~

~~In any matter under review or in any proceeding being conducted in which the Board must determine the degree of central nervous system depression, the Board may base its findings or conclusions on, among other matters, the type, and dosages, and routes of administration of drugs administered to the patient and what result can reasonably be expected from those drugs in those dosages and routes administered in a patient of that physical and psychological status. ()~~

048. USE OF OTHER ANESTHESIA PERSONNEL.

A dentist who does not hold a sedation permit may perform dental procedures in a dental office on a patient who receives sedation induced by an anesthesiologist, a certified registered nurse anesthetist, or another dentist with a sedation permit ~~as follows: ()~~

~~**01. Facility, Equipment, Drugs, and Personnel Requirements.** The dentist will have the same~~

~~facility, equipment, drugs, and personnel available during the procedure and during recovery as required of a dentist who has a permit for the level of sedation being provided.()~~

~~**02. Patient's Condition Monitored Until Discharge.** The qualified sedation provider who induces sedation will monitor the patient's condition until the patient is discharged ~~and record the patient's condition at discharge in the patient's dental record as required by the rules applicable to the level of sedation being induced.~~ The sedation record must be maintained in the patient's dental record and is the responsibility of the dentist who is performing the dental procedures.()~~

~~**03. Use of Services of a Qualified Sedation Provider.** A dentist who intends to use the services of a qualified sedation provider must notify the Board in writing of his intent. Such notification need only be submitted once every licensing period.()~~

~~**04. Advertising.** A dentist who intends to use the services of a qualified sedation provider may advertise the service provided so long as each such advertisement contains a prominent disclaimer that the service "will be provided by a qualified sedation provider."()~~

049. INCIDENT REPORTING.

Dentists must report to the Board, in writing, within seven (7) days after the death or transport to a hospital or emergency center for medical treatment for a period exceeding twenty-four (24) hours of any patient ~~to whom sedation was administered.~~()

~~**050. 055.(RESERVED)**~~

056. UNPROFESSIONAL CONDUCT.

A licensee shall not engage in unprofessional conduct in the course of his practice. Unprofessional conduct by a person licensed under the provisions of Title 54, Chapter 9, Idaho Code, is defined as, but not limited to, ~~one (1)~~ any of the following: ()

01. Fraud. Obtaining fees by fraud or misrepresentation, or over-treatment either directly or through an insurance carrier.()

02. Unlicensed Practice. Employing directly or indirectly any suspended or unlicensed individual as defined in Title 54, Chapter 9, Idaho Code.()

03. Unlawful Practice. Aiding or abetting licensed persons to practice unlawfully.()

04. Dividing Fees. A dentist shall not divide a fee for dental services with another party, who is not a partner or associate with him in the practice of dentistry, unless:()

a. The patient consents to employment of the other party after a full disclosure that a division of fees will be made; ()

b. The division is made in proportion to the services performed and responsibility assumed by each dentist or party. ()

05. Prescription Drugs. Prescribing or administering prescription drugs not reasonably necessary for, or within the scope of, providing dental services for a patient. A dentist may not prescribe or administer prescription drugs to himself. A dentist shall not use controlled substances as an inducement to secure or maintain dental patronage or aid in the maintenance of any person's drug addiction by selling, giving or prescribing prescription drugs. ()

06. Harassment. The use of threats or harassment to delay or obstruct any person in providing evidence in any possible or actual disciplinary action, or other legal action; or the discharge of an employee primarily based on the employee's attempt to comply with the provisions of Title 54, Chapter 9, Idaho Code, or the Board's Rules, or to aid in such compliance.()

- 07. Discipline in Other States.** Conduct himself in such manner as results in a suspension, revocation or other disciplinary proceedings with respect to his license in another state.()
- 08. Altering Records.** Alter a patient's record with intent to deceive.()
- 09. Office Conditions.** Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental profession in the state of Idaho and CDC guidelines as incorporated by reference in these rules. ()
- 10. Abandonment of Patients.** Abandonment of patients by licensees before the completion of a phase of treatment, as such phase of treatment is contemplated by the customary practice and standards of the dental profession in the state of Idaho, without first advising the patient of such abandonment and of further treatment that is necessary. ()
- 11. Use of Intoxicants.** Practicing while under the influence of an intoxicant or controlled substance where the same impairs the licensee's ability to practice with reasonable and ordinary care.()
- 12. Mental or Physical Condition.** The inability to practice with reasonable skill and safety to patients by reason of age, illness, or as a result of any mental or physical condition.()
- 13. Consent.** Revealing personally identifiable facts, data or information obtained in a professional capacity without prior consent of the patient, except as authorized or required by law.()
- 14. Scope of Practice.** Practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities that the licensee knows or has reason to know that he or she is not competent to perform.()
- 15. Delegating Duties.** Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows, or with the exercise of reasonable care and control should know, that such a person is not qualified by training or by licensure to perform them.()
- 16. Unauthorized Treatment.** Performing professional services that have not been authorized by the patient or his legal representative.()
- 17. Supervision.** Failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of a licensed professional.()
- 18. Legal Compliance.** Failure to comply with any provisions of federal, state or local laws, statutes, rules, and regulations governing or affecting the practice of dentistry, ~~or~~ dental hygiene, or dental therapy.()
- 19. Exploiting Patients.** Exercising undue influence on a patient in such manner as to exploit a patient for the financial or personal gain of a practitioner or of a third party.()
- 20. Misrepresentation.** Willful misrepresentation of the benefits or effectiveness of dental services. ()
- 21. Disclosure.** Failure to advise patients or their representatives in understandable terms of the treatment to be rendered, alternatives, the name and professional designation of the provider rendering treatment, and disclosure of reasonably anticipated fees relative to the treatment proposed.()
- 22. Sexual Misconduct.** Making suggestive, sexual or improper advances toward any patient person or committing any lewd or lascivious act upon or with any patient person in the course of dental practice.()
- 23. Patient Management.** Use of unreasonable and/or damaging force to manage patients, including but not limited to hitting, slapping or physical restraints.()
- 24. Compliance ~~with Dentist~~ Professional Standards.** Failure ~~by a dentist~~ to comply with

professional standards applicable to the practice of dentistry, dental hygiene, or dental therapy as incorporated by reference in this chapter. ()

~~25. **Compliance with Dental Hygienist Professional Standards.** Failure by a dental hygienist to comply with professional standards applicable to the practice of dental hygiene, as incorporated by reference in this chapter. ()~~

26. Failure to Provide Records to a Patient or Patient's Legal Guardian. Refusal or failure to provide a patient or patient's legal guardian with records within five (5) business days. A patient or patient's legal guardian may not be denied a copy of his records for any reason, regardless of whether the person has paid for the dental services rendered. A person may be charged for the actual cost of providing the records but in no circumstances may a person be charged an additional processing or handling fee or any charge in addition to the actual cost. ()

27. Failure to Cooperate with Authorities. Failure to cooperate with authorities in the investigation of any alleged misconduct or interfering with a Board investigation by willful misrepresentation of facts, willful failure to provide information upon request of the Board, or the use of threats or harassment against any patient or witness to prevent them from providing evidence. ()

28. Advertising. Advertise in a way that is false, deceptive, misleading or not readily subject to verification. ()

~~057. 999.(RESERVED)~~

PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

Department or Agency: Division of Occupational and Professional Licenses

Agency Contact: Michael Hyde **Phone:** (208) 332-7133

Date: 8/4/2023

IDAPA, Chapter and Title Number and Chapter Name:

24.31.01 – Rules of the Idaho Board of Dentistry

Fee Rule Status: x **Proposed** **Temporary**

Rulemaking Docket Number: 24-3101-2301

STATEMENT OF ECONOMIC IMPACT: This rulemaking does not impose a new fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature in the prior rules.

The following is a specific description of the fees or charges:

400. FEES.

License/Permit Type	Application Fee	License/Permit Fee
Dentist/Dental Specialist	\$300	Active Status: \$375 Inactive Status: \$160
Dental Hygienist	\$150	Active Status: \$175 Inactive Status: \$85
Dental Therapist	\$200	Active Status: \$250 Inactive Status: \$125
Sedation Permit	\$300	\$300

INCORPORATION BY REFERENCE SYNOPSIS

In compliance with Section 67-5223(4), Idaho Code, the following is a synopsis of the differences between the materials previously incorporated by reference in this rule that are currently of full force and effect and newly revised or amended versions of these same materials that are being proposed for incorporation by reference under this rulemaking.

The following agency of the state of Idaho has prepared this synopsis as part of the proposed rulemaking for the chapter cited here under the docket number specified:

IDAPA 24 – Division of Occupational and Professional Licenses

24.31.01 – Rules of the Idaho Board of Dentistry

Proposed Rulemaking - Docket No. 24-3101-2301

The proposed rulemaking adopts and incorporates the current versions of the *Office Anesthesia Evaluation Manual*, published by the American Association of Oral and Maxillofacial Surgeons (AAOMS); the *Guidelines for Infection Control in Dental Health-Care Settings*, published by the Centers for Disease Control and Prevention (CDC); the *Guidelines for Use of Sedation and General Anesthesia by Dentists*, published by the American Dental Association (ADA); the *Principles of Ethics, Code of Professional Conduct, and Advisory Opinions*, published by the ADA; and the *Standards for Clinical Dental Hygiene Practice*, published by the American Dental Hygienists Association (ADHA). The current rules incorporated these same reference materials, except for the ADA's *Guidelines for Use of Sedation and General Anesthesia*. As part of the proposed rulemaking, recognizing that the Board's current rules on the use of sedation had adopted those guidelines, the Board determined that incorporation of the guidelines would achieve greater efficiencies in its rulemaking.