

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*

A Statement of Need and Fiscal Impact accompanies this form.

Oregon Board of Dentistry
Agency and Division

Chapter 818
Administrative Rules Chapter Number

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Telephone

RULE CAPTION

Amends/ repeals rules: Procedures, Standards of Practice, Advertising, Examination/Licensing, Anesthesia, Dental Hygiene, Dental Assisting.

October 9, 2008 7:00 p.m. OHSU School of Dentistry, 611 SW Campus Dr., Rooms 220 & 225, Portland, OR .
Hearing Date Time Location

Board President or Designee
Hearings Officer

Auxiliary aids for persons with disabilities are available upon advance request.

RULEMAKING ACTION

ADOPT:

AMEND: 818-001-0002, 818-012-0030, 818-012-0040, 818-012-0060, 818-012-0070, 818-015-0005, 818-015-0007, 818-015-0015, 818-021-0017, 818-026-0030, 818-035-0020, 818-035-0025, 818-035-0030, 818-035-0040, 818-035-0100, 818-042-0095

REPEAL: 818-012-0050

ORS 679 & 680
Stat. Auth.

HB 2867 (Chapter 379, 2007 Laws) & SB 591 (Chapter 812, 2007 Laws)
Other Authority

ORS 192.521, 679.010, 680.020, 680.026, 680.150, 680.200 & 680.205
Stats. Implemented

RULE SUMMARY

The Board is amending, 818-001-0002, Definitions, to update the titles of the dental specialties that are defined by the American Dental Association and adding a definition of a full-time student as defined in the statutes for clarification.

The Board is amending, 818-012-0030, Standards of Practice, to include language that is being repealed from 818-012-0050 and to update fees that were previously updated by legislation but was changed in error.

The Board is amending, 818-012-0040, Infection Control Guidelines, to update the current name of the federal agency that develops guidelines on infection control and to update current terminology for Hand Hygiene.

The Board is amending, 818-012-0060, Failure to Cooperate with Board, to include provisions regarding persons who may deal with the Board.

The Board is amending, 818-012-0070, Patient Records, to further clarify which types of dental models are considered part of a patient record.

The Board is amending, 818-015-0005, General Provisions, to further clarify and define advertising.

The Board is amending, 818-015-0007, Specialty Advertising, to include the updated titles of dental specialties that are being amended in 818-001-0002.

The Board is amending, 818-015-0015, Disclosure Requirements, to clarify what type of information must be found in an advertisement by a licensee of the Board.

The Board is amending, 818-021-0017, Application to Practice as a Specialist, to allow an applicant who has completed a post-graduate specialty program of not less than two years from a dental school accredited by the Commission on Dental Accreditation of the American Dental Association to be eligible to practice as a Specialist after meeting all other requirements.

The Board is amending, 818-026-0030, Requirement for Anesthesia Permit, Standards and Qualification of an Anesthesia Monitor, to include dental hygiene for the purposes of applying for a permit if the education and training has been more than five years, as it was previously left out in a previous rule adoption.

The Board is amending, 818-035-0020, Authorization to Practice, to include diagnoses and treatment plan for dental hygiene services.

The Board is amending, 818-035-0025, Prohibitions, to clarify the prescription, administering and dispensing of certain drugs by a dental hygienist; and to clarify and update prohibitions to be consistent with the restorative rule.

The Board is amending, 818-035-0030, Additional Functions of Dental Hygienists, to include functions that were previously a part of the Expanded Functions of Dental Hygienists.

The Board is amending, 818-035-0040, Expanded Functions of Dental Hygienists, to remove those items that have been moved to Additional Functions of Dental Hygienists and renumber.

The Board is amending, 818-035-0100, Record Keeping, to remove a requirement that was previously changed by recent legislation.

The Board is amending, 818-042-0095, Restorative Functions of Dental Assistants, to remove Endorsements as it is not a part of the title assigned to those dental assistants who can perform Restorative Functions.

The Board is repealing, 818-012-0050, Obtaining a Fee by Fraud or Misrepresentation, as similar language is found elsewhere in the Board's rules regarding Unprofessional Conduct and it was felt to be duplicative.

Copies of the full text of proposed changes can be found on the Board's Web site (www.oregon.gov/dentistry) under "CURRENT TOPICS" or by calling the Board of Dentistry at (971) 673-3200.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

October 8, 2008

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

/s/ Patrick D. Braatz

Signature

Patrick D. Braatz

Printed Name

August 15, 2008

Date

* Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday.
ARC 920-2005

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Board of Dentistry
Agency and Division

Chapter 818
Administrative Rules Chapter Number

In the Matter of: The Amendment of OAR 818-001-0002, 818-012-0030, 818-012-0040, 818-012-0060, 818-012-0070, 818-015-0005, 818-015-0007, 818-015-0015, 818-021-0017, 818-026-0030, 818-035-0020, 818-035-0025, 818-035-0030, 818-035-0040, 818-035-0100, 818-042-0095 and the Repeal of OAR 818-012-0050.

Rule Caption: Amends/repeals rules: Procedures, Standards of Practice, Advertising, Examination/Licensing, Anesthesia, Dental Hygiene, Dental Assisting.

Statutory Authority: ORS 679 & 680

Other Authority: HB 2867 (Chapter 379, 2007 Laws) & SB 591 (Chapter 812, 2007 Laws)

Stats. Implemented: ORS 192.521, 679.010, 680.020, 680.026, 680.150, 680.200 & 680.205

Need for the Rule(s):

The amendment to the Definitions rule is necessary to bring the rule into conformity with the titles currently used in the dental community and to clarify the definition of full-time student for dental and dental hygiene schools.

The amendment to Standards of Practice is necessary for the inclusion of language that is being repealed from 818-012-0050 and to clarify an error that was made when the rule was previously updated by recent legislation.

The amendment to Infection Control Guidelines is necessary to list the correct name of the federal agency that the Board refers to in the rule.

The amendment to Failure to Cooperate with Board is necessary to clarify that individuals other than licensees need to cooperate with the Board during an investigative process.

The amendment to Patient Records is necessary to clarify which types of dental models are considered part of a patient record.

The amendment to General Provisions is necessary to further clarify and define advertising that is allowed by licensees.

The amendment to Specialty Advertising is necessary as a result of the changes to the titles that have been changed for dental specialties.

The amendment to Disclosure Requirements is necessary to clarify for licensees what type of information must be found in an advertisement.

The amendment to Application to Practice as a Specialist is necessary to allow an applicant who has completed a post-graduate specialty program of not less than two years from a dental school accredited by the Commission on Dental Accreditation of the American Dental Association to be eligible to apply for a license to practice as a Specialist after meeting all other requirements.

The amendment to Requirement for Anesthesia Permit, Standards and Qualification of an Anesthesia Monitor is necessary to include dental hygiene for the purposes of applying for a permit if the education and training has been more than five years as it was previously left out in a previous rule adoption.

The amendment to Authorization to Practice is necessary to clarify and include diagnoses and treatment plan for dental hygiene services which was previously allowed by the Board in another rule change but was never changed in this section.

The amendment to Prohibitions is necessary to clarify what prescriptions can be written, what drugs can be administered and what drugs can be dispensed by a dental hygienist; also to clarify and update prohibitions to be consistent with the restorative rule.

The amendment to Additional Functions of Dental Hygienists is necessary to include functions that were previously a part of the Expanded Functions of Dental Hygienists and are now considered additional functions.

The amendment to Expanded Functions of Dental Hygienists is necessary to remove those items that have been moved to Additional Functions of Dental Hygienists and to allow for renumbering.

The amendment to Record Keeping is necessary to remove a requirement that was previously changed by recent legislation.

The amendment to Restorative Functions of Dental Assistants is necessary to remove the title Endorsement as it is not a part of the title assigned to those dental assistants who can perform Restorative Functions.

The amendment repealing Obtaining a Fee by Fraud or Misrepresentation is necessary as similar language is found elsewhere in the Board's rules regarding Unprofessional Conduct and it was felt to be duplicative.

Documents Relied Upon, and where they are available:

Minutes from the Board's Advertising Subcommittee of April 8, 2008; Minutes from the Dental Hygiene Committee of August 1, 2008; Minutes from the Board's Rules Oversight Committee of August 14, 2008; Legal advice from the Board's Senior Assistant Attorney General; House Bill 2867 now Chapter 379 (2007 Laws); and Senate Bill 591 now Chapter 812 (2007 Laws).

Fiscal and Economic Impact:

Any fiscal impact will be minimal and should not cause any substantial fiscal or economic impact to applicants, licensees and the agency.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E):

The only impact will be on the Oregon Board of Dentistry in updating forms and the Dental Practice Act.

2. Cost of compliance effect on small business (ORS 183.336):
 - a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

It is not possible to estimate the exact number of small businesses, as the majority of dental practices are considered a "small business."

- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: None

**DIVISION 1
PROCEDURES**

1 **818-001-0002**

2 **Definitions**

3 As used in OAR Chapter 818:

4 (1) "Board" means the Oregon Board of Dentistry, the members of
5 the Board, its employees, its agents, and its consultants.

6

7 (2) "Dental Practice Act" means ORS Chapter 679 and 680.010 to
8 680.170 and the rules adopted pursuant thereto.

9

10 (3) "Dentist" means a person licensed pursuant to ORS Chapter
11 679 to practice dentistry.

12

13 (4) "Direct Supervision" means supervision requiring that a
14 dentist diagnose the condition to be treated, that a dentist
15 authorize the procedure to be performed, and that a dentist
16 remain in the dental treatment room while the procedures are
17 performed.

18

19 (5) "General Supervision" means supervision requiring that a
20 dentist authorize the procedures, but not requiring that a
21 dentist be present when the authorized procedures are performed.
22 The authorized procedures may also be performed at a place other
23 than the usual place of practice of the dentist.

24

25 (6) "Hygienist" means a person licensed pursuant to ORS 680.010
26 to 680.170 to practice dental hygiene.

27

28 (7) "Indirect Supervision" means supervision requiring that a
29 dentist authorize the procedures and that a dentist be on the
30 premises while the procedures are performed.

31 (8) "Informed Consent" means the consent obtained following a
32 thorough and easily understood explanation to the patient, or
33 patient's guardian, of the proposed procedures, any available
34 alternative procedures and any risks associated with the
35 procedures. Following the explanation, the licensee shall ask
36 the patient, or the patient's guardian, if there are any
37 questions. The licensee shall provide thorough and easily
38 understood answers to all questions asked.

39

40 (9) "Licensee" means a dentist or hygienist.

41

42 (a) "Volunteer Licensee" is a dentist or dental hygienist
43 licensed according to rule to provide dental health care without
44 receiving or expecting to receive compensation.

45

46 (10) "Limited Access Patient" means a patient who, due to age,
47 infirmity, or handicap is unable to receive regular dental
48 hygiene treatment in a dental office.

49

50 (11) "Specialty." Specialty areas of dentistry are as defined by
51 the American Dental Association, Council on Dental Education.
52 The specialty definitions are added to more clearly define the
53 scope of the practice as it pertains to the specialty areas of
54 dentistry.

55

56 (a) "Dental Public Health" is the science and art of preventing
57 and controlling dental diseases and promoting dental health
58 through organized community efforts. It is that form of dental
59 practice which serves the community as a patient rather than the
60 individual. It is concerned with the dental health education of
61 the public, with applied dental research, and with the

62 administration of group dental care programs as well as the
63 prevention and control of dental diseases on a community basis.

64

65 (b) "Endodontics" is the branch of dentistry which is concerned
66 with the morphology, physiology and pathology of the human
67 dental pulp and periradicular tissues. Its study and practice
68 encompass the basic and clinical sciences including biology of
69 the normal pulp, the etiology, diagnosis, prevention and
70 treatment of diseases and injuries of the pulp and associated
71 periradicular conditions.

72

73 (c) "Oral and Maxillofacial Pathology" is the specialty of
74 dentistry and discipline of pathology that deals with the
75 nature, identification, and management of diseases affecting the
76 oral and maxillofacial regions. It is a science that
77 investigates the causes, processes, and effects of these
78 diseases. The practice of oral pathology includes research and
79 diagnosis of diseases using clinical, radiographic, microscopic,
80 biochemical, or other examinations.

81

82 (d) "Oral and Maxillofacial Radiology" is the specialty of
83 dentistry and discipline of radiology concerned with the
84 production and interpretation of images and data produced by all
85 modalities of radiant energy that are used for the diagnosis and
86 management of diseases, disorders and conditions of the oral and
87 maxillofacial region.

88

89 (e) "Oral and Maxillofacial Surgery" is the specialty of
90 dentistry which includes the diagnosis, surgical and adjunctive
91 treatment of diseases, injuries and defects involving both the
92 functional and esthetic aspects of the hard and soft tissues of
93 the oral and maxillofacial region.

94 (f) "Orthodontics and Dentofacial Orthopedics" is the area of
95 dentistry concerned with the supervision, guidance and
96 correction of the growing or mature dentofacial structures,
97 including those conditions that require movement of teeth or
98 correction of malrelationships and malformations of their
99 related structures and the adjustment of relationships between
100 and among teeth and facial bones by the application of forces
101 and/or the stimulation and redirection of functional forces
102 within the craniofacial complex. Major responsibilities of
103 orthodontic practice include the diagnosis, prevention,
104 interception and treatment of all forms of malocclusion of the
105 teeth and associated alterations in their surrounding
106 structures; the design, application and control of functional
107 and corrective appliances; and the guidance of the dentition and
108 its supporting structures to attain and maintain optimum
109 occlusal relations in physiologic and esthetic harmony among
110 facial and cranial structures.

111

112 (g) "Pediatric Dentistry" is an age-defined specialty that
113 provides both primary and comprehensive preventive and
114 therapeutic oral health care for infants and children through
115 adolescence, including those with special health care needs.

116

117 (h) "Periodontics" is the specialty of dentistry which
118 encompasses the prevention, diagnosis and treatment of diseases
119 of the supporting and surrounding tissues of the teeth or their
120 substitutes and the maintenance of the health, function and
121 esthetics of these structures and tissues.

122

123 (i) "Prosthodontics" is the branch of dentistry pertaining to
124 the restoration and maintenance of oral functions, comfort,
125 appearance and health of the patient by the restoration of

126 natural teeth and/or the replacement of missing teeth and
127 contiguous oral and maxillofacial tissues with artificial
128 substitutes.

129

130 (12) "Full-time" as used in ORS 679.025 and 680.020 is defined
131 by the Board as any student who is enrolled in an institution
132 accredited by the Commission on Dental Accreditation of the
133 American Dental Association or its successor agency in a course
134 of study for dentistry or dental hygiene.

135

136 Stat. Auth.: ORS 679 & 680

137 Stats. Implemented: ORS 679.010 & 680.010

DIVISION 12
STANDARDS OF PRACTICE

1 818-012-0030

2 **Unprofessional Conduct**

3 The Board finds that in addition to the conduct set forth in ORS
4 679.140(2), a licensee engages in unprofessional conduct if the
5 licensee does or permits any person to:

6

7 (1) Attempt to obtain a fee by fraud or misrepresentation.

8

9 (2) Obtaining a Fee by Fraud or Misrepresentation.

10

11 (a) A licensee obtains a fee by fraud if the licensee obtains a
12 fee by knowingly making or permitting any person to make a
13 material, false statement intending that a recipient who is
14 unaware of the truth rely upon the statement.

15

16 (b) A licensee obtains a fee by misrepresentation if the
17 licensee obtains a fee through making or permitting any person
18 to make a material, false statement.

19

20 (c) Giving cash discounts and not disclosing them to third party
21 payors is not fraud or misrepresentation.

22

23 [~~2~~] (3) Offer rebates, split fees, or commissions for services
24 rendered to a patient to any person other than a partner,
25 employee, or employer.

26

27 [~~3~~] (4) Accept rebates, split fees, or commissions for
28 services rendered to a patient from any person other than a
29 partner, employee, or employer.

30

31 ~~[(4)]~~ (5) Initiate, or engage in, with a patient, any behavior
32 with sexual connotations. The behavior can include but is not
33 limited to, inappropriate physical touching; kissing of a sexual
34 nature; gestures or expressions, any of which are sexualized or
35 sexually demeaning to a patient; inappropriate procedures,
36 including, but not limited to, disrobing and draping practices
37 that reflect a lack of respect for the patient's privacy; or
38 initiating inappropriate communication, verbal or written,
39 including, but not limited to, references to a patient's body or
40 clothing that are sexualized or sexually demeaning to a patient;
41 and inappropriate comments or queries about the professional's
42 or patient's sexual orientation, sexual performance, sexual
43 fantasies, sexual problems, or sexual preferences.

44

45 ~~[(5)]~~ (6) Engage in an unlawful trade practice as defined in ORS
46 646.605 to 646.608.

47

48 ~~[(6)]~~ (7) Fail to present a treatment plan with estimated costs
49 to a patient upon request of the patient or to a patient's
50 guardian upon request of the patient's guardian.

51

52 ~~[(7)]~~ (8) Misrepresent any facts to a patient concerning
53 treatment or fees.

54

55 ~~[(8)]~~ (9)(a) Fail to provide a patient or patient's guardian
56 within 14 days of written request:

57

58 (A) Legible copies of records; and

59

60 (B) Duplicates of study models and radiographs, photographs or
61 legible copies thereof if the radiographs, photographs or study
62 models have been paid for.

63

64 (b) The dentist may require the patient or guardian to pay in
65 advance a fee reasonably calculated to cover the costs of making
66 the copies or duplicates. The dentist may charge a fee not to
67 exceed \$30 for copying 10 or fewer pages of written material and
68 no more than \$0.50 per page for pages 11 through 50 and no more
69 than 25 cents for each additional page (including records copied
70 from microfilm), plus any postage costs to mail copies requested
71 and actual costs of preparing an explanation or summary of
72 information, if requested. The actual cost of duplicating x-rays
73 may also be charged to the patient. Patient records or summaries
74 may not be withheld from the patient because of any prior unpaid
75 bills, except as provided in (8)(a)(B) of this rule.

76

77 [~~(9)~~] (10) Fail to identify to a patient, patient's guardian, or
78 the Board the name of an employee, employer, contractor, or
79 agent who renders services.

80

81 [~~(10)~~] (11) Use prescription forms pre-printed with any Drug
82 Enforcement Administration number, name of controlled
83 substances, or facsimile of a signature.

84

85 [~~(11)~~] (12) Use a rubber stamp or like device to reproduce a
86 signature on a prescription form or sign a blank prescription
87 form.

88

89 [~~(12)~~] (13) Order drugs listed on Schedule II of the Drug Abuse
90 Prevention and Control Act, 21 U.S.C. Sec. 812, for office use
91 on a prescription form.

92

93 [~~(13)~~] (14) Violate any Federal or State law regarding
94 controlled substances.

95

96 [~~(14)~~] (15) Becomes addicted to, or dependent upon, or abuses
97 alcohol, illegal or controlled drugs, or mind altering
98 substances.

99

100 [~~(15)~~] (16) Practice dentistry or dental hygiene in a dental
101 office or clinic not owned by an Oregon licensed dentist(s),
102 except for an entity described under ORS 679.020(3) and dental
103 hygienists practicing pursuant to ORS 680.205(1)(2).

104

105 [~~(16)~~] (17) Make an agreement with a patient or person, or any
106 person or entity representing patients or persons, or provide
107 any form of consideration that would prohibit, restrict,
108 discourage or otherwise limit a person's ability to file a
109 complaint with the Oregon Board of Dentistry; to truthfully and
110 fully answer any questions posed by an agent or representative
111 of the Board; or to participate as a witness in a Board
112 proceeding.

113

114 [Publications: Publications referenced are available from the
115 agency.]

116 Stat. Auth.: ORS 679 & 680

117 Stats. Implemented: ORS 679.140(1)(c), 679.140(2), 679.170(6) &
118 680.100

119

120 **818-012-0040**

121 **Infection Control Guidelines**

122 In determining what constitutes unacceptable patient care with
123 respect to infection control, the Board may consider current
124 infection control guidelines such as those of the [~~Center for~~
125 ~~Disease Control~~] Centers for Disease Control and Prevention and

126 the American Dental Association. Additionally, licensees must
127 comply with the following requirements:

128

129 (1) Disposable gloves shall be worn whenever placing fingers
130 into the mouth of a patient or when handling blood or saliva
131 contaminated instruments or equipment. [~~Hands shall be washed
132 and regloved before performing procedures on another patient.~~]
133 Appropriate hand hygiene shall be performed prior to gloving
134 before performing procedures on another patient.

135

136 (2) Masks and protective eyewear or chin-length shields shall be
137 worn by licensees and other dental care workers when spattering
138 of blood or other body fluids is likely.

139

140 (3) Between each patient use, instruments or other equipment
141 that come in contact with body fluids shall be sterilized.

142

143 (4) Heat sterilizing devices shall be tested for proper function
144 on a weekly basis by means of a biological monitoring system
145 that indicates micro-organisms kill.

146

147 (5) Environmental surfaces that are contaminated by blood or
148 saliva shall be disinfected with a chemical germicide which is
149 mycobactericidal at use.

150

151 (6) Impervious backed paper, aluminum foil, or plastic wrap may
152 be used to cover surfaces that may be contaminated by blood or
153 saliva and are difficult or impossible to disinfect. The cover
154 shall be replaced between patients.

155

156 (7) All contaminated wastes and sharps shall be disposed of
157 according to any governmental requirements.

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Stat. Auth.: ORS 679.120, 679.250(7), 680.075 & 680.150
Stats. Implemented: ORS 679.140, 679.140(4) & 680.100

~~[818-012-0050]~~

~~[Obtaining a Fee by Fraud or Misrepresentation]~~

~~[(1) A licensee obtains a fee by fraud if the licensee obtains a fee by knowingly making or permitting any person to make a material, false statement intending that a recipient who is unaware of the truth rely upon the statement.]~~

~~[(2) A licensee obtains a fee by misrepresentation if the licensee obtains a fee through making or permitting any person to make a material, false statement.]~~

~~[(3) Giving cash discounts and not disclosing them to third party payors is not fraud or misrepresentation.]~~

~~[Stat. Auth.: ORS 679 & ORS 680]~~

~~[Stats. Implemented: ORS 679.140(2)(b) & ORS 680.100]~~

818-012-0060

Failure to Cooperate with Board

No licensee shall:

(1) Fail to report to the Board violations of the Dental Practice Act.

(2) Use threats or harassment to delay or obstruct any person in providing evidence in any investigation, contested case, or other legal action instituted by the Board.

190 (3) Discharge an employee based primarily on the employee's
191 attempt to comply with or aid in the compliance with the Dental
192 Practice Act.

193

194 (4) Use threats or harassment to obstruct or delay the Board in
195 carrying out its functions under the Dental Practice Act.

196

197 (5) Deceive or attempt to deceive the Board with respect to any
198 matter under investigation including altering or destroying any
199 records.

200

201 (6) Make an untrue statement on any document, letter, or
202 application submitted to the Board.

203

204 (7) Fail to temporarily surrender custody of original patient
205 records to the Board when the Board makes a written request for
206 the records. For purposes of this rule, the term records
207 includes, but is not limited to, the jacket, treatment charts,
208 models, radiographs, photographs, health histories, billing
209 documents, correspondence and memoranda.

210

211 **No person shall:**

212 **(8) Deceive or attempt to deceive the Board with respect to any**
213 **matter under investigation including altering or destroying any**
214 **records.**

215

216 **(9) Make an untrue statement on any document, letter, or**
217 **application submitted to the Board.**

218

219 Stat. Auth.: ORS 679 & ORS 680

220 Stats. Implemented: ORS 679.060(4), ORS 679.170(5), ORS

221 679.250(8), ORS 679.290, ORS 679.310(1), ORS 680.050(4) & ORS
222 680.100

223

224 **818-012-0070**

225 **Patient Records**

226 (1) Each licensee shall have prepared and maintained an accurate
227 record for each person receiving dental services, regardless of
228 whether any fee is charged. The record shall contain the name of
229 the licensee rendering the service and include:

230

231 (a) Name and address and, if a minor, name of guardian;

232

233 (b) Date and description of examination and diagnosis;

234

235 (c) An entry that informed consent has been obtained and the
236 date the informed consent was obtained. Documentation may be in
237 the form of an acronym such as "PARQ" (Procedure, Alternatives,
238 Risks and Questions) or "SOAP" (Subjective Objective Assessment
239 Plan) or their equivalent.

240

241 (d) Date and description of treatment or services rendered;

242

243 (e) Date and description of treatment complications;

244

245 (f) Date and description of all radiographs, study models, and
246 periodontal charting;

247

248 (g) Health history; and

249

250 (h) Date, name of, quantity of, and strength of all drugs
251 dispensed, administered, or prescribed.

252

253 (2) Each dentist shall have prepared and maintained an accurate
254 record of all charges and payments for services including source
255 of payments.

256

257 (3) Each dentist shall maintain patient records and radiographs
258 for at least seven years from the date of last entry unless:

259

260 (a) The patient requests the records, radiographs, and models be
261 transferred to another dentist who shall maintain the records
262 and radiographs;

263

264 (b) The dentist gives the records, radiographs, or intact models
265 to the patient; or

266

267 (c) The dentist transfers the dentist's practice to another
268 dentist who shall maintain the records and radiographs.

269

270 Stat. Auth.: ORS 679

271 Stats. Implemented: ORS 679.140(1)(e) & ORS 679.140(4)

DIVISION 15
ADVERTISING

1 818-015-0005

2 **General Provisions**

3 (1)"To advertise" means to publicly communicate information
4 about a licensee's professional services or qualifications for
5 the purpose of soliciting business.

6
7 (2) Advertising shall not be false, deceptive, misleading or not
8 readily subject to verification and shall not make claims of
9 professional superiority which cannot be substantiated by the
10 licensee, who shall have the burden of proof.

11
12 ~~[(2)]~~(3) A licensee who authorizes another to disseminate
13 information about the licensee's professional services to the
14 public is responsible for the content of that information unless
15 the licensee can prove by clear and convincing evidence that the
16 content of the advertisement is contrary to the licensee's
17 specific directions.

18
19 Stat. Auth.: ORS 679
20 Stats. Implemented: ORS 679.140(2)(e)

21
22 818-015-0007

23 **Specialty Advertising**

24 (1) The Board recognizes the following specialties:

- 25
26 (a) Endodontics;
27
28 (b) Oral and Maxillofacial Surgery;
29
30 (c) Oral and Maxillofacial Radiology;

31

32 (d) Oral and Maxillofacial Pathology;

33

34 (e) Orthodontics and Dentofacial Orthopedics;

35

36 (f) Pediatric Dentistry;

37

38 (g) Periodontics;

39

40 (h) Prosthodontics; and

41

42 (i) Public Health Dentistry.

43

44 (2) A dentist may only advertise as a specialist or as
45 specializing in an area of dentistry which is recognized by the
46 Board and in which the dentist is licensed or certified by the
47 Board.

48

49 (3) A dentist whose license is not limited to the practice of a
50 specialty under OAR 818-021-0017 may advertise that the dentist
51 performs or limits practice to specialty services even if the
52 dentist is not a specialist in the advertised area of practice
53 so long as the dentist clearly discloses that the dentist is a
54 general dentist or a specialist in a different specialty. For
55 example, the following disclosures would be in compliance with
56 this rule for dentists except those licensed pursuant to 818-
57 021-0017: "Jane Doe, DDS, General Dentist, practice limited to
58 pediatric dentistry." "John Doe, DMD, Endodontist, practice
59 includes prosthodontics."

60

61 (4) A hygienist may not advertise as a specialist in any area of
62 dentistry or dental hygiene.

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Stat. Auth.: ORS 679
Stats. Implemented: ORS 679.140(2)(e)

818-015-0015

Disclosure Requirements

(1) An advertisement [~~which includes specific services~~] must describe the dentist as practicing general dentistry or as a general dentist or as a specialist if the dentist is certified or has passed a specialty exam pursuant to OAR 818-021-0017 and OAR 818-015-0007. [~~in type at least as large as the type used to offer specific services.~~]

(2) An advertisement which includes the price of dental services must disclose:

(a) When services are advertised at a discount, the regular price of services;

(b) The dates advertised services will be available at the advertised price;

(c) When services are advertised at less than value, how the value was determined;

(d) Whether a discount is limited to cash payment; and

(e) There may be other costs based on dental needs determined after examination.

(3) An advertisement which consists of a newsletter or educational column not written by the licensee or employees must

95 include: "This column/newsletter is written on behalf of (name
96 of licensee advertising) by (name of person writing
97 column/newsletter)".

98

99 (4) An advertisement which may be mistaken for a news item must
100 include "paid advertisement".

101

102 (5) An advertisement for hygienist services must include the
103 name of the hygienist's supervising dentist unless the dental
104 hygienist is practicing under a Limited Access Permit issued
105 under ORS 680.200.

106

107 (6) A licensee who places an assumed business name or the name
108 of a professional corporation under a specialty heading in any
109 directory must identify the specialists practicing under the
110 name unless all licensees doing business under the name are
111 certified in that specialty.

112

113 (7) A professional corporation organized to provide dental
114 services may have a corporate name which does not contain the
115 last name of one or more of its shareholders.

116

117 Stat. Auth.: ORS 58 & ORS 679

118 Stats. Implemented: ORS 58.115 & ORS 679.140(20(e))

1 DIVISION 21
2 EXAMINATION AND LICENSING

3 818-021-0017

4 Application to Practice as a Specialist

5 [~~1) A dentist who wishes to practice as a specialist in Oregon,~~
6 ~~who does not have a current Oregon license, in addition to~~
7 ~~meeting the requirements set forth in ORS 679.060 and 679.065,~~
8 ~~shall submit to the Board satisfactory evidence of:]~~

9
10 [~~(a) Having graduated from a school of dentistry accredited by~~
11 ~~the Commission on Dental Accreditation of the American Dental~~
12 ~~Association and licensure as a general dentist in another state.~~
13 ~~Licensure as a general dentist must have been obtained as a~~
14 ~~result of the passage of any clinical Board examination~~
15 ~~administered by any state or regional testing agency; or]~~

16
17 [~~(b) Having graduated from a dental school located outside the~~
18 ~~United States or Canada:]~~

19
20 [~~(A) Completion of a predoctoral dental education program of not~~
21 ~~less than two years at a dental school accredited by the~~
22 ~~Commission on Dental Accreditation of the American Dental~~
23 ~~Association, proficiency in the English language, and evidence~~
24 ~~of licensure as a general dentist in another state; or]~~

25
26 [~~(B) Certification of having successfully passed the clinical~~
27 ~~examination administered by WREB within the five years~~
28 ~~immediately preceding application, and proficiency in the~~
29 ~~English language.]~~

31 ~~[(c) Certification of having passed Parts I and II of the dental~~
32 ~~examination administered by the Joint Commission on National~~
33 ~~Dental Examinations; and]~~

34
35 ~~[(d) Proof of satisfactory completion of a post-graduate~~
36 ~~specialty program accredited by the Commission on Dental~~
37 ~~Accreditation of the American Dental Association.]~~

38
39 ~~[(2) An applicant who meets the above requirements shall be~~
40 ~~issued a specialty license upon:]~~

41
42 ~~[(a) Passing a specialty examination administered by examiners~~
43 ~~appointed by the Board who are specialists in the same specialty~~
44 ~~as the applicant; and]~~

45
46 ~~[(b) Passing the Board's jurisprudence examination.]~~

47
48 ~~[(3) Any applicant who does not pass the first examination for a~~
49 ~~specialty license may apply for a second and third regularly~~
50 ~~scheduled specialty examination. The applicable fee and~~
51 ~~application for the reexamination shall be submitted to the~~
52 ~~Board at least 45 days before the scheduled examination. If the~~
53 ~~applicant fails to pass the third examination for the practice~~
54 ~~of a recognized specialty, the applicant will not be permitted~~
55 ~~to retake the particular specialty examination until he/she has~~
56 ~~attended and successfully passed a remedial program prescribed~~
57 ~~by a dental school and approved by the Board.]~~

58
59 ~~[(4) Licenses issued under this rule shall be limited to the~~
60 ~~practice of the specialty only.]~~

61
62

63 (1) A dentist who wishes to practice as a specialist in Oregon,
64 who does not have a current Oregon license, in addition to
65 meeting the requirements set forth in ORS 679.060 and 679.065,
66 shall submit to the Board satisfactory evidence of:

67
68 (a) Having graduated from a school of dentistry accredited by
69 the Commission on Dental Accreditation of the American Dental
70 Association and licensure as a general dentist in another state.
71 Licensure as a general dentist must have been obtained as a
72 result of the passage of any clinical Board examination
73 administered by any state or regional testing agency;

74
75 (b) Certification of having passed Parts I and II of the dental
76 examination administered by the Joint Commission on National
77 Dental Examinations; and

78
79 (c) Proof of satisfactory completion of a post-graduate
80 specialty program accredited by the Commission on Dental
81 Accreditation of the American Dental Association.

82
83 (2) A dentist who graduated from a dental school located outside
84 the United States or Canada who wishes to practice as a
85 specialist in Oregon, who does not have a current Oregon
86 license, in addition to meeting the requirements set forth in
87 ORS 679.060 and 679.065, shall submit to the Board satisfactory
88 evidence of:

89
90 (a) Completion of a post-graduate specialty program of not less
91 than two years at a dental school accredited by the Commission
92 on Dental Accreditation of the American Dental Association,
93 proficiency in the English language, and evidence of licensure
94 as a general dentist in another state obtained as a result of

95 the passage of any clinical Board examination administered by
96 any state or regional testing agency; or

97
98 (b) Completion of a post-graduate specialty program of not less
99 than two years at a dental school accredited by the Commission
100 on Dental Accreditation of the American Dental Association,
101 proficiency in the English language and certification of having
102 successfully passed the clinical examination administered by
103 any state or regional testing agency within the five years
104 immediately preceding application; and

105
106 (c) Certification of having passed Parts I and II of the dental
107 examination administered by the Joint Commission on National
108 Dental Examinations; and

109
110 (3) An applicant who meets the above requirements shall be
111 issued a specialty license upon:

112
113 (a) Passing a specialty examination administered by examiners
114 appointed by the Board who are specialists in the same specialty
115 as the applicant; and

116
117 (b) Passing the Board's jurisprudence examination.

118
119 (4) Any applicant who does not pass the first examination for a
120 specialty license may apply for a second and third regularly
121 scheduled specialty examination. The applicable fee and
122 application for the reexamination shall be submitted to the
123 Board at least 45 days before the scheduled examination. If the
124 applicant fails to pass the third examination for the practice
125 of a recognized specialty, the applicant will not be permitted
126 to retake the particular specialty examination until he/she has

127 attended and successfully passed a remedial program prescribed
128 by a dental school and approved by the Board.

129

130 (5) Licenses issued under this rule shall be limited to the
131 practice of the specialty only.

132

133 Stat. Auth.: ORS 679

134 Stats. Implemented: ORS 679.140, 679.060, 679.065, 679.070,

135 679.080 & 679.090

DIVISION 26
ANESTHESIA

1 **818-026-0030**

2 **Requirement for Anesthesia Permit, Standards and Qualifications**
3 **of an Anesthesia Monitor**

4 (1) A permit holder who administers sedation shall assure that
5 drugs, drug dosages, and/or techniques used to produce sedation
6 shall carry a margin of safety wide enough to prevent unintended
7 deeper levels of sedation.

8
9 (2) No dentist or dental hygienist shall induce central nervous
10 system sedation or general anesthesia without first having
11 obtained a permit under these rules for the level of anesthesia
12 being induced.

13
14 (3) No dentist or dental hygienist may be granted a permit to
15 administer sedation or general anesthesia under these rules
16 without documentation of current training/education and/or
17 competency in the permit category for which the licensee is
18 applying. The applicant may demonstrate current
19 training/education or competency by any one the following:

20
21 (a) Current training/education or competency shall be limited to
22 completion of initial training/education in the permit category
23 for which the applicant is applying and shall be completed no
24 more than two years immediately prior to application for
25 sedation or general anesthesia permit; or

26
27 (b) Completion of initial training/education no greater than
28 five years immediately prior to application for sedation or
29 general anesthesia permit. Current competency must be documented
30 by completion of all continuing education that would have been

31 required for that anesthesia/permit category during that five
32 year period following initial training; or

33
34 (c) Completion of initial training/education no greater than
35 five years immediately prior to application for sedation or
36 general anesthesia permit. Current competency must be documented
37 by completion of a comprehensive review course approved by the
38 Board in the permit category to which the applicant is applying
39 and must consist of at least one-half (50%) of the hours
40 required by rule for Class 1, Class 2, or Class 3 Permits. Class
41 4 Permits will require at least 120 hours of general anesthesia
42 training.

43
44 (d) An applicant for sedation or general anesthesia permit whose
45 completion of initial training/education is greater than five
46 years immediately prior to application, may be granted a
47 sedation or general anesthesia permit by submitting
48 documentation of the requested permit level from another state
49 or jurisdiction where the applicant is also licensed to practice
50 dentistry or dental hygiene, and provides documentation of the
51 completion of at least 25 cases in the requested level of
52 sedation or general anesthesia in the 12 months immediately
53 preceding application; or

54
55 (e) Demonstration of current competency to the satisfaction of
56 the Board that the applicant possesses adequate sedation or
57 general anesthesia skill to safely deliver sedation or general
58 anesthesia services to the public.

59
60 (4) Persons serving as anesthesia monitors in a dental office
61 shall maintain current certification in Health Care Provider
62 Basic Life Support (BLS)/Cardio Pulmonary Resuscitation (CPR)

63 training, or its equivalent, shall be trained in monitoring
64 patient vital signs, and be competent in the use of monitoring
65 and emergency equipment appropriate for the level of sedation
66 utilized. (The term "competent" as used in these rules means
67 displaying special skill or knowledge derived from training and
68 experience.)

69

70 (5) No dentist or dental hygienist holding an anesthesia permit
71 shall administer anesthesia unless they hold a current Health
72 Care Provider BLS/CPR level certificate or its equivalent, or
73 holds a current Advanced Cardiac Life Support (ACLS) Certificate
74 or Pediatric Advanced Life Support (PALS) Certificate, whichever
75 is appropriate for the patient being sedated.

76

77 (6) When a dentist utilizes a single dose oral agent to achieve
78 anxiolysis only, no anesthesia permit is required.

79

80 (7) The applicant for an anesthesia permit must pay the
81 appropriate permit fee, submit a completed Board-approved
82 application and consent to an office evaluation.

83

84 (8) Permit fees may be prorated based on the 24-month renewal
85 cycle.

86

87 (9) Permits shall be issued to coincide with the applicant's
88 licensing period.

89

90 Stat. Auth.: ORS 679 & 680

91 Stats. Implemented: ORS 679.250

**DIVISION 35
DENTAL HYGIENE**

1 **818-035-0010**

2 **Definitions**

3 All terms used in this Division shall have the meanings assigned
4 under ORS 679.010 except that:

5

6 (1) "Limited Access Patient" means a patient who [~~, due to age,~~
7 ~~infirmity, or disability~~] is unable to receive regular dental
8 hygiene treatment in a dental office.

9

10 (2) "Long-Term Care Facility" shall have the same definition as
11 that established under ORS 442.015(14)(b).

12

13 Stat. Auth.: ORS 679.250(7) & ORS 680.150

14 Stats. Implemented: ORS 679.010 & ORS 680.010

15

16 **818-035-0020**

17 **Authorization to Practice**

18 (1) A dental hygienist may practice dental hygiene in the places
19 specified by ORS 680.150 under general supervision upon
20 authorization of a supervising dentist.

21

22 (2) A dentist who authorizes a dental hygienist to practice
23 dental hygiene on a limited access patient must review the
24 hygienist's findings.

25

26 (3) A supervising dentist, without first examining a new
27 patient, may authorize a dental hygienist:

28

29 (a) To take a health history from a patient;

30

31 (b) To take dental radiographs;

32

33 (c) To perform periodontal probings and record findings;

34

35 (d) To gather data regarding the patient; and

36

37 (e) To perform a prophylaxis.

38

39 **(f) To diagnose and treatment plan for dental hygiene services.**

40

41 (4) When hygiene services are provided pursuant to subsection
42 (3), the supervising dentist need not be on the premises when
43 the services are provided.

44

45 (5) When hygiene services are provided pursuant to subsection
46 (3), the patient must be scheduled to be examined by the
47 supervising dentist within fifteen business days following the
48 day the hygiene services are provided.

49

50 (6) A supervising dentist may not authorize a dental hygienist
51 and a dental hygienist may not perform periodontal procedures
52 unless the supervising dentist has examined the patient and
53 diagnosed the condition to be treated.

54

55 (7) If a new patient has not been examined by the supervising
56 dentist subsequent to receiving dental hygiene services pursuant
57 to subsection (3), no further dental hygiene services may be
58 provided until an examination is done by the supervising
59 dentist.

60

61 Stat. Auth.: ORS 679.120, ORS 679.250(7), ORS 680.075 & ORS
62 680.150

63 Stats. Implemented: ORS 680.150

64

65 **818-035-0025**

66 **Prohibitions**

67 A dental hygienist may not:

68 (1) Diagnose and treatment plan other than for dental hygiene
69 services;

70

71 (2) Cut hard or soft tissue with the exception of root planing;

72

73 (3) Extract any tooth;

74

75 (4) Fit or adjust any correctional or prosthetic appliance
76 except as provided by OAR 818-035-0040(1)(c);

77

78 ~~[(5) Prescribe any drug, other than fluoride, fluoride varnish,~~
79 ~~antimicrobial solutions for mouth rinsing or resorbable~~
80 ~~antimicrobial agents;]~~

81

82 ~~[(6)]~~ (5) Prescribe, ~~[Administer]~~ administer or dispense any
83 drugs except as provided by OAR 818-035-0030, 818-035-0040, 818-
84 026-0060(11) and 818-026-0070(11);

85

86 ~~[(7)]~~ (6) Place, condense, carve or cement permanent
87 restorations except as provided in OAR 818-035-0072, or
88 operatively prepare teeth [except as provided in OAR 818-035-
89 0072];

90

91 ~~[(8)]~~ (7) Irrigate or medicate canals; try in cones, or ream,
92 file or fill canals;

93

94 ~~[(9)]~~ **(8)** Use the behavior management techniques of Hand Over
95 Mouth (HOM) or Hand Over Mouth Airway Restriction (HOMAR) on any
96 patient.

97

98 Stat. Auth.: ORS 679 & 680

99 Stats. Implemented: ORS 679.020(1)

100

101 **818-035-0030**

102 **Additional Functions of Dental Hygienists**

103 (1) In addition to functions set forth in ORS 679.010, a dental
104 hygienist may perform the following functions under the general
105 supervision of a licensed dentist:

106

107 (a) Make preliminary intra-oral and extra-oral examinations and
108 record findings;

109

110 (b) Place periodontal dressings;

111

112 (c) Remove periodontal dressings or direct a dental assistant to
113 remove periodontal dressings;

114

115 (d) Perform all functions delegable to dental assistants and
116 expanded function dental assistants providing that the dental
117 hygienist is appropriately trained;

118

119 (e) Administer and dispense antimicrobial solutions or
120 ~~[resorbable]~~ **other** antimicrobial agents in the performance of
121 dental hygiene functions.

122

123 **(f) Prescribe fluoride, fluoride varnish, antimicrobial**
124 **solutions for mouth rinsing or other antimicrobial agents.**

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(g) Use high-speed handpieces to polish restorations.

(h) Apply temporary soft relines to full dentures for the purpose of tissue conditioning.

(2) A dental hygienist may perform the following functions at the locations and for the persons described in ORS 680.205(1) and (2) without the supervision of a dentist:

(a) Determine the need for and appropriateness of sealants or fluoride; and

(b) Apply sealants or fluoride.

Stat. Auth.: ORS 679 & 680

Stats. Implemented: ORS 679.025(2)(j)

818-035-0040

Expanded Functions of Dental Hygienists

~~[(1) Upon completion of a course of instruction in a program accredited by the Commission on Dental Accreditation of the American Dental Association or other course of instruction approved by the Board, a dental hygienist who completes a Board approved application shall be issued endorsement to perform the following functions under the general supervision of a licensed dentist:]~~

~~[(a) Administer local anesthetic agents,]~~

~~[(b) Use high-speed handpieces to polish restorations; and]~~

157 [~~(c) Apply temporary soft relines to full dentures, providing~~
158 ~~that the patient is seen by the dentist within 14 days after the~~
159 ~~application.]~~

160
161 (1) Upon completion of a course of instruction in a program
162 accredited by the Commission on Dental Accreditation of the
163 American Dental Association or other course of instruction
164 approved by the Board, a dental hygienist who completes a Board
165 approved application shall be issued an endorsement to
166 administer local anesthetic agents under the general supervision
167 of a licensed dentist.

168
169 (2) Upon completion of a course of instruction in a program
170 accredited by the Commission on Dental Accreditation of the
171 American Dental Association or other course of instruction
172 approved by the Board, a dental hygienist may administer nitrous
173 oxide under the indirect supervision of a licensed dentist in
174 accordance with the Board's rules regarding anesthesia.

175
176 Stat. Auth.: ORS 679 & 680
177 Stats. Implemented: ORS 679.025(2)(j) & 679.250(7)

178
179 **818-035-0100**
180 **Record Keeping**

181 (1) A Limited Access Permit Dental Hygienist shall refer a
182 patient annually to a dentist who is available to treat the
183 patient, and note in the patient's official chart held by the
184 facility that the patient has been referred.

185
186 (2) When a licensed dentist has authorized a Limited Access
187 Permit Dental Hygienist to administer local anesthesia, [~~to~~
188 ~~provide sealants, denture soft lines,] denture tissue~~

189 **conditioning**, temporary restorations, radiographs or nitrous
190 oxide, the permit holder shall document in the patient's
191 official chart the name of the authorizing dentist and date the
192 authorization was given.

193

194 Stat. Auth.: ORS 680

195 Stats. Implemented: ORS 680.205(2) & (3)

DIVISION 42
DENTAL ASSISTING

1 **818-042-0095**

2 **Restorative Functions of Dental Assistants**

3 (1) The Board shall issue a Restorative Functions Certificate
4 (RFC) to a dental assistant who holds an Oregon EFDA
5 Certificate, and has successfully completed:

6
7 (a) A Board approved curriculum from a program accredited by the
8 Commission on Dental Accreditation of the American Dental
9 Association or other course of instruction approved by the
10 Board, and successfully passed the Western Regional Examining
11 Board's Restorative Examination or other equivalent examinations
12 approved by the Board within the last five years, or

13
14 (b) If successful passage of the Western Regional Examining
15 Board's Restorative Examination or other equivalent examinations
16 approved by the Board occurred over five years from the date of
17 application, the applicant must submit verification from another
18 state or jurisdiction where the applicant is legally authorized
19 to perform restorative functions and certification from the
20 supervising dentist of successful completion of at least 25
21 restorative procedures within the immediate five years from the
22 date of application.

23
24 (2) A dental assistant may perform the placement and finishing
25 of direct alloy or direct anterior composite restorations, under
26 the indirect supervision of a licensed dentist, after the
27 supervising dentist has prepared the tooth (teeth) for
28 restoration(s):

29

30 (a) These functions can only be performed after the patient has
31 given informed consent for the procedure and informed consent
32 for the placement of the restoration by a Restorative Functions
33 ~~[Endorsement]~~ dental assistant.

34

35 (b) Before the patient is released, the final restoration(s)
36 shall be checked by a dentist and documented in the chart.

37

38 Stat. Auth.: ORS 679

39 Stats. Implemented: ORS 679.010 & 679.250(7)