

State of Utah  
Administrative Rule Analysis  
Revised December 2019

0AR File No. 52481

Date filed: 1-9-2020

NOTICE OF PROPOSED RULE

TYPE OF RULE: New ; Amendment ; Repeal ; Repeal and Reenact

Title No. - Rule No. - Section No.

Utah Admin. Code Ref (R no.):

R156-69

Filing No. (Office Use Only)

Changed to Admin. Code Ref. (R no.):

R

Agency Information

1. Department: Department of Commerce  
Agency: Division of Occupational and Professional Licensing  
Room no.:  
Building: Heber M. Wells Building  
Street address: 160 East 300 South  
City, state: Salt Lake City UT 84111-2316  
Mailing address: PO Box 146741  
City, state, zip: Salt Lake City UT 84114-6741  
Contact person(s):  
Name: Phone: Email:  
Larry Marx 801-530-6254 lmarx@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

Dentist and Dental Hygienist Practice Act Rule

3. Purpose of the new rule or reason for the change (If this is a new rule, what is the purpose of the rule? If this is an amendment, repeal, or repeal and reenact, what is the reason for the filing?):

The Utah Dentists and Dental Hygienists Licensing Board proposes these amendments the Board finds necessary to improve patient care and safety.

4. Summary of the new rule or change:

Section R156-69-102: The definitions section is amended to update the names of the regional dental clinical exams that are accepted to include all five of the regional examinations. This will improve portability as students who take regional exams in other areas of the United States will be able to practice in Utah. This change also complies with the Legislative change enacted by HB 200 during the 2018 General Session. These proposed amendments also update the definitions for the levels of analgesia and anesthesia used in the practice of dentistry. The changes are made in accordance with the American Dental Association (ADA) Guidelines for Teaching Pain Control and Sedation to Dentists and dental students published by the ADA House of Delegates ("ADA Teaching Guidelines") and the American Dental Association Guidelines for the Use of Sedation and Anesthesia by Dentist adopted October 2016 by the ADA House of Delegates ("ADA Use Guidelines"). These amendments define the levels of analgesia and anesthesia that dentists are permitted to use, to include local anesthesia, minimal sedation using nitrous oxide, minimal sedation with the administration of a single enteral medication, moderate sedation, deep sedation, and general anesthesia.

Sections R156-69-201, -202, and -203: These proposed amendments clarify license classifications requirements in accordance with the new definitions in R156-69-102 and the updated ADA Teaching Guidelines and ADA Use Guidelines.

Section R156-69-204: These proposed amendments update the qualification requirements for local anesthesia permits for dental hygienists and the regional clinical exams that are accepted in accordance with 2018 HB 200. The changes also support licensure mobility by accepting all five of the available regional exams.

Section R156-69-302b: These proposed amendments define the dental regional clinical exams accepted for licensure in accordance with 2018 HB 200.

Section R156-69-302c: These proposed amendments define the dental hygienist regional clinical exams accepted for licensure

in accordance with 2018 HB 200.

Section R156-69-304a: These proposed amendments define the continuing education requirements for anesthesia permit holders who provide minimal sedation using an enteral drug, moderate and deep sedation. The amendment also details that volunteer service providing direct patient care services in a qualified location as defined in Section 58-13-3 is accepted for up to 15% of the required continuing education at a ratio of four hours of volunteer service for one hour of continuing education.

Section R156-69-502: These proposed amendments define as unprofessional conduct failing to follow certain requirements for observation, discharge, and documentation of patients who have received sedation.

Section R156-69-601: These amendments establish the scope of practice for each classification of anesthesia and analgesia permits in accordance with the ADA Teaching Guidelines; this updates the rule from the 2007 edition to the 2016 edition. Requirements are established for monitoring of patients while being given and recovering from pain control, sedation and anesthesia to reduce the chance of an adverse outcome, in accordance with the ADA Use Guidelines. Clarification is also added regarding the required training for a dentist who practices facial cosmetic dentistry.

Section R156-69-602: These amendments make non-substantive formatting changes for clarity.

Section R156-69-603: These amendments clarify the standards regulating unlicensed individuals as dental assistants working under the direct supervision of a dentist.

Section R156-69-604: This section is amended to correct a reference to an exemption for dental assistants in Section 58-54-306.

### Fiscal Information

#### 5. Aggregate anticipated cost or savings to:

##### A) State budget:

These amendments will provide greater licensure portability for applicants who may wish to practice in Utah, and will also update the anesthesia and sedation standards to be in accordance with national standards. None of these amendments are expected to impact state government practices or procedures. Additionally, as described below in the analysis for small business and non-small business, the Division does not expect any state agencies that may be acting as employers of licensed individuals engaging in the practice of dentistry or dental hygiene to experience any measurable fiscal impacts. Accordingly, the Division estimates that these proposed amendments will have no measurable impact on state government revenues or expenditures beyond a minimal cost to the Division of approximately \$75 to disseminate the rule once the proposed amendments are made effective.

##### B) Local governments:

The Division estimates that these proposed amendments will have no measurable impact on local government revenues or expenditures. None of these amendments are expected to impact local government practices or procedures. Additionally, as described below in the analysis for small business and non-small business, the Division does not expect any local governments that may be acting as employers of licensed individuals engaging in the practice of dentistry or dental hygiene to experience any measurable fiscal impacts.

##### C) Small businesses ("small business" means a business employing 1-49 persons):

Utah dentists and dental hygienists primarily work in small businesses as owners or partners. There are approximately 1,707 small businesses involved in providing dental services (NACIS 621210). The Utah Department of Workforce Services firm finder data reports 1,712 total businesses involved in NACIS Code 621210 Offices of Dentist. Of these all but five employ less than 50 people. Workforce Services data indicates approximately 30% of offices of dentist have less than four employees, and another 30% have less than 20 employees. These rules update the definitions of sedation to be in accordance with the new 2016 ADA Teaching Guidelines and ADA Use Guidelines, as revised from the October 2007 standard. Some of these small businesses may need to purchase or update equipment in order to practice in accordance with these updated guidelines; however, the requirements would only affect those small businesses doing moderate sedation or general anesthesia, and for these small businesses the equipment used for monitoring of patient oxygenation, ventilation, and circulation is already required under professional standards and as part of HB 142 passed in the 2017 Legislative General Session, Administration of Anesthesia Amendments, in Subsection 58-69-502.5. Accordingly, no impact is expected for small business over and above any fiscal impact described in the fiscal note for the legislation. See <https://le.utah.gov/~2017/bills/static/HB0142.html>.

##### D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

Utah dentists and dental hygienists primarily work in businesses as owners or partners. There are approximately 5 non-small businesses involved in providing dental services (NACIS 621210). These rules update the definitions of sedation to be in accordance with the new 2016 ADA Teaching Guidelines and ADA Use Guidelines, as revised from the October 2007 standard. Some of these non-small businesses may need to purchase or update equipment in order to practice in accordance with these updated guidelines; however, the requirements would only affect those non-small businesses doing moderate sedation or general anesthesia, and for these non-small businesses the equipment used for monitoring of patient oxygenation, ventilation, and circulation is already required under professional standards and as part of HB 142 passed in the 2017 Legislative General Session, Administration of Anesthesia Amendments, in Subsection 58-69-502.5. Accordingly, no impact is expected for non-small business over and above any fiscal impact described in the fiscal note for the legislation. See <https://le.utah.gov/~2017/bills/static/HB0142.html>.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There are 3,047 licensed dentists in Utah and 3,244 licensed dental hygienists. Utah dentists and dental hygienists primarily work in small businesses as owners or partners. As described above for small business and non-small business, no additional fiscal impact is expected to these affected persons from these proposed amendments. The proposed amendments will also allow potential applicants for licensure greater portability in licensing by allowing them to take any of the nationally recognized regional competency examinations. Although these persons are expected to receive a fiscal benefit from such portability, the exact impact cannot be estimated as the relevant data is not available.

**F) Compliance costs for affected persons:**

The amended rules are not expected to impose any compliance costs on affected persons.

**G) Regulatory Impact Summary Table** (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

| <b>Regulatory Impact Table</b> |               |               |               |
|--------------------------------|---------------|---------------|---------------|
| <b>Fiscal Cost</b>             | <b>FY2020</b> | <b>FY2021</b> | <b>FY2022</b> |
| State Government               | \$75          | \$0           | \$0           |
| Local Governments              | \$0           | \$0           | \$0           |
| Small Businesses               | \$0           | \$0           | \$0           |
| Non-Small Businesses           | \$0           | \$0           | \$0           |
| Other Persons                  | \$0           | \$0           | \$0           |
| <b>Total Fiscal Cost</b>       | <b>\$75</b>   | <b>\$0</b>    | <b>\$0</b>    |
| <b>Fiscal Benefits</b>         |               |               |               |
| State Government               | \$0           | \$0           | \$0           |
| Local Governments              | \$0           | \$0           | \$0           |
| Small Businesses               | \$0           | \$0           | \$0           |
| Non-Small Businesses           | \$0           | \$0           | \$0           |
| Other Persons                  | \$0           | \$0           | \$0           |
| <b>Total Fiscal Benefits</b>   | <b>\$0</b>    | <b>\$0</b>    | <b>\$0</b>    |
| <b>Net Fiscal Benefits</b>     | <b>\$(75)</b> | <b>\$0</b>    | <b>\$0</b>    |

**H) Department head approval of regulatory impact analysis:**

The head of the Department of Commerce, Francine Giani, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

There are eleven rules affected by the proposed amendments to the R156-69 Dentist and Dental Hygienist Practice Act Rules. The changes include updates to the definitions section for the names of the regional dental clinical exams to comply with HB 200 passed during the 2018 General Session. These rules update the definitions of sedation to be in accordance with the new 2016 ADA Teaching Guidelines and ADA Use Guidelines. These proposed amendments define the continuing education requirements for anesthesia permit holders and the administration of analgesia pain medications. There is a definition for unprofessional conduct for failing to follow certain requirements for observation, discharge, and documentation of patients who have received sedation. Finally, there are rule amendments for dentists who practices facial cosmetic dentistry. Some amendments are nonsubstantive formatting changes to add clarity.

**Small Businesses:** The proposed amendments will regulate Utah dentists and dental hygienists working in small business practices. There are approximately 1,707 small businesses involved in providing dental services (NACIS 621210) according to Department of Workforce Services. Workforce Services data indicates approximately 30% of offices of dentists have less than four employees, and another 30% have less than 20 employees. Some practices may need to purchase or update equipment to be in compliance with updated ADA guidelines that use moderate sedation or general anesthesia where equipment used for monitoring of patient oxygenation, ventilation, and circulation is required under professional standards and as part of HB 142 passed in the 2017 Legislative General Session, Administration of Anesthesia Amendments in U.C.A. Section 58-69-502.5.

Accordingly, no impact is expected for small business over and above any fiscal impact described in the fiscal note for the legislation as these costs are either inestimable or there is no fiscal impact.

Regulatory Impact to Non-Small Businesses: Utah dentists and dental hygienists primarily work in small business practices and the impact on non-small dental practices will likely be minor. The Utah Department of Workforce Services firm finder data reports 1,712 total businesses involved in NACIS Code 621210 Office of Dentist with all but five being a small business. All practices in compliance with current professional standards, HB 142, which was passed in the 2017 Legislative General Session, and U.C. A Section 58-69-502.5 should likely negate any costs by the proposed amendments since these have parallel requirements. The proposed amendments are not expected to result in any measurable fiscal impact for non-small business for the same reasons as described above for small business as the costs are either inestimable for the reasons stated, or there is no fiscal impact.

**B) Name and title of department head commenting on the fiscal impacts:**

Francine A. Giani, Executive Director

**Citation Information**

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

|                   |                           |                           |
|-------------------|---------------------------|---------------------------|
| Section 58-69-101 | Subsection 58-1-106(1)(a) | Subsection 58-1-202(1)(a) |
|-------------------|---------------------------|---------------------------|

**Incorporations by Reference Information**

(If this rule incorporates more than two items by reference, please include additional tables.)

8. A) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; if none, leave blank):

**First Incorporation**

|   |   |
|---|---|
| <b>Official Title of Materials Incorporated (from title page)</b> | Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students |
| <b>Publisher</b>  | American Dental Association (ADA)   |
| <b>Date Issued</b>  |   |
| <b>Issue, or version</b>  | October 2016  |

B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; if none, leave blank):

**Second Incorporation**

|   |   |
|---|---|
| <b>Official Title of Materials Incorporated (from title page)</b> | Guidelines for the Use of Sedation and General Anesthesia by Dentists |
| <b>Publisher</b>  | American Dental Association (ADA)                                     |
| <b>Date Issued</b>  |   |
| <b>Issue, or version</b>  | October 2016  |

**Public Notice Information**

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until (mm/dd/yyyy): 03/02/2020

B) A public hearing (optional) will be held:

|                         |                          |   |
|-------------------------|--------------------------|---|
| <b>On (mm/dd/yyyy):</b> | <b>At (hh:mm AM/PM):</b> | <b>At (place):</b>  |
| 02/13/2020              | 9:00 AM                  | 160 East 300 South, Conference Room 402 (4th floor), Salt Lake City, Utah |

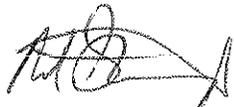
10. This rule change MAY become effective on (mm/dd/yyyy): 03/09/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin*, and delaying the first possible effective date.

Agency head or designee, and title:



Date

(mm/dd/yyyy):

01/08/2020

R156. Commerce, Occupational and Professional Licensing.

R156-69. Dentist and Dental Hygienist Practice Act Rule.

R156-69-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 69, as used in Title 58, Chapters 1 and 69 or this rule:

(1) "ACLS" means Advanced Cardiac Life Support.

(2) "ADA" means the American Dental Association.

(3) "ADA CERP" means American Dental Association Continuing Education Recognition Program.

(4) "ADA Teaching Guidelines" means the Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students published by the American Dental Association, as adopted by the ADA House of Delegates, October 2016, which is incorporated by reference.

(5) "ADA Use Guidelines", means the Guidelines for the Use of Sedation and General Anesthesia by Dentists published by the American Dental Association, as adopted by the ADA House of Delegates, October 2016, which is incorporated by reference.

(6) "ADEX" means American Board of Dental Examiners.

([4]7) "Advertising or otherwise holding oneself out to the public as a dentist" means representing or promoting oneself as a dentist through any of the following or similar methods:

(a) business names;

(b) business signs;

(c) door or window lettering;

(d) business cards;

(e) letterhead;

(f) business announcements;

(g) flyers;

(h) mailers;

(i) promotions;

(j) advertisements;

(k) radio or television commercials;

(l) listings in printed or online telephone directories; or

(m) any other type of advertisement or promotional communication.

(8) "Analgesia" means the same as defined in the ADA Use Guidelines.

(9) "Anesthesiology" means the science of administration of anesthetics and the condition of the patient while under anesthesia.

~~[(5) "BCLS" means Basic Cardiac Life Support.]~~

([6]10) "ADHA" means the American Dental Hygienists' Association.

(11) "BCLS" means Basic Cardiac Life Support.

(12) "BLS" means Basic Life Support.

(13) "CDCA" means Commission on Dental Competency Assessments.

(14) "CITA" means Council of Interstate Testing Agencies, Inc.

(15) "CDEL" means the Council on Dental Education and Licensure.

([7]16) "CPR" means cardiopulmonary resuscitation.

([8]17) "CRDTS" means the Central Regional Dental Testing Service,

Inc.

(18) "CODA" means the Commission on Dental Accreditation.

([9]19) "Competency" means displaying special skill or knowledge derived from training and experience. [

~~—(10) "Conscious sedation" means a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal command, produced by a pharmacologic or non-pharmacologic method, or a combination thereof.]~~

([11]20) "DANB" means the Dental Assisting National Board, Inc.

([12]21) "Deep sedation" means the same as defined in the ADA Use Guidelines [a controlled state of depressed consciousness, accompanied by partial loss of protective reflexes, including inability to respond purposefully to verbal command, produced by a pharmacologic or non-pharmacologic method, or combination thereof].

(22) "Discharge criteria" means the minimum requirements for a patient to be safely discharged from the care of a dentist.

([13]23) "General anesthesia" means the same as defined in the ADA Use Guidelines [a controlled state of unconsciousness accompanied by partial or complete loss of protective reflexes, including inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, produced by a pharmacologic or non-pharmacologic method or a combination thereof.

~~—(14) "NERB" means Northeast Regional Board of Dental Examiners, Inc].~~

(24) "Local anesthesia" means the same as defined in the ADA Use Guidelines.

(25) Maximum recommended dose (MRD) is the maximum FDA recommended dose of a drug, as printed in FDA approved labeling for unmonitored home use.

(26) "Minimal sedation" means the same as defined in the ADA Use Guidelines.

(27) "Moderate sedation" means the same as defined in the ADA Use Guidelines.

([15]28) "PALS" means Pediatric Advanced Life Support.

([16]29) "Practice of dentistry" in regard to administering sedation or anesthesia is further defined as follows:

(a) a Class [I]A permit allows [for]administration of, or supervision of the administration of, local anesthesia in compliance with the ADA Use Guidelines. [which is the elimination of sensation, especially pain, in one part of the body by the topical application or regional injection of a drug;]

(b) a Class [II]B permit allows [for]administration of, or supervision of the administration of, minimal sedation [which is a minimally depressed level of consciousness] induced by nitrous oxide in compliance with the ADA Use Guidelines. [; or by a pharmacological method, or by both, that retains the patient's ability to independently and consciously maintain an airway and respond normally to tactile stimulation and verbal command. Although cognitive function and coordination may be

~~modestly impaired, ventilatory and cardiovascular functions are unaffected;]~~

~~(c) a Class C permit allows administration of minimal sedation via nitrous oxide/oxygen with or without the administration of a single enteral drug, in compliance with the ADA Use Guidelines.~~

~~([e]d) a Class [III]D permit allows [for]administration of, or supervision of the administration of, moderate sedation via any route of administration, in compliance with the ADA Use Guidelines. [in which a drug induced depression of consciousness occurs during which a patient responds purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patient's airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained, and]~~

~~([d]e) a Class [IV]E permit allows [for]administration of, or supervision of the administration of, deep sedation and general anesthesia in compliance with the ADA Use Guidelines. [in which a drug induced depression of consciousness occurs from which a patient cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. A patient may require assistance in maintaining an airway and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.]~~

~~([17]30) "Prominent disclaimer" means a disclaimer as described in and as required by Subsection R156-69-502(2)([ii]b) that:~~

~~(a) if in writing, is in the same size of lettering as the largest lettering otherwise contained in an advertisement, publication, or other communication in which the disclaimer appears; or~~

~~(b) if not in writing, is in the same volume and speed as the slowest speed and highest volume otherwise included in a radio or television commercial or other oral advertisement or promotion in which the disclaimer appears.~~

~~(31) "Route of administration" means the technique of administering agents, and includes the following, as defined in the ADA Use Guidelines:~~

~~(a) enteral;~~

~~(b) parenteral;~~

~~(c) transdermal;~~

~~(d) transmucosal; and~~

~~(e) inhalation.~~

~~([18]32) "Specialty area" means an area of dentistry in which the dentist has completed a specialty post-doctoral program in a specialty area of dentistry consisting of at least two full time years and which is accredited by an accreditation agency that is recognized by the U.S. Department of Education. [proposed in a formal application by a sponsoring organization to the Council on Dental Education and Licensure and formally approved by the ADA as meeting the "Requirements for Recognition of Dental Specialists". Specialty areas include the following:~~

~~(a) orthodontics;~~

- ~~(b) oral and maxillofacial surgery;~~
- ~~(c) oral and maxillofacial pathology;~~
- ~~(d) pediatric dentistry;~~
- ~~(e) periodontics;~~
- ~~(f) endodontics;~~
- ~~(g) prosthodontics;~~
- ~~(h) dental public health; and~~
- ~~(i) oral and maxillofacial radiology.]~~

([19]33) "SRTA" means Southern Regional Testing Agency, Inc.

([20]34) "Unprofessional conduct," as defined in Title 58 Chapters 1 and 69, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-69-502.

([21]35) "UDA" means Utah Dental Association.

([22]36) "UDHA" means Utah Dental Hygienists' Association.

([23]37) "WREB" means the Western Regional Examining Board.

#### R156-69-201. Classifications of Anesthesia and Analgesia Permits - Dentist.

In accordance with Subsection 58-69-301(4)(a), a dentist may be issued an anesthesia and analgesia permit in the following classifications:

- (1) class [F]A permit;
- (2) class [FF]B permit;
- (3) class C permit;
- ([3]4) class [FFF]D permit; [and] or
- ([4]5) class [FV]E permit.

#### R156-69-202. Qualifications for Anesthesia and Analgesia Permits - Dentist.

In accordance with Subsection 58-69-301(4)(b), the qualifications for dentist anesthesia and analgesia permits are:

- (1) for a class [F]A permit[~~:-~~
  - ~~(a) current licensure as a dentist in Utah; and~~
  - ~~(b) documentation of] current CPR or BCLS/BLS certification;~~
- (2) for a class [FF]B permit:
  - ~~(a) [current licensure as a dentist in Utah;~~
  - ~~(b) documentation of-] current BCLS/BLS certification; and~~
  - ([c]b) [evidence of successful-] completion of training in the administration of nitrous oxide [and pharmacological methods of conscious sedation-] that:
    - (i) conforms to the ADA Teaching Guidelines [~~for Teaching Pain Control and Sedation to Dentists and Dental Students, published by the American Dental Association, October 2007, which is incorporated by reference]; or~~
    - (ii) is the substantial equivalent of [Subsection (2)(c)(i)] the ADA Teaching Guidelines provided in a continuing education format [offered-] by an [American Dental Association] ADA accredited school; [~~and~~
    - ~~(d) certification that the applicant will comply with the scope of~~

~~practice as set forth in Subsection R156-69-601(2);]~~

~~(3) for a class C permit compliance with Subsections (1) and (2) above:~~

~~(a) evidence of successful completion of training in pharmacological methods of minimal sedation that:~~

~~(i) conforms to the ADA Teaching Guidelines; or~~

~~(ii) is the substantial equivalent of the ADA Teaching Guidelines provided in a continuing education format by an ADA accredited school;~~

~~(b) evidence of holding a current Utah controlled substance license in good standing and a current Drug Enforcement Administration (DEA) registration in good standing;~~

~~(~~3~~)4) for a class [~~III~~]D permit:~~

~~(a) compliance with Subsection[s] [~~(1)~~ (a) and ~~(2)~~] (3) (b) above;~~

~~(b) [evidence of] current [Advanced Cardiac Life Support (~~)~~ACLS (~~)~~] or PALS certification; and~~

~~(c) [evidence of holding a current Utah controlled substance license in good standing and a current Drug Enforcement Administration (DEA) Registration in good standing;~~

~~(d) evidence of successful] completion of:~~

~~(i) (A) a comprehensive predoctoral or post[-]doctoral training in the administration of [~~conscious~~]moderate sedation that conforms to the ADA Teaching Guidelines, [~~for Teaching Pain Control and Sedation to Dentists and Dental Students, published by the American Dental Association, October 2007,~~] including a letter from the course director documenting competency in performing conscious sedation; and~~

~~(B) 60 hours of didactic education in sedation and successful completion of 20 cases; or~~

~~(ii) the substantial equivalent of Subsection [~~(3)~~ (~~d~~)] (4) (c) (i) provided in a continuing education format [~~offered-~~]by an [~~American Dental Association~~]ADA accredited school; [~~and~~~~

~~(e) certification that the applicant will comply the scope of practice as set forth in Subsection R156-69-601(3); and]~~

~~(~~4~~)5) for a class [~~IV~~]E permit:~~

~~(a) compliance with Subsections [~~(1)~~, ~~(2)~~, and ~~(3)~~] (4) (a) and (b) above;~~

~~(b) [evidence of current ACLS certification]if treating pediatric patients, current PALS certification;~~

~~(c) [evidence of having successfully completed]completion of advanced training in the administration of general anesthesia and deep sedation, consisting of [~~not less than~~]at least one year in a program which conforms to the ADA Teaching Guidelines, [~~for Teaching Pain Control and Sedation to Dentists and Dental Students, published by the American Dental Association, October 2007, and~~] including a letter from the course director documenting competency in performing general anesthesia and deep sedation[~~]~~~~

~~(d) documentation of successful completion of advanced training in obtaining a health history, performing a physical examination and diagnosis of a patient consistent with the administration of general anesthesia or~~

~~deep sedation, and~~

~~(e) certification that the applicant will comply with the scope of practice as set forth in Subsection R156-69-601(4)].~~

**R156-69-203. Classification of Anesthesia and Analgesia Permits - Dental Hygienist.**

In accordance with Subsection 58-69-301(4) (a), a dental hygienist may be issued an anesthesia and analgesia permit in the classification of dental hygienist with local anesthesia.

**R156-69-204. Qualifications for Anesthesia and Analgesia Permits - Dental Hygienist.**

In accordance with Subsection 58-69-301(4) (b), the qualifications for a dental hygienist with local anesthesia permit are the following:

(1) (a) current Utah licensure as a dental hygienist; or  
(b) documentation of meeting all Utah requirements for licensure as a dental hygienist;

(2) ~~[successful]~~ completion of a program of training in the administration of local ~~[anesthetics]~~ anesthesia, including nitrous oxide, that:

(a) (i) is accredited by the CODA [Commission on Dental Accreditation of the ADA]; or

(ii) is the substantial equivalent of Subsection (2) (a) (i) provided in a continuing education format [offered] by an [American Dental Association] ADA accredited school; and

(b) documentation of successful completion of the program by a letter from the program director, or equivalent; and

(3) (a) a passing score on the WREB, [NERB,] CDCA, or SRTA [or CRDTS] written anesthesia examination; or

(b) [documentation of having] a current, active in good standing license to administer local anesthesia in another state in the United States; and

(4) [documentation of] current CPR or BCLS/BLS certification.

**R156-69-302b. Qualifications for Licensure - Examination Requirements - Dentist.**

In accordance with Subsections 58-69-302(1) (f) and (g), the examination requirements for licensure as a dentist include the periodontics, endodontics, operative, class 2 restoration, class 3 restoration, and prosthodontics sections and are established as the following:

(1) the WREB examination with a passing score as established by the WREB;

(2) the [NERB] CDCA examination with a passing score as established by the [NERB] CDCA;

(3) the SRTA examination with a passing score as established by the SRTA; ~~[or]~~

(4) the CRDTS examination with a passing score as established by the CRDTS; or

(5) the CITA examination with a passing score as established by the CITA.

**R156-69-304a. Continuing Education - Dentist and Dental Hygienist.**

In accordance with Section 58-69-304, qualified continuing professional education requirements are established as ~~[the following]~~ follows:

(1) All licensed dentists and dental hygienists shall complete at least 30 hours of qualified continuing professional education during each two-[-]year licensure period[-of licensure], to include:

(a) for class C anesthesia permit holders, at least two hours of CPE specific to the administration of enteral anesthesia/pharmacology;

(b) for class D anesthesia permit holders:

(i) at least four anesthesia-specific CPE didactic hours; and

(ii) attestation of successful completion of at least ten sedation cases; and

(c) for class E anesthesia permit holders:

(i) at least eight anesthesia-specific CPE didactic hours; and

(ii) attestation of successful completion of at least 30 sedation cases.

(2) Qualified continuing professional education hours for licensees who have not been licensed for the entire two-[-]year period ~~[will]~~ shall be prorated from the date of licensure.

(3) Continuing education under this section shall:

(a) be relevant to the licensee's professional practice;

(b) be prepared and presented by individuals who are qualified by education, training and experience to provide dental and dental hygiene continuing education; and

(c) have a method of verification of attendance and completion.

(4) Credit for continuing education shall be recognized ~~[in accordance with the following]~~ as follows:

(a) unlimited hours ~~[shall be recognized]~~ for continuing education completed in blocks of time of not less than 50 minutes in formally established classroom courses, seminars, lectures, conferences, or training sessions which meet the criteria listed in Subsection (3) above, and which are approved by, conducted by or under sponsorship of:

(i) a government agency, including the Division of Occupational and Professional Licensing;

(ii) recognized universities and colleges, or an accredited dental, dental hygiene, or dental postgraduate program;

(iii) professional associations, societies, and organizations representing a licensed profession whose program objectives relate to the practice of dentistry and dental hygiene; or

(iv) the ADA or any subgroup thereof, the ADHA or any subgroup thereof, [an accredited dental, dental hygiene or dental postgraduate program, a government agency,] a recognized health care professional association or a peer study club;

(b) a maximum of ten hours per two-[-]year period may be recognized for teaching continuing education relevant to dentistry and dental hygiene;

(c) a maximum of 15 hours per two-[-]year period may be recognized

for continuing education that is provided via Internet or through home study which provides an examination and a completion certificate; [

~~(d) a maximum of six hours per two year period may be recognized for continuing education provided by the Division of Occupational and Professional Licensing, and]~~

([e]d) a maximum of three hours per two-year period may be recognized for continuing education [qualified continuing professional education may include up to three hours] in practice and office management.

(5) A licensee may fulfill up to 15% of the licensee's continuing professional education requirement by providing direct patient care volunteer services at a qualified location, in accordance with Section 58-13-3. For every four documented hours of such volunteer services, the licensee may earn one hour of continuing education. [If properly documented that a licensee is engaged in full time activities or is subjected to circumstances which prevent that licensee from meeting the continuing education requirements established under this section, the licensee may be excused from the requirement for a period of up to three years. However, it is the responsibility of the licensee to document the reasons and justify why the requirement could not be met.]

(6) Hours for recertification in CPR, BCLS, ACLS, and PALS ~~[do]~~ may not count as continuing education.

(7) A licensee shall ~~[be responsible for]~~ maintain~~[ing]~~ competent records of the licensee's completed qualified continuing professional education for a period of four years after close of the two-~~[ ]~~year licensure period~~[-to which the records pertain]~~. It is the responsibility of the licensee to ~~[maintain such information with respect to qualified continuing professional education to-]~~ demonstrate that their continuing professional education [it] meets the requirements ~~[under]~~ of this section.

(8) The Division may defer or waive continuing professional education requirements for a licensee as provided in Section R156-1-308d.

#### R156-69-502. Unprofessional Conduct.

"Unprofessional Conduct" includes the following:

(1) ~~[failing to provide continuous in-operatory observation by a trained dental patient care staff member-]~~ for any patient under any level of sedation, including nitrous oxide [-administration];

(a) failing to provide continuous in-operatory observation by a trained dental patient care staff member until the patient continuously and independently maintains their airway and may be safely discharged; or

(b) failing to record the discharge time and the person discharging the patient in the patient's records;

(2) advertising or otherwise holding oneself out to the public as a dentist or dental group that practices in a specialty area unless:

([i]a) each dentist has successfully completed an advanced educational program accredited by the ADA's Commission on Dental Accreditation (or its equivalent if completed prior to 1967) of two or more years in length, as specified by the Council on Dental Education and Licensure;

([i]b) as specified in Subsection 58-69-502(2)(b), the advertisement or other method of holding oneself out to the public as a dentist or dental group includes a prominent disclaimer that the dentist or dentists performing services are licensed as general dentists or that the specialty

services will be provided by a general dentist;

(~~iii~~c) the advertisement or other method of holding oneself out to the public as a dentist or dental group that practices in a specialty area includes a prominent disclaimer that the dentist or dentists performing services is a specialist, but not qualified as a specialist in the specialty area being advertised; or

(~~iv~~d) otherwise advertising in a specialty area by representing that a dentist has attained any education, training or certification in the specialty area when the dentist has not met the criteria;

(3) advertising in any form that is misleading, deceptive, or false; including the display of any credential, education, or training that is inaccurate, or the making of any unsubstantiated claim of superiority in training, skill, experience, or any other quantifiable aspect;

(4) prescribing treatments and medications outside the scope of dentistry;

(5) prescribing for oneself any Schedule II or III controlled substance;

(6) engaging in practice as a dentist or dental hygienist without prominently displaying a copy of the current Utah license;

(7)(a) failing to personally maintain current CPR, ~~or~~ BCLS/BLS, ACLS, or PALS certification as required by the licensee's anesthesia permit; or

(b) ~~[, or]~~ employing patient care staff who fail to maintain current CPR or BCLS/BLS certification;

(8) providing consulting or other dental services under anonymity;

(9) engaging in unethical or illegal billing practices or fraud, including:

(a) reporting an incorrect treatment date for the purpose of obtaining payment;

(b) reporting charges for services not rendered;

(c) incorrectly reporting services rendered for the purpose of obtaining payment;

(d) generally representing a charge to a third party that is different from that charged to the patient;

(10) failing to establish and maintain appropriate dental records;

(11) failing to maintain patient records for a period of seven years;

(12) failing to provide copies of x-rays, reports or records to a patient or the patient's designee upon written request and payment of a nominal fee for copies regardless of the payment status of the services reflected in the record; and

(13) failing to submit a complete report to the Division within 30 calendar days concerning an incident, in which any anesthetic or sedative drug was administered to any patient, which resulted in, either directly or indirectly, the death or adverse event resulting in patient admission to a hospital; and

(14) failing to discuss the risks of using an opiate with a patient or the patient's guardian before issuing an initial opiate prescription in accordance with Section 58-37-19.

#### **R156-69-601. Scope of Practice - Anesthesia and Analgesia Permits.**

In accordance with Subsection 58-69-301(4)(a), the scope of practice permitted under each classification of anesthesia and analgesia permit

includes the following:

~~(1) A dentist with a class [I]A permit [may administer, or supervise the administration of, [any legal form of non-drug induced conscious sedation or drug induced conscious sedation except:] minimal sedation using local anesthesia in compliance with the ADA Use Guidelines. [~~

~~(i) the administration of inhalation agents including nitrous oxide, and~~

~~(ii) the administration of any drug for sedation by any parenteral route; and~~

~~(b) shall maintain and ensure that all patient care staff maintain current CPR certification.]~~

(2) A dentist with a class [II]B permit:

(a) may exercise all of the privileges of a Class A permit; and

(b) administer, or supervise the administration of, nitrous oxide induced minimal [conscious] sedation in compliance with the ADA Use Guidelines. [addition to the privileges granted to one holding a Class I permit; and

~~(b) shall ensure that:~~

~~(i) every patient under nitrous oxide administration is under continuous in-operatory observation by a member of the dental patient care staff;~~

~~(ii) nitrous oxide and oxygen flow rates and sedation duration and clearing times are appropriately documented in patient records;~~

~~(iii) reasonable and prudent controls are in place and followed in regard to nitrous oxide to ensure the health and safety of patients, dental office personnel, and the general public;~~

~~(iv) the dental facility is equipped with adequate and appropriate equipment, in good working order, to assess vital signs; and~~

~~(v) equipment used in the administration of nitrous oxide has a scavenging system and that all gas delivery units have an oxygen fail-safe system.]~~

(3) A dentist with a class [III]C permit:

(a) may exercise all of the privileges of a Class B permit; and

(b) may administer, or supervise the administration of, minimal sedation via nitrous oxide/oxygen with or without the administration of a single enteral drug in compliance with the ADA Use Guidelines. [parenteral conscious sedation in addition to the privileges granted one holding a Class I and Class II permit; and

~~(b) shall ensure that:~~

~~(i) the dental facility has adequate and appropriate monitoring equipment, including pulse oximetry, current emergency drugs, and equipment capable of delivering oxygen under positive pressure;~~

~~(ii) the patient's heart rate, blood pressure, respirations and responsiveness are checked at specific intervals during the anesthesia and recovery period and that these observations are appropriately recorded in the patient record;~~

~~(iii) the dental facility is equipped to treat emergencies providing immediate access to advanced airway equipment, and resuscitation medications;~~

~~(iv) the above equipment is inspected annually by a certified technician and is calibrated and in good working order;~~

~~\_\_\_\_\_ (v) inhalation agents' flow rates and sedation duration and clearing times are appropriately documented in patient records; and~~

~~\_\_\_\_\_ (vi) a minimum of two persons, with one person constantly monitoring the patient, are present during the administration of parenteral conscious sedation as follows:~~

~~\_\_\_\_\_ (A) an operating permittee dentist and a BCLS certified assistant trained and qualified to monitor appropriate and required physiologic parameters;~~

~~\_\_\_\_\_ (B) an operating dentist and a permittee dentist; or~~

~~\_\_\_\_\_ (C) an operating permittee dentist and another licensed professional qualified to administer this class of anesthesia.]~~

~~\_\_\_\_\_ (4) A dentist with a class D permit:~~

~~\_\_\_\_\_ (a) may exercise all of the privileges of a Class C permit;~~

~~\_\_\_\_\_ (b) may administer, or supervise the administration of, moderate sedation in compliance with the ADA Use Guidelines; and~~

~~\_\_\_\_\_ (c) shall comply with Section 58-69-502.5 if administering sedation or anesthesia intravenously in an outpatient setting that is not an emergency department.~~

~~\_\_\_\_\_ ([#]5) A dentist with a class [IV]E permit[7]:~~

~~\_\_\_\_\_ (a) may exercise all of the privileges of a Class D permit;~~

~~\_\_\_\_\_ (b) may administer, or supervise the administration of, general anesthesia or deep sedation in compliance with the ADA Use Guidelines; and~~

~~\_\_\_\_\_ (c) shall comply with Section 58-69-502.5 if administering sedation or anesthesia intravenously in an outpatient setting that is not an emergency department. [addition to the privileges granted one holding a class I, II and III permit; and~~

~~\_\_\_\_\_ (b) shall ensure that:~~

~~\_\_\_\_\_ (i) the dental facility is equipped with precordial stethoscope for continuous monitoring of cardiac function and respiratory work; electrocardiographic monitoring and pulse oximetry, means of monitoring blood pressure, and temperature monitoring; the preceding or equivalent monitoring of the patient will be used for all patients during all general anesthesia or deep sedation procedures; in addition, temperature monitoring will be used for children;~~

~~\_\_\_\_\_ (ii) the dental facility is equipped to treat emergencies providing immediate access to advanced airway equipment, resuscitation medications, and defibrillator;~~

~~\_\_\_\_\_ (iii) the above equipment is inspected annually by a certified technician and is calibrated and in good working order; and~~

~~\_\_\_\_\_ (iv) three qualified and appropriately trained individuals are present during the administration of general anesthesia or deep sedation as follows:~~

~~\_\_\_\_\_ (A) an operating dentist holding a permit under this classification; an anesthesia assistant trained to observe and monitor the patient using the equipment required above, and an individual to assist the operating dentist;~~

~~\_\_\_\_\_ (B) an operating dentist, an assistant to the dentist and a dentist holding a permit under this classification; or~~

~~\_\_\_\_\_ (C) another licensed professional qualified to administer this class of anesthesia and an individual to assist the operating dentist.~~

~~\_\_\_\_\_ (5) Any dentist administering any anesthesia to a patient which results in, either directly or indirectly, the death or adverse event~~

~~resulting in hospitalization of a patient shall submit a complete report of the incident to the Board within 30 days.]~~

(6) A dentist who practices facial cosmetic dentistry utilizing the neurotoxin clostridium botulinum or injectable dermal fillers shall demonstrate competency by completing a minimum of eight hours of PACE or CERP training, which shall include a hands-on component.

**R156-69-602. Practice of Dental Hygiene.**

In accordance with Subsection 58-69-102([7]6)(a)(ix), other practices of dental hygiene include performing:

- (1) laser bleaching; and
- (2) laser periodontal debridement.

**R156-69-603. Use of Unlicensed Individuals as Dental Assistants.**

In accordance with Section 58-69-803, the standards regulating the use of unlicensed individuals as dental assistants are that an unlicensed individual shall not, under any circumstance:

- (1) render definitive treatment diagnosis;
- (2) place, condense, carve, finish or polish restorative materials, or perform final cementation;
- (3) cut hard or soft tissue or extract teeth;
- (4) remove stains, deposits, or accretions, except as is incidental to polishing teeth coronally with a rubber cup;
- (5) initially introduce nitrous oxide and oxygen to a patient for the purpose of establishing and recording a safe plane of analgesia for the patient, except under the direct supervision of a licensed dentist after a baseline percentage and flow rate suitable for the patient is established and documented by a licensed dentist holding the appropriate permit;
- (6) remove bonded materials from the teeth with a rotary dental instrument or use any rotary dental instrument within the oral cavity except to polish teeth coronally with a rubber cup;
- (7) take jaw registrations or oral impressions for supplying artificial teeth as substitutes for natural teeth, including electronic imaging, except for diagnostic or opposing models for the fabrication of temporary or provisional restorations or appliances;
- (8) correct or attempt to correct the malposition or malocclusion of teeth, or make an adjustment that will result in the movement of teeth upon an appliance which is worn in the mouth;
- (9) perform sub-gingival instrumentation;
- (10) render decisions concerning the use of drugs, their dosage or prescription;
- (11) expose radiographs without meeting the following criteria:
  - (a) completing a dental assisting course accredited by the ADA Commission on Dental Accreditation; or
  - (b) passing one of the following examinations:
    - (i) the DANB Radiation Health and Safety Examination (RHS); or
    - (ii) a radiology exam approved by the Board that meets the criteria established in Section R156-69-604; [~~or~~]
- (12) work without a current CPR or BCLS certification; or
- (13) provide injections of any substance.

**R156-69-604. Radiology Course for Unlicensed Individuals as Dental**

**Assistants.**

In accordance with Section 58-69-803 and Subsection 58-54-[4.3]306(2), the radiology course in Subsection R156-69-603(11) shall include radiology theory consisting of:

- (1) orientation to radiation technology;
- (2) terminology;
- (3) radiographic dental anatomy and pathology (cursory);
- (4) radiation physics (basic);
- (5) radiation protection to patient and operator;
- (6) radiation biology including interaction of ionizing radiation on cells, tissues and matter;
- (7) factors influencing biological response to cells and tissues to ionizing radiation and cumulative effects of x-radiation;
- (8) intraoral and extraoral radiographic techniques;
- (9) processing techniques including proper disposal of chemicals; [and]
- (10) infection control in dental radiology; and
- (11) use of portable and handheld x-ray devices.

**KEY: licensing, dentists, dental hygienists**

**Date of Enactment or Last Substantive Amendment:** [~~December 22, 2015~~] 2020

**Notice of Continuation:** January 21, 2016

**Authorizing, and Implemented or Interpreted Law:** 58-69-101; 58-1-106(1)(a); 58-1-202(1)(a)