

NOTICE OF INTENT

Department of Health and Hospitals Board of Dentistry

Continuing Education Requirements
(LAC 46:XXXIII.313)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760 (8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.313.

The Louisiana State Board of Dentistry is amending LAC 46:XXXIII.313 to remove unnecessary language and remove the requirement that a lead apron be worn when taking digital radiographs.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS Part XXXIII. Dental Health Profession Chapter 3. Dentists

§313. Portable and Mobile Dentistry

A. – C.3. ...

~~4. Any Louisiana licensed dentist with an existing portable or mobile dental practice shall be entitled to continue operating their portable or mobile dental practice under the prior existing dental board regulations until the necessary permits are granted so long as all application and supporting documentation are submitted for the new permits within 60 days of this rule taking effect.~~

~~54.~~ All mobile or portable operations must conform to all existing and applicable Dental Practice Act rules and regulations, federal, state, and local laws, regulations, and ordinances including those relative to radiographic equipment, flammability, construction, sanitation, zoning, OSHA regulations, and applicable Federal Centers for Disease Control Guidelines and Prevention, Louisiana Department of Health and Hospital regulations including those for medical waste transportation, and the applicant possesses any applicable parish and city licenses or permits to operate the unit.

~~65.~~ Each mobile dental clinic or mobile dental unit shall have:

- a. ready access to a ramp or lift if necessary;
- b. a properly functioning sterilization system;
- c. ready access to an adequate supply of potable water;
- d. ready access to toilet facilities if necessary;
- e. a covered galvanized, stainless steel, or other non-corrosive container for deposit of refuse and waste materials;
- f. an emergency kit available at all times;
- g. portable oxygen available at all times;
- h. ~~sharp containers and red biohazard bags available on site;~~ **medical waste disposal consistent with CDC guidelines;**
- i. properly functioning radiograph equipment producing fully developed x-rays of diagnostic quality;

j. suction equipment to achieve a minimum level of 3 cubic feet per minute. **maintain the current prevailing standard of care.**

76. Each portable dental clinic shall have:

6.a. ...

~~b. ready access to toilet facilities if necessary;~~

~~c. b.~~ a covered galvanized, stainless steel, or other non-corrosive container for deposit of refuse and waste materials;

~~d. c.~~ an emergency kit available at all times;

~~e. d.~~ portable oxygen available at all times;

~~f. e. sharps containers and red biohazard bags available on-site~~ **medical waste disposal consistent with CDC guidelines;**

~~g. f.~~ a properly functioning sterilization system;

~~h. g.~~ properly functioning radiograph equipment producing fully developed x-rays of diagnostic quality;

~~i. h.~~ suction equipment to achieve a minimum level of three cubic feet per minute.

8-7. The mobile dental clinic, mobile dental unit, or portable dental clinic shall be inspected in a timely fashion by a dental board member or a staff evaluator prior to receiving approval to operate.

9-8. During operations the mobile dental clinic, mobile dental unit, or portable dental clinic shall prominently display all applicable licenses and permits in compliance with §104 of these rules. These documents may be kept in a notebook labeled Licenses and Permits. Copies of licenses and permits are acceptable.

10-9. Transferability. Neither the mobile or portable permits are transferable.

11 10. Renewal. Mobile or portable permits expire at the same time as the operator's dental license but shall be renewed at the time the operator renews his or her dental license by completing the renewal form and paying all applicable fees.

D. Record Keeping. The operator or operation shall maintain an official business or mailing and actual, physical address of record which shall not be a post office box except where mail is deliverable to a post office box only and a 24 hour emergency telephone number which shall be filed with the board. The dental board shall be notified within 30 days of any change in the address of record. All written or printed, or electronic documents available from or issued by the operator or operation shall contain the official address of record of the operator or operation. When not in transit, all dental and official records, printed or electronic shall be maintained or available at the official office address of record, in conformity with all record-keeping requirements and provide at no cost within 24 hours via electronic means or 72 hours by other means upon receipt of a HIPAA compliant request with a satisfactory release.

E.1. – E.8. ...

9. When **analogue** radiographs are to be made by the operator or operation, a lead apron which includes a thyroid collar shall be utilized and adequate protection for the x-ray technician shall be utilized. **The lead apron is not necessary when the radiographs are digital.**

10. ~~There shall be a designated room with a minimum of 100 square feet where portable dentistry will occur and other children will not be present either during or immediately after dental procedures. Also prior to providing treatment a surgical preprocedural rinse shall be administered to the patient.~~

F.1. – G.1. ...

2. a statement that a parent or guardian may attend all dental visits and the form provides a telephone number and address where the parent or guardian can contact the operator's office if they wish to be at the school, facility or site when the minor is being treated. If the parent or guardian contacts the operator's office requesting to be present at the dental visit when their child is being treated, then the operator shall notify the parent or guardian when dental care is to be rendered so the parent or guardian can be present. ~~This notice shall be provided to the parent or guardian at least five calendar days before~~

dental care is to be rendered to the patient. If the operator is unable to reach the parent or guardian on the first attempt, he shall make at least two more attempts before treatment is to be provided. If the parent or guardian requests to be present, but does not appear at the site where the treatment is being provided no dental care shall be rendered to that patient;

G.3. – J.1. ...

2. The operator shall provide notice to the board no later than 24 hours before providing dental services at a school. Said notice shall disclose the date, time, identity of all dental health care providers and the location. If the location is a school, the operator shall notify the principal of the school in writing before services are commenced that the dental team is required by law to allow board inspectors on campus in order to conduct unannounced inspections. That notification letter will include the principal's name and phone number and a copy of it will be sent to the board prior to commencing services at any given school.

3 2. The dental board shall be provided with a list of all sites, including addresses where the operator shall conduct mobile or portable activities, at the time the permit is applied for and it shall be updated as necessary every 30 days.

K. – L.

1. Any operator or operation that contracts with or engages any company or entity ("administrative company") to provide management or administrative services shall not enter into a relationship which causes the dentist or his business entity to be in violation of R.S. 37:776(A)(9) which provides as follows:

(a) Division of fees or other remuneration or consideration with any person not licensed to practice dentistry in Louisiana, or an agreement to divide and share fees received for dental services with any non-dentists in return for referral of patients to the licensed dentists, whether or not the patient or legal representative is aware of the arrangement. However, this Paragraph shall not forbid dentists licensed in Louisiana from practicing in a partnership or professional corporation and sharing professional fees or forbid a dentist licensed in Louisiana from employing another dentist licensed in Louisiana. In addition, no dentist licensed in Louisiana shall share professional fees with a dentist whose license is either suspended or revoked during said period of suspension or revocation.

and R.S. 37:776(A)(10) which provides as follows:

(a) Employing, procuring, inducing, aiding, or abetting a person not licensed or registered as a dentist to engage in the practice of dentistry or to possess an ownership interest of any kind in a dental practice, but the person practiced upon shall not be an accomplice, employer, procurer, inducer, aider, or abettor within the meaning of this provision.

2. The operator must provide to the board proof that the administrative company is authorized to conduct business in the State and has a valid Certificate of Good Standing issued by the Louisiana Secretary of State.

3 1. An administrative company shall not be permitted to perform any duties or services that are exclusively a Louisiana licensed dentist's responsibility under the Louisiana Dental Practice Act, including the following:

L.1.a. – M.2.b.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8), and Act 429 of the Regular Legislative Session of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 36:2035 (September 2010), amended LR 37:1406 (May 2011), LR 42:59 (January 2016), LR

Family Impact Statement

There will be no family impact in regard to issues set forth in R.S. 49:972.

Poverty Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed rulemaking should not have any know or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect of the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comment

Interested persons may submit written comments on these proposed rule changes to Arthur Hickham, Jr., Executive Director, Louisiana State Board of Dentistry, P.O. Box 5256, Baton Rouge, Louisiana, 70821. Written comments must be submitted to and received by the Board within 20 days of the date of the publication of this notice. A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within 20 days of the date of the publication of this notice.

Public Hearing

A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public hearing must be in writing and received by the board within 20 days of the date of the publication of this notice.

Arthur Hickham, Jr.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Chapter 3. Dentists

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Other than the one-time cost of rulemaking, which is \$500 SGR in FY 24 related to publishing the notice of intent and proposed rule in the LA Register, the proposed rule changes are not anticipated to result in implementation costs or savings to state or local governmental units.

The proposed rule changes remove unnecessary language and remove the requirement that a lead apron be worn when taking digital radiographs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule changes will not have a substantial economic impact.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not have a substantial impact on competition or employment.

Arthur Hickham, Jr.
Executive Director