

TITLE 37—PROFESSIONS AND OCCUPATIONS
CHAPTER 9—DENTISTS

Section

751	Definitions; licensure; presumption
752	Exemptions from license
753	Louisiana State Board of Dentistry; appointment of members; term of office; vacancies; nominating meetings; quorum; domicile
754	Organization of the board; seal; records; meetings
755	Compensation of members
756	Receipts and disbursements of board
757	Patient records
758	Affiliation with American Association of Dental Examiners and other associations
759	Report of board
760	Powers and duties of the board
761	Requirements of applicants for dental license
761.1	Retired volunteer dental license; issuance; applicant's requirements; limitation of liability; denial; violations; status change; continuing dental education
762	Licenses; data on
763	Application for or acceptance of license or permit; waiver of personal privileges; conditions for surrender of license; certification or registration
763.1	Criminal history record information
764	Dental hygienist; application for license
765	Examination of dental hygienist; issuance of license
766	Hygienists, employment; operations limited
767	Duplicate certificates; issuance
768	Licensure by credentials
770	Renewals; requirements
771	Right to use title
771.1	Dentist fees; discount to an uninsured individual; effect on a dentist's contracted reimbursement amount
772	Anesthetics and prescriptions; patient histories and examinations
773	State and municipal regulations
774	Practice under name of licensee; full disclosure required
775	Unprofessional conduct defined
776	Causes for nonissuance, suspension, revocation, or imposition of restrictions; expungement of first-time advertising offenses
777	Causes for nonissuance, suspension, revocation, or imposition of restrictions of dental hygienist license
778	Board to hear charges against dentists, dental hygienists, and any person practicing dentistry
779	Filing of administrative complaint or charge; appointment of committee to hear charge; quorum
780	Hearing; notice; penalty; interest
781	Issuance of subpoenas; production of patient records; maintenance of confidentiality

782	Authority to contract for and employ necessary personnel; purchase of immovable property
783	Reinstatement or reissuance of license
784	Persons whose license suspended or revoked prohibited from practicing
785	Criminal actions and injunctions simultaneous with administrative proceedings before board
786	Judicial review of adjudication
786.1	Stay of board decision
787	Duty of attorney general
788	Violations
789	Penalties
790	Forgery; penalty
791	Protected action and communication
792	Dental x-ray functions by dental assistants; qualifications
792.1	Duties of a dental assistant and an expanded duty dental assistant
793	Nitrous oxide inhalation analgesia; enteral moderate sedation; parenteral sedation; deep sedation; general anesthesia; definitions; permits; credentials; reporting; fees; limitations; exceptions
794	Dispensing and administering controlled substances; records
795	Fees and costs
796	Louisiana State Board of Dentistry; adoption of rules relating to the providing of dental services at mobile dental clinics and locations other than the dental office
796.1	Requirements to provide dental services at mobile dental clinics and locations other than the dental office; permit; hold harmless
797	Employment or contracting with certain nonprofit entities

**TITLE 37—PROFESSIONS AND OCCUPATIONS
CHAPTER 9—DENTISTS**

§751. Definitions; licensure; presumption; short title

As used in this Chapter:

"Advertisement" and "advertising" means any statement, oral or written, requested and approved by a licensed dentist, disseminated to or displayed before the public or any portion thereof with the intent of selling professional dental services, offering to perform professional dental services, or inducing members of the public to enter into any obligation relating to such professional dental services. This shall apply to an approved statement of any nature regardless of whether it is in the form of paid advertising. "Advertisement" and "advertising" shall not include any communication, oral or written, by a nonprofit entity that meets the statutory, regulatory, and program requirements for grantees supported under Section 330 of the Public Health Service Act, 42 U.S.C. §254b, or its successor. In addition, listing, identifying, or grouping of dentists by an insurance company on a website or by any other means of disseminating information involving a dentist participating with an insurance company and an associated affiliate, including but not limited to a third party payor including, without limitation, a dental health maintenance organization, a dental preferred provider organization, Medicaid, or a dental discount entity, shall not be deemed an advertisement or advertising by the dentist. For the purposes of this Chapter, neither the insurance company nor the associated affiliate shall be deemed a referral company and a listed dentist shall not be considered to be advertising through a referral service by participating with such company or affiliate.

- (1) "Another state" means each of the several states, other than Louisiana, and includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.
- (3) "Board" means the Louisiana State Board of Dentistry.
- (4) "Dental assistant" means a person who is employed by a licensed practicing dentist and performs the duties authorized by the Louisiana State Board of Dentistry only under his direct on-premises supervision, direction, and responsibility.
- (5) "Dental hygienist" means a person licensed under the provision of this Chapter to perform those duties authorized by the Louisiana State Board of Dentistry as set forth in rules and regulations promulgated by the board in accordance with the Administrative Procedure Act.
- (6) "Dentistry" means the evaluation, diagnosis, prevention, or treatment, including nonsurgical, surgical, or related procedures, of diseases, disorders, or conditions of the oral cavity, maxillofacial areas or the adjacent and associated structures and their impact on the human body provided by a dentist within the scope of his education, training, and experience, in accordance with the ethics of the profession and applicable law.
- (7) "Expanded duty dental assistant" means a person who is employed by a licensed practicing dentist and has passed an expanded function for dental assistants course approved by the Louisiana State Board of Dentistry that shall not consist of less than thirty classroom hours, or who has graduated from a dental assisting program accredited by the Commission on Dental Accreditation of the American Dental Association provided the program teaches functions as provided for in LAC 46:XXXIII.502 and .503. An expanded duty dental assistant may perform any functions authorized by the Louisiana State Board of Dentistry for an expanded duty dental assistant under the direct, on-premises supervision, direction, and responsibility of the dentist.
- (8) "Licensure by credentials" means issuing of a license using a performance record in place of examinations to evaluate theoretical knowledge and clinical skill when an applicant for licensure has been awarded a D.D.S. or D.M.D. degree from a dental school accredited by the Commission on Dental Accreditation of the American Dental Association and holds a dental license or has received a degree or certificate in a dental hygiene education program accredited by the

Commission on Dental Accreditation of the American Dental Association and holds a dental hygiene license.

- (9) "Reciprocity" means formal reciprocal agreement between two state boards under which a dentist licensed in one state may apply for and receive a license in another state without examination and without fulfilling any other requirements except the usual state license fees.
 - (10) "Reputable dental school" means one that is recognized as such by the Louisiana State Board of Dentistry according to its rules and regulations.
 - (11) "Unlicensed person" means a person who is not licensed by the board who illegally practices dentistry or dental hygiene.
- A. Any health care provider possessing a degree in dentistry or a dental degree as specifically approved under R.S. 37:771 and a medical degree must be licensed and maintain licensure with the Louisiana State Board of Dentistry prior to and as long as said health care provider practices, engages in, performs, or offers to engage in or perform any of the practices, acts, or operations set forth in this Section or as defined as a specialty of dentistry.
 - C. A person who represents himself as being able to perform any procedure contained within the definition of dentistry such as taking impressions of the human teeth or jaws or performing any phase of any operation incident to the replacement of tooth or part of tooth or associated tissue by means of a filling, crown, denture, or other appliance or who furnishes, supplies, constructs, and produces, or repairs, or offers to furnish, supply, construct, reproduce or repair or process dentures, bridges, or other substitutes for natural teeth to the user or prospective user is practicing dentistry.
 - D. Where it is difficult to determine under this Section whether the treatment and attention more properly belongs to the field of dentistry, the dentist shall call in a member of the medical profession to cooperate with him.
 - E. The fact that any person engages in or performs, or offers to engage in or perform, any of the practices, acts, or operations, set forth in this Section, is prima facie evidence that such person is engaged in the practice of dentistry.
 - F. This Chapter shall be known and may be cited as the "Dental Practice Act".

§752. Exemptions from license

The licensing provisions of this Chapter shall not apply to:

- (1) The rendering of dental relief in emergency cases by a physician or surgeon in the practice of his profession if he is licensed and registered as such under the laws of this state and if he does not reproduce or undertake to reproduce lost parts of the human teeth in the mouth or to restore or replace lost or missing teeth in the mouth.
- (2) The practice of dentistry by dentists in the armed services of the United States, the United States Public Health Service, or the United States Department of Veterans Affairs in the discharge of their official duties.
- (3)
 - (a) Dental schools or colleges approved by the Louisiana State Board of Dentistry; the practice of dentistry by students in dental schools or colleges approved by the board when acting under the direction and supervision of registered dentists, licensed and acting as instructors or professors; interns in any hospital or institution, but not residents.
 - (b) Dental hygiene schools or colleges approved by the Louisiana State Board of Dentistry; the practice of dental hygiene by students in dental or dental hygiene schools or colleges approved by the board when acting under the direction and supervision of registered dentists or dental hygienists, licensed and acting as instructors or professors; interns in any hospital or institution, but not residents.

- (4) The practice of dentistry by licensed dentists of other states or countries at meetings of the Louisiana Dental Association or its component part, alumni meetings of dental colleges, or any other like dental organizations, while appearing as clinicians and by visiting dentists while teaching in the Louisiana State University School of Dentistry System on a part-time basis.
- (5) The use of Roentgen or other rays for making roentgenograms, radiograms, or similar records of dental or oral tissues if this service is rendered only under the general direction and supervision of a physician or dentist, and if this service is not offered to the public by any name as an aid or inducement to secure dental patronage. No person shall announce to the public that it has, leases, owns, or operates a Roentgen or x-ray machine for the purpose of making dental roentgenograms of the human teeth or tissues of the oral cavity, or administering treatment for any disease thereof. The evaluation and interpretation of roentgenograms or radiographs for diagnosis or treatment of dental conditions shall not be performed except by a licensed dentist.
- (6) The making of artificial restorations, substitutes, appliances, or materials for the correction of diseases, loss, deformity, malposition, dislocation, fracture, injury of the jaws, teeth, lips, gums, cheeks, palate, or associated tissues or parts, upon written work orders or prescriptions furnished by a licensed and registered dentist on a form approved by the Louisiana State Board of Dentistry as hereinafter set forth, and the use in connection with said work order or prescription of casts, models or from impressions furnished by a licensed or registered dentist.
- (7) The making and repairing of prosthetic dentures, bridges, artificial restorations or other structures to be used or worn as substitutes for natural teeth, or appliances for the correction of disease, loss, deformity, malposition, dislocation, fracture of or injury to the jaws, teeth, lips, gums, cheeks, palate, or associated tissues or parts upon a written work order or prescription furnished by a licensed and registered dentist on a form approved by the Louisiana State Board of Dentistry as hereinafter set forth and constructed on, or by use of, casts or models made from impressions taken by a licensed and registered dentist if these prosthetic or orthodontic appliances, or the services rendered in the construction, repair, or alteration thereof are not offered for sale, or use, or delivery to the public or placed or adjusted in the oral cavity, except by licensed and registered dentists.
- (8) The practice of dentistry or dental hygiene by licensed dentists or dental hygienists of other states who have obtained a temporary license with the approval of the board, provided the dentists and dental hygienists apply for a full license by taking an examination at the time the next examination is given by the board or by applying for licensure by credentials. The application for examination or for a license by credentials shall be filed with the application for temporary license. If the holder of a temporary license is unsuccessful in passing the examination or is denied a license by credentials, the temporary license shall be permanently revoked and canceled.
- (9) (a) Contracting by the spouse or the personal representative of the estate of a deceased dentist or the spouse or the personal representative of a disabled dentist with a licensed dentist to manage the dental practice at an establishment where dental operations, oral surgery, or dental services are provided for the purpose of selling or otherwise disposing of a deceased or a disabled licensee's dental practice for a period not to exceed twenty-four months.
 - (b) A spouse or personal representative may not:
 - (i) Govern the clinical sufficiency, suitability, reliability, or efficacy of a particular service, product, process, or activity as it relates to the care of dentistry.
 - (ii) Preclude or otherwise restrict a dentist's ability to exercise independent professional judgment over all qualitative and quantitative aspects of the delivery of dental care.
 - (iii) Allow any person other than a dentist to supervise and control the selection, compensation, terms, conditions, obligations, or privileges of employment or retention of clinical personnel in the dental practice.

- (iv) Determine or limit a fee charged by the dentist or limit the methods of payment accepted by the dentist or the dentist's practice.
- (v) Limit or define the scope of services offered by the dentist.
- (c) When used in this Section, the following terms shall have the following meanings ascribed to them:
 - (i) "Clinical" means those activities described in R.S. 37:751(A)(5).
 - (ii) "Disabled" has the same meaning as "disabled person" as provided in R.S. 9:3541.21 (3).
 - (iii) "Personal representative" has the same meaning as provided in R.S. 9:2260.1 (11).
- (d) The twenty-four month period provided for in this Section begins when:
 - (i) The dentist is declared legally dead.
 - (ii) The spouse or personal representative of the disabled dentist files a verified copy of disability status signed by a physician attesting to the dentist's disability with the Louisiana State Board of Dentistry.
- (e) Notwithstanding any other provision of law to the contrary, nothing in this Section shall prohibit a dentist from contracting with any person or entity for management of a dental practice prior to the death or disability of such dentist subject to R.S. 37:776.

§753. Louisiana State Board of Dentistry; appointment of members; term of office; vacancies; nominating meetings; quorum; domicile

- A. There is created within the Department of Health and Hospitals the Louisiana State Board of Dentistry which shall carry out the purposes and enforce the provisions of this Chapter, subject to the provisions of R.S. 36:803.
- B. The board shall be composed of fifteen members to include one consumer, thirteen qualified and licensed dentists as provided in Subsection C of this Section, and one qualified and licensed dental hygienist.
- C. Each member of the board shall be appointed by the governor as follows:
 - (1)(a) One dentist shall be appointed from each board district, except that two dentists shall be appointed from District Five and designated as representatives "A" and "B". Should the terms of representatives "A" and "B" expire on the same date, the term of either board member who has served for the least amount of time shall be extended for two years. Each such appointment from an electoral district shall be made from a list of three names of nominees for the respective district submitted to the governor by the board. The district nominees shall be selected from the roster of licensed dentists in the districts at a nominating meeting convened in accordance with the provisions of Subsection F of this Section. The voting domicile of each nominee for appointment and not his office address shall determine his district for purposes of holding office in accordance with the provisions of this Paragraph. The nominating meeting shall be held at least ninety days prior to the vacancy occurring by reason of an expiring term or within thirty days after a vacancy occurring by reason of death, resignation, or for any other reason.
 - (b) Louisiana shall be divided into nine board districts, as follows:
 - (i) District One shall be composed of the parishes of Acadia, Evangeline, Iberia, Lafayette, St. Landry, and St. Martin, that portion of St. Mary Parish west of the Calumet Cut Canal, and Vermilion Parish.

- (ii) District Two shall be composed of the parishes of Assumption and Lafourche, that portion of St. Mary Parish east of the Calumet Cut Canal, and Terrebonne Parish.
 - (iii) District Three shall be composed of that portion of Allen Parish north of latitude 30 deg. 45 min., and the parishes of Avoyelles, Catahoula, Concordia, and Grant, that portion of LaSalle Parish south of latitude 31 deg. 53 min., and the parishes of Natchitoches, Rapides, Sabine, Vernon, and Winn.
 - (iv) District Four shall be composed of the parishes of Caldwell, East Carroll, Franklin, and Jackson, that portion of LaSalle Parish north of latitude 31 deg. 53 min., and the parishes of Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, and West Carroll.
 - (v) District Five shall be composed of the parishes of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, and that portion of St. Tammany Parish east of Bayou Lacombe.
 - (vi) District Six shall be composed of that portion of St. Tammany Parish west of Bayou Lacombe, and the parishes of Tangipahoa and Washington.
 - (vii) District Seven shall be composed of the parishes of Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, and Webster.
 - (viii) District Eight shall be composed of the parishes of Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, West Baton Rouge, and West Feliciana.
 - (ix) District Nine shall be composed of that portion of Allen Parish south of latitude 30 deg. 45 min., and the parishes of Beauregard, Calcasieu, Cameron, and Jefferson Davis.
- (c) District representatives shall be appointed for terms beginning on January first of the following years:
- (i) The representatives from Districts 1 and 6: 1993.
 - (ii) The representatives from Districts 3 and 4: 1994.
 - (iii) The representatives from District 8: 1995.
 - (iv) The representatives from Districts 2, 5 (A and B), and 7: 1996.
 - (v) The representatives from District 9: 1993.
- (2) Three dentists shall be appointed from the state at large.
- (a) One seat shall be designated as "At-Large Seat A" and shall be appointed from the state at large from a list of three licensed black dentists certified by the board secretary to the governor. The board secretary shall obtain a list of three nominees for the "At-Large Seat A" position by ballot sent by United States mail to all licensed black dentists in the state at their last known mailing address as indicated in the board files. Each licensed black dentist may nominate any three licensed black dentists by completing the ballot with the full name, residence, address, city, and home telephone number of the three nominees and mailing the ballot to the board offices. The submission of such information on the ballot shall serve as confirmation that the voter has discussed the nomination with the nominees and they have agreed to serve if nominated and appointed by the governor. The ballot shall be mailed by the board secretary at least ninety days prior to any vacancy occurring by reason of an expiring term or within thirty days after a vacancy occurring by reason of death,

resignation, or for any other reason. After the board secretary has tabulated all ballots received at the board offices, the names of the three nominees receiving the greatest number of votes shall be certified by the secretary and sent to the governor.

- (b) Two seats shall be designated as "At-Large Seats B and C" and shall be appointed from a roster of all licensed dentists in the state. A vacancy occurring in either "At-Large Seat B" or "At-Large Seat C" shall be filled by the governor without the necessity of a nomination or other requirement, except that the appointee shall be licensed and domiciled in the state.
- (3) The hygienist shall be appointed from the state at large, from a list of three nominees certified by the board secretary and sent to the governor. The board secretary shall obtain a list of three nominees for the at-large dental hygienist position by ballot sent by United States mail to all licensed dental hygienists in the state at their last known mailing address as indicated in the board files. Each licensed dental hygienist may nominate any three licensed dental hygienists by completing the ballot with the full name, residence, address, city, and home telephone number of the three nominees, and mailing same to the board offices. The submission of such information on the ballot shall serve as confirmation that the voter has discussed the nomination with the nominees and they have agreed to serve if nominated and appointed by the governor. The ballot shall be mailed out by the board secretary at least ninety days prior to any vacancy occurring by reason of an expiring term or within thirty days after a vacancy occurring by reason of death, resignation, or for any other reason. After the board secretary has tabulated all ballots received at the board offices, the names of the three nominees receiving the largest number of votes shall be certified by the secretary and sent to the governor.
- (4) (a) The consumer member shall be selected from the state at large and appointed by the governor. The consumer member of the board shall possess all of the following qualifications:
 - (i) Is a citizen of the United States and has been a resident of Louisiana for at least one year immediately prior to appointment.
 - (ii) Has attained the age of majority.
 - (iii) Shall not have ever been licensed by any of the licensing boards identified in R.S. 36:259(A), nor shall he have a spouse who has ever been licensed by a board identified in R.S. 36:259(A).
 - (iv) Has never been convicted of a felony.
 - (v) Shall not have nor shall ever have had a material financial interest in the healthcare profession.
- (b) The consumer member shall be a full voting member of the board with all rights and privileges conferred on board members, except that the consumer member shall not participate in the grading of individual examinations.
- (5) In the event the governor declares a state of emergency, all nominating procedures may be delayed for a period of not longer than one hundred eighty days from the date the emergency was first declared by the governor.

D. Each appointment by the governor shall be submitted to the Senate for confirmation.

E. (1)(a) Each person appointed to the board shall serve a term of five years.

- (b) Regardless of a board member's dates of service, including past service, no person shall serve more than a total of ten years on the board, whether such service consists of full or partial terms, or is consecutive or not.

- (c) The provisions of Subparagraph (b) of this Paragraph shall not prevent a board member serving on August 1, 2014, from completing his term of service, but shall thereafter apply.
- (2) The effective date of appointment or reappointment of a member shall coincide with the expiration date of the previous term.
- (3) Each member shall serve until his successor has been appointed.
- (4) A vacancy occurring on the board for any reason shall be filled in the same manner as the original appointment was made. However, members appointed to fill vacancies shall only serve for the unexpired term of their predecessors.
- F. (1) The board shall have the authority to regulate nominating meetings, including prescribing the place, date, and time of the meetings, the methods of nomination, and the manner of voting.
- (2) The board secretary shall notify each licensee by United States mail at his last known place of business or residence address as indicated in the board files, at least ten days prior to a nominating meeting.
- (3) The board secretary or employee designated by the president shall require that each licensee in attendance vote only for those persons duly nominated. Cumulative or proxy voting shall not be permitted. Each licensee must vote for three nominees in order for his ballot to be valid, and any ballot indicating votes for more or less than three nominees shall be null and void. The names of the three persons receiving the greatest number of votes shall be certified by the secretary and sent to the governor.
- (4) The voting domicile of each licensee and not his office address shall determine eligibility for voting under this Subsection.
- G. No full-time member of the faculty or teaching staff of any university or college having a dental or dental hygiene department in this state shall be appointed to the board. No dentist or dental hygienist may own stock in or operate a dental supply business or commercial laboratory prior to being appointed to the board or while serving on the board. A part-time member of the faculty or teaching staff of any university or college having a dental or dental hygiene department in this state may be appointed to the board as long as the time spent providing instruction at the dental college is no more than eight hours per week.
- H. A majority of the members of the board shall constitute a quorum for all purposes including but not limited to the transaction of business, the holding of meetings, administration of examinations, granting of licenses and permits, and the rulemaking functions of the board.
- I. The domicile of the Louisiana State Board of Dentistry shall be the parish of East Baton Rouge.
- J. Each member of the board shall be actively engaged in the practice of dentistry or the practice of dental hygiene at the time of appointment, except for the consumer member.

§754. Organization of the board; seal; records; meetings

- A. The board at its annual meeting shall elect from its members a president and vice-president. The president shall preside at all meetings and serve as the board's executive officer between meetings, however, he shall not vote in board meetings except in case the members present are equally divided. The board shall also appoint a secretary-treasurer who may be but need not be a member of the board.
- B. The board shall have an official seal and shall keep proper minutes and records of all its proceedings, which shall be open at all reasonable times to public inspection. The board shall make a complete record of the names and addresses and license numbers of persons licensed as dentists and dental hygienists, and of all licenses revoked by it. A transcript of the minutes and record entries, certified by the secretary-treasurer under the seal of the board, shall be evidence of the facts therein stated. The

secretary-treasurer shall be the legal custodian of all property, money, minutes, records, proceedings, and seal of the board.

- C. The board shall hold one regular meeting each year and special meetings as are necessary. The board shall determine the place within the state and time of all meetings.

§755. Compensation of members

Out of the funds of the board, each board member shall receive one hundred fifty dollars per day and actual reimbursement for reasonable traveling expenses for each day actually engaged in the performance of his official duties. In addition, the president shall be paid a salary in connection with performing the official duties of his office in an amount to be set by the board.

§756. Receipts and disbursements of board

- A. All fees received by the board under this Chapter shall be paid to the secretary-treasurer. Disbursements made by the board shall be signed by the president and the secretary-treasurer. In the absence of either the president or secretary-treasurer, the vice president or any employee empowered by the board by majority vote is authorized to sign all disbursements with the remaining authorized signatory.
- B. The board may expend the necessary funds for its offices, furniture, fixtures, supplies, equipment, printing, and all other expenses necessary to conduct the board's business.

§757. Patient Records

- A. Any dentist licensed to practice in this state shall keep a written record of any dental treatment for a patient, including each service performed, the amount charged for the service, and by whom the bill for the service was paid, whether by the patient or by the patient's representative or insurer.
- B. The dentist shall maintain, preserve, and provide copies of the dental treatment records in conformity with R.S. 40:1165.1.

§758. Affiliation with American Association Of Dental Examiners and other associations

The board may affiliate with the American Association of Dental Examiners, associations of deans of dental schools, or other similar professional associations, as an active member, and pay regular annual dues to said associations and send delegates or representatives to the meetings of said associations. Delegates may receive the per diem provided in R.S. 37:755 for the time spent in attending such meetings and reimbursement for actual and necessary traveling expenses.

§759. Report of board

The board shall report its proceedings and the items of its receipts and disbursements for the previous fiscal year to the governor before September first in each year.

§760. Powers and duties of the board

- A. The board shall exercise, subject to the provisions of this Chapter, the following powers and duties:
 - (1) Conduct examinations to ascertain qualifications and fitness of applicants for licenses as dentists and dental hygienists. The board may employ dentists and dental hygienists licensed in any state or territory of the United States as defined in R.S. 37:751(A)(1) to participate as examiners to assist the board in conducting clinical licensing examinations. Board members may also participate as examiners for other national or regional clinical testing agencies.
 - (2) Appoint or designate one or more examining committees of dentists, dental hygienists, or professionals possessing appropriate qualifications to conduct physical or mental examinations on a dentist or dental hygienist, to otherwise inquire into the dentist's or dental hygienist's fitness and ability to practice with

- reasonable skill and safety on patients, and to submit advisory reports and recommendations to the board, when the committee has reasonable cause to believe that such dentist's or dental hygienist's fitness and ability are affected by mental illness or deficiency or physical illness, including but not limited to deterioration through the aging process or excessive use or abuse of alcohol, drugs, or chemicals.
- (3) Prescribe rules and regulations for examination of candidates.
 - (4) (a) Conduct hearings on proceedings to revoke, limit, or suspend, and to revoke, limit, or suspend a license granted under this Chapter, as well as conduct hearings to sanction unlicensed persons illegally practicing dentistry or dental hygiene, when evidence has been presented showing violation of any of the provisions of this Chapter.

(b) In addition to the powers and duties granted in Subparagraph (a) of this Paragraph, the board may, in its discretion, impose a fine, but shall impose liability for all of the board's costs generated by its investigation, prosecution, judicial review, and appeal of the proceedings, including but not limited to attorney fees, investigative fees and expenses, witness fees and expenses, stenographic costs, and the per diem and expenses of the committee members, against any person licensed pursuant to this Chapter or any unlicensed person when evidence has been presented showing the person is in violation of any of the provisions of this Chapter.
 - (5) Conduct proceedings relative to the refusal of reissuance of licenses, certificates, or authorities, when evidence has been presented showing violation of any of the provisions of this Chapter.
 - (6) Issue licenses, certificates, or authorities in conformity with this Chapter to applicants who have been found qualified. The president may appoint a committee comprised of three or more members of the board which is authorized to issue provisional permits and licenses where authorized by this Chapter and rules of the board, provided that the licenses and certificates so issued must be approved by the full board at its next scheduled meeting.
 - (7) Shall investigate complaints of illegal practice or a violation of this Chapter when evidence is presented to the board.
 - (8) Adopt rules and regulations in accordance with law and after due promulgation providing for approval of colleges, universities, and training schools for dentists, dental hygienists, and auxiliary personnel; and regulate the practice of licensed dentists and dental hygienists, by prescribing those acts, services, procedures, and practices which may be performed and imposing such requirements and restrictions on the performance thereof as it shall consider proper and necessary to protect and promote the public health and welfare of the citizens of this state. The board may adopt such rules as are necessary to register and charge fees for the licensing activities and other services provided by the board.
 - (9) The president, or in his discretion, any member of the board may execute, on a case-by-case basis, any affidavit, petition, or subpoena necessary to the issuance of any injunction, declaratory judgment, or other legal process authorized pursuant to this Chapter, including but not limited to a petition in any court of competent jurisdiction for a money judgment for any and all fines and costs payable pursuant to a final administrative adjudication decision or ratified consent decree. This authorization is remedial and shall have retroactive effect.
 - (10) The president, or in his absence or in his discretion, any member of the board, may administer oaths in the taking of testimony at any hearing before the board or a duly appointed committee of board members on any matters relative to the duties of the board or violation of this Chapter.
 - (11) Employ legal counsel to carry out the provisions of this Chapter provided the fees of the counsel and the costs of all proceedings, except criminal prosecutions, are paid by the board out of its own funds.
 - (12) Pass upon the qualifications of applicants for restricted licenses, and any application for a restricted license shall be accompanied by a certification of employment or registration and active participation in a post-graduate program by the dean of such dental school or the director of such hospital, state

institution, or state agency seeking to register the applicant and obtain his active participation in a post-graduate program or to employ the applicant. The certifying authority and the holder of the restricted license shall both be responsible for notifying the board immediately upon the termination of employment or registration and active participation as a post-graduate student of said applicant. All holders of restricted licenses shall practice their profession only in connection with the terms of their employment or active participation as a post-graduate student with the school, hospital, state institution, or state agency.

- (13) Require and determine by rule, minimum requirements relative to continuing education for relicensure and recertification.
 - (14)(a) When the board has reasonable cause to believe that dental health care or controlled dangerous substance records relative to a matter under investigation by the board may be created, altered, or destroyed before production for board review, or when the dental health care provider may have engaged in fraudulent conduct or may have provided substandard care, where that substandard care results in death or hospitalization, or is the subject of three or more written patient complaints to the board, or otherwise has violated the Louisiana Dental Practice Act, R.S. 37:776, or R.S. 37:777, the board may apply ex parte by affidavit to the district court including within its district the parish where the licensee resides, practices dentistry or dental hygiene as reflected in the office address on record with the board, or where the licensee may be found, for an administrative warrant authorizing the seizure of dental health care records in whatever form they may be kept, such as on paper or computer discs. The court may issue the administrative warrant requiring immediate production of dental health care records only upon a finding that the board has demonstrated reasonable cause that the dental health care or controlled dangerous substance records described in the application for the administrative warrant do not exist or may be created, altered, or destroyed if production is not immediate, or that the dental health care provider may have engaged in fraudulent conduct regarding the patients whose records are at issue or may have provided substandard care resulting in death or hospitalization, or is the subject of three or more written patient complaints to the board.
 - (b) The administrative warrant shall be personally served on the dental health care provider whose conduct is at issue.
 - (c) The board shall be allowed to copy actual treatment records when and where they are produced, allowing the dental health care provider to maintain the original treatment records. The board shall retain original radiographs produced by the dental health care provider but will provide the dental health care provider a copy of those radiographs at the time of production by creating a copy for the health care provider by using an appropriate copying device.
 - (15) Require and determine, by rule, requirements for expedited provisional licenses when a state of emergency has been declared by the governor or the United States government.
 - (16) Undertake the defense of any employee, agent, or contractor in any lawsuit that arises from the performance of the individual's employment or fulfillment of their contract with the board, provided that the complained-of action that is the subject of the lawsuit arises from any action approved by the board and undertaken or performed by such person within the scope of the duties, powers, and functions of the board and when such person is acting without malice and in the reasonable belief that the action is warranted. The defense obligation described in this Paragraph shall not occur unless and until the Louisiana attorney general has been notified of the pending action in accordance with R.S. 13:5108.1 and has determined that the state of Louisiana will not provide a defense to the employee, agent, or contractor.
- B. The board may request and obtain criminal history record information from the state and federal government on any person applying for any license, permit, certificate, or registration which the board is authorized by law to issue in accordance with R.S. 37:763.1.

§ 761. Requirements of applicants for dental license

- A. The board shall require that every applicant for a dental license shall:
- (1) Be a citizen or possess valid and current legal authority to reside and work in the United States duly issued by the United States Citizenship and Immigration Services or its successor.
 - (2) Present satisfactory evidence of graduation from a dental college or university approved by the Louisiana State Board of Dentistry, according to its rules and regulations.
 - (3) Submit for the files of the board a recent picture duly identified and attested; and such other character reference report as shall be required by the board.
 - (4) Present satisfactory evidence of having taken an examination in the theory and practice of the science of the profession given by the Joint Commission on National Dental Examinations before being accepted for the regular examination given by the board, or pass an examination given by the board in the theory and practice of the science of dentistry in addition to the regular examination given by the Louisiana State Board of Dentistry. Upon receipt of information that the applicant has passed the examination in the theory and practice of the science of the profession given by the Joint Commission on National Dental Examinations, he may be awarded a dental license, but only when all other requirements for licensure have been met. If the applicant fails the examination given by the Joint Commission on National Dental Examinations, he must successfully retake the Louisiana clinical licensing examination after providing satisfactory evidence of subsequently passing the examination given by the Joint Commission on National Dental Examinations.
 - (5) Possess a current certificate in the American Heart Association cardiopulmonary resuscitation health care provider course, the American Red Cross Professional Rescue Course, or their equivalent.
- B. In addition to these requirements, the board may decline to issue or renew a dentist's license for any of the causes listed in R.S. 37:776.
- C. An applicant who has successfully completed any national, regional, or independent third-party clinical dental licensing examination approved by the board that shall include procedures performed on human subjects as part of the assessment of restorative clinical competencies and who otherwise satisfies all requirements for a dental license, including satisfactory completion of an examination in jurisprudence and a background check, may be granted a license by examination by applying for licensure in Louisiana within three years following the successful completion of such clinical licensing examination.

§761.1 Retired volunteer dental license, issuance, applicant's requirements; limitation of liability; denial; violations; status change; continuing dental education

- A. The board may issue a retired volunteer dental license to an applicant to practice dentistry if the dentist's practice consists only of voluntary care, as defined by board rule. Holders of a retired volunteer dental license shall submit with the application to the board a notarized statement that they shall not accept any form of remuneration directly or indirectly for providing dental services. Any application for licensure pursuant to this Section shall be in the form and manner designated by the board.
- B. The applicant for licensure shall meet all of the following conditions:
- (1) The applicant shall maintain, for at least ten years prior to retirement, full licensure in good standing in Louisiana without disciplinary action that restricted the applicant's license or resulted in the applicant's license being placed on probation, suspended, restricted, revoked, surrendered, resigned, or otherwise allowed to lapse or expire in lieu of disciplinary action being taken.
 - (2) The applicant shall have held an active status dental license in good standing in Louisiana within one year prior to the date of application for a retired volunteer dental license; however, the board may waive the one-year requirement in the event that the applicant demonstrates that he possesses the knowledge and skills requisite to the practice of dentistry by successfully completing such examinations required by the board.

- (3) The applicant shall be of good moral character and affirm that the applicant has no felony convictions or other criminal convictions that would affect the applicant's ability to render competent care.
- C. For purposes of this Section, a person shall be considered retired from practice if the person's license has been surrendered or allowed to expire with the intention of ceasing to practice as a dentist for remuneration.
- D. (1) No dentist holding a retired volunteer license to practice dentistry who in good faith gratuitously renders health care to a patient shall be liable for any civil damages as a result of any act or omission in rendering the care or services or as a result of any act or failure to act to provide or arrange for further medical or dental treatment or care to any person receiving the services, unless the damages were caused by the gross negligence or willful or wanton misconduct of the dentist.
- (2) This Subsection shall not apply if the dentist holding a retired volunteer license treats a patient in a private clinic where payment by the patient is expected and the patient or the patient's private insurer pays the clinic or the clinic owner for the treatment, even if the dentist holding the volunteer license is providing the treatment without being remunerated.
- (3) (a) The provisions of this Subsection shall be applicable only if the person receiving the health care services receives prior notice from the facility where the licensed retired volunteer dentist is providing services of the limitation of liability provided for in this Subsection.
- (b) Either at the initial screening of a person or at the time health care services are provided, the facility or the licensed retired volunteer dentist providing the services shall inform such person of the limitation of liability by distributing to such person a written notice. Such notice shall also be posted at a prominent place where patients entering the facility will see it. The notice shall read substantially as follows: "NOTICE - If you are injured here because of things we do or fail to do, you do not have the same legal recourse as you would have against other health care providers."
- (c) The posted notice shall be printed in type size sufficient to be easily read by patients upon entering the facility.
- (d) Failure to follow notice procedures as provided in this Subsection shall negate the limitation of liability.
- E. All documentation and certification shall be submitted to the board for review. Any plan to reestablish competency shall be submitted to and pre-approved by the board. Demonstration of professional ability, skills, and knowledge may be accomplished by successfully completing a reentry program at an accredited dental institution, which will certify the licensee's proficiency meets or exceeds the competency level required of a graduating student in his senior year from the institution.
- F. The board shall deny issuance of a retired volunteer dental license to a person who is not qualified pursuant to this Section to hold a retired volunteer dental license.
- G. The holder of a license under this Section who practices dentistry other than as authorized in this Section shall be guilty of a felony with each day's violation constituting a separate offense. Upon proof of practice other than as authorized in this Section or of a violation of R.S. 37:776, the board may suspend or revoke the retired volunteer dental license after notice to the licensee. For violations of the dental practice act or rules adopted under the act that are applicable to practice under this Section, the board shall have the same authority to investigate and impose sanctions on retired volunteer license holders as it has for those holding an active license.
- H. Any person licensed pursuant to this Section may apply to the board for a return to active licensure status by filing an application in the form and manner prescribed by the board and meeting all requirements of this Chapter. Licensees who desire to change a retired volunteer license to an active license and who have not practiced within the year immediately preceding application for an active license shall document and certify to the board how they have maintained their professional ability, skills, and knowledge and shall be subject, at the board's discretion, to the provisions of LAC 46:XXXIII.124.
- I. The retired volunteer status of a licensee shall be plainly indicated on the face of any retired volunteer license issued under this Section.

- J. Holders of a retired volunteer dental license shall comply with the continuing dental education requirements adopted by the board which shall include cardiopulmonary resuscitation (CPR) training.
- K. The board may charge an administrative fee for issuing a retired volunteer dental license pursuant to this Section. However, a dentist who possesses an active Louisiana license and who desires to convert the active license to a retired volunteer dental license shall not pay an administrative fee for the conversion.
- L. A retired volunteer license shall be valid for a period of two years and shall expire as provided by law.

§762. Licenses; data on

All licenses issued by the board shall bear a serial number, the full name of the licensee, the date of issuance, and the seal of the board; and shall be signed by the president and members of the board.

§763. Application for or acceptance of license or permit; waiver of personal privileges; conditions for surrender of license; certification or registration

- A. Any person applying for or accepting a license or permit to practice dentistry or dental hygiene in this state shall, by applying for or accepting said license or permit, be deemed to have given his consent to submit to physical or mental examinations when so directed by the board, acting upon reasonable cause, and to waive all objections as to the admissibility or disclosure of findings, reports, or recommendations pertaining thereto on the grounds of privileged communications or other personal privileges provided for by law.
- B. Any person applying for, accepting, or holding a license or permit to practice dentistry or dental hygiene in this state shall be deemed, notwithstanding any privilege of confidentiality, to have given his authorization and consent to the disclosure to the board, by any dentist, physician, or other health care provider and by any health care institution, of any, and all dental or medical records and information pertaining to such person's diagnosis, evaluation, treatment and prognosis for any physical or mental condition, disease, illness, deficiency, or infirmity, when the board is acting upon a bona fide complaint and it has reasonable cause to believe that his fitness and ability to practice dentistry or dental hygiene with reasonable skill and safety may be impaired by mental illness or deficiency, or physical illness, including but not limited to deterioration through the aging process or the loss of motor skills, and/or excessive use or abuse of drugs, including alcohol. However, any records or information obtained by the board pursuant to this Section shall not constitute public records and shall be maintained in confidence by the board until and unless such records or information are admitted into the record of proceedings before the board pursuant to R.S. 37:780. Upon the request of the board, the licensee shall execute a written authorization to allow the board to acquire the health care records as described herein.
- C. Unless the board agrees to accept the surrender of a license, permit, certification, or registration of an individual the board regulates, the individual may not surrender the license, permit, certification, nor registration lapse by operation of law while the individual is under investigation or while charges are pending. The board may set conditions on its agreement to accept surrender of a license, permit, certification or registration as it sees fit in these circumstances.

§763.1. Criminal history record information

- A. As used in this Section:
 - (1) "Applicant" means an individual who has made application to the board for the issuance, renewal, or reinstatement of any license, permit, certificate, or registration which the board is authorized by law to issue.
 - (2) "Bureau" means the Louisiana Bureau of Criminal Identification and Information of the office of state police within the Department of Public Safety and Corrections.
 - (3) "Criminal history record information" means information collected by the bureau or the Federal Bureau of Investigation of the United States Department of Justice on an individual consisting of

- identifiable descriptions, notations of arrests, detentions, indictments, bills of information, or any formal criminal charges and any disposition arising therefrom, including sentencing, criminal correctional supervision and release. "Criminal history record information" does not include information collected for intelligence or investigatory purposes nor does it include any identification information which does not indicate involvement of the individual in the criminal justice system.
- B. (1) Notwithstanding any other law to the contrary, the board may require an applicant to submit a full set of fingerprints to the board on a form and in such a manner as prescribed by the board so as to permit the board to request and obtain criminal history record information on the applicant.
- (2) In addition to all other applicable fees and costs, the board may charge and collect a fee from the applicant to cover the cost incurred by the board in requesting and obtaining the criminal history record information on the applicant.
- (3) The board shall promulgate rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of this Subsection.
- C. The board may request and obtain the criminal history record information on an applicant whose fingerprints the board has obtained pursuant to this Section from the bureau or from the Federal Bureau of Investigation of the United States Department of Justice.
- D. (1) The bureau shall conduct a search of its criminal history record information on the applicant and report the findings of its search to the board no later than sixty days from receipt of a request for such information made by the board and upon the board's submission of an applicant's fingerprints and such other identifying information as may be required by the bureau.
- (2) The bureau may charge the board a reasonable processing fee for conducting the search and reporting the findings on the search to the board.
- E. If the criminal history record information reported by the bureau to the board fails to provide grounds for disqualification of the applicant under the applicable law administered by the board, the board may forward the applicant's fingerprints and such other identifying information as may be required to the Federal Bureau of Investigation of the United States Department of Justice with a request for a search of criminal history record information on the applicant.
- F. (1) Criminal history record information shall be considered confidential information and the board, its members, officers, investigators, agents, and attorneys shall use the criminal history record information exclusively to evaluate the applicant's eligibility or disqualification.
- (2) Criminal history record information obtained in accordance with this Section shall not be released or otherwise disclosed by the board to any person or agency without the written consent of the applicant unless the release is ordered by a court of competent jurisdiction.

§ 764. Dental hygienist; application for license

- A. Every applicant to be licensed as a dental hygienist shall:
- (1) Be not less than eighteen years of age.
- (2) Be a citizen or a permanent resident of the United States unless otherwise prohibited by the North American Free Trade Agreement.
- (3) File with the board a written application upon the form prescribed by the board, verified by oaths, and accompanied by the required fee and a recent unmounted autographed photograph of the applicant.
- (4) Present satisfactory evidence of graduation from a training school of dental hygienists approved by the Louisiana State Board of Dentistry, according to its rules and regulations.

- (5) Present satisfactory evidence of having taken an examination in the theory and practice of the science of the profession given by the Joint Commission on National Dental Examinations before being accepted for the regular examination given by the board or passing an examination given by the board in the theory and practice of the science of dental hygiene in addition to the regular examination given by the Louisiana State Board of Dentistry. Upon receipt of information that the applicant has passed the examination in the theory and practice of the science of the profession given by the Joint Commission on National Dental Examinations, he may be awarded a dental hygiene license, but only when all other requirements for licensure have been met. If the applicant fails the examination given by the Joint Commission on National Dental Examinations, he must successfully retake the Louisiana clinical licensing examination after providing satisfactory evidence of subsequently passing the examination given by the Joint Commission on National Dental Examinations.
 - (6) Possesses a current certificate in the American Heart Association cardiopulmonary resuscitation health care provider course, the American Red Cross Professional Rescue Course, or their equivalent.
- B. In addition to these requirements, the board may decline to issue or renew a dental hygienist's license for any of the causes listed in R.S. 37:777.
 - C. Any person who has graduated from a dental school accredited by the Commission on Dental Accreditation of the American Dental Association and who has successfully completed the examination given by the Joint Commission on National Dental Examinations for either the profession of dentistry or dental hygiene may apply for a dental hygiene license.
 - D. An applicant who has successfully completed any national, regional, or independent third-party clinical dental hygiene licensing examination approved by the board that shall include procedures performed on human subjects as part of the assessment of clinical competencies and who otherwise satisfies all requirements for a dental hygiene license, including satisfactory completion of an examination in jurisprudence and a background check, may be granted a license by examination by applying for licensure in Louisiana within three years following the successful completion of such clinical licensing examination.

§765. Examination of dental hygienist; issuance of license

The applicant for a license as a dental hygienist shall appear before the board at its first examination after the filing of his application and passing an examination consisting of practical and clinical demonstrations and oral and written tests on subjects prescribed in the curricula of recognized dental hygiene schools. If the applicant passes the examinations he shall receive a license from the board, attested by its seal, and signed by its president and board members. The license shall be evidence of his right to practice as a dental hygienist in this state under the provisions and regulations provided for in this Chapter.

§766. Dental hygienists, employment; operations limited

Any licensed dentist licensed in Louisiana of good standing, public school, or federal or state institution where health care is provided may employ a licensed dental hygienist who may perform such duties as may be authorized by the board. A licensed dental hygienist may operate under a licensed Louisiana dentist's direct or general supervision as defined in LAC 46:XXXIII.108, within the limits prescribed by the board in LAC 46:XXXIII.701. The licensed dental hygienist shall be responsible for providing notification to the board of the name and location of his employer.

§767. Duplicate certificates; issuance

If the loss of a dental license or dental hygiene license is satisfactorily shown, a duplicate shall be issued by the board upon payment of the fee required in R.S. 37:795.

§768. Licensure by credentials

No person who meets all of the criteria established under the provisions of this Chapter and those rules and regulations promulgated by the board relative thereto shall be denied a license based on credentials. Licensure by credentials shall be utilized to evaluate a dentist's and dental hygienist's theoretical knowledge and clinical skill when an applicant for licensure by credentials holds a dental or dental hygiene license in another state. This Chapter shall not be construed to allow licensure by reciprocity, which is prohibited.

§770. Renewals; requirements

- A. (1) The secretary of the board shall collect the biennial renewal license fee for dentists and dental hygienists. The license renewal fee shall be set by the board and shall be due and payable no later than the expiration of the current renewal certificate at the board office. Failure to pay this renewal fee before the expiration of the current renewal certificate will provide a basis for the temporary suspension of a Louisiana dental or dental hygiene license. Payment of the license renewal fee made after the current renewal certificate has expired, but prior to a subsequent suspension or revocation of a license as provided in this Chapter shall be accompanied by a delinquency fee as well as any costs or expenses, including attorney fees, which may be caused by the need for the institution of disciplinary proceedings.
- (2) The secretary of the board may collect a fee to certify or to recertify the confirmation of expanded duty dental assistants as set forth in rules promulgated by the board.
- (3) Any dentist or dental hygienist applying for renewal of a license shall present satisfactory evidence with the license renewal application form that he is currently certified in Cardiopulmonary Resuscitation Course "C" Basic Life Support for Health Care Providers as defined by the American Heart Association, the Red Cross Professional Rescue Course, or an equivalent.
- B. The official roster of the board for issuing license renewals or any other official notice shall be the last known mailing address of the dentist, dental hygienist, or expanded duty dental assistant as indicated in the board files.
- C. Effective in renewal year 1998, the board may renew the license of a dentist or dental hygienist biennially.
- D. Each dentist and dental hygienist shall renew his license as required by the provisions of this Chapter. If a dentist or dental hygienist fails to renew his license by February first of the renewal year, the board shall send a notice advising him that his license shall be revoked for nonpayment at the next available board meeting and shall give the dentist or dental hygienist an opportunity to appear at the board meeting and show cause why his license should not be revoked.
- E. Renewal fees for mobile or movable dental offices shall be renewed concurrently with the dentists' license renewal.
- F. (1) In addition to all other applicable fees and costs attendant to the issuance, renewal, or reinstatement of any license, certificate, permit, or registration issued to a dentist by the board pursuant to this Chapter, the board shall charge and collect a fee from each dentist and each dental hygienist in an amount set by the board to be utilized for the identification, monitoring, and assistance of, and procurement of treatment for, dentists and dental hygienists suffering from substance abuse, chemical dependency, psychiatric conditions, or physical deficiencies resulting in behavior such as defined in R.S. 37:776(A)(5) and (17) and 777(A)(5) and (24) which may interfere with their ability to practice dentistry or dental hygiene with reasonable skill and safety.
- (2) The fee established in this Subsection shall be due and payable at the time of application for the issuance, renewal, or reinstatement of any license, permit, certificate, or registration.
- (3) The fee established in this Subsection shall not be collected from a dentist seeking issuance or renewal of a retired volunteer license.

§771. Right to use title

A dental licensee of this state, graduated from a reputable dental school has the right to use the title "Doctor" or its abbreviation before his name or append to his name the letters: "B.D.S.", "M.D.S.", "L.D.S.", "D.D.S.", "D.M.D." or equivalent letters signifying the dental degree conferred upon him.

§771.1 Dentist fees; discount to an uninsured individual; effect on a dentist's contracted reimbursement amount

- A. Notwithstanding any state or federal provisions to the contrary, a contracted dentist licensed to practice dentistry by the Louisiana State Board of Dentistry may offer a discount for dental care services rendered to an uninsured individual. Any such discount granted by a contracted dentist to an uninsured individual shall not reduce the contracted reimbursement amount between a dentist and a health or dental insurance issuer for dental care services rendered to the issuer's enrollees, insureds, and subscribers.
- B. For the purposes of this Section:
 - (1) "Contracted dentist" means a dentist licensed to practice dentistry by the Louisiana State Board of Dentistry who has executed a direct, specific contract with a health insurance issuer.
 - (2) "Contracted reimbursement amount" means the quantity of remuneration a health or dental insurance issuer has agreed to pay a dentist for rendering dental care services in a direct, specific agreement between a dentist and a health or dental insurance issuer.
 - (3) "Enrollee," "insured," or "subscriber" means an individual who is enrolled or insured by a health or dental insurance issuer or who is subscribed to a dental services contractor for dental insurance coverage or prepaid dental services.
 - (4) "Health or dental insurance issuer" means any entity that offers health or dental insurance coverage through a policy, contract, dental benefit plan, or certificate of insurance subject to state law that regulates the business of insurance. For purposes of this Section, a "health or dental insurance issuer" shall include but not be limited to a dental service contractor as defined and certified pursuant to Part XXXIII of Chapter 1 of Title 22 of the Louisiana Revised Statutes of 1950.

§772. Anesthetics and prescriptions; patient histories and examinations

- A.
 - (1) A licensed dentist may administer general and local anesthetics and prescribe drugs or medicine necessary or proper in the practice of his profession.
 - (2) A licensed druggist of this state may fill prescriptions of a licensed dentist of this state for any drug necessary to the practice of dentistry.
- B.
 - (1) A licensed dentist may perform a patient history and examination in a hospital, provided that he has completed a physical evaluation program or course curriculum in an accredited medical or dental school teaching institution, is qualified as a board eligible or board certified oral or maxillofacial surgeon, and his credentials have been approved by the hospital medical staff and he has been approved by the hospital board to perform such procedures. All such patient histories and examinations shall be directly related or incident to any dentistry or oral or maxillofacial surgery procedures.
 - (2) Patients with known medical problems on admission or arising during hospitalization shall have appropriate medical consultation.

§773. State and municipal regulations

All persons licensed to practice dentistry in this state shall observe and be subject to all state and municipal regulations relating to the control of contagious and infectious diseases and any and all matters pertaining to public health.

They shall make reports to proper health offices the same as those practicing other professions are required to so report and executing death certificates, when necessary in the practice of their profession. These reports and certificates, in the manner provided by law, shall be accepted by the office or department to whom they are made.

§774. Practice under name of licensee; full disclosure required

Except as provided under Chapter 11 of Title 12 of the Louisiana Revised Statutes of 1950, relating to professional corporations, no person shall:

- (1) Practice dentistry under the name of a corporation, company, association, limited liability company, or trade name without full and outward disclosure of his full name, which shall be the name used in his license or renewal certificate as issued by the board, or his commonly used name.
- (2) Conduct, maintain, operate, own, or provide a dental office in this state, either directly or indirectly, under the name of a corporation, company, association, limited liability company, or trade name without full and outward disclosure of his full name as it appears on the license or renewal certificate as issued by the board or his commonly used name.
- (3) Hold himself out to the public, directly or indirectly, as soliciting patronage or as being qualified to practice dentistry in this state under the name of a corporation, company, association, limited liability company, or trade name without full and outward disclosure of his full name as it appears on the license or renewal certificate as issued by the board or his commonly used name.
- (4) Operate, manage, or be employed in any room or office where dental service is rendered or conducted under the name of a corporation, company, association, limited liability company, or trade name without full and outward disclosure of his full name as it appears on the license or renewal certificate as issued by the board or his commonly used name.
- (5) Practice dentistry without displaying his full name or his commonly used name as it appears on the license or renewal certificate as issued by the board in front of each dental office location if the office is in a single-story and/or single-occupancy building, or without displaying his full name or his commonly used name as it appears on the license or renewal certificate as issued by the board on the outside of the entrance door of each dental office if the office is in a multi-occupancy and/or multi-story building.

§775. Unprofessional conduct defined

A. As used in this Chapter, "unprofessional conduct" means:

- (1) Advertisement of fees for or of free dental services without:
 - (a) Fully disclosing all procedures to be included by the dentist in the advertised service, including but not limited to necessary diagnosis, radiographs, restorative treatment, laboratory fees, and post-operative care.
 - (b) Fully disclosing that procedures which are customarily included in the service are not included in the service offered for the advertised fee, if such is the case.
 - (c) Disclosing within the advertisement the name of the advertising dentist. If one member of an association/partnership advertises, the names of all partners and dentist employees must also appear therein. This is not to include the appearance of the names of those persons merely sharing space with the advertising dentist, but does include all dentists providing dental services to those responding to the advertisement.
- (2) Not including in advertisements the name which appears on the license or renewal certificate of the dentist, the dentist's commonly used name, or the name which is authorized under Chapter 11 of Title 12 of the Louisiana Revised Statutes of 1950, as amended, relative to professional dental corporations or the use in advertisements of any name other than that which appears on the license or renewal

certificate of the dentist, the dentist's commonly used name, or the name which is authorized under Chapter 11 of Title 12 of the Louisiana Revised Statutes of 1950, as amended, relative to professional dental corporations.

- (3) Any communication about the dentist or the dentist's services which is false, misleading, or deceptive; or the omission of material information from any statement or claim about the dentist or the dentist's services.
- (4)
 - (a) Any communication for which the dentist does not have substantiation in hand at the time the claim is made.
 - (b) The failure to provide said substantiation or records of the content and dissemination of an advertisement to the board upon request.
 - (c) The failure to keep records of any communication or written statements and claims, including advertising copy, and substantiation for same for a period of two years from the date on which the particular statement or claim is made.
- (5) Any communication which is likely to create an unjustified expectation about results the dentist can achieve, or which states or implies that the dentist can achieve results by means that violate this Chapter, the rules and regulations of the board, or other law.
- (6) The practice of dentistry or the giving of a public demonstration of skill or methods of practicing dentistry in any place other than a clean, sanitary, and safe facility.
- (7) Directly or indirectly offering, giving, receiving, or agreeing to receive any fee or other consideration to or from a third party for the referral of a patient in connection with the performance of a dental service.
- (8) Advertising of denture prices which fails to include the following information:
 - (a) Whether or not the dentures are preformed or prefabricated.
 - (b) In the case of "immediate dentures", details of required adjustments and other necessary procedures including charges to be made therefor.
 - (c) Fees for each different grade of denture which the advertiser may offer to persons who respond to the advertisement.
 - (d) The number of appliances included.
 - (e) The fact that the advertised price does not include upper and lower dentures, if such is the case. This disclosure must be made in type twice as large as any other type in a print advertisement or repeated three times in an audio advertisement at a decibel level no lower than the loudest level in the advertisement.
- (9)
 - (a) Advertising of dental services in any medium which does not contain the dentist's full name as it appears on the license or renewal certificate issued by the board or the dentist's commonly used name, address, and telephone number.
 - (b)
 - (i) Intentionally releasing inaccurate or misleading information by a dentist to any source that promotes dissemination of inaccurate or misleading information about the dentist by, from, or through such source.
 - (ii) Failing to take immediate steps to request the correction of inaccurate or misleading information that has been released by a source pursuant to the source's relationship with the dentist.

- (iii) For the purposes of this Subparagraph, "source" includes but is not limited to an insurance company, dental health maintenance organization, a dental preferred provider organization, Medicaid, dental discount company, or any other third party.
- (c) Engaging or hiring an advertising agency or any other agency or person to prepare material to promote the dentist's professional dental services, and thereafter failing to review and approve the material before publication or release, unless the dentist can show the failure to review and approve the material was caused by the failure of the agency or person and not his own.
- (10) The use of the name of any deceased or retired and licensed dentist or hygienist, or the name of any licensed dentist or hygienist with a disability, on any office door, directory, stationery, billhead, or any other means of communication any time after one year following the retirement from practice of the dentist or dental hygienist, or twenty-four months following the death or disability of the dentist.
- (11) (a) The employment or engaging of the services of any person, firm, or corporation to construct, repair, furnish, supply, or reproduce a prosthetic appliance or any denture, orthodontic appliance, bridge, or other substitute for natural teeth without the dentist furnishing a written work order on a form approved by the board which shall contain:
 - (i) The name and address of the person, firm, or corporation to which the work order is directed.
 - (ii) The patient's name or identification number, and if number is used, the patient's name must be written upon duplicate copy retained by the dentist.
 - (iii) The date on which the work order was written.
 - (iv) A description of the work to be done, including diagrams if necessary.
 - (v) Specification of the type and quality of materials to be used.
 - (vi) The signature of the dentist and number of his license.
- (b) The failure of the dentist to retain the original copy of such work orders so furnished for a period of two calendar years in addition to the current year.
- (12) The use, in connection with the practice of dentistry, of any practice which is prohibited by law.
- B.(1) Notwithstanding any provision of this Section, when it is required by this Section that an advertisement include the name of the advertising dentist, either as it appears on the license or renewal certificate of the dentist or the dentist's commonly used name, or the specialties of all dentists practicing within or under the name of a corporation, company, association, limited liability company, or trade name be disclosed in the advertisement, and the address and telephone number of the dentist, the requirements shall be deemed to be sufficiently satisfied if the names and specialties of all dentists practicing in, with, or under the corporation, company, association, limited liability company, or trade name and the address and telephone number are made available on an internet website fully disclosed in the advertisement, or are provided without delay to any individual requesting the information by contacting the advertiser at a telephone number also disclosed in the advertisement.
- (2) Whenever any advertisement is run by or on behalf of a corporation, company, association, limited liability company, or trade name, each dentist practicing in, with, or under the corporation, company, association, limited liability company, or trade name shall be responsible for the content of the advertisement unless an individual dentist practicing in, with, or under the corporation, company, association, limited liability company, or trade name, advises the board in writing prior to the time the board takes any action regarding the advertisement that he assumes sole responsibility for the advertisement. If an individual dentist assumes sole responsibility for the advertisement pursuant to the provisions of this Paragraph, no other dentist shall be responsible for such advertisement.

(3) In order to assist an advertising dentist in determining which language in a communication constitutes unprofessional conduct under Paragraphs (A)(3), (4), and (5) of this Section, whenever the board determines that an advertisement constitutes unprofessional conduct under Paragraphs (A)(3), (4), or (5) of this Section, unless the communication is a clear violation or the communication involves a general dentist suggesting or implying that he is a specialist, before taking any further action pursuant to R.S. 37:776 and 780, the board shall notify the advertising dentist by mail of its determination and the specific portion of the advertisement that constitutes unprofessional conduct. The dentist shall have thirty days from the date of receipt of the notice by the dentist to correct the portions of the advertisement in violation and submit to the board proof of the correction. If the advertisement is corrected to remove the violation within thirty days of receipt of notice, the board shall take no further action against the advertising dentist for unprofessional conduct with regard to the advertisement. In the event an advertisement cannot be corrected within the thirty days, it shall be deemed sufficient if the dentist submits proof to the board within thirty days of receipt of notice that he has directed that the correction be made at the next publication date. Pursuant to the provisions of this Paragraph, a dentist shall have this right to correct an advertisement deemed by the board to be unprofessional conduct under Paragraphs (A)(3), (4), or (5) of this Section only the first two times notified of such violation; there shall be no right to correct a third or any subsequent violation, whether for the same advertisement or for a subsequent advertisement. If an advertisement is run by or on behalf of a corporation, company, association, limited liability company, or trade name, the aforementioned right to correct shall be limited to two times, regardless of the number of dentists in or associated with the corporation, association, limited liability company, or trade name.

C.(1) Any dentist who wishes to advertise may submit a copy of the proposed advertisement to the board for an advisory opinion on whether the advertisement complies with the requirements of the statutes and rules applicable to dental advertising in Louisiana.

(2) To request the review of a proposed advertisement for an advisory opinion from the board, a dentist shall submit the following to the board at least thirty days in advance of the desired opinion date:

(a) A copy of the advertisement or communication in the form or forms in which it is to be disseminated that is readily capable of duplication by the board, including but not limited to videotapes, audiotapes, print media, and photographs of outdoor advertising.

(b) A typewritten transcript of the advertisement or communication, if any portion of the advertisement or communication is on videotape, audiotape, electronic or digital media, or otherwise not embodied in written or printed form.

(c) A printed copy of all text used in the advertisement.

(d) An accurate English translation, if the advertisement appears or is audible in a language other than English.

(e) If the communication is to be mailed, a sample envelope in which the written communication will be enclosed.

(f) A statement listing all media in which the advertisement or communication will appear, the anticipated frequency of use of the advertisement or communication in each medium in which it will appear, and the anticipated time period during which the advertisement or communication will be used.

(g) Any additional information requested by the board.

(h) The fee for the review of proposed advertising as provided by law.

(3) The advisory opinion issued by the board, though not conclusive, may be used as evidence in any disciplinary proceeding by the board in which an advertising violation is alleged.

- (4) If the board subsequently finds that an advertisement determined to be in compliance with the provisions of this Chapter in a prior advisory opinion issued by the board pursuant to this Subsection is in violation of any provision of this Chapter, the board may require the dentist to change or remove the advertisement. The board shall not take any further action against the dentist unless the dentist fails to take steps either to bring the advertisement into compliance with the provisions of this Chapter or remove the advertisement within thirty days after receipt of notification of the violation.

§776. Causes for nonissuance, suspension, revocation, or imposition of restrictions of dental license

- A. The board may refuse to issue or may suspend or revoke any license or permit or impose probationary or other limits or restrictions on any dental license or permit issued under this Chapter for any of the following reasons:
- (1) Affliction with a contagious or infectious disease.
 - (2) Conviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge.
 - (3) Fraud, deceit, or perjury in obtaining any diploma, license, or permit issued under the provisions of this Chapter.
 - (4) Providing false testimony before the board or in any judicial proceeding.
 - (5) Habitual indulgence in the use of drugs, narcotics, or intoxicating liquors.
 - (6) Prescribing, dispensing, or administering habit-forming or other legally controlled substances in other than a legal or legitimate manner.
 - (7) Professional or dental incompetency.
 - (8) Dental practice which fails to satisfy the prevailing acceptable standards of dental practice in this state.
 - (9)
 - (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.
 - (b) A dentist licensed in Louisiana shall not be forbidden to contract with the spouse or personal representative of the estate of a deceased dentist or the spouse or personal representative of a disabled dentist to manage the dental practice at an establishment where dental operations, oral surgery, or dental services are provided for the purpose of selling, liquidating, or otherwise disposing of the dental practice of a deceased or disabled licensee for a period not to exceed twenty-four months in accordance with the provisions of R.S. 37:752(9). Notwithstanding any other provision of law to the contrary, nothing in this Subparagraph shall prohibit a dentist from contracting with any person or entity for management of a dental practice prior to the death or disability of such dentist subject to Subparagraph (9)(a) of this Section.
 - (10)
 - (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.

- (b) A dentist licensed in Louisiana may contract with the spouse or personal representative of the estate of a deceased dentist or the spouse or personal representative of a disabled dentist to manage the dental practice at an establishment where dental operations, oral surgery, or dental services are provided for the purpose of selling, liquidating, or otherwise disposing of the dental practice of a deceased or disabled licensee for a period not to exceed twenty-four months in accordance with the provisions of R.S. 37:752 (9). Notwithstanding any other provisions of law to the contrary, nothing in this Subparagraph shall prohibit a dentist from contracting with any person or entity for management of a dental practice prior to the death or disability of such dentist subject to Subparagraph (10)(a) of this Section.
- (11) Employing unlicensed persons to perform work which under this Chapter can be done only by persons licensed to practice dentistry or dental hygiene in this state.
 - (12) Making any misrepresentations or false promises, directly or indirectly, to influence, persuade, or induce dental patronage.
 - (13) Professional connection or association with, or lending his name to, another for the illegal practice of dentistry by another, or professional connection or association with any person holding himself out in any manner contrary to this Chapter.
 - (14) Practicing under any name other than that which appears on the license or renewal certificate, the dentist's commonly used name, or the name which is authorized under Chapter 11 of Title 12 of the Louisiana Revised Statutes of 1950, relating to professional dental corporations.
 - (15) Unprofessional conduct as defined in R. S. 37:775.
 - (16) Any conduct intended to deceive or defraud the public.
 - (17) Conduct which disqualifies the licensee to practice dentistry with safety to the public, including inability to practice dentistry with reasonable skill or safety to patients because of mental illness or deficiency or physical illness, including but not limited to deterioration through the aging process or loss of motor skills.
 - (18) The refusal of a licensing authority of another state to issue or renew a license, permit, or certificate to practice dentistry in that state, or the revocation, suspension, or other restriction imposed upon a license, permit, or certificate issued by such licensing authority which prevents or restricts practice in that state.
 - (19) Employing solicitors or subsidizing anyone, or paying or presenting any person money or anything of value for the purpose of securing patients, except as allowed by R.S. 37:775.
 - (20) Refusing to submit to the examinations and inquiry of medical physicians appointed or designated by the board to inquire into the dentist's physical and mental fitness and ability to practice dentistry with reasonable skill and safety to patients, or following submission to evaluation, failing to comply with the orders or recommendations of said examining physicians.
 - (21) Making or submitting false or deceptive claims to any patient, insurance company, or indemnity association, company, individual, or governmental authority for the purpose of obtaining monetary compensation for services rendered.
 - (22) Immoral conduct in exercising the privileges provided for by license or permit issued under this Chapter.
 - (23) Interdiction or commitment by due process of law.
 - (24) Violation of any rule, regulation, or order of the board, consent decree agreed upon between the board and the licensee, or any provision of this Chapter.
 - (25) The failure to pay timely a dentist license renewal fee as required by law.

- (26) Non-disclosure of waiving of co-payments to any third party payor.
- (27) Failing to cooperate with the board in investigating any matter before the board except for an openly expressed claim of a constitutional privilege; or knowingly failing to respond to a lawful demand from the board for information from any professional licensing or disciplinary authority.
- (28) Failing to maintain certification in an approved course of cardiopulmonary resuscitation for the renewal of a dental license.
- (29) When license suspension or revocation is otherwise required by law.
- B. The board shall establish regulations and procedures to enforce the provisions of this Section.
- C. Any license or permit suspended, revoked, or otherwise restricted by the board may be reinstated by the board.
- D. The board shall promulgate rules and regulations providing for the expungement of first-time advertising offenses from a licensee's record after a period of three years from the date of the offense; provided however, the licensee has not had subsequent disciplinary actions of any kind taken against him by the board and the licensee has no disciplinary actions pending by the board.

§777. Causes for non-issuance, suspension, revocation, or imposition of restrictions of dental hygienist license

- A. The board may refuse to issue or may suspend or revoke any dental hygienist license or permit or impose probationary or other restriction on any license or permit issued under this Chapter for any of the following reasons:
 - (1) Affliction with a contagious or infectious disease.
 - (2) Conviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge.
 - (3) Fraud, deceit, or perjury in obtaining any diploma, license, or permit issued under the provisions of this Chapter.
 - (4) Providing false testimony before the board or in any judicial proceeding.
 - (5) Habitual indulgence in the use of drugs, narcotics, or intoxicating liquors.
 - (6) Making any misrepresentations or false promises, directly or indirectly, to influence, persuade, or induce dental patronage.
 - (7) Any conduct intended to deceive or defraud the public.
 - (8) The refusal of a licensing authority of another state to issue or renew a license, permit, or certificate of dental hygiene in that state, or the revocation, suspension, or other restriction imposed upon a license, permit, or certificate issued by such licensing authority which prevents or restricts practice in that state.
 - (9) Performance of any operation or procedure other than that permitted under the provisions of this Chapter.
 - (10) Professional or dental hygiene incompetency.
 - (11) Dental hygiene practice which fails to satisfy the prevailing acceptable standards in this state.
 - (12) Employing, procuring, inducing, aiding, or abetting a person not licensed or registered as a dental hygienist or dentist to engage in the practice of dental hygiene or dentistry; but the person

practiced upon shall not be an accomplice, employer, procurer, inducer, aider, or abettor within the meaning of this provision.

- (13) Assisting or authorizing unlicensed persons to perform work which under this Chapter can only be done by persons licensed to practice dental hygiene.
 - (14) Conduct which being contrary to the provisions of this Chapter disqualifies the licensee to practice dental hygiene with safety to the public, including inability to practice dental hygiene with reasonable skill or safety to patients because of mental illness or deficiency, physical illness, including but not limited to deterioration through the aging process or loss of motor skills.
 - (15) Employing solicitors or subsidizing anyone, or paying or presenting any person money or anything of value for the purpose of securing patients, other than advertising permitted by law.
 - (16) Interdiction or commitment by due process of law.
 - (17) The use of advertising without disclosing the name and address of the licensed dentist under whom the dental hygienist operates as defined in R.S. 37:766.
 - (18) Violation of any rule or regulation of the board, or any provision of this Chapter.
 - (19) Refusing to submit to the examinations and inquiry of medical physicians appointed or designated by the board to inquire into the dental hygienist's physical and mental fitness and ability to practice dental hygiene with reasonable skill and safety to patients, or following submission to evaluation, failing to comply with the orders or recommendations of said examining physicians.
 - (20) The failure to pay timely a dental hygiene license renewal fee as required by law.
 - (21) Failing to cooperate with the board in investigating any matter before the board except for an openly expressed claim of a constitutional privilege; or knowingly failing to respond to a lawful demand from the board for information from any professional licensing or disciplinary authority.
 - (22) Failing to maintain certification in an approved course of cardiopulmonary resuscitation for the renewal of a dental hygienist license.
 - (23) When license suspension or revocation is otherwise required by law.
 - (24) Conduct which disqualifies the licensee to practice dental hygiene with safety to the public, including inability to practice dental hygiene with reasonable skill or safety to patients because of mental illness or deficiency or physical illness, including but not limited to deterioration through the aging process or loss of motor skills.
 - (25) Violation of any rule, regulation, order of the board, consent decree agreed upon between the board and the licensee, or any provision of this Chapter.
- B. The board shall establish regulations and procedures to enforce the provisions of this Section.
- C. Any license or permit suspended, revoked, or otherwise restricted by the board may be reinstated by the board.

§778. Board to hear charges against dentists, dental hygienists, and any person practicing dentistry

The board shall hear and determine all charges against any licensed dentist, licensed dental hygienist, or any person practicing dentistry as defined in R.S. 37:751 for violation of any of the provisions of this Chapter. It may in all cases suspend or revoke the license and reinstate any license if suspended or revoked.

§779. Filing of administrative complaint or charge; appointment of committee to hear charge; quorum

- A. Any administrative complaint or charge for a violation of this Chapter shall be made under oath either by the secretary-treasurer or any member of the board, noticed and docketed for hearing, and submitted to the president of the board, who shall appoint a committee of three or more members of the board to hear the administrative complaint or charge. The president and the member of the board making the charge or residing in the same board electoral district as the individual charged shall be ineligible to sit as a member of the committee. The president shall designate the time and place of the hearing.
- B. Where the charge is made by a citizen, he should state to the secretary-treasurer or any member of the board, the sources of his information and the grounds of his belief, and the secretary-treasurer, a member, an inspector, or any agent of the board shall substantiate the charge by determining that the citizen is informed and has reasonable cause to believe that the charge is true, after which an administrative complaint or charge may be issued, and noticed and docketed for hearing by the board, as set forth in Subsection A.
- C. At any hearing held pursuant thereto, a majority of the committee shall constitute a quorum and an affirmative vote by a majority of the committee members present shall be required for any disposition, action, or decision at the conclusion of the hearing.
- D. For purposes of this Chapter and Section, a hearing shall be the same as an adjudication defined under the Administrative Procedure Act.

§780. Hearing; notice; penalty; interest

- A. (1) In all cases where a charge is made against any unlicensed person, licensed dentist, or licensed dental hygienist practicing in this state, the president of the board, before any hearing of the charge, shall furnish the accused with a copy of such charges and a notice of the time and place of the hearing. The president shall also notify the accused to attend the hearing and inform him that he may appear with counsel, that he may produce witnesses and give competent evidence under oath, and that he has the right to cross-examine witnesses appearing against him and giving testimony under oath. Service of this notice shall be personal or by delivery to the place of business or residence of the accused, at least twenty days before the time fixed for the hearing or before the time and place to which adjourned.
- (2) When required by law to afford a licensee an opportunity to demonstrate his compliance with the provisions of this Chapter, the president, or any employee of the board designated by the president, shall provide notice to the licensee that the board intends to institute formal proceedings against the licensee, and to afford the licensee an opportunity to demonstrate his compliance with the Chapter. Said notice shall contain sufficient information to advise the licensee of the nature of the allegations against him. The notice will advise the licensee that he may appear with counsel. The notice shall inform the licensee of the time and place of the meeting, and may be served on the licensee in the same manner as in Paragraph (1) of this Subsection or by certified mail. Upon receipt of said notice, the licensee shall have ten calendar days in which to request an opportunity to demonstrate his compliance with the provisions of this Chapter.
- B. (1) The committee hearing the charge may cause the testimony adduced to be reduced to writing or stenographic record. Should the committee after due hearing find that the charges filed against the licensee or the unlicensed person are sustained by clear and convincing evidence, it may revoke, suspend, restrict, fine, place on probation, reprimand, or admonish, or any or all of the above, the licensed dentist or licensed dental hygienist. The committee may levy an administrative fine, but it shall assess all of the board's costs, from the start of the investigation through an administrative hearing, judicial review, and any appeals, as set forth in this Section, against the licensee or the unlicensed person. Any costs assessed by the committee shall not include costs related solely to a charge in a formal complaint in a disciplinary proceeding instituted by the board which is later dismissed or not proven at an administrative adjudication. Nothing in this Paragraph shall prohibit the board from assessing eligible costs related to additional violations when the investigation of a complaint leads to the discovery of such additional violations proven at an administrative adjudication. Should the person contend that some costs assessed by the committee are attributable solely to allegations dismissed or not proven, he may file within thirty days of his receipt of the costs claimed a motion to traverse assessment of those costs in accordance with applicable board rules.

- (2) Any fine imposed pursuant to this Section shall not be less than five hundred dollars nor more than five thousand dollars for each offense.
 - (3) After a hearing wherein a charge, or a number of charges, is proven by clear and convincing evidence, and even if there is no fine imposed, the unlicensed person, the licensed dentist, or licensed dental hygienist shall pay, not later than the thirtieth day after the decision is made by the committee, all costs, from the start of the investigation through an administrative hearing, judicial review, and any appeals, including but not limited to stenographer fees, attorney fees, investigative fees and expenses, witness fees and expenses, and the per diem and expenses of the committee members, as detailed in a recapitulation of said costs provided by the board to the licensee or unlicensed person. If, for any reason, the money portion of the committee's decision is not paid by the unlicensed person, licensed dentist, or licensed dental hygienist for fines and costs imposed pursuant to this Section, the board may recover any and all reasonable attorney fees in association with the collection of them.
 - (4) The committee shall release to the public the result of any decision rendered by it after it has become final.
 - (5) Regardless of medium, each advertisement found by the committee to be in violation of the provisions of this Chapter shall be considered a single violation, regardless of the actual number of violations occurring in the advertisement or the number of dentists included in the advertisement. Notwithstanding any other provision of this Section, any fine imposed pursuant to this Section for an advertising violation shall be not less than five hundred dollars nor more than five thousand dollars for the first offense, and the maximum allowable amount of such fine shall increase incrementally by five thousand dollars for each subsequent offense.
- B. Any suspension or revocation ordered by the committee or board shall take from the licensed dentist or licensed dental hygienist all rights and privileges acquired under the license issued to him.

§781. Issuance of subpoenas; production of patient records; maintenance of confidentiality

- A. The president or any member of the board may issue investigative subpoenas, subpoenas or subpoenas duces tecum requiring the attendance and testimony under oath of witnesses and the production of any evidence or documentation that relates to any matter properly under investigation or in question before the board or committee or attorney acting on behalf of the board conducting the hearing or investigation. Any subpoena authorized in this Subsection may be served in any manner authorized by the Administrative Procedure Act, the Code of Civil Procedure, including, but not limited to, by certified mail or by private process server. The board may obtain sworn testimony taken before a certified court reporter from any individual, licensed or not licensed by the board, who may possess any information concerning the matter under investigation.
- B. In case of refusal to obey a subpoena or subpoena duces tecum issued to any person or entity, the board, or the respondent named in a formal disciplinary proceeding who has requested the issuance of the subpoena as set forth in Chapter 9 of the board rules, may apply to any district court within the jurisdiction where the inquiry is carried on or within the jurisdiction where such person or entity is found, resides, or transacts business, to issue to such person or entity an order requiring him to appear before the board, its member, agent, or agency, to produce evidence if ordered or to give testimony concerning the matter under investigation or in question, and to pay the reasonable attorney fees caused by the filing and prosecution of such application should the board prevail on it. Any failure to obey this order of the court may be punished by the court as a contempt.
- C. The board may require the attendance of witnesses who are summoned or to whomever a subpoena duces tecum is issued in all matters arising in the course of its duties, and at an investigation, the board shall take any oral or written proof, for or against any unlicensed person, or the person whose license is sought to be suspended or revoked, that will best present the facts.
- D. Notwithstanding any privilege or confidentiality recognized by law, no dentist or entity providing dental services with which such dentist is affiliated shall, acting under any such privilege, fail or refuse to

respond to a lawfully issued subpoena of the board for any dental/medical information, testimony, records, data, reports or other documents, tangible items, or information relative to any patient treated by any such dentist under investigation. However, the identity of any patient identified in or by such records or information shall be maintained in confidence by the board and shall be deemed a privilege of confidentiality existing in favor of any such patient. For the purpose of maintaining such confidentiality of patient identity, the board shall cause any such dental/medical records or the transcript of any such testimony to be altered so as to prevent the disclosure of the identity of the patient to whom such records or testimony relates.

- E. Any person or entity charging the board a fee for the production of documents ordered to be produced by the board under a subpoena or subpoena duces tecum issued by the board shall conform to those charges set forth in R.S. 40:1299.96 to reflect reasonable or adequate compensation.

§782. Authority to contract for and employ necessary personnel; purchase of immovable property

The board is authorized to contract for and employ such professional, investigative, stenographic, and clerical personnel as are required to properly discharge the duties of the board as set forth in this Chapter, and to purchase immovable property to conduct the board's operations, provided that the fees and salaries of said personnel and the funds for the purchase of immovables shall be paid entirely from fees collected by the board under the provisions of R.S. 37:770 and 795.

§783 Reinstatement or reissuance of license

- A. The board may, if the action is warranted, reinstate the license of a dentist or dental hygienist if suspended, or reissue a new license if revoked. If a license is reinstated or reissued following previously applied sanctions relative to a violation of this Chapter, said reinstated or reissued license shall have affixed thereto, an attachment or addendum specifically setting forth any restrictions placed upon said reinstated or reissued license by the board.
- B. In case of reinstatement, the reinstated dentist or dental hygienist shall pay all costs or fines, or both, and a reinstatement fee as provided for in the board's fee schedule established pursuant to R. S. 37:795.
- C. In case of reissuance, the dentist or dental hygienist whose license has been revoked may be relicensed without an examination upon proper application and payment of all costs or fines, or both, and a relicensing fee as provided for in the board's fee schedule established pursuant to R. S. 37:795 and completion of required continuing education if suspension is over one year.
- D. The procedure for the submission of requests, and the approval or denial of requests for reinstatement or reissuance of a license shall be determined by board policy which shall afford applicants for reinstatement or reissuance an opportunity to present their requests.

§784. Persons whose license suspended or revoked prohibited from practicing

Any dentist or dental hygienist whose license is suspended or revoked in accordance with this Chapter shall be deemed an unlicensed person during the period of the suspension or revocation, and shall be subject to the penalties prescribed for unlicensed persons if he practices during the period of suspension or revocation. The board retains jurisdiction over all such unlicensed persons relative to violations of and enforcement of the provisions of this Chapter.

§785. Criminal actions and injunctions simultaneous with administrative proceedings before board

Administrative proceedings under this Chapter before the board are not exclusive remedies. Criminal action under the terms of this Chapter may be simultaneously instituted and maintained against the accused for any violation of this Chapter. The board may also separately or simultaneously bring and carry on an action by injunction to restrain a licensed or unlicensed individual from further violation of any of the provisions of this Chapter during the pendency of the criminal proceeding or proceedings before the board and against any unlawful practice thereafter.

§786. Judicial review of adjudication

NOTE: Paragraph (1) of this Subsection eff. until Jan. 1, 2018. See Acts 2016, No. 491, §1, eff. Jan. 1, 2018.

- A. (1) Where the board, whether through a disciplinary committee or the entire board, renders a decision in an administrative adjudication, the party aggrieved by it may resort to the civil district court for the parish of Orleans for judicial review. Any such appeals shall be filed in the court in the same manner as original suits are instituted therein. A preliminary, procedural, or intermediate agency action or ruling is immediately reviewable if review of the final agency decision would not provide an adequate remedy and would inflict irreparable injury.

NOTE: Paragraph (1) of this Subsection as amended by Acts 2016, No. 491, §1, eff. Jan. 1, 2018.

- A. (1) *Where the board, whether through a disciplinary committee or the entire board, renders a decision in an administrative adjudication, the party aggrieved by it may resort to the Nineteenth Judicial District in the parish of East Baton Rouge for judicial review. Any such appeals shall be filed in the court in the same manner as original suits are instituted therein. A preliminary, procedural, or intermediate agency action or ruling is immediately reviewable if review of the final agency decision would not provide an adequate remedy and would inflict irreparable injury.*
- (2) Petitions for judicial review of interlocutory administrative decisions shall be filed within fifteen days of the ruling at issue.
- (3) A petition for judicial review of a final decision of the disciplinary committee shall be filed within thirty days of the mailing of the final decision by the agency or, if a rehearing is requested, within thirty days after the mailing of the notice of the decision thereon. A copy of the petition for judicial review shall be served upon the agency and all parties of record.
- B. Neither the board nor any person acting on behalf of the board shall be entitled to judicial review of any decision rendered by board or any disciplinary committee thereof.

NOTE: Subsection (C) of this Section eff. until Jan. 1, 2018. See Acts 2016, No. 491, §1.

- C. All proceedings in the civil district court for the parish of Orleans and appellate courts arising under this Section are civil in nature and shall be heard summarily by the court without a jury, shall take precedence over other civil cases, and shall be tried in chambers or in open court, in and out of term.

NOTE: Subsection (C) of this Section as amended by Acts 2016, No. 491 §1, eff. Jan. 1, 2018.

- C. *All proceedings in the Nineteenth Judicial District in the parish of East Baton Rouge and appellate courts arising under this Section are civil in nature and shall be heard summarily by the court without a jury, shall take precedence over other civil cases, and shall be tried in chambers or in open court, in and out of term.*
- D. (1) In any case appealed to the civil district court under the provisions of this Section, the party seeking judicial review shall furnish security in the amount of any fine set forth in the decision being appealed.
- (2) Any security furnished under the provisions of this Section shall be in favor of the clerk of the trial court in which the proceeding was brought, and shall be furnished as security for the judicial review of the complaining party in civil district court. The security furnished shall meet the requirements for bonds in judicial proceedings set forth in Code of Civil Procedure Article 5121 et seq., and shall become available to satisfy any portion of the judgment once the judgment becomes final and has not been satisfied within thirty days of becoming final.
- (3) The security required under the provisions of this Section shall be annexed, by the complaining party or appellant, to the petition for judicial review filed in the civil district court. If the complaining party seeking judicial review fails to annex satisfactory security to the petition for judicial review, within the time specified for the filing of said appeal, the trial court, on its own motion or upon motion by the board, and after a hearing held within five days of service of the motion, shall:

- (a) Enter a formal order of dismissal on the grounds of abandonment; or
 - (b) Grant a three-day period within which said security shall be filed in the record, in default of which the petition for judicial review shall be dismissed as abandoned.
- (4) Service of the motion described in Paragraph (3) of this Subsection may be effected by the methods provided in Code of Civil Procedure Article 1313.
- E. Notwithstanding appellant's compliance with the requirements of this Section, the district court shall issue no stay for that portion of the board's decision which does not involve a sum of money unless the appellant satisfies the requirements of R.S. 37:786.1.
- F. The provisions of this Section shall apply to any unlicensed person who has been sanctioned by the board for any violation of R.S. 37:788.
- G. If before the date set for hearing application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the board, the court may order that the additional evidence be taken before the board upon conditions determined by the court. The board may modify its findings and decisions by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.
- H. The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the agency, not shown in the record, proof thereon may be taken in the court. The court, upon request, shall hear oral argument and receive written briefs.
- I. The court may affirm the decision of the board or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the party seeking judicial review have been prejudiced because the administrative tribunal's findings, inferences, conclusions, or decisions are:
- (1) In violation of constitutional or statutory provisions;
 - (2) In excess of the statutory authority of the agency;
 - (3) Made upon unlawful procedure;
 - (4) Affected by other error of law;
 - (5) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or
 - (6) Not supported and sustainable by clear and convincing evidence as determined by the reviewing court. In the application of this rule, the court shall make its own evaluation of the record reviewed in its entirety upon judicial review. In the application of the rule, where the agency has the opportunity to judge the credibility of witnesses by first-hand observation of demeanor on the witness stand that the reviewing court does not, due regard shall be given to the agency's determination of credibility issues.

§786.1 Stay of board decision

- A. Absent agreement of counsel for all parties, no stay of enforcement of a decision issued under R.S. 37:780 or for a violation of R.S. 37:788, during the pendency of an appeal under R.S. 37:786 shall be granted unless the civil district court for the parish of Orleans finds that the applicant has established:
- (1) That the issuance of the stay does not threaten harm to other interested parties, including the Louisiana State Board of Dentistry, and persons for whom the applicant may render dental or dental hygiene services.

- (2) That the issuance of the stay does not constitute a threat to the health and welfare of the citizens of the state.
- B. No stay shall be granted ex parte. The court shall schedule a hearing on the request for a stay order within ten days from filing. The decision shall be rendered within five days after the conclusion of the hearing.
- C. No judicial order staying or enjoining the effectiveness or enforcement of a final decision or order of the board in an adjudication proceeding, whether issued pursuant to R.S. 49:964(C) or otherwise, shall be effective, or be issued to be effective, longer than:
 - (1) One hundred twenty days from the date on which the board's decision or order was rendered; or
 - (2) The date on which the court enters judgment in a proceeding for judicial review of the board's decision or order pursuant to R.S. 49:964, whichever occurs first.

§787. Duty of attorney general

The Attorney General shall see that all violations of the provisions of this Chapter are vigorously and promptly prosecuted by the various district attorneys throughout the state.

§788. Violations

- A. No person shall practice dentistry or dental hygiene or attempt or offer to practice within the state without first having been authorized and issued a license by the board; nor shall any person practice dentistry or dental hygiene or attempt or offer to practice within the state during any period of suspension of his license by the board or after revocation by the board of any license theretofore issued to the offending person.
- B.
 - (1) The board may issue a subpoena to any person or persons who the board has probable cause to believe has engaged in the practice of dentistry or dental hygiene without a currently valid license or permit.
 - (2) Subpoenas issued by the board shall comply with the notice requirements of R.S. 49:955 and R. S. 37:781. These subpoenas shall be served upon the unlicensed individual personally or by any type of mailing requiring a return receipt and shall include a statement of the manner in which the unlicensed person shall be required to respond to the board.
 - (3) Whoever violates the provisions of this Section may also be prosecuted criminally by the District Attorney and, if convicted, shall be imprisoned with or without hard labor for not more than five years or fined not more than \$5,000, or both. Each unauthorized act shall constitute a separate offense.
 - (4) The fact that any unlicensed person engages in or performs or offers to engage in or perform any of the practices, acts, or operations set forth in R. S. 37:751 (A)(5) is prima facie evidence that such person is engaged in the illegal practice of dentistry or dental hygiene.
 - (5) No person practicing dentistry or dental hygiene without a currently valid license or temporary permit shall have the right to receive any compensation for services so rendered. In addition to any other penalties imposed under R. S. 37:789, any person who practices dentistry or dental hygiene without a license shall return any fees collected for practicing dentistry or dental hygiene and shall be liable for any damages resulting from negligence.
 - (6) All rights and privileges afforded by the Administrative Procedure Act are specifically reserved to any party aggrieved by any decision of the board.
- C. If the board has reasonable cause to believe that an expanded duty dental assistant has violated any of the provisions of this Chapter, the board may suspend, rescind, or revoke the confirmation of the certification of the expanded duty dental assistant after a hearing is conducted.

§789. Penalties; cease and desist orders

- A. The board may institute any action in a court of competent jurisdiction necessary to enforce compliance with any provision of this Chapter or with any regulation or subpoena, made pursuant to the provisions of this Chapter, including a writ of injunction enjoining any person practicing dentistry or dental hygiene until such person obtains a license under the provisions of this Chapter. Any injunction issued pursuant to this Chapter shall not be subject to being released upon bond.
- B. In addition to the administrative penalties provided for in this Chapter, the board, acting through its president, may issue an order to any person or entity engaged in the unlicensed practice of dentistry, directing such person or entity to cease and desist from the unlicensed practice of dentistry.
- C. If the person or entity to whom the board directs a cease and desist order does not cease and desist the prohibited activity, conduct, or practice within two days of receipt of such order by certified mail or hand delivery, the board, through its president, may seek on behalf of the board a writ of injunction in any court of competent jurisdiction and proper venue enjoining such person or entity from engaging in the unlicensed practice of dentistry. The injunction shall not be subject to being released upon bond.
- D. In the suit for an injunction, the board may demand of the defendant a penalty of not more than five thousand dollars, as well as reasonable attorney fees and court costs. This judgment for penalty, attorney fees, and costs may be rendered in the same judgment as the injunction.

§790. Forgery; penalty

- A. No person shall file or attempt to file, as his own, the diploma or license of another, or a forged affidavit of identification or qualification.
- B. Whoever violates this Section shall be fined not more than five thousand dollars, or imprisoned with or without hard labor for not more than ten years, or both.

§791. Protected action and communication

- A. There shall be no liability on the part of and no action for damages against:
 - (1) Any member of the board, or its agents or employees, or any member of an examining committee of dentists appointed or designated by the board, for any action undertaken or performed by such person within the scope of the duties, powers, and functions of the board or such examining committee as provided for in this Chapter when such person is acting without malice and in the reasonable belief that the action taken by him is warranted; or
 - (2) Any person providing information to the board, its agents or employees, or to an examining committee of dentists appointed or designated by the board, whether a witness, participating in an impaired dentist or dental hygienist intervention (the act of interceding in behalf of an individual who is abusing, or is dependent on, one or more psychoactive drugs, with the aim of overcoming denial, interrupting drug-taking behavior, or inducing the individual to seek and initiate treatment), or otherwise. Such a person shall not be held liable in damages under any law of the state of Louisiana or any political subdivision thereof, by reason of having provided such information, unless such information is false and the person providing it knew that such information was false.
 - (3) Any nonprofit corporation, foundation, or organization that enters into any agreement with the board related to the operation of any committee or program to identify, investigate, counsel, monitor, or assist any licensed physician who suffers or may suffer from alcohol or substance abuse or a physical or mental condition which could compromise such dentist's fitness and ability to practice dentistry with reasonable skill and safety to patients, for any investigation, action, report, recommendation, decision, or opinion undertaken, performed, or made in connection with or on behalf of such committee or program, without malice and in the reasonable belief that such investigation, action, report, recommendation, decision, or opinion was warranted.

(4) Any person who serves as a director, trustee, officer, employee, consultant, or attorney for or who otherwise works for or is associated with any nonprofit corporation, foundation, or organization as described in Paragraph (3) of this Subsection.

B. In any suit brought against any individual or entity described in Subsection A of this Section, when that individual or entity substantially prevails in such suit, the court shall, at the conclusion of the action, award to the individual or entity described in Subsection A of this Section and assess against the claimant the cost of defending the suit attributable to such claim, including reasonable attorney fees, if the claim, or the claimant's conduct during the litigation of the claim, was either frivolous, unreasonable, without foundation, or in bad faith. For the purpose of this Subsection, the individual or entity described in Subsection A of this Section shall not be considered to have substantially prevailed when the claimant obtains an award for damages or permanent injunctive or declaratory relief.

§792. Dental x-ray functions by dental assistants; qualifications

A. Any dental assistant employed by a licensed dentist on the effective date of this Section and for a period of at least one year prior to the effective date of this Section shall be deemed to be authorized to take dental x-rays.

B. Any dental assistant who does not meet the employment criteria set forth in R.S. 37:792(A) shall attend and successfully complete a course in x-ray function and safety approved by the Louisiana State Board of Dentistry within six months after commencement of employment by a licensed dentist. Any such assistant shall be deemed to be authorized to take dental x-rays only upon compliance with this Subsection.

C. (1) The dentist employer shall certify to the board that any dental assistant employed by him either:

(a) Meets the employment criteria set forth in R. S. 37:792(A), or that the assistant has attended and completed a course in dental x-ray function and safety, or

(b) That the assistant has not attended such course but has been employed less than six months.

(2) Such certification shall be required upon renewal of any dental license by the dentist.

D. A dental assistant shall perform all dental x-ray functions solely under the direct supervision of a licensed dentist and on the premises of the dental office.

§792.1 Duties of a dental assistant and an expanded duty dental assistant

A. A dental assistant may perform only those duties in accordance with rules promulgated by the board, and then only under the direct on-premises supervision, direction, and responsibility of the dentist who employs him or her or a dentist who assumes responsibility for the treatment of that patient, and as ordered by the dentist.

B. An expanded duty dental assistant shall perform only those duties which are in accordance with rules promulgated by the board, and then only under the direct, on-premises supervision, direction, and responsibility of the dentist who employs him or her or a dentist who assumes responsibility for the treatment of that patient, and as ordered by the dentist.

C. A licensed dentist is prohibited from:

(1) Delegating an act to an individual who, by order of the board, is prohibited from performing the dental procedure.

(2) Delegating the performance of any of the following procedures to a person not licensed as a dentist or dental hygienist:

- (a) Removal of calculus, deposits, or accretions from the natural and restored surfaces of exposed teeth and restoration in the human mouth.
 - (b) Root planing or smoothing of roughened root surfaces or exposed teeth.
 - (c) Any other procedure the delegation of which is prohibited by the rules of the board.
- D. The board shall promulgate rules and regulations in accordance with the provisions of this Section, regarding the dental procedures that may be appropriately delegated by the dentist, including a determination as to which delegated dental procedures require competency testing before a person may perform the procedure and establish training requirements.
- E. Any dental procedure that is delegated by a dentist to a dental assistant may also be delegated to a dental hygienist.
- F, G. Repealed by Acts 1993, No. 129, §2, Eff. Aug. 1, 1993.

§793. Nitrous oxide inhalation analgesia; enteral moderate sedation; parenteral sedation; deep sedation; general anesthesia; definitions; permits; credentials; reporting; fees; limitations; exceptions

- A. As used in this Section, the following terms have the meanings ascribed to them unless the context clearly indicates otherwise:
- (1) "Analgesia" is the diminution or elimination of pain in the patient.
 - (2) "Board" is the Louisiana State Board of Dentistry.
 - (3) "Deep sedation" is a drug-induced depression of consciousness during which a patient cannot be easily aroused but responds purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. A patient may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.
 - (4) "General anesthesia" is a drug-induced loss of consciousness during which a patient is not arousable, even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. A patient often requires assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.
 - (5) "Local anesthesia" is the elimination of sensations, especially pain, in one part of the body by the topical application or regional injection of a drug.
 - (6) "Minimal sedation", except as provided in Paragraph (C)(9) of this Section, is a minimally depressed level of consciousness, produced by a pharmacological method, which allows the patient to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal commands. The drugs or techniques used to produce minimal sedation should have a margin of safety which is sufficient never to cause unintended loss of consciousness. A patient whose only response is reflex withdrawal from repeated painful stimuli shall not be considered to be in a state of minimal sedation.
 - (7) "Moderate sedation", except as provided in Paragraph (C)(9) of this Section, is a drug-induced depression of consciousness during which a patient responds purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No intervention is required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained. The drugs or techniques used to produce moderate sedation should have a margin of safety which is sufficient to render unintended loss of consciousness unlikely. Repeated dosing of an agent before the effects of previous dosing can be fully appreciated may result in a greater alteration of the state of

consciousness than is the intent of the dentist. A patient whose only response is reflex withdrawal from a painful stimulus shall not be considered to be in a state of moderate sedation.

- B. The following terms describing routes of administration shall have the meanings ascribed to them unless the context clearly indicates otherwise:
- (1) "Combined moderate sedation" is any means of obtaining moderate sedation utilizing both inhalation analgesia and either an enteral or parenteral moderate sedation technique.
 - (2) "Enteral" is any technique of drug administration in which the drug is absorbed through the gastrointestinal (GI) tract or oral mucosa. Examples are oral, rectal, and sublingual.
 - (3) "Inhalation" is a technique of drug administration in which a gaseous or volatile agent is introduced into the pulmonary tree and whose primary effect is due to absorption through the pulmonary bed. An example is nitrous oxide-oxygen inhalation sedation.
 - (4) "Parenteral" is any technique of drug administration in which the drug bypasses the gastrointestinal (GI) tract. Examples are intramuscular (IM), intravenous (IV), intranasal (IN), submucosal (SM), and subcutaneous (SC).
 - (5) A dental hygienist who administers nitrous oxide inhalation analgesia in a dental practice shall receive a personal permit from the board and shall be in compliance with board rules and regulations which shall include educational requirements.
- C. (1) When nitrous oxide inhalation analgesia, enteral moderate sedation, parenteral moderate sedation, deep sedation, or general anesthesia are used in a dental practice, board authorization shall be obtained in compliance with board rules and regulations to ensure that these procedures are performed in a properly staffed, designed, and equipped facility capable of handling the procedures, problems, and emergency incidents thereto for the level of anesthesia administered. Adequacy of the facility and competence of the anesthesia team shall be determined by the board through the use of qualified anesthesia consultants.
- (2) A dentist who administers nitrous oxide inhalation analgesia, enteral moderate sedation, parenteral moderate sedation, deep sedation, or general anesthesia in a dental practice shall receive a personal permit from the board for the deepest level of anesthesia or analgesia to be administered and shall be in compliance with board rules and regulations.
 - (3) When nitrous oxide inhalation analgesia, enteral moderate sedation, parenteral moderate sedation, deep sedation, or general anesthesia is administered in any dental office or facility, each office shall receive an office permit from the board for the deepest level of anesthesia or analgesia to be administered and must be in compliance with board rules and regulations.
 - (4), (5) Repealed by Acts 2012, No. 485, §2.
 - (6) Minimal sedation.
 - (a) The following definitions apply to administration of minimal sedation:
 - (i) "Incremental dosing" is the administration of multiple doses of a drug, not to exceed the MRD of that drug, until a desired effect is reached.
 - (ii) "Maximum recommended dose" or "MRD" is the maximum dose of a drug as recommended by the United States Food and Drug Administration (FDA), and as printed in FDA-approved labeling for unmonitored home use of that drug.
 - (iii) "Supplemental dosing" is a single additional dose of the initial dose of the initial drug administered to a patient under minimal sedation as may be necessary in a prolonged procedure. The supplemental dose should not exceed one-half of the initial dose and should

not be administered until the dentist has determined that the clinical half-life of the initial dosing has passed. The total aggregate dose of the drug shall not exceed one and one-half times the MRD of the drug on the day of the treatment.

- (b) When minimal sedation of an adult is intended, the appropriate initial dosing of a single enteral drug is no more than the MRD of a drug that can be prescribed for unmonitored home use.
 - (c) Permits shall not be required for the induction of minimal sedation on a patient in a dental practice. Such induction of minimal sedation shall include the administration of an enteral sedative, narcotic analgesic medication, or both, administered in doses not exceeding the MRD as printed in FDA-approved labeling for unmonitored home use of the respective drugs.
 - (d) Except in extremely unusual circumstances, the cumulative dose shall not exceed the MRD. It is understood that even at appropriate doses, a patient may occasionally drift into a state that is deeper than minimal sedation. If the intent was to achieve minimal sedation and such sedation was conducted in accordance with the provisions of this Paragraph, then such circumstance shall not in itself constitute a violation of this Chapter. A permit shall not be required for the perioperative use of medication for the purpose of effecting minimal sedation.
- (7) Moderate or greater sedation.
- (a) The following definition shall apply to the administration of moderate or greater sedation: "titration" means administration of incremental doses of a drug until a desired effect is reached.
 - (b) Knowledge of the time of onset, peak response, and duration of action of each drug is essential to avoid oversedation. Although the concept of titration of a drug to the desired level of sedation is critical for patient safety, when the intent is moderate sedation, one must know whether the previous dose has taken full effect before administering an additional drug increment.
- (8) No dentist licensed in accordance with the provisions of this Chapter shall use any enteral medication to induce moderate sedation unless such dentist has obtained a permit for such use in accordance with the provisions of this Chapter.
- (9) For a patient under thirteen years of age, the administration of more than one agent of any type, including nitrous oxide, shall be considered moderate sedation, not minimal sedation, and shall require a full moderate sedation permit.
- C. The applicant shall comply with the board's rules and shall furnish the board with qualifying documents that substantiate his credentials relative to the permit requested.
- E. (1) Each licensed dentist or dental hygienist in the practice of dentistry or dental hygiene in this state shall submit a written report within a period of ten days to the board of any mortality or other incident which results in temporary or permanent physical or mental injury to a patient requiring hospitalization of the patient during or as a result of administration by the dentist or dental hygienist of local anesthesia, enteral sedation, nitrous oxide inhalation analgesia, parenteral moderate sedation, deep sedation, or general anesthesia.
- (2) The report shall include detailed information pertaining to the following:
- (a) Description of dental procedure.
 - (b) Description of pre-operative physical condition of patient.
 - (c) A description of all drugs and dosages administered.
 - (d) Detailed description of techniques utilized in administering the drugs given.
 - (e) Description of adverse occurrence which shall include:

- (i) Description in detail of the symptoms of any complications including but not limited to onset and type of symptoms in patient.
 - (ii) Treatment instituted on the patient.
 - (iii) Response of the patient to the treatment.
- (f) Description of the patient's condition on termination of any procedures undertaken.
- (3) Failure to comply with the required reporting procedures stipulated herein may result in disciplinary action by the board. The information from a dentist or dental hygienist required under this Subsection may be a prerequisite for the issuance or renewal of his license or permit to practice dentistry or dental hygiene.
- F. An initial authorization permit fee shall be charged, and an annual renewal fee may be charged by the board for each dentist and dental hygienist and facility making an application under this Section as set forth in the board's rules. Such fees shall be due and payable to the board at the same time as license renewal as provided for in R.S. 37:770 and 795.
- G. The authority for the administration of anesthetic and sedative agents as described in this Section shall be limited as follows:
 - (1) The administration of enteral moderate sedation, parenteral moderate sedation, deep sedation, and general anesthesia shall be limited to qualified dentists licensed by the board for use on dental patients.
 - (2) The administration of nitrous oxide inhalation analgesia shall be limited to qualified dentists and dental hygienists licensed by the board for use on dental patients. Dental hygienists shall administer nitrous oxide inhalation analgesia only under the direct supervision of a dentist licensed by the Louisiana State Board of Dentistry to whom the board has issued a permit to administer nitrous oxide inhalation analgesia.
- H.
 - (1) The office permit is not required when the facility is part of a hospital or an outpatient surgical center which meets or exceeds the requirements set forth in Louisiana Administrative Code (Title 46-Professional and Occupational Standards-Part XXXIII Dental Health Professions:), Chapter 15. The reporting requirements of Subsection E of this Section shall apply to those practicing in a facility exempt from the office permit requirement.
 - (2) A personal permit is not required when the dentist uses the services of a third-party medical doctor, third-party doctor of osteopathy who specializes in anesthesiology, third-party certified registered nurse anesthetist, or an oral and maxillofacial surgeon who is permitted by the board to administer moderate sedation, deep sedation, and general anesthesia. Provided that the third-party anesthetist must remain on the premises of the dental facility until any patient given parenteral drugs is sufficiently recovered. However, when the requirement for obtaining a personal permit is waived by the board under the provisions of this Chapter with regard to the utilization of any third party provided for in this Paragraph, the dentist may utilize only the services of a third party previously determined by the board to be in compliance with the board's requirements for the administration of anesthesia in the dental facility following the initial inspection in relation to the application and equipment of the provider of anesthesia. Except for oral and maxillofacial surgeons, third-party anesthesia providers authorized pursuant to this Paragraph shall not be required to obtain a permit from the board or pay any fees or other assessments to the board.
- I. The board reserves the right to inspect the facilities and/or assess the personnel covered under this Section. This inspection/assessment shall be conducted by a qualified person or committee duly appointed by the board. Such inspection and/or assessment may occur when a permit is requested or has been issued in accordance with the board's rules.

§794. Dispensing and administering controlled substances; records

- A. Any dentist qualified to dispense or administer controlled substances shall properly label all such controlled substances in accordance with all applicable federal laws and regulations and shall maintain prescription files on any controlled substances he sells, administers, or dispenses.
- B. A record shall be kept daily showing all dispensations and administrations of all controlled substances and shall clearly identify the controlled substances dispensed or administered, the individual to whom each controlled substance was dispensed or administered, the date of the dispensation or administration, and the amount of the controlled substance dispensed or administered.
- C. All licensees who dispense or administer controlled substances in their dental practice shall keep an inventory at each practice location where controlled substances are dispensed or administered. There shall be an initial inventory in accordance with 21 CFR 1304.11 on the first date he takes control of controlled substances for distribution or administration at any location. In the event a person opens a practice with no controlled substances on hand, he shall record this fact as his initial inventory. A biennial inventory shall be taken within four days of the two-year anniversary of the initial inventory.
- D. The controlled substances log shall be readily retrievable immediately upon the request of the board, its agents, or employees.

§795. Fees and costs

- A. The board is authorized, by rule, in accordance with the Administrative Procedure Act, to establish fees and costs to be imposed for the purpose of implementing and enforcing the provisions of this Chapter. However, the board may, by a majority vote, reduce the amount of or waive the collection of any such fees. The fees established under the provisions of this Section shall be paid to the secretary-treasurer.
- B. Notwithstanding any other provision of this Chapter, the fees and costs established by the board shall be not less nor more than the range created by the following schedule:

(1) Miscellaneous fees and costs	Minimum	Maximum
(a) Photocopies of documents, per page	\$.50	\$1.00
(b) Certification of document as true copy	\$5.00	\$10.00
(c) Certification of document as official record	\$5.00	\$10.00
(d) Certification of good-standing license	\$20.00	\$40.00
(e) Official list of all licensed dentists	\$500.00	\$1,000.00
(f) Official list of all licensed dental hygienists	500.00	\$1,000.00
(g) Up to one-half of an official list of all licensed dentists and dental hygienists	\$250.00	\$500.00
(h) Handling and mailing per page	\$1.00	\$2.00
(i) Bound copy of Dental Practice Act	\$35.00	\$45.00
(j) Unbound copy of Dental Practice Act	\$25.00	\$35.00
(k) Criminal history background check	\$50.00	\$150.00
(l) Retired volunteer dental license	\$50.00	\$200.00
(m) Expanded Duty Dental certificate confirmation	\$100.00	\$200.00

	(n) Review of proposed advertising	\$150.00	\$300.00
2)	Licenses, permits, and examinations for dentists		
	(a) (i) Examination and licensing of dental applicants	\$300.00	\$1,200.00
	(ii) Make-up examination per portion	\$150.00	\$250.00
	(iii) Licensing of dental applicants who have successfully completed an examination by another jurisdiction which is accepted by the board	\$300.00	\$800.00
	(iv) Provisional dental license during emergency	\$100.00	\$300.00
	(b) Temporary dental license	\$100.00	\$200.00
	(c) Issuance of a restricted license (excluding advanced education students and dental residents)	\$200.00	\$400.00
	(d) Biennial renewal fee for dental license	\$100.00	\$600.00
	(e) Annual or biannual renewal fee for restricted dental license (excluding advanced education students and dental residents)	\$100.00	\$300.00
	(f) Replacement of dental license, certificate, or temporary permit	\$50.00	\$100.00
	(g) Delinquency fee in addition to renewal fee for any dental license	\$250.00	\$400.00
	(h) Reinstatement of a license which has been suspended, revoked, or which has lapsed by nonrenewal	\$500.00	\$800.00
	(i) Restricted dental license, advanced education students and dental residents:		
	(i) For period July 1 - December 31	\$100.00	\$200.00
	(ii) For each full year (January 1 - December 31 thereafter)	\$200.00	\$400.00
	(iii) For period January 1 - June 30	\$100.00	\$200.00
	(j) Dental application and licensure by credentials (nonrefundable)	\$1,500.00	\$3,000.00
	(k) Application and permitting for mobile or movable dental office	\$250.00	\$250.00
	(l) Biennial renewal of mobile or movable dental office	\$400.00	\$400.00
	(m) Application and permitting for general or parenteral anesthesia permit	\$50.00	\$500.00
	(n) Application and permitting for nitrous oxide permit	\$50.00	\$100.00
	(o) Renewal of nitrous oxide anesthesia permit	\$50.00	\$100.00

(p)	Renewal of general sedation and parenteral anesthesia permits	\$100.00	\$300.00
(q)	Application and permitting for enteral moderate sedation	\$100.00	\$400.00
(r)	Renewal of enteral moderate sedation permit	\$50.00	\$100.00
(s)	Application and permitting for pediatric moderate sedation permit	\$100.00	\$400.00
(t)	Renewal of pediatric conscious sedation permit	\$50.00	\$100.00
(u)	Expungement of first time advertisement violations	\$500.00	\$1,000.00
(v)	Fee to support well-being program	\$25.00	\$50.00
(3)	Licenses, permits, and examinations for dental hygienists		
(a)	(i) Examination and licensing of dental hygienist applicants	\$100.00	\$400.00
	(ii) Make-up examination per portion	\$50.00	\$100.00
	(iii) Licensing of dental hygiene applicants who have successfully completed an examination administered by another jurisdiction which is accepted by the board	\$100.00	\$500.00
	(iv) Provisional dental hygiene license during emergency	\$100.00	\$300.00
(b)	Temporary dental hygienist permit	\$100.00	\$200.00
(c)	Biennial renewal fee for dental hygienist license	\$30.00	\$200.00
(d)	Replacement or duplicate dental hygienist license, certificate, or temporary permit	\$50.00	\$100.00
(e)	Delinquency fee in addition to renewal fee for any dental hygienists license	\$100.00	\$200.00
(f)	Reinstatement of a dental hygienist license which has been suspended, revoked, or which has lapsed by nonrenewal	\$250.00	\$500.00
(g)	Dental hygiene application and licensure by credentials (nonrefundable)	\$600.00	\$1,500.00
(h)	Examinations and permitting of dental hygiene applicants for administration of local anesthesia	\$50.00	\$50.00
(i)	Renewal fee for dental hygienist's administration of local anesthesia	\$50.00	\$50.00
(j)	Examinations and permitting of dental hygiene applicants for administration of nitrous oxide anesthesia	\$50.00	\$50.00
(k)	Renewal fee for dental hygienists' administration of	\$50.00	\$50.00

nitrous oxide anesthesia

(l) Criminal history background check	\$50.00	\$150.00
(m) Fee to support well-being program	\$5.00	\$15.00

- C. All Louisiana candidates for licensure who take national or regional clinical licensing examinations shall pay the examination fees directly to the examining agency administering such clinical examinations.

§796. Louisiana State Board of Dentistry; adoption of rules relating to the providing of dental services at mobile dental clinics and locations other than the dental office

- A. The Louisiana State Board of Dentistry shall adopt rules relating to the providing of dental services at mobile dental clinics and locations other than the dental office.
- B. The rules shall include but not be limited to:
- (1) Guidelines and criteria for the permitting of dentists who wish to provide dental services at mobile dental clinics and locations other than their office.
 - (2) Guidelines and criteria for record keeping regarding the services provided.
 - (3) Guidelines and criteria for the practice standards and the types of dental services which may be provided at mobile dental clinics and locations other than the dental office.
 - (4) Guidelines and criteria requiring a signed consent form from the parent or guardian prior to providing dental services to a minor.
 - (5) Guidelines and criteria providing for parental consultation and involvement regarding the providing of dental services to a minor.
 - (6) Guidelines and criteria regarding the equipment and standards which shall be maintained in order to provide dental services at mobile dental clinics and locations offering dental services other than the dental office.
 - (7) Provisions for the inspection by the Louisiana State Board of Dentistry of mobile dental clinics and locations offering dental services other than the dental office and health care facilities licensed by the Department of Health and Hospitals.
 - (8) Guidelines and criteria for the disposal of infectious waste associated with providing dental services at mobile dental clinics and locations other than the dental office.
- C. All rules shall be adopted in accordance with the provisions of the Administrative Procedure Act.
- D. Nothing in this Section shall be construed to prohibit the Louisiana State Board of Dentistry from adopting emergency rules as otherwise provided for in the Administrative Procedure Act.
- E. The rules provided for by this Section shall be adopted by January 1, 2011.
- F. Notwithstanding any other provision of law to the contrary, the failure to adopt rules as provided by the provisions of Subsection B of this Section by January 1, 2011, shall be grounds for the immediate removal of the members of the Louisiana State Board of Dentistry.

§796.1. Requirements to provide dental services at mobile dental clinics and locations other than the dental office; permit; hold harmless

- A. Upon promulgation of rules pursuant to this Section and R.S. 37:796, a person offering dental services at a mobile dental clinic or a location other than the dental office shall:

- (1) Be a dentist licensed in Louisiana who is in good standing with the Louisiana State Board of Dentistry.
 - (2) Have received a permit from Louisiana State Board of Dentistry to provide dental services at a mobile dental clinic or a location other than the dental office. The permit shall be issued pursuant to the provisions of this Section and in accordance with rules adopted pursuant to the Administrative Procedure Act.
- B. The board shall promulgate rules and regulations pertaining to licensure requirements for all nonresident officers, managers, and partners of any business entity engaged or contracted to provide administrative or management services in support of a mobile dental clinic or a dentist providing services in locations other than a dental office.
- C. Upon promulgation of rules pursuant to this Section and R.S. 37:796, no dental services shall be offered at a mobile clinic or a location other than the dental office unless the dentist has been issued a permit to provide those services as provided for by this Section.

§797. Employment or contracting with certain nonprofit entities

No provision in this Chapter shall be construed to prohibit any person licensed under the provisions of this Chapter from being an employee or independent contractor of a nonprofit entity that meets the statutory, regulatory and program requirements for grantees supported under Section 330 of the Public Health Service Act (42 U.S.C. §254b) or its successor.