

234 CMR: BOARD OF REGISTRATION IN DENTISTRY

234 CMR 2.00: PURPOSE AND DEFINITIONS

Section

2.01: Purpose

2.02: Definitions

2.03: Severability

2.01: Purpose

234 CMR 2.00 governs the licensure and practice of dentistry, dental hygiene and dental assisting in Massachusetts by establishing the eligibility and licensure requirements and by establishing the standards for the practice of dentistry, dental hygiene and dental assisting in the Commonwealth.

2.02: Definitions

The following definitions apply to all parts of 234 CMR.

ADA. The American Dental Association.

ADAA. The American Dental Assistants Association.

ADHA. The American Dental Hygienists' Association.

Address of Record. The address of an individual licensed by the Board as provided by the applicant or licensee and where the Board sends written communications to the individual.

Adjudicatory Hearing. An administrative hearing held in accordance with M.G.L. c. 30A and 801 CMR 1.00: *Standard Adjudicatory Rules of Practice and Procedure* to determine the truth and validity of the allegations contained in a complaint filed against a licensee.

Advanced Cardiac Life Support (ACLS) Certification. That an individual has successfully completed an advanced cardiac life support course offered by the American Heart Association or other Board-approved entity.

Advertising. A representation or other notice given to the public, directly or indirectly, by a dentist or public health dental hygienist by any means or method for the purpose of inducing purchase, sale or use of dental methods, services, treatments, operations, procedures or products or to promote continued or increased use of such dental methods, treatments, operations, procedures or products.

Basic Life Support (BLS) Certification. Certification in Basic Life Support for the Healthcare Provider obtained through a course that follows the guidelines of the American Heart Association for BLS or guidelines of the American Red Cross.

Board. The Board of Registration in Dentistry or any of its committees or subcommittees established in the Massachusetts Department of Public Health pursuant to M.G.L. c. 13, §§ 9 and 19, c. 112, §§ 43 through 53 and c. 30A.

Cardiopulmonary Resuscitation/Automated External Defibrillation (CPR/AED) Certification. Certification in Cardiopulmonary Resuscitation/Automated External Defibrillation for Professional Rescuers and Health Care Providers obtained through a course that follows the guidelines of the American Red Cross for CPR/AED.

CDCA. The Commission on Dental Competency Assessments, successor to the North East Regional Board of Dental Examiners (NERB), which administers qualifying examinations for dentists and dental hygienists.

CDC Guidelines. The *Guidelines for Infection Control in Dental Health-Care Settings* - 2003, United States Centers for Disease Control and Prevention.

2.02: continued

Chapters 69- and 74-approved Program. A program that has obtained the approval, pursuant to M.G.L. c. 69 and c. 74, for specific secondary or vocational-technical programs by the Commissioner of the Massachusetts Department of Elementary and Secondary Education.

Chapter 112-approved Program. A program that has obtained the approval, pursuant to M.G.L. c. 112, § 263 for specific private occupational school programs by the Massachusetts Division of Professional Licensure.

CMR. The Code of Massachusetts Regulations published by the State Publications and Regulations Division of the Office of the Secretary of the Commonwealth.

CODA. The ADA's Commission on Dental Accreditation.

Community Health Center. A non-profit agency licensed by the Department of Public Health under M.G.L. c. 111, § 51.

Complaint. A communication to, or other information obtained by, the Board or the Division of Health Professions Licensure that alleges an individual, person or entity subject to regulation by the Board has engaged in conduct that violates any law or regulation related to dentistry or dental practice.

Consent Agreement. A legally binding agreement, including specified terms and conditions, entered into by an individual licensed by the Board and the Board in resolution of any complaint against such licensee.

CEU. Continuing education unit and means a minimum of 50 minutes of education or experience as set forth in 234 CMR 8.00: *Continuing Education*.

Conviction. Includes any guilty verdict or finding of guilt and any admission to or finding of sufficient facts to warrant a finding of guilt, a continuance without a finding, and any plea of guilty or nolo contendere which has been accepted by the court, whether or not sentence has been imposed. A conviction of any licensee shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against that licensee based upon the conviction.

Dental Assistant. An individual qualified by education, training or experience who, under the supervision of a licensed dentist, aids or assists the dentist in the performance of procedures or duties related to the provision of dental care in accordance with the provisions in 234 CMR 2.00. A dental assistant may be classified in one of four categories:

(a) Certified Assistant (CA) means an individual certified by the Dental Assisting National Board, Inc., or other Board-approved certifying body, as a dental assistant.

(b) Dental Assistant Trained on the job (OJT) means an individual trained on the job by a dentist licensed to practice dentistry in the Commonwealth who has completed the training pursuant to M.G.L. c. 112, § 51½.

(c) Expanded Function Dental Assistant (EFDA) means an individual who is currently certified by the Dental Assisting National Board, Inc., or other Board-approved certifying body, and has completed a formal program in expanded functions that provides, at a minimum, training in the delegable duties pursuant to 234 CMR 5.11: *Delegable Procedures*, at a CODA-accredited program.

(d) Formally Trained Dental Assistant (FTDA) means an individual who is a graduate of a school or program that meets requirements for licensure pursuant to 234 CMR 4.11(3).

DANB. The Dental Assisting National Board, Inc.

Dental Auxiliary Personnel. A dental hygienist or a dental assistant.

Dentist. An individual licensed under the provisions of M.G.L. c. 112, § 45 or 45A.

Dentistry. The same meaning as set forth in M.G.L. c. 112, § 50.

2.02: continued

Faculty. An individual appointed to the faculty of a CODA-accredited dental college, dental hygiene or dental assisting program. Faculty may include full or part-time assistant or associate clinical instructors, adjunct instructors, assistant or associate professors, teachers, post-doctoral fellows, visiting lecturers and graduate assistants.

Final Decision and Order. The written findings of fact, conclusions of law and order for sanction or other disposition issued to a licensee by the Board following the final adjudication of a complaint.

Good Moral Character. Those virtues of an individual generally recognized as beneficial to the public health, safety and welfare.

HIPDB. The Healthcare Integrity and Protection Data Bank.

Homebound. An individual "confined to his or her home" if the individual has a condition, due to an illness or injury, that restricts the ability of the individual to leave his or her home except with the assistance of another individual or the aid of a supportive device (such as crutches, a cane, a wheelchair, or a walker), or if the individual has a condition such that leaving his or her home is medically contraindicated. While an individual does not have to be bedridden to be considered "confined to his or her home", the condition of the individual should be such that there exists a normal inability to leave home and that leaving home requires a considerable and taxing effort by the individual.

Impaired. Inability to practice dentistry, dental hygiene or dental assisting with reasonable judgment, skill and safety by reason of alcohol or drug abuse, use of other substances, a physical or mental illness or condition, or by any combination of the foregoing.

Institutional Facility. Any entity that hosts an MDF or PDO including, but not limited to a school, long term care facility, residential home, residential treatment facility or correctional institution.

Jurisdiction. Any municipality, state, territory or country, including the Commonwealth of Massachusetts.

Legal Representative. An individual who has either been appointed by a court or who is named under a written agreement with the patient to serve as the patient's representative, including, but not limited to, guardian, conservator, health care agent or power of attorney.

License. As used in 234 CMR is synonymous with registration, permit and the right to renew a license, registration or permit.

Licensed Dentist. A dentist licensed pursuant to M.G.L. c. 112, § 45.

Licensee. An individual registered as holding or having held any type of license, registration or permit issued pursuant to M.G.L. c. 112, §§ 43 through 53 and 234 CMR, whether or not such license is expired, surrendered, suspended or revoked.

Limited Licensee. An individual licensed to practice dentistry under the provisions of M.G.L. c. 112, § 45A. A limited licensee may be a dental intern or a full-time faculty member.

(a) Limited License Dental Intern means an individual granted a limited license to practice dentistry in the Commonwealth pursuant to M.G.L. c. 112, § 45A, who has graduated from a reputable dental college and who practices in a hospital or other institution maintained by the state, a county or municipality, or hospital or dental infirmary incorporated under the laws of the Commonwealth. A limited license dental intern shall not practice dentistry in a private dental office or private dental clinic and may only practice at institution(s) specified in the dental intern's license application. A person who has been issued a limited license shall work under the direction of a licensed dentist employed by the institution.

2.02: continued

(b) Limited License Faculty means an individual granted a limited license to practice dentistry in the Commonwealth pursuant to M.G.L. c. 112, § 45A, who has graduated from a reputable dental college, is employed as a full-time member of the faculty of a CODA-accredited dental college and works under the direction of a licensed dentist employed by said dental college. A limited license faculty member shall not practice dentistry in a private dental office or private dental clinic. A full-time faculty member may participate in an intramural group practice operated, managed and physically located within a nonprofit dental educational or research institution and its affiliated hospitals where the limited license faculty member is employed.

MassHealth. The Medical assistance program known as MassHealth administered by the Executive Office of Health and Human Services pursuant to M.G.L. c. 118E and Title XIX of the Social Security Act.

MDF or PDO Director. A licensed dentist or a public health dental hygienist, who is responsible for dental services provided by the MDF or PDO.

MDF or PDO Permit Holder. A licensed dentist or a public health dental hygienist in whose name the MDF or PDO Permit is issued. Where the MDF or PDO is not wholly owned by a licensed dentist or a public health dental hygienist, the owner shall apply for a license to operate as a clinic pursuant to M.G.L. c. 111, § 51, unless the entity is exempt from licensure pursuant to M.G.L. c. 111, § 52.

M.G.L. The Massachusetts General Laws.

Mobile Dental Facility (MDF). Any self-contained facility where dentistry is practiced, which may be driven, moved, towed, or transported from one location to another.

NPDB. The National Practitioner Data Bank.

Order to Show Cause. A notice issued by the Board to a licensee containing allegations that the licensee's acts or omissions violated a law or regulation related to the practice of dentistry, dental hygiene or dental assisting. The Order to Show Cause may also order the licensee to appear at an adjudicatory hearing held by the Board to "show cause" why the Board should not take disciplinary action against a license or the right to renew such license. *See* 801 CMR 1.01(6)(a): *Agency Notice of Action*.

OSHA Standards. The United States Occupational Safety and Health Administration's *General Industry Standards* at 29 CFR.

Patient. Includes a parent or legal representative.

Portable Dental Operation (PDO). Any non-facility where dental equipment used in the practice of dentistry is transported to and used on a temporary basis at an out-of-office location.

Public Health Dental Hygienist (PHDH). A registered dental hygienist who holds a valid license, has three years of full-time or an equivalent 4,500 hours of clinical experience and has the appropriate training pursuant to 234 CMR 5.07(2): *Educational Requirements for Public Health Dental Hygiene Practice* and works in a public health setting pursuant to a written collaborative agreement.

Public Health Setting. Includes, but is not limited to, residences of the homebound, schools, Head Start programs, nursing homes and long-term care facilities licensed pursuant to M.G.L. c. 111, § 71, clinics, community health centers, and hospitals licensed pursuant to M.G.L. c. 111, § 51, medical facilities, prisons, residential treatment facilities, federal, state or local public health programs, mobile dental facilities and portable dental programs which are permitted by the Board pursuant to 234 CMR 7.00: *Mobile and Portable Dentistry* or licensed or certified by the Department pursuant to M.G.L. c. 111, § 51, and other facilities or programs deemed appropriate by the Board and the Department.

2.02: continued

Reactivation. The renewal of an expired license to practice dentistry, dental hygiene or dental assisting.

Registered Dental Hygienist (RDH) or Dental Hygienist. An individual who has been successfully examined by the Board or its designee and who has been licensed by the Board to practice dental hygiene in the Commonwealth pursuant to M.G.L. c. 112, § 51.

Reinstatement. The issuance of a license to practice dentistry, dental hygiene or dental assisting that has been suspended, surrendered or revoked.

Substance Use Disorder. A dysfunctional pattern of human response characterized by excessive, inappropriate or unhealthy use of chemical substances including alcohol or drugs.

Supervision. Includes three types of supervision as follows:

(a) General Supervision means supervision of dental procedures based on instructions given by a licensed dentist but not requiring the physical presence of a supervising dentist during the performance of those procedures. A public health dental hygienist may perform all delegated duties permitted under general supervision as described in 234 CMR 5.00: *Requirements for the Practice of Dentistry, Dental Hygiene and Dental Assisting* provided the public health dental hygienist has entered into a WCA with a licensed dentist who holds a valid license or with an appropriate municipal or state agency or institution to ensure the public health and safety.

(b) Direct Supervision means supervision of dental procedures based on instructions given by a licensed dentist who remains in the dental facility while the procedures are being performed by the auxiliary.

(c) Immediate Supervision means the supervision of dental procedures by a licensed dentist, who remains in the dental facility, personally diagnoses the condition to be treated, personally authorizes the procedures, and before dismissal of the patient, evaluates the treatment rendered.

Valid License. A license to engage in the practice of dentistry, dental hygiene or dental assisting in the Commonwealth issued to a licensee by the Board on the basis of truthful information related to qualifications for licensure and which is not expired, surrendered, suspended or revoked.

Written Collaborative Agreement (WCA). A written agreement that complies with 234 CMR 5.08: *Written Collaborative Agreement (WCA) with a Public Health Dental Hygienist.*

2.03: Severability

The provisions of 234 CMR are severable. If any provision in 234 CMR is declared unconstitutional or invalid by a court of competent jurisdiction, the validity of the remaining portions shall not be affected.

REGULATORY AUTHORITY

234 CMR 2.00: M.G.L. c. 112, §§ 24 and 42A.