|  |  |
| --- | --- |
| 234 CMR 5.00: | REQUIREMENTS FOR THE PRACTICE OF DENTISTRY, DENTAL HYGIENE, |
|  AND DENTAL ASSISTING |
| Section |

5.01: Purpose

5.02: General Requirements ~~for the Conduct of a Dental Pra.ctice~~

5.03: Notification of Practice Locations

5.~~03~~04: Dental Specialties

5.~~04~~05: Posting of Licenses and Permits, and Identification of Personnel

5.~~05~~06: Infection Control Practices~~, Occupational Safety and Health Standards, and Radiation Control Requirements~~

5.07: Radiation Control Practices

5.~~06~~08: Controlled Substances

5.~~07~~09: Dental Hygiene Practice and Public Health Dental Hygienist (PHDH) Practice

5.~~08~~10: Written Collaborative Agreement (WCA) with a ~~Public Health Dental Hygienist~~PHDH

5.~~09~~11: ~~Requirements for Training in~~ Radiology Supervision and Training

5.~~10~~12: Delegation of Duties

5.~~11~~13: Delegable Procedures

5.~~12~~14: Non-delegable Dental Duties

5.~~13~~15: Patient Records: Content, Confidentiality, Retention, and Availability

5.~~14~~16: Content of Patient Records

5.~~15~~17: Emergency Protocol, Equipment and Drugs

5.~~16~~18: Reporting of Patient Deaths in Dental Facilities

5.~~17~~19: Inspection of Facilities and ~~Requirements for~~ Corrective Action

5.~~18~~20: Advertising

5.~~19~~21: Principles of Ethics and Code of Professional Conduct

5.22: Closing a Dental Practice

5.~~20~~23: Prohibited Practices

5.01: Purpose

The purpose of 234 CMR 5.00 is to set forth the standards and requirements that licensees of the Board must comply with in the practice of dentistry, dental hygiene, public health dental hygiene and dental assisting in the Commonwealth.

5.02: General Requirements ~~for the Conduct of a Dental Practice~~

* + 1. ~~Any individual person who owns, leases, maintains, or operates a dental practice in any facility or room(s) where dental services are provided, or directly or indirectly is director, proprietor or conductor of same, is required to conduct such dental practice in accordance with M.G.L. c. 112, §§ 43 through 53 and 234 CMR.~~All licensees practicing dentistry, dental hygiene, public dental hygiene, or dental assisting shall conform to the requirements in M.G.L. c. 112, §§ 43 through 53 and 234 CMR and any rule, advisory or written policy adopted by the Board.
		2. A dental practice not wholly owned by a licensed dentist or licensed dentists ~~licensed to practice dentistry in the Commonwealth~~ shall be licensed as a dental clinic ~~or hospital~~ pursuant to M.G.L. c. 111, § 51, before treating patients, unless it is exempt from such licensure pursuant to M.G.L. c. 111, § 52.
		3. ~~The owner(s) of a dental practice where any non-owner dentist practices dentistry shall designate a dentist who holds a valid license issued pursuant to M.G.L. c. 112, § 45 to act as Dental Director. The appointment of a Dental Director shall not absolve any owner licensee or other licensee practicing at the site from ensuring that the dental practice is established, maintained and operated in accordance with M.G.L. c. 112, §§ 43 through 53, 61 and 234 CMR and any rule, advisory or written policy adopted by the Board related to the practice of dentistry, dental hygiene, or dental assisting. A non-owner dentist includes, but is not limited to, a dentist who works full-time, part-time, or on a temporary basis or as an independent contractor.~~
1. ~~The name of the Dental Director and at least one of the owners with a valid who is a dentalist licensed to practice dentistry in the Commonwealth shall be posted at each practice site in a public place where a patient can observe such noticepublically in such office or facility.~~
2. ~~The Dental Director shall, at a minimum, be responsible for implementing policies and procedures to ensure compliance with local ordinances and state and federal statutes and regulations governing the practice of dentistry in areas including, but not limited to:~~
	1. ~~Licensure and qualifications of dentists and dental auxiliaries;~~
	2. ~~Delegation of duties to dental auxiliaries pursuant to 234 CMR 5.10 and 5.11;~~
	3. ~~Anesthesia administration as permitted by the Board;~~

~~4. State and federal controlled substances rules and regulations;~~

~~5. CDC Gguidelines, including weekly spore testing;~~

~~6. OSHA standards;~~

~~7. Radiation control requirements;~~

~~8. Posting dental licenses in the practice;~~

~~9. Advertising dental services or fees;~~

* + 1. ~~Schedule of equipment and drugs to ensure timely inspections, maintenance and current drugs; and~~
		2. ~~Compliance with applicable local, state and federal regulations and statutes, including, but not limited to, occupancy codes, fire safety codes, and disposal of hazardous waste.~~

(3) A licensed dentist having any ownership interest in a dental practice shall be deemed a dental practice owner for such practice. ~~A~~Each dental practice owner is responsible for ensuring that all dental and ancillary services advertised, offered, provided, planned or billed for comply with M.G.L. c. 112, §§ 43 through 53, 234 CMR and any rule, advisory or written policy adopted by the Board.

(4) For dental practice locations where there is not a dental practice owner ~~who is not~~ on site at least two days a week, such dental practice owner or owners shall be responsible for implementing policies and procedures to ensure compliance with M.G.L. c. 112, §§ 43 through 53, 234 CMR, and any rule, advisory or written policy adopted by the Board.

(5) A dentist practicing dentistry as an associate or independent contractor, whether full-time, part-time or per diem, or as a dental intern or faculty member is responsible for conducting his or herpractice in conformance with M.G.L. c. 112, §§ 43 through 53 and 234 CMR, and any rule, advisory or written policy adopted by the Board.

5.03: Notification of Practice Locations

 A licensed dentist shall notify the Board in writing of the address of each location where he or she routinely provides dental services. Routinely in this context means the licensed dentist expects to return to that location to practice dentistry more than once. A licensed dentist shall notify the Board in writing within thirty days of any change in a practice location, including where such licensee no longer practices. A licensed dentist providing services under a PDO permit, MDF permit or Permit D-P need not provide the Board with each location of service.

5.~~03~~04: Dental Specialties

* + 1. A dentist may ~~hold him/herself out~~advertise as a~~n ADA~~ specialist in a particular area of practice only if ~~he~~the dentist~~/she~~:
			1. ~~Has c~~Completed a specialty education program approved by the ~~American Dental Association (~~ADA~~)~~ and ~~the Commission on Dental Accreditation~~ CODA or the Commission on Dental Accreditation of Canada; and one of the following:

~~(b)~~1. Is eligible for examination by a national specialty board recognized by the ADA; or

~~(c)~~2. Is a diplomate of a national specialty board recognized by the ADA~~.~~; or

(b) Is board certified by a certifying board recognized by the American Board of Dental Specialties.

* + 1. A dentist choosing to announce a dental specialty consistent with 234 CMR 5.0~~3~~4(1) shall devote a portion of the licensee’s dental practice to the announced specialty sufficient to maintain expertise in such specialty ~~is prohibitedshall not from holding himself or /herself out in directories, listings or other written or electronic publications as a practitioner in any specialty recognized by the ADA unless his or herthe dentist’s practice is limited only to the specialty area(s) that is being advertised, listed, or otherwise noted or published~~.

5.~~04~~05: Posting of Licenses and Permits and Identification of Personnel

* + 1. A licensee shall post ~~his or herthe licensee’s name and current license, or copy of said license publicly in each location of practice in a place where it can be observed by the public.~~or cause to be posted publicly a copy of his or her current license and any current individual anesthesia permit in each practice location. A licensee listing a home address as the address of record need not post such portion to the public.
		2. A licensee holding a facility permit shall post or cause to be posted publicly ~~his or her~~the ~~licensee’s individual anesthesia and Facility~~ facility ~~Permit~~permit, ~~if as applicable, publicly in each practice site in a place where they can be observed by the public~~ corresponding to such dental office or facility ~~designated for the location~~.
		3. All licensees ~~and dental auxiliaries~~ providing dental services ~~to a patient, or assisting a dentist in the direct care or treatment of a patient,~~ shall wear a name tag with the ~~individual's~~ licensee’s name, ~~and~~ professional title and function.

5.~~05~~06: Infection Control Practices~~, Occupational Safety and Health Standards, and Radiation Control Requirements~~

* + 1. ~~Infection Control Practices. All persons licensed by the Boardlicensees and all practices providing dental services are required toshall operate in compliance with the current~~ *~~Recommended Infection Control in Dental Health-Care Settings~~* ~~-~~ *~~2003~~*~~, Centers for Disease Control and Prevention (CDC), U.S. Department of Health and Human Services, Atlanta.~~ A dental practice owner shall ensure that all dental services in such dental practice are provided in conformance with Centers for Disease Control and Prevention’s *Guidelines for Infection Control in Dental Health-Care Settings – 2003* (“Recommendations”)*.* Each~~A~~ dental practice owner is ~~solely~~ responsible for establishing policies and procedures consistent with the Recommendations and providing and maintaining equipment and materials in current and working condition necessary for the effective implementation of the Recommendations.
		2. A licensee providing dental, dental hygiene, public health dental hygiene or dental assisting services shall ensure that his or her practice complies with the Recommendations.
		3. A dental practice owner shall maintain weekly spore testing results on site for each sterilizer for at least five years and shall provide the Board with such results upon request.
		4. A sterilization technician certified by the Certification Board of Sterile Processing and Distribution (CBSPD) or International Association of Healthcare Central Service Materiel Management (IAHCSMM) is permitted to conduct all activities related to sterilization and disinfection of patient-care items.

(2) Occupational Health and Safety Practices. All persons licensed by the Board and all practices providing dental services are required to operate in compliance with OSHA Standards. ~~the Occupational Safety and Health Administration Standards at 29 CFR:~~ *~~OSHA Standards~~*~~.~~

~~(3) Radiation Control. All persons licensed by the Boardlicensees and all dental practices providing dental services usingutilizing radiological equipment are required toshall operate and maintain such equipment in compliance with Massachusetts Radiation Control Program statutes and regulations.~~

5.07: Radiation Control Practices

 A dental practice owner shall ensure all radiological equipment is registered, operated and maintained in compliance with the Massachusetts Department of Public Health’s Radiation Control Program (RCP) regulations at 105 CMR 120.000: *The Control of Radiation*.

 A licensee using radiological equipment shall operate such equipment in compliance with 105 CMR 120.000. A licensed dental hygienist or dental assistant operating radiological equipment shall comply with requirements in 234 CMR 5.11.

5.~~06~~08: Controlled Substances

* + 1. ~~Dentists~~ A dentist registered to dispense, administer and prescribe any controlled substances shall only do so in accordance with M.G.L. c. 94C and 105 CMR 700.00: *Implementation of M.G.L. c. 94C* and all applicable state and federal statutes and regulations pertaining to controlled substances.
		2. ~~Dentists~~ A dentist shall only ~~are limited to~~ write~~ing~~ a prescription~~s~~ for controlled substances for legitimate dental purposes in the usual course of practice and shall not ~~are prohibited from~~ prescribe~~ing~~ controlled sub~~­~~ stances in Schedules II through IV for personal use.
		3. Except in an emergency, a dentist ~~is prohibited from~~shall not prescrib~~ing~~e Schedule II controlled substances to a member of his or her immediate family including a spouse (or equivalent), parent, child, sibling, parent-in-law, son or daughter-in-law, brother or sister-in-law, step-parent, step-child, step-sibling, or other relative permanently residing in the same residence as the licensee.
		4. ~~Prior to prescribing a hydrocodone-only extended release medication that is not in an abuse deterrent form, a licensee must:~~
			1. ~~Thoroughly assess the patient, including an evaluation of the patient's risk factors, substance abuse history, presenting condition(s), current medication(s), a determination that other pain management treatments are inadequate, and a check of the patient's data through the online Prescription Monitoring Program;~~
			2. ~~Discuss the risks and benefits of the medication with the patient;~~
			3. ~~Enter into a Pain Management Treatment Agreement with the patient that shall appropriately address drug screening, pill counts, safe storage and disposal and other requirements based on the patient's diagnoses, treatment plan, and risk assessment unless a Pain Management Treatment Agreement is not clinically indicated due to the severity of the patient's medical condition;~~
			4. ~~Supply a Letter of Medical Necessity as required by the Board of Registration in Pharmacy pursuant to 247 CMR 9.04(8)(c); and~~
			5. ~~Document 234 CMR 5.06(4)(a) through (d) in the patient's medical dental record.~~

~~The purpose of 234 CMR 5.06(4) is to enhance the public health and welfare by promoting optimum therapeutic outcomes, avoiding patient injury and eliminating medication errors. Nothing in 234 CMR 5.06(4) shall alter the standard of care a licensee must use when prescribing any Schedule II, III or IV controlled substance.~~

5.~~07~~09: Dental Hygiene Practice and Public Health Dental Hygienist (PHDH) Practice

* + 1. A dental hygienist (RHD) and a PHDH ~~may~~ shall only provide dental services which are educational, therapeutic, prophylactic and preventive in nature as ~~may be~~ authorized by the Board and may perform all tasks performed by a dental assistant under the specific type of supervision set forth in 234 CMR 5.1~~1~~3.
		2. An ~~dental hygienist~~RHD or PHDH~~public health dental hygienist may~~ shall not perform acts or services which require diagnosis and treatment planning for non-dental hygiene services, surgical or cutting procedures on hard or soft tissue, ~~and/~~or the prescription of medications~~, unless specifically authorized in 234 CMR 5.07 and 5.12~~.
		3. ~~Educational Requirements for Public Health Dental Hygiene Practice.~~
			1. ~~Prior to practicing as a public health dental hygienist pursuant to 234 CMR 2.03:~~ *~~Definitions~~* ~~and 5.08, a dental hygienist shall successfully complete a minimum of ten hours of continuing education as follows:~~
				1. ~~A minimum of six hours of hands-on experience in a public health setting. A dental hygienist who has documentation demonstrating a minimum of six hours of hands on experience in a public health setting between January 1, 2005 and August 20, 2010 shall be deemed to have fulfilled this requirement.~~
				2. ~~Successful completion, within 24 months prior to commencement of practice as a public health dental hygienist, of continuing education in each of the following areas:~~

~~CDC Guidelines (234 CMR 2.00:~~ *~~Purpose, Authority, Definitions~~*~~);~~

~~Risk Management for practice in a public health setting; and~~

~~Management of medical emergencies.~~

* + - 1. ~~The public health dental hygienist shall permanently retain documentation demonstrating compliance with 234 CMR 5.07(2)(a) and 5.08.~~

(3) Practice outside of an office setting:

* + - 1. Services that are exempt from the PDO permit requirement pursuant to 234 CMR 7.01 may be performed by a PHDH pursuant to a WCA or by an ~~dental hygienist~~RHD under the supervision of a dentist.

(b) Services for which a PDO permit is required pursuant to 234 CMR 7.01 may be performed by a PHDH who has obtained a PDO permit, pursuant to a WCA.

* + - 1. ~~A public health dental hygienistPHDH practicing in a public health setting may shall only perform in a public health setting those dental services which are authorized by the Board pursuant to M.G.L. c. 112, § 51, to be provided in a public health setting,and pursuant to a written collaborative agreement (WCA) that complies with requirements described in at in 234 CMR 5.0810, and for which he or she has either obtained a PDO Permit pursuant to 234 CMR 7.00: (~~*~~Mobile and Portable Dentistry~~*~~) with respect to services that do not meet exceptions set forth in 234 CMR 7.01:~~ *~~Scope~~* ~~or approved by the Board, including a signed affidavit that confirms successful completion of the continuing education required in 234 CMR 5.07(2).~~
		1. ~~A registered dental hygienist practicing in a public health setting may provide dental hygiene services, including placement of sealants, without first having a dentist examine the patient, either pursuant to a written collaborative agreement (WCA) that complies with requirements described in 234 CMR 5.0810, or pursuant to a standing order under the general supervision of a dentist licensed pursuant to M.G.L. c. 112, § 45licensed dentist.~~

5.~~08~~10: Written Collaborative Agreement (WCA) with a ~~Public Health Dental Hygienist~~PHDH

A ~~public health dental hygienist who holds a valid license~~PHDH ~~to practice dental hygiene in the Commonwealth issued pursuant to M.G.L. c. 112, § 51, and who has completed the appropriate training required by the Board and has either three years of full-time or an equivalent 4,500 hours of clinical experience shall practice in accordance with Board statutes and regulations~~ ~~and~~ shall enter into a ~~written collaborative agreement (~~WCA~~)~~ with a licensed dentist ~~who holds a valid license issued pursuant to M.G.L. c. 112, § 45~~ or with the appropriate local or state government agency or institution pursuant to M.G.L. c. 112, § 51, where a licensed dentist ~~licensed pursuant to M.G.L. c. 112,§ 45,~~ is available to provide the appropriate level of communication and consultation with the ~~public health dental hygienist~~PHDH to ensure patient health and safety.

* + 1. Each~~A~~ ~~public health dental hygienist~~PHDH shall:
			1. Enter into a ~~written collaborative agreement (~~WCA~~)~~ which complies with the requirements at 234 CMR 5.~~08~~ 10 before ~~rendering treatment,~~ advertising~~,~~ or soliciting ~~patients~~ patients or ~~to~~ providing~~e~~ any dental hygiene service~~s~~ in a public health setting ~~pursuant to the WCAcollaborative agreement~~;
			2. Maintain ~~contact~~ and document communication with the dentist with whom the ~~public health dental hygienist~~PHDH has entered into a ~~written collaborative agreement (~~WCA~~)~~;

(c) Obtain and practice public health dental hygiene under a PDO Permit pursuant to 234 CMR 7.00: ~~(~~*Mobile and Portable Dentistry*~~)~~ or attest that his or her practice is limited to services that meet the exceptions set forth in 234 CMR 7.01: *Scope* or approved by the Board;

(~~cd~~) ~~Practice in accordance with Board rules and regulations;~~

~~(de) Practice in accordance with systems, policies and procedures established pursuant to Board statute and regulations;~~

(~~e~~d) Obtain written, signed informed consent of the patient or legal representative ~~which complies with Board regulations contained in 234 CMR 5.08, informs the patient or legal representative~~ that states the services provided by the ~~public health dental hygienist~~PHDH are not a substitute for a dental examination by a dentist and informs the patient ~~that the patient~~ or legal representative that the patient should obtain~~, or should have had~~ a dental examination by a dentist within 90 days;

(~~f~~e) Provide each patient with a written Information Sheet at the conclusion of the patient's visit, which shall be part of the dental record. ~~Said~~ The Information Sheet shall, at a minimum, include ~~the following~~:

* + - * 1. Results of the dental hygiene evaluation;
				2. The name(s) of the PHDHs~~public health dental hygienists~~ and any licensed dentist and other dental auxiliaries who provided services;
				3. A description of the treatment ~~rendered~~ including, but not limited to, billed service codes and fees associated with treatment, and tooth numbers ~~when~~ as appropriate;
				4. Information on how to contact the PHDH~~public health dental hygienist~~ or~~,~~ dental health services program director~~, mobile dental facility or portable dental operation permit holder (~~*~~See~~* ~~234 CMR 7.00:~~ *~~Mobile and Portable Dentistry~~*~~)~~;
				5. If necessary, ~~provide~~ a referral for emergency assessment by a dentist;
				6. When a referral is ~~made~~indicated, the PHDH~~public health dental hygienist~~ shall refer the patient or legal representative ~~shall be referred~~ to the patient's regular dentist ~~if one is identified~~. If none ~~is identified~~, ~~then~~ the PHDH~~public health dental hygienist~~ shall provide the patient or legal representative ~~must be provided~~ with the names of dentist(s), community health center(s) or dental school clinic(s) located within a reasonable geographic distance from the patient's home and with whom the PHDH~~public health dental hygienist~~ or dental health services program ~~had~~ communicated ~~with regarding the~~regarding accepting ~~ance of~~ referrals;
				7. The name and signature of the PHDH~~public health dental hygienist~~; and
				8. If the patient or legal representative has given consent ~~for~~ to an institutional facility (*e.g*. school, nursing home) ~~to access the patient's dental health records~~, then the PHDH~~dental hygienist~~ shall ~~also~~ provide ~~the~~ such institution with a copy of the I~~i~~nformation S~~s~~heet.
		1. ~~A licensed dentist entering into a written collaborative agreement (WCA) withsupervising a public health dental hygienist, may, but is not required to, provide subsequent dental treatment to patients served under the WCAsaid agreement.~~

(~~3~~2) Written Collaborative Agreement (WCA). A ~~collaborative agreement~~WCA between a ~~public health dental hygienist~~PHDH and a municipality or state agency or institution, or with a licensed dentist ~~who holds a valid license issued pursuant to M.G.L. c. 112, § 45~~ shall, at a minimum, address ~~all of~~ the following:

* + - 1. Names(s) of ~~Identify by name(s)~~ the dentist(s) ~~who shall be~~ available to provide the appropriate level of communication and consultation with the ~~public health dental hygienist~~PHDH to ensure patient health and safety;
			2. ~~Specifically Dd~~Describe ~~, with specificity, including the frequency of and arrangements for back-up coverage,~~ how the licensed dentist and ~~public health dental hygienist~~PHDH will consult and communicate to ensure patient health and safety~~be accomplished, including the frequency and arrangements for back-up coverage when the dentist is not accessible to provide communication and consultation (~~*~~e.g~~*~~., during vacation, illness)~~;
			3. ~~Provide t~~The names, license numbers, addresses, telephone and facsimile numbers, and emergency contact information for the dentist(s) and ~~public health dental hygienist~~PHDH;

~~(d) Include The public health dental hygienist’san attestation from the public health dental hygienist which is signed under the pains and penalties of perjury that describinges the public health dental hygienistlicensee's qualifications to practice as a public health dental hygienist and explicitly states stating that the dental hygienist has a minimum of three years of full-time or an equivalent of 4,500 hours of clinical experience as a registered dental hygienist and has completed all training required by the Board;~~

~~(e) Identify The entity(ies) and geographic area(s) where public health dental hygienist services will be provided pursuant to the WCAcollaborative agreement;~~

(~~f~~d) ~~Specify t~~The specific dental hygiene procedures ~~to be~~ the PHDH will provide~~d~~ and the populations to be served ~~pursuant to~~under the ~~collaborative agreement~~WCA;

(e) The entity(ies) and geographic area(s) where the PHDH will provide services pursuant to the WCA;

~~(g)Specify and describe How patient records will be created, maintained, stored and kept~~ ~~confidentialresponsibilities for creating, maintaining, storing, retrieving and providing for the confidentiality of patient records;~~

1. ~~Specify and describe responsibilities for establishing The systems, policies and procedures developed to ensure compliance with Board regulations, including but not limited to requirements of 234 CMR 5.00 and 7.00:~~ *~~Mobile and Portable Dentistry~~* ~~as may be applicable;~~

~~(i) Specify and describe responsibilities for developing, implementing, and maintainingThe emergency medical protocols and for the provision of periodic review and training on same;~~

~~(j) Include any cConsiderations for age- or procedure-specific protocols as the dentist or public health dental hygienistPHDH determines to may be deemed necessary by the dentist or public health dental hygienist;~~

~~(k) Include any cConsiderations for medically-compromised patients as the dentist or public health dental hygienistPHDH determines to may be deemed necessary by the dentist or public health dental hygienist;~~

~~(l) Outline How and what services the PHDH public health dental hygienist will responsibilities for billing and reimbursement for services rendered by the dental hygienist in the public health setting, if indicatedfor;~~

(~~m~~f) ~~Identify a process for the~~How the ~~public health dental hygienist~~PHDH will ~~to legally~~ obtain prescription products, ~~(~~*e.g*. chemotherapeutics, fluoride varnish~~) pertinent to the provision of dental hygiene services and which are to be utilized when rendering services in a public health setting~~;

(g) How and where patient care items are sterilized and stored; and

(~~n~~h) Term of the ~~collaborative agreement~~WCA~~, if applicable~~.

(~~4~~3) The licensed dentist and ~~public health dental hygienist~~PHDH shall review and update the WCA~~written collaborative agreement~~ ~~at least~~ annually.

(~~5~~4) The licensed dentist and ~~public health dental hygienist~~PHDH shall ~~immediately~~ notify each other within 5 days and, if applicable, the municipality, state agency or institution involved in the ~~collaborative agreement~~WCA of any disciplinary action imposed by the Board or ~~any~~ other governmental agency related to the ~~against his or her license to~~ practice of dentistry or dental hygiene ~~in the Commonwealth~~.

(~~6~~5) A licensed dentist consulting with a PHDH pursuant to a WCA, may choose to provide subsequent dental treatment to patients treated by such PHDH.

(~~7~~6) The municipality, state agency, institution or licensed dentist and the ~~public health dental hygienist~~PHDH shall maintain ~~A~~a copy of the WCA~~written collaborative agreement shall be maintained by the municipality, state agency or institution, licensed dentist, and the public health dental hygienist~~. Upon written request, the ~~said agreement~~WCA shall be made available to the Board~~,~~ or to a patient who received treatment ~~pursuant~~ under the WCA~~to the agreement~~ or the patient’s ~~his or her~~ legal representative.

(~~8~~7) ~~Each public health dental hygienist~~A PHDH shall maintain and report the following data ~~to be reported~~ to the Massachusetts Department of Public Health's Office of Oral Health (OOH) on forms and in accordance with procedures and timelines established by ~~that office~~OOH:

* + - 1. The dates of each session with name and address of the site where public health dental hygiene services were provided; and
			2. The number of patients served and the type(s) and quantity(ies) of each service provided.

5.~~09~~11: ~~Requirements for Training in~~ Radiology Supervision and Training

* + 1. An ~~Registered Dental Hygienist (~~RDH~~)~~, ~~Public Health Dental Hygienist (PHDH), Expanded Function Dental Assistant (~~EFDA~~)~~, ~~Certified Assistant (~~CA~~)~~ or a ~~Formally-trained Dental Assistant (~~FTDA~~)~~ may take dental radiographs in a dental office or other practice setting only under the supervision of a dentist ~~provided that the dental auxiliary has successfully completed a course with a curriculum that complies with CODA standards for radiological techniques and safeguards in dentistry~~.

(2) A PHDH may take dental radiographs outside of a dental office or other practice setting only pursuant to the terms of a WCA.

(~~2~~3) An ~~On-the-job Trained Dental Assistant (~~OJT~~)~~ may take radiographs in a dental office or other practice setting ~~only~~ under the supervision of a dentist ~~and must have~~ if the OJT meets one of the following:

 (a) The OJT has successfully completed a course ~~that complies with CODA standards~~ in radiological techniques and safeguards offered through a CODA accredited institution, Massachusetts Dental Society or a non-CODA accredited dental school; ~~and~~or

 (b) The OJT has successfully passed ~~either~~ the DANB Radiation Health and Safety Examination (RHS) ~~or other examination as approved by the Board, within one year of course completion~~.

5.~~10~~12: Delegation of Duties

* + 1. ~~A dentist licensed to practice dentistry in the Commonwealth pursuant to M.G.L. c. 112,~~

~~§ 45~~ A dentist may delegate ~~certain~~ only those dental duties set forth in ~~this section~~234 CMR 5.13 to a dental auxiliary who is properly educated, trained~~,~~ and qualified as specified in M.G.L. c 112, §§ 43 through 53~~, 61~~ and 234 CMR and any rule, advisory or written policy adopted by the Board ~~related to the practice of dentistry, dental hygiene, or dental assisting~~.

* + 1. The supervising dentist shall be responsible for all delegated ~~acts~~ services and procedures performed by the dental auxiliary. A~~ny~~ dentist who delegates a procedure to an auxiliary who does not meet the requirements necessary to perform that procedure may be subject to discipline~~ary action~~ by the Board.

5.~~11~~13: Delegable Procedures

~~Registered Dental Hygienists (~~An RDH~~)~~, ~~Public Health Dental Hygienist (~~PHDH~~)~~, ~~Expanded Function Dental Assistant (~~EFDA~~)~~, ~~Certified Assistant (~~CA~~)~~, ~~Formally-trained Dental Assistant (~~FTDA~~)~~, and ~~Dental Assistant Trained on the Job (~~OJT~~)~~ and may perform the following dental procedures pursuant to the designated level of supervision or direction: General Supervision (G), ~~Written Collaborative Agreement~~ ~~(~~WCA~~)~~, Direct Supervision (D), Immediate Supervision (I) or Delegation Not Allowed (N/A).

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
|  | DELEGATED DUTY | RDH | PHDH | EFDA | CA | FTDA | OJT |
| (1) | Review medical and dental history and consult whennecessary with medical practitioner | G | WCA | G | G | G | G |
| (2) | Perform preliminary evaluation to determine neededdental hygiene services | G | WCA | N/A | N/A | N/A | N/A |
| (3) | Make referrals to dentists, physicians, and otherpractitioners in consultation with a dentist | G | WCA | N/A | N/A | N/A | N/A |
| (4) | Provide oral health instruction | G | WCA | G | G | G | ~~D~~G |
| (5) | Perform dietary screening for dental diseaseprevention and control | G | WCA | G | G | G | ~~N/A~~D |
| (6) | Conduct dental screenings | G | WCA | N/A | N/A | N/A | N/A |
| (7) | Record dental screenings | G | WCA | ~~D~~G | ~~D~~G | ~~D~~G | ~~D~~G |
| (8) | Expose radiographs | G | WCA | G | G | G | G |
| (9) | Evaluate radiographs for provision of dental hygieneservices | G | WCA | N/A | N/A | N/A | N/A |
|  | DELEGATED DUTY | RDH | PHDH | EFDA | CA | FTDA | OJT |
| (10) | Take intra-oral photographs | G | WCA | G | G | G | G |
| (11) | Perform and record charting of the oral cavity and surrounding structures, including but not limited to, existing dental restorations, lesions and periodontalprobing depths | G | WCA | N/A | N/A | N/A | N/A |
| (12) | Record charting of the oral cavity and surrounding structures, including but not limited to, dentalrestorations, lesions and periodontal probing depths | G | WCA | ~~D~~G | ~~D~~G | ~~D~~G | ~~D~~G |
| (13) | Take and record vital signs | G | WCA | G | G | G | G |
| (14) | Perform minor emergency denture adjustments toeliminate pain and discomfort in nursing homes and other residential or long term care facilities | G | WCA | ~~N/A~~D | ~~N/A~~D | ~~N/A~~D | ~~N/A~~D |
| (15) | Perform pulp testing | ~~D~~G | ~~N/A~~WCA | N/A | N/A | N/A | N/A |
| (16) | Apply anti-cariogenic agents, including fluoridevarnish | G | WCA | G | G | G | D |
| (17) | Apply topical anesthetic agents | G | WCA | G | G | G | D |
| (18) | Apply and adjust dental sealants | G | WCA | G | D | D | N/A |
| (19) | Take impressions and intra-oral scans for study casts, bite registrations, including for identification purposes, night guards, and custom fluoride and bleaching trays pursuant to a dentist’s prescription or order | G | WCA | G | G | G | ~~I~~D |
| ~~(20)~~ | ~~Take impressions for athletic mouth guards~~ | ~~G~~ | ~~WCA~~ | ~~G~~ | ~~G~~ | ~~G~~ | ~~I~~ |
| ~~(21)~~ | ~~Retract lips, cheek, tongue and other oral tissue parts~~ | ~~G~~ | ~~WCA~~ | ~~G~~ | ~~G~~ | ~~G~~ | ~~G~~ |
| ~~(22)~~ | ~~Irrigate and aspirate the oral cavity~~ | ~~G~~ | ~~WCA~~ | ~~G~~ | ~~G~~ | ~~G~~ | ~~G~~ |
| (~~23~~20) | Re-cement and adjust intact temporary restorationsintra-orally | G | WCA | G | G | G | ~~N/A~~D |
| (~~24~~21) | Place temporary restorations (not includingtemporization of inlays, on-lays, crowns, and bridges) to provide palliative treatment | G | WCA | G | G | G | ~~I~~D |
| (~~25~~22) | Assist or monitor nitrous oxide analgesia | I | I | I | I | I | I |
| (~~26~~23) | Place and remove gingival retraction materials | D | D | D | D | D | D |
| (~~27~~24) | Apply cavity varnish, liner(s) and bonding agents | I | I | I | I | I | I |
| (~~28~~25) | Apply desensitizing agents | G | WCA | G | ~~D~~G | ~~D~~G | D |
| (~~29~~26) | Place restorative materials in tooth for condensationand finishing by the dentist | ~~I~~D | ~~I~~D | ~~I~~D | I | I | I |
| (~~30~~27) | Remove temporary restorations with hand instruments | G | WCA | G | ~~I~~D | ~~I~~D | ~~N/A~~I |
| (~~31~~28) | Place and remove wedges and matrix bands | G | WCA | G | D | D | I |
| ~~(32)~~ | ~~Place and remove matrix bands~~ | ~~G~~ | ~~WCA~~ | ~~G~~ | ~~D~~ | ~~D~~ | ~~I~~ |
| (~~33~~29) | Place and remove dental dams or isolation systems | G | WCA | G | G | G | D |
| (~~34~~30) | Place and remove periodontal dressings | G | WCA | G | G | G | ~~N/A~~D |
| (~~35~~31) | Remove sutures | G | WCA | G | G | G | D |
| (~~36~~32) | Removal of implant healing caps/cover screws forrestorative procedures | ~~I~~D | ~~I~~D | ~~I~~D | ~~I~~D | ~~I~~D | I |
| (~~37~~33) | Dry root canals with paper points | I | I | I | ~~N/A~~I | ~~N/A~~I | ~~N/A~~I |
| (~~38~~34) | Place cotton pellets and temporary restorativematerials into endodontic openings | G | WCA | G | D | D | D |
| (~~39~~35) | Remove excess cement ~~and bonding agents~~ | G | WCA | G | D | D | ~~I~~D |
|  | ~~from bridges and appliances with hand~~~~instruments~~ |  |  |  |  |  |  |
| (~~40~~36) | Cement and remove temporary crowns and bridges | G | WCA | G | G | G | ~~I~~D |
| (~~41~~37) | Insert and/or perform minor adjustment of nightmouth guards, athletic mouth guards, and custom fluoride trays | G | WCA | G | G | G | ~~I~~D |
| (~~42~~38) | Select and adapt stainless steel crowns or other pre­formed crown for insertion by dentist | ~~I~~D | ~~I~~D | ~~I~~D | ~~I~~D | ~~I~~D | ~~I~~D |
| (~~43~~39) | Perform sub-gingival and supra-gingival scaling | G | WCA | N/A | N/A | N/A | N/A |
|  | DELEGATED DUTY | RDH | PHDH | EFDA | CA | FTDA | OJT |
| (~~44~~40) | Polish teeth, after dentist or dental hygienist hasdetermined that teeth are free of calculus, with slow speed hand piece | G | WCA | G | G | G | ~~N/A~~D |
| (~~45~~41) | Administer local anesthesia pursuant to 234 CMR 6.00 | D | D | N/A | N/A | N/A | N/A |
| (~~46~~42) | Perform gross debridement ~~and/ or scaling and root~~~~planing~~ | G | WCA | N/A | N/A | N/A | N/A |
| (~~47~~43) | Perform scaling and root planing[[1]](#footnote-1) | G | ~~N/A~~WCA | N/A | N/A | N/A | N/A |
| (~~478~~44) | ~~Prepare and p~~Perform non-invasive oral cytological smears or studies | ~~D~~G | ~~N/A~~WCA | N/A | N/A | N/A | N/A |
| (~~489~~45) | Use diagnostic and periodontic non-cutting lasers | ~~D~~G | ~~N/A~~WCA | N/A | N/A | N/A | N/A |
| ~~(4950)~~ | ~~Preliminarily fit crowns to check contacts, adjust occlusion on crowns inside the mouth~~ | ~~G~~ | ~~WCA~~ | ~~D~~ | ~~D~~ | ~~N/A~~ | ~~N/A~~ |
| (~~510~~46) | Place temporary soft liners in a removal prosthesis | G | WCA | D | D | I | ~~N/A~~I |
| ~~(521)~~ | ~~Obtain endodontic cultures~~ | ~~D~~ | ~~N/A~~ | ~~D~~ | ~~D~~ | ~~I~~ | ~~N/A~~ |
| (~~532~~47) | Apply ~~bleaching agents~~ and activate whitening agents ~~with non-laser non-curing device~~ | G | WCA | D | D | D | ~~I~~D |
| (~~543~~48) | Fabricate provisional restorations intraorally | G | WCA | G | D | D | ~~I~~D |
| (~~554~~49) | Place and condense amalgam restorations | D | N/A | D | N/A | N/A | N/A |
| (~~565~~50) | Carve, contour, adjust amalgam restorations | D | N/A | D | N/A | N/A | N/A |
| (~~576~~51) | Place and finish composite restorations | ~~D~~G | ~~N/A~~WCA | ~~D~~G | N/A | N/A | N/A |
| (~~587~~52) | Adjust dentures on the tissue side to eliminate tissue irritation | G | WCA | G | ~~N/A~~G | ~~N/A~~G | ~~N/A~~G |
| ~~(598)~~ | ~~Place temporary sedative restorations/fillings~~ | ~~G~~ | ~~WCA~~ | ~~G~~ | ~~I~~ | ~~N/A~~ | ~~N/A~~ |
| ~~(6059)~~ | ~~Place Stainless Steel Crowns~~ | ~~D~~ | ~~D~~ | ~~D~~ | ~~I~~ | ~~I~~ | ~~N/A~~ |
| (~~610~~53) | Take impressions for orthodontic retainers | G | WCA | G | G | G | ~~D~~G |
| (~~621~~54) | Preliminary intra-oral fit of bands | G | WCA | G | G | G | ~~D~~G |
| (~~632~~55) | Preliminary oral fit of arch wire | G | WCA | G | G | G | ~~D~~G |
| (~~643~~56) | Select size of headgear | G | WCA | G | G | G | ~~D~~G |
| (~~654~~57) | Place and remove orthodontic separators | G | WCA | G | G | G | ~~D~~G |
| (~~665~~58) | Place and remove orthodontic arch wires | G | WCA | G | G | G | ~~D~~G |
| (~~676~~59) | Etch appropriate enamel surfaces before bonding oforthodontic appliances by a dentist | G | WCA | G | G | G | ~~D~~G |
| (~~687~~60) | Place elastics and ligature wires | G | WCA | G | G | G | ~~D~~G |
| (~~698~~61) | Remove fixed orthodontic appliances | G | WCA | G | G | G | ~~D~~G |
| (~~7069~~62) | Remove excess cement and bonding agents fromorthodontic appliances with hand instruments | G | WCA | G | G | G | ~~D~~G |
| (~~710~~63) | Perform minor emergency palliative orthodonticadjustments to eliminate pain and discomfort | G | WCA | G | G | G | I |
| ~~(721)~~ | ~~Perform any other procedure approved by the Board~~ |  |  |  |  |  |  |
| 64 | Take final impressions and intra-oral scans for fixed and removable prosthetic restoration of teeth or oral structures | D | N/A | D | D | D | D |
| 65 | Sterilization and disinfection of patient-care items | G | WCA | G | G | G | G |

5.~~12~~14: Non-delegable Dental Duties

Only a ~~licensed~~ dentist~~s~~ ~~shall~~may:

* + 1. Perform final diagnoses and treatment planning;
		2. Perform surgical or cutting procedures on hard or soft tissue;
		3. Prescribe or parenterally administer drugs or medicaments;
		4. Prescribe dental lab work orders for any appliance or prosthetic device or restoration to be inserted into a patient's mouth;
		5. Operate high speed rotary instruments in the mouth;
		6. Perform pulp-capping procedures;
		7. ~~Take final impressions for fixed and removable prosthetic restoration of teeth or oral structures;~~

(~~8~~7) Perform final positioning and attachment of orthodontic bonds and bands;

 (~~9~~8) Perform final cementation of crowns and bridges; and

(~~10~~9) Irrigate root canals.

5.~~13~~15: Patient Records: Content, Confidentiality, Retention, and Availability

* + 1. Content of Patient Record. Patient records include, but are not limited to, dental charts, photographs, patient histories, examination and test results, diagnoses, treatment plans, referrals, progress notes, anesthesia records~~charts~~, ~~orthodontic models~~preliminary and final casts, prescriptions, radiographs, patient consents, pre- and post- treatment instructions, legal guardianship documents and billing records.
		2. Confidentiality of Patient Records. All patient records ~~including, but not limited to, dental charts, photographs, patient histories, examination and test results, diagnoses, treatment plans, progress notes, anesthesia charts, orthodontic models, prescriptions, radiographs, patient consents, and billing records of any patient treated~~ shall be collected, maintained and shared as may be authorized by the patient or the patient’s legal representative ~~in a manner that~~to ensure~~s~~ confidentiality ~~and access for patients and authorized practitioners who may wish to obtain a copy of patient records~~.
		3. Record Retention Requirement. The licensee shall maintain a patient's original dental record ~~and original radiographs~~ ~~(x-rays)~~ for a minimum of seven years from the last date of ~~the last~~ patient treatment. ~~In addition, tThe~~ A minor’s patient record ~~of a minor~~ shall be retained for a minimum of seven years from the last date of ~~the last~~ patient treatment or age 21~~three years after from when the patient has reached the age of majority~~, whichever is later.
		4. Availability of Dental Records.
			1. Request for Copy of Dental Record. The licensee shall provide upon the patient or guardian’s written consent~~request by a patient or another specifically authorized person~~, a complete copy of the patient's dental record in accordance with M.G.L. c. 112, § 12CC. A copy of the patient record, including diagnostic-quality radiographs, shall be provided within a reasonable ~~amount of~~ time not to exceed 30 ~~calendar~~ days from the date of the request. The licensee may charge a reasonable fee ~~for the expense of providing a patient's dental record~~, not to exceed the cost of ~~either~~ labor and~~/or~~ materials incurred in ~~the~~ copying and sending~~of~~ the patient record, radiographs and models. The licensee shall not require payment for dental services ~~rendered~~ performed as a condition of providing a copy of the dental record. A dentist may offer to provide the patient with a summary of the patient's record, but the summary shall not be in lieuof the complete patient record if requested.
			2. Treatment in a School Setting. Where the patient or legal representative consents ~~has been granted by the patient or legal representative~~, a copy of the patient's Information Sheet or other written summary of the screening, examination~~,~~ or treatment shall be provided to the official designated by the school.
			3. Treatment in a Nursing Home or Residential Treatment Facility. Where the patient or legal representative consents, ~~A~~a copy of the patient's I~~i~~nformation S~~s~~heet or other written summary of the screening, examination~~,~~ or treatment shall be provided to the ~~official designated by the~~nursing home or facility ~~or institution and shall~~to be made part of the patient’s medical record maintained by the nursing home or residential facility.
			4. If ~~the~~a licensee dies and ~~the~~ his or her practice is closed, the estate ~~may~~ shall notify patients treated within ~~the~~ two years ~~prior to~~of the licensee’s death~~date of passing~~. ~~Said~~ Such notice shall inform patients of how ~~they may~~to obtain a copy of ~~their a~~ patient records, including diagnostic-quality radiographs. Notice ~~may~~ shall be made by ~~a~~ written or electronic notice ~~letter~~sent to each patient, ~~by electronic notice~~, public notice in the appropriate newspaper, ~~and/~~or by other means which is widely disseminated. ~~A copy of said any such notice must be submitted to the Board upon issuance and/or publication.~~
			5. Electronic patient records shall comply with the requirements of 234 CMR 5.~~13~~15 and 5.~~14~~16 and shall be unalterable and producible in paper form upon the patient’s request.

5.~~14~~16: Content of Patient Record~~s~~

* + 1. The patient record shall be a complete record of all patient contact and shall be legible and clear in meaning to a subsequent examining or treating dentist, dental auxiliaries and the patient or legal guardian~~, including, but not limited to, a general description of the patient's medical and dental history and status at time of examination, diagnoses, patient education, treatment plan, referral for specialty treatment, medications administered and prescribed, pre- and post-treatment instructions and information conveyed to the patient pursuant to M.G.L. c. 112, §§ 43 through 53 and 234 CMR 2.00:~~ *~~Purpose, Authority, Definitions~~*.
		2. ~~Patient records shall be legible and clear in meaning to a subsequent examining or treating dentist, the patient, dental auxiliaries or other authorized persons.~~

(~~3~~2) At ~~a~~ minimum, a patient~~'s~~ record must include with respect to a patient:

* + - 1. Patient ~~I~~information.
				1. Name, address and date of birth ~~of the patient~~;
				2. If ~~the~~ a minor patient ~~is not of the age of majority~~, the name of the parent or legal representative, or documentation of emancipation;
				3. If the parents of the minor patient ~~child~~ are separated or divorced, the name of the custodial parent;
				4. The name and contact information of the legal representative, if any~~If the patient has a legal representative pursuant to 234 CMR 2.00:~~ *~~Purpose, Authority, Definitions~~*~~, the name and address of the legal representative.~~;

~~5. Whether the patient is an emancipated minor; and~~

~~6~~5. ~~Patient's telephone~~ Telephone numbers~~(s)~~ and electronic mail address~~es~~, except if the patient declines to provide this information.

* + - 1. Medical and Dental History Form. The ~~patient's~~ medical history and dental history shall

include, but not be limited to:

* + - * 1. A review of past and present illnesses, diseases and disabilities;
				2. ~~Systemic disease(s) that may affect the oral cavity;~~

2. Current prescription and non-prescription medications, ~~as well as any known~~and drug allergies;

* + - * 1. Documentation of consultation with the ~~patient's medical~~ physician~~(~~s~~)~~ and medical specialists as appropriate; and
				2. Date of ~~the patient's~~ last dental examination, frequency of dental visits, current home care regime and documentation of ~~the patient's~~ primary dental complaint, if any.
				3. ~~Upon review of the patient's medical and dental history, any~~ Each licensee ~~or dental auxiliary~~ ~~in the practice treating the patient~~ shall review the patient’s medical and dental history before initiating treatment and sign and date, electronically or otherwise, the medical and dental history.~~;~~
				4. At each ~~patient~~ visit, the licensee shall inquire and document and initial in the patient record, whether there are ~~any~~ changes in the patient's medical history, including but not limited to, changes in prescription medications.
			1. Record of Dental Examination. Each patient record shall include ~~documentation of~~ the results of a comprehensive clinical examination of the following areas:
				1. Head and neck;
				2. Radiographic images as necessary and medically appropriate to facilitate a comprehensive diagnosis of the patient. Radiographs shall be clearly identified with the patient name, date of examination and the name of the dentist;
				3. Intra-oral and extra-oral soft tissue examination, including charting of existing restorations and current status of patient's hard and soft tissue;
				4. Comprehensive periodontal screening;
				5. Oral cancer screening;
				6. Examination of the teeth;
				7. The results of all ~~any~~ other examinations performed by the licensee ~~and/or dental auxiliary~~ as necessary and appropriate to facilitate comprehensive diagnoses of the patient's dental status; and
				8. Findings which are within or outside of normal limits.
			2. Diagnoses. The patient record shall include written diagnoses of ~~the patient's~~ current dental status based on the evaluation of the ~~patient's~~ medical and dental history, ~~dental~~ clinical examination and radiographic findings.
			3. Treatment Plan. The patient record shall include a written treatment plan describing in detail the proposed treatment. The proposed treatment plan and ~~information regarding~~ estimated fees must be reviewed with and agreed to by the patient ~~prior to~~before ~~the commencement of~~ implementing the treatment plan. ~~The treatment plan shall also include referrals to specialists as necessary. If there is no treatment plan this must be explained and documented in the patient record.~~
			4. General and Specific Informed Consent. General and~~/or~~ specific informed consent must be ~~obtained~~ in writing, signed and dated ~~from~~ by the patient or legal representative prior to initiating treatment. The treating dentist shall present relevant information accurately in a manner understandable to the patient that includes the diagnosis, if known, the nature and purpose of the recommended treatment, estimated fees, and the burdens, risks and expected benefits of all options, including foregoing treatment. Informed consent ~~and~~ shall consider the patient’s education and language ability and not be obtained fraudulently, when the ~~from a~~ patient is under duress, or if the patient ~~or who~~ is not mentally competent, the age of majority or an emancipated minor.
				1. General Informed Consent. Each licensee shall obtain ~~from the patient or legal representative~~ general informed consent allowing the licensee to examine, diagnose and treat the patient. ~~Procedures covered by a~~ G~~g~~eneral informed consent includes basic restorative or preventive procedures and permission to bill patient's insurer~~, if any~~. The general informed consent ~~may~~ remains in effect until treatment is terminated either by the licensee ~~and/~~or the patient ~~and~~ or the patient is no longer regarded as a patient of record.
				2. Specific Informed Consent. Each licensee shall obtain ~~from the patient or the patient's legal representative~~ a specific informed consent allowing the licensee to perform specialized treatment including, but not limited to: administration of anesthesia other than local anesthesia, periodontal, endodontic, orthodontic, prosthetic and oral and maxillofacial procedures, and specialized treatment for pediatric patients, including behavior management techniques.
				3. Additional Requirements for ~~Mobile Dental Facilitie~~MDFs, ~~Portable Dental Operation~~PDOs, and for Licensees Providing Dental Services in a Public Health Setting. An MDF~~,~~ or PDO permit holder~~as defined in 234 CMR 7.03:~~ *~~Permit M: Application for Mobile Dental Facility Permit and/or Portable Dental Operation~~* or licensee providing dental services in a public health setting shall obtain a signed written consent from the patient or legal representative ~~which conforms to~~consistent with 234 CMR 5.~~154~~16(~~3~~2)(f) ~~and~~ ~~also~~ that includes the following:

An explanation of the scope of services ~~that may~~to be ~~rendered~~provided;

Notice that the patient may continue to obtain dental care through any other provider;

~~Notice that the treatment of the patient may affect the future rights and benefits due the patient under private insurance, Medicaid, or the children's health insurance program;~~

If applicable, authorization ~~a request for permission to allow the patient's dental insurance carrier~~ to ~~be~~ bill~~ed~~ the patient’s insurance for treatment ~~provided to the patient~~ and notice that treatment billed may affect the future benefits due the patient under such insurance, Medicaid or the Children’s Health Insurance Program;

If applicable for services rendered in a public health setting, a request for permission to provide the official designated by the school, nursing home, residential facility, or institution with a written summary of the examination; and

Information on how the patient or legal representative can contact the MDF or PDO permit holder, or public health dental services program.

* + - 1. ~~Progress~~Clinical Notes. The patient record shall include ~~written~~ documentation of the treatment provided ~~by the dentist and/or dental auxiliary~~ that is signed and dated electronically or otherwise by the treating licensee and includes~~ing~~ but is not limited to:
				1. ~~Administration of Mmedicines and medicaments~~ All drugs administered, including the type, amount~~,~~ and route ~~of administration~~;
				2. ~~A statement of s~~Services and procedures performed ~~provided~~ including patient reaction, if any, during the treatment visit~~, procedures performed~~ and diagnoses;
				3. ~~A description of the p~~Pre- and post-treatment instructions including, if applicable, plans for subsequent treatment; and
				4. ~~Documentation of a~~Each~~ny~~ referral for specialty treatment, including the name of the specialist the patient is referred to.~~; and~~

~~A dated written or electronic signature by the dentist or dental auxiliary who treated the patient.~~

* + - 1. Prosthetic and Orthodontic Prescriptions. All prosthetic and orthodontic prescriptions, whether filled by the licensee or other laboratory, shall be written in accordance with M.G.L. c. 112, § 50, must be in duplicate with a ~~(~~copy ~~to be~~ retained by dentist~~)~~ and include:
1. Name and address of the dental laboratory;
2. Name, initials or identifying number for the patient;
3. Date;
4. Description of the treatment and procedures, including placement of the patient's name ~~and/~~or identifying patient number;
5. Specification of the type and quality of materials to be used; and
6. Signature and license number of the dentist.

(i) ~~Patient~~ Financial Record. The ~~patient's~~ financial record shall include, but not be limited to, the name of the ~~patient's~~ dental insurer, documentation of fees for treatment and payment schedule, and claims submitted to third parties.

5.~~15~~17: Emergency Protocol

All dental practices shall:

* + 1. Have a written, readily accessible protocol for managing medical or dental emergencies;
		2. Maintain readily available, ~~a~~ current ~~emergency drug kitmedication and equipment (~~*~~see~~* ~~234 CMR 6.15(2) and (3):~~ *~~Administration of Local Anesthesia Only~~*~~);~~and in good working order the following emergency equipment:

(a) Alternative light source for use during power failure;

(b) Automated external defibrillator with adult and pediatric pads;

(c) Oxygen (portable cylinder E tank) capable of giving positive pressure ventilation via a bag-valve-mask system with pediatric and adult masks;

(d) Sphygmomanometer and stethoscope (pediatric and adult);

(e) Suction; and

(f) Any other equipment as the Board may require.

* + 1. Maintain current and have readily available the following emergency drugs:
1. Non-enteric coated aspirin;
2. Ammonia inhalants;
3. Antihistamine;
4. Antihypoglycemic agent;
5. Bronchodilator;
6. Epinephrine preloaded syringes (pediatric and adult);
7. Oxygen;
8. Nitroglycerin; and
9. Any other drugs or category of drugs as the Board may require.

(~~3~~4) Have communication equipment that ensures rapid access to emergency responders and others as necessary; and

(~~4~~5) Ensure that all staff are trained when hired, and at least annually thereafter, to implement the emergency protocols.

5.~~16~~18: Reporting of Patient Deaths in Dental Facilities

* + 1. ~~Purpose. All~~ Each dental patient death~~s~~ that occurs in a dental facility or is ~~that are~~ pronounced in another facility~~,~~ *~~e.g~~*~~. hospital to which~~where ~~the dental~~such patient has been transported from a dental facility, ~~must~~ shall be reported to the Board. The dentist who was treating ~~and/~~or responsible for ~~said~~ the deceased patient ~~must~~ shall submit a written report describing the event to the Board by certified mail, electronic mail, or facsimile within seven days.
		2. ~~Failure to Comply. The license or , permit, or registration of the dentist responsible for said patient may be subject to Board disciplinary action revoked, suspended, or placed on probation for failure to comply with this reporting requirement.~~

5.~~17~~19: Inspection of Facilities and ~~Requirements for~~ Corrective Action

* + 1. Inspection of Dental Facilities. The Board or its designee(s) may visit a dental practice at any time without prior notice ~~and~~ to conduct an inspection to determine compliance with ~~state law~~ M.G.L. c. 112, §§ 43 through 53 ~~and § 61~~,  ~~and~~ 234 CMR and any rule, advisory or written policy adopted by the Board ~~related to the practice of dentistry, dental hygiene, or dental assisting~~.
		2. Deficiency Statement. Following an ~~Board~~ inspection ~~during which any violation of~~

~~M.G.L. c. 112, §§ 43 through 53 and § 61, and 234 CMR and any rule, advisory or written policy adopted by the Board related to the practice of dentistry, dental hygiene or dental assisting 2.00:~~ *~~Purpose, Authority, Definitions~~* ~~is found~~, the Board or its designee(s) may prepare a deficiency statement citing ~~any and all~~ each violation~~s~~ of M.G.L. c. 112, §§ 43 through 53, 234 CMR and any rule, advisory or written policy observed, and shall send a copy ~~of which shall be sent~~ to the licensee for response and corrective action.

* + 1. Plans of Correction. The licensee shall submit to the Board a written plan of correction for violations cited in a deficiency statement within the time specified by the Board. The plan of correction shall set forth, with respect to each deficiency, the specific corrective step~~(~~s~~)~~ to be taken, a timetable for such steps, and the date by which compliance will be achieved. ~~The timetable and the~~ C~~c~~ompliance dates and remediation shall be consistent with protecting the public’s health, safety and welfare~~achievement of compliance in the most expeditious manner possible~~. The Board may open a complaint based on those observed deficiencies~~A plan of correction which does not meet the requirements of this section shall may be considered unacceptable by the Board and may be returned to the licensee for further correction~~.

5.~~18~~20: Advertising

* + 1. Illegal Advertising ~~Practices~~. A licensed dentist or PHDH ~~public health dental hygienist~~ may advertise truthful and accurate information pertaining to dental services consistent with M.G.L. c. 112, § 52A. ~~Unfair, misleading, deceptive and or fraudulent advertising is prohibited.~~
		2. Advertising Dental Services and Dental Fees.
			1. A dental service is one that a dentist ~~and/~~or dental auxiliary performs for a specific fee.
			2. A ~~D~~dental service~~s~~ advertised as free or no charge must describe the specific services offered and the comparative monetary value.
			3. The ~~period of time~~dates ~~during which~~ the advertised fees ~~will be~~are valid ~~in effect~~ must be included in the advertisement and offered~~. Advertised fees for all dental services must be in effect~~ for a reasonable period of time from the initial date of the advertisement.
		3. Content of Advertisements. An~~y~~ advertisement for dental services, regardless of medium, ~~must~~ shall include the ~~followingThe~~ name of at least one owner ~~of the practice who is~~ currently licensed to practice dentistry or dental hygiene in the Commonwealth; and otherwise~~If the dental or public health dental hygiene practice is organized as a professional corporation pursuant to M.G.L. c. 156A, the name of at least one of the owners who is licensed to practice dentistry or dental hygiene in the Commonwealth.The information disclosed by the advertising dentist or dental hygienist in a publication or a broadcast shall~~ comply with M.G.L. c. 112, § 52A, and ~~other provisions of~~ 234 CMR ~~2.00:~~ *~~Purpose, Authority, Definitions~~*.

5.~~19~~21: Principles of Ethics and Code of Professional Conduct

A~~ll~~ dentist~~s~~ ~~licensed by the Board and all practices providing dental services~~ shall comply with the ADA’s *Principles of Ethics and Code of Professional Conduct, ~~January 2004~~November 2018*~~of the American Dental Association, and~~. ~~all~~ An~~ll registered dental hygienists~~ RDH shall comply with the ADHA’s *Code of Ethics, ~~2006~~ June 2018*~~of the American Dental Hygienists Association, Inc~~. A~~ll~~ ~~registered~~ dental assistant~~s~~ shall comply with the ADAA’s *~~The Policy on~~ Principles of ~~Ethics and Code of~~ Professional ~~Conduct~~Ethics, 2011*~~, published by the American Dental Assistants Association~~.

5.22: Closing a Dental Practice

 A dental practice owner seeking to close a practice shall do so consistent with the ADA’s *Guide to Closing a Dental Practice* (2008).

5.~~20~~23: Prohibited Practices

Licensees are prohibited from ~~engaging in the following practices~~:

* + 1. Associating or cooperating with any person, firm or corporation in any manner in an effort to avoid or circumvent the intent or provisions of M.G.L. c. 112, §§ 43 through 53 ~~and § 61~~ and 234 CMR.
		2. Paying or accepting fees in any form or manner as compensation for referring patients to any person for professional services, written work orders~~,~~ or other services or articles supplied to the patient.
		3. ~~Entering into an agreement or other arrangement~~Agreeing or arranging with any non-licensed person ~~who does not hold a valid dental license to practice dentistry in the Commonwealth thatwhich~~ to allow~~s~~ ~~said~~ that person ~~final decision- making~~ authority to decide or direct ~~over~~ any of the following:
			1. Selection of a course of treatment for a patient;
			2. Procedures for materials to be used as part of such treatment;
			3. Manner in which treatment is carried out by the licensee;
			4. Professional practice decision-making;
			5. Patient records;
			6. Policies and decisions relating to pricing, credit, refunds, warranties and advertising;
			7. Decisions related to delegation of dental duties; and
			8. Control and maintenance of dental equipment, materials and supplies.
		4. ~~Operating or owning~~ Having an ownership interest greater than 5% in a commercial dental laboratory and continuing in the active practice of dentistry without reporting in writing to the Board within thirty days of acquiring such ownership interest in such dental lab ~~except where a dentist owns or operates a private, non-commercial dental laboratory for his or her own use and benefit. Where the licensee owns or operates a private, non-commercial dental laboratory and employs a dental technician, the licensee shall provide the dental technician a written work order which contains the date, information identifying the patient (~~*~~e.g~~*~~. name, initials, or social security number), the description of the work to be done, and a specification of the type and quality of materials to be used. The work order shall be in duplicate, signed by the dentist and a copy be retained in the patient record~~.

REGULATORY AUTHORITY

234 CMR 5.00: M.G.L. c. 112, §§ 12CC, 43 through 53, 61; c. 94C and c. 111, §~~§~~ 51, 51½ and 52.

1. May only provide after appropriate diagnosis by dentist. [↑](#footnote-ref-1)