

2014 -- S 2347 SUBSTITUTE A

=====
LC004113/SUB A/2
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

—————
A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- DENTISTS AND DENTAL
HYGIENISTS

Introduced By: Senators Lynch, Conley, Ottiano, Jabour, and Sosnowski

Date Introduced: February 12, 2014

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 5-31.1-1, 5-31.1-2, 5-31.1-3, 5-31.1-4, 5-31.1-6, 5-31.1-7, 5-31.1-
2 8, 5-31.1-9, 5-31.1-10, 5-31.1-11, 5-31.1-17, 5-31.1-18, 5-31.1-19, 5-31.1-20, 5-31.1-21 and 5-
3 31.1-31 of the General Laws in Chapter 5-31.1 entitled "Dentists and Dental Hygienists" are
4 hereby amended to read as follows:

5 **5-31.1-1. Definitions.** -- As used in this chapter:

6 (1) "Board" means the Rhode Island board of examiners in dentistry or any committee or
7 subcommittee of the board.

8 (2) "Chief of the division of oral health" means, the chief of the division of oral health of
9 the Rhode Island department of health who is a licensed dentist possessing a masters degree in
10 public health or a certificate in public health from an accredited program.

11 (3) "Dental administrator" means the administrator of the Rhode Island board of
12 examiners in dentistry.

13 (4) "Dental hygienist" means a person with a license to practice dental hygiene in this
14 state under the provisions of this chapter.

15 (5) "Dentist" means a person with a license to practice dentistry in this state under the
16 provisions of this chapter.

17 (6) "Dentistry" is defined as the evaluation, diagnosis, prevention and/or treatment (non-
18 surgical, surgical or related procedures) of diseases, disorders and/or conditions of the oral cavity,

1 cranio-maxillofacial area and/or the adjacent and associated structures and their impact on the
2 human body, provided by a dentist, within the scope of his or her education, training and
3 experience, in accordance with the ethics of the profession and applicable law.

4 (7) "Department" means the Rhode Island department of health.

5 (7.1) "Direct visual supervision" means supervision by an oral and maxillofacial surgeon
6 (with a permit to administer deep sedation and general anesthesia) by verbal command and under
7 direct line of sight.

8 (8) "Director" means the director of the Rhode Island department of health.

9 (9) "Health care facility" means any institutional health service provider licensed
10 pursuant to the provisions of chapter 17 of title 23.

11 (10) "Health maintenance organization" means a public or private organization licensed
12 pursuant to the provisions of chapter 17 of title 23 or chapter 41 of title 27.

13 (11) "Limited registrant" means a person holding a limited registration certificate
14 pursuant to the provisions of this chapter.

15 (12) "Nonprofit medical services corporation" or "nonprofit hospital service corporation"
16 or "nonprofit dental service corporation" means any corporation organized pursuant to chapter 19
17 or 20 of title 27 for the purpose of establishing, maintaining and operating a nonprofit medical,
18 hospital, or dental service plan.

19 (13) "Peer review board" means any committee of a state, local, dental or dental hygiene,
20 association or society, or a committee of any licensed health care facility, or the dental staff of the
21 committee, or any committee of a dental care foundation or health maintenance organization, or
22 any staff committee or consultant of a hospital, medical, or dental service corporation, the
23 function of which, or one of the functions of which is to evaluate and improve the quality of
24 dental care rendered by providers of dental care service or to determine that dental care services
25 rendered were professionally indicated or were performed in compliance with the applicable
26 standard of care or that the cost for dental care rendered was considered reasonable by the
27 providers of professional dental care services in the area and includes a committee functioning as
28 a utilization review committee under the provisions of P.L. 89-97, 42 U.S.C. section 1395 et. seq.,
29 (Medicare law) or as a professional standards review organization or statewide professional
30 standards review council under the provisions of P.L. 92-603, 42 U.S.C. section 1301 et seq.,
31 (professional standards review organizations) or a similar committee or a committee of similar
32 purpose, to evaluate or review the diagnosis or treatment of the performance or rendition of dental
33 services which are performed under public dental programs of either state or federal design.

34 (14) "Person" means any individual, partnership, firm, corporation, association, trust or

1 estate, state or political subdivision, or instrumentality of a state.

2 (15) "Practice of dental hygiene." Any person is practicing dental hygiene within the
3 meaning of this chapter who performs those services and procedures that a dental hygienist has
4 been educated to perform and which services and procedures are, from time to time, specifically
5 authorized by rules and regulations adopted by the board of examiners in dentistry. Nothing in
6 this section is construed to authorize a licensed dental hygienist to perform the following:
7 diagnosis and treatment planning, surgical procedures on hard or soft tissue, prescribe medication
8 or administer general anesthesia or injectables other than oral local anesthesia. A dental hygienist
9 is only permitted to practice dental hygiene under the general supervision of a dentist licensed
10 and registered in this state under the provisions of this chapter.

11 (A) Provided, that in order to administer local injectable anesthesia to dental patients,
12 dental hygienists must be under the supervision of a dentist and meet the requirements established
13 by regulation of the board of examiners in dentistry including payment of a permit fee.

14 (16) (i) (A) "Practice of dentistry." Any person is practicing dentistry within the meaning
15 of this chapter who:

16 (I) Uses or permits to be used, directly or indirectly, for profit or otherwise, for himself,
17 herself or for any other person, in connection with his or her name, the word "dentist" or "dental
18 surgeon," or the title "D.D.S." or "D.M.D." or any other words, letters, titles, or descriptive
19 matter, personal or not, which directly or indirectly implies the practice of dentistry;

20 (II) Owns, leases, maintains, operates a dental business in any office or other room or
21 rooms where dental operations are performed, or directly or indirectly is manager, proprietor or
22 conductor of this business;

23 (III) Directly or indirectly informs the public in any language, orally, in writing, or in
24 printing, or by drawings, demonstrations, specimens, signs, or pictures that he or she can perform
25 or will attempt to perform dental operations of any kind;

26 (IV) Undertakes, by any means or method, gratuitously or for a salary, fee, money, or
27 other reward paid or granted directly or indirectly to himself or herself or to any other person, to
28 diagnose or profess to diagnose, or to treat or profess to treat, or to prescribe for or profess to
29 prescribe for any of the lesions, diseases, disorders, or deficiencies of the human oral cavity,
30 teeth, gums, maxilla or mandible, and/or adjacent associated structures;

31 (V) Extracts human teeth, corrects malpositions of the teeth or of the jaws;

32 (VI) Except on the written prescription of a licensed dentist and by the use of
33 impressions or casts made by a licensed and practicing dentist, directly or indirectly by mail,
34 carrier, personal agent, or by any other method, furnishes, supplies, constructs, reproduces, or

1 repairs prosthetic dentures, bridges, appliances or other structures to be used and worn as
2 substitutes for natural teeth;

3 (VII) Places those substitutes in the mouth and/or adjusts them;

4 (VIII) Administers an anesthetic, either general or local in the course of any of the
5 previously stated dental procedures; or

6 (IX) Engages in any of the practices included in the curricula of recognized dental
7 colleges;

8 (B) Provided that in order to administer any form of anesthesia, other than local, dentists
9 must meet the requirements established by regulation of the board of examiners in dentistry,
10 including [training in advanced cardiac life support and pediatric advanced life support, and](#)
11 payment of a permit fee.

12 (ii) The board shall promulgate regulations relating to anesthesia. Those regulations shall
13 be consistent with the American Dental Association guidelines for the use of conscious sedation,
14 deep sedation and general anesthesia in dentistry. Neither the board nor any regulation
15 promulgated by the board shall require additional licensing fees for the use of nitrous oxide by
16 dentists. Prior to the adoption of those regulations, dentists shall be permitted to administer
17 anesthesia without restriction. From the proceeds of any fees collected pursuant to the provisions
18 of this chapter, there is created a restricted receipts account which is used solely to pay for the
19 administrative expenses incurred for expenses of administrating this chapter.

20 (iii) No non-dentist who operates a dental facility in the form of a licensed outpatient
21 health care center or management service organization may interfere with the professional
22 judgment of a dentist in the practice.

23 [\(17\) "Direct visual supervision" means supervision by an oral and maxillofacial surgeon](#)
24 [\(with a permit to administer deep sedation and general anesthesia\) by verbal command and under](#)
25 [direct line of sight.](#)

26 **5-31.1-2. Board of examiners in dentistry -- Members -- Compensation -- Funds. --**

27 (a) There is created within the department of health the Rhode Island board of examiners in
28 dentistry, which is composed of the following members:

29 (1) Eight (8) licensed dentists, no more than three (3) shall be dental specialists as
30 recognized by the American Dental Association (ADA);

31 (2) Four (4) public members not associated with the dental field;

32 (3) Two (2) licensed dental hygienists; and

33 (4) The chief of the office of dental public health, who shall serve as an ex-officio
34 member of the board; and

1 (5) One certified dental assistant.

2 (b) The governor shall appoint the members of the board, except that prior to appointing
3 the eight (8) dentist members the governor may submit a list of all candidates to the appropriate
4 dental societies for comments as to their qualifications. No member shall be appointed for more
5 than two (2) consecutive full terms. A member appointed for less than a full term (originally or to
6 fill a vacancy) may serve two (2) full terms in addition to that part of a full term, and a former
7 member is again eligible for appointment after a lapse of one or more years. All subsequent
8 appointments to the board shall be for a term of three (3) years. Any member of the board may be
9 removed by the governor for neglect of duty, misconduct, malfeasance, or misfeasance in office
10 after being given a written statement of the charges against him or her and sufficient opportunity
11 to be heard on the charges. The director of the department of health shall appoint from the
12 members a chairperson who shall be a dentist duly licensed under the laws of the state of Rhode
13 Island, and a vice-chairperson who shall in the absence of the chairperson exercise all powers of
14 the chairperson, and secretary, who serve for one year or until their successors are appointed and
15 qualified. The board shall meet at least once a month or more often upon the call of the
16 chairperson, director of health or dental administrator, at any times and places that the
17 chairperson designates.

18 (c) Members of the board shall not be paid for the discharge of official duties.

19 (d) ~~The administration of the board shall be funded from annual fees. The director shall~~
20 ~~in consultation with the board determine the amount of the annual fee to be charged to each~~
21 ~~licensed dentist and dental hygienist, the payment of which is a condition to practicing dentistry~~
22 ~~or dental hygiene in the state.~~ The director ~~or the dental administrator~~ has the authority to suspend
23 or revoke the license of any dentist or dental hygienist who does not pay the annual fee. Monies
24 shall be received by the department and deposited in the general fund as general revenues.

25 **5-31.1-3. Examining committees.** -- (a) The chairperson shall appoint two (2) licensed
26 dentist members of the board and one public member to serve as an examining committee for
27 applicants applying for licensure as dentists. The examining committee for dentists shall
28 recommend to the full board who shall recommend to the director applicants for licensure to
29 practice dentistry who meet all the requirements for licensure prescribed in this chapter, and other
30 applicable sections and regulations adopted under this chapter.

31 (b) The chairperson shall also appoint three (3) members of the board, one of whom is a
32 licensed dentist, one of whom is a public member and one of whom is a licensed dental hygienist,
33 to serve as an examining committee for applicants applying for licensure as dental hygienists. The
34 examining committee for dental hygienists shall recommend to the full board who shall

1 recommend to the director applicants for licensure to practice dental hygiene who meet the
2 requirements for licensure prescribed in this chapter, other applicable sections and the regulations
3 adopted under this chapter.

4 (c) The members of the examining committees shall serve for a term of one year and
5 may be reappointed.

6 (d) The chairperson shall also appoint three (3) members of the board, one of whom is a
7 licensed dentist, one of whom is a public member and one of whom is a certified dental assistant,
8 to serve as an examining committee for applicants applying for licensure as Dental Anesthesia
9 Assistance National Certification Examination (DAANCE) certified maxillofacial surgery
10 assistants. The examining committee for DAANCE certified maxillofacial surgery assistants shall
11 recommend to the full board who shall recommend to the director applicants for licensure to
12 practice as DAANCE certified maxillofacial surgery assistants who meet the requirements for
13 licensure prescribed in this chapter, other applicable sections and the regulations adopted under
14 this chapter.

15 **5-31.1-4. Powers and duties of the board of examiners in dentistry. --** The board of
16 examiners in dentistry has the following duties and powers:

17 (1) To adopt, amend, and rescind any rules and regulations with the approval of the
18 director of the department of health that it deems necessary to carry out the provisions of this
19 chapter;

20 (2) To investigate all complaints and charges of unprofessional conduct against any
21 licensed dentist, dental hygienist, DAANCE certified maxillofacial surgery assistant or limited
22 registrant and to hold hearings to determine whether those charges are substantiated or
23 unsubstantiated;

24 (3) To direct the director of the department of health to license qualified applicants for
25 licensure;

26 (4) To appoint one or more dentists or dental hygienists, or certified dental assistant to
27 act for the members of the board in investigating the conduct or competence of any licensed
28 dentist, dental hygienist, DAANCE-certified maxillofacial surgery assistant or limited registrant;

29 (5) To direct the director to revoke, suspend or impose other disciplinary action as to
30 persons licensed or registered under this chapter;

31 (6)(i) To issue subpoenas and administer oaths in connection with any investigations,
32 hearing or disciplinary proceedings held under the authority of this chapter;

33 (ii) All subpoenas issued pursuant to this section shall only be issued by a vote of either
34 the investigative committee or the full board of examiners in dentistry;

1 (A) Such subpoenas shall have attached to them written draft minutes disclosing the date
2 and vote of either the investigative committee or the full board of examiners in dentistry
3 demonstrating the vote to issue said subpoena;

4 (B) All subpoenas issued by the board shall be served by a disinterested party or by a
5 constable authorized by the courts to serve process;

6 (C) Subpoenas issued by either the investigative committee or the full board of examiners
7 in dentistry shall have a reasonable return date that will allow the recipient an opportunity to
8 review the subpoena, consult with counsel, and prepare a response to the subpoena;

9 (D) All subpoenas shall be in compliance with the Rhode Island healthcare
10 confidentiality act and include a patient consent when the subpoena calls for the disclosure of a
11 patient record; and

12 (E) In the absence of a properly executed patient consent, subpoena requests shall only be
13 made by request of the board to a court of competent jurisdiction that may issue a court order
14 compelling production of confidentiality healthcare information of a patient.

15 (7) To take or cause depositions to be taken as needed in any investigation, hearing or
16 proceeding;

17 (8) To summon and examine witnesses during any investigation, hearing or proceeding
18 conducted by the board; and

19 (9) To adopt and publish, with the prior approval of the director, rules of procedure and
20 other regulations in accordance with the Administrative Procedure Act, chapter 35 of title 42.

21 **5-31.1-6. License to practice -- Qualifications of applicants -- Fee -- Reexamination. -**

22 -(a) Authority to practice dentistry or dental hygiene under this chapter is by a license, issued by
23 the director of the department of health, to any reputable dentist, ~~or~~ dental hygienist or DAANCE
24 certified maxillofacial surgery assistant who intends to practice dentistry, ~~or~~ dental hygiene or
25 DAANCE certified maxillofacial surgery assisting in this state, and who meets the requirements
26 for licensure prescribed in this chapter and regulations established by the board or the director.

27 (b) Applicants for licensure as dentists shall:

28 (1) Present satisfactory evidence of graduation from a school of dentistry accredited by
29 the American Dental Association Commission on Dental Accreditation or its designated agency
30 and approved by the board;

31 (2) Meet any other requirements that the board or director by regulation establishes; and

32 (3) Pass in a satisfactory manner any examinations that the board requires.

33 (c) Applicants for licensure as dental hygienists shall:

34 (1) Present satisfactory evidence of graduation from a school for dental hygiene

1 accredited by the American Dental Association Commission on Dental Auxiliary Accreditation or
2 its designated agency and approved by the board;

3 (2) Meet any other requirements that the board or director by regulation establishes; and

4 (3) Pass in a satisfactory manner any examination that the board requires.

5 (d) Any dentist and any dental hygienist or DAANCE certified maxillofacial surgery
6 assistant applying for licensure shall pay an application fee as set forth in section 23-1-54.
7 Application fees shall in no case be returned. Applicants requiring reexamination for dentistry,
8 ~~and~~ for dental hygiene or for DAANCE certified maxillofacial surgery assisting shall submit fees
9 as set forth in section 23-1-54 for each reexamination.

10 (e) (1) Notwithstanding any other provision of law, the board of dental examiners may
11 issue a special license to qualifying dentists and dental hygienists under the terms and conditions
12 set forth in this section and pursuant to requirements which may be set forth in the rules and
13 regulations of the board. The special license may only be issued to a person who is retired from
14 the practice of dentistry or dental hygiene and not currently engaged in such practice either full-
15 time or part-time and has, prior to retirement, maintained full licensure in good standing in
16 dentistry or dental hygiene in any state.

17 (f) Applicants for licensure as certified maxillofacial surgical assistants shall:

18 (1) Present satisfactory evidence of completion of the DAANCE oral surgery assistant
19 training course prepared and administered by the American Association of Oral and Maxillofacial
20 Surgeons or its designated agency and approved by the board;

21 (2) Meet any other requirements that the board or director by regulation establishes;

22 (3) Pass in a satisfactory manner any examination that the board requires; and

23 (4) Complete a Board of Examiners in Dentistry-approved advanced cardiac life support
24 course and current certification.

25 (2) The special licensee shall be permitted to practice dentistry or dental hygiene only in
26 the non-compensated employ of public agencies or institutions, not-for-profit agencies, not-for-
27 profit institutions, nonprofit corporations, or not-for-profit associations which provide dentistry or
28 dental hygiene services only to indigent patients in areas which are underserved by dentists or
29 dental hygienists or critical need population areas of the state.

30 (3) The person applying for the special license under this section shall submit to the
31 board a notarized statement from the employing agency, institution, corporation, association or
32 health care program on a form prescribed by the board, whereby he or she agrees unequivocally
33 not to receive compensation for any dentistry or dental hygiene services he or she may render
34 while in possession of the special license.

1 (4) Any application fees and all licensure and renewal fees shall be waived for the holder
2 of the special license under this section.

3 (5) A dentist or dental hygienist licensed pursuant to this section shall comply with the
4 continuing education requirements established by the board of dental examiners in this state.

5 **5-31.1-7. Recertification -- Continuing dental education.** -- (a) Effective beginning in
6 the calendar year 2006, every dentist, ~~or~~ dental hygienist [or DAANCE certified maxillofacial](#)
7 [surgery assistant](#) licensed to practice within this state, on or before the first day of May in each
8 even numbered year, shall apply to the Rhode Island board of examiners in dentistry for a
9 biennial license with the board. The applicant shall include satisfactory evidence to the board of
10 examiners in dentistry that in the preceding two years the practitioner has completed a prescribed
11 course of continuing dental or dental hygiene education established by the appropriate dental or
12 dental hygiene association and approved by rule or regulation of the director or by the board of
13 examiners in dentistry. If the applicant submits satisfactory evidence to the board that he or she
14 has completed a prescribed course of continuing dental education, ~~or~~ dental hygiene [or DAANCE](#)
15 [certified maxillofacial surgery assisting](#) education and has complied with the provisions of section
16 5-31.1-6, the board shall issue the applicant a license registration for a two year period
17 commencing on July 1. The board may extend for only one six (6) month period those
18 educational requirements if the board is satisfied that the applicant has suffered hardship, which
19 prevented meeting the educational requirement. No license to practice dentistry or dental hygiene
20 in this state shall be refused, nor any license suspended or revoked, except as:

21 (1) Provided for in this chapter; and

22 (2) For failure to provide satisfactory evidence of continuing dental, ~~or~~ dental hygiene [or](#)
23 [DAANCE certified maxillofacial surgery assisting](#) education as provided for in this section.

24 (b) Licensees shall apply for recertification by submitting evidence of continuing dental,
25 ~~or~~ dental hygiene [or DAANCE certified maxillofacial surgery assisting](#) education on a biennial
26 basis. Application for biennial registration shall continue as provided in this section and section
27 5-31.1-21.

28 **5-31.1-8. Refusal of licensure.** -- (a) The director upon recommendation from the board,
29 after notice and hearing in accordance with the procedures prescribed in this chapter, shall refuse
30 to grant the original license provided for in this chapter to any dentist, dental hygienist, [DAANCE](#)
31 [certified maxillofacial surgery assistant](#) and/or applicant who is not of good moral character, who
32 does not meet the requirements for licensure prescribed in this chapter and regulations established
33 by the board or director, who has violated any law involving moral turpitude or affecting the
34 ability of any dentist, dental hygienist, [DAANCE certified maxillofacial surgery assistant](#) and/or

1 applicant to practice dentistry, ~~or~~ dental hygiene, [or DAANCE certified maxillofacial surgery](#)
2 [assisting](#) or who has been found guilty in another state of conduct which if committed in Rhode
3 Island would constitute unprofessional conduct as defined in section 5-31.1-10 and regulations
4 adopted under these chapters.

5 (b) The director shall serve a copy of his or her decision or ruling upon any person
6 whose original certificate has been refused.

7 **5-31.1-9. Immunity from suit.** -- (a) The director of the department of health, dental
8 administrator, board members, their agents or employees are immune from suit in any action,
9 civil or criminal, based upon any disciplinary proceeding or other official act performed in good
10 faith in the course of their duties under this chapter. There is no civil liability on the part of or
11 cause of action of any nature against the board, director, dental administrator, their agents or their
12 employees or against any organization or its members, peer review board or its members, or other
13 witnesses and parties to board proceedings for any statements made by them in any reports,
14 communications or testimony concerning an investigation of the conduct or competence of a
15 licensed dentist, dental hygienist, or limited registrant.

16 (b) No licensed health care provider, dentist, dental hygienist, [DAANCE certified](#)
17 [maxillofacial surgery assistant](#) or limited registrant shall discharge, threaten or discriminate
18 against an employee, staff member or any other person for making a report to, giving testimony
19 to, or providing any other communication to the board of examiners in dentistry, a peer review
20 organization or any appropriate supervisory personnel concerning the unprofessional conduct or
21 incompetence or negligence of a dentist, dental hygienist, [DAANCE certified maxillofacial](#)
22 [surgery assistant](#) or limited registrant; provided, that the report, testimony or other
23 communication was made in good faith.

24 **5-31.1-10. Unprofessional conduct.** -- The term "unprofessional conduct" as used in this
25 chapter includes, but is not limited to, the following items or any combination of them and may
26 be defined by regulations established by the board with the approval of the director:

27 (1) Fraudulent or deceptive procuring or use of a license or limited registration;

28 (2) All advertising of dental, ~~or~~ dental hygiene [or DAANCE certified maxillofacial](#)
29 [surgery assisting](#) business which is intended or has a tendency to deceive the public or a dentist
30 advertising as a specialty in an area of dentistry unless the dentist:

31 (i) Is a diplomat of or a fellow in a specialty board accredited or recognized by the
32 American Dental Association; or

33 (ii) Has completed a post-graduate program approved by the Commission on Dental
34 Accreditation of the American Dental Association;

- 1 (3) Conviction of a crime involving moral turpitude; conviction of a felony; conviction
2 of a crime arising out of the practice of dentistry, ~~or of~~ dental hygiene or DAANCE certified
3 maxillofacial surgery assisting;
- 4 (4) Abandonment of patient;
- 5 (5) Dependence upon controlled substances, habitual drunkenness or rendering
6 professional services to a patient while the dentist, ~~or~~ dental hygienist, or DAANCE certified
7 maxillofacial surgery assisting or limited registrant is intoxicated or incapacitated by the use of
8 drugs;
- 9 (6) Promotion by a dentist, dental hygienist, DAANCE certified maxillofacial surgery
10 assistant or limited registrant of the sale of drugs, devices, appliances, or goods or services
11 provided for a patient in a manner as to exploit the patient for the financial gain of the dentist,
12 dental hygienist, or DAANCE certified maxillofacial surgery assistant limited registrant;
- 13 (7) Immoral conduct of a dentist, dental hygienist, DAANCE certified maxillofacial
14 surgery assistant or limited registrant in the practice of dentistry, ~~or~~ dental hygiene or DAANCE
15 certified maxillofacial surgery assisting;
- 16 (8) Willfully making and filing false reports or records in the practice of dentistry or
17 dental hygiene;
- 18 (9) Willful omission to file or record, or willfully impeding or obstructing a filing or
19 recording, or inducing another person to omit to file or record dental or other reports as required
20 by law;
- 21 (10) Failure to furnish details of a patient's dental record to succeeding dentists, or dental
22 care facility upon proper request pursuant to this chapter;
- 23 (11) Solicitation of professional patronage by agents or persons or profiting from acts of
24 those representing themselves to be agents of the licensed dentist, dental hygienist, or limited
25 registrant;
- 26 (12) Division of fees or agreeing to split or divide the fees received for professional
27 services for any person for bringing to or referring a patient;
- 28 (13) Agreeing with clinical or bio-analytical laboratories to accept payments from those
29 laboratories for individual tests or test series for patients, or agreeing with dental laboratories to
30 accept payment from those laboratories for work referred;
- 31 (14) Willful misrepresentation in treatments;
- 32 (15) Practicing dentistry with an unlicensed dentist or practicing dental hygiene with an
33 unlicensed dental hygienist or practicing DAANCE certified maxillofacial surgery assisting with
34 an unlicensed DAANCE certified maxillofacial surgery assistant, except in an accredited training

- 1 program, or with a dental assistant in accordance with the rules and regulations of the board or
2 aiding or abetting those unlicensed persons in the practice of dentistry or dental hygiene;
- 3 (16) Gross and willful overcharging for professional services, including filing of false
4 statements for collection of fees for which services are not rendered or willfully making or
5 assisting in making a false claim or deceptive claim or misrepresenting a material fact for use in
6 determining rights to dental care or other benefits;
- 7 (17) Offering, undertaking, or agreeing to cure or treat disease by a secret method,
8 procedure, treatment, or medicine;
- 9 (18) Professional or mental incompetence;
- 10 (19) Incompetent, negligent, or willful misconduct in the practice of dentistry, ~~or~~ dental
11 hygiene [or DAANCE certified maxillofacial surgery assisting](#), which includes the rendering of
12 unnecessary dental services and any departure from or the failure to conform to the minimal
13 standards of acceptable and prevailing dental, ~~or~~ dental hygiene [or DAANCE certified](#)
14 [maxillofacial surgery assisting](#) practice in his or her area of expertise as is determined by the
15 board. The board does not need to establish actual injury to the patient in order to adjudge a
16 dentist, dental hygienist [or DAANCE certified maxillofacial surgery assistant](#) or limited registrant
17 guilty of the previously named misconduct;
- 18 (20) Failure to comply with the provisions of chapter 4.7 of title 23;
- 19 (21) Revocation, suspension, surrender, or limitation of privilege based on quality of
20 care provided or any other disciplinary action against a license to practice dentistry, ~~or~~ dental
21 hygiene [or DAANCE certified maxillofacial surgery assisting](#) in another state or jurisdiction, or
22 revocation, suspension, surrender, or other disciplinary action as to membership on any dental
23 staff or in any dental or professional association or society for conduct similar to acts or conduct
24 which would constitute grounds for action as prescribed in this chapter;
- 25 (22) Any adverse judgment, settlement, or award arising from a dental liability claim
26 related to acts or conduct similar to acts or conduct which would constitute grounds for action as
27 defined in this chapter or regulations adopted under this chapter;
- 28 (23) Failure to furnish the board, its dental administrator, investigator, or representatives,
29 information legally requested by the board;
- 30 (24) Violation of any provision or provisions of this chapter or the rules and regulations
31 of the board or any rules and regulations promulgated by the director or of an action, stipulation
32 or agreement of the board;
- 33 (25) Cheating on or attempting to subvert the licensing examination;
- 34 (26) Violating any state or federal law or regulation relating to controlled substances;

1 (27) Failure to maintain standards established by peer review boards, including, but not
2 limited to, standards related to proper utilization of services, and use of non-accepted procedure
3 and/or quality of care;

4 (28) Malpractice as defined in section 5-37-1(8).

5 (29) No person licensed to practice dentistry in the state of Rhode Island may permit a
6 non-dentist who operates a dental facility in the form of a licensed out patient health care center
7 or management service organization to interfere with the professional judgment of the dentist in
8 the practice.

9 **5-31.1-11. Complaints.** – (a) Any person, firm, corporation, or public officer may submit
10 a written complaint to the board charging the holder of a license to practice dentistry or dental
11 hygiene or a limited registrant with unprofessional conduct, specifying the grounds for the
12 charge.

13 (b) The board shall review all complaints and, in those instances where no referral is
14 made to an investigating committee, the board of examiners in dentistry shall make a written
15 finding of facts with regard to the complaint. In conducting an investigation of such complaints
16 which requires an inspection of a dental office:

17 (1) Either the investigative committee or the full board of examiners in dentistry shall
18 make such finding and it must be evidenced by recorded minutes showing the vote to conduct an
19 inspection;

20 (2) The inspection team from either the investigative committee or the full board of
21 examiners in dentistry shall include a dentist member of the board and a hygiene or assistant
22 member of the board;

23 (3) The scope and manner of conducting any such inspection shall be reasonably related
24 to the written complaint received. Any dentist(s) whose practice is the subject of such inspection
25 shall be provided by either the investigative committee or the full board with a copy of the
26 complaint or a written summary of all pertinent allegations prior to or at the commencement of
27 the inspection;

28 (4) At the conclusion of the inspection and prior to leaving the dental office premises the
29 board inspectors shall provide the dentist whose office has been inspected with a copy of the
30 completed inspection form, noting areas of deficiency;

31 (5) Unless there is a real potential of imminent, unreasonable harm to patients or staff, the
32 dentist shall have ten (10) days to remedy any deficiencies found during the inspection; and

33 (6) All inspections shall be carried out so as not to interfere with direct patient care by
34 scheduling such inspections at the end of the dental office workday.

1 (c) All complaints considered by the board or an investigating committee of the board
2 shall be reported within six (6) months of the receipt of the complaint unless the board on a case
3 by case basis, for good cause shown, in writing, extends the time for consideration; provided, that
4 failure to report does not divest the board of its jurisdiction to pursue the rights and remedies
5 established in this chapter.

6 (d) If the board determines that the complaint merits consideration, or if the board, on its
7 own initiative without a formal complaint, has reason to believe that any holder of a license or
8 limited registration to practice dentistry or of a license to practice dental hygiene or of a license to
9 practice DAANCE certified maxillofacial surgery assisting may be guilty of unprofessional
10 conduct, the chairperson shall designate no less than two (2) members of the board, at least one of
11 whom is a public member, to serve as a committee to investigate, and report upon the charges to
12 the board. Upon the designation of an investigating committee by the board, written notice shall
13 be provided to the licensee notifying him or her of the establishment of an investigating
14 committee, and providing the licensee with the names of the members of the investigating
15 committee and a copy of the complaint upon which the investigation was initiated.

16 If the complaint relates to a dentist, one member of the committee shall be licensed as a
17 dentist. If the complaint relates to a dental hygienist, one member of the committee shall be
18 licensed as a dental hygienist. If the complaint relates to a DAANCE certified maxillofacial
19 surgery assistant, one member of the committee shall be licensed as a dental hygienist or certified
20 dental assistant.

21 (e) Investigations shall remain confidential and all initial hearings, investigatory hearings,
22 and full hearings before the board shall remain confidential.

23 (1) All referrals of matters arising out of a written complaint to the board of examiners in
24 dentistry to the director of the department of health shall only be by a vote of the majority of the
25 board of examiners in dentistry;

26 (2) The administrative staff of the board of examiners in dentistry shall not subvert the
27 statutory procedures governing the referral of a matter to the director of the department of health,
28 which may only be done pursuant to a vote of the majority of the board.

29 (f) In the event that a hearing takes place before the hearing committee of the board, all
30 decisions of the board shall present conclusions of fact and conclusions of law applicable to the
31 decision, which it has rendered.

32 (g) The board shall make public all decisions including findings of fact and conclusions
33 of law, which call for any sanction against a license holder as prescribed in section 5-31.1-17.

34 (h) Following the investigation, the committee shall present its evaluations and

1 recommendations to the board.

2 (i) The board shall review the committee's findings to determine whether to take further
3 action, but no member of the board who participated in the investigation may participate in this
4 review or any subsequent hearing or action taken by the board. The hearing committee shall
5 consist of the remaining members of the board. Four (4) members of the hearing committee
6 constitute a quorum for the transaction of business. The chairperson of the board shall preside
7 over the hearing.

8 **5-31.1-17. Sanctions. --** If the accused is found guilty of unprofessional conduct as
9 defined in section 5-31.1-10, the director, at the direction of the board, shall impose one or more
10 of the following conditions:

11 (1) Administer a reprimand;

12 (2) Suspend, limit or restrict his or her license or limited registration to practice dentistry
13 or license to practice dental hygiene or license to practice DAANCE certified maxillofacial
14 surgery assisting;

15 (3) Require him or her to serve a period of probation subject to certain conditions and
16 requirements including, where appropriate, sanctions or restitution;

17 (4) Revoke indefinitely his or her license or limited registration to practice dentistry or a
18 license to practice dental hygiene or a license to practice DAANCE certified maxillofacial
19 surgery assisting;

20 (5) Require him or her to submit to the care, counseling, or treatment of a physician or
21 program acceptable to the board;

22 (6) Require him or her to participate in a program of continuing dental, ~~or~~ dental hygiene
23 or DAANCE certified maxillofacial surgery assisting education the area or areas in which he or
24 she has been judged deficient;

25 (7) Require him or her to practice under the direction of a dentist in a public institution,
26 public, or private health care program, or private practice for a period of time specified by the
27 board;

28 (8) Assess against the dentist, ~~or~~ dental hygienist or DAANCE certified maxillofacial
29 surgery assistant the administrative costs of the proceedings instituted against the dentist, ~~or~~
30 dental hygienist or DAANCE certified maxillofacial surgery assisting under this chapter;
31 provided, that the assessment does not exceed ten thousand dollars (\$10,000); or

32 (9) Any other condition, conditions or restrictions deemed appropriate under the
33 circumstances.

34 **5-31.1-18. Appeal from the decision of the director of the department of health. --** (a)

1 Any person whose license or limited registration to practice dentistry or license to practice dental
2 hygiene [or license to practice DAANCE certified maxillofacial surgery assisting](#) has been
3 revoked or suspended by the board and/or director or is aggrieved by the decision of the board
4 and/or director shall have the right of judicial review of the board's and director's decision. That
5 review is initiated by serving on the director a notice of appeal and filing this notice of appeal
6 with a complaint in accordance with the Rules of Civil Procedure in the superior court within
7 thirty (30) days after the decision of the director.

8 (b) The director shall, within twenty (20) days after the service of the notice of appeal,
9 transmit to the clerk of the superior court to which the appeal is taken a transcript of the record of
10 the board certified under the seal of the board, together with a certified copy of the board's written
11 findings, all of which is admissible as evidence.

12 (c) The findings of the board and/or director are final and conclusive, subject to review
13 in the superior court pursuant to the Administrative Procedures Act, chapter 35 of title 42. Any
14 appeal taken to the superior court has precedence on the calendar, is considered an emergency
15 matter and, when practicable, shall be heard in any event not later than thirty (30) days from the
16 date of appeal. There is no stay pending this appeal of any sanction imposed by the director
17 unless it is determined that the matter cannot be placed on the court's docket within the specified
18 time. Except as provided in this chapter, appeals follow the procedures ~~stated~~ [set forth](#) in the
19 Administrative Procedures Act, chapter 35 of title 42.

20 **5-31.1-19. Grounds for discipline without hearing.** -- The director may, temporarily,
21 suspend the license of a dentist, ~~or~~ dental hygienist, [DAANCE certified maxillofacial surgery](#)
22 [assistant](#) or limited registrant without a hearing if the director finds that evidence in his or her
23 possession indicates that a dentist, ~~or~~ dental hygienist, [DAANCE certified maxillofacial surgery](#)
24 [assistant](#) or limited registrant continuing in practice would constitute an immediate danger to the
25 public. In the event that the director temporarily suspends the license of a dentist, ~~or~~ dental
26 hygienist [or DAANCE certified maxillofacial surgery assistant](#) or limited registrant without a
27 hearing, a hearing by the board must be held within ten (10) days after the suspension has
28 occurred.

29 **5-31.1-20. Reports relating to professional conduct and capacity -- Regulations --**
30 **Confidentiality -- Immunity.** -- (a) The board with the approval of the director may adopt
31 regulations requiring any person, including, but not limited to, corporations, health care facilities,
32 health maintenance organizations, organizations and federal, state, or local governmental
33 agencies, or peer review boards to report to the board any conviction, determination, or finding
34 that a licensed dentist, ~~or~~ dental hygienist [or DAANCE certified maxillofacial surgery assistant](#)

1 has committed unprofessional conduct as defined by section 5-31.1-10, or to report information
2 which indicates that a licensed dentist, ~~or~~ dental hygienist [or DAANCE certified maxillofacial](#)
3 [surgery assistant](#) may not be able to practice dentistry, ~~or~~ dental hygiene [or DAANCE certified](#)
4 [maxillofacial surgery assisting](#) with reasonable skill and safety to patients as the result of any
5 mental or physical condition. The regulations include the reporting requirements prescribed in
6 subdivisions (b)(1), (2), and (3) of this section.

7 (b) The following reports, in writing, shall be filed with the board:

8 (1) Every insurer providing professional liability insurance to a dentist, ~~or~~ dental
9 hygienist [or DAANCE certified maxillofacial surgery assistant](#) licensed under the provisions of
10 this chapter must send a complete report to the board as to any formal notice of any claim,
11 settlement of any claim or cause of actions, or final judgment rendered in any cause of action for
12 damages for death or personal injury caused by a dentist's, ~~or~~ dental hygienist's [or DAANCE](#)
13 [certified maxillofacial surgery assistant's](#) negligence, error or omission in practice or his or her
14 rendering of unauthorized professional services. This report shall be sent within thirty (30) days
15 after service of the complaint or notice, settlement, judgment, or arbitration award on the parties.
16 All of those reports shall present an in depth factual summary of the claim in question.

17 (2) All hospital and licensed health care facilities including, but not limited to, nursing
18 homes and health maintenance organizations and the director of the department of health must
19 report to the board within thirty (30) days of the action, any action, disciplinary or otherwise,
20 taken for any reason, which limits, suspends, or revokes a dentist's or dental hygienist's privilege
21 to practice or requires supervision of a dentist, either through formal action by the institution or
22 faculty or through any voluntary agreement with the dentist.

23 (3) Within ten (10) days after a judgment by a court of this state that a dentist or dental
24 hygienist licensed under the provisions of this chapter has been convicted of a crime or is civilly
25 liable for any death or personal injury caused by his or her negligence, error, or omission in his or
26 her practice or his or her rendering unauthorized professional services, the clerk of the court
27 which rendered the judgment shall report the judgment to the board.

28 (c) The board shall report any changes of privileges of which it is aware to the board of
29 trustees or other appropriate body of all licensed hospitals and health maintenance organizations
30 within thirty (30) days.

31 (d) The contents of any report file are confidential and exempt from public disclosure,
32 except that it may be reviewed:

33 (1) By the licensee involved or his or her counsel or authorized representative who may
34 submit any additional exculpatory or explanatory statements or other information, which

1 statements or other information are included in the file; or

2 (2) By the dental administrator, a representative of the board or an investigator for the
3 board, who has been assigned to review the activities of a licensed dentist, ~~or~~ dental hygienist or
4 DAANCE certified maxillofacial surgery assistant.

5 (e) Upon determination that a report is without merit, the board's records may be purged
6 of information relating to the report.

7 (f) If any person refuses to furnish a required report, the board may petition the superior
8 court of any county in which that person resides or is found, and the superior court shall issue to
9 the court's person an order to furnish the required report. Any failure to comply with that order
10 constitutes civil contempt.

11 (g) Every individual, dental association, dental society, dental hygiene association,
12 dental auxiliary association hospital, health care facility, health maintenance organizations, peer
13 review board, dental service bureau, health insurance carrier or agent, professional standards
14 review organization, and the agency of the federal, state, or local government is immune from
15 civil liability, whether direct or derivative, for providing information to the board in good faith
16 pursuant to this statute or the regulations outlined in subsection (a) of this section or requirements
17 of subsection (b) of this section.

18 (h) Nondisclosure agreements are prohibited insofar as they forbid parties from making
19 reports regarding competency and/or unprofessional conduct to the board of examiners in
20 dentistry.

21 (i) The board of examiners in dentistry, with the approval of the director, shall
22 promulgate rules and regulations establishing standards for hospital or health maintenance
23 organization supervision of dentists or dental hygienists by peer review committees. Those
24 regulations, including without limiting their generality, shall require that each hospital or health
25 maintenance organization report annually to the board the activities findings, studies and
26 determination of its peer review committees.

27 **5-31.1-21. Biennial registration.** -- (a) Effective beginning in the calendar year 2006, on
28 or before the first day of May in each even-numbered year the board shall mail an application for
29 biennial registration to every person to whom a license to practice dentistry, ~~or~~ dental hygiene or
30 DAANCE certified maxillofacial surgery assisting in this state has been granted by the
31 constituted licensing authority in the state. Every licensed person who intends to engage in the
32 practice of his or her profession during the ensuing two (2) years shall register his or her license
33 by filing with the board that application executed together with any registration form and fee that
34 is established by regulation by the director on or before the first day of June in each even-

1 numbered year. Upon receipt of that application and fee, the board shall issue a registration
2 certificate effective July 1 and expiring two (2) years following June 30, and that registration
3 certificate shall render its holder a registered practitioner of dentistry or dental hygiene for that
4 registration period.

5 (b) The registration certificate of all dentists, ~~or~~ dental hygienists or DAANCE certified
6 maxillofacial surgery assistants whose renewals accompanied by the prescribed fee are not filed
7 on or before the first day of July automatically expire. The board may in its discretion and upon
8 the payment by the dentist, ~~or~~ dental hygienist or DAANCE certified maxillofacial surgery
9 assistant of the current registration fee plus an additional fee as set forth in section 23-1-54
10 reinstate any certificate expired under the provisions of this section. All unexpended monies in
11 the account of the board of dentistry are transferred to the new board of dentistry as created by
12 this section as of June 2, 1988.

13 (c) Dentists, ~~and~~ dental hygienists and DAANCE certified maxillofacial surgery
14 assistants not intending to practice in this state may request on a biennial basis to be placed on
15 inactive status. Those requests must be made, in writing, to the dental administrator and must be
16 accompanied by fees as set forth in section 23-1-54. Persons on inactive status may be reinstated
17 by paying the current annual registration fee and must meet any requirements established by this
18 chapter and as are further prescribed by the rules and regulations.

19 **5-31.1-31. Dental assistant -- Definition -- Practices allowed.** -- (a) As used in this
20 chapter, a "dental assistant" is any person not licensed under the provisions of this chapter who
21 performs dental services, procedures, or duties in aid of a licensed and registered dentist.

22 (b) No dental assistant shall perform any service, procedure, or duty which constitutes
23 the practice of dentistry unless authorized by rules and regulations adopted by the board of
24 examiners in dentistry, and unless that dental service, procedure, or duty is performed under the
25 supervision of a dentist licensed and registered in this state. The board of examiners in dentistry
26 shall establish any classification of dental assistants that are recognized by the American Dental
27 Association, American Dental Assistants Association, and the American Association of Oral and
28 Maxillofacial Surgeons, and to each class the board applies any of the rules and regulations
29 permitted under this section that the board deems appropriate.

30 (c) Nothing in this section is construed to authorize a dental assistant to perform the
31 following: diagnosis and treatment planning, surgical procedures on hard or soft tissue, prescribe
32 medication, or administer injectable and/or general anesthesia, except as set forth in § 5-31.1-
33 31(d).

34 (d) An oral and maxillofacial surgeon holding a permit issued by the board for the

1 administration of general anesthesia/deep sedation may employ and utilize the services of a
2 DAANCE certified maxillofacial surgery assistant who in accordance with following criteria:

3 (1) Satisfactory evidence of completion of a DAANCE certified maxillofacial surgery
4 assistant training course prepared and administered by the American Association of Oral and
5 Maxillofacial Surgeons and recertification in the DAANCE training program every five (5) years;
6 and

7 (2) Completion of a board of examiners in dentistry-approved advanced cardiac life
8 support course and recertification in advanced cardiac life support every two (2) years; and

9 (3) The valid general anesthesia permit by the oral and maxillofacial surgeon where the
10 assistant will be performing his or her services; and

11 (4) Direct supervision by an oral and maxillofacial surgeon holding a valid general
12 anesthesia/deep sedation permit; and

13 (5) The oral and maxillofacial surgeon shall remain immediately available in the facility
14 for the patient, and the DAANCE certified maxillofacial surgery assistant for evaluation and
15 treatment until the patient meets discharge criteria; and

16 (6) The member of the surgical team who is assigned to monitoring the patient may not
17 have any other responsibilities while monitoring the patient under general anesthesia/deep
18 sedation; and

19 (7) The licensed provider will be responsible for the patient's recovery; and

20 (8) Peri-operative monitoring consisting of at least continuous electrocardiogram,
21 monitoring of blood pressure, pulse oximetry, and end tidal carbon dioxide consistent with
22 published national standards adopted by the American Association of Oral and Maxillofacial
23 Surgeons in conjunction with the American Society of Anesthesiologists; and

24 (9) The conclusion of the peri-operative monitoring period shall be at the discretion of the
25 licensed provider, using the modified Aldrete scale/scoring system. The patient may then be
26 transferred to a discharge area and shall no longer require continuous monitoring.

27 (e) Authorized functions - Supervision. –

28 (1) Any DAANCE certified maxillofacial surgery assistant meeting the criteria of this
29 section shall perform the functions authorized in this chapter only by delegation of authority from
30 the oral and maxillofacial surgeon and under the supervision, as described in §§ 5-31.1-31(e)(2)
31 and 5-31.1-31-(e)(3), and provided the oral and maxillofacial surgeon is acting within the scope
32 of his or her license. The responsibility for monitoring a patient and determining the selection of
33 the drug, dosage, and timing of all anesthetic medications rests solely with the oral and
34 maxillofacial surgeon.

- 1 (2) Under direct supervision, the DAANCE certified maxillofacial surgery assistant may:
- 2 (i) Discontinue an intravenous line for a patient who has received intravenous
- 3 medications, sedation, or general anesthesia;
- 4 (ii) Adjust the rate of intravenous fluids infusion only to maintain or keep the line patent
- 5 or open; and
- 6 (iii) Make medications readily available for review, inspection and use by the oral and
- 7 maxillofacial surgeon.
- 8 (3) Under direct visual supervision, the DAANCE certified maxillofacial surgery
- 9 assistant may:
- 10 (i) Follow instructions to prepare and assist in the administration of medications; and
- 11 (ii) Adjust the rate of intravenous fluids infusion beyond a keep open rate;
- 12 (iii) Adjust an electronic device to provide medications, such as an infusion pump;
- 13 (iv) Assist with preparation/delivery/infusion/administration of emergency medications to
- 14 a patient in order to assist the oral and maxillofacial surgeon in an emergency.
- 15 (4) Any oral and maxillofacial surgeon delegating duties under this section must have a
- 16 valid general anesthesia/deep sedation permit.

17 SECTION 2. This act shall take effect upon passage.

=====
LC004113/SUB A/2
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO BUSINESSES AND PROFESSIONS -- DENTISTS AND DENTAL
HYGIENISTS

1 This act would license and regulate maxillofacial surgery assistants, and would increase
2 the disciplinary and oversight powers of the board of examiners in dentistry relating to dentists,
3 dental hygienists and maxillofacial surgery assistants.

4 This act would take effect upon passage.

=====
LC004113/SUB A/2
=====