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Lieutenant Governor
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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Jun Maiquis
Department of Commerce, Community & Economic Development

FROM: Scott Meriwether, Office of the Lieutenant Governor 465.4081 

DATE: August 14, 2017

RE: Filed Permanent Regulations: Board of Dental Examiners

Board of Dental Examiners Regulations re: Renewal Dates for Dental Assistants (12 AAC 28.840(a), .880(a))

Attorney General File:	JU2017200044 (Part 1)
Regulation Filed:	8/11/2017
Effective Date:	9/10/2017
Print:	223, October 2017

cc with enclosures: Linda Miller, Department of Law
Judy Herndon, LexisNexis

ORDER CERTIFYING THE CHANGES TO
REGULATIONS OF THE BOARD OF DENTAL EXAMINERS

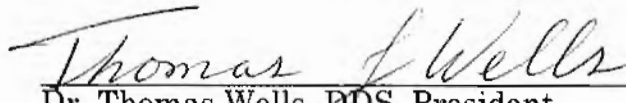
The attached one page of regulations, dealing with renewal dates for dental assistants, is hereby certified to be a correct copy of the regulation changes that the Board of Dental Examiners adopted at its April 28, 2017 meeting, under the authority of AS 08.36.070, AS 08.36.342, and AS 08.36.344 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

On the record, in considering public comments, the Board of Dental Examiners paid special attention to the cost to private persons of the regulatory action being taken.

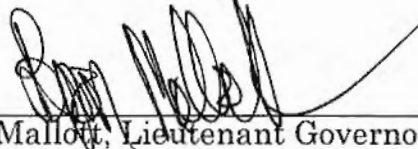
The regulation changes described in this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

DATE: June 1, 2017
Anchorage, Alaska


Dr. Thomas Wells, DDS, President
Board of Dental Examiners

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on August 11, 2017 at 805p .m., I filed the attached regulations according to the provisions of AS 44.62.040 – 44.62.120.


Byron Mallott, Lieutenant Governor

Effective: September 10, 2017

Register: 223, October 2017.

Chapter 28. Board of Dental Examiners.

The introductory language of 12 AAC 28.840(a) is amended to read:

(a) A dental assistant certificate to perform coronal polishing must be renewed biennially on or before **February 28** [DECEMBER 31] of **odd-numbered** [EVEN-NUMBERED] years.

In order to renew a certificate to perform coronal polishing, a dental assistant must submit to the department a

...

(Eff. 7/25/2010, Register 195; am 10/28/2010, Register 196; am 12/4/2014, Register 212; am 9/10/2017, Register 223)

Authority: AS 08.36.070 AS 08.36.342

The introductory language of 12 AAC 28.880(a) is amended to read:

(a) A dental assistant's restorative function certificate must be renewed biennially on or before **February 28** [DECEMBER 31] of **odd-numbered** [EVEN-NUMBERED] years. In order to renew a certificate to perform restorative function, a dental assistant must submit to the department a

...

(Eff. 3/18/2011, Register 197; am 12/4/2014, Register 212; am 9/10/2017, Register 223)

Authority: AS 08.36.070 AS 08.36.344

MEMORANDUM


State of Alaska Department of Law

To: The Honorable Byron Mallott
Lieutenant Governor
(hand delivery)

Date: August 2, 2017

File No.: JU2017200044 Part 1

Tel. No.: 465-3600

From: Susan R. Pollard 
Chief Assistant Attorney General
and Regulations Attorney
Legislation and Regulations Section

Re: Board of Dental Examiners
Regulations re: Renewal Dates for
Dental Assistants
(12 AAC 28.840(a), .880(a))

We have reviewed the attached changes to the regulations from the Board of Dental Examiners. The regulations are regarding a change in the renewal date for dental assistant certificates.

The Department of Law has reviewed the attached regulations against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations.

The February 1, 2017 public notice and the June 1, 2017 certification of adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

We have made a minor technical correction to conform the regulations in accordance with AS 44.62.125. The correction is shown on the attached copy of the regulations.

SRP:ljm

cc w/enc: (via email)

Hon. Chris Hladick, Commissioner, Dept. of Commerce, Community, and Economic Development.
Janey Hovenden, Director, Div. of Corporations, Business, and Professional Licensing, Dept. of Commerce,
Community and Economic Development

Micaela Fowler, Regulations Contact, Dept. of Commerce, Community, and Economic Development

Jun Maiquis, Regulations Specialist, Dept. of Commerce, Community, and Economic Development

Joan Wilson, Assistant Attorney General, Commercial and Fair Business Section

NOTICE OF PROPOSED CHANGES RELATING TO RENEWAL DATES FOR DENTAL ASSISTANTS, INSPECTION OF DENTAL RADIOLOGICAL EQUIPMENT, AND ESTABLISHING RADIOLOGICAL EQUIPMENT INSPECTOR APPLICATION IN THE REGULATIONS OF THE BOARD OF DENTAL EXAMINERS

BRIEF DESCRIPTION: The Board of Dental Examiners proposes to update regulations regarding renewal dates for dental assistants, inspection of dental radiological equipment, and establishing radiological equipment inspector application form.

The Board of Dental Examiners (Board) proposes to adopt regulation changes in Title 12, Chapter 28, of the Alaska Administrative Code including the following:

1. **12 AAC 28.840. Renewal of coronal polishing certificate**, is proposed to be changed to alter the biennial renewal date from December 31 of even-numbered years to February 28 of odd-numbered years for dental assistant's coronal polishing certificate.
2. **12 AAC 28.880. Renewal of dental assistant's restorative function certificate**, is proposed to be changed to alter the biennial renewal date from December 31 of even-numbered years to February 28 of odd-numbered years for dental assistant's restorative function certificate.
3. **12 AAC 28.965. Inspection of dental radiological equipment**, is proposed to be changed to alter the provisions related to the inspection of dental radiological equipment.
4. **12 AAC 28.970. Registration and inspection forms; review of completed forms**, is proposed to establish a radiological equipment inspector application form that the Board adopts by reference. This form is established by the Board for use by the Board to review and determine the qualifications of inspectors who will inspect dental radiological equipment.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Marilyn Zimmerman, Paralegal, Division of Corporations, Business and Professional Licensing, P.O. Box 110806, Juneau, AK 99811-0806. Additionally, the Board will accept comments by facsimile at (907) 465-2974 and by electronic mail at RegulationsAndPublicComment@alaska.gov. Comments may also be submitted through the Alaska Online Public Notice System by accessing this notice on the system at <http://notice.alaska.gov/184435>, and using the comment link. **The comments must be received not later than 5:00 p.m. on March 7, 2017.** Comments received after this deadline will not be considered by the Board.

You may submit written questions relevant to the proposed action to Marilyn Zimmerman, Paralegal, Division of Corporations, Business and Professional Licensing, P.O. Box 110806, Juneau, AK 99811-0806 or by e-mail at marilyn.zimmerman@alaska.gov. **The questions must be received at least 10 days before the end of the public comment period.** The Board will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and on the Board's website at <https://www.commerce.alaska.gov/web/cbpl/ProfessionalLicensing/BoardofDentalExaminers.aspx>. The Board may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Marilyn Zimmerman at (907) 465-2532 or marilyn.zimmerman@alaska.gov not later than February 28, 2017 to ensure that any necessary accommodation can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting Marilyn Zimmerman at (907) 465-2532 or marilyn.zimmerman@alaska.gov, or go to <https://www.commerce.alaska.gov/web/portals/5/pub/DEN-1216.pdf>.

A copy of material proposed for adoption by reference is available on the Alaska Online Public Notice System, or go to https://www.commerce.alaska.gov/web/portals/5/pub/DEN_RadEquipForm2016.pdf.


After the public comment period ends, the Board will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. **You should comment during the time allowed if your interests could be affected.** Written comments and questions received are public records and are subject to public inspection.

Statutory Authority: AS 08.36.070; AS 08.36.075; AS 08.36.342; AS 08.36.344

Statutes Being Implemented, Interpreted, or Made Specific: AS 08.36.070; AS 08.36.075; AS 08.36.342; AS 08.36.344

Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.


DATE: 1/31/17



Jun Maiquis, Regulations Specialist
Division of Corporations, Business and
Professional Licensing

For each occupation regulated under the Division of Corporations, Business and Professional Licensing, the Division keeps a list of individuals or organizations who are interested in the regulations of that occupation. The Division automatically sends a Notice of Proposed Regulations to the parties on the appropriate list each time there is a proposed change in an occupation's regulations in Title 12 of the Alaska Administrative Code. If you would like your address added to or removed from such a list, send your request to the Division at the address above, giving your name, either your e-mail address or mailing address (as you prefer for receiving notices), and the occupational area in which you are interested.

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

1. **Adopting agency:** Board of Dental Examiners – Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing.
2. **General subject of regulation:** Renewal of coronal polishing certificate, renewal of dental assistant's restorative function certificate, inspection of dental radiological equipment, and registration and inspection forms; review of completed forms.
3. **Citation of regulation:** 12 AAC 28.840, 12 AAC 28.880, 12 AAC 28.965, and 12 AAC 28.970.
4. **Department of Law file number:** To be assigned.
5. **Reason for the proposed action:** Update and clarification of current regulations.
6. **Appropriation/Allocation:** Corporations, Business and Professional Licensing – #2360.
7. **Estimated annual cost to comply with the proposed action to:**
A private person: None.
Another state agency: None.
A municipality: None.
8. **Cost of implementation to the state agency and available funding (in thousands of dollars):**
No costs are expected in FY 2017 or in subsequent years.
9. **The name of the contact person for the regulation:**
Jedediah Smith, Licensing Examiner
Board of Dental Examiners
Division of Corporations, Business and Professional Licensing
Telephone: (907) 465-2542
E-mail: jedediah.smith2@alaska.gov
10. **The origin of the proposed action:** Board of Dental Examiners
11. **Date:** 1/31/17 **Prepared by:** 

Jun Maiguis
Regulations Specialist
(907) 465-2537

STATE OF ALASKA

FIRST JUDICIAL DISTRICT

**AFFIDAVIT OF NOTICE OF PROPOSED ADOPTION OF REGULATIONS
AND FURNISHING OF ADDITIONAL INFORMATION**

I, Jun Maiquis, Regulations Specialist, of the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 12 AAC 28.840, 12 AAC 28.880, 12 AAC 28.965, and 12 AAC 28.970, dealing with renewal dates for dental assistants, inspection of dental radiological equipment, and establishing radiological equipment inspector application form, has been given by being:

1. published in a newspaper or trade publication;
2. furnished to interested persons;
3. furnished to appropriate state officials;
4. furnished to the Department of Law, along with a copy of the proposed regulations;
5. electronically transmitted to incumbent State of Alaska legislators;
6. furnished to the Legislative Affairs Agency, Legislative Legal and Research Services;
7. posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1);
8. furnished electronically, along with a copy of the proposed regulations, to the Legislative Affairs Agency, the chair of the Labor and Commerce Committee of the Alaska Senate and House of Representatives, the Administrative Regulation Review Committee, and the legislative council.

As required by AS 44.62.190(d), additional regulations notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (5) and (6) of the list above. The additional regulations notice information also has been posted on the Alaska Online Public Notice System.

DATE: 5/31/17
Juneau, Alaska

Jun Maiquis, Regulations Specialist

SUBSCRIBED AND SWORN TO before me this 31 day of May, 2017.



Notary Public in and for the
State of Alaska

My commission expires: With office

STATE OF ALASKA)
FIRST JUDICIAL DISTRICT) ss.

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Jun Maiquis, Regulations Specialist for the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing, being duly sworn, state the following:

In compliance with AS 44.62.215, the Board of Dental Examiners has kept a record of its use or rejection of factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Board of Dental Examiners regulations on dealing with renewal dates for dental assistants, inspection of dental radiological equipment, and establishing radiological equipment inspector application form.

DATE: 5/31/17
Juneau, Alaska


Jun Maiquis, Regulations Specialist

SUBSCRIBED AND SWORN TO before me this 31 day of May, 2017.



Notary Public in and for the
State of Alaska
My commission expires: with office

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RECEIVED
Juneau

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AFFIDAVIT OF PUBLICATION

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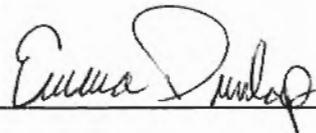
STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Emma Dunlap
being first duly sworn on oath deposes and
says that he/she is a representative of the
Alaska Dispatch News, a daily newspaper.
That said newspaper has been approved
by the Third Judicial Court, Anchorage,
Alaska, and it now and has been published
in the English language continually as a
daily newspaper in Anchorage, Alaska, and
it is now and during all said time was
printed in an office maintained at the
aforesaid place of publication of said
newspaper. That the annexed is a copy of
an advertisement as it was published in
regular issues (and not in supplemental
form) of said newspaper on

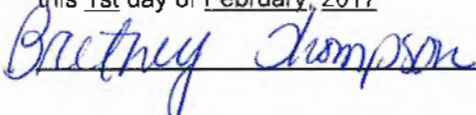
February 01, 2017

and that such newspaper was regularly
distributed to its subscribers during all of
said period. That the full amount of the fee
charged for the foregoing publication is not
in excess of the rate charged private
individuals.

Signed



Subscribed and sworn to before me
this 1st day of February, 2017



Notary Public in and for
The State of Alaska.
Third Division
Anchorage, Alaska
MY COMMISSION EXPIRES

2/23/2019
Notary Public
BRITNEY L. THOMPSON
State of Alaska
My Commission Expires Feb 23, 2019

NOTICE OF PROPOSED CHANGES RELATING TO RENEWAL DATES FOR DENTAL ASSISTANTS, INSPECTION OF DENTAL RADIOLOGICAL EQUIPMENT, AND ESTABLISHING RADIOLOGICAL EQUIPMENT INSPECTOR APPLICATION IN THE REGULATIONS OF THE BOARD OF DENTAL EXAMINERS

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A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting Marilyn Zimmerman at (907) 465-2532 or marilyn.zimmerman@alaska.gov, or go to <https://www.commerce.alaska.gov/web/portals/5/pub/DEN-1216.pdf>.

for signature

FIRST JUDICIAL DISTRICT

$$\left. \begin{array}{l} \text{ } \\ \text{ } \\ \text{ } \end{array} \right\} \text{SS.}$$

I, Jedediah Smith, Licensing Examiner for the Board of Dental Examiners, being duly sworn, state the following:

The attached motion dealing with renewal dates for dental assistants and inspection of dental radiological equipment was passed by the Board of Dental Examiners during its April 28, 2017 meeting.

Date: 5/12/2017
Juneau, Alaska

Jedediah Smith
Jedediah Smith, Licensing Examiner

SUBSCRIBED AND SWORN TO before me this 12 day of May, 2017.



John H. [Signature]
Notary Public in and for the
State of Alaska
My commission expires: with
office

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**STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY AND
ECONOMIC DEVELOPMENT
DIVISION OF CORPORATIONS,
BUSINESS & PROFESSIONAL LICENSING
BOARD OF DENTAL EXAMINERS**

**MINUTES OF MEETING
April 28, 2017**

These DRAFT minutes were prepared by the staff of the Division of Corporations, Business and Professional Licensing. They have not been reviewed or approved by the Board.

By authority of AS 08.01.070(2) and AS 08.36.040 and in compliance with the provisions of Article 6 of AS 44.62, a meeting of the Board of Dental Examiners was held April 28, 2017, by Teleconference.

The meeting was called to order by Dr. Thomas Wells, President, at 8:35 a.m.

Roll Call

Those present, constituting a quorum of the board, were:

Dr. Thomas Wells, President – Anchorage
Dr. Paul Silveira – Valdez
Dr. Michael Moriarty- Seward
Ms. Paula Ross- Anchorage
Dr. Steven Scheller- Fairbanks
Dr. Thomas Kovaleski – Chugiak
Robyn Chaney - Dillingham

Absent:

Dr. David Nielson - Anchorage
Ms. Gail Walden - Wasilla

In attendance from the Division of Corporations, Business & Professional Licensing, Department of Commerce, Community and Economic Development were:

Mr. Jedediah A. Smith, Occupational Licensing Examiner – Juneau
Ms. Jasmin Bautista, Investigator – Anchorage
Ms. Angela Birt, Chief Investigator – Anchorage
Ms. Joan Wilson, Assistant Attorney General – Anchorage
Honorable Judge Lawrence Pederson

five years of continuous clinical practice with an average of 20 hours per week, immediately preceding the date of application; for purposes of the clinical practice requirements of this subparagraph, clinical practice may include dental school; and

This would allow for any dental applicant who has graduated with a 2 year post graduate degree to apply for licensure by exam, regardless of how long they had been actively licensed in another jurisdiction. This would lower the level of background checks performed on those applicants, and require less paperwork overall.

The board maintained the opinion that the 2 year post graduate degree provides sufficient scrutiny of the potential licensee and that deeper review of their background would be unnecessary. The licensing examiner requested that a motion be made stating this. The board saw this matter as already having been addressed and clearly defined in regulation and statute and declined to make a motion.

Agenda Item 7 – Statutes and Regulations for Discussion

SB74 (PDMP)

The board showed some concern regarding the difficulty of registering with the PDMP, stating that it is a complex process and that licensees might not be fully aware of the situation. They requested that a direct link to the PDMP registration website be added to the Dental Board Home Page.

12 AAC 28.965 and 12 AAC 28.970

Ms. Joan Wilson joined the teleconference to explain the Department of Law's opinion of 12 AAC 28.965 and 12 AAC 28.970. These proposed regulations would change the inspection requirements from 6 years to 10 years and allow for the board to review and approve applicants to be included in the list of approved radiological equipment inspectors.

Upon review of the statutory and regulatory authority of the board it was established that the Dental Board does not have the authority to review and determine the qualifications of radiological equipment inspectors. There is no problem with the form developed for this purpose, and no issue with maintaining a list. The board does not have the authority to specifically approve an inspector. To quote Ms. Wilson "It is basically licensing a new class of professionals, without the authority to license them." The board can easily maintain a list, but they will effectively have to allow any applicant who claims to be qualified be added to the list. This could function as intended, but it must be accompanied by a disclaimer stating that the board does not have the authority to determine the experience or qualifications of any individuals or organizations included in the list.

On a motion duly made by Chaney, seconded by Ross, and approved by roll call vote, it was

279 **RESOLVED to table the proposed regulations 12 AAC 28.965 and 12 AAC**
280 **28.970 until the Department of Law has reviewed them and can provide**
281 **additional recommendations on the wording of the regulations.**

282
283 **Ross – yea, Scheller – yea, Silviera – yea, Moriarty – yea, Wells – yea,**
284 **Chaney – yea, Kovaleski – yea.**
285 **7 yeas, 0 nays. Motion Passed.**

286
287 **Break for lunch.**

288
289 Off record at 11:35 a.m.

290 On record at 12:30 p.m.

291
292 Dr. Kovaleski, as noted during the review of the agenda, did not return to the meeting.

293
294 **12 AAC 28.840(a) for review and adoption**

295
296 **12 AAC 28.880(a) for review and adoption**

297
298 The board reviewed the publicly noticed regulations and associated comments and
299 found them satisfactory.

300
301 **On a motion duly made by Scheller, seconded by Ross, and approved by roll call**
302 **vote, it was**

303
304 **RESOLVED to adopt 12 AAC 28.840(a) and 12 AAC 28.880(a) into regulation**
305 **as publicly noticed.**

306
307 **Ross – yea, Scheller – yea, Silviera – yea, Moriarty – yea, Wells – yea,**
308 **Chaney – yea**
309 **6 yeas, 0 nays. Motion Passed.**

310
311 Dr. Wells signed the adoption order on the record.

312
313 **Agenda Item 8 – Personal Interviews**

314
315 The board welcomed Dr. Richard Michaud to the meeting and explained the interview
316 process. Dr. Michaud appeared telephonically. The Board asked the standard interview
317 questions.

318
319 **On a motion duly made by Silveira, seconded by Ross, and approved by roll call**
320 **vote, it was**

321
322 **RESOLVED to approve the application for a Dental License by Credentials**
323 **for Dr. Richard Michaud.**