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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Victoria Caltagirone
Department of Commerce, Community and Economic Development

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: February 3, 2023

RE: Filed Permanent Regulations: Board of Dental Examiners

Department of Commerce, Community and Economic Development - Division of
Corporations, Business, and Professional Licensing regulations re: Board of Dental
Examiners - Occupational Licensing (12 AAC 28)

Attorney General File:	2022200545
Regulation Filed:	2/3/2023
Effective Date:	3/5/2023
Print:	245, April 2023

cc with enclosures: Colleen Bailey, Department of Law
Judy Herndon, LexisNexis
Jun Maiquis, Regulations Specialist



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Law

CIVIL DIVISION

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February 1, 2023

The Honorable Nancy Dahlstrom
Lieutenant Governor
State of Alaska
P.O. Box 110001
Juneau, AK 99581-0001

Re: 2022200545 - Department of Commerce,
Community, and Economic Development –
Division of Corporations, Business, and
Professional Licensing; amendments to 12 AAC
28; Board of Dental Examiners – Occupational
Licensing.

Dear Lieutenant Governor Dahlstrom:

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

The regulations were adopted by the Board on January 5, 2023, after the close of the public comment period. The regulations implement changes to the occupational licensing requirements for dentist and dental hygienists, including allowing for the advanced practice permit for dental hygienists, in response to legislative amendments to AS 08.32 and 08.36 under ch. 56, SLA 2022.

The November 10, 2022, public notice and the January 5, 2023, certification of adoption 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.

To: The Honorable Nancy Dahlstrom
Our file: 2022200545

February 1, 2023
Page 2 of 2

We have made some technical corrections in accordance with AS 44.62.125. The corrections are shown on the attached copy of the regulations.

Sections 16 and 17, ch. 56, SLA 2022 set a special effective date of January 1, 2023 for secs. 3 – 5, 7, and 8, the provisions addressing licensed dental hygienists with an advanced practice permit. *Accordingly, we respectfully request the filing of these regulations as soon as possible.*

Sincerely,

TREG R. TAYLOR
ATTORNEY GENERAL

By: Rebecca C. Polizzotto

Digitally signed by
Rebecca C. Polizzotto
Date: 2023.02.01
16:39:32 -09'00'

Rebecca C. Polizzotto
Chief Assistant Attorney General
Legislation, Regulations, and
Legislative Research Section

RCP:kmd

CC w/enclosure: Jun Maiquis, Regulations Specialist 2
Department of Commerce, Community, and Economic Development

Harriet Milks, Assistant Attorney General
Department of Law

Steven C. Weaver, Assistant Attorney General
Department of Law

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

The attached six pages of regulations, dealing with application deadline for personal interview, lapsed licenses, advanced practice permits for dental hygienists, and licensure requirements, are hereby certified to be a correct copy of the regulation changes that the Board of Dental Examiners adopted at its December 16, 2022 meeting, under the authority of AS 08.32.014, AS 08.32.030, AS 08.32.070, AS 08.32.081, AS 08.32.110, AS 08.32.125, AS 08.36.070, AS 08.36.110, AS 08.36.234, and AS 08.36.250, 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: 1/5/2023

DocuSigned by:
David Nielson
6E3D767EE02B418
David Nielson, DDS, President
Alaska Board of Dental Examiners

April Simpson for

FILING CERTIFICATION

I, Nancy Dahlstrom, Lieutenant Governor for the State of Alaska, certify that on February 3, 2023 at 8:49 a.m., I filed the attached regulations according to the provisions of AS 44.62.040 – 44.62.120.

for Nancy Dahlstrom, Lieutenant Governor

Effective: March 5, 2023

Register: 245, April 2023

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, NANCY DAHLSTROM, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employees to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:

**Josh Applebee, Chief of Staff
Kady Levale, Notary Administrator
April Simpson, Regulations and Initiatives Specialist**

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on December 11th, 2022.




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**NANCY DAHLSTROM
LIEUTENANT GOVERNOR**

Chapter 28. Board of Dental Examiners.

12 AAC 28.915 is repealed:

12 AAC 28.915. Application deadline for personal interview. Repealed. (Eff. 2/28/96, Register 137; am 5/29/98, Register 146; am 11/15/2005, Register 176; am 12/15/2013, Register 208; am 3/11/2016, Register 217; repealed 3 / 5 / 2023 Register 245)

12 AAC 28.925(b)(3) is amended to read:

(3) arranges for verification of licensure to be sent directly to the division from each state where the applicant holds or has [EVER] held a license as a dentist or dental hygienist **during the period the license issued under this chapter was lapsed;** and

(Eff. 1/15/2003, Register 165; am 12/15/2013, Register 208; am 5/1/2019, Register 230; am 3 / 5 / 2023 Register 245)

Authority: AS 08.32.081 AS 08.36.070 AS 08.36.250

12 AAC 28 is amended by adding a new section to read:

12 AAC 28.936. Advanced practice permits. (a) The board may issue an advanced practice permit to a dental hygienist with a license in good standing under AS 08.32 and who has a minimum of 4,000 hours of clinical experience. The permit is subject to all the requirements of AS 08.32.125 and this section. The applicant must submit

(1) a completed, notarized application on the form provided by the department; the form must include the name and license number of the applicant and the name and location of the applicant's hygiene practice facility or business;

(2) the applicable fees required under 12 AAC 02.190;

(3) an affidavit stating that the applicant has a minimum of 4,000 hours of clinical experience during the five years preceding the date of application;

(4) a copy of the applicant's current certification in cardiopulmonary resuscitation (CPR) techniques that meets the requirements of 12 AAC 28.920;

(5) a copy of the applicant's current professional liability policy or declaration page that includes the policy number and expiration date; and

(6) evidence of completing at least four contact hours of continuing education course work covering one or more of the subject areas listed in (e) of this section.

(b) A dental hygienist holding an advanced practice permit shall

(1) maintain dental charts and other records when treating the dental hygienist's own patients of record and notify the board of the location where these records are to be secured;

(2) maintain a current, valid mailing address on file with the board at all times;

(3) refer patients who have been assessed by the dental hygienist to a licensed dentist for treatment or planning that is outside of the dental hygienist's scope of practice;

(4) only provide the services described in AS 08.32.125(a) to a patient who is unable to access dental treatments because of age, infirmity, or disability and in the locations described in AS 08.32.125(b); and

(5) document in the patient's chart the name of the licensed dentist to whom the patient is referred.

(c) A dental hygienist holding an advanced practice permit issued under AS 08.32.125 may delegate to a dental assistant who meets the requirements of AS 08.36.342 and has a current permit issued by the board under 12 AAC 28.810

(1) the exposure and development of radiographs under indirect supervision;

(2) the application of topical preventive agents under indirect or direct supervision;

(3) the placement of pit and fissure sealants under direct supervision; and

(4) the coronal polishing of teeth under direct supervision.

(d) The board may not issue an advanced practice permit if, during the five years immediately preceding the date of application, the applicant is the subject of adverse disciplinary action under AS 08.32, AS 08.36, or this chapter, or a similar provision of another jurisdiction.

(e) In addition to the continuing education requirements in 12 AAC 28.400 - 12 AAC 28.420, a dental hygienist who wishes to practice under an advanced practice permit must complete an additional four contact hours of continuing education each biennial licensing period in one or more of the following subject areas:

(1) medical emergencies;

(2) pediatric and other special health care needs;

(3) pharmacology;

(4) oral pathology;

(5) public health, or other eleemosynary facility, relating to, or supporting charity;

(6) patient management;

(7) general medicine and physical diagnosis.

(f) In this section,

(1) "direct supervision" means the hygienist is in the facility, personally diagnoses the condition to be treated, personally authorizes the procedure, and before dismissal of the patient evaluates the performance of the dental assistant;

(2) "indirect supervision" means the hygienist is in the facility, authorizes the procedures, and remains in the facility while the procedures are being performed by the dental assistant. (Eff. 3 / 5 / 2023 Register 245)

Authority: AS 08.32.014 AS 08.32.110 AS 08.36.346
AS 08.32.030 AS 08.32.125
AS 08.32.070 AS 08.36.070

12 AAC 28.937(b)(5) is repealed:

(5) repealed 3 / 5 / 2023;

12 AAC 28.937(b)(11)(B) is repealed:

(B) repealed 3 / 5 / 2023.

((Publisher, please remove "and" from remaining subparagraph)))

12 AAC 28.937(c)(3) is repealed:

(3) repealed 3 / 5 / 2023;

(Eff. 1/22/2004, Register 169; am 5/5/2006, Register 178; am 12/5/2009, Register 192; am, 12/15/2013, Register 208; am 3/11/2016, Register 217; am 5/1/2019, Register 230; am 2/19/2021, Register 237; am 3 / 5 / 2023, Register 245)

Authority: AS 08.32.014 AS 08.32.070 AS 08.36.070
AS 08.32.030

12 AAC 28.940(b)(8)(C) is amended to read:

(C) showing successful completion of a two-year or more postgraduate dental specialty training program approved by the Commission on Dental Accreditation of the American Dental Association [, AND EVIDENCE OF HAVING FIVE YEARS OF CONTINUOUS CLINICAL PRACTICE WITH AN AVERAGE OF 20 HOURS PER WEEK, IMMEDIATELY PRECEDING THE DATE OF APPLICATION; FOR PURPOSES OF THIS SUBPARAGRAPH, CLINICAL PRACTICE MAY INCLUDE DENTAL SCHOOL]; or

(Eff. 1/28/2000, Register 153; am 8/15/2001, Register 159; am 1/15/2003, Register 165; am 1/22/2004, Register 169; am 4/27/2007, Register 182; am 10/19/2008, Register 188; am 12/2/2012, Register 204; am 12/15/2013, Register 208; am 9/16/2018, Register 227; am 5/1/2019, Register 230; am 3/5/2020, Register 233; am 10/4/2020, Register 236; am 2/19/2021, Register 237; am 5/14/2022, Register 242; am 3 / 5 / 2023, Register 245)

Authority: AS 08.36.070 AS 08.36.110

12 AAC 28.951(b)(6) is repealed:

(6) repealed 3 / 5 / 2023;

12 AAC 28.951(b)(12) is repealed:

(12) repealed 3 / 5 / 2023;

12 AAC 28.951(c)(2) is repealed:

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(2) repealed 3 / 5 / 2023;

12 AAC 28.951(c)(4) is repealed:

(4) repealed 3 / 5 / 2023;

12 AAC 28.951(c)(5) is repealed:

(5) repealed 3 / 5 / 2023;

12 AAC 28.951(g) is amended to read:

(g) The personal interview of the applicant required in AS 08.36.234(d) **must be completed** [WILL BE SCHEDULED AS PROVIDED IN 12 AAC 28.915].

(Eff. 2/18/93, Register 125; am 2/4/94, Register 129; am 2/22/98, Register 145; am 1/28/2000, Register 153; am 8/15/2001, Register 159; am 1/22/2004, Register 169; am 5/5/2006, Register 178; am 10/19/2008, Register 188; am 12/15/2013, Register 208; am 3/11/2016, Register 217; am 9/26/2018, Register 227; am 5/1/2019, Register 230; am 3/5/2020, Register 233; am 2/19/2021, Register 237; am 5/14/2022, Register 242; am 3 / 5 / 2023, Register 245)

Authority: AS 08.36.346