

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health, pursuant to Section 302(14) of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14)), and Mayor’s Order 98-140, dated August 20, 1998, hereby gives notice of her adoption of the following amendments to Chapter 90 (Dental Assistants) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (“DCMR”).

This rulemaking adds a Level III Dental Assistant registration category for applicants possessing advanced educational training, clarifies the educational requirement for Level II Dental Assistants, and expands the duties that may be performed by all dental assistants.

A Notice of Proposed Rulemaking was published in the *District of Columbia Register* on May 26, 2023, at 70 DCR 007769. The Department received comments from the District of Columbia Dental Society (“DCDS”) and the Dental Assisting National Board (“DANB”) in response to the notice.

DANB’s comments supported the proposed rulemaking and did not suggest any changes to the proposed rulemaking. DCDS recommended several changes to the proposed rulemaking. The Department of Health (“the Department”) did not accept DCDS’s recommended changes. A summary of DCDS’s comments, and the Department’s rationales for rejecting the proposed changes, is as follows:

- Comment: Allow Level 1 and Level 2 dental assistants to perform glucose testing.

The Department’s Response: The Department will revisit this issue when the Department drafts proposed rulemaking to implement the changes to the law after the Dental Hygiene and Dental Assistants Scope of Practice Amendment Act is enacted. The Department does not wish to further delay the provisions in this rulemaking, which stakeholders in the dental community have been anxiously awaiting. Level 1 dental assistants are not required to have any training as a prerequisite to registration. The only requirement is a GED or high school diploma. Although Level 2 dental assistants are required to complete a training program, these training programs do not include glucose testing. Level 3 dental assistants are required to complete advanced training as a prerequisite to registration. While this training is not specific to glucose testing, the advanced training undertaken by Level 3 dental assistants adds greater understanding of, and compliance with, infection control requirements protecting patients from cross-contamination and spread of disease.

- Comment: To harmonize with the authorization for Level 3 dental assistants to perform glucose “testing”, proposed Section 9004.6(q), which prohibits a dentist from delegating glucose testing, should be amended or repealed.

The Department’s Response: Proposed Section 9004.6(q) prohibits delegation of glucose “monitoring.” Since the comment stated that the amendment was needed to make the two

sections “harmonious” the Board does not interpret this comment as suggesting that dentists should be authorized to delegate glucose “monitoring” to Level 3 dental assistants.

- Comment: Authorize dental assistants to perform laser and high-intensity light teeth whitening and bleaching procedures.

The Department’s Response: Substantial and irreversible patient harm can occur if these procedures are not performed properly. Dental assistants do not receive the training necessary to safely perform these procedures. It is not in the best interests of patients to allow dental assistants to perform procedures which can result in irreversible patient harm.

- Comment: Allow dentists to delegate placement of liquid dams to dental assistants.

The Department’s Response: Liquid dam placement can cause substantial and irreversible patient harm and damage to soft tissue, as well as breathing issues if performed incorrectly. Dental assistants do not receive the training necessary to safely perform these procedures. It is not in the best interests of patients to allow dental assistants to perform procedures which can result in irreversible patient harm.

- Comment: Eliminate registration requirement for level 1 dental assistants.

The Department’s Response: This is a statutory requirement and cannot be changed by regulations.

No changes have been made to the text of the proposed rules that were published in the *District of Columbia Register* on May 26, 2023. The Director of the Department of Health adopted the rules as final on February 15, 2024, and these final rules will be effective upon the date of publication of this notice in the *District of Columbia Register*.

Chapter 90, DENTAL ASSISTANTS, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:

Section 9003, EDUCATION REQUIREMENTS, is amended as follows:

Subsection 9003.2 is amended as follows:

Paragraph (c) is amended to read as follows:

- (c) (1) Successfully completed and graduated from an educational program for dental assistants approved by the Board or the American Dental Association’s (ADA) Commission on Dental Accreditation (CODA); or
- (2) A current and valid certification as a Certified Dental Assistant in general duties from the Dental Assisting National Board (DANB), or other dental assisting certification approved by the Board.

Paragraph (d) is repealed.

A new subsection 9003.3 is added to read as follows:

- 9003.3 An applicant for a Level III Dental Assistant registration shall submit proof satisfactory to the Board that the applicant has:
- (a) A high school diploma or a general equivalency diploma;
 - (b) Successfully completed a course in dental radiography training meeting the requirements set forth in § 9005.1 of this chapter;
 - (c) Successfully completed and graduated from an educational program for dental assistants approved by the Board or the American Dental Association's Commission on Dental Accreditation (CODA);
 - (d) A current and valid certification as a Certified Dental Assistant in general duties from the DANB or another dental assisting certification approved by the Board;
 - (e) Successfully completed and obtained the DANB Certified Preventive Functions Dental Assistant Certification; and
 - (f) Successfully passed a Board-approved, hands-on course in the functions and duties permitted to be performed by a Level III Dental Assistant.

Section 9004, SCOPE OF PRACTICE, is amended as follows:

Subsection 9004.2 is amended as follows:

Paragraph (c) is amended to read as follows:

- (c) Applying fluoride (rinse, foam tray, and fluoride varnish);

Paragraph (l) is amended to read as follows:

- (l) Constructing athletic mouth guards and night guards on models;

Paragraphs (p) and (q) are amended to read as follows:

- (p) Whitening or bleaching using trays;
- (q) Take and record vital signs; and

A new paragraph (r) is added to read as follows:

- (r) Other functions as approved by the Board.

Subsection 9004.3 is amended as follows:

Paragraph (d) is repealed.

Paragraphs (m) and (n) are amended to read as follows:

- (m) Removing excess cement; and
- (n) Removing or placing a periodontal dressing (except placing the original periodontal dressing).

Paragraph 9004.3(o) is repealed.

Subsections 9004.4 and 9004.5 are renumbered as 9004.5 and 9004.6 respectively.

A new subsection 9004.4 is added to read as follows:

- 9004.4 Level III Dental Assistant may perform the following functions under direct supervision of a dentist:
- (a) All functions permitted to Level I Dental Assistant or Level II Dental Assistant, as enumerated in §§ 9004.2 and 9004.3;
 - (b) The application of pit and fissure sealants;
 - (c) Coronal polishing to remove stain and biofilm; and
 - (d) Glucose testing.

The lead-in language of newly renumbered subsection 9004.5 (formerly numbered 9004.4) is amended to read as follows:

- 9004.5 Level I, II, or III Dental Assistant working under the direct supervision of an orthodontist may also perform the following functions:

The newly renumbered subsection 9004.6 (formerly numbered 9004.5) is amended to read as follows:

- 9004.6 A dentist shall not delegate to a dental assistant any of the following procedures:
- (a) Those procedures excluded by 17 DCMR § 4215.1;
 - (b) A preliminary dental examination;

- (c) A complete prophylaxis, including the removal of any deposits, diseased crevicular tissue, accretion, or stain from the surface of a tooth or a restoration;
- (d) The restoration of a tooth;
- (e) The charting of cavities during preliminary examination, prophylaxis, or polishing; however, a dentist may permit an assistant to record the charting of cavities as dictated by the dentist or dental hygienist during the course of a preliminary examination or dental procedure;
- (f) The instruction of individuals or groups of individuals in oral health care, unless it is in the dental office and done as instructed by the dentist;
- (g) [Repealed];
- (h) Diagnostic screening to identify indications of oral abnormalities;
- (i) Administration of local anesthesia;
- (j) Administration of nitrous oxide;
- (k) Placement of temporary restorations;
- (l) Taking final impressions;
- (m) Adjusting occlusion of natural teeth, restorations, or appliances;
- (n) Registration of jaw relations;
- (o) Cementing permanent crowns or restorations;
- (p) Applying silver diamine fluoride;
- (q) Glucose monitoring;
- (r) Whitening or bleaching (internal, laser, or high-intensity light);
- (s) Using a high speed handpiece intraorally;
- (t) Oral cancer screenings;
- (u) Oral cancer tissue biopsy;
- (v) Placing initial periodontal dressing;

- (w) Placement of liquid dam;
- (x) Applying and removing a socket dressing;
- (y) Placement of subgingival medicaments;
- (z) Removing intracoronal temporary restorations; or
- (aa) Placing sutures.

Section 9005, RADIOGRAPHY REQUIREMENTS, is amended as follows:

The lead-in language of subparagraph 9005.1 is amended to read as follows:

9005.1 A Level II or Level III dental assistant shall be eligible to place or expose dental x-ray film if he or she has:

A new section 9008, DISTRICT OF COLUMBIA DENTAL ASSISTANT LAW EXAMINATION, is added to read as follows:

9008 DISTRICT OF COLUMBIA DENTAL ASSISTANT LAW EXAMINATION

9008.1 An applicant for a Level I, Level II, or Level III Dental Assistant registration shall submit proof satisfactory to the Board that the applicant received a passing score on a written examination developed by the Board or a Board-approved entity on laws and rules pertaining to the practice of dental assistants (the District of Columbia Dental Assistants Law Examination).

9008.2 The District of Columbia Dental Assistants Law Examination may consist of questions on general District laws pertaining to the practice of dental assistants including the Act, this chapter, and Chapters 40, 41, 42, and 43 of this title.