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Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Board of Dentistry
Division:	
Contact Person:	Jennifer Putnam
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Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	ADA Coordinator
Address:	710 James Robertson Parkway, Andrew Johnson Building, 5th Floor, Nashville, Tennessee 37243
Phone:	(615) 741-6350
Email:	Tina.M.Harris2@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	Metro Center
Address 2:	665 Mainstream Drive, Iris Conference Room
City:	Nashville, Tennessee
Zip:	37228
Hearing Date :	01/10/19
Hearing Time:	9:00 A.M. <input checked="" type="checkbox"/> CST/CDT <input type="checkbox"/> EST/EDT

Additional Hearing Information:

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Revision Type (check all that apply):

- Amendment
- New
- Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0460-01	General Rules
Rule Number	Rule Title
0460-01-.19	Teledentistry

Chapter Number	Chapter Title
0460-02	Rules Governing the Practice of Dentistry
Rule Number	Rule Title
0460-02-.05	Examinations
0460-02-.07	Anesthesia and Sedation

Chapter Number	Chapter Title
0460-03	Rules Governing the Practice of Dental Hygienists
Rule Number	Rule Title
0460-03-.12	Administration of Local Anesthesia Certification

Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to http://sos-tn-gov-files.s3.amazonaws.com/forms/Rulemaking%20Guidelines_September2016.pdf.

Chapter 0460-02
Rules Governing the Practice of Dentistry

Amendments

Rule 0460-02-.05 Examinations is amended by amending paragraph (1) and deleting subparagraph (1)(a) in its entirety and substituting instead the following language and is further amended by deleting only part (1)(a)2 in its entirety, so that as amended the new subparagraph shall read:

- (1) The Board adopts as its licensure examination and requires, with the previously noted exceptions, successful completion of all of the following examination components as a prerequisite for licensure:
 - (a) An examination must include a prosthetic component, a periodontal component an endodontic component, and a live human patient anterior and posterior restorative component.

Authority: T.C.A. §§ 63-5-105, 63-5-110, 63-5-111, and 63-5-114.

Rule 0460-02-.07 Anesthesia and Sedation is amended by adding new subparagraphs (1)(g), (1)(h) and (1)(m) and by re-lettering the remaining subparagraphs and is further amended by deleting subparagraph (10)(c) and substituting instead the following language, so that as amended, the new subparagraphs shall read:

- (1)
 - (g) Dental Facility - the office where a permit applicant or permit holder practices dentistry and provides or is applying to provide anesthesia/sedation services.
 - (h) Dental Facility Inspection - an on-site inspection to determine if a dental facility is equipped to support the provision of anesthesia/sedation services under 0460-02-.07(6)(b) and 0460-02-.07(7)(b).
 - (m) Mobile dental anesthesia provider- A licensed dentist with a conscious sedation or deep sedation/general anesthesia permit who provides office based anesthesia for dental offices.
- (10) (c) A permit must be renewed every two (2) years by payment of the appropriate renewal fee as established by the board and by certification of the continuing education requirement [0460-02-.07 (8)] and by certification of compliance with the general rules for conscious sedation [0460-02-.07 (6) (b)] or deep sedation/general anesthesia [0460-02-.07 (7) (b)]. Every third renewal a facility inspection is required, and the permit will not be renewed until successful completion of the on-site inspection.

Authority: T.C.A. §§ 63-5-105, 63-5-107, 63-5-108, 63-5-112, 63-5-115, 63-5-117, 63-5-122, and 63-5-124.

Rule 0460-02-.07 Anesthesia and Sedation is amended by adding new paragraphs (12), (13), (14), and (15), which shall read:

(12) Facility Inspections

- (a) Prior to the issuance of a conscious sedation or deep sedation/general anesthesia permit, the Board shall require an on-site inspection of the dental facility's equipment and drugs to determine if the requirements of 0460-02-.07(6)(b) and 0460-02-.07(7)(b) have been met. Compliance with these rules is a condition to obtaining a conscious sedation or deep sedation/general anesthesia permit. The cost of the on-site inspection will be the responsibility of the dental facility.
- (b) The individual, organization, or agency conducting the inspection may also notify the board of other violations discovered during the inspection. Violations that may have been observed during the inspection, but not related to equipment and drug requirements may be separately pursued by

the Board.

- (c) All dental facilities wherein conscious sedation and/or deep sedation/general anesthesia may be administered shall be inspected once every five (5) years beginning from the date of the initial permit to ensure that the dental facility has remained in compliance with the requirements of 0460-02-.07(6)(b) and 0460-02-.07(7)(b).
 - (d) The dental facility will be notified in writing within 120 days prior to the permit expiration date of when the inspection is required. Failure to receive the written notification does not exempt the dental facility from obtaining an inspection prior to the expiration of the permit. The written notice will also include a Board inspection form to be completed by the individual, organization or agency conducting the inspection.
 - (e) The inspection must be performed by an individual, organization or agency that has been approved by the Board. The dental facility must complete the inspection prior to the permit expiration date. Upon conclusion of the inspection, the dental facility must receive either a pass or fail recommendation.
 - (f) The recommendation of the inspection and Board inspection form must be submitted to both the dental facility and the Board's administrative office by the individual, organization or agency conducting the inspection within 30 days after completing the inspection. The recommendation and Board inspection form can be sent by regular or electronic mail. The Board is not bound by this recommendation.
 - (g) The Board consultant will review the recommendation and Board inspection form to determine whether the dental facility has passed or failed the inspection. The Board will notify the dental facility in writing of its decision within 30 days after receiving the recommendation and Board inspection form.
- (13) Failure upon inspection
- (a) Any dental facility with missing or malfunctioning equipment or that is not in compliance with 0460-02-.07(6)(b) or 0460-02-.07(7)(b) shall cease administering anesthesia until all deficiencies have been remedied.
 - (b) The dental facility must remedy all deficiencies within thirty (30) days from receipt of the Board consultant's decision.
 - (c) If a dental facility fails the inspection because of extenuating circumstances, it may submit a written request for an extension of time to remedy all deficiencies. The written request must include a complete explanation of the extenuating circumstances and the dental facility's plan for remedying all deficiencies. If an extension is granted after the Board consultant's review of the written request, the Board consultant shall establish the duration of the extension of time for the dental facility to remedy the deficiencies. The dental facility shall cease administering anesthesia until all deficiencies have been remedied and deemed compliant by the Board consultant. The dental facility must submit proof of the remedial measures taken to the Board consultant for review. Once the Board consultant has determined the dental facility is compliant, the dental facility will be notified by the Board.
- (14) In the case of a dentist who practices as a mobile dental anesthesia provider, an inspection shall be conducted of the mobile dental anesthesia provider's equipment and drugs required by 0460-02-.07(6)(b) and 0460-02-.07(7)(b).
- (15) Exceptions to facility inspections
- (a) An on-site inspection is not required when anesthesia is administered in a CODA (Commission on Dental Accreditation) accredited educational institution, hospital setting or federal facility.
 - (b) A dentist may submit proof of successful completion of the American Association of Oral and Maxillofacial Surgeons' Office Anesthesia Evaluation in lieu of the on-site inspection required by

Authority: T.C.A. §§ 63-5-105, 63-5-107, 63-5-108, 63-5-112, 63-5-115, 63-5-117, 63-5-122, and 63-5-124.

Chapter 0460-03
Rules Governing the Practice of Dental Hygienists

Amendment

Rule 0460-03-.12 Administration of Local Anesthesia Certification is amended by deleting subparagraph (2)(b) in its entirety.

Authority: T.C.A. §§ 63-5-105, 63-5-108, 63-5-115, and 63-5-116.

Chapter 0460-01
General Rules

0460-01-.19 New Rule
Teledentistry

New Table of Contents

0460-01-.01	Definitions
0460-01-.02	Fees
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0460-01-.04	Application Review, Approval, Denial, and Interviews
0460-01-.05	Continuing Education and C.P.R.
0460-01-.06	Disciplinary Actions, Civil Penalties, Procedures, Assessment of Costs, and Subpoenas
0460-01-.07	Working Interviews
0460-01-.08	Dental Professional Corporations and Dental Professional Limited Liability Companies
0460-01-.09	Repealed
0460-01-.10	Clinical Techniques-Teeth Whitening
0460-01-.11	Infection Control
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0460-01-.16	Patient Rights
0460-01-.17	Consumer Right-To-Know Requirements
0460-01-.18	Restraint of Pediatric and Special Needs Patients
0460-01-.19	Teledentistry

Rule 0460-01-.19 Teledentistry

0460-02-.19 Teledentistry. No person shall engage in the practice of dentistry, either in person or remotely using information transmitted electronically or through other means, on a patient within the state of Tennessee unless duly licensed by the Board in accordance with the provisions of the current statutes and rules. Teledentistry shall not alter or amend the supervision requirements or procedures that are authorized for licensed dental hygienists or registered dental assistants as stated by T.C.A §63-5-115. This rule is not intended to and does not supersede any pre-existing federal or state statutes or rules and is not meant to alter or amend the applicable standard of care in any particular field of dentistry or to amend any requirement for the establishment of a dentist-patient relationship.

(1) Treatment and the Practice of Teledentistry

- (a) A teledentistry encounter entails the rendering of a documented dental opinion concerning evaluation, diagnosis, and/or treatment of a patient whether the dentist is physically present in the same room or in a remote location within the state or across state lines.

- (b) Teledentistry as practiced under T.C.A §63-5-108 (b) (16) is not an audio only telephone conversation, email/instant messaging conversation or fax. At a minimum it is to include the application of secure video conferencing or store-and-forward technology to provide or support dental care delivery by replicating the interaction of a traditional encounter between a provider and a patient.
 - (c) If the information transmitted through electronic or other means as part of a patient's encounter is not of sufficient quality or does not contain adequate information for the dentist to form an opinion, the dentist must declare they cannot form an opinion to make an adequate diagnosis and must request direct referral for inspection and actual physical examination, request additional data or recommend the patient be evaluated by the patient's primary dentist or other local oral health care provider.
 - (d) No patient seeking care via teledentistry who is under the age of eighteen (18) years of age can be treated unless there is a parent or guardian present, except as otherwise authorized by law.
- (2) Dental Records and Informed Consent when Practicing Teledentistry
- (a) For patient encounters conducted by teledentistry, the dentist should have appropriate patient records or be able to obtain the patient's prior treatment information during the teledentistry encounter.
 - (b) Secure electronic records of the patient are to be kept at all locations where the patient is seen physically and at the location where the dentist is if the dentist is not present at the time of the visit. Dental records established for the purposes of teledentistry must contain the same information as required by Rule 0460-02-.12.
 - (c) Store-and-forward technology as used in (1)(c) above is the use of asynchronous electronic communications between a patient and dentist at a distant site for the purpose of diagnostic and therapeutic assistance in the care of patients including the transferring of dental data from one site to another through the use of a device that records or stores images that are sent or forwarded via electronic communication to another site for consultation.
 - (d) The dentist engaging in teledentistry is responsible for ensuring that the dental record contains all pertinent data and information gleaned from the encounter. Any dentist conducting a patient encounter via teledentistry must so document by an informed consent form which is to be added in the patient record and must state the technology used.
 - (e) Informed consent forms are to be signed by the patient or parent/guardian describing the information to be transmitted and/or shared with a dentist who is at a different geographical location.
- (3) Supervision
- (a) Patient encounter with hygienist – Any licensed dental hygienist who assists the dentist in providing dental health services or care using teledentistry is only authorized to perform those services that the dental hygienist is authorized to perform during an in-person patient encounter under general supervision as defined by T.C.A §63-5-108 (c)(5).

Authority: T.C.A. §§ 63-1-101, 63-1-155, 63-5-108 and 63-5-115.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 11/5/18

Signature: Jennifer L. Putnam

Name of Officer: Jennifer Putnam

Assistant General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on: 11-5-18

Notary Public Signature: Suzanne Mechkowski

My commission expires on: _____



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Tre Hargett

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Secretary of State

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