

## Notice of Rulemaking Hearing

### Board of Dentistry

There will be a hearing before the Tennessee Board of Dentistry to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-5-105. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Division of Health Related Board's Conference Room on the Third Floor of the Heritage Place Building located at 227 French Landing, Nashville, TN at 2:30 p.m. (CST) on the 20th day of December, 2006.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Department of Health, Division of Health Related Boards to discuss any auxiliary aids or services needed to facilitate such participation or review. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date such party intends to review such filings), to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the ADA Coordinator at the Division of Health Related Boards, 227 French Landing, Suite 300, Heritage Place, MetroCenter, Nashville, TN 37243, (615) 532-4397.

For a copy of the entire text of this notice of rulemaking hearing contact: Jerry Kosten, Regulations Manager, Division of Health Related Boards, 227 French Landing, Suite 300, Heritage Place, MetroCenter, Nashville, TN 37243, (615) 532-4397.

### Substance of Proposed Rules

#### Chapter 0460-1 General Rules

0460-1-.01 Definitions

0460-1-.03 Board Officers, Consultants, Meetings, Declaratory Orders, and Screening Panels

0460-1-.05 Continuing Education and C.P.R.,

0460-1-.08 Dental Professional Corporations and Dental Professional Limited Liability Companies

Rule 0460-1-.01, Definitions, is amended by deleting paragraphs (3) and (10) in their entirety and substituting instead the following language, so that as amended, the new paragraphs and (3) and (10) shall read:

- (3) Board Administrative Office - The office of the Director assigned to the Tennessee Board of Dentistry located at 227 French Landing, Suite 300, Heritage Place, MetroCenter, Nashville, TN 37243.
- (10) Licensed Dental Hygienist – An auxiliary employee of a licensed dentist(s) who has been issued a license to engage in clinical procedures primarily concerned with the performance of preventive dental service which does not constitute the practice of dentistry and is performed in accordance with the statutes and rules of the Board, under the direct and/or general supervision and full responsibility of a licensed dentist, pursuant to T.C.A. §§ 63-5-108 and 63-5-115.

Authority: T.C.A. § 4-5-202, 4-5-204, 63-5-101, 63-5-105, 63-5-108, and 63-5-115.

Rule 0460-1-.03, Board Officers, Consultants, Meetings, Declaratory Orders, and Screening Panels, is amended by deleting part (4) (b) 1. in its entirety and renumbering the remaining parts accordingly,

and is further amended by adding the following language as new paragraph (11), so that as amended, the new paragraph (11) shall read:

- (11) Stays and Reconsiderations – The Board authorizes the member who chaired the Board for a contested case to be the agency member to make the decisions authorized pursuant to rule 1360-4-1-.18 regarding petitions for reconsiderations and stays in that case.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-138, 63-5-105, 63-5-116, and 63-5-124.

Rule 0460-1-.05, Continuing Education and C.P.R., is amended by deleting subparagraph (1) (a) but not its parts, and substituting instead the following language, so that as amended, the new subparagraph (1) (a) but not its parts shall read:

- (1) (a) Beginning January 1, 2003, each licensed dentist must successfully complete forty (40) hours of continuing education in courses approved by the Board during the two (2) calendar years (January 1st of an odd-numbered year through December 31st of the subsequent even-numbered year) that precede the licensure renewal year. At least two (2) hours of the forty (40) hour requirement shall be a course pertaining to chemical dependency education and/or shall be a course designed specifically to address prescribing practices.

Authority: T.C.A. § 4-5-202, 4-5-204, 63-5-105, 63-5-107, and 63-5-117.

Rule 0460-1-.08, Dental Professional Corporations and Dental Professional Limited Liability Companies, is amended by deleting parts (1) (b) 1., (1) (b) 2., (2) (b) 1., and (2) (b) 2. in their entirety and substituting instead the following language, so that as amended, the new parts (1) (b) 1., (1) (b) 2., (2) (b) 1., and (2) (b) 2. shall read:

- (1) (b) 1. Dentists licensed pursuant to Tennessee Code Annotated Title 63, Chapter 5; and/or
- (1) (b) 2. A foreign or domestic general partnership, D.P.C. or Dental Professional Limited Liability Company (D.P.L.L.C.) in which all partners, shareholders, members or holders of financial rights are dentists licensed pursuant to Tennessee Code Annotated Title 63, Chapter 5 to practice dentistry in Tennessee, or composed of entities which are directly or indirectly owned by such licensed dentists.
- (2) (b) 1. Dentists licensed pursuant to Tennessee Code Annotated Title 63, Chapter 5; and/or
- (2) (b) 2. A foreign or domestic general partnership, D.P.C. or D.P.L.L.C. in which all partners, shareholders, members or holders of financial rights are either dentists licensed pursuant to Tennessee Code Annotated Title 63, Chapter 5 to practice dentistry in Tennessee or composed of entities which are directly or indirectly owned by such licensed dentists.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 48-101-610, 48-101-630, 48-248-401, 48-248-603, 48-249-101, et seq., 63-5-105, 63-5-107, and 63-5-121.

Chapter 0460-2  
Rules Governing the Practice of Dentistry

0460-2-.11 Regulated Areas of Practice

Rule 0460-2-.11, Regulated Areas of Practice, is amended by deleting subparagraph (2) (g) in its entirety and substituting instead the following language, and is further amended by adding the following language as subparagraph (2) (h), so that as amended, the new subparagraphs (2) (g) and (2) (h) shall read:

- (2) (g) Dentists shall only allow licensed or registered auxiliary staff to give/hand medications to a patient and only after the dentist has verified that the medication about to be given is the correct medication and correct dosage prescribed. Under no circumstances shall the dentist allow auxiliary staff to place medications directly in the mouth of a patient or on the patient such as actisite, nitrous oxide, any other medicated dental material, etc., with the exception of a topical anesthetic pursuant to T.C.A. §§ 63-5-108 (b) (12) and/or (d) (3), and any other procedure authorized by Rule 0460-3-.09 (1).
  
- (2) (h) Nothing in these rules shall be interpreted to interfere with the ability of properly credentialed dentists who practice in the hospital setting to reinstate, continue, and/or rewrite for their patients all prescriptions which are medically or dentally advisable or justified for such dental procedure(s) or treatment(s), including prescriptions for ancillary medical conditions, so long as:
  - 1. such medical prescriptions are rational to the practice of dentistry; and
  - 2. the treating dentist only orders such medical prescriptions in consultation with the patient's treating physician; and
  - 3. the treating dentist only re-orders such medical prescriptions which already have been ordered by the patient's treating physician and which prescription orders would remain in effect for the patient but for the JCAHO standard against automatic reinstatement in the hospital setting.

Authority: T.C.A. § 4-5-202, 4-5-204, 63-5-105, 63-5-107, 63-5-108, and 63-5-122.

Chapter 0460-3  
Rules Governing the Practice of Dental Hygienists

0460-3-.09 Scope of Practice

Rule 0460-3-.09, Scope of Practice, is amended by deleting subparagraphs (6) (e) and (6) (k) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (6) (e) and (6) (k) shall read:

- (6) (e) Performance of direct pulp capping, pulpotomy, and other endodontic procedures not authorized by T.C.A. § 63-5-108 or Rule 0460-3-.09 (1);
  
- (6) (k) Utilization of laser equipment and technology in the course of the performance of their duties unless specifically authorized by T.C.A. § 63-5-108 or Rule 0460-3-.09 (1). Only dentists licensed by the Tennessee Board of Dentistry shall be authorized to perform procedures involving laser technology.

Authority: T.C.A. § 4-5-202, 4-5-204, 63-5-105, and 63-5-108.

Chapter 0460-4  
Rules Governing the Practice of Dental Assistants

0460-4-.04     Coronal Polishing Certification  
0460-4-.08     Scope of Practice

Rule 0460-4-.04, Coronal Polishing Certification, is amended by deleting the introductory sentence and subparagraph (4) (a) in their entirety and substituting instead the following language, so that as amended, the new introductory sentence and the new subparagraph (4) (a) shall read:

0460-4-.04 Coronal Polishing Certification. Dental assistants, who pursuant to this rule and T.C.A. § 63-5-108 (d), receive certification to perform coronal polishing may do so under the restrictions contained in this rule.

- (4) (a) The clinical portion of the examination shall be administered by a member of the Board or the Dental Assisting National Board, Inc. (DANB) or another meaningfully credentialed testing agency designated in advance by the Board and shall be conducted in an educational institution. The written portion of the examination can be administered by the testing agency, a Board member, or a Board representative. By adopting such examinations, the Board deems fulfilled the requirements set forth in T.C.A. § 63-5-108 (d) that the clinical and didactic examination be administered by the Board. The Board interprets “administered by the Board” to mean “adopted by the Board” for purposes of this section.

Authority: T.C.A. § 4-5-202, 4-5-204, 63-5-105, 63-5-108, and 63-5-111.

Rule 0460-4-.08, Scope of Practice, is amended by deleting subparagraphs (4) (d), (4) (e), and (4) (m) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (4) (d), (4) (e), and (4) (m) shall read:

- (4) (d) Issuance of prescription medications or medications not authorized by T.C.A. § 63-5-108 (c) or Rule 0460-4-.08 (3), or work authorizations;
- (4) (e) Performance of direct pulp capping, pulpotomy, and other endodontic procedures not authorized by T.C.A. § 63-5-108(c) or Rule 0460-4-.08 (3);
- (4) (m) Utilization of laser equipment and technology in the course of the performance of their duties unless specifically authorized by T.C.A. § 63-5-108 (c) or Rule 0460-4-.08 (3). Only dentists licensed by the Tennessee Board of Dentistry shall be authorized to perform procedures involving laser technology.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-5-105, 63-5-108, and 63-5-115.

Contact who can answer questions concerning this notice of rulemaking hearing, technical contact for disk acquisition, and person who will approve final copy for publication: Jerry Kosten, Regulations Manager, Division of Health Related Boards, 227 French Landing, Suite 300, Heritage Place, MetroCenter, Nashville, TN 37243, (615) 532-4397.

The notice of rulemaking set out herein was properly filed in the Department of State on the 22nd day of September, 2006. (09-06-06)