

PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

PART 166
DENTISTRY

***** 333.16601 THIS SECTION IS AMENDED EFFECTIVE MARCH 27, 2019: See 333.16601.amended

333.16601 Definitions; principles of construction.

Sec. 16601. (1) As used in this part:

(a) "Assignment" means that a dentist has designated a patient of record upon whom services are to be performed and has described the procedures to be performed. The dentist need not be physically present in the office or in the treatment room at the time the procedures are being performed.

(b) "Dental laboratory" means a dental workroom operated as a part of a dental office or otherwise, by a person, other than a dentist, who is engaged in, or holds himself, herself, or itself out as being directly or indirectly engaged in, constructing, repairing, or altering prosthetic dentures, bridges, orthodontic or other appliances, or structures to be used as substitutes for or as a part of human teeth or jaws or associated structures, or for the correction of malocclusions or deformities.

(c) "Dentist" means an individual licensed under this article to engage in the practice of dentistry.

(d) "Practice of dentistry" means the diagnosis, treatment, prescription, or operation for a disease, pain, deformity, deficiency, injury, or physical condition of the human tooth, teeth, alveolar process, gums or jaws, or their dependent tissues, or an offer, undertaking, attempt to do, or holding oneself out as able to do any of these acts.

(e) "Practice as a dental assistant" means assistance in the clinical practice of dentistry based on formal education, specialized knowledge, and skill at the assignment and under the supervision of a dentist.

(f) "Practice as a dental hygienist" means practice at the assignment of a dentist in that specific area of dentistry based on specialized knowledge, formal education, and skill with particular emphasis on preventive services and oral health education.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Compiler's note: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Popular name: Act 368

***** 333.16601.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 27, 2019 *****

333.16601.amended Definitions; principles of construction.

Sec. 16601. (1) As used in this part:

(a) "Assignment" means that a dentist has designated a patient of record on whom services are to be performed and has described the procedures to be performed. The dentist need not be physically present in the office or in the treatment room at the time the procedures are being performed.

(b) "Dental laboratory" means a dental workroom that is operated as a part of a dental office or otherwise, by a person, other than a dentist, who is engaged in, or holds himself, herself, or itself out as being directly or indirectly engaged in, constructing, repairing, or altering prosthetic dentures, bridges, orthodontic or other appliances, or structures to be used as substitutes for or as a part of human teeth or jaws or associated structures, or for the correction of malocclusions or deformities.

(c) "Dentist" means an individual who is licensed under this article to engage in the practice of dentistry.

(d) "Practice of dentistry" means the diagnosis, treatment, prescription, or operation for a disease, pain, deformity, deficiency, injury, or physical condition of the human tooth, teeth, alveolar process, gums or jaws, or their dependent tissues, or an offer, undertaking, attempt to do, or holding oneself out as able to do any of these acts.

(e) "Practice as a dental assistant" means assistance in the clinical practice of dentistry based on formal education, specialized knowledge, and skill at the assignment and under the supervision of a dentist.

(f) "Practice as a dental hygienist" means practice at the assignment of a dentist in that specific area of dentistry based on specialized knowledge, formal education, and skill with particular emphasis on preventive services and oral health education.

(g) "Practice as a dental therapist" means providing any of the care and services, and performing any of the duties, described in section 16656.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2018, Act 463, Eff. Mar. 27, 2019.

Compiler's note: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Popular name: Act 368

***** 333.16605 THIS SECTION IS AMENDED EFFECTIVE MARCH 27, 2019: See 333.16605.amended

333.16605 Use of words, titles, or letters.

Sec. 16605. The following words, titles, or letters or a combination thereof, with or without qualifying words or phrases, are restricted in use only to those persons authorized under this part to use the following terms and in a way prescribed in this part: "dentist", "doctor of dental surgery", "oral and maxillofacial surgeon", "orthodontist", "prosthodontist", "periodontist", "endodontist", "oral pathologist", "pediatric dentist", "dental hygienist", "registered dental hygienist", "dental assistant", "registered dental assistant", "r.d.a.", "d.d.s.", "d.m.d.", and "r.d.h."

History: Add. 2006, Act 429, Imd. Eff. Oct. 5, 2006.

Popular name: Act 368

***** 333.16605.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 27, 2019 *****

333.16605.amended Use of words, titles, or letters.

Sec. 16605. The following words, titles, or letters, or a combination of any of those words, titles, or letters, with or without qualifying words or phrases, are restricted in use only to those individuals who are authorized under this part to use the following terms and in a way prescribed in this part: "dentist", "doctor of dental surgery", "oral and maxillofacial surgeon", "orthodontist", "prosthodontist", "periodontist", "endodontist", "oral pathologist", "pediatric dentist", "dental hygienist", "registered dental hygienist", "dental assistant", "registered dental assistant", "dental therapist", "r.d.a.", "d.d.s.", "d.m.d.", "r.d.h.", and "d.t."

History: Add. 2006, Act 429, Imd. Eff. Oct. 5, 2006;—Am. 2018, Act 463, Eff. Mar. 27, 2019.

Popular name: Act 368

333.16608 Health profession specialty field license; qualifications; renewal; reference as specialty certification.

Sec. 16608. (1) The board may issue a health profession specialty field license to a licensed dentist who has advanced training beyond that required for initial licensure and who has demonstrated competency through examination or other evaluative processes in 1 or more of the following health profession specialty fields: prosthodontics, endodontics, oral and maxillofacial surgery, orthodontics, pediatric dentistry, periodontics, or oral pathology. A licensed dentist who holds a health profession specialty certification in 1 or more of the health profession specialty fields listed in this subsection on the effective date of the amendatory act that added subsections (3) and (4) is considered to hold a health profession specialty field license in each of those health profession specialty fields and may obtain renewal of each health profession specialty field license on the expiration date of the specialty certification.

(2) A health profession specialty field license issued pursuant to subsection (1) shall be renewed concurrently with the license to practice dentistry.

(3) This section does not prohibit a licensed dentist who has not been issued a health profession specialty field license under subsection (1) from performing services in 1 or more of the health profession specialty fields listed in subsection (1).

(4) For purposes of the administration of the general rules of the board of dentistry in the Michigan administrative code, a reference to specialty certification is a reference to a health profession specialty field license.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1987, Act 182, Imd. Eff. Nov. 30, 1987;—Am. 1990, Act 216, Imd. Eff. Oct. 8, 1990;—Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002.

Compiler's note: Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

333.16611 Dentist, dental hygienist, or dental assistant; license or authorization required; deep scaling, root planing, and removal of calcareous deposits; qualifications for dental hygienist licensure; administration of intraoral block and infiltration anesthesia by dental hygienist; administration of local anesthesia or nitrous oxide analgesia; requirements; additional delegation of procedures; third party reimbursement; practice guidelines; definitions.

Sec. 16611. (1) An individual shall not engage in the practice of dentistry, the practice as a dental hygienist, or the practice as a dental assistant unless he or she is licensed or otherwise authorized by this article.

(2) Deep scaling, root planing, and the removal of calcareous deposits may only be performed by an individual licensed or otherwise authorized by this article as a dental hygienist or a dentist.

(3) The department shall not issue a dental hygienist's license to an individual unless the individual has graduated from a school or college for dental hygienists whose dental hygiene program is accredited by the commission on dental accreditation of the American dental association and approved by the department. The school or college must be accredited by a regional accrediting agency for colleges, universities, or institutions of higher education that is recognized by the United States department of education and approved by the department and must conduct a curriculum consisting of not less than 2 academic years for dental hygiene graduation with courses at the appropriate level to enable matriculation into a more advanced academic degree program.

(4) Upon delegation by a dentist under section 16215 and under the direct supervision of a dentist, a dental hygienist may administer intraoral block and infiltration anesthesia or nitrous oxide analgesia, or both, to a patient 18 years of age or older, if the following criteria are met:

(a) The dental hygienist has successfully completed a course in the administration of local anesthesia or nitrous oxide analgesia, or both, as applicable, offered by a dental or dental hygiene program accredited by the commission on dental accreditation of the American dental association and approved by the department. A course described in this subdivision involving local anesthesia administration must contain a minimum of 15 hours didactic instruction and 14 hours of clinical experience. A course described in this subdivision involving nitrous oxide analgesia administration must contain a minimum of 4 hours of didactic instruction and 4 hours of clinical experience. The courses of instruction shall include content in all of the following:

(i) In the case of local anesthesia, the following:

- (A) Theory of pain control.
- (B) Selection of pain control modalities.
- (C) Anatomy.
- (D) Neurophysiology.
- (E) Pharmacology of local anesthetics.
- (F) Pharmacology of vasoconstrictors.
- (G) Psychological aspects of pain control.
- (H) Systemic complications.
- (I) Techniques of maxillary anesthesia.
- (J) Techniques of mandibular anesthesia.
- (K) Infection control.
- (L) Local anesthesia medical emergencies.

(ii) In the case of nitrous oxide analgesia, the following:

- (A) Nitrous oxide analgesia medical emergency techniques.
- (B) Pharmacology of nitrous oxide.
- (C) Nitrous oxide techniques.
- (D) If such a course is available, selection of pain control modalities.

(b) The dental hygienist has successfully completed a state or regional board-administered written examination on either or both of the following within 18 months of completion of the course work required under subdivision (a):

(i) Local anesthesia.

(ii) Nitrous oxide analgesia, if such an examination is available and approved by the department.

(c) The dental hygienist maintains and can show evidence of current certification in basic or advanced cardiac life support in compliance with R 338.11701 of the Michigan administrative code.

(5) Application for certification in the administration of local anesthesia and nitrous oxide under subsection (4) is at the discretion of each individual dental hygienist. The department or its designee shall issue a

certificate to a dental hygienist who meets the criteria in subsection (4) following the initial completion of the requirements to administer local anesthesia or nitrous oxide, or both. The certificate is not subject to renewal but is part of the dental hygienist's permanent record and must be prominently displayed in the dental hygienist's principal place of employment. The fee for the person seeking certification for completion of the requirements of subsection (4) is \$10.00.

(6) Monitoring and assisting the administration of nitrous oxide analgesia is at the discretion of each individual registered dental assistant who fulfills the applicable conditions imposed in subsection (7).

(7) In addition to the rules promulgated by the department under this part, upon delegation by a dentist under section 16215 and under the direct supervision of a dentist, a registered dental assistant may assist and monitor the administration of nitrous oxide analgesia by the dentist or dental hygienist if the registered dental assistant has successfully completed a course in the assisting and monitoring of the administration of nitrous oxide analgesia offered by a dental or dental assisting program accredited by the commission on dental accreditation of the American dental association and approved by the department. The course must contain a minimum of 5 hours of didactic instruction and include content in all of the following:

- (a) Nitrous oxide analgesia medical emergencies techniques.
- (b) Pharmacology of nitrous oxide.
- (c) Nitrous oxide techniques.

(8) The ability of a dental hygienist to administer nitrous oxide analgesia under this section is limited to circumstances in which the dental hygienist may administer not more than 50% nitrous oxide.

(9) In the assisting by a registered dental assistant otherwise qualified under this section in the administration of nitrous oxide analgesia, the nitrous oxide levels must be preset by the dentist or dental hygienist and shall not be adjusted by the registered dental assistant except in the case of an emergency, in which circumstances the registered dental assistant may turn off the nitrous oxide and administer 100% oxygen.

(10) Upon assignment by a dentist, a dental hygienist may take an impression for orthodontic appliances, mouth guards, bite splints, and bleaching trays.

(11) In addition to the rules promulgated by the department under this part, upon delegation by a dentist under section 16215 and under the direct supervision of a dentist, a registered dental assistant may place, condense, and carve amalgam restorations and take final impressions for indirect restorations if the registered dental assistant has successfully completed a course offered by a dental or dental assisting program accredited by the commission on dental accreditation of the American dental association and approved by the department. For taking final impressions and placing, condensing, and carving amalgam restorations, the registered dental assistant shall have completed a course with a minimum of 20 hours' didactic instruction followed by a comprehensive clinical experience of sufficient duration that validates clinical competence through a criterion based assessment instrument.

(12) In addition to the rules promulgated by the department under this part, upon delegation by a dentist under section 16215 and under the general supervision of a dentist, a registered dental assistant may perform the following intraoral dental procedures if the registered dental assistant has successfully completed a course meeting the standards described in subsection (13) offered by a dental or dental assisting program accredited by the commission on dental accreditation of the American dental association and approved by the department:

- (a) Performing pulp vitality testing.
- (b) Placing and removing matrices and wedges.
- (c) Applying cavity liners and bases.
- (d) Placing and packing nonepinephrine retraction cords.
- (e) Applying desensitizing agents.
- (f) Taking an impression for orthodontic appliances, mouth guards, bite splints, and bleaching trays.
- (g) Drying endodontic canals with absorbent points.
- (h) Etching and placing adhesives prior to placement of orthodontic brackets.

(13) The course in subsection (12) that involves those intraoral procedures described in subsection (12) must contain a minimum of 10 hours of didactic and clinical instruction.

(14) This section does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual licensed as a dental assistant or as a dental hygienist under this article.

(15) Within 30 days after the effective date of the amendatory act that added this subsection, the board shall develop patient safety and equipment practice guidelines for dentists delegating to dental hygienists and dental assistants the administration of nitrous oxide analgesia under this part. The practice guidelines shall be consistent with national recommendations.

(16) As used in this section:

(a) "Assisting" means setting up equipment and placing the face mask. Assisting does not include titrating and turning on or off equipment.

(b) "Direct supervision" means that a dentist complies with all of the following:

(i) Designates a patient of record upon whom the procedures are to be performed and describes the procedures to be performed.

(ii) Examines the patient before prescribing the procedures to be performed and upon completion of the procedures.

(iii) Is physically present in the office at the time the procedures are being performed.

(c) "General supervision" means that a dentist complies with all of the following:

(i) Designates a patient of record upon whom services are to be performed.

(ii) Is physically present in the office at the time the procedures are being performed.

(d) "Monitoring" means observing levels and reporting to the dentist or dental hygienist.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2002, Act 423, Imd. Eff. June 5, 2002;—Am. 2003, Act 35, Imd. Eff. July 3, 2003;—Am. 2004, Act 30, Imd. Eff. Mar. 22, 2004.

Popular name: Act 368

333.16620 Terms of office.

Sec. 16620. The terms of office of individual members of the board and task force created under this part, except those appointed to fill vacancies, expire 4 years after appointment on June 30 of the year in which the term will expire.

History: Add. 2006, Act 429, Imd. Eff. Oct. 5, 2006.

Popular name: Act 368

***** 333.16621 THIS SECTION IS AMENDED EFFECTIVE MARCH 27, 2019: See 333.16621.amended *****

333.16621 Michigan board of dentistry; creation; appointment and qualifications of members; meetings; voting.

Sec. 16621. (1) The Michigan board of dentistry is created in the department. Subject to subsection (2), the board consists of the following 19 voting members who meet the requirements of part 161:

(a) Eight dentists. Subject to subsection (3), 1 or more of the dentists appointed under this subdivision may have a health profession specialty certification issued under section 16608.

(b) Subject to subsection (3), 2 dentists who have been issued a health profession specialty certification under section 16608.

(c) Four dental hygienists.

(d) Two dental assistants.

(e) Three public members.

(2) A dentist, dental hygienist, public member, or other individual who is a member of the board on July 14, 2000 may serve out his or her term.

(3) The board meeting dates and times shall be concurred in by a vote of not less than 13 board members. One member of the board shall be a dentist who is a dental school faculty member.

(4) A board member licensed to practice as a dental hygienist or a dental assistant votes as an equal member of the board in all matters except those designated in section 16148(1) or (2) that apply only to dentists and not to dental hygienists or dental assistants.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1998, Act 436, Imd. Eff. Dec. 30, 1998;—Am. 2000, Act 160, Imd. Eff. June 14, 2000;—Am. 2002, Act 590, Imd. Eff. Oct. 17, 2002.

Popular name: Act 368

***** 333.16621.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 27, 2019 *****

333.16621.amended Michigan board of dentistry; creation; appointment and qualifications of members; meetings; voting.

Sec. 16621. (1) The Michigan board of dentistry is created in the department. Subject to subsection (2), the board consists of the following 20 voting members, each of whom must meet the requirements of part 161:

(a) Nine dentists. Subject to subsection (4), 1 or more of the dentists appointed under this subdivision may have a health profession specialty certification issued under section 16608.

(b) Subject to subsection (4), 2 dentists who have been issued a health profession specialty certification

under section 16608.

- (c) Four dental hygienists.
- (d) Two dental assistants.
- (e) Three public members.

(2) Beginning 5 years after the effective date of the 2018 amendatory act that amended this subsection, the board must include 1 dental therapist, bringing the total number of voting members on the board to 21. The dental therapists appointed under this subsection must each meet the requirements of part 161.

(3) The board meeting dates and times must be concurred in by a vote of not less than 13 board members.

(4) One member of the board shall be a dentist who is a dental school faculty member.

(5) A board member who is licensed to practice as a dental hygienist, a dental assistant, or a dental therapist votes as an equal member of the board in all matters except those designated in section 16148(1) or (2) that apply only to dentists and not to dental hygienists, dental assistants, or dental therapists.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1998, Act 436, Imd. Eff. Dec. 30, 1998;—Am. 2000, Act 160, Imd. Eff. June 14, 2000;—Am. 2002, Act 590, Imd. Eff. Oct. 17, 2002;—Am. 2018, Act 463, Eff. Mar. 27, 2019.

Popular name: Act 368

333.16624 Task force; creation; purpose; membership.

Sec. 16624. A task force to advise the board is created for health profession specialty fields certified under this part. The task force shall consist of the following 9 members, who shall meet the requirements of part 161; 1 dentist who is not a specialist, 1 prosthodontist, 1 endodontist, 1 oral and maxillofacial surgeon, 1 orthodontist, 1 pediatric dentist, 1 periodontist, 1 oral pathologist, and 1 public member. The oral pathologist shall be certified as a dentist specializing in oral pathology by the board not later than 1 year after the effective date of the amendatory act that added an oral pathologist to the task force. If the oral pathologist is not so certified, his or her term shall terminate at the end of that year.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1987, Act 182, Imd. Eff. Nov. 30, 1987;—Am. 1990, Act 216, Imd. Eff. Oct. 8, 1990.

Compiler's note: For transfer of powers and duties of the dental specialty task force from the department of commerce to the director of the department of consumer and industry services, and the abolishment of the dental specialty task force, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

Popular name: Act 368

333.16625 Rules as to dental hygienist or dental assistant; dental hygiene services performed under supervision of dentist as part of program for dentally underserved program; designation of grantee health agency; requirements; notification; advisory committee; definitions.

Sec. 16625. (1) The board may promulgate rules to prohibit or otherwise restrict the assignment of procedures to a dental hygienist or a dental assistant if the board determines that the assignment constitutes or may constitute a danger to the health, safety, or welfare of the patient or the public.

(2) Notwithstanding section 16601(1)(f) or the rules promulgated under subsection (1), a dental hygienist may perform dental hygiene services under the supervision of a dentist as part of a program for dentally underserved populations in this state conducted by a local, state, or federal grantee health agency for patients who are not assigned by a dentist. The director of community health shall designate a person as a grantee health agency for a 2-year period if the person applies to the department of community health on a form provided by the department of community health and meets all of the following requirements:

(a) Is a public or nonprofit entity, or a school or nursing home, that administers a program of dental care to a dentally underserved population.

(b) Employs or contracts with at least 1 dentist or 1 dental hygienist.

(c) Submits a program overview indicating the approximate population to be served, the method by which the service is to be provided, the procedures for program oversight and direction, and the name and license number of the dentist and dental hygienist, if applicable, who are performing services under the program.

(3) Within 10 business days after the department approves an application and designates a grantee health agency under subsection (2), the department shall notify the board of the designation in writing or make the information electronically available.

(4) The director of community health may appoint an advisory committee to assist the director of community health in designating grantee health agencies under subsection (2). If the director of community health does appoint an advisory committee under this subsection, the director of community health shall include on the advisory committee, at a minimum, a representative from the Michigan dental hygienist association or its successor organization and a representative from the Michigan dental association or its

successor organization.

(5) As used in this section:

(a) "Nursing home" means that term as defined under section 20109.

(b) "School" means a public or private elementary or secondary institution of learning for any grade from kindergarten to 12.

(c) "Supervision" means the overseeing of or participation in the work of any other individual by a health professional licensed under this article in circumstances in which 1 or more of the following exist:

(i) The continuous availability of direct communication in person or by radio, telephone, or telecommunication between the supervised individual and a licensed health professional.

(ii) The availability of a licensed health professional on a regularly scheduled basis to review the practice of the supervised individual, to provide consultation to the supervised individual, to review records, and to further educate the supervised individual in the performance of the individual's functions.

(iii) The provision by the licensed supervising health professional of predetermined procedures and drug protocol.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1991, Act 58, Imd. Eff. June 27, 1991;—Am. 2005, Act 161, Imd. Eff. Oct. 4, 2005.

Compiler's note: For transfer of the grantee health agency advisory committee to the department of community health, and abolishment of the committee, see E.R.O. No. 2009-7, compiled at MCL 333.26330.

Popular name: Act 368

***** 333.16626 THIS SECTION IS AMENDED EFFECTIVE MARCH 27, 2019: See 333.16626.amended *****

333.16626 Dental assistant as second pair of hands.

Sec. 16626. (1) Subject to subsection (2), and notwithstanding section 16601(1)(f) or the rules promulgated under section 16625(1), a dental hygienist may utilize a dental assistant to act as his or her second pair of hands.

(2) Notwithstanding section 16601(1)(e) or the rules promulgated under section 16625(1), a dental assistant may function as a second pair of hands for a dentist or dental hygienist if all of the following are met:

(a) The dentist or dental hygienist is actively performing services in the mouth of a patient at the time the dental assistant is assisting him or her.

(b) If the dental assistant is assisting a dental hygienist, a supervising dentist has assigned the dental assistant to act as the dental hygienist's second pair of hands.

(3) This section does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual licensed as a dental assistant or as a dental hygienist under this article.

(4) As used in this section, "second pair of hands" means that term as defined in R 338.11101 of the Michigan administrative code.

History: Add. 2012, Act 289, Imd. Eff. Aug. 1, 2012.

Popular name: Act 368

***** 333.16626.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 27, 2019 *****

333.16626.amended Dental assistant as second pair of hands.

Sec. 16626. (1) Subject to subsection (2), and notwithstanding section 16601(1)(f) or the rules promulgated under section 16625(1), a dental hygienist or dental therapist may utilize a dental assistant to act as his or her second pair of hands.

(2) Notwithstanding section 16601(1)(e) or the rules promulgated under section 16625(1), a dental assistant may function as a second pair of hands for a dentist, dental hygienist, or dental therapist if all of the following are met:

(a) The dentist, dental hygienist, or dental therapist is actively performing services in the mouth of a patient at the time the dental assistant is assisting him or her.

(b) If the dental assistant is assisting a dental hygienist, a supervising dentist has assigned the dental assistant to act as the dental hygienist's second pair of hands.

(3) This section does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual who is licensed as a dental assistant, dental hygienist, or dental therapist under this article.

(4) As used in this section, "second pair of hands" means that term as defined in R 338.11101 of the Michigan Administrative Code.

History: Add. 2012, Act 289, Imd. Eff. Aug. 1, 2012;—Am. 2018, Act 463, Eff. Mar. 27, 2019.

Popular name: Act 368

333.16627 Establishment of dental clinic by nonprofit corporation.

Sec. 16627. The board shall not by rule or other action prohibit the establishment of a dental clinic by a nonprofit corporation organized for this purpose or by trustees of a health and welfare fund if:

(a) The clinic is created, financed, and operated from trust funds derived from payments and contributions under the terms of collective bargaining agreements between employers and representatives of employees and which are subject to the terms, conditions, and regulations of the labor-management relations act of 1947, 29 U.S.C. 141 to 187.

(b) The clinic is established and operated for the benefit of employees represented or employed by the labor organization, their dependents, and retirees.

(c) The individuals employed by the clinic to practice dentistry are licensed under this article.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.16631 Applicability of section to dentist who uses dental amalgam and who removes dental amalgam; exceptions; procedures; rules; violations; preemption.

Sec. 16631. (1) Except as otherwise provided, this section applies to a dentist who uses dental amalgam and to a dentist who removes dental amalgam. This section does not apply to any of the following:

(a) Oral and maxillofacial surgeons.

(b) Oral and maxillofacial radiologists.

(c) Oral pathologists.

(d) Orthodontists.

(e) Periodontists.

(f) Dentists while providing services in a dental school, in a hospital, or through a local health department.

(2) On or before December 31, 2013, a dentist described in subsection (1) shall install or have installed and use on each wastewater drain in the dentist's office that is used to discharge dental amalgam a separator that has an efficiency of 95% or more as determined through testing in accordance with standards published by the international organization for standardization in ISO 11143:2008 "Dental equipment — Amalgam separators".

(3) On or before the expiration of 90 days after the effective date of this section, the department, in consultation with the department of environmental quality, shall promulgate rules regarding best management practice for dental amalgam collection, disposal, and recycling and the retention and inspection of dental office records regarding the following:

(a) The make, model, and type of dental amalgam separator installed and in use in the office.

(b) The method used to dispose of or recycle the dental amalgam waste collected.

(c) The shipping or other delivery records documenting the transfer of the dental amalgam waste collected to licensed recyclers or disposers.

(d) The proper operation of the dental amalgam separator, including scheduled maintenance as specified in the manufacturer's owner's manual for that separator.

(e) Compliance with dental amalgam best management practices.

(4) A violation of subsection (1) or (2) or a rule promulgated under subsection (3) is a violation of section 16221(h).

(5) Beginning on the effective date of this section and subject to this subsection, this section preempts and supersedes any local ordinance, regulation, or resolution that imposes conflicting, different, or additional standards or requirements on dentists than those contained in this section or rules promulgated by the board under this section. A local unit of government may enact, adopt, maintain, amend, or enforce an ordinance, regulation, or resolution that requires implementation of the requirement in subsections (2) and (3) before the date required in subsection (2). A local unit of government shall not enact, adopt, maintain, or enforce an ordinance, regulation, or resolution that imposes conflicting, different, or additional standards or requirements on dentists than those contained in this section or rules promulgated by the board under this section, including, but not limited to, the requirement to obtain a permit that limits the discharge of mercury into wastewater with a limitation greater than that capable of being achieved by full compliance with this section.

History: Add. 2008, Act 503, Imd. Eff. Jan. 13, 2009.

333.16641 Work authorization for dental laboratory services required; retention and

inspection of work authorizations and copies.

Sec. 16641. (1) A dentist shall not use the services of a dental laboratory without furnishing a written work authorization to the dental laboratory and a carbon copy to the patient for constructing, repairing, or altering prosthetic dentures, bridges, orthodontic or other appliances, or structures to be used as substitutes for or as a part of human teeth or jaws or associated structures, or for the correction of malocclusions or deformities.

(2) A dentist shall retain a written work authorization furnished to a dental laboratory or a copy of the authorization for not less than 3 years and allow the board, its agents, or employees to inspect the file of written work authorizations or copies.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.16642 Work authorization for dental laboratory work; form; contents; name or number of work authorization to accompany invoice; prohibition.

Sec. 16642. (1) A written authorization for dental laboratory work shall be in a form prescribed by the board and shall contain the following:

- (a) The name and address of the laboratory.
- (b) An identification of the patient by name or number.
- (c) The date on which the authorization was written.
- (d) The description of the work to be done, with diagrams if necessary.
- (e) A specification of the type and quality of materials to be used.
- (f) The dentist's signature, complete business address, and license number.

(2) A dental laboratory shall return completed prescribed work to the prescribing dentist or the dentist's office with the name or number of the written work authorization accompanying the invoice.

(3) A dental laboratory shall not have in its possession a prosthetic denture, bridge, orthodontic or other appliance, or structure to be used as a substitute for or as a part of human teeth or jaws or associated structures or for the correction of malocclusions or deformities, completed or being fabricated without having in its possession a written work authorization therefor.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.16643 Dental laboratory; prohibited conduct.

Sec. 16643. A dental laboratory shall not advertise, solicit, represent, or hold itself out to the general public that it will sell, supply, furnish, construct, repair, or alter a prosthetic denture, bridge, orthodontic or other appliance, or structure to be used as a substitute for or as a part of human teeth or jaws or associated structures or for the correction of malocclusions or deformities.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.16644 Record of dental treatment required; retention; rules prescribing form and content; using record for identification purposes.

Sec. 16644. (1) A dentist shall make a record of all dental treatment which has been performed upon a patient, and shall retain that treatment record for a period of not less than 10 years after the performance of the last service upon the patient.

(2) The board shall promulgate rules to prescribe the form and content of the record required by subsection (1), so that the record may be used for identification purposes.

History: Add. 1982, Act 482, Eff. Mar. 30, 1983.

Popular name: Act 368

333.16645 Marking identification on denture or orthodontic appliance.

Sec. 16645. (1) Unless the patient specifically declines, a dentist or dental laboratory that sells, supplies, furnishes, constructs, or repairs a full denture, partial denture with acrylic saddle, or removable orthodontic appliance with acrylic saddle for a specific patient shall permanently mark the patient's name or social security number, whichever the patient chooses, on the denture or orthodontic appliance.

(2) A dentist shall notify a patient who is to receive a denture or orthodontic appliance described in subsection (1) that the patient has the right to decline to have identification marked on the denture or orthodontic appliance, shall ask the patient to choose the information to be marked on the denture or orthodontic appliance, and shall indicate the patient's choices on the work order to the dental laboratory.

History: Add. 1989, Act 262, Imd. Eff. Dec. 26, 1989.

Popular name: Act 368

333.16647 Dental laboratory; inspection; compliance; violation as misdemeanor.

Sec. 16647. (1) The board or an agent or employee of the board may inspect a dental laboratory to determine the laboratory's compliance with this part.

(2) A dental laboratory which violates this part or refuses to allow the board or an agent or employee of the board to inspect a work authorization, prosthetic denture, bridge, orthodontic or other appliance, or structure to be used as a substitute for or as a part of human teeth or jaws or associated structures or for the correction of malocclusions or deformities in its possession is guilty of a misdemeanor.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.16648 Information relative to care and treatment of dental patient; confidentiality; privilege; disclosure; consent; instances not prohibiting disclosure.

Sec. 16648. (1) Information relative to the care and treatment of a dental patient acquired as a result of providing professional dental services is confidential and privileged. Except as otherwise permitted or required under the health insurance portability and accountability act of 1996, Public Law 104-191, and regulations promulgated under that act, 45 CFR parts 160 and 164, or as otherwise provided in subsection (2), a dentist or a person employed by the dentist shall not disclose or be required to disclose that information.

(2) This section does not prohibit disclosure of the information described in subsection (1) in the following instances:

(a) Disclosure as part of the defense to a claim in a court or administrative agency challenging the dentist's professional competence.

(b) Disclosure pursuant to 1967 PA 270, MCL 331.531 to 331.533.

(c) Disclosure in relation to a claim for payment of fees.

(d) Disclosure to a third party payer of information relating to fees for services in the course of a good faith examination of the dentist's records to determine the amount and correctness of fees or the type and volume of services furnished pursuant to provisions for payment established by a third party payer, or information required for a third party payer's predeterminations, post treatment reviews, or audits. For purposes of this subdivision, "third party payer" includes, but is not limited to, a nonprofit dental care corporation, nonprofit health care corporation, insurer, benefit fund, health maintenance organization, and dental capitation plan.

(e) Disclosure, pursuant to a court order, to a police agency as part of a criminal investigation.

(f) Disclosure as provided in section 2844a.

(g) Disclosure made pursuant to section 16222 if the licensee reasonably believes it is necessary to disclose the information to comply with section 16222.

(h) Disclosure under section 16281.

History: Add. 1983, Act 89, Imd. Eff. June 16, 1983;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 1998, Act 496, Eff. Mar. 1, 1999;—Am. 2004, Act 401, Imd. Eff. Oct. 20, 2004.

Popular name: Act 368

***** 333.16651.added THIS ADDED SECTION IS EFFECTIVE MARCH 27, 2019 *****

333.16651.added Dental therapist; requirements for licensure.

Sec. 16651. (1) An individual who is granted a license under this part as a dental therapist may engage in practice as a dental therapist to the extent permitted under this section and sections 16652 to 16658.

(2) To qualify for licensure under this part as a dental therapist, an individual shall apply to the department on forms provided by the department, pay the application fee under section 16323, and demonstrate to the department that he or she meets all of the following:

(a) Has graduated from a dental therapy education program that satisfies all of the following:

(i) Meets the standards established under section 16148 for accreditation of a degree-granting program in dental therapy education at an approved postsecondary education institution.

(ii) As determined by the department in consultation with the board, meets the accreditation standards for dental therapy education programs established by the Commission on Dental Accreditation.

(iii) Is accredited under section 16148.

(iv) Meets any other requirements for dental therapy education programs adopted by the board.

(b) Has passed a comprehensive, competency-based clinical examination approved by the department that includes an examination of the applicant's knowledge of the laws of this state under this part and rules promulgated under this part.

(c) Has completed 500 hours of supervised clinical practice under the direct supervision of a dentist and in conformity with rules adopted by the board. As used in this subdivision, "direct supervision" means that a dentist complies with all of the following:

(i) Designates a patient of record upon whom the procedures are to be performed and describes the procedures to be performed.

(ii) Examines the patient before prescribing the procedures to be performed and upon completion of the procedures.

(iii) Is physically present in the office at the time the procedures are being performed.

History: Add. 2018, Act 463, Eff. Mar. 27, 2019.

Popular name: Act 368

***** 333.16652.added THIS ADDED SECTION IS EFFECTIVE MARCH 27, 2019 *****

333.16652.added Board; granting license; payment of fees.

Sec. 16652. (1) The board shall grant a license to practice as a dental therapist to an applicant for licensure under sections 16651 to 16658 who meets the requirements of sections 16651 to 16658 and rules adopted under those sections for licensure and pays the application fee under section 16323.

(2) A dental therapist shall pay to the board the license fee under section 16323.

History: Add. 2018, Act 463, Eff. Mar. 27, 2019.

***** 333.16653.added THIS ADDED SECTION IS EFFECTIVE MARCH 27, 2019 *****

333.16653.added License renewal; continuing education.

Sec. 16653. As a condition of renewal of a license to practice under sections 16651 to 16658, a dental therapist shall certify that he or she has successfully completed 35 hours of continuing education in the 2 years before renewal. Continuing education under this section must conform with the requirements of part 161 concerning continuing education courses and must include board-approved courses, including, but not limited to, a course in cardiopulmonary resuscitation.

History: Add. 2018, Act 463, Eff. Mar. 27, 2019.

Popular name: Act 368

***** 333.16654.added THIS ADDED SECTION IS EFFECTIVE MARCH 27, 2019 *****

333.16654.added Dental therapist; scope of practice; within certain health settings.

Sec. 16654. A dental therapist may provide services described in section 16656 included within the scope of practice as a dental therapist and under the supervision of a dentist in any of the following health settings:

(a) A hospital that is licensed under article 17.

(b) A health facility or agency, other than a hospital, that is licensed under article 17 and is reimbursed as a federally qualified health center as defined in 42 USC 1395x(aa)(4) or that has been determined by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services to meet the requirements for funding under section 330 of the public health service act, 42 USC 254b.

(c) A federally qualified health center, as defined in 42 USC 1395x(aa)(4), that is licensed as a health facility or agency under article 17.

(d) An outpatient health program or facility operated by a tribe or tribal organization under the Indian self-determination act, 25 USC 5321 to 5332, or by an urban Indian organization receiving funds under title V of the Indian health care improvement act, 25 USC 1651 to 1660h.

(e) A correctional facility. As used in this subdivision, "correctional facility" means a facility or institution that houses a prisoner population under the jurisdiction of the department of corrections.

(f) A health setting in a geographic area that is designated as a dental shortage area by the United States Department of Health and Human Services.

(g) A school-based health center, as that term is defined in 42 USC 280h-5.

(h) A local health department.

(i) Any other clinic or practice setting, including a mobile dental unit, in which at least 50% of the annual total patient base of the dental therapist will consist of patients who meet any of the following:

(i) Are enrolled in a health care program administered by the department of health and human services.

(ii) Have a medical disability or chronic condition that creates a significant barrier to receiving dental care.

(iii) Do not have dental health coverage, either through a public health care program or private insurance, and have an annual gross family income equal to or less than 200% of the federal poverty level. As used in this subparagraph and subparagraph (iv), "federal poverty level" means the poverty guidelines published

annually in the federal register by the United States Department of Health and Human Services under its authority to revise the poverty line under 42 USC 9902.

(iv) Do not have dental health coverage, either through a state public health care program or private insurance, and whose family gross income is equal to or less than 200% of the federal poverty level.

History: Add. 2018, Act 463, Eff. Mar. 27, 2019.

Popular name: Act 368

***** 333.16655.added THIS ADDED SECTION IS EFFECTIVE MARCH 27, 2019 *****

333.16655.added Restricted practice; written practice agreement; requirements; supervising dentist limitations; "written practice agreement" defined.

Sec. 16655. (1) A dental therapist may practice only under the supervision of a dentist and through a written practice agreement signed by the dental therapist and the dentist. A dental therapist may provide only the services that are within his or her scope of practice, are authorized by a supervising dentist, and are provided according to written protocols or orders established by the supervising dentist.

(2) A dental therapist may perform an oral evaluation and assessment of dental disease and develop an individualized treatment plan if the supervising dentist has given the dental therapist written authorization to provide the services and reviews the patient records as provided in the written practice agreement. The written practice agreement may require the supervising dentist to personally examine patients either face-to-face or by the use of electronic means.

(3) A written practice agreement between a supervising dentist and a dental therapist must include all of the following elements:

(a) The services and procedures and the practice settings for those services and procedures that the dental therapist may provide, together with any limitations on those services and procedures.

(b) Any age-specific and procedure-specific practice protocols, including case selection criteria, assessment guidelines, and imaging frequency.

(c) Procedures to be used with patients treated by the dental therapist for obtaining informed consent and for creating and maintaining dental records.

(d) A plan for review of patient records by the supervising dentist and the dental therapist.

(e) A plan for managing medical emergencies in each practice setting in which the dental therapist provides care.

(f) A quality assurance plan for monitoring care, including patient care review, referral follow-up, and a quality assurance chart review.

(g) Protocols for administering and dispensing medications, including the specific circumstances under which medications may be administered and dispensed.

(h) Criteria for providing care to patients with specific medical conditions or complex medical histories, including requirements for consultation before initiating care.

(i) Specific written protocols, including a plan for providing clinical resources and referrals, governing situations in which the patient requires treatment that exceeds the dental therapist's capabilities or the scope of practice as a dental therapist.

(4) A dental therapist who provides services or procedures beyond those authorized in the written practice agreement engages in unprofessional conduct for the purposes of section 16221.

(5) A supervising dentist shall not supervise more than 4 dental therapists.

(6) A supervising dentist shall actively participate in drafting a written practice agreement with a dental therapist. Any revision to the written practice agreement must be documented in a new written practice agreement signed by the supervising dentist and the dental therapist.

(7) A written practice agreement is valid for 3 years. A supervising dentist and dental therapist shall each review the practice agreement before renewing the practice agreement.

(8) A supervising dentist and a dental therapist who sign a written practice agreement shall keep a copy for the dentist's or dental therapist's own records and make a copy available to patients of the dental therapist, or to the department, on request.

(9) As used in this section and sections 16656 and 16657, "written practice agreement" means a document that is signed by a dentist and a dental therapist and that, in conformity with the legal scope of practice as a dental therapist, outlines the functions that the dental therapist is authorized to perform.

History: Add. 2018, Act 463, Eff. Mar. 27, 2019.

Popular name: Act 368

***** 333.16656.added THIS ADDED SECTION IS EFFECTIVE MARCH 27, 2019 *****

333.16656.added Scope of practice; services included; prohibition on prescribing a controlled substance; "health care professional" defined.

Sec. 16656. (1) Under the supervision of a dentist, a licensed dental therapist may provide any of the following care or services:

- (a) Identifying oral and systemic conditions that require evaluation or treatment by dentists, physicians, or other health care professionals and managing referrals.
 - (b) Comprehensive charting of the oral cavity.
 - (c) Providing oral health instruction and disease prevention education, including nutritional counseling and dietary analysis.
 - (d) Administering and exposing radiographic images.
 - (e) Dental prophylaxis including subgingival scaling or polishing procedures.
 - (f) Dispensing and administering via the oral or topical route nonnarcotic analgesics and anti-inflammatory and antibiotic medications as prescribed by a health care professional.
 - (g) Applying topical preventative or prophylactic agents, including fluoride varnish, silver diamine fluoride and other fluoride treatments, antimicrobial agents, and pit and fissure sealants.
 - (h) Pulp vitality testing.
 - (i) Applying desensitizing medication or resin.
 - (j) Fabricating athletic mouth guards.
 - (k) Changing periodontal dressings.
 - (l) Administering local anesthetic and nitrous oxide analgesia.
 - (m) Simple extraction of erupted primary teeth.
 - (n) Emergency palliative treatment of dental pain related to a care or service described in this subsection.
 - (o) Preparation and placement of direct restoration in primary and permanent teeth.
 - (p) Fabrication and placement of single-tooth temporary crowns.
 - (q) Preparation and placement of preformed crowns on primary teeth.
 - (r) Indirect and direct pulp capping on permanent teeth.
 - (s) Indirect pulp capping on primary teeth.
 - (t) Suturing and suture removal.
 - (u) Minor adjustments and repairs on removable prostheses.
 - (v) Placement and removal of space maintainers.
 - (w) Nonsurgical extractions of periodontally diseased permanent teeth with tooth mobility +3. However, a dental therapist shall not extract a tooth for any patient if the tooth is unerupted, impacted, or fractured or needs to be sectioned for removal.
 - (x) Performing other related services and functions authorized by the supervising dentist and for which the dental therapist is trained.
 - (y) Performing any other duties of a dental therapist that are authorized by the board by rule.
- (2) A dental therapist may supervise dental assistants and dental hygienists to the extent permitted in a written practice agreement. However, a dental therapist shall not supervise more than 3 dental assistants and 2 dental hygienists in any 1 practice setting.
- (3) A dental therapist shall not prescribe a controlled substance that is included in schedules 2 to 5 of part 72.

(4) As used in this section and section 16657, "health care professional" means an individual who is authorized to practice a health profession under this article.

History: Add. 2018, Act 463, Eff. Mar. 27, 2019.

Popular name: Act 368

***** 333.16657.added THIS ADDED SECTION IS EFFECTIVE MARCH 27, 2019 *****

333.16657.added Referrals; beyond scope of practice.

Sec. 16657. (1) A supervising dentist shall arrange for another dentist or specialist to provide any services needed by a patient of a dental therapist who is supervised by that dentist that are beyond the scope of practice of the dental therapist and that the supervising dentist is unable to provide.

(2) A dental therapist, in accordance with a written practice agreement entered into under section 16655, shall refer patients to another qualified dental professional or health care professional to receive needed services that exceed the scope of practice of the dental therapist.

History: Add. 2018, Act 463, Eff. Mar. 27, 2019.

Popular name: Act 368

***** 333.16658.added THIS ADDED SECTION IS EFFECTIVE MARCH 27, 2019 *****

333.16658.added Rules; study on licensing dental therapists; written report.

Sec. 16658. (1) Within 12 months after the effective date of the amendatory act that added this section, the department, in consultation with the board, shall promulgate any rules that the department considers necessary to implement this section and sections 16651 to 16657.

(2) Within 7 years after the effective date of the amendatory act that added this section, the department of health and human services, in consultation with the department, shall conduct and complete a study concerning the impact of licensing dental therapists on patient safety, cost-effectiveness, and access to dental services in this state. The study shall focus on the following outcome measures:

- (a) Number of new patients served.
- (b) Reduction in waiting time for needed services.
- (c) Decreased travel time for patients.
- (d) Impact on emergency room usage for dental care.
- (e) Costs to the health care system.

(3) Within 30 days after the completion of the study described in subsection (2), the department of health and human services shall provide a written report concerning the results of the study to the director of the department and the chairs of the standing committees of the senate and house of representatives responsible for health policy.

History: Add. 2018, Act 463, Eff. Mar. 27, 2019.

Compiler's note: Act 368

***** 333.16659.added THIS ADDED SECTION IS EFFECTIVE MARCH 27, 2019 *****

333.16659.added Third party reimbursement or mandated worker's compensation benefits.

Sec. 16659. Sections 16651 to 16658 do not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual who is licensed as a dental therapist under this article.

History: Add. 2018, Act 463, Eff. Mar. 27, 2019.

Popular name: Act 368