

## CHAPTER 466

## DENTISTRY, DENTAL HYGIENE, AND DENTAL LABORATORIES

466.001	Legislative purpose and intent.	466.036	Information; periodic inspections; equipment and supplies.
466.002	Persons exempt from operation of chapter.	466.037	Suspension and revocation; administrative fine.
466.003	Definitions.	466.038	Rules.
466.004	Board of Dentistry.	466.039	Violations.
466.005	Expert witness certificate.	466.041	Hepatitis B carriers.
466.006	Examination of dentists.		
466.0065	Regional licensure examinations.		
466.0067	Application for health access dental license.		
466.00671	Renewal of the health access dental license.		
466.00672	Revocation of health access dental license.		
466.00673	Repeal of a health access dental license.		
466.007	Examination of dental hygienists.		
466.0075	Applicants for examination; medical malpractice insurance.		
466.008	Certification of foreign educational institutions.		
466.009	Reexamination.		
466.011	Licensure.		
466.013	Renewal of license.		
466.0135	Continuing education; dentists.		
466.014	Continuing education; dental hygienists.		
466.015	Inactive status.		
466.016	License to be displayed.		
466.017	Prescription of drugs; anesthesia.		
466.018	Dentist of record; patient records.		
466.019	Advertising by dentists.		
466.021	Retention of dental laboratories by dentist; penalty.		
466.022	Peer review; records; immunity; confidentiality.		
466.023	Dental hygienists; scope and area of practice.		
466.0235	Dental charting.		
466.024	Delegation of duties; expanded functions.		
466.025	Permitting of dental interns serving at state institutions; certification of dentists practicing at government facilities; permitting of nonprofit corporations.		
466.026	Prohibitions; penalties.		
466.027	Sexual misconduct.		
466.0275	Lawful investigations; consent handwriting samples; mental or physical examination.		
466.02751	Establishment of practitioner profile for designation as a controlled substance prescribing practitioner.		
466.028	Grounds for disciplinary action; action by the board.		
466.0282	Specialties.		
466.0285	Proprietorship by nondentists.		
466.031	"Dental laboratory" defined.		
466.032	Registration.		
466.033	Registration certificates.		
466.034	Change of ownership or address.		
466.035	Advertising.		

**466.001 Legislative purpose and intent.**—The legislative purpose for enacting this chapter is to ensure that every dentist or dental hygienist practicing in this state meets minimum requirements for safe practice without undue clinical interference by persons not licensed under this chapter. It is the legislative intent that dental services be provided only in accordance with the provisions of this chapter and not be delegated to unauthorized individuals. It is the further legislative intent that dentists and dental hygienists who fall below minimum competency or who otherwise present a danger to the public shall be prohibited from practicing in this state. All provisions of this chapter relating to the practice of dentistry and dental hygiene shall be liberally construed to carry out such purpose and intent.

**History.**—ss. 1, 3, ch. 79-330; ss. 2, 3, ch. 81-318; ss. 1, 23, 24, ch. 86-291; s. 60, ch. 91-137; s. 7, ch. 91-156; s. 4, ch. 91-429; s. 1, ch. 97-67.

**466.002 Persons exempt from operation of chapter.**—Nothing in this chapter shall apply to the following practices, acts, and operations:

(1) The practice of her or his profession including surgical procedures involving the oral cavity by a physician or surgeon licensed as such under the laws of this state.

(2) A qualified anesthetist giving an anesthetic for a dental operation under the direct supervision of a licensed dentist.

(3) The practice of dentistry in the discharge of their official duties by graduate dentists or dental surgeons in the United States Army, Air Force, Marines, Navy, Public Health Service, Coast Guard, or United States Department of Veterans Affairs.

(4) The practice of dentistry by licensed dentists of other states or countries at meetings of dental organizations approved by the board, while appearing as clinicians.

(5) Students in Florida schools of dentistry and dental hygiene or dental assistant educational programs, while performing regularly assigned work under the curriculum of such schools.

(6) Instructors in Florida schools of dentistry, instructors in dental programs that prepare persons holding D.D.S. or D.M.D. degrees for certification by a specialty board and that are accredited in the United States by January 1, 2005, in the same manner as the board recognizes accreditation for Florida schools of dentistry that are not otherwise affiliated with a Florida school of dentistry, or instructors in Florida schools of dental hygiene or dental assistant educational programs, while performing regularly assigned instructional duties under the curriculum of such schools. A full-time

dental instructor at a dental school or dental program approved by the board may be allowed to practice dentistry at the teaching facilities of such school or program, upon receiving a teaching permit issued by the board, in strict compliance with such rules as are adopted by the board pertaining to the teaching permit and with the established rules and procedures of the dental school or program as recognized in this section.

**History.**—ss. 1, 3, ch. 79-330; ss. 2, 3, ch. 81-318; ss. 2, 23, 24, ch. 86-291; s. 60, ch. 91-137; s. 7, ch. 91-156; s. 4, ch. 91-429; s. 22, ch. 93-268; s. 2, ch. 94-104; s. 250, ch. 97-103; s. 1, ch. 2005-189.

**466.003 Definitions.**—As used in this chapter:

- (1) "Board" means the Board of Dentistry.
- (2) "Dentist" means a person licensed to practice dentistry pursuant to this chapter.
- (3) "Dentistry" means the healing art which is concerned with the examination, diagnosis, treatment planning, and care of conditions within the human oral cavity and its adjacent tissues and structures. It includes the performance or attempted performance of any dental operation, or oral or oral-maxillofacial surgery and any procedures adjunct thereto, including physical evaluation directly related to such operation or surgery pursuant to hospital rules and regulations. It also includes dental service of any kind gratuitously or for any remuneration paid, or to be paid, directly or indirectly, to any person or agency. The term "dentistry" shall also include the following:
  - (a) The taking of an impression of the human tooth, teeth, or jaws directly or indirectly and by any means or method.
  - (b) Supplying artificial substitutes for the natural teeth or furnishing, supplying, constructing, reproducing, or repairing any prosthetic denture, bridge, appliance, or any other structure designed to be worn in the human mouth except on the written work order of a duly licensed dentist.
  - (c) The placing of an appliance or structure in the human mouth or the adjusting or attempting to adjust the same.
  - (d) Delivering the same to any person other than the dentist upon whose work order the work was performed.
  - (e) Professing to the public by any method to furnish, supply, construct, reproduce, or repair any prosthetic denture, bridge, appliance, or other structure designed to be worn in the human mouth.
  - (f) Diagnosing, prescribing, or treating or professing to diagnose, prescribe, or treat disease, pain, deformity, deficiency, injury, or physical condition of the human teeth or jaws or oral-maxillofacial region.
  - (g) Extracting or attempting to extract human teeth.
  - (h) Correcting or attempting to correct malformations of teeth or of jaws.
  - (i) Repairing or attempting to repair cavities in the human teeth.
- (4) "Dental hygiene" means the rendering of educational, preventive, and therapeutic dental services pursuant to ss. 466.023 and 466.024 and any related extra-oral procedure required in the performance of such services.
- (5) "Dental hygienist" means a person licensed to practice dental hygiene pursuant to this chapter.

(6) "Dental assistant" means a person, other than a dental hygienist, who, under the supervision and authorization of a dentist, provides dental care services directly to a patient. This term shall not include a certified registered nurse anesthetist licensed under part I of chapter 464.

(7) "Department" means the Department of Health.

(8) "Direct supervision" means supervision whereby a dentist diagnoses the condition to be treated, a dentist authorizes the procedure to be performed, a dentist remains on the premises while the procedures are performed, and a dentist approves the work performed before dismissal of the patient.

(9) "Indirect supervision" means supervision whereby a dentist authorizes the procedure and a dentist is on the premises while the procedures are performed.

(10) "General supervision" means supervision whereby a dentist authorizes the procedures which are being carried out but need not be present when the authorized procedures are being performed. The authorized procedures may also be performed at a place other than the dentist's usual place of practice. The issuance of a written work authorization to a commercial dental laboratory by a dentist does not constitute general supervision.

(11) "Irremediable tasks" are those intraoral treatment tasks which, when performed, are irreversible and create unalterable changes within the oral cavity or the contiguous structures or which cause an increased risk to the patient. The administration of anesthetics other than topical anesthesia is considered to be an "irremediable task" for purposes of this chapter.

(12) "Remediable tasks" are those intraoral treatment tasks which are reversible and do not create unalterable changes within the oral cavity or the contiguous structures and which do not cause an increased risk to the patient.

(13) "Oral and maxillofacial surgery" means the specialty of dentistry involving diagnosis, surgery, and adjunctive treatment of diseases, injuries, and defects involving the functional and esthetic aspects of the hard and soft tissues of the oral and maxillofacial regions. This term may not be construed to apply to any individual exempt under s. 466.002(1).

(14) "Health access setting" means a program or an institution of the Department of Children and Family Services, the Department of Health, the Department of Juvenile Justice, a nonprofit community health center, a Head Start center, a federally qualified health center or look-alike as defined by federal law, a school-based prevention program, a clinic operated by an accredited college of dentistry, or an accredited dental hygiene program in this state if such community service program or institution immediately reports to the Board of Dentistry all violations of s. 466.027, s. 466.028, or other practice act or standard of care violations related to the actions or inactions of a dentist, dental hygienist, or dental assistant engaged in the delivery of dental care in such setting.

(15) "School-based prevention program" means preventive oral health services offered at a school by one of the entities defined in subsection (14) or by a nonprofit organization that is exempt from federal income taxation

under s. 501(a) of the Internal Revenue Code, and described in s. 501(c)(3) of the Internal Revenue Code.

**History.**—ss. 1, 3, ch. 79-330; ss. 2, 3, ch. 81-318; ss. 3, 23, 24, ch. 86-291; s. 60, ch. 91-137; s. 7, ch. 91-156; s. 4, ch. 91-429; s. 1, ch. 94-104; s. 126, ch. 94-218; s. 2, ch. 97-67; s. 107, ch. 97-264; s. 130, ch. 2000-318; s. 1, ch. 2008-64; s. 4, ch. 2011-95.

#### **466.004 Board of Dentistry.—**

(1) To carry out the provisions of this chapter, there is created within the department the Board of Dentistry consisting of 11 members who shall be appointed by the Governor and subject to confirmation by the Senate. Seven members of the board must be licensed dentists actively engaged in the clinical practice of dentistry in this state; two members must be licensed dental hygienists actively engaged in the practice of dental hygiene in this state; and the remaining two members must be laypersons who are not, and have never been, dentists, dental hygienists, or members of any closely related profession or occupation. Each member of the board who is a licensed dentist must have been actively engaged in the practice of dentistry primarily as a clinical practitioner for at least 5 years immediately preceding the date of her or his appointment to the board and must remain primarily in clinical practice during all subsequent periods of appointment to the board. Each member of the board who is connected in any way with any dental college or community college must be in compliance with s. 456.007. At least one member of the board must be 60 years of age or older. Members shall be appointed for 4-year terms, but may serve no more than a total of 10 years.

(2) To advise the board, it is the intent of the Legislature that councils be appointed as specified in paragraphs (a), (b), and (c). The department shall provide administrative support to the councils and shall provide public notice of meetings and agenda of the councils. Councils shall include at least one board member who shall chair the council and shall include nonboard members. All council members shall be appointed by the board chair. Council members shall be appointed for 4-year terms, and all members shall be eligible for reimbursement of expenses in the manner of board members.

(a) A Council on Dental Hygiene shall be appointed by the board chair and shall include one dental hygienist member of the board, who shall chair the council, one dental member of the board, and three dental hygienists who are actively engaged in the practice of dental hygiene in this state. In making the appointments, the chair shall consider recommendations from the Florida Dental Hygiene Association. The council shall meet at the request of the board chair, a majority of the members of the board, or the council chair; however, the council must meet at least three times a year. The council is charged with the responsibility of and shall meet for the purpose of developing rules and policies for recommendation to the board, which the board shall consider, on matters pertaining to that part of dentistry consisting of educational, preventive, or therapeutic dental hygiene services; dental hygiene licensure, discipline, or regulation; and dental hygiene education. Rule and policy recommendations of the council shall be considered by the board at its next regularly scheduled

meeting in the same manner in which it considers rule and policy recommendations from designated subcommittees of the board. Any rule or policy proposed by the board pertaining to the specified part of dentistry defined by this subsection shall be referred to the council for a recommendation before final action by the board. The board may take final action on rules pertaining to the specified part of dentistry defined by this subsection without a council recommendation if the council fails to submit a recommendation in a timely fashion as prescribed by the board.

(b) A Council on Dental Assisting shall be appointed by the board chair and shall include one board member who shall chair the council and three dental assistants who are actively engaged in dental assisting. The council shall meet at the request of the board chair or a majority of the members of the board. The council shall meet for the purpose of developing recommendations to the board on matters pertaining to that part of dentistry related to dental assisting.

(c) With the concurrence of the State Surgeon General, the board chair may create and abolish other advisory councils relating to dental subjects, including, but not limited to: examinations, access to dental care, indigent care, nursing home and institutional care, public health, disciplinary guidelines, and other subjects as appropriate. Such councils shall be appointed by the board chair and shall include at least one board member who shall serve as chair.

(3) The board shall maintain its headquarters in Tallahassee.

(4) The board is authorized to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter and chapter 456, including the establishment of a fee to defray the cost of duplicating any license certification or permit, not to exceed \$10 per duplication.

(5) The board is authorized to publish and distribute such pamphlets, newsletters, and other publications as are reasonably necessary.

(6) All provisions of chapter 456 relating to the board shall apply.

**History.**—ss. 1, 3, ch. 79-330; ss. 2, 3, ch. 81-318; ss. 4, 23, 24, ch. 86-291; s. 17, ch. 87-172; s. 47, ch. 90-228; s. 1, ch. 90-341; s. 60, ch. 91-137; s. 7, ch. 91-156; s. 4, ch. 91-429; s. 97, ch. 92-149; s. 127, ch. 94-218; s. 1, ch. 96-281; s. 1107, ch. 97-103; s. 69, ch. 98-166; s. 128, ch. 98-200; s. 55, ch. 99-5; s. 1, ch. 99-183; s. 1, ch. 2000-115; s. 128, ch. 2000-160; s. 2, ch. 2005-189; s. 55, ch. 2006-1; s. 85, ch. 2008-6.

#### **466.005 Expert witness certificate.—**

(1)(a) The department shall issue a certificate authorizing a dentist who holds an active and valid license to practice dentistry in another state or a province of Canada to provide expert testimony in this state, if the dentist submits to the department:

1. A complete registration application containing the dentist's legal name, mailing address, telephone number, business locations, the names of the jurisdictions where the dentist holds an active and valid license to practice dentistry, and the license number or other identifying number issued to the dentist by the jurisdiction's licensing entity; and

2. An application fee of \$50.

(b) The department shall approve an application for an expert witness certificate within 10 business days

after receipt of the completed application and payment of the application fee if the applicant holds an active and valid license to practice dentistry in another state or a province of Canada and has not had a previous expert witness certificate revoked by the board. An application is approved by default if the department does not act upon the application within the required period. A dentist must notify the department in writing of his or her intent to rely on a certificate approved by default.

(c) An expert witness certificate is valid for 2 years after the date of issuance.

(2) An expert witness certificate authorizes the dentist to whom the certificate is issued to do only the following:

(a) Provide a verified written medical expert opinion as provided in s. 766.203.

(b) Provide expert testimony about the prevailing professional standard of care in connection with medical negligence litigation pending in this state against a dentist licensed under this chapter.

(3) An expert witness certificate does not authorize a dentist to engage in the practice of dentistry as defined in s. 466.003. A dentist issued a certificate under this section who does not otherwise practice dentistry in this state is not required to obtain a license under this chapter or pay any license fees. An expert witness certificate shall be treated as a license in any disciplinary action, and the holder of an expert witness certificate shall be subject to discipline by the board.

*History.—s. 6, ch. 2011-233.*

#### **466.006 Examination of dentists.—**

(1)(a) It is the intent of the Legislature to reduce the costs associated with an independent state-developed practical or clinical examination to measure an applicant's ability to practice the profession of dentistry and to use the American Dental Licensing Examination developed by the American Board of Dental Examiners, Inc., in lieu of an independent state-developed practical or clinical examination. The Legislature finds that the American Dental Licensing Examination, in both its structure and function, consistently meets generally accepted testing standards and has been found, as it is currently organized and operating, to adequately and reliably measure an applicant's ability to practice the profession of dentistry.

(b) Any person desiring to be licensed as a dentist shall apply to the department to take the licensure examinations and shall verify the information required on the application by oath. The application shall include two recent photographs. There shall be an application fee set by the board not to exceed \$100 which shall be nonrefundable. There shall also be an examination fee set by the board, which shall not exceed \$425 plus the actual per applicant cost to the department for purchase of some or all of the examination from the American Board of Dental Examiners or its successor entity, if any, provided the board finds the successor entity's clinical examination complies with the provisions of this section. The examination fee may be refundable if the applicant is found ineligible to take the examinations.

(2) An applicant shall be entitled to take the examinations required in this section to practice dentistry in this state if the applicant:

(a) Is 18 years of age or older.

(b)1. Is a graduate of a dental school accredited by the American Dental Association Commission on Dental Accreditation or its successor entity, if any, or any other dental accrediting entity recognized by the United States Department of Education; or

2. Is a dental student in the final year of a program at such an accredited dental school who has completed all the coursework necessary to prepare the student to perform the clinical and diagnostic procedures required to pass the examinations. With respect to a dental student in the final year of a program at a dental school, a passing score on the examinations is valid for 365 days after the date the examinations were completed. A dental school student who takes the licensure examinations during the student's final year of an approved dental school must have graduated before being certified for licensure pursuant to s. 466.011.

(c)1. Has successfully completed the National Board of Dental Examiners dental examination; or

2. Has an active health access dental license in this state; and

a. The applicant has at least 5,000 hours within 4 consecutive years of clinical practice experience providing direct patient care in a health access setting as defined in s. 466.003; the applicant is a retired veteran dentist of any branch of the United States Armed Services who has practiced dentistry while on active duty and has at least 3,000 hours within 3 consecutive years of clinical practice experience providing direct patient care in a health access setting as defined in s. 466.003; or the applicant has provided a portion of his or her salaried time teaching health profession students in any public education setting, including, but not limited to, a community college, college, or university, and has at least 3,000 hours within 3 consecutive years of clinical practice experience providing direct patient care in a health access setting as defined in s. 466.003;

b. The applicant has not been disciplined by the board, except for citation offenses or minor violations;

c. The applicant has not filed a report pursuant to s. 456.049; and

d. The applicant has not been convicted of or pled nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession.

(3) If an applicant is a graduate of a dental college or school not accredited in accordance with paragraph (2)(b) or of a dental college or school not approved by the board, the applicant is not entitled to take the examinations required in this section to practice dentistry until she or he satisfies one of the following:

(a) Completes a program of study, as defined by the board by rule, at an accredited American dental school and demonstrates receipt of a D.D.S. or D.M.D. from said school; or

(b) Submits proof of having successfully completed at least 2 consecutive academic years at a full-time supplemental general dentistry program accredited by the American Dental Association Commission on Dental

Accreditation. This program must provide didactic and clinical education at the level of a D.D.S. or D.M.D. program accredited by the American Dental Association Commission on Dental Accreditation.

(4) Notwithstanding any other provision of law in chapter 466 pertaining to the clinical dental licensure examination or national examinations, to be licensed as a dentist in this state, an applicant must successfully complete the following:

(a) A written examination on the laws and rules of the state regulating the practice of dentistry;

(b)1. A practical or clinical examination, which shall be the American Dental Licensing Examination produced by the American Board of Dental Examiners, Inc., or its successor entity, if any, that is administered in this state and graded by dentists licensed in this state and employed by the department for just such purpose, provided that the board has attained, and continues to maintain thereafter, representation on the board of directors of the American Board of Dental Examiners, the examination development committee of the American Board of Dental Examiners, and such other committees of the American Board of Dental Examiners as the board deems appropriate by rule to assure that the standards established herein are maintained organizationally. A passing score on the American Dental Licensing Examination administered in this state and graded by dentists who are licensed in this state is valid for 365 days after the date the official examination results are published.

2.a. As an alternative to the requirements of subparagraph 1., an applicant may submit scores from an American Dental Licensing Examination previously administered in a jurisdiction other than this state after October 1, 2011, and such examination results shall be recognized as valid for the purpose of licensure in this state. A passing score on the American Dental Licensing Examination administered out-of-state shall be the same as the passing score for the American Dental Licensing Examination administered in this state and graded by dentists who are licensed in this state. The examination results are valid for 365 days after the date the official examination results are published. The applicant must have completed the examination after October 1, 2011.

b. This subparagraph may not be given retroactive application.

3. If the date of an applicant's passing American Dental Licensing Examination scores from an examination previously administered in a jurisdiction other than this state under subparagraph 2. is older than 365 days, then such scores shall nevertheless be recognized as valid for the purpose of licensure in this state, but only if the applicant demonstrates that all of the following additional standards have been met:

a.(I) The applicant completed the American Dental Licensing Examination after October 1, 2011.

(II) This sub-subparagraph may not be given retroactive application;

b. The applicant graduated from a dental school accredited by the American Dental Association Commission on Dental Accreditation or its successor entity, if any, or any other dental accrediting organization

recognized by the United States Department of Education. Provided, however, if the applicant did not graduate from such a dental school, the applicant may submit proof of having successfully completed a full-time supplemental general dentistry program accredited by the American Dental Association Commission on Dental Accreditation of at least 2 consecutive academic years at such accredited sponsoring institution. Such program must provide didactic and clinical education at the level of a D.D.S. or D.M.D. program accredited by the American Dental Association Commission on Dental Accreditation;

c. The applicant currently possesses a valid and active dental license in good standing, with no restriction, which has never been revoked, suspended, restricted, or otherwise disciplined, from another state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico;

d. The applicant submits proof that he or she has never been reported to the National Practitioner Data Bank, the Healthcare Integrity and Protection Data Bank, or the American Association of Dental Boards Clearinghouse. This sub-subparagraph does not apply if the applicant successfully appealed to have his or her name removed from the data banks of these agencies;

e.(I) In the 5 years immediately preceding the date of application for licensure in this state, the applicant must submit proof of having been consecutively engaged in the full-time practice of dentistry in another state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico, or, if the applicant has been licensed in another state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico for less than 5 years, the applicant must submit proof of having been engaged in the full-time practice of dentistry since the date of his or her initial licensure.

(II) As used in this section, "full-time practice" is defined as a minimum of 1,200 hours per year for each and every year in the consecutive 5-year period or, where applicable, the period since initial licensure, and must include any combination of the following:

(A) Active clinical practice of dentistry providing direct patient care.

(B) Full-time practice as a faculty member employed by a dental or dental hygiene school approved by the board or accredited by the American Dental Association Commission on Dental Accreditation.

(C) Full-time practice as a student at a postgraduate dental education program approved by the board or accredited by the American Dental Association Commission on Dental Accreditation.

(III) The board shall develop rules to determine what type of proof of full-time practice is required and to recoup the cost to the board of verifying full-time practice under this section. Such proof must, at a minimum, be:

(A) Admissible as evidence in an administrative proceeding;

(B) Submitted in writing;

(C) Submitted by the applicant under oath with penalties of perjury attached;

(D) Further documented by an affidavit of someone unrelated to the applicant who is familiar with the applicant's practice and testifies with particularity that the applicant has been engaged in full-time practice; and

(E) Specifically found by the board to be both credible and admissible.

(IV) An affidavit of only the applicant is not acceptable proof of full-time practice unless it is further attested to by someone unrelated to the applicant who has personal knowledge of the applicant's practice. If the board deems it necessary to assess credibility or accuracy, the board may require the applicant or the applicant's witnesses to appear before the board and give oral testimony under oath;

f. The applicant must submit documentation that he or she has completed, or will complete, prior to licensure in this state, continuing education equivalent to this state's requirements for the last full reporting biennium;

g. The applicant must prove that he or she has never been convicted of, or pled nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession in any jurisdiction;

h. The applicant must successfully pass a written examination on the laws and rules of this state regulating the practice of dentistry and must successfully pass the computer-based diagnostic skills examination; and

i. The applicant must submit documentation that he or she has successfully completed the National Board of Dental Examiners dental examination.

(5)(a) The practical examination required under subsection (4) shall be the American Dental Licensing Examination developed by the American Board of Dental Examiners, Inc., or its successor entity, if any, provided the board finds that the successor entity's clinical examination complies with the provisions of this section, and shall include, at a minimum:

1. A comprehensive diagnostic skills examination covering the full scope of dentistry and an examination on applied clinical diagnosis and treatment planning in dentistry for dental candidates;

2. Two restorations on a live patient or patients. The board by rule shall determine the class of such restorations;

3. A demonstration of periodontal skills on a live patient;

4. A demonstration of prosthetics and restorative skills in complete and partial dentures and crowns and bridges and the utilization of practical methods of evaluation, specifically including the evaluation by the candidate of completed laboratory products such as, but not limited to, crowns and inlays filled to prepared model teeth;

5. A demonstration of restorative skills on a mannequin which requires the candidate to complete procedures performed in preparation for a cast restoration;

6. A demonstration of endodontic skills; and

7. A diagnostic skills examination demonstrating ability to diagnose conditions within the human oral cavity and its adjacent tissues and structures from photographs, slides, radiographs, or models pursuant to

rules of the board. If an applicant fails to pass the diagnostic skills examination in three attempts, the applicant shall not be eligible for reexamination unless she or he completes additional educational requirements established by the board.

(b) The department shall consult with the board in planning the times, places, physical facilities, training of personnel, and other arrangements concerning the administration of the examination. The board or a duly designated committee thereof shall approve the final plans for the administration of the examination;

(c) If the applicant fails to pass the clinical examination in three attempts, the applicant shall not be eligible for reexamination unless she or he completes additional educational requirements established by the board; and

(d) The board may by rule provide for additional procedures which are to be tested, provided such procedures shall be common to the practice of general dentistry. The board by rule shall determine the passing grade for each procedure and the acceptable variation for examiners. No such rule shall apply retroactively.

The department shall require a mandatory standardization exercise for all examiners prior to each practical or clinical examination and shall retain for employment only those dentists who have substantially adhered to the standard of grading established at such exercise.

(6)(a) It is the finding of the Legislature that absent a threat to the health, safety, and welfare of the public, the relocation of applicants to practice dentistry within the geographic boundaries of this state, who are lawfully and currently practicing dentistry in another state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico, based on their scores from the American Dental Licensing Examination administered in a state other than this state, is substantially related to achieving the important state interest of improving access to dental care for underserved citizens of this state and furthering the economic development goals of the state. Therefore, in order to maintain valid active licensure in this state, all applicants for licensure who are relocating to this state based on scores from the American Dental Licensing Examination administered in a state other than this state must actually engage in the full-time practice of dentistry inside the geographic boundaries of this state within 1 year of receiving such licensure in this state. The Legislature finds that, if such applicants do not actually engage in the full-time practice of dentistry within the geographic boundaries of this state within 1 year of receiving such a license in this state, access to dental care for the public will not significantly increase, patients' continuity of care will not be attained, and the economic development goals of the state will not be significantly met.

(b)1. As used in this section, "full-time practice of dentistry within the geographic boundaries of this state within 1 year" is defined as a minimum of 1,200 hours in the initial year of licensure, which must include any combination of the following:

a. Active clinical practice of dentistry providing direct patient care within the geographic boundaries of this state.

b. Full-time practice as a faculty member employed by a dental or dental hygiene school approved by the board or accredited by the American Dental Association Commission on Dental Accreditation and located within the geographic boundaries of this state.

c. Full-time practice as a student at a postgraduate dental education program approved by the board or accredited by the American Dental Association Commission on Dental Accreditation and located within the geographic boundaries of this state.

2. The board shall develop rules to determine what type of proof of full-time practice of dentistry within the geographic boundaries of this state for 1 year is required in order to maintain active licensure and shall develop rules to recoup the cost to the board of verifying maintenance of such full-time practice under this section. Such proof must, at a minimum:

a. Be admissible as evidence in an administrative proceeding;

b. Be submitted in writing;

c. Be submitted by the applicant under oath with penalties of perjury attached;

d. Be further documented by an affidavit of someone unrelated to the applicant who is familiar with the applicant's practice and testifies with particularity that the applicant has been engaged in full-time practice of dentistry within the geographic boundaries of this state within the last 365 days; and

e. Include such additional proof as specifically found by the board to be both credible and admissible.

3. An affidavit of only the applicant is not acceptable proof of full-time practice of dentistry within the geographic boundaries of this state within 1 year, unless it is further attested to by someone unrelated to the applicant who has personal knowledge of the applicant's practice within the last 365 days. If the board deems it necessary to assess credibility or accuracy, the board may require the applicant or the applicant's witnesses to appear before the board and give oral testimony under oath.

(c) It is the further intent of the Legislature that a license issued pursuant to paragraph (a) shall expire in the event the board finds that it did not receive acceptable proof of full-time practice within the geographic boundaries of this state within 1 year after the initial issuance of the license. The board shall make reasonable attempts within 30 days prior to the expiration of such a license to notify the licensee in writing at his or her last known address of the need for proof of full-time practice in order to continue licensure. If the board has not received a satisfactory response from the licensee within the 30-day period, the licensee must be served with actual or constructive notice of the pending expiration of licensure and be given 20 days in which to submit proof required in order to continue licensure. If the 20-day period expires and the board finds it has not received acceptable proof of full-time practice within the geographic boundaries of this state within 1 year after the initial issuance of the license, then the board must issue an administrative order finding that the license has expired. Such an order may be appealed by the former licensee in accordance with the provisions of chapter 120. In the event of expiration, the licensee shall

immediately cease and desist from practicing dentistry and shall immediately surrender to the board the wallet-size identification card and wall card. A person who uses or attempts to use a license issued pursuant to this section which has expired commits unlicensed practice of dentistry, a felony of the third degree pursuant to s. 466.026(1)(b), punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

**History.**—ss. 1, 3, ch. 79-330; ss. 13, 15, 25, 26, 30, 34, 62, ch. 80-406; ss. 2, 3, ch. 81-318; ss. 8, 38, 41, ch. 82-179; s. 1, ch. 82-220; s. 1, ch. 83-172; s. 87, ch. 83-218; s. 4, ch. 85-156; ss. 5, 23, 24, ch. 86-291; s. 15, ch. 88-205; s. 10, ch. 89-66; s. 48, ch. 90-228; s. 2, ch. 90-341; ss. 13, 60, ch. 91-137; s. 7, ch. 91-156; s. 4, ch. 91-429; s. 251, ch. 97-103; s. 108, ch. 97-264; s. 1, ch. 2004-300; s. 3, ch. 2005-189; s. 2, ch. 2008-64; s. 9, ch. 2011-95; s. 1, ch. 2012-14.

#### **466.0065 Regional licensure examinations.—**

(1) It is the intent of the Legislature that schools of dentistry be allowed to offer regional licensure examinations to dental students who are in the final year of a program at an approved dental school for the sole purpose of facilitating the student's licensing in other jurisdictions. This section does not allow a person to be licensed as a dentist in this state without taking the examinations as set forth in s. 466.006, nor does this section mean that regional examinations administered under this section may be substituted for complying with testing requirements under s. 466.006.

(2) Each school of dentistry in this state which is accredited by the Commission on Accreditation of the American Dental Association or its successor agency may, upon written approval by the Board of Dentistry, offer regional licensure examinations only to dental students in the final year of a program at an approved dental school, if the board has approved the hosting school's written plan to comply with the following conditions:

(a) A member of the regional examination body's board of directors or equivalent thereof must be a member of the American Association of Dental Examiners.

(b) The student must have successfully passed parts I and II of the National Board of Dental Examiners examination within 2 years before taking the regional examination.

(c) The student must possess medical malpractice insurance in amounts not less than the amounts required to take the Florida licensure examinations.

(d) At least one of the examination monitors must be a dentist licensed in this state who has completed all necessary standardization exercises required by the regional examination body. Recruitment of examination monitors is the responsibility of the regional examination body.

(e) Adequate arrangements, as defined by the regional examination body and as otherwise required by law, must be made, when necessary, for patients who require followup care as a result of procedures performed during the clinical portion of the regional examination. The regional examination body must inform patients in writing of their right to followup care in advance of any procedures performed by a student.

(f) The board chair or the chair's designee must be allowed to observe testing while it is in progress.

(g) Each student, upon being deemed eligible by the dental school to apply to the regional examination body

to take the regional examination, must receive written disclosure in at least 12-point boldface type that states: "This examination does not meet the licensure requirements of chapter 466, Florida Statutes, for licensure in the State of Florida. Persons wishing to practice dentistry in Florida must pass the Florida licensure examinations."

(h) The student must be enrolled as a dental student in the student's final year of a program at an approved dental school that is accredited by the Commission on Accreditation of the American Dental Association or its successor agency.

(i) The student must have completed all coursework deemed necessary by the dental school to prepare the student to perform all clinical and diagnostic procedures required to pass the regional examination.

(j) The student's academic record must not include any evidence suggesting that the student poses an unreasonable risk to any live patients who are required for the clinical portion of the regional examination. In order to protect the health and safety of the public, the dental school may request additional information and documents pertaining to the candidate's mental and physical health in order to fully assess the candidate's fitness to engage in exercises involving a live patient.

(3) A student who takes the examination pursuant to this section, a dental school that submits a plan pursuant to this section, or a regional examination body that a dental school proposes to host under this section does not have standing to assert that a state agency has taken action for which a hearing may be sought under ss. 120.569 and 120.57.

*History.—*s. 2, ch. 2004-300; s. 11, ch. 2011-95.

**1466.0067 Application for health access dental license.**—The Legislature finds that there is an important state interest in attracting dentists to practice in underserved health access settings in this state and further, that allowing out-of-state dentists who meet certain criteria to practice in health access settings without the supervision of a dentist licensed in this state is substantially related to achieving this important state interest. Therefore, notwithstanding the requirements of s. 466.006, the board shall grant a health access dental license to practice dentistry in this state in health access settings as defined in s. 466.003 to an applicant that:

(1) Files an appropriate application approved by the board;

(2) Pays an application license fee for a health access dental license, laws-and-rule exam fee, and an initial licensure fee. The fees specified in this subsection may not differ from an applicant seeking licensure pursuant to s. 466.006;

(3) Has not been convicted of or pled nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession;

(4) Submits proof of graduation from a dental school accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency;

(5) Submits documentation that she or he has completed, or will obtain prior to licensure, continuing

education equivalent to this state's requirement for dentists licensed under s. 466.006 for the last full reporting biennium before applying for a health access dental license;

(6) Submits proof of her or his successful completion of parts I and II of the dental examination by the National Board of Dental Examiners and a state or regional clinical dental licensing examination that the board has determined effectively measures the applicant's ability to practice safely;

(7) Currently holds a valid, active, dental license in good standing which has not been revoked, suspended, restricted, or otherwise disciplined from another of the United States, the District of Columbia, or a United States territory;

(8) Has never had a license revoked from another of the United States, the District of Columbia, or a United States territory;

(9) Has never failed the examination specified in s. 466.006, unless the applicant was reexamined pursuant to s. 466.006 and received a license to practice dentistry in this state;

(10) Has not been reported to the National Practitioner Data Bank, unless the applicant successfully appealed to have his or her name removed from the data bank;

(11) Submits proof that he or she has been engaged in the active, clinical practice of dentistry providing direct patient care for 5 years immediately preceding the date of application, or in instances when the applicant has graduated from an accredited dental school within the preceding 5 years, submits proof of continuous clinical practice providing direct patient care since graduation; and

(12) Has passed an examination covering the laws and rules of the practice of dentistry in this state as described in s. 466.006(4)(a).

*History.—*ss. 3, 6, ch. 2008-64; s. 104, ch. 2010-5; s. 10, ch. 2011-95.

*Note.—*Repealed January 1, 2015, by s. 6, ch. 2008-64, unless reenacted by the Legislature.

**1466.00671 Renewal of the health access dental license.**—

(1) A health access dental licensee shall apply for renewal each biennium. At the time of renewal, the licensee shall sign a statement that she or he has complied with all continuing education requirements of an active dentist licensee. The board shall renew a health access dental license for an applicant that:

(a) Submits documentation, as approved by the board, from the employer in the health access setting that the licensee has at all times pertinent remained an employee;

(b) Has not been convicted of or pled nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession;

(c) Has paid a renewal fee set by the board. The fee specified herein may not differ from the renewal fee adopted by the board pursuant to s. 466.013. The department may provide payment for these fees through the dentist's salary, benefits, or other department funds;



(d) Has not failed the examination specified in s. 466.006 since initially receiving a health access dental license or since the last renewal; and

(e) Has not been reported to the National Practitioner Data Bank, unless the applicant successfully appealed to have his or her name removed from the data bank.

(2) The board may undertake measures to independently verify the health access dental licensee's ongoing employment status in the health access setting.

<sup>1</sup>History.—ss. 4, 6, ch. 2008-64; s. 12, ch. 2011-95.

<sup>1</sup>Note.—Repealed January 1, 2015, by s. 6, ch. 2008-64, unless reenacted by the Legislature.

**<sup>1</sup>466.00672 Revocation of health access dental license.—**

(1) The board shall revoke a health access dental license upon:

(a) The licensee's termination from employment from a qualifying health access setting;

(b) Final agency action determining that the licensee has violated any provision of s. 466.027 or s. 466.028, other than infractions constituting citation offenses or minor violations; or

(c) Failure of the Florida dental licensure examination.

(2) Failure of an individual licensed pursuant to s. 466.0067 to limit the practice of dentistry to health access settings as defined in s. 466.003 constitutes the unlicensed practice of dentistry.

<sup>1</sup>History.—ss. 5, 6, ch. 2008-64; s. 8, ch. 2011-95.

<sup>1</sup>Note.—Repealed January 1, 2015, by s. 6, ch. 2008-64, unless reenacted by the Legislature.

**466.00673 Repeal of a health access dental license.—**Effective January 1, 2015, ss. 466.0067-466.00673 are repealed unless reenacted by the Legislature. Any health access dental license issued before January 1, 2015, shall remain valid according to ss. 466.0067-466.00673, without effect from repeal.

<sup>1</sup>History.—s. 6, ch. 2008-64.

**466.007 Examination of dental hygienists.—**

(1) Any person desiring to be licensed as a dental hygienist shall apply to the department to take the licensure examinations and shall verify the information required on the application by oath. The application shall include two recent photographs of the applicant. There shall be a nonrefundable application fee set by the board not to exceed \$100 and an examination fee set by the board which shall not be more than \$225. The examination fee may be refunded if the applicant is found ineligible to take the examinations.

(2) An applicant is entitled to take the examinations required in this section to practice dental hygiene in this state if the applicant:

(a) Is 18 years of age or older.

(b)1. Is a graduate of a dental hygiene college or school approved by the board or accredited by the Commission on Accreditation of the American Dental Association or its successor entity, if any, or any other dental hygiene program accrediting entity recognized by the United States Department of Education; or

2. Is a graduate of a dental college or school accredited in accordance with s. 466.006(2)(b), or a

graduate of an unaccredited dental college or school, and has met the requirements of subsection (3).

(c)1. In the case of a graduate of a dental hygiene college or school under subparagraph (2)(b)1.:

a. Has successfully completed the National Board of Dental Hygiene examination at any time before the date of application;

b. Has been certified by the American Dental Association Joint Commission on National Dental Examinations at any time before the date of application;

c. Effective January 1, 1997, has completed coursework that is comparable to an associate in science degree;

d. Has not been disciplined by a board, except for citation offenses or minor violations; and

e. Has not been convicted of or pled nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession.

2. In the case of a graduate of a dental college or school under subparagraph (2)(b)2.:

a. <sup>1</sup>Has successfully completed the National Board Dental Hygiene Examination or the National Board Dental Examination;

b. Has not been disciplined by a board, except for citation offenses or minor violations; and

c. Has not been convicted of or pled nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession.

(3) A graduate of a dental college or school shall be entitled to take the examinations required in this section to practice dental hygiene in this state if, in addition to the requirements specified in subsection (2), the graduate meets the following requirements:

(a) Submits the following credentials for review by the board:

1. Transcripts totaling 4 academic years of post-secondary dental education; and

2. A dental school diploma which is comparable to a D.D.S. or D.M.D.

Such credentials shall be submitted in a manner provided by rule of the board. The board shall approve those credentials which comply with this paragraph and with rules of the board adopted pursuant to this paragraph. The provisions of this paragraph notwithstanding, an applicant of a foreign dental college or school not accredited in accordance with s. 466.006(2)(b) who cannot produce the credentials required by this paragraph, as a result of political or other conditions in the country in which the applicant received his or her education, may seek the board's approval of his or her educational background by submitting, in lieu of the credentials required in this paragraph, such other reasonable and reliable evidence as may be set forth by board rule. The board shall not accept such other evidence until it has made a reasonable attempt to obtain the credentials required by this paragraph from the educational institutions the applicant is alleged to have attended, unless the board is otherwise satisfied that such credentials cannot be obtained.

(b) Successfully completes one or more courses, of a scope and duration approved and defined by board rule, that meet the requirements of law for instructing health care providers on the human immunodeficiency virus and acquired immune deficiency syndrome. In addition, the board may require an applicant who graduated from a nonaccredited dental college or school to successfully complete additional coursework, only after failing the initial examination, as defined by board rule, at an educational institution approved by the board or accredited as provided in subparagraph (2)(b)1. A graduate of a foreign dental college or school not accredited in accordance with s. 466.006(2)(b) may not take the coursework set forth in this paragraph until the board has approved the credentials required by paragraph (a).

(4) Effective July 1, 2012, to be licensed as a dental hygienist in this state, an applicant must successfully complete the following:

(a) A written examination on the laws and rules of this state regulating the practice of dental hygiene.

(b) A practical or clinical examination approved by the board. The examination shall be the Dental Hygiene Examination produced by the American Board of Dental Examiners, Inc. (ADEX) or its successor entity, if any, if the board finds that the successor entity's clinical examination meets or exceeds the provisions of this section. The board shall approve the ADEX Dental Hygiene Examination if the board has attained and continues to maintain representation on the ADEX House of Representatives, the ADEX Dental Hygiene Examination Development Committee, and such other ADEX Dental Hygiene committees as the board deems appropriate through rulemaking to ensure that the standards established in this section are maintained organizationally. The ADEX Dental Hygiene Examination or the examination produced by its successor entity is a comprehensive examination in which an applicant must demonstrate skills within the dental hygiene scope of practice on a live patient and any other components that the board deems necessary for the applicant to successfully demonstrate competency for the purpose of licensure. The ADEX Dental Hygiene Examination or the examination by the successor entity administered in this state shall be graded by dentists and dental hygienists licensed in this state who are employed by the department for this purpose.

(5) Effective July 1, 2012, an applicant who has completed the ADEX Dental Hygiene Examination in a jurisdiction other than this state and who has obtained a passing score may practice dental hygiene in this state if the applicant:

(a) Has successfully completed the National Board Dental Hygiene Examination at any time before the date of application;

(b) Has been certified by the American Dental Association Joint Commission on National Dental Examinations at any time before the date of application, as specified by state law;

(c) Has successfully completed a written examination on the laws and rules of this state regulating the practice of dental hygiene;

(d) Has not been disciplined by a board, except for citation offenses or minor violations; and

(e) Has not been convicted of or pled nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession.

(6)(a) A passing score on the ADEX Dental Hygiene Examination administered out of state shall be considered the same as a passing score for the ADEX Dental Hygiene Examination administered in this state and graded by licensed dentists and dental hygienists.

(b) If an applicant fails to pass the ADEX Dental Hygiene Examination in three attempts, the applicant is not eligible to retake the examination unless the applicant completes additional education requirements as specified by the board.

**History.**—ss. 1, 3, ch. 79-330; ss. 2, 3, ch. 81-318; ss. 6, 23, 24, ch. 86-291; s. 16, ch. 88-205; s. 60, ch. 91-137; s. 7, ch. 91-156; s. 4, ch. 91-429; s. 98, ch. 92-149; s. 1, ch. 94-105; s. 2, ch. 96-281; s. 1108, ch. 97-103; s. 70, ch. 98-166; s. 129, ch. 2000-160; s. 4, ch. 2005-189; s. 11, ch. 2008-64; s. 13, ch. 2011-95; s. 2, ch. 2012-14.

**Note.**—The word "Has" was inserted by the editors for clarity.

**466.0075 Applicants for examination; medical malpractice insurance.**—The board may require any person applying to take the examination to practice dentistry in this state or the examination to practice dental hygiene in this state to maintain medical malpractice insurance in amounts sufficient to cover any incident of harm to a patient during the clinical examination.

**History.**—s. 4, ch. 96-281.

**466.008 Certification of foreign educational institutions.**—

(1) The Legislature recognizes the need to ensure that graduates of foreign dental schools who have received an education which is reasonably comparable to that of similar accredited institutions in the United States and which adequately prepare their students for the practice of dentistry shall be subject to the same licensure requirements as graduates of accredited dental schools or colleges. It is the purpose of this section to provide for the evaluation of foreign dental schools and the certification of those foreign dental schools which provide an education which is reasonably comparable to that of similar accredited institutions in the United States and which adequately prepare their students for the practice of dentistry.

(2) The department shall be responsible for the certification of foreign dental schools based on standards established pursuant to subsection (4). The department may contract with outside consultants or a national professional organization to survey and evaluate foreign dental schools. Such consultant or organization shall report to the department regarding its findings in the survey and evaluation.

(3) The department shall establish a technical advisory group to review and comment upon the survey and evaluation of a foreign dental school contracted for pursuant to subsection (2) prior to any final action by the department regarding certification of the foreign dental school. The technical advisory group shall be selected by the department and shall consist of four dentists, two of whom shall be selected from a list of five recognized

United States dental educators recommended by the foreign school seeking certification. None of the members of the technical advisory group shall be affiliated with the school seeking certification.

(4) Any foreign dental school which wishes to be certified pursuant to this section shall make application to the department for such certification, which shall be based upon a finding that the educational program of the foreign dental school is reasonably comparable to that of similar accredited institutions in the United States and adequately prepares its students for the practice of dentistry. Curriculum, faculty qualifications, student attendance, plant and facilities, and other relevant factors shall be reviewed and evaluated. The board, with the cooperation of the department, shall identify by rule the standards and review procedures and methodology to be used in the certification process consistent with this subsection. The department shall not grant certification if deficiencies found are of such magnitude as to prevent the students in the school from receiving an educational base suitable for the practice of dentistry.

(5) Periodic surveys and evaluations of all certified schools shall be made to ensure continued compliance with this section. Certification shall include provisional and full certification. The provisional form of certification shall be for a period determined by the department, not to exceed 3 years, and shall be granted to an institution, in accordance with rule, to provide reasonable time for the school seeking permanent certification to overcome deficiencies found by the department. Prior to the expiration of a provisional certification and before the full certification is granted, the school shall be required to submit evidence that deficiencies noted at the time of initial application have been remedied. A school granted full certification shall provide evidence of continued compliance with this section. In the event that the department denies certification or recertification, the department shall give the school a specific listing of the deficiencies which caused the denial and the requirements for remedying the deficiencies, and shall permit the school, upon request, to demonstrate by satisfactory evidence, within 90 days, that it has remedied the deficiencies listed by the department.

(6) A school shall pay a registration fee established by rule of the department, not to exceed \$1,000, at the time of application for certification and shall pay all reasonable costs and expenses the department expects to incur, in an amount not to exceed \$40,000, for the conduct of the certification survey.

(7) The department shall renew a certification upon receipt of a renewal application, accompanied by a fee not to exceed \$500. Each fully certified institution shall submit a renewal application every 7 years. Any certification which is not renewed shall automatically expire.

*History.*—s. 99, ch. 92-149.

#### **466.009 Reexamination.—**

(1) The department shall permit any person who fails an examination which is required under s. 466.006 or s. 466.007 to retake the examination. If the examination to be retaken is a practical or clinical examination, the

applicant shall pay a reexamination fee set by rule of the board in an amount not to exceed the original examination fee.

(2) If an applicant for a license to practice dentistry fails the practical or clinical examination because of a failing grade on just one part or procedure tested, she or he shall be required to retake only that part or procedure. However, if any such applicant fails more than one part or procedure of any such examination, she or he shall be required to retake the entire examination.

(3) If an applicant for a license to practice dental hygiene fails one portion of the practical or clinical examination, such applicant shall be required to retake only that portion if she or he reapplies within 12 months. If, however, the applicant fails the prophylaxis, she or he shall be required to retake the entire examination.

*History.*—ss. 1, 3, ch. 79-330; ss. 2, 3, ch. 81-318; ss. 23, 24, ch. 86-291; s. 60, ch. 91-137; s. 7, ch. 91-156; s. 4, ch. 91-429; s. 252, ch. 97-103; s. 14, ch. 2011-95.

**466.011 Licensure.**—The board shall certify for licensure by the department any applicant who satisfies the requirements of s. 466.006, s. 466.0067, or s. 466.007. The board may refuse to certify an applicant who has violated any of the provisions of s. 466.026 or s. 466.028.

*History.*—ss. 1, 3, ch. 79-330; ss. 2, 3, ch. 81-318; ss. 23, 24, ch. 86-291; s. 50, ch. 90-228; s. 4, ch. 90-341; s. 60, ch. 91-137; s. 7, ch. 91-156; s. 4, ch. 91-429; s. 3, ch. 94-105; s. 3, ch. 96-281; s. 8, ch. 2008-64; s. 15, ch. 2011-95.

#### **466.013 Renewal of license.—**

(1) The department shall renew a license upon receipt of the renewal application and the fee set by the board not to exceed \$300.

(2) The department shall adopt rules establishing a procedure for the biennial renewal of licenses.

*History.*—ss. 1, 3, ch. 79-330; ss. 2, 3, ch. 81-318; ss. 23, 24, ch. 86-291; s. 36, ch. 89-162; s. 60, ch. 91-137; s. 7, ch. 91-156; s. 4, ch. 91-429; s. 180, ch. 94-119.

#### **466.0135 Continuing education; dentists.—**

(1) In addition to the other requirements for renewal set out in this chapter, each licensed dentist shall be required to complete biennially not less than 30 hours of continuing professional education in dental subjects. Programs of continuing education shall be programs of learning that contribute directly to the dental education of the dentist and may include, but shall not be limited to, attendance at lectures, study clubs, college postgraduate courses, or scientific sessions of conventions; and research, graduate study, teaching, or service as a clinician. Programs of continuing education shall be acceptable when adhering to the following general guidelines:

(a) The aim of continuing education for dentists is to improve all phases of dental health care delivery to the public.

(b) Continuing education courses shall address one or more of the following areas of professional development, including, but not limited to:

1. Basic medical and scientific subjects, including, but not limited to, biology, physiology, pathology, biochemistry, and pharmacology;

2. Clinical and technological subjects, including, but not limited to, clinical techniques and procedures, materials, and equipment; and

3. Subjects pertinent to oral health and safety.

(c) The board may also authorize up to three hours of credit biennially for a practice management course that includes principles of ethical practice management, provides substance abuse, effective communication with patients, time management, and burnout prevention instruction.

(d) Continuing education credits shall be earned at the rate of one-half credit hour per 25-30 contact minutes of instruction and one credit hour per 50-60 contact minutes of instruction.

(2) Programs meeting the general requirements of subsection (1) may be developed and offered to dentists by any of the following agencies or organizations:

(a) The American Dental Association, the National Dental Association, and state, district, or local dental associations and societies affiliated with the American Dental Association or the National Dental Association.

(b) National, state, district, or local dental specialty organizations affiliated with the American Dental Association.

(c) Dental colleges or schools accredited as provided in this chapter.

(d) Other organizations, schools, or agencies approved by the board.

(3) In applying for license renewal, the dentist shall submit a sworn affidavit, on a form acceptable to the department, attesting that she or he has completed the continuing education required in this section in accordance with the guidelines and provisions of this section and listing the date, location, sponsor, subject matter, and hours of completed continuing education courses. The applicant shall retain in her or his records such receipts, vouchers, or certificates as may be necessary to document completion of the continuing education courses listed in accordance with this subsection. With cause, the board may request such documentation by the applicant, and the board may request such documentation from applicants selected at random without cause.

(4) Compliance with the continuing education requirements of this section shall be mandatory for the issuance of a renewal certificate by the department; however, the board shall have the authority to excuse licensees, as a group or as individuals, from said requirements, or any part thereof, in the event of an unusual circumstance, emergency, or special hardship.

**History.**—ss. 3, 5, ch. 85-156; ss. 7, 23, 24, ch. 86-291; s. 60, ch. 91-137; s. 7, ch. 91-156; s. 4, ch. 91-429; s. 253, ch. 97-103; s. 5, ch. 2005-189.

**466.014 Continuing education; dental hygienists.**—In addition to the other requirements for licensure for dental hygienists set out in this act, the board shall require each licensed dental hygienist to complete not less than 24 hours or more than 36 hours of continuing professional education in dental subjects, biennially, in programs prescribed or approved by the board or in equivalent programs of continuing education. Programs of continuing education approved by the board shall be programs of learning which, in the opinion of the board, contribute directly to the dental education of the dental hygienist. The board shall adopt rules and guidelines to administer and enforce the provisions of this section. In applying for license renewal, the dental

hygienist shall submit a sworn affidavit, on a form acceptable to the department, attesting that she or he has completed the continuing education required in this section in accordance with the guidelines and provisions of this section and listing the date, location, sponsor, subject matter, and hours of completed continuing education courses. The applicant shall retain in her or his records such receipts, vouchers, or certificates as may be necessary to document completion of the continuing education courses listed in accordance with this section. With cause, the board may request such documentation by the applicant, and the board may request such documentation from applicants selected at random without cause. Compliance with the continuing education requirements shall be mandatory for issuance of the renewal certificate. The board shall have the authority to excuse licensees, as a group or as individuals, from the continuing educational requirements, or any part thereof, in the event an unusual circumstance, emergency, or hardship has prevented compliance with this section.

**History.**—ss. 1, 3, ch. 79-330; ss. 2, 3, ch. 81-318; ss. 8, 23, 24, ch. 86-291; s. 60, ch. 91-137; s. 7, ch. 91-156; s. 4, ch. 91-429; s. 254, ch. 97-103; s. 122, ch. 2000-153.

**466.015 Inactive status.**—

(1) The board shall adopt rules relating to application procedures for inactive status, to the renewal of inactive licenses, and to the reactivation of licenses. The board shall prescribe by rule an application fee for inactive status, a biennial renewal fee for inactive status, a delinquency fee, and a fee for the reactivation of a license. None of these fees may exceed the biennial renewal fee established by the board for an active license.

(2) The department shall not reactivate a license unless the inactive or delinquent licensee has paid any applicable biennial renewal or delinquency fee, or both, and a reactivation fee.

**History.**—ss. 1, 3, ch. 79-330; s. 327, ch. 81-259; ss. 2, 3, ch. 81-318; s. 101, ch. 83-329; ss. 9, 23, 24, ch. 86-291; s. 60, ch. 91-137; s. 7, ch. 91-156; s. 4, ch. 91-429; s. 181, ch. 94-119.

**466.016 License to be displayed.**—Every practitioner of dentistry or dental hygiene within the meaning of this chapter shall post and keep conspicuously displayed her or his license in the office wherein she or he practices, in plain sight of the practitioner's patients. Any dentist or dental hygienist who practices at more than one location shall be required to display a copy of her or his license in each office where she or he practices.

**History.**—ss. 1, 3, ch. 79-330; ss. 2, 3, ch. 81-318; ss. 23, 24, ch. 86-291; s. 60, ch. 91-137; s. 7, ch. 91-156; s. 4, ch. 91-429; s. 255, ch. 97-103.

**466.017 Prescription of drugs; anesthesia.**—

(1) A dentist shall have the right to prescribe drugs or medicine, subject to limitations imposed by law; perform surgical operations within the scope of her or his practice and training; administer general or local anesthesia or sedation, subject to limitations imposed by law; and use such appliances as may be necessary to the proper practice of dentistry.

(2) Pharmacists licensed pursuant to chapter 465 may fill prescriptions of legally licensed dentists in this

state for any drugs necessary for the practice of dentistry.

(3) The board shall adopt rules which:

(a) Define general anesthesia.

(b) Specify which methods of general or local anesthesia or sedation, if any, are limited or prohibited for use by dentists.

(c) Establish minimal training, education, experience, or certification for a dentist to use general anesthesia or sedation, which rules may exclude, in the board's discretion, those dentists using general anesthesia or sedation in a competent and effective manner as of the effective date of the rules.

(d) Establish further requirements relating to the use of general anesthesia or sedation, including, but not limited to, office equipment and the training of dental assistants or dental hygienists who work with dentists using general anesthesia or sedation.

(e) Establish an administrative mechanism enabling the board to verify compliance with training, education, experience, equipment, or certification requirements of dentists, dental hygienists, and dental assistants adopted pursuant to this subsection. The board may charge a fee to defray the cost of verifying compliance with requirements adopted pursuant to this paragraph.

(4) A dentist or dental hygienist who administers or employs the use of any form of anesthesia must possess a certification in either basic cardiopulmonary resuscitation for health professionals or advanced cardiac life support approved by the American Heart Association or the American Red Cross or an equivalent agency-sponsored course with recertification every 2 years. Each dental office which uses any form of anesthesia must have immediately available and in good working order such resuscitative equipment, oxygen, and other resuscitative drugs as are specified by rule of the board in order to manage possible adverse reactions.

(5) A dental hygienist under the direct supervision of a dentist may administer local anesthesia, including intraoral block anesthesia, soft tissue infiltration anesthesia, or both, to a nonsedated patient who is 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 which is offered by a dental or dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association or approved by the board. The course must include a minimum of 30 hours of didactic instruction and 30 hours of clinical experience, and instruction in:

1. Theory of pain control.
2. Selection-of-pain-control modalities.
3. Anatomy.
4. Neurophysiology.
5. Pharmacology of local anesthetics.
6. Pharmacology of vasoconstrictors.
7. Psychological aspects of pain control.
8. Systematic complications.
9. Techniques of maxillary anesthesia.
10. Techniques of mandibular anesthesia.
11. Infection control.
12. Medical emergencies involving local anesthesia.

(b) The dental hygienist presents evidence of current certification in basic or advanced cardiac life support.

(c) The dental hygienist possesses a valid certificate issued under subsection (6).

(6) Any dental hygienist seeking a certificate to administer local anesthesia must apply to the department, remit an application fee, and submit proof of successful completion of a course in the administration of local anesthesia pursuant to subsection (5). The board shall certify, and the department shall issue a certificate to, any dental hygienist who fulfills the qualifications of subsection (5). The board shall establish a one-time application fee not to exceed \$35. The certificate is not subject to renewal but is part of the dental hygienist's permanent record and must be prominently displayed at the location where the dental hygienist is authorized to administer local anesthesia. The board shall adopt rules necessary to administer subsection (5) and this subsection.

(7) A licensed dentist may utilize an X-ray machine, expose dental X-ray films, and interpret or read such films. The provisions of part IV of chapter 468 to the contrary notwithstanding, a licensed dentist may authorize or direct a dental assistant to operate such equipment and expose such films under her or his direction and supervision, pursuant to rules adopted by the board in accordance with s. 466.024 which ensure that said assistant is competent by reason of training and experience to operate said equipment in a safe and efficient manner. The board may charge a fee not to exceed \$35 to defray the cost of verifying compliance with requirements adopted pursuant to this section.

(8) The provisions of s. 465.0276 notwithstanding, a dentist need not register with the board or comply with the continuing education requirements of that section if the dentist confines her or his dispensing activity to the dispensing of fluorides and chlorohexidine rinse solutions; provided that the dentist complies with and is subject to all laws and rules applicable to pharmacists and pharmacies, including, but not limited to, chapters 465, 499, and 893, and all applicable federal laws and regulations, when dispensing such products.

**History.**—ss. 1, 3, ch. 79-330; ss. 13, 15, 25, 27, 30, 34, 62, ch. 80-406; s. 328, ch. 81-259; ss. 2, 3, ch. 81-318; s. 1, ch. 85-156; ss. 10, 23, 24, ch. 86-291; s. 1, ch. 87-208; s. 37, ch. 89-162; s. 60, ch. 91-137; s. 7, ch. 91-156; s. 4, ch. 91-429; s. 34, ch. 95-144; s. 256, ch. 97-103; s. 109, ch. 97-264; s. 3, ch. 2012-14.

#### **466.018 Dentist of record; patient records.—**

(1) Each patient shall have a dentist of record. The dentist of record shall remain primarily responsible for all dental treatment on such patient regardless of whether the treatment is rendered by the dentist or by another dentist, dental hygienist, or dental assistant rendering such treatment in conjunction with, at the direction or request of, or under the supervision of such dentist of record. The dentist of record shall be identified in the record of the patient. If treatment is rendered by a dentist other than the dentist of record or by a dental hygienist or assistant, the name or initials of such person shall be placed in the record of the patient. In any disciplinary proceeding brought pursuant to this chapter or chapter 456, it shall be presumed as a matter of law that treatment was rendered by the dentist of record unless otherwise noted on the patient record pursuant to

this section. The dentist of record and any other treating dentist are subject to discipline pursuant to this chapter or chapter 456 for treatment rendered the patient and performed in violation of such chapter. One of the purposes of this section is to ensure that the responsibility for each patient is assigned to one dentist in a multidentist practice of any nature and to assign primary responsibility to the dentist for treatment rendered by a dental hygienist or assistant under her or his supervision. This section shall not be construed to assign any responsibility to a dentist of record for treatment rendered pursuant to a proper referral to another dentist not in practice with the dentist of record or to prohibit a patient from voluntarily selecting a new dentist without permission of the dentist of record.

(2) If the dentist of record is not identified in the patient record as required by subsection (1), it shall be presumed as a matter of law that the dentist of record is the owner of the dental practice in which the patient was treated. Further, the dentist of record in a multidentist practice shall not change unless the subsequent treating dentist acknowledges in writing in the record that she or he is now the dentist of record for the patient. It shall be presumed as a matter of law that a new dentist of record has taken or reviewed the patient's medical history and dental records, that she or he has examined the patient, and that she or he has either developed a new treatment plan or has agreed to continue the preexisting treatment plan. However, the dentist of record shall be changed when the dentist of record leaves the practice where the treatment was being rendered and the patient elects to continue treatment in the office where treatment began.

(3) Every dentist shall maintain written dental records and medical history records which justify the course of treatment of the patient. The records shall include, but not be limited to, patient history, examination results, test results, and, if taken, X rays.

(4) In a multidentist practice of any nature, the owner dentist shall maintain either the original or a duplicate of all patient records, including dental charts, patient histories, examination and test results, study models, and X rays, of any patient treated by a dentist at the owner dentist's practice facility. The purpose of this requirement is to impose a duty upon the owner of a multidentist practice to maintain patient records for all patients treated at the owner's practice facility whether or not the owner was involved in the patient's treatment. This subsection does not relieve the dentist of record in a multidentist practice of the responsibility to maintain patient records. An owner dentist of a multidentist practice may be relieved of the responsibility to maintain the original or duplicate patient records for patients treated at the owner dentist's practice facility if, upon request of the patient or the patient's legal representative, she or he transfers custody of the records to another dentist, the patient, or the patient's legal representative and retains, in lieu of the records, a written statement, signed by the owner dentist, the person who received the records, and two witnesses, that lists the date, the records that were transferred, and the persons to whom the records were transferred. Further, the dentist of record may be relieved of the

responsibility to maintain the original or duplicate patient records if she or he leaves the practice where the treatment was rendered, transfers custody of the records to the owner of the practice, and retains, in lieu of the records, a written statement, signed by the dentist of record, the owner of the practice, and two witnesses, that lists the date and the records that were transferred. The owner dentist shall provide reasonable access to duplicate records at cost.

(5) All patient records kept in accordance with this section shall be maintained for a period of 4 years from the date of the patient's last appointment.

**History.**—ss. 1, 3, ch. 79-330; ss. 2, 3, ch. 81-318; ss. 3, 41, ch. 82-179; ss. 11, 23, 24, ch. 86-291; s. 60, ch. 91-137; s. 7, ch. 91-156; s. 4, ch. 91-429; s. 257, ch. 97-103; s. 71, ch. 98-166; s. 130, ch. 2000-160.

#### **466.019 Advertising by dentists.—**

(1) The purpose of this section is to ensure that the public has access to information which provides a sufficient basis upon which to make an informed selection of dentists while also ensuring that the public is protected from false or misleading advertisements which would detract from a fair and rational selection process. The board shall adopt rules to carry out the intent of this section, the purpose of which shall be to regulate the manner of such advertising in keeping with the provisions hereof.

(2) No advertisement by a licensed dentist shall contain any false, fraudulent, misleading, or deceptive statement or claim or any statement or claim which:

- (a) Contains misrepresentations of fact;
- (b) Is likely to mislead or deceive because in context it makes only a partial disclosure of relevant facts;
- (c) Contains laudatory statements about the dentist or group of dentists;
- (d) Is intended or is likely to create false, unjustified expectations of favorable results;
- (e) Relates to the quality of dental services provided as compared to other available dental services;
- (f) Is intended or is likely to appeal primarily to a layperson's fears;
- (g) Contains fee information without a disclaimer that such is a minimum fee only; or
- (h) Contains other representations or implications that in reasonable probability will cause an ordinary, prudent person to misunderstand or to be deceived.

(3) For purposes of this section, D.D.S. or D.M.D. are synonymous and may be used interchangeably by licensed dentists who have graduated from an accredited American dental school with a D.D.S. or D.M.D. degree, when advertising dental services.

**History.**—ss. 1, 3, ch. 79-330; ss. 2, 3, ch. 81-318; ss. 12, 23, 24, ch. 86-291; ss. 14, 60, ch. 91-137; s. 7, ch. 91-156; s. 4, ch. 91-429.

**466.021 Retention of dental laboratories by dentist; penalty.**—Each licensed dentist who uses the services of any dental laboratory for the purpose of constructing, altering, repairing, or duplicating any denture, implant, veneer, partial denture, bridge splint, orthodontic or other prosthetic appliance, or other suitable form of artificial oral restorative device shall be required to furnish the dental laboratory with a written prescription in a form prescribed by rule of the board. This prescription shall be dated and signed by the

dentist and shall include the license number of the dentist, the patient's name or number with sufficient descriptive information to clearly identify each separate and individual piece of work to be performed by the dental laboratory, and a specification of materials to be contained in each work product. A copy of the prescription shall be retained in a file in the prescribing dentist's office for a period of 4 years following the date the prescription was issued, and the original prescription shall be retained in a file by the dental laboratory for a period of 4 years. A registered dental laboratory shall disclose in writing at the time of delivery of the final restoration to the prescribing dentist the materials and all certificates of authenticity that constitute each product manufactured and the point of origin of manufacture of each restoration, including the address and contact information of the dental laboratory. The file of prescriptions to be kept by the dentist and the dental laboratory shall be open to inspection at any reasonable time by the department or its constituted agent. Failure of the dentist to keep records of each prescription shall subject the dentist to suspension or revocation of her or his license to practice dentistry in this state. Failure of a dental laboratory that has accepted a prescription to have the original or electronic copy of each prescription and to ensure the accuracy of each product's material disclosure at the time it is delivered to the prescribing dentist as required by this section is admissible evidence of a violation of this chapter and constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. This section does not preclude a registered dental laboratory from working for another registered dental laboratory if that work is performed pursuant to written authorization, in a form to be prescribed by rule of the board, which evidences that the originating laboratory has obtained a valid prescription and which sets forth the work to be performed and the resulting material certifications to be provided. A dental laboratory accepting prescriptions from dentists is liable for damages caused by inaccuracies in the material disclosure, certificates of authenticity, or point of origin provided by the dental laboratory to the prescribing dentist. This section does not preclude a registered laboratory from providing its services to dentists licensed and practicing in another state if that work is requested or otherwise authorized in written form that clearly identifies the name and address of the requesting dentist and sets forth the work to be performed and otherwise complies with all applicable laws and treaties.

**History.**—ss. 1, 3, ch. 79-330; ss. 2, 3, ch. 81-318; ss. 23, 24, ch. 86-291; s. 60, ch. 91-137; s. 7, ch. 91-156; s. 93, ch. 91-224; s. 4, ch. 91-429; s. 258, ch. 97-103; s. 2, ch. 99-183; s. 126, ch. 99-397; s. 6, ch. 2005-189; s. 9, ch. 2008-64.

#### **466.022 Peer review; records; immunity; confidentiality.—**

(1) The Legislature finds that effective peer review of consumer complaints by professional associations of dentists is a valuable service to the public. In performing such service, any member of a peer review organization or committee shall, pursuant to s. 466.028(1)(f), report to the department the name of any licensee who he or she believes has violated this chapter. Any such peer review committee member shall be afforded the

privileges and immunities of any other complainant or witness which are provided by s. 456.073(11). Furthermore, a professional organization or association of dentists which sponsors, sanctions, or otherwise operates or participates in peer review activities is hereby afforded the same privileges and immunities afforded to any member of a duly constituted medical review committee by s. 766.101(3).

(2) Information obtained from the official records of peer review organizations or committees shall not be subject to discovery or introduction into evidence in any disciplinary proceeding against a licensee. Further, no person who voluntarily serves on a peer review committee or who investigates a complaint for the committee shall be permitted or required to testify in any such disciplinary proceeding as to any evidence or other matters produced or presented during the proceedings of such organization or committee or as to any findings, recommendations, evaluations, opinions, or other actions of such organization or committee or any members thereof. However, nothing in this section shall be construed to mean that information, documents, or records otherwise available and obtained from original sources are immune from discovery or use in any such disciplinary proceeding merely because they were presented during proceedings of a peer review organization or committee. Members of peer review organizations shall assist the department in identification of such original sources when possible.

(3) Peer review information obtained by the department as background information shall remain confidential and exempt from ss. 119.07(1) and 286.011 regardless of whether probable cause is found. The provisions of s. 766.101 continue to apply in full notwithstanding the fact that peer review information becomes available to the department pursuant to this chapter. For the purpose of this section, official records of peer review organizations or committees include correspondence between the dentist who is the subject of the complaint and the organization; correspondence between the complainant and the organization; diagnostic data, treatment plans, and radiographs used by investigators or otherwise relied upon by the organization or committee; results of patient examinations; interviews; evaluation worksheets; recommendation worksheets; and peer review report forms.

(4) The provisions of this section shall apply to ethics review committees of a professional association of dentists.

**History.**—ss. 13, 24, ch. 86-291; s. 2, ch. 87-208; s. 8, ch. 89-162; s. 60, ch. 91-137; s. 22, ch. 91-140; s. 7, ch. 91-156; s. 4, ch. 91-429; s. 35, ch. 95-144; s. 318, ch. 96-406; s. 1109, ch. 97-103; s. 72, ch. 98-166; s. 131, ch. 2000-160.

#### **466.023 Dental hygienists; scope and area of practice.—**

(1) Except as otherwise provided in s. 466.024, only dental hygienists may be delegated the task of removing calculus deposits, accretions, and stains from exposed surfaces of the teeth and from the gingival sulcus and the task of performing root planing and curettage. In addition, dental hygienists may expose dental X-ray films, apply topical preventive or prophylactic agents, and perform all tasks delegable by the dentist in accordance with s. 466.024. The board by rule shall

determine whether such functions shall be performed under the direct, indirect, or general supervision of the dentist.

(2) Dental hygienists may perform their duties:

(a) In the office of a licensed dentist;

(b) In public health programs and institutions of the Department of Children and Family Services, Department of Health, and Department of Juvenile Justice under the general supervision of a licensed dentist;

(c) In a health access setting as defined in s. 466.003; or

(d) Upon a patient of record of a dentist who has issued a prescription for the services of a dental hygienist, which prescription shall be valid for 2 years unless a shorter length of time is designated by the dentist, in:

1. Licensed public and private health facilities;

2. Other public institutions of the state and federal government;

3. Public and private educational institutions;

4. The home of a nonambulatory patient; and

5. Other places in accordance with the rules of the board.

However, the dentist issuing such prescription shall remain responsible for the care of such patient. As used in this subsection, "patient of record" means a patient upon whom a dentist has taken a complete medical history, completed a clinical examination, recorded any pathological conditions, and prepared a treatment plan.

(3) Dental hygienists may, without supervision, provide educational programs, faculty or staff training programs, and authorized fluoride rinse programs; apply fluorides; instruct a patient in oral hygiene care; supervise the oral hygiene care of a patient; and perform other services that do not involve diagnosis or treatment of dental conditions and that are approved by rule of the board.

(4) The board by rule may limit the number of dental hygienists or dental assistants to be supervised by a dentist if they perform expanded duties requiring direct or indirect supervision pursuant to the provisions of this chapter. The purpose of the limitation shall be to protect the health and safety of patients and to ensure that procedures which require more than general supervision be adequately supervised. However, the Department of Children and Family Services, Department of Health, Department of Juvenile Justice, and public institutions approved by the board shall not be so limited as to the number of dental hygienists or dental assistants working under the supervision of a licensed dentist.

(5) Dental hygienists may, without supervision, perform dental charting as provided in s. 466.0235.

(6) Dental hygienists are exempt from the provisions of part IV of chapter 468.

(7) A dental hygienist may administer local anesthesia as provided in ss. 466.017 and 466.024.

**History.**—ss. 1, 3, ch. 79-330; ss. 2, 3, ch. 81-318; ss. 14, 23, 24, ch. 86-291; s. 60, ch. 91-137; s. 7, ch. 91-156; s. 4, ch. 91-429; s. 36, ch. 95-144; s. 5, ch. 96-281; s. 225, ch. 99-8; s. 1, ch. 2006-149; s. 5, ch. 2011-95; s. 4, ch. 2012-14.

#### **466.0235 Dental charting.—**

(1) For purposes of this section, the term "dental charting" means a recording of visual observations of clinical conditions of the oral cavity without the use of X rays, laboratory tests, or other diagnostic methods or equipment, except the instruments necessary to record visual restorations, missing teeth, suspicious areas, and periodontal pockets.

(2) A dental hygienist may, without supervision and within the lawful scope of his or her duties as authorized by law, perform dental charting of hard and soft tissues in public and private educational institutions of the state and Federal Government, nursing homes, assisted living and long-term care facilities, community health centers, county health departments, mobile dental or health units, health access settings as defined in s. 466.003, and epidemiological surveys for public health. A dental hygienist may also perform dental charting on a volunteer basis at health fairs.

(3) Each person who receives a dental charting pursuant to this section, or the parent or legal guardian of the person, shall receive and acknowledge a written disclosure form before receiving the dental charting procedure that states that the purpose of the dental charting is to collect data for use by a dentist at a prompt subsequent examination. The disclosure form shall also emphasize that diagnosis of caries, soft tissue disease, oral cancer, temporomandibular joint disease (TMJ), and dentofacial malocclusions can only be completed by a dentist in the context of delivering a comprehensive dental examination.

(4) The board shall approve the content of charting and disclosure forms to be used under this section. Both forms shall emphasize the inherent limitations of dental charting and encourage complete examination by a dentist in rendering a professional diagnosis of the patient's overall oral health needs.

(5) Dental charting performed under this section is not a substitute for a comprehensive dental examination.

(6) Medical clearance by a physician or dentist is required before a periodontal probe may be used on a person who receives a dental charting.

(7) Nothing in this section shall be construed to permit direct reimbursement for dental charting performed under this section by Medicaid, health insurers, health maintenance organizations, prepaid dental plans, or other third-party payors beyond what is otherwise allowable by law.

(8) All referrals made in conjunction with the provision of dental charting services under this section shall be in strict conformance with federal and state patient referral, anti-kickback, and patient brokering laws.

(9) A dental hygienist performing dental charting without supervision shall not be deemed to have created either a patient of record or a medical record.

**History.**—s. 2, ch. 2006-149; s. 6, ch. 2011-95.

#### **466.024 Delegation of duties; expanded functions.—**

(1) A dentist may not delegate irremediable tasks to a dental hygienist or dental assistant, except as provided by law. A dentist may delegate remediable



tasks to a dental hygienist or dental assistant when such tasks pose no risk to the patient. A dentist may only delegate remediable tasks so defined by law or rule of the board. The board by rule shall designate which tasks are remediable and delegable, except that the following are by law found to be remediable and delegable:

- (a) Taking impressions for study casts but not for the purpose of fabricating any intraoral restorations or orthodontic appliance.
- (b) Placing periodontal dressings.
- (c) Removing periodontal or surgical dressings.
- (d) Removing sutures.
- (e) Placing or removing rubber dams.
- (f) Placing or removing matrices.
- (g) Placing or removing temporary restorations.
- (h) Applying cavity liners, varnishes, or bases.
- (i) Polishing amalgam restorations.
- (j) Polishing clinical crowns of the teeth for the purpose of removing stains but not changing the existing contour of the tooth.
- (k) Obtaining bacteriological cytological specimens not involving cutting of the tissue.
- (l) Administering local anesthesia pursuant to s. 466.017(5).

This subsection does not limit delegable tasks to those specified herein.

(2) A dental hygienist licensed in this state may perform the following remediable tasks in a health access setting as defined in s. 466.003 without the physical presence, prior examination, or authorization of a dentist:

- (a) Perform dental charting as defined in s. 466.0235 and as provided by rule.
- (b) Measure and record a patient's blood pressure rate, pulse rate, respiration rate, and oral temperature.
- (c) Record a patient's case history.
- (d) Apply topical fluorides, including fluoride varnishes, which are approved by the American Dental Association or the Food and Drug Administration.
- (e) Apply dental sealants.
- (f) Remove calculus deposits, accretions, and stains from exposed surfaces of the teeth and from tooth surfaces within the gingival sulcus.

1. A dentist licensed under this chapter or a physician licensed under chapter 458 or chapter 459 must give medical clearance before a dental hygienist removes calculus deposits, accretions, and stains from exposed surfaces of the teeth or from tooth surfaces within the gingival sulcus.

2. A dentist shall conduct a dental examination on a patient within 13 months after a dental hygienist removes the patient's calculus deposits, accretions, and stains from exposed surfaces of the teeth or from tooth surfaces within the gingival sulcus. Additional oral hygiene services may not be performed under this paragraph without a clinical examination by a dentist who is licensed under this chapter.

This subsection does not authorize a dental hygienist to perform root planing or gingival curettage without supervision by a dentist.

(3) For all remediable tasks listed in subsection (2), the following disclaimer must be provided to the patient in writing before any procedure is performed:

- (a) The services being offered are not a substitute for a comprehensive dental exam by a dentist.
- (b) The diagnosis of caries, soft tissue disease, oral cancer, temporomandibular joint disease (TMJ), and dentofacial malocclusions will be completed only by a dentist in the context of delivering a comprehensive dental exam.

(4) This section does not prevent a program operated by one of the health access settings as defined in s. 466.003 or a nonprofit organization that is exempt from federal income taxation under s. 501(a) of the Internal Revenue Code and described in s. 501(c)(3) of the Internal Revenue Code from billing and obtaining reimbursement for the services described in this section which are provided by a dental hygienist or from making or maintaining any records pursuant to s. 456.057 necessary to obtain reimbursement.

(5) A dental hygienist who performs, without supervision, the remediable tasks listed in subsection (2) shall:

- (a) Provide a dental referral in strict compliance with federal and state patient referral, anti-kickback, and patient brokering laws.
- (b) Encourage the establishment of a dental home.
- (c) Maintain professional malpractice insurance coverage that has minimum limits of \$100,000 per occurrence and \$300,000 in the aggregate through the employing health access setting or individual policy.
- (6) Notwithstanding subsection (1) or subsection (2), a dentist may delegate the tasks of gingival curettage and root planing to a dental hygienist but not to a dental assistant.

(7) All other remediable tasks shall be performed under the direct, indirect, or general supervision of a dentist, as determined by rule of the board, and after such formal or on-the-job training by the dental hygienist or dental assistant as the board by rule may require. The board by rule may establish a certification process for expanded-duty dental assistants, establishing such training or experience criteria or examinations as it deems necessary and specifying which tasks may be delegable only to such assistants. If the board does establish such a certification process, the department shall implement the application process for such certification and administer any examinations required.

(8) Notwithstanding subsection (1) or subsection (2), a dentist may not delegate to anyone other than another licensed dentist:

- (a) Any prescription of drugs or medications requiring the written order or prescription of a licensed dentist or physician.
- (b) Any diagnosis for treatment or treatment planning.

(9) Notwithstanding any other provision of law, a dentist is primarily responsible for all procedures delegated by her or him.

(10) A dental assistant may not perform an intraoral procedure except after such formal or on-the-job training as the board by rule shall prescribe.

**History.**—ss. 1, 3, ch. 79-330; ss. 13, 15, 25, 28, 30, 34, 62, ch. 80-406; ss. 2, 3, ch. 81-318; s. 2, ch. 85-156; ss. 15, 23, 24, ch. 86-291; s. 60, ch. 91-137; s. 7, ch. 91-156; s. 4, ch. 91-429; s. 259, ch. 97-103; s. 7, ch. 2011-95; s. 5, ch. 2012-14.

**466.025 Permitting of dental interns serving at state institutions; certification of dentists practicing at government facilities; permitting of non-profit corporations.—**

(1) The department shall, upon presentation of satisfactory credentials meeting such requirements as the board may by rule prescribe, issue a permit to a graduate of an approved dental school or college who has not been licensed to practice dentistry in this state to serve as a dental intern in state-maintained and state-operated hospitals or institutes of Florida that may offer such a post or in such hospitals or institutions as shall be approved by the board; provided such hospitals or institutions maintain a recognized staff of one or more licensed dentists. Such intern shall function under the general supervision of the dental staff of such hospital. Her or his work shall be limited to the patients confined to the hospital in which she or he serves, and she or he shall serve without fee or compensation other than that received in salary or other remuneration from such hospital. The board shall have the power to revoke the permit of any such intern at any time upon the recommendation by the executive officer of the dental staff of the hospital or institution in which the intern serves or for any other just cause.

(2) The department shall have the authority to issue temporary certificates to graduates of accredited dental schools to practice in state and county government facilities, working under the general supervision of licensed dentists of this state in the state or county facility, provided such certificates shall be issued only to graduates of schools approved by the board and further subject to cancellation for just cause. A certificate issued under this section is valid only for such time as the dentist remains employed by a state or county government facility.

(3) The department shall have the authority, upon presentation of satisfactory credentials and under such rules as the board may prescribe, to issue a permit to a nonprofit corporation chartered for one or more of the following purposes:

(a) Training and teaching dental assistants in the public schools of the state.

(b) Promoting research and training among duly licensed dentists in the state.

(c) Providing dental care for indigent persons.

Such nonprofit corporations shall function pursuant to rule of the board. The board shall have the power to revoke the permit issued to any such corporations for any violation of the rules. Such permits shall be granted and issued for a period of 1 year and shall be renewed only upon application and approval of the board and upon a showing by the nonprofit corporation that it is

complying and will comply with the rules and regulations and all provisions prescribed by the board.

**History.**—ss. 1, 3, ch. 79-330; ss. 13, 15, 25, 29, 30, 34, 62, ch. 80-406; ss. 2, 3, ch. 81-318; ss. 16, 23, 24, ch. 86-291; s. 60, ch. 91-137; s. 7, ch. 91-156; s. 4, ch. 91-429; s. 100, ch. 92-149; s. 260, ch. 97-103; s. 7, ch. 2005-189.

**466.026 Prohibitions; penalties.—**

(1) Each of the following acts constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

(a) Practicing dentistry or dental hygiene unless the person has an appropriate, active license issued by the department pursuant to this chapter.

(b) Using or attempting to use a license issued pursuant to this chapter which license has been suspended or revoked.

(c) Knowingly employing any person to perform duties outside the scope allowed such person under this chapter or the rules of the board.

(d) Giving false or forged evidence to the department or board for the purpose of obtaining a license.

(e) Selling or offering to sell a diploma conferring a degree from a dental college or dental hygiene school or college, or a license issued pursuant to this chapter, or procuring such diploma or license with intent that it shall be used as evidence of that which the document stands for, by a person other than the one upon whom it was conferred or to whom it was granted.

(2) Each of the following acts constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083:

(a) Using the name or title “dentist,” the letters “D.D.S.” or “D.M.D.,” or any other words, letters, title, or descriptive matter which in any way represents a person as being able to diagnose, treat, prescribe, or operate for any disease, pain, deformity, deficiency, injury, or physical condition of the teeth or jaws or oral-maxillofacial region unless the person has an active dentist’s license issued by the department pursuant to this chapter.

(b) Using the name “dental hygienist” or the initials “R.D.H.” or otherwise holding herself or himself out as an actively licensed dental hygienist or implying to any patient or consumer that she or he is an actively licensed dental hygienist unless that person has an active dental hygienist’s license issued by the department pursuant to this chapter.

(c) Presenting as her or his own the license of another.

(d) Knowingly concealing information relative to violations of this chapter.

(e) Performing any services as a dental assistant as defined herein, except in the office of a licensed dentist, unless authorized by this chapter or by rule of the board.

**History.**—ss. 1, 3, ch. 79-330; ss. 2, 3, ch. 81-318; ss. 17, 23, 24, ch. 86-291; s. 60, ch. 91-137; s. 7, ch. 91-156; s. 94, ch. 91-224; s. 4, ch. 91-429; s. 261, ch. 97-103; s. 56, ch. 2000-318.

**466.027 Sexual misconduct.—**The dentist-patient relationship is founded on mutual trust. Sexual misconduct in the practice of dentistry means violation of the dentist-patient relationship through which the dentist uses said relationship to induce or attempt to induce the patient to engage, or to engage or attempt to engage the patient, in sexual activity outside the scope of the

practice or the scope of generally accepted examination or treatment of the patient. Sexual misconduct in the practice of dentistry is prohibited.

**History.**—ss. 1, 3, ch. 79-330; s. 329, ch. 81-259; ss. 2, 3, ch. 81-318; ss. 23, 24, ch. 86-291; s. 60, ch. 91-137; s. 7, ch. 91-156; s. 4, ch. 91-429.

**466.0275 Lawful investigations; consent handwriting samples; mental or physical examination.**

Every dentist who accepts a license to practice dentistry in this state shall, by so accepting the license or by making and filing a renewal of licensure to practice in this state, be deemed to have given consent, during a lawful investigation of a complaint to the following:

(1) To render a handwriting sample to an agent of the department and, further, to have waived any objections to its use as evidence against her or him.

(2) Only in those circumstances where there is probable cause that the dentist is guilty of violations involving moral turpitude, impairment, violations of laws governing controlled substances, or any violation of criminal law, the dentist shall be deemed to waive the confidentiality and to execute a release of medical reports pertaining to the mental or physical condition of the dentist herself or himself. The department shall issue an order, based on the need for additional information, to produce such medical reports for the time period relevant to the investigation. As used in this section, “medical reports” means a compilation of medical treatment of the dentist herself or himself which includes symptoms, diagnosis, treatment prescribed, relevant history, and progress. The dentist shall also be deemed to waive any objection to the admissibility of the reports as constituting privileged communications. Such material maintained by the department shall remain confidential and exempt from s. 119.07(1) until probable cause is found and an administrative complaint issued.

**History.**—s. 20, ch. 88-392; s. 1, ch. 89-296; ss. 60, 64, ch. 91-137; s. 23, ch. 91-140; ss. 7, 8, ch. 91-156; s. 4, ch. 91-429; s. 319, ch. 96-406; s. 1110, ch. 97-103.

**466.02751 Establishment of practitioner profile for designation as a controlled substance prescribing practitioner.**—The Department of Health shall establish a practitioner profile for dentists licensed under this chapter for a practitioner’s designation as a controlled substance prescribing practitioner as provided in s. 456.44.

**History.**—s. 29, ch. 2011-141.

**466.028 Grounds for disciplinary action; action by the board.**—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(a) Attempting to obtain, obtaining, or renewing a license under this chapter by bribery, fraudulent misrepresentations, or through an error of the department or the board.

(b) Having a license to practice dentistry or dental hygiene revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty of or entering a plea of nolo contendere to, regardless of adjudication, a

crime in any jurisdiction which relates to the practice of dentistry or dental hygiene. A plea of nolo contendere shall create a rebuttable presumption of guilt to the underlying criminal charges.

(d) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content contrary to s. 466.019 or rules of the board adopted pursuant thereto.

(e) Advertising, practicing, or attempting to practice under a name other than one’s own.

(f) Failing to report to the department any person who the licensee knows, or has reason to believe, is clearly in violation of this chapter or of the rules of the department or the board.

(g) Aiding, assisting, procuring, or advising any unlicensed person to practice dentistry or dental hygiene contrary to this chapter or to a rule of the department or the board.

(h) Being employed by any corporation, organization, group, or person other than a dentist or a professional corporation or limited liability company composed of dentists to practice dentistry.

(i) Failing to perform any statutory or legal obligation placed upon a licensee.

(j) Making or filing a report which the licensee knows to be false, failing to file a report or record required by state or federal law, knowingly impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity as a licensee.

(k) Committing any act which would constitute sexual battery, as defined in chapter 794, upon a patient or intentionally touching the sexual organ of a patient.

(l) Making deceptive, untrue, or fraudulent representations in or related to the practice of dentistry.

(m) Failing to keep written dental records and medical history records justifying the course of treatment of the patient including, but not limited to, patient histories, examination results, test results, and X rays, if taken.

(n) Failing to make available to a patient or client, or to her or his legal representative or to the department if authorized in writing by the patient, copies of documents in the possession or under control of the licensee which relate to the patient or client.

(o) Performing professional services which have not been duly authorized by the patient or client, or her or his legal representative, except as provided in ss. 766.103 and 768.13.

(p) Prescribing, procuring, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the professional practice of the dentist. For the purposes of this paragraph, it shall be legally presumed that prescribing, procuring, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the professional practice of the dentist, without regard to her or his intent.

(q) Prescribing, procuring, dispensing, or administering any medicinal drug appearing on any schedule set forth in chapter 893, by a dentist to herself or himself, except those prescribed, dispensed, or

administered to the dentist by another practitioner authorized to prescribe them.

(r) Prescribing, procuring, ordering, dispensing, administering, supplying, selling, or giving any drug which is a Schedule II amphetamine or a Schedule II sympathomimetic amine drug or a compound thereof, pursuant to chapter 893, to or for any person except for the clinical investigation of the effects of such drugs or compounds when an investigative protocol therefor is submitted to, and reviewed and approved by, the board before such investigation is begun.

(s) Being unable to practice her or his profession with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon a finding of the State Surgeon General or her or his designee that probable cause exists to believe that the licensee is unable to practice dentistry or dental hygiene because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of her or his profession with reasonable skill and safety to patients.

(t) Fraud, deceit, or misconduct in the practice of dentistry or dental hygiene.

(u) Failure to provide and maintain reasonable sanitary facilities and conditions.

(v) Failure to provide adequate radiation safeguards.

(w) Performing any procedure or prescribing any therapy which, by the prevailing standards of dental practice in the community, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent.

(x) Being guilty of incompetence or negligence by failing to meet the minimum standards of performance in diagnosis and treatment when measured against generally prevailing peer performance, including, but not limited to, the undertaking of diagnosis and treatment for which the dentist is not qualified by training or experience or being guilty of dental malpractice. For purposes of this paragraph, it shall be legally presumed that a dentist is not guilty of incompetence or negligence by declining to treat an individual if, in the dentist's professional judgment, the dentist or a member of her or his clinical staff is not qualified by training and experience, or the dentist's treatment facility is not clinically satisfactory or properly equipped to treat the unique characteristics and health status of the dental patient, provided the dentist refers the patient to a qualified

dentist or facility for appropriate treatment. As used in this paragraph, "dental malpractice" includes, but is not limited to, three or more claims within the previous 5-year period which resulted in indemnity being paid, or any single indemnity paid in excess of \$25,000 in a judgment or settlement, as a result of negligent conduct on the part of the dentist.

(y) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform.

(z) Delegating professional responsibilities to a person who is not qualified by training, experience, or licensure to perform them.

(aa) The violation of a lawful order of the board or department previously entered in a disciplinary hearing; or failure to comply with a lawfully issued subpoena of the board or department.

(bb) Conspiring with another licensee or with any person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

(cc) Being adjudged mentally incompetent in this or any other state, the discipline for which shall last only so long as the adjudication.

(dd) Presigning blank prescription or laboratory work order forms.

(ee) Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. For the purposes of this subsection, the term "muscle building" does not include the treatment of injured muscle. A prescription written for the drug products listed above may be dispensed by the pharmacist with the presumption that the prescription is for legitimate medical use.

(ff) Operating or causing to be operated a dental office in such a manner as to result in dental treatment that is below minimum acceptable standards of performance for the community. This includes, but is not limited to, the use of substandard materials or equipment, the imposition of time limitations within which dental procedures are to be performed, or the failure to maintain patient records as required by this chapter.

(gg) Administering anesthesia in a manner which violates rules of the board adopted pursuant to s. 466.017.

(hh) Failing to report to the department any licensee under chapter 458 or chapter 459 who the dentist knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the dentist also provides services.

(ii) Failing to report to the board, in writing, within 30 days if action has been taken against one's license to practice dentistry in another state, territory, or country.

(jj) Advertising specialty services in violation of this chapter.

(kk) Allowing any person other than another dentist or a professional corporation or limited liability company composed of dentists to direct, control, or interfere with a dentist's clinical judgment; however, this paragraph may not be construed to limit a patient's right of informed consent. To direct, control, or interfere with a dentist's clinical judgment may not be interpreted to mean dental services contractually excluded, the application of alternative benefits that may be appropriate given the dentist's prescribed course of treatment, or the application of contractual provisions and scope of coverage determinations in comparison with a dentist's prescribed treatment on behalf of a covered person by an insurer, health maintenance organization, or a prepaid limited health service organization.

(ll) Providing deceptive or fraudulent expert witness testimony related to the practice of dentistry.

(mm) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

(3) There shall be a minimum 6-month suspension of the license of a dentist who is convicted of a violation of paragraph (1)(z).

(4) The department shall reissue the license of a disciplined licensee upon certification by the board that the disciplined licensee has complied with all of the terms and conditions set forth in the final order.

(5) In addition, if the department finds that an applicant has a complaint filed against her or him in another jurisdiction, the board may deny the application pending final disposition of the complaint.

(6) Upon the department's receipt from an insurer or self-insurer of a report of a closed claim against a dentist pursuant to s. 627.912 or upon the receipt from a claimant of a presuit notice against a dentist pursuant to s. 766.106 the department shall review each report and determine whether it potentially involved conduct by a licensee that is subject to disciplinary action, in which case the provisions of s. 456.073 shall apply. However, if it is reported that a dentist has had any indemnity paid in excess of \$25,000 in a judgment or settlement or has had three or more claims for dental malpractice within the previous 5-year period which resulted in indemnity being paid, the department shall investigate the occurrence upon which the claims were based and determine if action by the department against the dentist is warranted.

(7) Subject to the authority and conditions established in s. 456.073, the probable cause panel of the board may recommend that the department seek a specified penalty in cases in which probable cause has been found and the panel has directed that an administrative complaint be filed. If the department seeks a penalty other than that recommended by the probable cause panel, the department shall provide the board with a written statement which sets forth the reasons therefor. Nothing in this subsection shall preclude a probable cause panel of any other board under the

jurisdiction of the department from making similar recommendations as penalties.

(8) The purpose of this section is to facilitate uniform discipline for those acts made punishable under this section and, to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference.

**History.**—ss. 1, 3, ch. 79-330; s. 5, ch. 80-354; s. 330, ch. 81-259; ss. 2, 3, ch. 81-318; s. 2, ch. 83-172; s. 5, ch. 85-6; ss. 18, 23, 24, ch. 86-291; s. 42, ch. 88-1; s. 21, ch. 88-277; s. 21, ch. 88-392; s. 11, ch. 89-66; ss. 29, 49, ch. 90-228; s. 3, ch. 90-341; s. 60, ch. 91-137; s. 7, ch. 91-156; s. 66, ch. 91-220; s. 4, ch. 91-429; s. 46, ch. 92-149; s. 6, ch. 92-178; s. 2, ch. 94-105; s. 61, ch. 95-144; s. 3, ch. 97-67; s. 262, ch. 97-103; s. 110, ch. 97-264; s. 73, ch. 98-166; s. 132, ch. 2000-160; s. 34, ch. 2001-277; s. 31, ch. 2003-416; s. 11, ch. 2005-240; s. 86, ch. 2008-6; s. 7, ch. 2011-233.

#### **466.0282 Specialties.—**

(1) A dentist licensed under this chapter may not hold himself or herself out as a specialist, or advertise membership in or specialty recognition by an accrediting organization, unless the dentist:

(a) Has completed a specialty education program approved by the American Dental Association and the Commission on Dental Accreditation and:

1. Is eligible for examination by a national specialty board recognized by the American Dental Association; or

2. Is a diplomate of a national specialty board recognized by the American Dental Association; or

(b) Has continuously held himself or herself out as a specialist since December 31, 1964, in a specialty recognized by the American Dental Association.

(2) A dentist licensed under this chapter may not represent to the public without appropriate disclosure that his or her practice is limited to a specific area of dentistry other than a specialty area of dentistry authorized under subsection (1), unless the dentist has attained membership in or has otherwise been credentialed by an accrediting organization which is recognized by the board as a bona fide organization for such an area of dental practice. In order to be recognized by the board as a bona fide accrediting organization for a specific area of dental practice other than a specialty area of dentistry authorized under subsection (1), the organization must condition membership or credentialing of its members upon all of the following:

(a) Successful completion of a formal, full-time advanced education program that is affiliated with or sponsored by a university-based dental school and is:

1. Beyond the dental degree;
2. At the graduate or postgraduate level; and
3. Of at least 12 months in duration.

(b) Prior didactic training and clinical experience in the specific area of dentistry which is greater than that of other dentists.

(c) Successful completion of oral and written examinations based on psychometric principles.

(3) Notwithstanding the requirements of subsections (1) and (2), a dentist who lacks membership in or certification, diplomate status, or other similar credentials from an accrediting organization approved as bona fide by either the American Dental Association or the board may announce a practice emphasis in any other area of dental practice if the dentist incorporates in capital letters or some other manner clearly

distinguishable from the rest of the announcement, solicitation, or advertisement the following statement: “(NAME OF ANNOUNCED AREA OF DENTAL PRACTICE) IS NOT RECOGNIZED AS A SPECIALTY AREA BY THE AMERICAN DENTAL ASSOCIATION OR THE FLORIDA BOARD OF DENTISTRY.” If such an area of dental practice is officially recognized by an organization which the dentist desires to acknowledge or otherwise reference in the dentist’s announcement, solicitation, or advertisement, the same announcement, solicitation, or advertisement shall also state prominently: “(NAME OF REFERENCED ORGANIZATION) IS NOT RECOGNIZED AS A BONA FIDE SPECIALTY ACCREDITING ORGANIZATION BY THE AMERICAN DENTAL ASSOCIATION OR THE FLORIDA BOARD OF DENTISTRY.”

(4) The purpose of this section is to prevent a dentist from advertising without appropriate disclosure membership in an organization which may be perceived by the public as recognizing or accrediting specialization or other unique competencies in an area of dentistry that is not recognized or accredited by the American Dental Association or the board in accordance with this section. The purpose of this section is also to prohibit a dentist from advertising a specialty or other area of dental practice without appropriate disclosure unless the special competencies held by the dentist satisfy the requirements of subsection (1) or subsection (2). The Legislature finds that dental consumers can reasonably rely on these requirements as satisfactory evidence of a dentist’s attainment of meaningful competencies in the specialty or other bona fide area of dental practice advertised. The Legislature also finds that this process for the recognition of dental specialties and other bona fide areas of dental practice is the least restrictive means available to ensure that consumers are not misled about a dentist’s unique credentials.

**History.**—s. 4, ch. 94-105; s. 6, ch. 96-281; s. 1111, ch. 97-103; s. 3, ch. 99-183.

#### **466.0285 Proprietorship by nondentists.—**

(1) No person other than a dentist licensed pursuant to this chapter, nor any entity other than a professional corporation or limited liability company composed of dentists, may:

(a) Employ a dentist or dental hygienist in the operation of a dental office.

(b) Control the use of any dental equipment or material while such equipment or material is being used for the provision of dental services, whether those services are provided by a dentist, a dental hygienist, or a dental assistant.

(c) Direct, control, or interfere with a dentist’s clinical judgment. To direct, control, or interfere with a dentist’s clinical judgment may not be interpreted to mean dental services contractually excluded, the application of alternative benefits that may be appropriate given the dentist’s prescribed course of treatment, or the application of contractual provisions and scope of coverage determinations in comparison with a dentist’s prescribed treatment on behalf of a covered person by an insurer, health maintenance organization, or a prepaid limited health service organization.

Any lease agreement, rental agreement, or other arrangement between a nondentist and a dentist whereby the nondentist provides the dentist with dental equipment or dental materials shall contain a provision whereby the dentist expressly maintains complete care, custody, and control of the equipment or practice.

(2) The purpose of this section is to prevent a nondentist from influencing or otherwise interfering with the exercise of a dentist’s independent professional judgment. In addition to the acts specified in subsection (1), no person who is not a dentist licensed pursuant to this chapter nor any entity that is not a professional corporation or limited liability company composed of dentists shall enter into a relationship with a licensee pursuant to which such unlicensed person or such entity exercises control over the following:

(a) The selection of a course of treatment for a patient, the procedures or materials to be used as part of such course of treatment, and the manner in which such course of treatment is carried out by the licensee;

(b) The patient records of a dentist;

(c) Policies and decisions relating to pricing, credit, refunds, warranties, and advertising; and

(d) Decisions relating to office personnel and hours of practice.

(3) Any person who violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) Any contract or arrangement entered into or undertaken in violation of this section shall be void as contrary to public policy. This section applies to contracts entered into or renewed on or after October 1, 1997.

**History.**—ss. 4, 41, ch. 82-179; ss. 19, 23, 24, ch. 86-291; s. 60, ch. 91-137; s. 7, ch. 91-156; s. 4, ch. 91-429; s. 4, ch. 97-67.

**466.031 “Dental laboratory” defined.—**The term “dental laboratory” as used in this chapter:

(1) Includes any person, firm, or corporation who performs for a fee of any kind, gratuitously, or otherwise, directly or through an agent or employee, by any means or method, or who in any way supplies or manufactures artificial substitutes for the natural teeth, or who furnishes, supplies, constructs, or reproduces or repairs any prosthetic denture, bridge, or appliance to be worn in the human mouth or who in any way holds itself out as a dental laboratory.

(2) Excludes any dental laboratory technician who constructs or repairs dental prosthetic appliances in the office of a licensed dentist for such dentist only and under her or his supervision and work order.

**History.**—ss. 2, 3, ch. 79-330; ss. 2, 3, ch. 81-318; ss. 20, 23, 24, ch. 86-291; s. 60, ch. 91-137; s. 7, ch. 91-156; s. 4, ch. 91-429; s. 263, ch. 97-103.

#### **466.032 Registration.—**

(1) Every person, firm, or corporation operating a dental laboratory in this state shall register biennially with the department on forms to be provided by the department and, at the same time, pay to the department a registration fee not to exceed \$300 for which the department shall issue a registration certificate entitling the holder to operate a dental laboratory for a period of 2 years.

(2) Upon the failure of any dental laboratory operator to comply with subsection (1), the department shall notify her or him by registered mail, within 1 month after the registration renewal date, return receipt requested, at her or his last known address, of such failure and inform her or him of the provisions of subsections (3) and (4).

(3) Any dental laboratory operator who has not complied with subsection (1) within 3 months after the registration renewal date shall be required to pay a delinquency fee of \$40 in addition to the regular registration fee.

(4) The department is authorized to commence and maintain proceedings to enjoin the operator of any dental laboratory who has not complied with this section from operating a dental laboratory in this state until she or he has obtained a registration certificate and paid the required fees.

(5) The dental laboratory owner or at least one employee of any dental laboratory renewing registration on or after July 1, 2010, shall complete 18 hours of continuing education biennially. Programs of continuing education shall be programs of learning that contribute directly to the education of the dental technician and may include, but are not limited to, attendance at lectures, study clubs, college courses, or scientific sessions of conventions and research.

(a) The aim of continuing education for dental technicians is to improve dental health care delivery to the public as such is impacted through the design, manufacture, and use of artificial human oral prosthetics and related restorative appliances.

(b) Continuing education courses shall address one or more of the following areas of professional development, including, but not limited to:

1. Laboratory and technological subjects, including, but not limited to, laboratory techniques and procedures, materials, and equipment; and

2. Subjects pertinent to oral health, infection control, and safety.

(c) Programs meeting the general requirements of continuing education may be developed and offered to dental technicians by the Florida Dental Laboratory Association and the Florida Dental Association. Other organizations, schools, or agencies may also be approved to develop and offer continuing education in accordance with specific criteria established by the department.

(d) Any dental laboratory renewing a registration on or after July 1, 2010, shall submit a sworn affidavit, on a form approved by the department, attesting that either the dental laboratory owner or one dental technician employed by the registered dental laboratory has completed the continuing education required in this subsection in accordance with the guidelines and provisions of this subsection and listing the date, location, sponsor, subject matter, and hours of completed continuing education courses. The dental laboratory shall retain in its records such receipts, vouchers, or certificates as may be necessary to document completion of the continuing education courses listed in accordance with this subsection. With cause, the department may request that the documentation be

provided by the applicant. The department may also request the documentation from applicants selected at random without cause.

(e)1. This subsection does not apply to a dental laboratory that is physically located within a dental practice operated by a dentist licensed under this chapter.

2. A dental laboratory in another state or country which provides service to a dentist licensed under this chapter is not required to register with the state and may continue to provide services to such dentist with a proper prescription. A dental laboratory in another state or country, however, may voluntarily comply with this subsection.

**History.**—ss. 2, 3, ch. 79-330; ss. 2, 3, ch. 81-318; ss. 21, 23, 24, ch. 86-291; s. 38, ch. 89-162; s. 1, ch. 89-374; s. 1, ch. 89-543; s. 60, ch. 91-137; s. 7, ch. 91-156; s. 4, ch. 91-429; s. 7, ch. 96-281; s. 1112, ch. 97-103; s. 10, ch. 2008-64.

**466.033 Registration certificates.**—The department shall not require an examination, but shall issue a registration certificate upon completion of the registration form and compliance with any rules promulgated by the department under s. 466.038.

**History.**—ss. 2, 3, ch. 79-330; ss. 2, 3, ch. 81-318; ss. 23, 24, ch. 86-291; s. 60, ch. 91-137; s. 7, ch. 91-156; s. 4, ch. 91-429.

**466.034 Change of ownership or address.**—When the ownership or address of any dental laboratory operating in this state is changed, the owner thereof shall notify the department within 30 days of such change of ownership or address.

**History.**—ss. 2, 3, ch. 79-330; ss. 2, 3, ch. 81-318; ss. 23, 24, ch. 86-291; s. 60, ch. 91-137; s. 7, ch. 91-156; s. 4, ch. 91-429.

**466.035 Advertising.**—Dental laboratories shall not solicit or advertise, directly or indirectly, by mail, card, newspaper, pamphlet, radio, television, or otherwise to the general public to construct, reproduce, or repair prosthetic dentures, bridges, plates, or other appliances to be used or worn as substitutes for natural teeth or for the regulation of natural teeth.

**History.**—ss. 2, 3, ch. 79-330; ss. 2, 3, ch. 81-318; ss. 23, 24, ch. 86-291; s. 60, ch. 91-137; s. 7, ch. 91-156; s. 4, ch. 91-429.

**466.036 Information; periodic inspections; equipment and supplies.**—The department may require from the applicant for a registration certificate to operate a dental laboratory any information necessary to carry out the purpose of this chapter, including proof that the applicant has the equipment and supplies necessary to operate as determined by rule of the department, and shall require periodic inspection of all dental laboratories operating in this state. Such inspections shall include, but not be limited to, inspection of sanitary conditions, equipment, supplies, and facilities on the premises. The department shall specify dental equipment and supplies that are not permitted in a registered dental laboratory.

**History.**—ss. 2, 3, ch. 79-330; ss. 2, 3, ch. 81-318; ss. 23, 24, ch. 86-291; s. 2, ch. 89-374; s. 60, ch. 91-137; s. 7, ch. 91-156; s. 4, ch. 91-429; s. 3, ch. 98-130.

**466.037 Suspension and revocation; administrative fine.**—The department may suspend or revoke the certificate of any dental laboratory registered under s. 466.032, for failing to comply with the provisions of this chapter or rules adopted by the department under

this chapter. The department may impose an administrative fine.

**History.**—ss. 2, 3, ch. 79-330; ss. 2, 3, ch. 81-318; ss. 23, 24, ch. 86-291; s. 3, ch. 89-374; s. 60, ch. 91-137; s. 7, ch. 91-156; s. 4, ch. 91-429; s. 35, ch. 2001-277.

**466.038 Rules.**—The department, upon consultation with the Board of Dentistry and industry representatives of the dental laboratory profession, has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to enforce the provisions of this chapter pertaining to and regulating dental laboratories.

**History.**—ss. 2, 3, ch. 79-330; ss. 2, 3, ch. 81-318; ss. 23, 24, ch. 86-291; s. 4, ch. 89-374; s. 60, ch. 91-137; s. 7, ch. 91-156; s. 4, ch. 91-429; s. 129, ch. 98-200.

**466.039 Violations.**—It shall be unlawful for any person, firm, or corporation to operate as a dental laboratory as defined in this chapter, except those registered as provided in s. 466.032. Violation shall constitute a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

**History.**—ss. 2, 3, ch. 79-330; ss. 2, 3, ch. 81-318; ss. 23, 24, ch. 86-291; s. 60, ch. 91-137; s. 7, ch. 91-156; s. 95, ch. 91-224; s. 4, ch. 91-429.

**466.041 Hepatitis B carriers.**—

(1) Any licensee or applicant for licensure who is a carrier of the hepatitis B virus is required to so notify the board.

(2) The board shall by rule establish procedures for reporting carrier status and shall establish practice requirements which will protect the public from transmission of the hepatitis B virus in a dental practice setting or during dental procedures.

(3) Any report of hepatitis B carrier status filed by a licensee or applicant in compliance with the requirements established by the board shall be confidential and exempt from the provisions of s. 119.07(1), except for the purpose of the investigation or prosecution of alleged violations of this chapter by the department.

**History.**—ss. 18, 19, ch. 89-374; ss. 60, 65, ch. 91-137; s. 25, ch. 91-140; ss. 7, 9, ch. 91-156; s. 4, ch. 91-429; s. 320, ch. 96-406.