

LEGISLATIVE BILL 80

Approved by the Governor May 13, 2015

Introduced by Gloor, 35.

A BILL FOR AN ACT relating to the Dentistry Practice Act; to amend sections 38-1101, 38-1102, 38-1108, 38-1112, 38-1113, 38-1137, 38-1138, 38-1139, 38-1140, 38-1141, 38-1142, 38-1143, 38-1144, 38-1145, 38-1146, 38-1147, and 38-1148, Reissue Revised Statutes of Nebraska; to provide, change, and eliminate requirements for permits for anesthesia, analgesia, and sedation as prescribed; to provide, change, and eliminate definitions; to provide requirements for sedation; to harmonize provisions; to provide an operative date; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 38-1101, Reissue Revised Statutes of Nebraska, is amended to read:

38-1101 Sections 38-1101 to 38-1151 and section 3 of this act shall be known and may be cited as the Dentistry Practice Act.

Sec. 2. Section 38-1102, Reissue Revised Statutes of Nebraska, is amended to read:

38-1102 For purposes of the Dentistry Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 38-1103 to 38-1113 and section 3 of this act apply.

Sec. 3. Deep sedation means a drug-induced depression of consciousness during which (1) a patient cannot be easily aroused but responds purposefully following repeated or painful stimulation, (2) the ability to independently maintain ventilatory function may be impaired, (3) a patient may require assistance in maintaining a patent airway and spontaneous ventilation may be inadequate, and (4) cardiovascular function is usually maintained.

Sec. 4. Section 38-1108, Reissue Revised Statutes of Nebraska, is amended to read:

38-1108 General anesthesia means a drug-induced loss of consciousness during which (1) a patient is not arousable, even by painful stimulation, (2) the ability to independently maintain ventilatory function is often impaired, (3) a patient often requires assistance in maintaining a patent airway and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function, and (4) cardiovascular function may be impaired ~~controlled state of unconsciousness accompanied by a partial or complete loss of protective reflexes, including the inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, and produced by a pharmacologic or nonpharmacologic method or a combination thereof.~~

Sec. 5. Section 38-1112, Reissue Revised Statutes of Nebraska, is amended to read:

38-1112 Minimal sedation means a drug-induced depression of consciousness during which (1) a patient retains the ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command, (2) cognitive function and coordination may be modestly impaired, and (3) ventilatory and cardiovascular functions are unaffected ~~Parenteral means administration other than through the digestive tract, including, but not limited to, intravenous administration.~~

Sec. 6. Section 38-1113, Reissue Revised Statutes of Nebraska, is amended to read:

38-1113 Moderate sedation means a drug-induced depression of consciousness during which (1) a patient responds purposefully to verbal commands, either alone or accompanied by light tactile stimulation, (2) no intervention is required to maintain a patent airway and spontaneous ventilation is adequate, and (3) cardiovascular function is usually maintained ~~Sedation means a depressed level of consciousness in which the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command is retained and which is produced by a pharmacologic or nonpharmacologic method or a combination thereof.~~

Sec. 7. Section 38-1137, Reissue Revised Statutes of Nebraska, is amended to read:

38-1137 A dentist licensed in this state shall not administer general anesthesia, deep sedation, moderate sedation, or minimal parenteral sedation, or inhalation analgesia in the practice of dentistry unless he or she has been issued the appropriate a permit to administer general anesthesia, parenteral sedation, or inhalation analgesia pursuant to the Dentistry Practice Act. A dentist licensed in this state may administer inhalation analgesia in the practice of dentistry without a permit pursuant to the act.

Sec. 8. Section 38-1138, Reissue Revised Statutes of Nebraska, is amended to read:

38-1138 A violation of provisions of the Dentistry Practice Act relating to the administration of general anesthesia, deep sedation, moderate sedation,

minimal parenteral sedation, or inhalation analgesia may result in action against the dentist's permit, license, or both pursuant to section 38-196.

Sec. 9. Section 38-1139, Reissue Revised Statutes of Nebraska, is amended to read:

38-1139 (1) The department, with the recommendation of the board, shall issue a permit to a Nebraska-licensed dentist to administer general anesthesia or deep sedation on an outpatient basis to dental patients if the dentist:

(a) 1) Maintains a properly equipped facility for the administration of general anesthesia or deep sedation as determined by the board;

(b) 2) Is currently certified in basic life-support skills for health care providers as determined by the board and either advanced cardiac life support or an appropriate emergency management course for anesthesia and dental sedation as determined by the board or the equivalent thereof;

(c) 3) Has successfully completed an onsite evaluation covering the areas of physical evaluation, monitoring, sedation, and emergency medicine; and

(d) 4) Meets at least one of the following criteria:

(i) Has completed an advanced education program approved by the board that affords comprehensive and appropriate training necessary to administer and manage general anesthesia or deep sedation; or

(ii) Is a fellow of the American Dental Society of Anesthesiology.

~~(a) Has completed one year of advanced training in anesthesiology and related academic subjects beyond the dental school level in an approved training program;~~

~~(b) Is a diplomate of the American Board of Oral and Maxillofacial Surgery;~~

~~(c) Has completed the educational requirements for eligibility for examination by the American Board of Oral and Maxillofacial Surgery; or~~

~~(d) Is a fellow of the American Dental Society of Anesthesiology.~~

(2) A dentist who has been issued a permit pursuant to this section may administer moderate or minimal sedation parenteral sedation or inhalation analgesia.

(3) A dentist who has been issued a permit to administer general anesthesia pursuant to this section prior to the operative date of this act may administer deep, moderate, or minimal sedation.

Sec. 10. Section 38-1140, Reissue Revised Statutes of Nebraska, is amended to read:

38-1140 (1) The department, with the recommendation of the board, shall issue a permit to a Nebraska-licensed dentist to administer moderate parenteral sedation on an outpatient basis to dental patients if the dentist:

(a) 1) Maintains a properly equipped facility for the administration of moderate parenteral sedation as determined by the board;

(b) 2) Is currently certified in basic life-support skills for health care providers as determined by the board and either advanced cardiac life support or an appropriate emergency management course for anesthesia and dental sedation as determined by the board or the equivalent thereof;

(c) 3) Has successfully completed an onsite evaluation covering the areas of physical evaluation, monitoring, sedation, and emergency medicine; and

(d) Meets at least one of the following criteria:

(i) Has completed an advanced education program approved by the board that affords comprehensive and appropriate training necessary to administer and manage moderate sedation; or

(ii) Is a fellow of the American Dental Society of Anesthesiology.

~~(4) Is certified as competent in the administration of parenteral sedation and in handling all related emergencies by a university, teaching hospital, or other facility approved by the board or by completing the curriculum of an accredited school or college of dentistry. Such certification shall specify the type, the number of hours, and the length of formal training completed at such school or college of dentistry. The formal training shall include, but not be limited to, forty didactic hours and twenty patient contact hours, including documentation of a minimum of fifteen supervised parenteral sedation cases.~~

(2) A dentist who has been issued a permit pursuant to this section may administer minimal sedation inhalation analgesia.

(3) A dentist who has been issued a permit to administer parenteral sedation pursuant to this section prior to the operative date of this act may administer moderate or minimal sedation.

Sec. 11. Section 38-1141, Reissue Revised Statutes of Nebraska, is amended to read:

38-1141 (1) The department, with the recommendation of the board, shall issue a permit to a Nebraska-licensed dentist to administer minimal sedation inhalation analgesia on an outpatient basis to dental patients if the dentist:

(a) 1) Maintains a properly equipped facility for the administration of minimal sedation inhalation analgesia as determined by the board;

(b) 2) Is currently certified in basic life-support skills for health care providers as determined by the board and, if providing minimal sedation for persons twelve years of age and under, is currently certified in pediatric advanced life support as determined by the board or the equivalent thereof; and

(c) Meets at least one of the following criteria:

(i) Has completed an advanced education program approved by the board that affords comprehensive and appropriate training necessary to administer and manage minimal sedation; or

(ii) Has completed training to the level of competency in minimal sedation consistent with the standards set by the American Dental Association as determined by the board or a comprehensive training program in minimal sedation

as approved by the board.

~~(2) An inhalation analgesia permit issued pursuant to this section prior to the operative date of this act terminates on such date.~~

~~(3) Has completed an approved two-day training course or equivalent training which may be acquired while studying at an accredited school or college of dentistry.~~

Sec. 12. Section 38-1142, Reissue Revised Statutes of Nebraska, is amended to read:

38-1142 General anesthesia, deep sedation, moderate sedation, and minimal and parenteral sedation shall not be administered by a dentist without the presence and assistance of a licensed dental hygienist or a dental assistant.

Sec. 13. Section 38-1143, Reissue Revised Statutes of Nebraska, is amended to read:

38-1143 Any person who assists a dentist in the administration of general anesthesia, deep sedation, moderate sedation, or minimal parenteral sedation, ~~or inhalation analgesia~~ shall be currently certified in basic life-support skills or the equivalent thereof.

Sec. 14. Section 38-1144, Reissue Revised Statutes of Nebraska, is amended to read:

38-1144 Nothing in the Dentistry Practice Act shall be construed to allow a dentist to administer to himself or herself, or to any person other than in the course of the practice of dentistry, any drug or agent used for general anesthesia, deep sedation, moderate sedation, minimal parenteral sedation, or inhalation analgesia.

Sec. 15. Section 38-1145, Reissue Revised Statutes of Nebraska, is amended to read:

38-1145 (1) Permits issued for the administration of general anesthesia or deep sedation, moderate sedation, or minimal sedation, ~~parenteral sedation, or inhalation analgesia~~ pursuant to the Dentistry Practice Act shall be valid until March 1 of the next odd-numbered year after issuance. A permit issued for the administration of general anesthesia prior to the operative date of this act shall remain valid subject to the Dentistry Practice Act until March 1 of the next odd-numbered year, and it may be renewed subject to the Dentistry Practice Act as a general anesthesia or deep sedation permit. A permit issued for the administration of parenteral sedation prior to the operative date of this act shall remain valid subject to the Dentistry Practice Act until March 1 of the next odd-numbered year, and it may be renewed subject to the Dentistry Practice Act as a moderate sedation permit, ~~except that permits issued or renewed prior to March 1, 2007, shall expire March 1, 2009.~~

(2) The department, with the recommendation of the board, shall adopt and promulgate rules and regulations to define criteria for the reevaluation of credentials, facilities, equipment, dental hygienists, and dental assistants and procedures of a previously qualified dentist to renew his or her permit for each subsequent renewal.

Sec. 16. Section 38-1146, Reissue Revised Statutes of Nebraska, is amended to read:

38-1146 All practice locations of a dentist applying for a permit to administer general anesthesia or deep sedation, moderate sedation, or minimal sedation parenteral sedation, ~~or inhalation analgesia~~ may be inspected at the discretion of the board. The board may contract to have such inspections performed. The board shall not delegate authority to review and to make recommendations on permit applications or to determine the persons or facilities to be inspected.

Sec. 17. Section 38-1147, Reissue Revised Statutes of Nebraska, is amended to read:

38-1147 (1) All licensed dentists practicing in this state shall submit a report to the board within thirty days of any incident which results in death or physical or mental injury requiring hospitalization of a patient which occurs in the outpatient facilities of such dentist during, or as a direct result of, inhalation analgesia, parenteral sedation, or general anesthesia, deep sedation, moderate sedation, minimal sedation, or inhalation analgesia.

(2) The incident report shall include, but not be limited to:

(a) A description of the dental procedure;

(b) A description of the preoperative physical condition of the patient;

(c) A list of the drugs and the dosage administered;

(d) A detailed description of the techniques used in administering the drugs;

(e) A description of the incident, including, but not limited to, a detailed description of the symptoms of any complications, the symptoms of onset, and the type of symptoms in the patient;

(f) A description of the treatment instituted;

(g) A description of the patient's response to the treatment; and

(h) A description of the patient's condition on termination of any procedures undertaken.

(3) Failure to submit an incident report as required by this section shall result in the loss of the permit.

Sec. 18. Section 38-1148, Reissue Revised Statutes of Nebraska, is amended to read:

38-1148 The department, with the recommendation of the board, may adopt and promulgate rules and regulations necessary to carry out the provisions of the Dentistry Practice Act relating to permits to administer general anesthesia or deep sedation, moderate sedation, or minimal sedation and relating to administration of parenteral sedation, or inhalation analgesia.

Sec. 19. This act becomes operative on July 1, 2016.

Sec. 20. Original sections 38-1101, 38-1102, 38-1108, 38-1112, 38-1113, 38-1137, 38-1138, 38-1139, 38-1140, 38-1141, 38-1142, 38-1143, 38-1144, 38-1145, 38-1146, 38-1147, and 38-1148, Reissue Revised Statutes of Nebraska, are repealed.