

**DEPARTMENT OF HEALTH**

**NOTICE OF FINAL RULEMAKING**

The Director of the Department of Health (Department), pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2016 Repl.)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of the adoption of the following amendments to Chapter 90 (Dental Assistants) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR).

The purpose of this rulemaking is to amend the continuing education requirements for dental assistants to include continuing education in public health priorities as determined and amended from time to time by the Director, increase the total number of continuing education hours required, and allow for not more than five (5) continuing education hours to be completed through approved internet courses.

This rulemaking was published in the *D.C. Register* on November 8, 2019 at 66 DCR 015098. The Department received comments from the District of Columbia Dental Society in response to the notice objecting to the increase in mandatory continuing education set forth in the proposed rulemaking, and objecting to the additional two (2) hours of mandatory training (in public health priorities). The District of Columbia Board of Dentistry considered the comments at its regularly scheduled meeting on December 18, 2019. The Board did not agree that the additional requirements were excessive or overly burdensome. Therefore, the Board voted to recommend that the Director of the Department of Health publish the rulemaking as proposed without any changes. No changes have been made to the rulemaking.

These rules were adopted as final on January 30, 2019 and will be effective upon publication of this notice in the *D.C. Register*.

**Chapter 90, DENTAL ASSISTANTS, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:**

**Section 9004, SCOPE OF PRACTICE, is amended by correcting the numbering in Subsection 9004.5 as follows:**

9004.5 A dentist shall not delegate to a dental assistant any of the following procedures:

- (a) Those procedures excluded by 17 DCMR § 4215.1;
- (b) A preliminary dental examination;
- (c) A complete prophylaxis, including the removal of any deposits, diseased crevicular tissue, accretion, or stain from the surface of a tooth or a restoration;

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**Section 9007, CONTINUING EDUCATION REQUIREMENTS, is amended to read as follows:**

- 9007.1 Except as provided in § 9007.2, this section shall apply to all applicants for the renewal, reactivation, or reinstatement of a dental assistant registration.
- 9007.2 This section shall not apply to applicants for the first renewal of a dental assistant registration.
- 9007.3 A continuing education credit shall be valid only if it is part of a program approved by the Board.
- 9007.4 An applicant shall have the burden of verifying whether a program is approved by the Board pursuant to this section prior to attending the program.
- 9007.5 A continuing education credit shall consist of at least sixty (60) minutes of instruction in an approved continuing education program.
- 9007.6 Beginning with the licensure period ending December 31, 2021, not more than five (5) continuing education credits for approved internet continuing education courses may be accepted in any renewal period, or for reinstatement or reactivation of a license.
- 9007.7 For the licensure period ending December 31, 2019, an applicant for renewal of a dental assistant registration shall:
- (a) Have completed seven (7) hours of credit within the two-year (2) period preceding the date the registration expires, which shall include at least:
    - (1) Current certification of having completed two (2) hours in basic life support (“BLS certification”);
    - (2) Two (2) hours of infection control in approved continuing education programs;
    - (3) One (1) hour of ethics in an approved continuing education programs; and
    - (4) Two (2) hours of continuing education on cultural competency or specialized clinical training focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”) meeting the requirements of Section 510(b)(5) of the District of Columbia Health Occupations

Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1205.10(b)(5));

- (b) Attest to completion of the required continuing education credits on the renewal application form; and
- (c) Be subject to a random audit.

9007.8 Beginning with the licensure period ending December 31, 2021, an applicant for renewal of a dental assistant registration shall:

- (a) Have completed ten (10) hours of credit within the two-year (2) period preceding the date the registration expires, which shall include at least:
  - (1) Current certification of having completed two (2) hours in basic life support (“BLS certification”);
  - (2) Two (2) hours of infection control in approved continuing education programs;
  - (3) One (1) hour of ethics in an approved continuing education programs;
  - (4) Two (2) hours of continuing education on cultural competency or specialized clinical training focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”) meeting the requirements of Section 510(b)(5) of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1205.10(b)(5)); and
  - (5) At least ten percent (10%) of the total required continuing education shall be in the subjects determined by the Director as public health priorities of the District every five (5) years or less frequently, as deemed appropriate by the Director, with notice of the subject matter published in the *D.C. Register*. The Board shall disseminate the identified subjects to its licensees when determined by the Director via electronic communication and through publication on its website;
- (b) Attest to completion of the required continuing education credits on the renewal application form; and
- (c) Be subject to a random audit.

9007.9 For the licensure period ending December 31, 2019, to qualify for reinstatement or reactivation of a dental assistant registration, an applicant shall submit proof of having completed a minimum of seven (7) hours of credit within the year immediately preceding the date of the application, which shall include at least:

- (a) Current certification of having completed two (2) hours in basic life support (“BLS certification”);
- (b) Two (2) hours of infection control in approved continuing education programs;
- (c) One (1) hour of ethics in an approved continuing education programs; and
- (d) Two (2) hours of continuing education on cultural competency or specialized clinical training focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”) meeting the requirements of Section 510(b)(5) of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1205.10(b)(5)).

9007.10 Beginning with the licensure period ending December 31, 2021, to qualify for reinstatement or reactivation of a dental assistant registration, an applicant shall submit proof of having completed a minimum of ten (10) hours of credit within the year immediately preceding the date of the application, which shall include at least:

- (a) Current certification of having completed two (2) hours in basic life support (“BLS certification”);
- (b) Two (2) hours of infection control in approved continuing education programs;
- (c) One (1) hour of ethics in an approved continuing education programs;
- (d) Two (2) hours of continuing education on cultural competency or specialized clinical training focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”) meeting the requirements of Section 510(b)(5) of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1205.10(b)(5)); and
- (e) At least ten percent (10%) of the total required continuing education shall be in the subjects determined by the Director as public health priorities of the District every five (5) years or less frequently, as deemed appropriate by the Director, with notice of the subject matter published in the *D.C.*

*Register.* The Board shall disseminate the identified subjects to its licensees when determined by the Director via electronic communication and through publication on its website.

- 9007.11 Applicants for renewal of a registration shall only be required to prove completion of the required continuing education credits by submitting proof if requested to do so as part of the random audit, or if otherwise requested to do so by the Board.
- 9007.12 An applicant for renewal of a registration who fails to renew the registration by the date the registration expires may renew the registration for up to sixty (60) days after the date of expiration by completing the application, submitting the required supporting documents, and paying the required late fee. Upon renewal, the applicant shall be deemed to have possessed a valid registration during the period between the expiration of the registration and the renewal thereof.
- 9007.13 If an applicant for renewal of a registration fails to renew the registration and pay the late fee within sixty (60) days after the expiration of applicant's registration, the registration shall be considered to have lapsed on the date of expiration. The applicant shall thereafter be required to apply for reinstatement of an expired registration and meet all requirements and fees for reinstatement.
- 9007.14 The Board may, in its discretion, grant an extension of the sixty (60) day period, up to a maximum of one (1) year, to renew after expiration if the applicant's failure to renew was for good cause. As used in this section, "good cause" includes the following:
- (a) Serious and protracted illness of the applicant; and
  - (b) The death or serious and protracted illness of a member of the applicant's immediate family.
- 9007.15 An extension granted under this section shall not exempt the dental assistant from complying with the continuing education requirements for any other renewal period.