

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 20-0278.01 Christy Chase x2008

HOUSE BILL 20-1056

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A BILL FOR AN ACT

101 **CONCERNING THE NONSUBSTANTIVE REORGANIZATION OF THE**
102 **"DENTAL PRACTICE ACT".**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill reorganizes the "Dental Practice Act", which includes the laws governing the practice of dentistry, dental hygiene, and other procedures, tasks, and activities related to those practices.

1 *Be it enacted by the General Assembly of the State of Colorado:*

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
January 29, 2020

HOUSE
2nd Reading Unamended
January 28, 2020

1 **provisions.** Articles 1, 20, and 30 of this title 12 apply, according to their
2 terms, to this article 220.

3 **12-220-104. [Formerly 12-220-104] Definitions - rules.** As used
4 in this article 220, unless the context otherwise requires:

5 (1) "Accredited" means a program that is nationally recognized for
6 specialized accrediting for dental, dental hygiene, and dental auxiliary
7 programs by the United States department of education.

8 (2) "Board" means the Colorado dental board created in section
9 12-220-105.

10 (3) "Dental assistant" means any person, ~~not~~ OTHER THAN a dentist
11 or dental hygienist licensed in Colorado, who may be assigned or
12 delegated to perform dental tasks or procedures as authorized by this
13 article 220 or by rules of the board.

14 (4) "Dental hygiene" means the delivery of preventive,
15 educational, and clinical services supporting total health for the control
16 of oral disease and the promotion of oral health provided by a dental
17 hygienist within the scope of ~~his or her~~ THE DENTAL HYGIENIST'S
18 education, training, and experience and in accordance with applicable
19 law.

20 (5) "Dental hygiene diagnosis" means the identification of an
21 existing oral health problem that a dental hygienist is qualified and
22 licensed to treat within the scope of dental hygiene practice. The dental
23 hygiene diagnosis focuses on behavioral risks and physical conditions that
24 are related to oral health. A dentist shall confirm any dental hygiene
25 diagnosis that requires treatment that is outside the scope of dental
26 hygiene practice pursuant to ~~sections 12-220-122, 12-220-123, and~~
27 ~~12-220-127~~ SECTIONS 12-220-501, 12-220-503, AND 12-220-504.

1 (6) "Dentistry" means the evaluation, diagnosis, prevention, or
2 treatment, including nonsurgical, surgical, or related procedures, of
3 diseases, disorders, or conditions of the oral cavity, maxillofacial area, or
4 the adjacent and associated structures and the impact of the disease,
5 disorder, or condition on the human body so long as a dentist is practicing
6 within the scope of ~~his or her~~ THE DENTIST'S education, training, and
7 experience and in accordance with applicable law.

8 (7) (a) "Direct supervision" means the supervision of those tasks
9 or procedures that do not require the presence of the dentist in the room
10 where performed but require the dentist's presence on the premises and
11 availability for prompt consultation and treatment.

12 (b) For purposes of this subsection (7) only, "premises" means
13 within the same building, dental office, or treatment facility and within
14 close enough proximity to respond in a timely manner to an emergency
15 or the need for assistance.

16 (8) "Independent advertising or marketing agent" means a person,
17 firm, association, or corporation that performs advertising or other
18 marketing services on behalf of licensed dentists, including referrals of
19 patients to licensees resulting from patient-initiated responses to the
20 advertising or marketing services.

21 (9) (a) "Indirect supervision" means the supervision of those tasks
22 or procedures that do not require the presence of the dentist in the office
23 or on the premises at the time the tasks or procedures are being
24 performed, but do require that the tasks be performed with the prior
25 knowledge and consent of the dentist.

26 (b) For purposes of this subsection (9) only, "premises" means
27 within the same building, dental office, or treatment facility and within

1 close enough proximity to respond in a timely manner to an emergency
2 or the need for assistance.

3 (10) (a) "Interim therapeutic restoration" or "ITR" means a direct
4 provisional restoration placed to stabilize a tooth until a licensed dentist
5 can assess the need for further definitive treatment.

6 (b) ~~(H)~~ "Interim therapeutic restoration" involves the removal of
7 soft material using hand instrumentation, without the use of rotary
8 instrumentation, and the subsequent placement of a glass ionomer
9 restoration OR, PURSUANT TO BOARD RULES, A RESTORATION USING NEW
10 RESTORATIVE MATERIALS THAT MAY BECOME AVAILABLE AND ARE
11 APPROPRIATE TO THE INTERIM THERAPEUTIC PROCEDURE.

12 ~~(H) The board may promulgate rules regarding the use of new~~
13 ~~restorative materials in addition to the materials described in subsection~~
14 ~~(10)(b)(I) of this section that are appropriate to the interim therapeutic~~
15 ~~restoration procedure as they become available.~~

16 (c) "Interim therapeutic restoration" includes protective restoration
17 for adults delivered in accordance with ~~section 12-220-128~~ SECTION
18 12-220-505.

19 (11) "Laboratory work order" means the written instructions of a
20 dentist licensed in Colorado authorizing another person to construct,
21 reproduce, or repair any prosthetic denture, bridge, appliance, or other
22 structure to function in the oral cavity, maxillofacial area, or adjacent and
23 associated regions.

24 (12) "License" has the meaning specified in section 12-20-102 (9)
25 and includes an academic license to practice dentistry pursuant to ~~section~~
26 ~~12-220-116~~ SECTION 12-220-402. A license is a privilege personal to the
27 licensee, and the board may revoke, suspend, or impose disciplinary

1 conditions on the license for a violation of this article 220.

2 (13) "Proprietor" includes any person who:

3 (a) Employs dentists, dental hygienists, or dental assistants in the
4 operation of a dental office, except as provided in ~~sections 12-220-110~~
5 ~~and 12-220-127~~ SECTIONS 12-220-305 AND 12-220-501;

6 (b) Places in possession of a dentist, dental hygienist, dental
7 assistant, or other agent dental material or equipment that may be
8 necessary for the management of a dental office on the basis of a lease or
9 any other agreement for compensation for the use of the material,
10 equipment, or offices; or

11 (c) Retains the ownership or control of dental equipment or
12 material or a dental office and makes the same available in any manner
13 for use by dentists, dental hygienists, dental assistants, or other agents;
14 except that nothing in this subsection (13)(c) ~~shall apply~~ APPLIES to bona
15 fide sales of dental equipment or material secured by a chattel mortgage
16 or retain-title agreement or to the loan of articulators.

17 (14) "Telehealth by store-and-forward transfer" means an
18 asynchronous transmission of medical or dental information to be
19 reviewed by a dentist at a later time at a distant site without the patient
20 present in real time.

21 (15) "Telehealth supervision" means indirect supervision by a
22 dentist of a dental hygienist performing a statutorily authorized procedure
23 using telecommunications systems.

24 **12-220-105. [Formerly 12-220-105] Colorado dental board -**
25 **qualifications of board members - quorum - panel - rules - review of**
26 **functions - repeal of article.** (1) (a) The Colorado dental board is hereby
27 created as the agency of this state for the regulation of the practice of

1 dentistry in this state and to carry out the purposes of this article 220. The
2 board is subject to the supervision and control of the division as provided
3 by section 12-20-103 (2).

4 (b) The board consists of seven dentist members, three dental
5 hygienist members, and three members from the public at large. The
6 governor shall appoint each member for a term of four years, and each
7 member ~~shall~~ MUST have the qualifications provided in this article 220.
8 No member shall serve more than two consecutive terms of four years.
9 Each board member ~~shall hold~~ HOLDS office until ~~his or her~~ THE
10 MEMBER'S term expires or until the governor appoints a successor.

11 (c) In making appointments to the board, the governor shall
12 attempt to create geographical, political, urban, and rural balance among
13 the board members. If a vacancy occurs in any board membership before
14 the expiration of the member's term, the governor shall fill the vacancy by
15 appointment for the remainder of the term in the same manner as in the
16 case of original appointments.

17 (d) The governor may remove any member of the board for
18 misconduct, incompetence, or neglect of duty.

19 (2) A person ~~shall be~~ IS qualified to be appointed to the board if
20 the person:

21 (a) Is a legal resident of Colorado;

22 (b) Is currently licensed as a dentist or dental hygienist, if
23 fulfilling that position on the board; and

24 (c) Has been actively engaged in a clinical practice in this state for
25 at least five years immediately preceding the appointment, if fulfilling the
26 position of dentist or dental hygienist on the board.

27 (3) The board shall organize annually by electing one of its

1 members as chairperson and one as vice-chairperson. ~~It~~ THE BOARD may
2 adopt ~~such~~ rules for its government ~~as it may deem~~ THAT THE BOARD
3 DEEMS proper. The board shall meet at least quarterly, and more often if
4 necessary, at ~~such~~ times and places ~~as it may from time to time designate~~
5 THE BOARD DESIGNATES.

6 (4) A majority of the members of the board ~~shall constitute~~
7 CONSTITUTES a quorum for the transaction of business, but if less than a
8 quorum is present on the day appointed for a meeting, those present may
9 adjourn until a quorum is present. Any action taken by a quorum of the
10 assigned panel ~~shall constitute~~ CONSTITUTES action by the board; except
11 that, for disciplinary matters concerning a dentist, a majority of dentist
12 members is required for a quorum.

13 (5) (a) Before the repeal of this article 220 pursuant to subsection
14 (5)(b) of this section, all functions of the board are scheduled for review
15 in accordance with section 24-34-104.

16 (b) This article 220 is repealed, effective September 1, 2025.

17 **12-220-106. [Formerly 12-220-106] Powers and duties of board**
18 **- rules - limitation on authority.** (1) The board shall exercise, in
19 accordance with this article 220, the following powers and duties:

20 (a) Make, publish, declare, and periodically review reasonable
21 rules pursuant to section 12-20-204, including rules regarding:

22 (I) The use of lasers for dental and dental hygiene purposes within
23 defined scopes of practice, subject to appropriate education and training,
24 and with appropriate supervision, as applicable;

25 (II) Minimum training, experience, and equipment requirements
26 to obtain an anesthesia or sedation permit under ~~section 12-220-146~~
27 SECTION 12-220-411;

1 (III) Criteria and procedures consistent with ~~section 12-220-146~~
2 SECTION 12-220-411 for an office inspection program to be completed
3 upon application and renewal of sedation and anesthesia permits pursuant
4 to ~~section 12-220-146~~ SECTION 12-220-411;

5 (IV) A uniform system and schedule of fines pursuant to ~~section~~
6 ~~12-220-131 (5)(b)~~ SECTION 12-220-202 (5)(b);

7 (V) The granting of temporary licenses, which rules ~~shall~~ MUST
8 include, but not be limited to, restrictions with respect to effective dates,
9 areas of practice that may be performed, and licensing fees that may be
10 charged to the applicant;

11 (b) (I) (A) Conduct hearings in accordance with section 12-20-403
12 to revoke, suspend, or deny the issuance of a license or renewal of a
13 license granted under the authority of this article 220 or of previous laws;

14 (B) Issue a confidential letter of concern in accordance with
15 section 12-20-404 (5);

16 (C) Issue a letter of admonition in accordance with section
17 12-20-404 (4);

18 (D) Impose an administrative fine in accordance with ~~section~~
19 ~~12-20-404 (1)(c)~~ SECTIONS 12-20-404 (1)(c) AND 12-220-202 (5)(b); or

20 (E) Reprimand, censure, or, in accordance with section 12-20-404
21 (1)(b), place a licensee on probation when evidence has been presented
22 showing a violation of ~~any of the provisions of~~ this article 220 by a holder
23 of or an applicant for a license.

24 (II) The board may elect to hear the matter itself pursuant to ~~the~~
25 ~~provisions of section 12-220-131 (1)~~ SECTION 12-220-202 (1), or it may
26 elect to hear the matter with the assistance of an administrative law judge
27 or an advisory attorney from the office of the attorney general, and, in

1 such case, the advisor or administrative law judge shall advise the board
2 on legal and procedural matters and rule on evidence and otherwise
3 conduct the course of the hearing.

4 (c) Conduct investigations in accordance with section 12-20-403
5 and inspections for compliance with the provisions of this article 220;

6 (d) Grant and issue licenses and renewal certificates in conformity
7 with this article 220 to ~~such applicants as have been~~ THE BOARD HAS
8 found TO BE qualified. The board may also grant and issue temporary
9 licenses in accordance with rules adopted under subsection (1)(a)(V) of
10 this section.

11 (e) Through the department and subject to appropriations made to
12 the department, employ hearing officers or administrative law judges on
13 a full-time or part-time basis to conduct any hearings required by this
14 article 220;

15 (f) In accordance with ~~section 12-220-146~~ SECTION 12-220-411,
16 issue anesthesia and sedation permits to licensed dentists and dental
17 hygienists and set and collect fees for permit issuance; except that the
18 board shall only collect fees for local anesthesia permits issued to dental
19 hygienists on or after July 1, 2014.

20 (2) The board may recognize those dental specialties defined by
21 the American Dental Association.

22 (3) To facilitate the licensure of qualified applicants, the board
23 may ~~in its discretion,~~ establish a subcommittee of at least six board
24 members to perform licensing functions in accordance with this article
25 220. Four subcommittee members ~~shall~~ constitute a quorum of the
26 subcommittee. The chairperson of the board may serve on a
27 subcommittee as deemed necessary by the chairperson. Any action taken

1 by a quorum of the subcommittee ~~shall constitute~~ CONSTITUTES action by
2 the board.

3 (4) The authority granted the board under ~~the provisions of this~~
4 article 220 ~~shall not be construed to~~ DOES NOT authorize the board to
5 arbitrate or adjudicate fee disputes between licensees or between a
6 licensee and any other party.

7 **12-220-107. [Formerly 12-220-107] Indebtedness -**
8 **appropriations - publications.** (1) The board ~~shall~~ DOES not have the
9 power to create any indebtedness on behalf of the state.

10 (2) Appropriations made to the board may be applied only to the
11 payment of:

12 (a) The necessary traveling, hotel, and clerical expenses of the
13 members of the board in the performance of their duties;

14 (b) Dues for membership in the American Association of Dental
15 Boards, or its successor association, and the expense of sending delegates
16 to the association's convention; and

17 (c) Other expenditures necessary or proper to carry out and
18 execute the powers and duties of the board and implement this article
19 220.

20 (3) Publications of the board circulated in quantity outside the
21 executive branch shall be issued in accordance with the provisions of
22 section 24-1-136.

23 **12-220-108. [Formerly 12-220-142] Attorney general shall**
24 **represent board and members.** The attorney general of the state of
25 Colorado shall counsel with and advise the board in connection with its
26 duties and responsibilities under this article 220. If litigation is brought
27 against the board or any of its individual members in connection with

1 actions taken by ~~it or them~~ THE BOARD OR ANY OF ITS MEMBERS under ~~the~~
2 ~~provisions of~~ this article 220 and the actions are free of malice, fraud, or
3 willful neglect of duty, the attorney general shall defend the litigation
4 without cost to the board or to any individual member ~~thereof~~ OF THE
5 BOARD.

6 PART 2

7 DISCIPLINE

8 **12-220-201. [Formerly 12-220-130] Grounds for disciplinary**
9 **action - definition.** (1) The board may take disciplinary action against
10 an applicant or licensee in accordance with ~~sections 12-20-404 and~~
11 ~~12-220-131~~ SECTIONS 12-20-404 AND 12-220-202 for any of the following
12 causes:

13 (a) Engaging in fraud, misrepresentation, or deception in applying
14 for, securing, renewing, or seeking reinstatement of a license to practice
15 dentistry or dental hygiene in this state, in applying for professional
16 liability coverage required pursuant to ~~section 12-220-147~~ SECTION
17 12-220-307, or in taking the examinations provided for in this article 220;

18 (b) Conviction of a felony or any crime that constitutes a violation
19 of this article 220. For purposes of this subsection (1)(b), "conviction"
20 includes the entry of a plea of guilty or nolo contendere or a deferred
21 sentence.

22 (c) Administering, dispensing, or prescribing a habit-forming drug
23 or controlled substance, as defined in section 18-18-102 (5), to a person,
24 including the applicant or licensee, other than in the course of legitimate
25 professional practice;

26 (d) Conviction of a violation of a federal or state law regulating
27 the possession, distribution, or use of a controlled substance, as defined

1 in section 18-18-102 (5), and, in determining if a license should be
2 denied, revoked, or suspended or if the licensee should be placed on
3 probation, the board shall be IS governed by sections 12-20-202 (5) and
4 24-5-101;

5 (e) Habitually abusing or excessively using alcohol, a
6 habit-forming drug, or a controlled substance, as defined in section
7 18-18-102 (5);

8 (f) Misusing a drug or controlled substance, as defined in section
9 18-18-102 (5);

10 (g) Aiding or abetting, in the practice of dentistry or dental
11 hygiene, a person who is not licensed to practice dentistry or dental
12 hygiene under this article 220 or whose license to practice dentistry or
13 dental hygiene is suspended;

14 (h) Except as otherwise provided in ~~sections 25-3-103.7,~~
15 ~~12-220-113, and 12-220-122 (4)~~ SECTIONS 12-220-304, 12-220-503 (4),
16 AND 25-3-103.7, practicing dentistry or dental hygiene as a partner, agent,
17 or employee of or in joint venture with any person who does not hold a
18 license to practice dentistry or dental hygiene within this state or
19 practicing dentistry or dental hygiene as an employee of or in joint
20 venture with any partnership, association, or corporation. A licensee
21 holding a license to practice dentistry or dental hygiene in this state may
22 accept employment from any person, partnership, association, or
23 corporation to examine, prescribe, and treat the employees of the person,
24 partnership, association, or corporation.

25 (i) Violating or attempting to violate, directly or indirectly,
26 assisting in or abetting the violation of, or conspiring to violate any
27 provision or term of this article 220, an applicable provision of article 20

1 or 30 of this title 12, or any lawful rule or order of the board;

2 (j) (I) Failing to notify the board, AS REQUIRED BY SECTION
3 12-30-108 (1), of a physical illness, physical condition, or behavioral
4 HEALTH, mental health, or substance use disorder that renders the licensee
5 unable, or limits the licensee's ability, to perform dental or dental hygiene
6 services with reasonable skill and with safety to the patient;

7 (II) Failing to act within the limitations created by a physical
8 illness, physical condition, or behavioral HEALTH, mental health, or
9 substance use disorder that renders the licensee unable to practice dental
10 or dental hygiene services with reasonable skill and safety or that may
11 endanger the health or safety of persons under his or her care; or

12 (III) Failing to comply with the limitations agreed to under a
13 confidential agreement entered pursuant to ~~sections 12-30-108 and~~
14 ~~12-220-136~~ SECTIONS 12-30-108 AND 12-220-207;

15 (k) Committing an act or omission that constitutes grossly
16 negligent dental or dental hygiene practice or that fails to meet generally
17 accepted standards of dental or dental hygiene practice;

18 (l) Advertising in a manner that is misleading, deceptive, or false;

19 (m) Engaging in a sexual act with a patient during the course of
20 patient care or within six months immediately following the termination
21 of the licensee's professional relationship with the patient. "Sexual act",
22 as used in this subsection (1)(m), means sexual contact, sexual intrusion,
23 or sexual penetration as defined in section 18-3-401.

24 (n) Refusing to make patient records available to a patient
25 pursuant to a written authorization-request under section 25-1-802;

26 (o) False billing in the delivery of dental or dental hygiene
27 services, including, but not limited to, performing one service and billing

1 for another, billing for any service not rendered, or committing a
2 fraudulent insurance act, as defined in section 10-1-128;

3 (p) Committing abuse of health insurance in violation of section
4 18-13-119;

5 (q) Failing to notify the board, in writing and within ninety days
6 after a judgment is entered, of a final judgment by a court of competent
7 jurisdiction in favor of any party and against the licensee involving
8 negligent malpractice of dentistry or dental hygiene, which notice must
9 contain the name of the court, the case number, and the names of all
10 parties to the action;

11 (r) Failing to report a dental or dental hygiene malpractice
12 judgment or malpractice settlement to the board by the licensee within
13 ninety days;

14 (s) Failing to furnish unlicensed persons with laboratory work
15 orders pursuant to ~~section 12-220-139~~ SECTION 12-220-502;

16 (t) Employing a solicitor or other agent to obtain patronage,
17 except as provided in ~~section 12-220-143~~ SECTION 12-220-309;

18 (u) Willfully deceiving or attempting to deceive the board or its
19 agents with reference to any matter relating to this article 220;

20 (v) Sharing any professional fees with anyone except those with
21 whom the dentist or dental hygienist is lawfully associated in the practice
22 of dentistry or dental hygiene; except that:

23 (I) A licensed dentist or dental hygienist may pay an independent
24 advertising or marketing agent compensation for advertising or marketing
25 services rendered by the agent for the benefit of the licensed dentist or
26 dental hygienist, including compensation that is based on the results or
27 performance of the services on a per-patient basis; and

1 (II) Nothing in this section prohibits a dentist or dental hygienist
2 practice owned or operated by a proprietor authorized under ~~section~~
3 ~~12-220-114~~ SECTION 12-220-303 from contracting with any person or
4 entity for business management services or paying a royalty in accordance
5 with a franchise agreement if the terms of the contract or franchise
6 agreement do not affect the exercise of the independent professional
7 judgment of the dentist or dental hygienist.

8 (w) Failing to provide reasonably necessary referral of a patient
9 to other licensed dentists or licensed health care professionals for
10 consultation or treatment when the failure to provide referral does not
11 meet generally accepted standards of dental care;

12 (x) Failure of a dental hygienist to recommend that a patient be
13 examined by a dentist or to refer a patient to a dentist when the dental
14 hygienist detects a condition that requires care beyond the scope of
15 practicing supervised or unsupervised dental hygiene;

16 (y) Engaging in any of the following activities and practices:

17 (I) ~~Willful and repeated~~ WILLFULLY AND REPEATEDLY ordering or
18 ~~performance~~ PERFORMING, without clinical justification, of demonstrably
19 unnecessary laboratory tests or studies;

20 (II) ~~The administration~~ ADMINISTERING, without clinical
21 justification, of treatment that is demonstrably unnecessary;

22 (III) In addition to the provisions of subsection (1)(x) of this
23 section, ~~the failure~~ FAILING to obtain consultations or perform referrals
24 when failing to do so is not consistent with the standard of care for the
25 profession;

26 (IV) Ordering or performing, without clinical justification, any
27 service, X ray, or treatment that is contrary to recognized standards of the

- 1 practice of dentistry or dental hygiene as interpreted by the board;
- 2 (z) Falsifying or repeatedly making incorrect essential entries or
3 repeatedly failing to make essential entries on patient records;
- 4 (aa) Violating section 8-42-101 (3.6);
- 5 (bb) Violating ~~section 12-220-202~~ SECTION 12-220-602 or any
6 rule of the board adopted pursuant to that section;
- 7 (cc) Administering local anesthesia, minimal sedation, moderate
8 sedation, or deep sedation/general anesthesia without obtaining a permit
9 from the board in accordance with ~~section 12-220-146~~ SECTION
10 12-220-411;
- 11 (dd) Failing to report to the board, within ninety days after final
12 disposition, the surrender of a license to, or adverse action taken against
13 a license by, a licensing agency in another state, territory, or country, a
14 governmental agency, a law enforcement agency, or a court for an act or
15 conduct that would constitute grounds for discipline pursuant to this
16 article 220;
- 17 (ee) Failing to provide adequate or proper supervision when
18 employing unlicensed persons in a dental or dental hygiene practice;
- 19 (ff) Engaging in any conduct that constitutes a crime as defined
20 in title 18, which conduct relates to the licensee's practice as a dentist or
21 dental hygienist;
- 22 (gg) Practicing outside the scope of dental or dental hygiene
23 practice;
- 24 (hh) Failing to establish and continuously maintain financial
25 responsibility or professional liability insurance as required by ~~section~~
26 ~~12-220-147~~ SECTION 12-220-307;
- 27 (ii) Advertising or otherwise holding oneself out to the public as

1 practicing a dental specialty in which the dentist has not successfully
2 completed the education specified for the dental specialty as defined by
3 the American Dental Association;

4 (jj) Failing to respond in an honest, materially responsive, and
5 timely manner to a complaint filed against the licensee pursuant to this
6 article 220;

7 (kk) Committing an act or omission that fails to meet generally
8 accepted standards for infection control;

9 (ll) Administering moderate sedation or deep sedation/general
10 anesthesia without a licensed dentist or other licensed health care
11 professional qualified to administer the relevant level of sedation or
12 anesthesia present in the operatory;

13 (mm) Failing to complete and maintain records of completing
14 continuing education as required by ~~section 12-220-145~~ SECTION
15 12-220-308;

16 (nn) **[Formerly 12-220-130 (1)(nn) as it is effective until July 1,**
17 **2023]** Failing to comply with ~~section 12-220-128~~ SECTION 12-220-505
18 regarding the placement of interim therapeutic restorations; or

19 (nn) **[Formerly 12-220-130 (1)(nn) as it will become effective**
20 **July 1, 2023]** Failing to comply with ~~section 12-220-128~~ SECTION
21 12-220-505 regarding the placement of interim therapeutic restorations;

22 (oo) **[Formerly 12-220-130 (1)(oo) as it is effective until July 1,**
23 **2023]** Failing to comply with ~~section 12-220-129~~ SECTION 12-220-506
24 regarding the application of silver diamine fluoride.

25 (oo) **[Formerly 12-220-130 (1)(oo) as it will become effective**
26 **July 1, 2023]** Failing to comply with ~~section 12-220-129~~ SECTION
27 12-220-506 regarding the application of silver diamine fluoride; or

1 (pp) [Formerly 12-220-130 (1)(pp) as it will become effective
2 **July 1, 2023]** Failing to accurately complete and submit the questionnaire
3 required by ~~section 12-220-119 (2)~~ SECTION 12-220-408 (2).

4 **12-220-202. [Formerly 12-220-131] Disciplinary actions -**
5 **rules.** (1) (a) If, after notice and hearing conducted in accordance with
6 article 4 of title 24 and section 12-20-403, the board determines that an
7 applicant or licensee has engaged in an act specified in ~~section~~
8 ~~12-220-130~~ SECTION 12-220-201, the board may:

9 (I) Issue a letter of admonition under the circumstances specified
10 in and in accordance with section 12-20-404 (4);

11 (II) Reprimand, censure, or, in accordance with section 12-20-404
12 (1)(b), place on probation any licensed dentist or dental hygienist;

13 (III) Impose an administrative fine in accordance with section
14 12-20-404 (1)(c) and subsection (5) of this section; or

15 (IV) In accordance with section 12-20-404 (1)(d), deny the
16 issuance of, refuse to renew, suspend, or revoke any license provided for
17 in this article 220.

18 (b) Hearings under this section must be conducted by the board or
19 by an administrative law judge pursuant to section 12-20-403.

20 (2) The board shall send a confidential letter of concern to a
21 licensee under the circumstances specified in section 12-20-404 (5). The
22 board shall send the person making the complaint a notice that the board
23 has issued a letter of concern to the licensee.

24 (3) The board may include, in any disciplinary order that allows
25 a dentist or dental hygienist to continue to practice, conditions the board
26 deems appropriate to assure that the dentist or dental hygienist is
27 physically, mentally, and otherwise qualified to practice dentistry or

1 dental hygiene in accordance with generally accepted professional
2 standards of practice. The order may include any or all of the following:

3 (a) A condition that the licensee submit to examinations to
4 determine the licensee's physical or mental condition or professional
5 qualifications;

6 (b) A condition that the licensee take therapy, courses of training,
7 or education as needed to correct deficiencies found by the board or by
8 examinations required pursuant to subsection (3)(a) of this section;

9 (c) Review or supervision of the licensee's practice as necessary
10 to determine the quality of the practice and to correct any deficiencies;

11 (d) The imposition of restrictions on the licensee's practice to
12 assure that the practice does not exceed the limits of the licensee's
13 capabilities.

14 (4) The board may suspend the license of a dentist or dental
15 hygienist who fails to comply with an order of the board issued in
16 accordance with this section. The board may impose the license
17 suspension until the licensee complies with the board's order.

18 (5) (a) In addition to any other penalty permitted under this article
19 220, when a licensed dentist or dental hygienist violates a provision of
20 this article 220 or of any rule promulgated pursuant to this article 220, the
21 board may impose a fine on the licensee. If the licensee is a dentist, the
22 fine must not exceed five thousand dollars. If the licensee is a dental
23 hygienist, the fine must not exceed three thousand dollars.

24 (b) The board shall adopt rules establishing a uniform system and
25 schedule of fines that set forth fine tiers based on the severity of the
26 violation, the type of violation, and whether the licensee repeatedly
27 violates this article 220, board rules, or board orders.

1 (6) If the board finds the charges proven and orders that discipline
2 be imposed, the board may also order the licensee to take courses of
3 training or education the board deems necessary to correct deficiencies
4 found as a result of the hearing.

5 **12-220-203. [Formerly 12-220-132] Disciplinary proceedings.**

6 (1) (a) Any person may submit a complaint relating to the conduct of a
7 dentist or dental hygienist, which complaint must be in writing and signed
8 by the person. The board, on its own motion, may initiate a complaint.
9 The board shall notify the dentist or dental hygienist of the complaint
10 against ~~him or her~~ THE DENTIST OR DENTAL HYGIENIST.

11 (b) (I) For complaints related to the standard of care delivered to
12 a patient that are submitted by a person other than the patient, the person
13 submitting the complaint shall notify the patient of the complaint before
14 filing the complaint with the board.

15 (II) The requirements of this subsection (1)(b) do not apply when
16 a complaint is submitted to the board by a state department or agency.

17 (2) (a) Except as provided in subsection (2)(b) of this section,
18 investigations, examinations, hearings, meetings, and other proceedings
19 of the board conducted pursuant to this section or ~~section 12-220-131,~~
20 ~~12-220-133, 12-220-134, or 12-220-135~~ SECTION 12-220-202,
21 12-220-204, 12-220-205, OR 12-220-206 are exempt from the provisions
22 of any law requiring that proceedings of the board be conducted publicly
23 or that the minutes or records of the board with respect to action of the
24 board taken pursuant to this section or those sections are open to public
25 inspection.

26 (b) The final action of the board taken pursuant to this section is
27 open to the public.

1 ~~(3) In addition to the persons specified in section 12-20-402, any~~
2 ~~member of a professional review committee authorized by the board, any~~
3 ~~member of a professional review committee's staff, any person acting as~~
4 ~~a witness or consultant to a professional review committee, any witness~~
5 ~~testifying in a proceeding authorized under this article 220, and any~~
6 ~~person who lodges a complaint pursuant to this article 220 is granted the~~
7 ~~same immunity, and is subject to the same conditions for immunity, as~~
8 ~~specified in section 12-20-402.~~

9 ~~(4)~~ (3) The discipline of a licensee by another state, territory, or
10 country is deemed the equivalent of unprofessional conduct under this
11 article 220; except that this ~~subsection (4)~~ SUBSECTION (3) applies only to
12 discipline that is based upon an act or omission in the other state,
13 territory, or country that is defined substantially the same as
14 unprofessional conduct pursuant to this article 220.

15 ~~(5)~~ (4) (a) Nothing in this section:

16 (I) Deprives a dental patient of the right to choose or replace any
17 professionally recognized restorative material; OR

18 (II) Permits disciplinary action against a dentist solely for
19 removing or placing any professionally recognized restorative material.

20 (b) Nothing in ~~subsection (5)(a)~~ SUBSECTION (4)(a) of this section
21 prevents disciplinary action against a dentist for practicing dentistry in
22 violation of this article 220.

23 (6) **[Relocated to 12-220-209]**

24 **12-220-204. [Formerly 12-220-133] Board panels.** (1) The
25 chairperson of the board shall divide the members of the board, other than
26 the chairperson, into two panels of six members each.

27 (2) Each panel shall act as both an inquiry panel and a hearing

1 panel. The chairperson may reassign members of the board from one
2 panel to the other. The chairperson may be a member of both panels, but
3 neither the chairperson nor any other member who has considered a
4 complaint as a member of a panel acting as an inquiry panel shall take any
5 part in the consideration of a formal complaint involving the same matter.

6 (3) If the inquiry panel refers a matter for formal hearing, the
7 hearing panel or a committee of the hearing panel shall hear the matter.
8 However, in its discretion, either inquiry panel may elect to refer a case
9 for formal hearing to a qualified administrative law judge in lieu of a
10 hearing panel of the board for an initial decision pursuant to section
11 24-4-105.

12 (4) A licensee who is the subject of an initial decision by an
13 administrative law judge, or by the hearing panel that would have heard
14 the case upon its own motion, may seek review of the initial decision
15 pursuant to section 24-4-105 (14) and (15) by filing an exception to the
16 initial decision with the hearing panel that would have heard the case if
17 it had not been referred to an administrative law judge. The respondent
18 or the board's counsel may file the exception.

19 (5) The inquiry panel to whom an investigation is assigned shall
20 supervise the investigation, and the person conducting the investigation
21 shall report the results of the investigation to the panel for appropriate
22 action.

23 **12-220-205. [Formerly 12-220-134] Cease-and-desist orders.**
24 The board may issue cease-and-desist orders under the circumstances and
25 in accordance with the procedures specified in section 12-20-405.

26 **12-220-206. [Formerly 12-220-135] Mental and physical**
27 **examinations.** (1) (a) If the board has reasonable cause to believe that

1 a person licensed to practice dentistry or dental hygiene in this state is
2 unable to practice dentistry or dental hygiene with reasonable skill and
3 safety to patients because of a physical or mental disability or because of
4 excessive use of alcohol, a habit-forming drug or substance, or a
5 controlled substance, as defined in section 18-18-102 (5), the board may
6 require the licensed dentist or dental hygienist to submit to a mental or
7 physical examination by a qualified professional designated by the board.

8 (b) Upon the failure of the licensed dentist or dental hygienist to
9 submit to a mental or physical examination required by the board, unless
10 the failure is due to circumstances beyond the dentist's or dental
11 hygienist's control, the board may suspend the dentist's or dental
12 hygienist's license to practice dentistry or dental hygiene in this state until
13 the dentist or dental hygienist submits to the examination.

14 (2) Every person licensed to practice dentistry or dental hygiene
15 in this state is deemed, by so practicing or by applying for a renewal of
16 the person's license to practice dentistry or dental hygiene in this state, to
17 have:

18 (a) Given consent to submit to a mental or physical examination
19 when directed in writing by the board; and

20 (b) Waived all objections to the admissibility of the examining
21 qualified professional's testimony or examination reports on the ground
22 of privileged communication.

23 (3) The results of any mental or physical examination ordered by
24 the board cannot be used as evidence in any proceeding other than before
25 the board.

26 **12-220-207. [Formerly 12-220-136] Confidential agreement to**
27 **limit practice.** Section 12-30-108 concerning confidential agreements to

1 limit practice applies to this article 220.

2 **12-220-208. [Formerly 12-220-137] Review of board action.**

3 (1) Section 12-20-408 governs judicial review of any final action of the
4 board to:

5 (a) Deny or refuse to issue or renew a license;

6 (b) Suspend a license;

7 (c) Revoke a license;

8 (d) Censure a licensee;

9 (e) Issue a letter of admonition to a licensee;

10 (f) Place a licensee on probation;

11 (g) Issue a reprimand to a licensee; or

12 (h) Issue an order to cease and desist.

13 (2) The provisions of this section apply to a license issued to a
14 dentist or dental hygienist.

15 **12-220-209. Professional review committees - immunity.**

16 (1)(a) [Formerly 12-220-132 (6)(a)] If A professional review committee
17 ~~is~~ MAY BE established pursuant to this section to investigate complaints
18 against a person licensed to practice dentistry under this article 220. IF A
19 PROFESSIONAL REVIEW COMMITTEE IS FORMED, the committee must
20 include in its membership at least three persons licensed to practice
21 dentistry under this article 220. The committee may be authorized to act
22 only by:

23 (I) The board; or

24 (II) A society or an association of persons licensed to practice
25 dentistry under this article 220 whose membership includes not less than
26 one-third of the persons licensed to practice dentistry under this article
27 220 residing in this state, if the licensee whose services are the subject of

1 review is a member of the society or association.

2 (b) [**Formerly 12-220-132 (6)(c)**] A professional review
3 committee of a society or an association of persons licensed pursuant to
4 this article 220 shall:

5 (I) Notify the board within sixty days after the review committee
6 analyzes care provided by a licensee and determines that the care may not
7 meet generally accepted standards or that the licensee has otherwise
8 violated any provision of this article 220. The licensee may be subject to
9 disciplinary action by the board.

10 (II) Allow the board or its designee to conduct a periodic audit of
11 records of the review committee. A person designated by the board to
12 conduct the audit must be a licensed or retired dentist from any state. The
13 board or its designee shall conduct the audit no more than twice annually.
14 If any pattern of behavior of a licensee is identified that may constitute
15 reasonable grounds to believe there has been a violation of this article
16 220, all relevant records of the review committee are subject to a
17 subpoena issued by the board.

18 (c) [**Formerly 12-220-132 (6)(d)**] (I) The proceedings and records
19 of a review committee must be held in confidence and are not subject to
20 discovery or introduction into evidence in any civil action against a
21 dentist arising out of the matters that are the subject of evaluation and
22 review by the committee. However, records of closed proceedings and
23 investigations are available to the particular licensee under review and the
24 complainant involved in the proceedings.

25 (II) A person who was in attendance at a meeting of the
26 committee shall not be permitted or required to testify in any civil action
27 as to any evidence or other matters produced or presented during the

1 proceedings of the committee or as to any findings, recommendations,
2 evaluations, opinions, or other actions of the committee or any members
3 of the committee. However, information, documents, or records otherwise
4 available from original sources are not protected from discovery or use in
5 a civil action merely because they were presented during proceedings of
6 the committee, and any documents or records that have been presented to
7 the review committee by any witness must be returned to the witness, if
8 requested by the witness or if ordered to be produced by a court in any
9 action, with copies to be retained by the committee at its discretion.

10 (III) Any person who testifies before the committee or who is a
11 member of the committee is not prevented from testifying as to matters
12 within the person's knowledge, but the person may not be asked about his
13 ~~or her~~ THE PERSON'S testimony before the committee or opinions the
14 person formed as a result of the committee hearings.

15 (2) **[Formerly 12-220-132 (6)(b)]** Any member of ~~the board or a~~
16 professional review committee authorized by the board, ~~and ANY MEMBER~~
17 OF A PROFESSIONAL REVIEW COMMITTEE'S STAFF, any witness or
18 consultant appearing OR TESTIFYING before the ~~board or~~ professional
19 review committee, AND ANY PERSON WHO LODGES A COMPLAINT
20 PURSUANT TO THIS ARTICLE 220 is ~~immune from suit in any civil action~~
21 ~~brought by a licensee who is the subject of a professional review~~
22 ~~proceeding if the member, witness, or consultant acts in good faith within~~
23 ~~the scope of the function of the board or committee; has made a~~
24 ~~reasonable effort to obtain the facts of the matter as to which the member,~~
25 ~~witness, or consultant acts; and acts in the reasonable belief that his or her~~
26 ~~action is warranted by the facts~~ GRANTED THE SAME IMMUNITY AND IS
27 SUBJECT TO THE SAME CONDITIONS FOR IMMUNITY AS SPECIFIED IN

1 SECTION 12-20-402. The immunity provided by this ~~subsection (6)(b)~~
2 SUBSECTION (2) extends to the members of an authorized professional
3 review committee of a society or an association of persons licensed
4 pursuant to this article 220 and witnesses or consultants appearing before
5 the committee if the committee is authorized to act as provided in
6 ~~subsection (6)(a)(H)~~ SUBSECTION (1)(a)(II) of this section.

7 **12-220-210. [Formerly 12-220-138] Use or sale of forged or**
8 **invalid diploma or license certificate.** (1) (a) It is unlawful for any
9 person to use or attempt to use:

10 (I) ~~As his or her~~ THE PERSON'S own a diploma ~~of~~ FROM a dental
11 college or school or school of dental hygiene, or a license or license
12 renewal certificate, ~~of any other~~ THAT WAS ISSUED OR GRANTED TO
13 ANOTHER person; or

14 (II) ~~to use or attempt to use~~ A forged diploma, license, license
15 renewal certificate, or identification.

16 (b) It is also unlawful for any person to file with the board a
17 forged document in response to a request by the board for documentation
18 of an applicant's qualifications for licensure.

19 (2) It is unlawful to sell or offer to sell a diploma conferring a
20 dental or dental hygiene degree or a license or license renewal certificate
21 granted pursuant to this article 220 or prior dental practice laws, or to
22 procure such diploma or license or license renewal certificate:

23 (a) With the intent that it be used as evidence of the right to
24 practice dentistry or dental hygiene by a person other than the one upon
25 whom it was conferred or to whom the license or license renewal
26 certificate was granted; or

27 (b) With fraudulent intent to alter the document and use or attempt

1 to use it when it is so altered.

2 **12-220-211. [Formerly 12-220-141] Unauthorized practice -**
3 **penalties.** Any person who practices or offers or attempts to practice
4 dentistry or dental hygiene without an active license issued under this
5 article 220 is subject to penalties pursuant to section 12-20-407 (1)(a).

6 **12-220-212. [Formerly 12-220-140] Soliciting or advertisements**
7 **by unlicensed persons.** It is unlawful for any unlicensed person,
8 corporation, entity, partnership, or group of persons to solicit or advertise
9 to the general public to construct, reproduce, or repair prosthetic dentures,
10 bridges, plates, or other appliances to be used or worn as substitutes for
11 natural teeth.

12 PART 3

13 DENTAL PRACTICE

14 **12-220-301. [Formerly 12-220-109] Persons entitled to practice**
15 **dentistry or dental hygiene.** (1) It is unlawful for any person to practice
16 dentistry or dental hygiene in this state except those:

17 (a) Who are duly licensed as dentists or dental hygienists pursuant
18 to this article 220;

19 (b) Who are designated by this article 220 as dental assistants, but
20 only to the extent of the procedures authorized by this article 220 and the
21 rules adopted by the board.

22 **12-220-302. [Formerly 12-220-112] Persons exempt from**
23 **operation of this article.** (1) This article 220 does not apply to the
24 following practices, acts, and operations:

25 (a) Practice of ~~his or her~~ THE profession OF PHYSICIAN OR
26 SURGEON by a physician or surgeon licensed ~~as such~~ under the laws of
27 this state TO PRACTICE THE PROFESSION unless the physician or surgeon

1 practices dentistry as a specialty;

2 (b) The administration of an anesthetic by a qualified anesthetist
3 or registered nurse for a dental operation;

4 (c) The practice of dentistry or dental hygiene in the discharge of
5 their official duties by graduate dentists or dental surgeons or dental
6 hygienists in the United States armed forces, public health service, Coast
7 Guard, or veterans administration;

8 (d) Students or residents regularly employed by a private hospital
9 or by a city, county, city and county, or state hospital under an advanced
10 dental education program accredited by the Commission on Dental
11 Accreditation or its successor commission and approved and registered
12 by the board;

13 (e) The practice of dental hygiene by instructors and students or
14 the practice of dentistry by students or residents in schools or colleges of
15 dentistry, schools of dental hygiene, or schools of dental assistant
16 education while the instructors, students, or residents are participating in
17 accredited programs of the schools or colleges;

18 (f) The practice of dentistry or dental hygiene by dentists or dental
19 hygienists licensed in good standing by other states or countries while
20 appearing in programs of dental education or research at the invitation of
21 any group of licensed dentists or dental hygienists in this state who are in
22 good standing, so long as the practice is limited to five consecutive days
23 in a twelve-month period and the name of each person engaging in the
24 practice is submitted to the board, in writing and on a form approved by
25 the board, at least ten days before the person performs the practice;

26 (g) The filling of laboratory work orders of a licensed dentist, as
27 provided by ~~section 12-220-139~~ SECTION 12-220-502, by any person,

1 association, corporation, or other entity for the construction, reproduction,
2 or repair of prosthetic dentures, bridges, plates, or appliances to be used
3 or worn as substitutes for natural teeth or for restoration of natural teeth,
4 or replacement of structures relating to the jaws, maxillofacial area, or
5 adjacent and associated structures;

6 (h) The performance of acts by a person under the direct or
7 indirect supervision of a dentist licensed in Colorado when authorized
8 pursuant to the rules of the board or when authorized under other
9 provisions of this article 220;

10 (i) The practicing of dentistry or dental hygiene by an examiner
11 representing a testing agency approved by the board, during the
12 administration of an examination; or

13 (j) The practice of dentistry or dental hygiene by dentists or dental
14 hygienists licensed in good standing by other states while providing care
15 as a volunteer, at the invitation of any group of licensed dentists or dental
16 hygienists in this state who are in good standing, so long as the practice
17 is limited to five consecutive days in a twelve-month period and the name
18 of each person engaging in the practice is submitted to the board, in
19 writing and on a form approved by the board, at least ten days before the
20 person performs the practice.

21 **12-220-303. [Formerly 12-220-114] Ownership of dental or**
22 **dental hygiene practice - information to be posted - heir to serve as**
23 **temporary proprietor - limitations - definitions. (1) (a) Only a dentist**
24 **licensed to practice dentistry in this state pursuant to this article 220 may**
25 **be the proprietor of a dental practice in this state.**

26 (b) Only a dentist licensed to practice dentistry in this state
27 pursuant to this article 220 or a dental hygienist licensed to practice dental

1 hygiene in this state pursuant to this article 220 may be the proprietor of
2 a dental hygiene practice in this state.

3 (c) (I) Notwithstanding subsections (1)(a) and (1)(b) of this
4 section, a nonprofit organization may be the proprietor of a dental or
5 dental hygiene practice if:

6 (A) The organization is a community health center, as defined in
7 the federal "Public Health Service Act", 42 U.S.C. sec. 254b; or

8 (B) At least fifty percent of the patients served by the organization
9 are low income. As used in this subsection (1)(c)(I)(B), "low income"
10 means the patient's income does not exceed the income level specified for
11 determining eligibility for the children's basic health plan established in
12 article 8 of title 25.5.

13 (II) Notwithstanding subsections (1)(a) and (1)(b) of this section,
14 a political subdivision of the state may be the proprietor of a dental or
15 dental hygiene practice. As used in this subsection (1)(c)(II), "political
16 subdivision of the state" means a county, city and county, city, town,
17 service authority, special district, or any other kind of municipal,
18 quasi-municipal, or public corporation, as defined in section 7-49.5-103.

19 (III) The proprietorship of a dental or dental hygiene practice by
20 a nonprofit organization that meets the criteria in subsection (1)(c)(I) of
21 this section or by a political subdivision of the state shall not affect the
22 exercise of the independent professional judgment of the licensed dentist
23 or dental hygienist providing care to patients on behalf of the organization
24 or political subdivision.

25 (d) (I) A dentist may conduct a dental or dental hygiene business
26 collaboratively as a provider network in accordance with part 3 of article
27 18 of title 6.

1 (II) A dental hygienist may conduct a dental hygiene business
2 collaboratively as a provider network in accordance with part 3 of article
3 18 of title 6.

4 (2) (a) The name, license number, ownership percentage, and
5 other information, as required by the board, of each proprietor of a dental
6 or dental hygiene practice, including an unlicensed heir who is the
7 temporary proprietor of the practice, as specified in subsection (3) of this
8 section, ~~shall~~ MUST be available at the reception desk of the dental or
9 dental hygiene practice during the practice's hours of operation. The
10 information required by this subsection (2)(a) ~~shall~~ MUST be available in
11 a format approved by the board.

12 (b) Upon request, the dental or dental hygiene practice shall
13 promptly make available to the requesting person a copy of the
14 information required by subsection (2)(a) of this section.

15 (c) The dental or dental hygiene practice shall ensure that the
16 information required by subsection (2)(a) of this section is accurate and
17 current. Any change in the information shall be updated within thirty days
18 after the change.

19 (3) (a) Notwithstanding sections 12-20-405 (1) and (2) and
20 ~~12-220-130 (1)(h)~~ 12-220-201 (1)(h), if a dentist or dental hygienist who
21 was the proprietor of a dental or dental hygiene practice and was engaged
22 in the active practice of dentistry or dental hygiene dies:

23 (I) An heir to the dentist may serve as a proprietor of the deceased
24 dentist's dental or dental hygiene practice for up to one year after the date
25 of the dentist's death, regardless of whether the heir is licensed to practice
26 dentistry or dental hygiene; or

27 (II) An heir to the dental hygienist may serve as a proprietor of the

1 deceased dental hygienist's dental hygiene practice for up to one year after
2 the date of the dental hygienist's death, regardless of whether the heir is
3 licensed to practice dentistry or dental hygiene.

4 (b) Upon good cause shown by the heir or the heir's
5 representative, the board may extend the period described in subsection
6 (3)(a) of this section by up to an additional twelve months, if necessary,
7 to allow the heir sufficient time to sell or otherwise dispose of the
8 practice.

9 (c) If an heir to a deceased dentist or dental hygienist serves as a
10 proprietor of the deceased dentist's or dental hygienist's practice as
11 specified in subsection (3)(a) of this section, all patient care provided
12 during the time the heir is a proprietor of the practice shall be provided by
13 an appropriately licensed dentist or dental hygienist.

14 (d) The temporary proprietorship of a dental or dental hygiene
15 practice by an unlicensed heir shall DOES not affect the exercise of the
16 independent professional judgment of the licensed dentist or dental
17 hygienist providing care to patients on behalf of the practice.

18 **12-220-304. [Formerly 12-220-113] Names and status under**
19 **which dental practice may be conducted.** (1) The conduct of the
20 practice of dentistry or dental hygiene in a corporate capacity is
21 prohibited, but the prohibition shall not be construed to prevent the
22 practice of dentistry or dental hygiene by a professional service
23 corporation of licensees so constituted that they may be treated under the
24 federal internal revenue laws as a corporation for tax purposes only. Any
25 such professional service corporation may exercise such powers and shall
26 be subject to such limitations and requirements, insofar as applicable, as
27 are provided in section 12-240-138, relating to professional service

1 corporations for the practice of medicine.

2 (2) The group practice of dentistry or dental hygiene is permitted.

3 (3) The practice of dentistry or dental hygiene by a limited liability
4 company of licensees or by a limited liability partnership of licensees is
5 permitted subject to the limitations and requirements, insofar as are
6 applicable, set forth in section 12-240-138, relating to a limited liability
7 company or limited liability partnership for the practice of medicine.

8 **12-220-305. [Formerly 12-220-110] What constitutes practicing**
9 **dentistry - authority to electronically prescribe.** (1) A person is
10 practicing dentistry if the person:

11 (a) Performs, or attempts or professes to perform, any dental
12 operation, oral surgery, or dental diagnostic or therapeutic services of any
13 kind; except that nothing in this subsection (1)(a) ~~shall be construed to~~
14 ~~prohibit~~ PROHIBITS a dental hygienist or dental assistant from providing
15 preventive dental or nutritional counseling, education, or instruction
16 services;

17 (b) Is a proprietor of a place where dental operation, oral surgery,
18 or dental diagnostic or therapeutic services are performed; except that
19 nothing in this subsection (1)(b) ~~shall be construed to prohibit~~ PROHIBITS
20 a dental hygienist or dental assistant from performing those tasks and
21 procedures consistent with ~~section 12-220-127~~ SECTION 12-220-501;

22 (c) Directly or indirectly, by any means or method, takes
23 impression of the human tooth, teeth, jaws, maxillofacial area, or adjacent
24 and associated structures, performs any phase of any operation incident
25 to the replacement of a part of a tooth, or supplies artificial substitutes for
26 the natural teeth, jaws, or adjacent and associated structures; except that
27 nothing in this subsection (1)(c) prohibits a dental hygienist or dental

1 assistant from performing tasks and procedures consistent with sections
2 ~~12-220-122 (1)(d) and 12-220-127 (3)(b)(III)~~ SECTIONS 12-220-501
3 (3)(b)(III) AND 12-220-503 (1)(d);

4 (d) Furnishes, supplies, constructs, reproduces, or repairs any
5 prosthetic denture, bridge, appliance, or other structure to be worn in the
6 human mouth or upon the jaws, maxillofacial area, or adjacent and
7 associated structures other than on the written laboratory work order of
8 a duly licensed and practicing dentist;

9 (e) Places an appliance or structure described in subsection (1)(d)
10 of this section in the human mouth;

11 (f) Adjusts or attempts or professes to adjust an appliance or
12 structure described in subsection (1)(d) of this section;

13 (g) Delivers an appliance or structure described in subsection
14 (1)(d) of this section to any person other than the dentist upon whose
15 laboratory work order the work was performed;

16 (h) Professes to the public by any method to furnish, supply,
17 construct, reproduce, or repair any prosthetic denture, bridge, appliance,
18 or other structure to be worn in the human mouth or upon the jaws,
19 maxillofacial area, or adjacent and associated structures;

20 (i) Examines, diagnoses, plans treatment of, or treats natural or
21 artificial structures or conditions associated with, adjacent to, or
22 functionally related to the oral cavity, jaws, maxillofacial area, or adjacent
23 and associated structures and their impact on the human body;

24 (j) Extracts, or attempts to extract, human teeth or corrects, or
25 attempts to correct, malformations of human teeth or jaws;

26 (k) Repairs or fills cavities in human teeth;

27 (l) Prescribes ionizing radiation or the use of an X ray for the

1 purpose of taking dental X rays or roentgenograms; except that nothing
2 in this subsection (1)(l) ~~shall be construed to prohibit~~ PROHIBITS these
3 procedures from being delegated to appropriately trained personnel in
4 accordance with this article 220 and rules of the board;

5 (m) Gives, or professes to give, interpretations or readings of
6 dental X rays or roentgenograms, CT scans, or other diagnostic
7 methodologies; except that nothing in this subsection (1)(m) ~~shall be~~
8 ~~construed to prohibit~~ PROHIBITS a dental hygienist from performing tasks
9 and procedures consistent with ~~sections 12-220-122 and 12-220-123~~
10 SECTIONS 12-220-503 AND 12-220-504;

11 (n) Represents himself or herself to an individual or the general
12 public as practicing dentistry, by using the words "dentist" or "dental
13 surgeon", or by using the letters "D.D.S.", "D.M.D.", "D.D.S./M.D.", or
14 "D.M.D./M.D." Nothing in this subsection (1)(n) prohibits a dental
15 hygienist or dental assistant from performing tasks and procedures
16 consistent with ~~section 12-220-127 (2) or (3)(b)~~ SECTION 12-220-501 (2)
17 OR (3)(b).

18 (o) States, permits to be stated, or professes by any means or
19 method whatsoever that ~~he or she~~ THE PERSON can perform or will attempt
20 to perform dental operations or render a diagnosis connected ~~therewith~~
21 WITH DENTAL OPERATIONS;

22 (p) Prescribes drugs or medications and administers local
23 anesthesia, analgesia including nitrous oxide/oxygen inhalation,
24 medication prescribed or administered for the relief of anxiety or
25 apprehension, minimal sedation, moderate sedation, deep sedation, or
26 general anesthesia as necessary for the proper practice of dentistry; except
27 that nothing in this subsection (1)(p) ~~shall be construed to prohibit~~

1 PROHIBITS a dental hygienist from performing those tasks and procedures
2 consistent with ~~sections 12-220-122 (1)(e) and (1)(g), 12-220-123 (1)(e),~~
3 ~~and 12-220-127~~ SECTIONS 12-220-501, 12-220-503 (1)(c) AND (1)(g), AND
4 12-220-504 (1)(c), and in accordance with rules promulgated by the
5 board;

6 (q) Prescribes, induces, and sets dosage levels for inhalation
7 anesthesia; except that nothing in this subsection (1)(q) ~~shall be construed~~
8 ~~to prohibit~~ PROHIBITS the delegation of monitoring and administration to
9 appropriately trained personnel in accordance with this article 220 and
10 rules of the board;

11 (r) Gives or professes to give interpretations or readings of dental
12 charts or records or gives treatment plans or interpretations of treatment
13 plans derived from examinations, patient records, dental X rays, or
14 roentgenograms; except that nothing in this subsection (1)(r) ~~shall be~~
15 ~~construed to prohibit~~ PROHIBITS a dental hygienist or dental assistant from
16 performing tasks and procedures consistent with ~~sections 12-220-122,~~
17 ~~12-220-123, and 12-220-127 (2) and (3)~~ SECTIONS 12-220-501 (2) AND
18 (3), 12-220-503, AND 12-220-504.

19 (2) A licensed dentist may prescribe orders electronically.

20 **12-220-306. [Formerly 12-220-111] Dentists may prescribe**
21 **drugs - surgical operations - anesthesia - limits on opioid**
22 **prescriptions - repeal.** (1) (a) A licensed dentist is authorized to:

23 (I) Prescribe drugs or medicine;

24 (II) Perform surgical operations;

25 (III) Administer, pursuant to board rules, local anesthesia,
26 analgesia including nitrous oxide/oxygen inhalation, medication
27 prescribed or administered for the relief of anxiety or apprehension,

1 minimal sedation, moderate sedation, deep sedation, or general
2 anesthesia; and

3 (IV) Use appliances as necessary to the proper practice of
4 dentistry.

5 (b) A dentist shall not prescribe, distribute, or give to any person,
6 including ~~himself or herself~~ THE DENTIST, any habit-forming drug or any
7 controlled substance, as defined in section 18-18-102 (5) or as contained
8 in schedule II of 21 U.S.C. sec. 812, other than in the course of legitimate
9 dental practice and pursuant to the rules promulgated by the board
10 regarding controlled substance record keeping.

11 (2) (a) A dentist is subject to the limitations on prescribing opioids
12 specified in section 12-30-109.

13 (b) This subsection (2) is repealed, effective September 1, 2021.

14 **12-220-307. [Formerly 12-220-147] Professional liability**
15 **insurance required - rules.** (1) A licensed dentist and a licensed dental
16 hygienist must meet the financial responsibility requirements established
17 by the board pursuant to section 13-64-301 (1)(a).

18 (2) Upon request of the board, a licensed dentist or licensed dental
19 hygienist shall provide proof of professional liability insurance to the
20 board.

21 (3) The board may, by rule, exempt from or establish lesser
22 financial responsibility standards for licensed dentists and licensed dental
23 hygienists who meet the criteria in section 13-64-301 (1)(a)(II).

24 **12-220-308. [Formerly 12-220-145] Continuing education**
25 **requirements - rules.** (1) As a condition of renewing, reactivating, or
26 reinstating a license issued under this article 220, every dentist and dental
27 hygienist ~~shall~~ MUST obtain at least thirty hours of continuing education

1 every two years to ensure patient safety and professional competency.

2 (2) The board may adopt rules establishing the basic requirements
3 for continuing education, including the types of programs that qualify,
4 exemptions for persons holding an inactive or retired license,
5 requirements for courses designed to enhance clinical skills for certain
6 licenses, and the manner by which dentists and dental hygienists are to
7 report compliance with the continuing education requirements.

8 **12-220-309. [Formerly 12-220-143]. Independent advertising**
9 **or marketing agent - injunctive proceedings.** (1) Notwithstanding
10 ~~section 12-220-130(1)(t)~~ SECTION 12-220-201 (1)(t), a licensed dentist or
11 dental hygienist may employ an independent advertising or marketing
12 agent to provide advertising or marketing services on the dentist's or
13 dental hygienist's behalf, and ~~the same shall not be~~ THAT ACTIVITY IS NOT
14 considered unprofessional conduct.

15 (2) The board ~~shall~~ DOES not have the authority to regulate,
16 directly or indirectly, advertising or marketing activities of independent
17 advertising or marketing agents except as provided in this section. The
18 board may, in the name of the people of the state of Colorado, apply for
19 an injunction in district court to enjoin any independent advertising or
20 marketing agent from the use of advertising or marketing that the court
21 finds on the basis of the evidence presented by the board to be
22 misleading, deceptive, or false; except that a licensed dentist or dental
23 hygienist ~~shall not be~~ IS NOT subject to discipline by the board, injunction,
24 or prosecution in the courts under this article 220 or any other law for
25 advertising or marketing by an independent advertising or marketing
26 agent if the factual information that the licensed dentist or dental
27 hygienist provides to the independent advertising or marketing agent is

1 accurate and not misleading, deceptive, or false.

2 **12-220-310. [Formerly 12-220-144] Dentist peer health**
3 **assistance program - fees - rules.** (1) (a) Effective July 1, 2004, as a
4 condition of renewal in this state, every renewal applicant shall pay to the
5 administering entity that has been selected by the board pursuant to ~~the~~
6 ~~provisions of~~ subsection (1)(b) of this section an amount not to exceed
7 fifty-nine dollars per year, which maximum amount may be adjusted on
8 January 1, 2005, and annually thereafter by the board to reflect changes
9 in the United States department of labor, bureau of labor statistics,
10 consumer price index for Denver-Aurora-Lakewood for all urban
11 consumers or goods, or its successor index. The fee shall be used to
12 support designated providers that have been selected by the board to
13 provide assistance to dentists needing help in dealing with physical,
14 emotional, or psychological problems that may be detrimental to their
15 ability to practice dentistry. The fee shall not exceed one hundred dollars
16 per year per licensee.

17 (b) The board shall select one or more peer health assistance
18 programs as designated providers. To be eligible for designation by the
19 board, a peer health assistance program ~~shall~~ MUST:

20 (I) Provide for the education of dentists with respect to the
21 recognition and prevention of physical, emotional, and psychological
22 problems and provide for intervention when necessary or under
23 circumstances that may be established by rules promulgated by the board;

24 (II) Offer assistance to a dentist in identifying physical, emotional,
25 or psychological problems;

26 (III) Evaluate the extent of physical, emotional, or psychological
27 problems and refer the dentist for appropriate treatment;

1 (IV) Monitor the status of a dentist who has been referred for
2 treatment;

3 (V) Provide counseling and support for the dentist and for the
4 family of any dentist referred for treatment;

5 (VI) Agree to receive referrals from the board;

6 (VII) Agree to make its services available to all licensed Colorado
7 dentists.

8 (c) The administering entity ~~shall~~ MUST be a qualified, nonprofit
9 ~~private~~ foundation that is qualified under section 501 (c)(3) of the federal
10 "Internal Revenue Code of 1986", as amended, and ~~shall~~ MUST be
11 dedicated to providing support for charitable, benevolent, educational,
12 and scientific purposes that are related to dentistry, dental education,
13 dental research and science, and other dental charitable purposes.

14 (d) The ~~responsibilities of the~~ administering entity shall: ~~be to:~~

15 (I) Collect the required annual payments, directly or through the
16 board;

17 (II) Verify to the board, in a manner acceptable to the board, the
18 names of all dentist applicants who have paid the fee set by the board;

19 (III) Distribute the money collected, less expenses, to the
20 designated provider, as directed by the board;

21 (IV) Provide an annual accounting to the board of all amounts
22 collected, expenses incurred, and amounts disbursed; and

23 (V) Post a surety performance bond in an amount specified by the
24 board to secure performance under the requirements of this section. The
25 administering entity may recover the actual administrative costs incurred
26 in performing its duties under this section in an amount not to exceed ten
27 percent of the total amount collected.

1 (e) The board ~~at its discretion,~~ may collect the required annual
2 payments payable to the administering entity for the benefit of the
3 administering entity and shall transfer the payments to the administering
4 entity. All required annual payments collected or due to the board for
5 each fiscal year ~~shall be~~ ARE deemed custodial funds that are not subject
6 to appropriation by the general assembly, and the funds ~~shall~~ DO not
7 constitute state fiscal year spending for purposes of section 20 of article
8 X of the state constitution.

9 (2) (a) Any dentist who is a referred participant in a peer health
10 assistance program shall enter into a written agreement with the board
11 prior to the dentist becoming a participant in the program. The agreement
12 ~~shall~~ MUST contain specific requirements and goals to be met by the
13 participant, including the conditions under which the program will be
14 successfully completed or terminated, and a provision that a failure to
15 comply with the requirements and goals shall be promptly reported to the
16 board and that the failure ~~shall result~~ RESULTS in disciplinary action by
17 the board.

18 (b) Notwithstanding ~~section 12-220-130 and section 24-4-104~~
19 SECTIONS 12-220-201 AND 24-4-104, the board may immediately suspend
20 the license of any dentist who is referred to a peer health assistance
21 program by the board and who fails to attend or ~~to~~ complete the program.
22 If the dentist objects to the suspension, the dentist may submit a written
23 request to the board for a formal hearing on the suspension within ten
24 days after receiving notice of the suspension, and the board shall grant the
25 request. In the hearing the dentist ~~shall bear~~ BEARS the burden of proving
26 that the dentist's license should not be suspended.

27 (c) Any dentist who is accepted into a peer health assistance

1 program in lieu of disciplinary action by the board shall affirm that, to the
2 best of the dentist's knowledge, information, and belief, the dentist knows
3 of no instance in which the dentist has violated this article 220 or the
4 rules of the board, except in those instances affected by the dentist's
5 physical, emotional, or psychological problems.

6 (3) If a dentist is arrested for a drug- or alcohol-related offense,
7 the dentist shall ~~refer himself or herself~~ SELF-REFER to the peer health
8 assistance program within thirty days after the arrest for an evaluation and
9 referral for treatment as necessary. If the dentist self-refers, the evaluation
10 by the program is confidential and cannot be used as evidence in any
11 proceeding other than before the board. If a dentist fails to comply with
12 this subsection (3), the failure, alone, is not grounds for discipline under
13 ~~sections 12-220-130 and 12-220-131~~ SECTIONS 12-220-201 AND
14 12-220-202 unless the dentist has also committed an act or omission
15 specified in ~~section 12-220-130~~ SECTION 12-220-201, other than an act or
16 omission specified in ~~section 12-220-130 (1)(e) or (1)(f)~~ SECTION
17 12-220-201 (1)(e) OR (1)(f).

18 (4) Nothing in this section ~~shall be construed to create~~ CREATES
19 any liability on behalf of the board or the state of Colorado for the actions
20 of the board members in making grants to peer assistance programs, and
21 no civil action may be brought or maintained against the board or the state
22 for an injury alleged to have been the result of the activities of any
23 state-funded peer assistance program or ~~the result~~ of an act or omission
24 of a dentist participating in or referred by a state-funded peer assistance
25 program. However, the state ~~shall remain~~ REMAINS liable under the
26 ~~provisions of the~~ "Colorado Governmental Immunity Act", article 10 of
27 title 24, if an injury alleged to have been the result of an act or omission

1 of a dentist participating in or referred by a state-funded peer assistance
2 program occurred while the dentist was performing duties as an employee
3 of the state.

4 (5) The board is authorized to promulgate rules necessary to
5 implement ~~the provisions of~~ this section.

6 PART 4

7 LICENSES AND PERMITS

8 **12-220-401. [Formerly 12-220-115] Application for dentist**
9 **license - fee.** (1) Every person not currently holding a license to practice
10 dentistry in this state who desires to practice dentistry in this state ~~shall~~
11 MUST file with the board an application for a license on a form provided
12 by the board, verified by the oath of the applicant, and accompanied by
13 a fee ~~required by section 12-220-144 (1)(a) or~~ established pursuant to
14 section 12-20-105, indicating that the applicant:

15 (a) Has attained the age of twenty-one years;

16 (b) Is a graduate of a dental school or college that, at the time of
17 the applicant's graduation, was accredited. An official transcript prepared
18 by the dental college or school attended shall be submitted to the board.

19 (c) Has listed any act the commission of which would be grounds
20 for disciplinary action under ~~section 12-220-130~~ SECTION 12-220-201
21 against a licensed dentist, along with an explanation of the circumstances
22 of the act;

23 (d) Has proof that the applicant has not been subject to final or
24 pending disciplinary action by any state in which the applicant is or has
25 been previously licensed; except that, if the applicant has been subject to
26 disciplinary action, the board may review the disciplinary action to
27 determine whether it warrants grounds for refusal to issue a license; and

1 (e) Has proof that the applicant has met any more stringent criteria
2 established by the board.

3 (2) An applicant for licensure ~~shall~~ MUST demonstrate to the board
4 that ~~he or she~~ THE APPLICANT has maintained the professional ability and
5 knowledge required by this article 220 when the applicant has not
6 graduated from an accredited dental school or college within the twelve
7 months immediately preceding the application and has not, for at least
8 one year of the five years immediately preceding the application, engaged
9 in:

10 (a) The active clinical practice of dentistry;

11 (b) Teaching dentistry in an accredited program; or

12 (c) Service as a dentist in the military.

13 (3) The board may require other pertinent information on the
14 application that the board deems necessary to process the application,
15 including demonstration of compliance with the financial responsibility
16 requirements set forth in section 13-64-301 (1)(a).

17 **12-220-402. [Formerly 12-220-116] Dentist academic license.**

18 (1) (a) A dentist who is employed at an accredited school or college of
19 dentistry in this state and who practices dentistry in the course of ~~his or~~
20 ~~her~~ THE DENTIST'S employment responsibilities ~~shall~~ MUST either make
21 written application to the board for an academic license in accordance
22 with this section or ~~shall~~ otherwise become licensed pursuant to ~~sections~~
23 ~~12-220-115 and 12-220-117~~ SECTIONS 12-220-401 AND 12-220-403, as
24 applicable.

25 (b) Nothing in this section ~~shall require~~ REQUIRES a dentist who
26 appears in a program of dental education or research, as described in
27 ~~section 12-220-112 (1)(f)~~ SECTION 12-220-302 (1)(f), to obtain an

1 academic license pursuant to this section.

2 (2) A person who applies for an academic license ~~shall~~ MUST
3 submit proof to the board that the person:

4 (a) Graduated from a school of dentistry located in the United
5 States or another country; and

6 (b) Is employed by an accredited school or college of dentistry in
7 this state.

8 (3) An applicant for an academic license ~~shall~~ MUST satisfy the
9 credentialing standards of the accredited school or college of dentistry
10 that employs the applicant.

11 (4) An academic license ~~shall authorize~~ AUTHORIZES the licensee
12 to practice dentistry only while engaged in the performance of ~~his or her~~
13 THE LICENSEE'S official duties as an employee of the accredited school or
14 college of dentistry and only in connection with programs affiliated or
15 endorsed by the school or college. An academic licensee may not use an
16 academic license to practice dentistry outside of ~~his or her~~ THE LICENSEE'S
17 academic responsibilities.

18 (5) In addition to the requirements of this section, an applicant for
19 an academic license ~~shall~~ MUST complete all procedures for academic
20 licensing established by the board to become licensed, including payment
21 of any fee imposed pursuant to ~~section 12-220-115 (1)~~ SECTION
22 12-220-401 (1).

23 **12-220-403. [Formerly 12-220-117] Examination - how**
24 **conducted - dentist license issued to successful applicants.**

25 (1) ~~Applicants~~ AN APPLICANT for dental licensure ~~shall~~ MUST submit to
26 the board proof ~~of having~~ THAT THE APPLICANT successfully passed the
27 following:

1 (a) The examination administered by the Joint Commission on
2 National Dental Examinations; and

3 (b) An examination or other methodology, as determined by the
4 board, designed to test the applicant's clinical skills and knowledge,
5 which may include residency and portfolio models.

6 (2) All examination results required by the board must be filed
7 with the board and kept for reference for a period of not less than one
8 year. If the applicant successfully completes the examinations and is
9 otherwise qualified, the board shall grant a license to the applicant and
10 shall issue a license certificate to the applicant.

11 **12-220-404. [Formerly 12-220-118] Dentist - licensure by**
12 **endorsement.** (1) The board shall provide for licensure upon application
13 of any person licensed in good standing to practice dentistry in another
14 state or territory of the United States who provides the credentials and
15 meets the qualifications set forth in this section in the manner prescribed
16 by the board.

17 (2) The board shall issue a license to an applicant licensed as a
18 dentist in another state or territory of the United States if the applicant has
19 submitted credentials and qualifications for licensure that include:

20 (a) Proof of graduation from an accredited dental school;

21 (b) Proof the applicant is currently licensed in another state or
22 United States territory;

23 (c) Proof the applicant has been in practice or teaching dentistry,
24 which involves personally providing care to patients for not less than
25 three hundred hours annually in an accredited dental school, for a
26 minimum of five years out of the seven years immediately preceding the
27 date of the receipt of the application, or evidence that the applicant has

1 demonstrated competency as a dentist as determined by the board;

2 (d) Proof the applicant has not been subject to final or pending
3 disciplinary action by any state in which the applicant is or has been
4 previously licensed; except that, if the applicant has been subject to
5 disciplinary action, the board may review the disciplinary action to
6 determine whether the underlying conduct warrants refusal to issue a
7 license;

8 (e) Proof the applicant has passed an entry level examination
9 acceptable to the board; and

10 (f) Proof the applicant has met any more stringent criteria
11 established by the board.

12 **12-220-405. [Formerly 12-220-124] Application for dental**
13 **hygienist license - fee.** (1) Every person who desires to qualify for
14 practice as a dental hygienist within this state ~~shall~~ MUST file with the
15 board:

16 (a) A written application for a license, on which application the
17 applicant shall list:

18 (I) Any act the commission of which would be grounds for
19 disciplinary action under ~~section 12-220-130~~ SECTION 12-220-201 against
20 a licensed dental hygienist; and

21 (II) An explanation of the circumstances of ~~such~~ THE act; and

22 (b) Satisfactory proof of graduation from a school of dental
23 hygiene that, at the time of the applicant's graduation, was accredited, and
24 proof that the program offered by the accredited school of dental hygiene
25 was at least two academic years or the equivalent of two academic years.

26 (2) The ~~application must be~~ APPLICANT MUST APPLY FOR A DENTAL
27 HYGIENIST LICENSE on the form prescribed and furnished by the board,

1 ~~verified~~ MUST VERIFY THE APPLICATION by the oath, of the applicant, and
2 ~~accompanied by a~~ MUST SUBMIT THE fee established pursuant to section
3 12-20-105 WITH THE APPLICATION.

4 (3) An applicant for licensure who has not graduated from an
5 accredited school or program of dental hygiene within the twelve months
6 immediately preceding application, or who has not engaged either in the
7 active clinical practice of dental hygiene or in teaching dental hygiene in
8 an accredited program for at least one year during the five years
9 immediately preceding the application, ~~shall~~ MUST demonstrate to the
10 board that the applicant has maintained the professional ability and
11 knowledge required by this article 220.

12 **12-220-406. [Formerly 12-220-125] Dental hygienist**
13 **examinations - license.** (1) Every applicant for dental hygiene licensure
14 ~~shall~~ MUST submit to the board proof of ~~having~~ THAT THE APPLICANT
15 successfully completed the following:

16 (a) An examination administered by the Joint Commission on
17 National Dental Examinations; and

18 (b) An examination designed to test the applicant's clinical skills
19 and knowledge, which must be administered by a regional testing agency
20 composed of at least four states or an examination of another state, or a
21 methodology adopted by the board by rule that is designed to test the
22 applicant's clinical skills and knowledge.

23 (2) All examination results required by the board must be filed
24 with the board and kept for reference for a period of not less than one
25 year. If an applicant successfully completes the examinations and is
26 otherwise qualified, the board shall grant a license to the applicant and
27 shall issue a license certificate signed by the officers of the board.

1 **12-220-407. [Formerly 12-220-126] Dental hygienist - licensure**
2 **by endorsement.** (1) The board shall provide for licensure upon
3 application of any person licensed in good standing to practice dental
4 hygiene in another state or territory of the United States who has met the
5 requirements of ~~section 12-220-124~~ SECTION 12-220-405 and provides the
6 credentials and meets the qualifications set forth in this section in the
7 manner prescribed by the board.

8 (2) The board shall issue a license to an applicant duly licensed as
9 a dental hygienist in another state or territory of the United States who has
10 submitted credentials and qualifications for licensure in Colorado that
11 include:

12 (a) Verification of licensure from any other jurisdiction where the
13 applicant has held a dental hygiene or other health care license;

14 (b) Evidence of the applicant's successful completion of the
15 national board dental examination administered by the Joint Commission
16 on National Dental Examinations;

17 (c) (I) Verification that the applicant has been engaged either in
18 clinical practice or in teaching dental hygiene or dentistry in an accredited
19 program for at least one year during the three years immediately
20 preceding the date of the receipt of the application; or

21 (II) Evidence that the applicant has demonstrated competency as
22 a dental hygienist as determined by the board;

23 (d) A report of any pending or final disciplinary actions against
24 any health care license held by the applicant at any time; and

25 (e) A report of any pending or final malpractice actions against the
26 applicant.

27 **12-220-408. [Formerly 12-220-119 as it is effective until July 1,**

1 **2023] Renewal of dental and dental hygienist licenses - fees.** Licenses
2 issued pursuant to this article 220 are subject to the renewal, expiration,
3 reinstatement, and delinquency fee provisions specified in section
4 12-20-202 (1) and (2). Any person whose license expires is subject to the
5 penalties provided in this article 220 or section 12-20-202 (1).

6 **12-220-408. [Formerly 12-220-119 as it will become effective**
7 **July 1, 2023] Renewal of dental and dental hygienist licenses - fees -**
8 **questionnaire.** (1) Licenses issued pursuant to this article 220 are subject
9 to the renewal, expiration, reinstatement, and delinquency fee provisions
10 specified in section 12-20-202 (1) and (2). Any person whose license
11 expires is subject to the penalties provided in this article 220 or section
12 12-20-202 (1).

13 (2) On and after July 1, 2023, the board shall require a dentist who
14 applies for license renewal to complete a questionnaire that requires the
15 dentist to indicate whether the dentist has complied with section
16 12-30-111. The failure of an applicant to answer the questionnaire
17 accurately constitutes grounds for discipline pursuant to ~~section~~
18 ~~12-220-130~~ SECTION 12-220-201.

19 **12-220-409. [Formerly 12-220-120] Inactive dental or dental**
20 **hygienist license.** (1) Any person licensed to practice dentistry or dental
21 hygiene pursuant to this article 220 may apply to the board to be
22 transferred to an inactive status. The licensee ~~shall~~ MUST submit an
23 application in the form and manner designated by the board. The board
24 may grant inactive status by issuing an inactive license or deny the
25 application for any of the causes set forth in ~~section 12-220-130~~ SECTION
26 12-220-201.

27 (2) Any person applying for a license under this section ~~shall~~

1 MUST:

2 (a) Provide an affidavit to the board that the applicant, after a date
3 certain, will not practice dentistry or dental hygiene in this state unless ~~he~~
4 ~~or she~~ THE APPLICANT is issued a license to practice dentistry or dental
5 hygiene pursuant to subsection (5) of this section;

6 (b) Pay the license fee as authorized pursuant to section
7 12-20-105; and

8 (c) Comply with any financial responsibility or professional
9 liability insurance requirements established by the board ~~under section~~
10 ~~12-220-147~~ PURSUANT TO SECTIONS 12-220-307 AND 13-64-301 (1)(a), as
11 applicable.

12 (3) The inactive status ~~shall~~ MUST be plainly indicated on the face
13 of any inactive license certificate issued under this section.

14 (4) The board ~~is authorized to conduct~~ MAY TAKE disciplinary
15 ~~proceedings as set forth in section 12-220-130~~ ACTION PURSUANT TO
16 SECTIONS 12-220-202 TO 12-220-206 against any person licensed under
17 this section for any act committed while the person was licensed pursuant
18 to this article 220.

19 (5) Any person licensed under this section who wishes to resume
20 the practice of dentistry or dental hygiene ~~shall~~ MUST file an application
21 in the form and manner the board designates, pay the license fee
22 promulgated by the board pursuant to section 12-20-105, and meet the
23 financial responsibility requirements or the professional liability
24 insurance requirements ~~in section 12-220-147~~ ESTABLISHED BY THE
25 BOARD PURSUANT TO SECTIONS 12-220-307 AND 13-64-301 (1)(a), as
26 applicable. The board may approve the application and issue a license to
27 practice dentistry or dental hygiene or may deny the application for any

1 of the causes set forth in ~~section 12-220-130~~ SECTION 12-220-201.

2 **12-220-410. [Formerly 12-220-121] Retired dental and dental**
3 **hygienist licenses.** (1) Any person licensed to practice dentistry or dental
4 hygiene pursuant to this article 220 may apply to the board for retired
5 licensure status. The application ~~shall~~ MUST be in the form and manner
6 designated by the board. The board may grant retired licensure status by
7 issuing a retired license, or it may deny the application if the licensee has
8 been disciplined for any of the causes set forth in ~~section 12-220-130~~
9 SECTION 12-220-201.

10 (2) Any person applying for a license under this section ~~shall~~
11 MUST:

12 (a) Provide an affidavit to the board stating that, after a date
13 certain, the applicant ~~shall~~ WILL not practice dentistry or dental hygiene,
14 ~~shall~~ WILL no longer earn income as a dentist or dental hygiene
15 administrator or consultant, and ~~shall~~ WILL not perform any activity that
16 constitutes practicing dentistry or dental hygiene pursuant to ~~sections~~
17 ~~12-220-110, 12-220-122, and 12-220-123~~ SECTIONS 12-220-305,
18 12-220-503, AND 12-220-504 unless the applicant is issued a license to
19 practice dentistry or dental hygiene pursuant to subsection (5) of this
20 section; and

21 (b) Pay the license fee authorized by section 12-20-105, which fee
22 ~~shall~~ MUST not exceed fifty dollars.

23 (3) The retired status of a licensee ~~shall~~ MUST be plainly indicated
24 on the face of any retired license certificate issued under this section.

25 (4) The board may take disciplinary action pursuant to ~~sections~~
26 ~~12-220-131 to 12-220-135~~ SECTIONS 12-220-202 TO 12-220-206 against
27 any person licensed under this section for an act committed while the

1 person was licensed pursuant to this article 220.

2 (5) Any person licensed under this section may apply to the board
3 for a return to active licensure status by filing an application in the form
4 and manner the board designates, paying the appropriate license fee
5 established pursuant to section 12-20-105, and meeting the financial
6 responsibility requirements or the professional liability insurance
7 requirements ~~in section 12-220-147~~ ESTABLISHED BY THE BOARD
8 PURSUANT TO SECTIONS 12-220-307 AND 13-64-301 (1)(a), as applicable.
9 The board may approve the application and issue a license to practice
10 dentistry or dental hygiene or may deny the application if the licensee has
11 been disciplined for any of the causes set forth in ~~section 12-220-130~~
12 SECTION 12-220-201.

13 (6) A dentist or dental hygienist on retired status may provide
14 dental or dental hygiene services on a voluntary basis to the indigent if the
15 retired dentist or dental hygienist provides the services on a limited basis
16 and does not charge a fee for the services. A retired dentist or dental
17 hygienist providing voluntary care pursuant to this subsection (6) is
18 immune from any liability resulting from the voluntary care ~~he or she~~ THE
19 RETIRED DENTIST OR DENTAL HYGIENIST provided.

20 **12-220-411. [Formerly 12-220-146] Anesthesia and sedation**
21 **permits - dentists and dental hygienists - training and experience**
22 **requirements - office inspections - rules.** (1) Upon application in a
23 form and manner determined by the board and payment of the applicable
24 fees established by the board, the board may issue an anesthesia or
25 sedation permit to a licensed dentist or a local anesthesia permit to a
26 dental hygienist in accordance with this section.

27 (2) (a) A licensed dentist who obtains an anesthesia or sedation

1 permit pursuant to this section may administer minimal sedation,
2 moderate sedation, or deep sedation/general anesthesia.

3 (b) A licensed dentist who administers minimal sedation,
4 moderate sedation, or deep sedation/general anesthesia to pediatric dental
5 patients shall obtain a permit designated by the board to allow for
6 administration to pediatric dental patients.

7 (c) An anesthesia or sedation permit issued to a licensed dentist
8 is valid for five years, unless the dentist's license expires. As a condition
9 of renewing an anesthesia or sedation permit, a licensed dentist shall
10 MUST attest, when applying to renew the permit, that ~~he or she~~ THE
11 LICENSED DENTIST completed seventeen continuing education credits
12 specific to anesthesia or sedation administration during the five-year
13 permit period. Continuing education credits obtained as required by this
14 section may be used to satisfy the continuing education requirements in
15 ~~section 12-220-145~~ SECTION 12-220-308.

16 (3) (a) A licensed dental hygienist who obtains a local anesthesia
17 permit pursuant to this section may administer local anesthesia.

18 (b) A local anesthesia permit issued to a dental hygienist is valid
19 as long as the dental hygienist's license is active.

20 (4) (a) The board shall establish, by rule, minimum training,
21 experience, and equipment requirements for the administration of local
22 anesthesia, analgesia including nitrous oxide/oxygen inhalation, and
23 medication prescribed or administered for the relief of anxiety or
24 apprehension, minimal sedation, moderate sedation, deep sedation, or
25 general anesthesia, including procedures that may be used by and
26 minimum training requirements for dentists, dental hygienists, and dental
27 assistants.

1 (b) In order to fulfill the training and experience requirements for
2 an anesthesia or sedation permit, an applicant must be the primary
3 provider and directly provide care for all required case work.

4 (c) The rules relating to anesthesia and sedation are not intended
5 to:

6 (I) Permit administration of local anesthesia, analgesia,
7 medication prescribed or administered for the relief of anxiety or
8 apprehension, minimal sedation, moderate sedation, deep sedation, or
9 general anesthesia by dental assistants; except that this section does not
10 prohibit a dental assistant from monitoring and administering nitrous
11 oxide/oxygen inhalation performed under the supervision of a licensed
12 dentist pursuant to ~~section 12-220-110(1)(q)~~ SECTION 12-220-305 (1)(q)
13 and board rules; or

14 (II) Reduce competition or restrain trade with respect to the
15 dentistry needs of the public.

16 (5) The board shall establish, by rule, criteria and procedures for
17 an office inspection program to be completed upon application and
18 renewal of anesthesia or sedation permits, which must include:

19 (a) Designation of qualified inspectors who are experts in dental
20 outpatient deep sedation/general anesthesia and moderate sedation;

21 (b) A requirement for each licensee that is inspected to bear the
22 cost of inspection by allowing designated inspectors to charge a
23 reasonable fee as established by the board;

24 (c) A requirement that an inspector notify the board in writing of
25 the results of an inspection; and

26 (d) A requirement for reinspection of an office prior to the
27 renewal of a moderate sedation or deep sedation/general anesthesia

1 permit.

2 **12-220-412. [Formerly 12-220-108] Change of address -**
3 **duplicate licenses and certificates.** (1) Every person licensed under this
4 article 220, upon changing the licensee's place of business, shall furnish
5 to the board the licensee's new mailing address within thirty days AFTER
6 THE CHANGE.

7 (2) The board may issue a duplicate of any license upon attestation
8 by the licensee of loss or destruction and shall charge a fee established
9 pursuant to section 12-20-105 for a duplicate.

10 PART 5

11 PRACTICE BY DENTAL HYGIENISTS AND
12 NONLICENSED DENTAL PERSONNEL

13 **12-220-501. [Formerly 12-220-127] Tasks authorized to be**
14 **performed by dental assistants or dental hygienists - rules.**

15 (1) (a) (I) Except as provided in subsection (1)(a)(II) of this section, the
16 responsibility for dental diagnosis, dental treatment planning, or the
17 prescription of therapeutic measures in the practice of dentistry remains
18 with a licensed dentist and may not be assigned to any dental hygienist.

19 (II) A dental hygienist may:

20 (A) Perform dental hygiene assessment, dental hygiene diagnosis,
21 and dental hygiene treatment planning for dental hygiene services
22 pursuant to ~~section 12-220-122 (1)(f)~~ SECTION 12-220-503 (1)(f);

23 (B) Identify dental abnormalities for immediate referral to a
24 dentist as described in ~~section 12-220-122 (1)(f)~~ SECTION 12-220-503
25 (1)(f);

26 (C) In collaboration with a licensed dentist, prescribe, administer,
27 and dispense, as described in ~~section 12-220-122 (1)(g)~~ SECTION

1 12-220-503 (1)(g): Fluoride, fluoride varnish, antimicrobial solutions for
2 mouth rinsing, other nonsystemic antimicrobial agents, and resorbable
3 antimicrobial agents pursuant to rules of the board; and

4 (D) In collaboration with a licensed dentist, apply silver diamine
5 fluoride pursuant to ~~section 12-220-129~~ SECTION 12-220-506.

6 (b) A dental procedure that involves surgery or that will contribute
7 to or result in an irremediable alteration of the oral anatomy shall not be
8 assigned to anyone other than a licensed dentist.

9 (2) Except as provided in subsection (1) of this section, a dental
10 hygienist may perform any dental task or procedure assigned to the
11 hygienist by a licensed dentist that does not require the professional skill
12 of a licensed dentist; except that the dental hygienist may perform the task
13 or procedure only under the indirect supervision of a licensed dentist or
14 as authorized in ~~sections 12-220-122 and 12-220-123~~ SECTIONS
15 12-220-503 AND 12-220-504.

16 (3) (a) A dental assistant shall not perform the following tasks:

17 (I) Diagnosis;

18 (II) Treatment planning;

19 (III) Prescription of therapeutic measures;

20 (IV) Any procedure that contributes to or results in an
21 irremediable alteration of the oral anatomy;

22 (V) Administration of local anesthesia;

23 (VI) Scaling (supra and sub-gingival), as it pertains to the practice
24 of dental hygiene;

25 (VII) Root planing;

26 (VIII) Soft tissue curettage;

27 (IX) Periodontal probing.

1 (b) A dental assistant may perform the following tasks under the
2 indirect supervision of a licensed dentist:

3 (I) Smoothing and polishing natural and restored tooth surfaces;

4 (II) Provision of preventive measures, including the application
5 of fluorides and other recognized topical agents for the prevention of oral
6 disease;

7 (III) Gathering and assembling information including, but not
8 limited to, fact-finding and patient history, oral inspection, and dental and
9 periodontal charting;

10 (IV) Administering topical anesthetic to a patient in the course of
11 providing dental care;

12 ~~(V) Any other task or procedure that does not require the~~
13 ~~professional skill of a licensed dentist;~~

14 ~~(VI)~~ (V) Repairing and relining dentures pursuant to a dental
15 laboratory work order signed by a licensed dentist; OR

16 (VI) ANY OTHER TASK OR PROCEDURE THAT DOES NOT REQUIRE
17 THE PROFESSIONAL SKILL OF A LICENSED DENTIST.

18 (c) A dental assistant may, under the direct supervision of a
19 licensed dentist in accordance with rules promulgated by the board,
20 administer and monitor the use of nitrous oxide on a patient.

21 (d) (I) A dental assistant may perform intraoral and extraoral tasks
22 and procedures necessary for the fabrication of a complete or partial
23 denture under the direct supervision of a licensed dentist. These tasks and
24 procedures shall include:

25 (A) Making of preliminary and final impressions;

26 (B) Jaw relation records and determination of vertical dimensions;

27 (C) Tooth selection;

1 (D) A preliminary try-in of the wax-up trial denture prior to and
2 subject to a try-in and approval in writing of the wax-up trial denture by
3 the licensed dentist;

4 (E) Denture adjustments that involve the periphery, occlusal, or
5 tissue-bearing surfaces of the denture prior to the final examination of the
6 denture.

7 (II) IF A DENTAL ASSISTANT IS PERFORMING the tasks and
8 procedures SPECIFIED in subsection (3)(d)(I) of this section, ~~shall be~~
9 ~~performed~~ THE DENTAL ASSISTANT SHALL PERFORM THE TASKS AND
10 PROCEDURES in the regularly announced office location of a licensed
11 practicing dentist, and the dentist ~~shall be~~ IS personally liable for all
12 treatment rendered to the patient. A dental assistant performing these
13 tasks and procedures shall be properly identified as a dental assistant. ~~No~~
14 A dentist shall NOT utilize more DENTAL ASSISTANTS than the number of
15 dental assistants the dentist can reasonably supervise.

16 (III) Prior to any work being performed pursuant to subsection
17 (3)(d)(I) of this section, the ~~patient shall first be examined by the~~ treating
18 dentist licensed to practice in this state ~~who~~ shall FIRST EXAMINE THE
19 PATIENT AND certify that the patient has no pathologic condition that
20 requires surgical correction or other treatment prior to complete denture
21 service.

22 (4) The board may ~~make such~~ ADOPT reasonable rules as ~~may be~~
23 necessary to implement and enforce ~~the provisions of~~ this section.

24 **12-220-502. [Formerly 12-220-139] Construction of dental**
25 **devices by unlicensed technician.** (1) (a) A licensed dentist who uses
26 the services of an unlicensed technician for the purpose of constructing,
27 altering, repairing, or duplicating any denture, bridge, splint, or

1 orthodontic or prosthetic appliance shall furnish the unlicensed technician
2 with a written or electronic laboratory work order in a form approved by
3 the board, which form ~~must~~ SHALL be dated and signed by the dentist for
4 each separate and individual piece of work. The dentist shall make the
5 laboratory work order in a reproducible form, and the dentist and the
6 unlicensed technician shall each retain a copy in a permanent file for two
7 years. The permanent files of the licensed dentist and the unlicensed
8 technician ~~shall~~ MUST be open to inspection at any reasonable time by the
9 board or its duly constituted agent. The licensed dentist that furnishes the
10 laboratory work order ~~shall~~ MUST have appropriate training, education,
11 and experience related to the prescribed treatment and is responsible for
12 directly supervising all intraoral treatment rendered to the patient.

13 (b) An unlicensed technician that possesses a valid laboratory
14 work order may provide extraoral construction, manufacture, fabrication,
15 supply, or repair of identified dental and orthodontic devices but shall not
16 provide intraoral service in a human mouth except under the direct
17 supervision of a licensed dentist in accordance with ~~section 12-220-127~~
18 ~~(3)(d)~~ SECTION 12-220-501 (3)(d).

19 (2) If the dentist fails to keep permanent records of laboratory
20 work orders as required in subsection (1)(a) of this section, the dentist is
21 subject to disciplinary action as deemed appropriate by the board.

22 (3) If an unlicensed technician fails to have in ~~his or her~~ THE
23 TECHNICIAN'S possession a laboratory work order signed by a licensed
24 dentist with each denture, bridge, splint, or orthodontic or prosthetic
25 appliance in ~~his or her~~ THE TECHNICIAN'S possession, the absence of the
26 laboratory work order is prima facie evidence of a violation of this section
27 and constitutes the practice of dentistry without an active license in

1 violation of, and subject to the penalties specified in, ~~section 12-220-141~~
2 SECTION 12-220-211.

3 **12-220-503. [Formerly 12-220-122] What constitutes practicing**
4 **unsupervised dental hygiene - rules.** (1) Unless licensed to practice
5 dentistry, a person ~~shall be~~ IS deemed to be practicing unsupervised dental
6 hygiene ~~who~~ WHEN THE PERSON, within the scope of the person's
7 education, training, and experience:

8 (a) Removes deposits, accretions, and stains by scaling with hand,
9 ultrasonic, or other devices from all surfaces of the tooth and smooths and
10 polishes natural and restored tooth surfaces, including root planing;

11 (b) Removes granulation and degenerated tissue from the gingival
12 wall of a periodontal pocket;

13 (c) Provides preventive measures including the application of
14 fluorides, sealants, and other recognized topical agents for the prevention
15 of oral disease;

16 (d) Gathers and assembles information including, but not limited
17 to:

18 (I) Fact-finding and patient history;

19 (II) Preparation of study casts for the purpose of fabricating a
20 permanent record of the patient's present condition; as a visual aid for
21 patient education, dental hygiene diagnosis, and dental hygiene treatment
22 planning; and to provide assistance during forensic examination;

23 (III) Extra- and intra-oral inspection;

24 (IV) Dental and periodontal charting; and

25 (V) Radiographic and ~~X-ray~~ X-RAY survey for the purpose of
26 assessing and diagnosing dental hygiene-related conditions for treatment
27 planning for dental hygiene services as described in this section and

1 identifying dental abnormalities for immediate referral to a dentist;

2 (e) Administers a topical anesthetic to a patient in the course of
3 providing dental care;

4 (f) Performs dental hygiene assessment, dental hygiene diagnosis,
5 and dental hygiene treatment planning for dental hygiene services as
6 described in this section and identifies dental abnormalities for immediate
7 referral to a dentist; or

8 (g) (I) Prescribes, administers, and dispenses fluoride, fluoride
9 varnish, antimicrobial solutions for mouth rinsing, other nonsystemic
10 antimicrobial agents, and related emergency drugs and reversal agents in
11 collaboration with a licensed dentist. The board, BY RULE, may ~~by rule,~~
12 further define the permissible and appropriate emergency drugs and
13 reversal agents. Dental hygienists shall maintain clear documentation in
14 the patient record of the drug or agent prescribed, administered, or
15 dispensed; the date of the action; and the rationale for prescribing,
16 administering, or dispensing the drug or agent.

17 (II) A dental hygienist shall not prescribe, administer, or dispense
18 the following:

19 (A) Drugs whose primary effect is systemic, with the exception of
20 fluoride supplements permitted under subsection (1)(g)(III)(A) of this
21 section; and

22 (B) Dangerous drugs or controlled substances, as defined in
23 section 18-18-102 (5).

24 (III) A dental hygienist may prescribe the following:

25 (A) Fluoride supplements as follows, all using sodium fluoride:
26 Tablets: 0.5 mg, 1.1 mg, or 2.2 mg; lozenges: 2.21 mg; and drops: 1.1
27 mL;

1 (B) Topical anti-caries treatments as follows, all using sodium
2 fluoride unless otherwise indicated: Toothpastes: 1.1 % or less (or
3 stannous fluoride 0.4%); topical gels: 1.1% or less (or stannous fluoride
4 0.4%); oral rinses: 0.05%, 0.2%, 0.44%, or 0.5%; oral rinse concentrate
5 used in periodontal disease: 0.63% stannous fluoride; fluoride varnish:
6 5%; and prophy pastes containing approximately 1.23% sodium fluoride
7 and used for polishing procedures as part of professional dental
8 prophylaxis treatment;

9 (C) Topical anti-infectives as follows: Chlorhexidine gluconate
10 rinses: 0.12%; chlorhexidine gluconate periodontal chips for subgingival
11 insertion into a periodontal pocket/sulcus; tetracycline impregnated fibers,
12 inserted subgingivally into a periodontal pocket/sulcus; doxycycline
13 hyclate periodontal gel, inserted subgingivally into a periodontal
14 pocket/sulcus; and minocycline hydrochloride periodontal powder,
15 inserted subgingivally into a periodontal pocket/sulcus; and

16 (D) Related emergency drugs and reversal agents as authorized by
17 the collaborating dentist.

18 (2) A dental hygienist shall state in writing and require a patient
19 to acknowledge by signature that any diagnosis or assessment is for the
20 purpose of determining necessary dental hygiene services only and that
21 it is recommended by the American Dental Association, or any successor
22 organizations, that a thorough dental examination be performed by a
23 dentist twice each year.

24 (3) Unsupervised dental hygiene may be performed by licensed
25 dental hygienists without the supervision of a licensed dentist.

26 (4) (a) Notwithstanding section 12-220-104 (13) or ~~12-220-110~~
27 ~~(1)(b)~~ 12-220-305 (1)(b), a dental hygienist may be the proprietor of a

1 place where supervised or unsupervised dental hygiene is performed and
2 may purchase, own, or lease equipment necessary to perform supervised
3 or unsupervised dental hygiene.

4 (b) A dental hygienist proprietor, or a professional corporation or
5 professional limited liability corporation of dental hygienists, in addition
6 to providing dental hygiene services, may enter into an agreement with
7 one or more dentists for the lease or rental of equipment or office space
8 in the same physical location as the dental hygiene practice, but only if
9 the determination of necessary dental services provided by the dentist and
10 professional responsibility for those services, including but not limited to
11 dental records, appropriate medication, and patient payment, remain with
12 the treating dentist. It ~~shall be~~ IS the responsibility of the dental hygienist
13 to inform the patient as to whether there is a supervisory relationship
14 between the dentist and the dental hygienist. An agreement under this
15 subsection (4)(b) ~~shall~~ DOES not constitute employment and ~~shall~~ DOES
16 not constitute cause for discipline pursuant to ~~section 12-220-130 (1)(h)~~
17 SECTION 12-220-201 (1)(h).

18 **12-220-504. [Formerly 12-220-123] What constitutes practicing**
19 **supervised dental hygiene.** (1) Unless licensed to practice dentistry, a
20 person who performs any of the following tasks under the supervision of
21 a licensed dentist is deemed to be practicing supervised dental hygiene:

22 (a) ~~Any~~ PERFORMING A task described in ~~section 12-220-122 (1)~~
23 SECTION 12-220-503 (1);

24 (b) ~~Prepares~~ PREPARING study casts;

25 (c) ~~Administers~~ ADMINISTERING local anesthesia under the
26 indirect supervision of a licensed dentist pursuant to rules of the board,
27 including minimum education requirements and procedures for local

1 anesthesia administration;

2 (d) ~~Places~~ PLACING interim therapeutic restorations pursuant to
3 ~~section 12-220-128~~ SECTION 12-220-505; or

4 (e) ~~Applies~~ APPLYING silver diamine fluoride pursuant to ~~section~~
5 ~~12-220-129~~ SECTION 12-220-506.

6 **12-220-505. [Formerly 12-220-128] Interim therapeutic**
7 **restorations by dental hygienists - permitting process - rules - subject**
8 **to review - repeal.** (1) Upon application, accompanied by a fee in an
9 amount determined by the director, the board shall grant a permit to place
10 interim therapeutic restorations to any dental hygienist applicant who:

11 (a) Holds a license in good standing to practice dental hygiene in
12 Colorado;

13 (b) Has completed a course developed at the postsecondary
14 educational level that complies with the rules adopted by the board. The
15 course must be offered under the direct supervision of a member of the
16 faculty of a Colorado dental or dental hygiene school accredited by the
17 Commission on Dental Accreditation or its successor agency. All faculty
18 responsible for clinical evaluation of students must be dentists with a
19 faculty appointment at an accredited Colorado dental or dental hygiene
20 school.

21 (c) Carries current professional liability insurance ~~in the amount~~
22 ~~specified in section 12-220-147~~ AS REQUIRED PURSUANT TO SECTIONS
23 12-220-307 AND 13-64-301 (1)(a); and

24 (d) Has completed the following hours of dental hygiene practice
25 as evidenced in documentation required by the board:

26 (I) Two thousand hours of supervised dental hygiene practice after
27 initial dental hygiene licensure;

1 (II) Four thousand hours of unsupervised dental hygiene practice
2 after initial dental hygiene licensure; or

3 (III) A combination of the hours specified in subsections (1)(d)(I)
4 and (1)(d)(II) of this section as determined by the board by rule.

5 (2) The board may waive the requirement in subsection (1)(d) of
6 this section for a dental hygienist who performs interim therapeutic
7 restorations exclusively under the direct supervision of a dentist.

8 (3) A dental hygienist shall not use local anesthesia for the
9 purpose of placing interim therapeutic restorations.

10 (4) (a) A dental hygienist may place an interim therapeutic
11 restoration only after a dentist provides a diagnosis, treatment plan, and
12 instruction to perform the procedure.

13 (b) ~~If an interim therapeutic restoration is authorized by a~~
14 ~~supervising dentist~~ AUTHORIZES A DENTAL HYGIENIST TO PERFORM AN
15 INTERIM THERAPEUTIC RESTORATION PLACEMENT at a location other than
16 the dentist's practice location, the dental hygienist shall provide the
17 patient or the patient's representative with written notification that the
18 care was provided at the direction of the supervising dentist. The dental
19 hygienist shall include in the written notification the dentist's name,
20 practice location address, and telephone number.

21 (c) A dental hygienist who obtains a dentist's diagnosis, treatment
22 plan, and instruction to perform an ITR utilizing telehealth by
23 store-and-forward transfer shall notify the patient of the patient's right to
24 receive interactive communication with the distant dentist upon request.
25 Communication with the distant dentist may occur either at the time of the
26 consultation or within thirty days after the dental hygienist notifies the
27 patient of the results of the consultation.

1 (5) A dental hygienist who obtains a permit pursuant to this
2 section may place interim therapeutic restorations in a dental office
3 setting under the direct or indirect supervision of a dentist or through
4 telehealth supervision for purposes of communication with the dentist.

5 (6) A dentist shall not supervise more than five dental hygienists
6 who place interim therapeutic restorations under telehealth supervision.
7 A dentist who supervises a dental hygienist who provides interim
8 therapeutic restorations under telehealth supervision must have a physical
9 practice location in Colorado for purposes of patient referral for
10 follow-up care.

11 (7) A dental hygienist shall inform the patient or the patient's legal
12 guardian, in writing, and require the patient or the patient's legal guardian
13 to acknowledge by signature, that the interim therapeutic restoration is a
14 temporary repair to the tooth and that appropriate follow-up care with a
15 dentist is necessary.

16 (8) This section is repealed, effective September 1, 2021. Before
17 the repeal, the permitting of dental hygienists to place interim therapeutic
18 restorations is scheduled for review in accordance with section
19 24-34-104.

20 **12-220-506. [Formerly 12-220-129] Application of silver**
21 **diamine fluoride by dental hygienists - authorization - limitations -**
22 **rules - subject to review - repeal.** (1) A dental hygienist may apply
23 silver diamine fluoride if the dental hygienist:

24 (a) Holds a license in good standing to practice dental hygiene in
25 Colorado;

26 (b) Has completed a postsecondary course or continuing education
27 course developed at the postsecondary level that satisfies the requirements

1 established by the board by rule and that provides instruction on the use
2 and limitations of applying silver diamine fluoride;

3 (c) Is covered by professional liability insurance ~~in the amount~~
4 ~~established by the board pursuant to section 12-220-147~~ AS REQUIRED
5 PURSUANT TO SECTIONS 12-220-307 AND 13-64-301 (1)(a); and

6 (d) Has a collaborative agreement with a dentist that describes the
7 silver diamine fluoride protocols, any restrictions or limitations,
8 follow-up and referral mechanisms, and any other requirements
9 established by the board by rule.

10 (2) (a) ~~If the application of silver diamine fluoride is authorized~~
11 ~~by a supervising dentist~~ AUTHORIZES THE DENTAL HYGIENIST TO PERFORM
12 THE SILVER DIAMINE FLUORIDE APPLICATION at a location other than the
13 dentist's practice location, the dental hygienist shall provide the patient or
14 the patient's representative with written notification that the application
15 of silver diamine fluoride is being provided in collaboration with the
16 supervising dentist. The dental hygienist shall include in the written
17 notification the dentist's name, practice location address, and telephone
18 number.

19 (b) A dental hygienist who applies silver diamine fluoride in
20 collaboration with a supervising dentist utilizing telehealth by
21 store-and-forward transfer shall notify the patient or the patient's
22 representative of the patient's right to receive interactive communication
23 with the distant dentist upon request. Communication with the distant
24 dentist may occur either at the time of the consultation or within thirty
25 days after the dental hygienist notifies the patient of the results of the
26 consultation.

27 (3) A dental hygienist who meets the requirements of subsections

1 (1) and (2) of this section may apply silver diamine fluoride under the
2 direct or indirect supervision of a dentist or through telehealth supervision
3 for purposes of communication with the dentist.

4 (4) (a) The board shall promulgate rules to:

5 (I) Define requirements for the education course required in
6 subsection (1)(b) of this section, including qualifications for entities
7 offering the course and faculty oversight requirements; and

8 (II) Address appropriate indications and limitations for the
9 application of silver diamine fluoride by a dental hygienist.

10 (b) The board may establish additional requirements for the
11 collaborative agreement required by subsection (1)(d) of this section.

12 (5) This section is repealed, effective September 1, 2021. Before
13 the repeal, the application of silver diamine fluoride by dental hygienists
14 is scheduled for review in accordance with section 24-34-104.

15 PART 6

16 SAFETY TRAINING -

17 UNLICENSED X-RAY TECHNICIANS

18 **12-220-601. [Formerly 12-220-201] Legislative declaration.**

19 (1) The general assembly hereby finds, determines, and declares that
20 public exposure to the hazards of ionizing radiation used for diagnostic
21 purposes should be minimized wherever possible. Accordingly, the
22 general assembly finds, determines, and declares that for any dentist or
23 dental hygienist to allow an untrained person to operate a machine source
24 of ionizing radiation, including without limitation a device commonly
25 known as an "X-ray machine", or to administer radiation to a patient for
26 diagnostic purposes is a threat to the public health and safety.

27 (2) It is the intent of the general assembly that dentists and dental

1 hygienists utilizing unlicensed persons in their practices provide those
2 persons with a minimum level of education and training before allowing
3 them to operate machine sources of ionizing radiation; however, it is not
4 the general assembly's intent to discourage education and training beyond
5 this minimum. It is further the intent of the general assembly that
6 established minimum training and education requirements correspond as
7 closely as possible to the requirements of each particular work setting as
8 determined by the board pursuant to this ~~part 2~~ PART 6.

9 (3) The general assembly seeks to ensure, and accordingly
10 declares its intent, that in promulgating the rules authorized by this ~~part~~
11 ~~2~~ PART 6, the board will make every effort, consistent with its other
12 statutory duties, to avoid creating a shortage of qualified individuals to
13 operate machine sources of ionizing radiation for beneficial medical
14 purposes in any area of the state.

15 **12-220-602. [Formerly 12-220-202] Minimum standards - rules**
16 **- definition.** (1) (a) The board shall adopt rules prescribing minimum
17 standards for the qualifications, education, and training of unlicensed
18 persons operating machine sources of ionizing radiation and
19 administering radiation to patients for diagnostic medical use. A licensed
20 dentist or dental hygienist shall not allow an unlicensed person to operate
21 a machine source of ionizing radiation or to administer radiation to any
22 patient unless the person meets standards then in effect under rules
23 adopted pursuant to this section. The board may adopt rules allowing a
24 grace period in which newly hired operators of machine sources of
25 ionizing radiation are to receive the training required by this section.

26 (b) For purposes of this ~~part 2~~ PART 6, "unlicensed person" means
27 a person who does not hold a current and active license entitling the

1 person to practice dentistry or dental hygiene under the provisions of this
2 article 220.

3 (2) The board shall seek the assistance of licensed dentists or
4 licensed dental hygienists in developing and formulating the rules
5 promulgated pursuant to this section.

6 (3) The BOARD SHALL ESTABLISH BY RULE THE required number
7 of hours of training and education for all unlicensed persons operating
8 machine sources of ionizing radiation and administering radiation to
9 patients. ~~shall be established by the board by rule.~~ This standard shall
10 apply to all persons in dental settings other than hospitals and similar
11 facilities licensed by the department of public health and environment
12 pursuant to section 25-1.5-103. The training and education may be
13 obtained through programs approved by the appropriate authority of any
14 state or through equivalent programs and training experience, including
15 on-the-job training as determined by the board.

16 **SECTION 2.** In Colorado Revised Statutes, 12-30-109, **amend**
17 (1)(b) as follows:

18 **12-30-109. Prescribing opioids - limitations - definition -**
19 **repeal.** (1) (b) Prior to prescribing the second fill of any opioid
20 prescription pursuant to this section, an opioid prescriber must comply
21 with the requirements of section 12-280-404 (4). Failure to comply with
22 section 12-280-404 (4) constitutes unprofessional conduct or grounds for
23 discipline, as applicable, under section ~~12-220-130~~ 12-220-201,
24 12-240-121, 12-255-120, 12-275-120, 12-290-108, or 12-315-112, as
25 applicable to the particular opioid prescriber, only if the opioid prescriber
26 repeatedly fails to comply.

27 **SECTION 3.** In Colorado Revised Statutes, **amend** 12-305-111

1 as follows:

2 **12-305-111. Limitations on authority.** Nothing in this article 305
3 authorizes a speech-language pathologist to engage in the practice of
4 medicine, as defined in section 12-240-107; dentistry, as defined in
5 sections 12-220-104 (6) and ~~12-220-110~~, 12-220-305; or any other
6 profession for which licensure, certification, or registration is required by
7 this article 305.

8 **SECTION 4.** In Colorado Revised Statutes, 13-4-102, **amend**
9 (1)(g) as follows:

10 **13-4-102. Jurisdiction.** (1) Any provision of law to the contrary
11 notwithstanding, the court of appeals shall have initial jurisdiction over
12 appeals from final judgments of, and interlocutory appeals of certified
13 questions of law in civil cases pursuant to section 13-4-102.1 from, the
14 district courts, the probate court of the city and county of Denver, and the
15 juvenile court of the city and county of Denver, except in:

16 (g) Review actions of the Colorado dental board in refusing to
17 issue or renew or in suspending or revoking a license to practice dentistry
18 or dental hygiene, as provided in ~~section 12-220-137~~ SECTION
19 12-220-208;

20 **SECTION 5.** In Colorado Revised Statutes, 13-21-115.5, **amend**
21 (3)(c)(II)(R) as follows:

22 **13-21-115.5. Volunteer service act - immunity - exception for**
23 **operation of motor vehicles - definitions.** (3) As used in this section,
24 unless the context otherwise requires:

25 (c) (II) "Volunteer" includes:

26 (R) A licensed dentist or dental hygienist governed by article 220
27 of title 12 performing the practice of dentistry or dental hygiene, as

1 defined in section 12-220-104 and as described in ~~section 12-220-110~~
2 SECTION 12-220-305, as a volunteer for a nonprofit organization,
3 nonprofit corporation, governmental entity, or hospital; or a dentist or
4 dental hygienist who holds a license in good standing from another state
5 performing the practice of dentistry or dental hygiene, as defined in
6 section 12-220-104 and as described in ~~section 12-220-110~~ SECTION
7 12-220-305, as a volunteer for a nonprofit organization, nonprofit
8 corporation, governmental entity, or hospital pursuant to ~~section~~
9 ~~12-220-112 (1)(j)~~ SECTION 12-220-302 (1)(j); and

10 **SECTION 6.** In Colorado Revised Statutes, 24-34-104, **amend**
11 (21)(a)(IV) and (21)(a)(X) as follows:

12 **24-34-104. General assembly review of regulatory agencies**
13 **and functions for repeal, continuation, or reestablishment - legislative**
14 **declaration - repeal.** (21) (a) The following agencies, functions, or both,
15 will repeal on September 1, 2021:

16 (IV) The permitting of dental hygienists to place interim
17 therapeutic restorations in accordance with ~~section 12-220-128~~ SECTION
18 12-220-505;

19 (X) The application of silver diamine fluoride by dental hygienists
20 in accordance with ~~section 12-220-129~~ SECTION 12-220-506.

21 **SECTION 7.** In Colorado Revised Statutes, 25-1-1202, **amend**
22 (1)(k) as follows:

23 **25-1-1202. Index of statutory sections regarding medical**
24 **record confidentiality and health information.** (1) Statutory provisions
25 concerning policies, procedures, and references to the release, sharing,
26 and use of medical records and health information include the following:

27 (k) ~~Section 12-220-130~~ SECTION 12-220-201, concerning

1 disciplinary actions against dentists and dental hygienists;

2 **SECTION 8.** In Colorado Revised Statutes, 25-51-104, **amend**
3 (1)(e) as follows:

4 **25-51-104. Payment and financial resolution.** (1) If a patient
5 accepts an offer of compensation made pursuant to section 25-51-103 (5)
6 and receives the compensation, the payment of compensation to the
7 patient is not a payment resulting from:

8 (e) A judgment, administrative action, settlement, or arbitration
9 award involving malpractice under section 12-200-106 (5), 12-210-105
10 (5), 12-215-115 (1)(i), ~~12-220-130 (1)(q) or (1)(r)~~ **12-220-201 (1)(q)** OR
11 **(1)(r)**, 12-235-111 (1)(i), 12-240-125 (4)(b)(III), 12-245-226 (8),
12 12-250-116, 12-255-119 (3)(b)(II), 12-275-120 (1)(p) or (1)(v),
13 12-275-129, 12-280-111 (1), 12-285-120 (1)(o), 12-285-127 (1)(a),
14 12-285-211 (1)(k), 12-285-216 (1)(a), or 12-290-113 (2)(b)(III).

15 **SECTION 9.** In Colorado Revised Statutes, 25.5-4-411, **amend**
16 (1) as follows:

17 **25.5-4-411. Authorization of services provided by dental**
18 **hygienists.** (1) When dental hygiene services are provided to children by
19 a licensed dental hygienist who is providing dental hygiene services
20 pursuant to ~~section 12-220-122~~ SECTION 12-220-503 without the
21 supervision of a licensed dentist, the executive director of the state
22 department shall authorize reimbursement for said services, subject to the
23 requirements of this section. Payment for ~~such~~ THE services shall be made
24 directly to the licensed dental hygienist, if requested by the licensed
25 dental hygienist; except that this section shall not apply to licensed dental
26 hygienists when acting within the scope of their employment as salaried
27 employees of public or private institutions, physicians, or dentists.

1 **SECTION 10. Act subject to petition - effective date.** This act
2 takes effect at 12:01 a.m. on the day following the expiration of the
3 ninety-day period after final adjournment of the general assembly (August
4 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
5 referendum petition is filed pursuant to section 1 (3) of article V of the
6 state constitution against this act or an item, section, or part of this act
7 within such period, then the act, item, section, or part will not take effect
8 unless approved by the people at the general election to be held in
9 November 2020 and, in such case, will take effect on the date of the
10 official declaration of the vote thereon by the governor.