

CHAPTER 64B5-17
DENTAL PRACTICE AND PRINCIPLES

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64B5-17.001 Required Availability of Dental Records Upon Relocation or Termination of Practice, or Death of Practitioner.

(1) Patient records are confidential and may not be released unless authorized by the patient in writing. This confidentiality prohibits review of the records by a dentist other than the dentist of record or by other health care providers unless they are actually involved in care or treatment of the patient. Maintenance of patient records by a deceased dentist's estate, authorized agent of the estate or by a successor-owner dentist of a practice does not authorize review of patient records. However, limited review for the purpose of obtaining a patient's name, address and last date of treatment in order to comply with this rule is permitted.

(2) Within 90 days of a dentist's death, the dentist's estate or agent shall place all patient records of the deceased dentist in the care of another Florida licensed dentist.

(a) The patient records of the deceased dentist shall be maintained and made available to patients for a period of 4 years.

(b) Within 90 days of a dentist's death the dentist's estate or agent shall cause a notice to be published in the newspaper of greatest general circulation in the county where the dentist practiced which advises patients of the dentist's death. The notice shall advise patients that they may obtain copies of their dental records and specify the name, address and telephone number of the person from whom the copies of records may be obtained. The notice shall appear at least once a week for four consecutive weeks.

(c) The subsequent Florida licensed dentist shall cause to be published a similar notice whenever the patient records of the deceased dentist are subsequently transferred to another licensed Florida dentist if such transfer is within 4 years of the dentist's death.

(d) During the four year retention period required by this rule each licensed Florida dentist who is in possession of the deceased dentist's patient records shall insure that the original patient records, or in cases where the patient has requested that the records be released or transferred, copies thereof remain in his possession.

(3) Dental records of a practitioner who is terminating or relocating his practice shall be retained by the dentist or his authorized agent, which may be a successor-owner dentist, and made available to patients for 4 years from the date the patient was last examined or treated.

(4) Within one month of a dentist's termination of practice or relocation of practice outside the local telephone directory service area of his or her current practice, a notice shall be published in the newspaper of greatest general circulation in the county where the dentist practiced which advises patients of the dentist's termination of practice or relocation. The notice shall advise patients that they may obtain copies of their dental records and specify the name, address and telephone number of the person from whom copies of records may be obtained. The notice shall appear at least once a week for 4 consecutive weeks.

(5) If a dentist relocates his practice but maintains a listing in the same local telephone directory used in his previous practice location, notice of relocation shall be clearly posted at his practice location for one month prior to relocation. The notice shall state the date of relocation and the address to which the office is being relocated.

(6) Records shall be made available at a location within the county where the dentist practices or practiced and shall be made available at reasonable times.

Specific Authority 456.058, 466.004(3) FS. Law Implemented 456.058 FS. History—New 10-26-80, Formerly 21G-17.01, Amended 7-16-90, 10-28-91, 4-23-90, Formerly 21G-17.001, 61F5-17.001, 59Q-17.001.

64B5-17.0011 Change of Address.

All licensees are required to notify the Board in writing within 10 days of any change in their address.

Specific Authority 456.035, 466.004(4) FS. Law Implemented 456.035, 466.013 FS. History—New 3-27-90, Formerly 21G-17.0011, 61F5-17.0011, 59Q-17.0011.

64B5-17.002 Written Dental Records; Minimum Content; Retention.

(1) For the purpose of implementing the provisions of subsection 466.028(1)(m), F.S., a dentist shall maintain written records on each patient which written records shall contain, at a minimum, the following information about the patient:

- (a) Appropriate medical history;
- (b) Results of clinical examination and tests conducted, including the identification, or lack thereof, of any oral pathology or diseases;
- (c) Any radiographs used for the diagnosis or treatment of the patient;
- (d) Treatment plan proposed by the dentist; and
- (e) Treatment rendered to the patient.

(f) Whenever patient records are released or transferred, the dentist releasing or transferring the records shall maintain either the original records or copies thereof and a notation shall be made in the retained records indicating to whom the records were released or transferred. However, whenever patient records are released or transferred directly to another Florida licensed dentist, it is sufficient for the releasing or transferring dentist to maintain a listing of each patient whose records have been so released or transferred which listing also includes the dentist to whom such records were released or transferred. Such listing shall be maintained for a period of 4 years.

(2) In order that the patients may have meaningful access to their dental records pursuant to subsections 466.028(1)(m) and (o), F.S., a dentist shall maintain the written dental record of a patient for a period of at least four (4) years from the date the patient was last examined or treated by the dentist. However, upon the death of the dentist, the retention provisions of Rule 64B5-17.001, F.A.C., are controlling.

(3) Each licensed dentist in Florida shall retain a copy of each entry in his or her patient appointment book or such other log, calendar, book, file or computer data, used in lieu of an appointment book for a period of no less than 4 years from the date of each entry thereon.

(4) The records required above and any other patient records shall be properly annotated to identify the dentist of record. The dentist of record is the dentist who:

- (a) Is noted in the patient record as the dentist of record; or
- (b) Provides a treatment or service and is noted in the patient record as the dentist of record for that treatment or service; or
- (c) If there has been more than one provider of treatment, is the dentist who places the final restoration, does the surgical procedure, makes the diagnosis or finishes the service or procedure in question; or
- (d) If there has been more than one provider of treatment and neither paragraph (a) nor (b) can be determined with reasonable certainty, is the owner dentist of the practice in which the dental patient was seen or treated.

(5) All dental records required by this rule and any additional records maintained in the course of practicing dentistry shall be the property of the owner dentist of the dental practice in which the dental patient is seen or treated and the owner dentist shall be ultimately responsible for all record keeping requirements set forth by statute or rule.

- (a) The owner dentist is responsible for the records of patients seen or treated by any employee, associate or visiting dentists.
- (b) Multiple owners will be held equally responsible for the records of patients seen or treated within the dental practice of that dental group.

(c) An owner dentist is not responsible for the records of an independent dentist who is merely leasing or renting space or services for the operation of a separate dental practice.

(6) Patient records may be kept in an electronic data format, provided that the dentist maintains a back-up copy of information stored in the data processing system using disk, tape or other electronic back-up system and that said back-up is updated on a regular basis, at least weekly, to assure that data is not lost due to system failure. Any electronic data system must be capable of producing a hard copy on demand.

Specific Authority 466.004(4) FS. Law Implemented 456.058, 466.028(1)(m), (o) FS. History--New 10-8-85, Formerly 21G-17.02, Amended 10-28-91, Formerly 21G-17.002, Amended 11-22-93, Formerly 61F5-17.002, 59Q-17.002, Amended 11-15-99, 4-22-03.

64B5-17.003 Patient Referrals.

(1) Split-fee arrangements relating to the referral of patients by a client to another health care practice are prohibited.

(2) As used herein, the term "health care practice" shall mean a lawful and distinct business entity owned and operated under one name by an individual or group of duly licensed health care providers with facilities at one or more locations such as a solo dental practice, group practice, or professional service corporation, which offers health care services to the public within the limits of the professional licenses held by the owners, employees and agents of the business.

(3) Referral of a patient to another dentist in the same health care practice, so long as any remuneration shared by the dentists is not based upon the number of referrals within the practice and the referral of a patient to another dentist within the practice is in the best interest of the patient, is not a split-fee arrangement.

(4) Fee arrangements between dentists in the same health care practice which are based upon productivity or shared net profits are not split-fee arrangements.

(5) Referral of a patient to another health care practice in which the referring dentist or any owner, employee or agent of the referring practice or immediate family member thereof has a financial interest, whether direct, indirect, active or passive in nature, is permitted only if the referral is in the best interest of the patient and the patient first consents to the arrangement by signing a written notification form from the referral dentist which informs the patient of (a) the existence of a financial interest and (b) the patient's right to request another referral or to independently seek the services recommended. Under no circumstances shall the dentist's financial interest be contingent upon or otherwise related to any referral quota or similar requirement. However, in emergency circumstances where it is in the patient's best interest that such a referral be made without first seeing the patient, the referring dentist shall orally provide the notification required herein. In such emergency situations, the referring dentist shall also make a notation in the patient's record at the time of referral that disclosure was made orally due to emergency circumstances. Written disclosure as required in paragraph 5 of this rule shall be supplied to the patient at the office to which the emergency patient was referred.

(6) Notification forms signed by patients in accordance with subsection (5) above shall be maintained in the patient's record.

(7) The written notification required by this rule shall be made on the appropriate form set forth in Rule 64B5-1.021, F.A.C.

Specific Authority 466.004(4) FS. Law Implemented 456.052, 466.028(1)(n) FS. History--New 8-30-90, Formerly 21G-17.003, 61F5-17.003, 59Q-17.003, Amended 8-19-97.

64B5-17.004 Emergency Care.

It is the responsibility of every dentist practicing in this State to provide, either personally, through another licensed dentist, or through a reciprocal agreement with another agency, reasonable twenty-four (24) hour emergency services for all patients under his continuing care.

Specific Authority 466.004(4) FS. Law Implemented 466.028(1)(u), (y) FS. History--New 4-26-87, Formerly 21G-17.004, 61F5-17.004, 59Q-17.004.

64B5-17.0045 Standards for the Use of Controlled Substances for Treatment of Pain.

(1) The Board of Dentistry recognizes that principles of quality medical practice dictate that the people of the State of Florida

have access to appropriate and effective pain relief. All dentists should become knowledgeable about effective methods of pain treatment as well as statutory requirements for prescribing controlled substances.

(2) The Board recognizes that controlled substances, including opioid analgesics, may be essential in the treatment of acute pain due to a dental procedure.

(3) The Board of Dentistry is obligated under the laws of the State of Florida to protect the public health and safety. The Board recognizes that inappropriate prescribing of controlled substances, including opioid analgesics, may lead to drug diversion and abuse by individuals who seek them for other than legitimate medical use.

(4) Dentists should be diligent in preventing the diversion of drugs for illegitimate purposes. This includes keeping prescription blanks in a safe place; not signing prescription blanks in advance; writing out the actual amount prescribed in addition to using a number to discourage alterations; and assisting pharmacists who may telephone to verify information about a prescription order.

(5) The Board will consider prescribing, ordering, administering, or dispensing controlled substances for pain to be for a legitimate medical purpose if based on sound clinical grounds. The dental procedure or justification for such prescribing must be clearly documented in the patient's record. All such prescribing must be in compliance with applicable state and federal law.

Specific Authority 466.004 FS. Law Implemented 466.017, 466.028(1)(p) FS. History--New 8-12-02.

64B5-17.005 Identification of Removable Prosthetic Devices.

(1) The Board takes official notice of the large number of elderly dental patients residing in Florida and that many of them are confined to hospitals, nursing homes, and other health care institutions. The Board also recognizes the continuing difficulty in providing ongoing dental care to these individuals which is created as a result of the inadvertent misplacing or switching of their removable dental prosthetic devices, which can enhance the transmission of communicable diseases. Accordingly, in an effort to enhance the likelihood that these individuals will receive minimally competent dental treatment consistent with the requirements of Section 466.028(1)(m) and (y), F.S., the Board establishes an identification standard for removable prosthetic devices.

(2) Every licensed dentist in this State making or directing to be made a removable prosthetic device, bridge, appliance or other structure to be used and worn as a substitute for natural teeth and/or supporting structure shall offer to the patient for whom the prosthesis is intended the opportunity to have such prosthesis marked at the time of fabrication. The location and method used for marking the prosthesis shall be determined by the dentist and this marking shall be permanent, legible, and cosmetically acceptable and shall include the patient's name.

(3) If the dentist determines that identification is not practicable or clinically safe, the offer to mark the prosthesis need not be made.

(4) Any removable dental prosthesis fabricated prior to the effective date of this rule, shall be subject to the provisions of subsection (2) during a laboratory relining or rebasing of the prosthesis.

Specific Authority 466.004(4) FS. Law Implemented 466.028(1)(x) FS. History--New 4-26-87, Amended 6-20-89, Formerly 21G-17.005, 61F5-17.005, 59Q-17.005.

64B5-17.006 Prescription Forms.

(1) Approved prescription forms must contain all information necessary for completion of the assigned work and must include at a minimum:

- (a) Title – "Laboratory Procedure Prescription;"
- (b) Name, address and license number of the registered dental laboratory;
- (c) Name, address and license number of the Florida licensed dentist who owns the prescription form and is authorizing the procedure;
- (d) Patient's name or number;
- (e) Date sent to lab;
- (f) Signature of the licensed dentist, which may be an electronic signature;
- (g) Sufficient descriptive information to clearly identify each separate and individual piece of work to be performed by the dental laboratory; and

(h) Specification of materials to be contained in each work product.

(2) Copies of prescription forms must be maintained, either on paper or stored electronically in an encrypted data base, in the prescribing dentist's office for a period of four (4) years following the date the prescription was issued. The original prescription shall be retained in a file by the dental laboratory for a period of four (4) years .

(3) A registered dental laboratory may perform work for another registered dental laboratory if that work is performed pursuant to a written authorization form containing all information necessary for completion of the assigned work and must include at a minimum;

(a) Title – "Laboratory Procedure Authorization;"

(b) Name, address and license number of the originating registered dental laboratory;

(c) Name, address and license number of the registered dental laboratory performing the work;

(d) Evidence that the originating laboratory has obtained a valid prescription which shall include the name, address and license number of the licensed dentist who wrote the original prescription authorizing the procedure.

(e) Sufficient descriptive information to clearly identify each separate and individual piece of work to be performed by the dental laboratory; and

(f) Specification of materials to be contained in each work product.

Rulemaking Authority 466.021 FS. Law Implemented 466.021 FS. History–New 12-21-99, Amended 3-23-06, 10-9-06, 5-28-09.

64B5-17.009 Patient Records; Copying Charges; Timely Release.

(1) A dentist who makes an examination of, or administers treatment to any person, shall upon the request of such person or his legal representative furnish copies of all reports or records made of such examination or treatment, including x-rays. The furnishing of copies shall not be conditioned upon payment of an unpaid or disputed fee for services rendered.

(2) A dentist may charge a fee for copying reports or records not to exceed the cost per page charged by the Clerk of the County Court where the dentist practices. The fee for copies of x-rays shall not exceed actual cost of duplication. Payment of copying fees may be required upon delivery of the copies.

(3) A dentist shall comply with a patient's written request for copies of records and reports in a timely manner, with due regard for the patient's health needs. In the absence of circumstances beyond the control of the licensee, timely shall mean less than 30 days.

Specific Authority 466.004(4) FS. Law Implemented 456.061 FS. History–New 4-26-87, Amended 6-20-89, Formerly 21G-17.009, 61F5-17.009, 59Q-17.009, Amended 1-23-01.

64B5-17.010 Unlicensed Practice of Dentistry.

For the purposes of interpreting Sections 466.003(3), 466.026(1)(a) and 466.028(1)(g)(bb), F.S., the Board shall not consider it to be the unlicensed practice of dentistry for an unlicensed person to furnish, supply, construct or reproduce an appliance to be worn in the human mouth or to verify the patient's shade-selection outside the dentist's direct supervision for fixed partial prosthesis if:

(1) The appliance is a removable mouth protection device that is inserted and removed by the user without adjustment by a licensed dentist (e.g. athletic mouth guards);

(2) A prescription or dentist's order is not required in order to obtain the appliance;

(3) The appliance does not adjust or otherwise affect the natural features of the face or mouth or affect any appliance placed in the mouth by a licensed dentist;

(4) The appliance or device does not have the potential to cause significant or irreparable damage to the dentition and/or oral tissue;

(5) The request for the shade verification is accompanied by a prescription form or work order written by a licensed dentist to meet the requirements of Section 466.021, F.S.;

(6) The dentist has previously completed the initial shade selection;

(7) The shade verification site is approved by the dentist and meets all requirements of Sections 466.028(1)(u), 466.031(1) and 466.032(1), F.S.;

(8) During shade verification, no appliances or prosthetic devices are to be placed, removed or sealed in the oral cavity at the site except by a licensed dentist on a patient of record in accordance with the requirements of Sections 466.024(5) and

466.028(1)(m), F.S.;

- (9) During shade verification, contact to the patient is limited to visual contact only;
- (10) During shade verification, soft or hard tissue shall not be manipulated;
- (11) During shade verification, the patient shall be instructed on how to retract his or her own lip, and the shade tab shall only be held in proximity, but without physical contact to the patient's dentition; and
- (12) During shade verification, photography shall be limited to the patient's visible dentition during smile and the patient's dentition with the patient retracting their lips.

Specific Authority 466.004(4) FS. Law Implemented 466.026(1)(a), 466.028(1)(g), (bb) FS. History—New 9-5-91, Formerly 21G-17.010, 61F5-17.010, Amended 5-9-95, Formerly 59Q-17.010, Amended 10-8-03.

64B5-17.0105 Ownership of Dental Instruments by a Dental Hygienist.

For purposes of interpreting Section 466.0285, F.S., a Dental Hygienist is not precluded from owning dental instruments used by her or him in the provision of dental hygiene services, so long as the final authority on the suitability and/or manner in which said instruments will be used in the provision of dental hygiene services remains with the supervising dentist.

Specific Authority 466.004 FS. Law Implemented 466.0285 FS. History—New 12-23-02.

64B5-17.011 Financial Responsibility.

As a prerequisite for licensure or license renewal every dentist is required to maintain medical malpractice insurance or provide proof of financial responsibility as set forth herein:

(1) Obtaining and maintaining professional liability coverage in an amount not less than \$100,000 per claim, with a minimum annual aggregate of not less than \$300,000, from an authorized insurer as defined under Section 624.09, F.S., from a surplus lines insurer as defined under Section 626.914(2), F.S., from a risk retention group as defined under Section 627.942, F.S., from the Joint Underwriting Association established under Section 627.351(4), F.S., or through a plan of self-insurance as provided in Section 627.357, F.S.

(2) Obtaining and maintaining an unexpired, irrevocable letter of credit, established pursuant to Chapter 675, F.S., in an amount not less than \$100,000 per claim, with a minimum aggregate availability of credit of not less than \$300,000. The letter of credit shall be payable to the dentist as beneficiary upon presentment of a final judgment indicating liability and awarding damages to be paid by the dentist or upon presentment of a settlement agreement signed by all parties to such agreement when such final judgment or settlement is a result of a claim arising out of the rendering of, or the failure to render, dental care and services. Such letter of credit shall be nonassignable and nontransferable. Such letter of credit shall be issued by any bank or savings association organized and existing under the laws of the State of Florida or any bank or savings association organized under the laws of the United States that has its principal place of business in this state or has a branch office which is authorized under the laws of this state or of the United States to receive deposits in this state.

(3) Upon application to the Board, the following licensees shall be exempted from meeting the requirements of this rule:

(a) Any dentist who practices exclusively as an officer, employee or agent of the federal government or of the State of Florida or its agencies or subdivision. For purposes of this rule, an agent of the State of Florida, its agencies or its subdivisions is a person who is eligible for coverage under any self insurance or insurance program authorized by the provisions of Section 768.28(14), F.S., or who is a volunteer under Section 110.501(1), F.S.

(b) Any dentist whose license has become inactive under Chapter 466, F.S., and who is not practicing in this state. Any dentist applying for reactivation of a license must show either that such licensee maintained tail insurance which provided liability coverage for incidents that occurred on or after October 1, 1993, or the initial date of licensure in this state, whichever is later, and incidents that occurred before the date on which the license became inactive; or such licensee must submit an affidavit stating that such licensee has no unsatisfied medical malpractice judgments or settlements at the time of application for reactivation.

(c) Any dentist licensed or certified under Chapter 466, F.S., who practices only in conjunction with his/her teaching duties at an accredited school or in its main teaching hospitals. Such dentist may engage in the practice of dentistry to the extent that such practice is incidental to and a necessary part of duties in connection with the teaching position in the school.

(d) Any dentist holding an active license under Chapter 466, F.S., who is not practicing in this state. If such person initiates or resumes practice in this state, he/she must notify the Board of such activity.

(e) Any dentist who can demonstrate to the Board that he/she has no malpractice exposure in the State of Florida.

(4) Every dentist complying with these requirements pursuant to either subsection (1) or (2) above shall ensure that such insurance or proof covers liability for actions of any dental hygienist supervised by the dentist. Dental hygienists working unsupervised pursuant to Section 466.0235, F.S., shall be required to maintain medical malpractice insurance or provide proof of financial responsibility if he or she is not a volunteer under Section 110.501(1), F.S.

Specific Authority 466.004(4) FS. Law Implemented 456.048 FS. History—New 11-22-93, Amended 3-31-94, Formerly 61F5-17.011, 59Q-17.011, Amended 12-20-98, 3-19-02, 6-13-07.

64B5-17.012 Use of Sargenti Material.

The Board of Dentistry has determined pursuant to Sections 466.001, and 466.028(1)(y)(gg), F.S., that the use of “Sargenti Cement” (e.g., N2, RC2B, or RC2W or essentially similar compounds) as an endodontic filling material or cement does not meet the minimum standards of performance for competent dental practice in Florida. The Board specifically finds that “Sargenti Cement” containing paraformaldehyde, when used as an endodontic filling material or cement, can cause severe and irreversible damage to patients. “Sargenti Cement” that is improperly used or which escapes beyond the root canal is much more likely to cause significant damage than incorrectly performed endodontic procedures using alternative filling materials or cements. Most licensed dentists in Florida do not use “Sargenti Cement” in endodontic therapy. Therefore, the use of “Sargenti Cement” as an endodontic filling material does not meet the existing minimum standard of performance for competent dental practice in Florida.

Specific Authority 466.004(4) FS. Law Implemented 466.001, 466.004(4), 466.028(1)(x), (ff) FS. History—New 5-29-96, Formerly 59Q-17.012.

64B5-17.013 Proprietorship by Nondentists.

(1) No corporation, lay body, organization, or individual other than a licensed dentist or a professional corporation or limited liability company composed of dentists shall engage in the practice of dentistry through the means of engaging the services, upon a salary, commission, or other means of inducement, of any person licensed to practice dentistry in this state. The provisions of this rule are not applicable to dentists working under any of the settings described in Section 466.025, F.S.

(2) No dentist shall enter into any agreement with a nondentist which directs, controls, or interferes with the dentist’s clinical judgment, or which controls the use of any dental equipment or material while such is being used for the provision of dental services. Nor shall any dentist enter into an agreement which permits any entity which itself is not a licensed dentist to practice dentistry, or to offer dentistry services to the public through the licensed dentist. The clinical judgment of the licensed dentist must be exercised solely for the benefit of his/her patients, and shall be free from any compromising control, influences, obligations, or loyalties. To direct, control, or interfere with a dentist’s clinical judgment shall not be construed to include those matters specifically excluded by subsection 466.0285(1)(c), F.S.

(3) For the purposes of this rule:

(a) The term “clinical” means having a significant relationship, whether real or potential, direct or indirect, to the actual rendering or outcome of dental care, the practice of dentistry or the quality of dental care being rendered to one or more patients.

(b) The term “control” shall mean to exercise authority or dominating influence over; having the authority or ability to regulate, direct, or dominate.

(4) A licensed dentist may enter into an agreement with a nondentist to receive “Practice Management Services.” The term “Practice Management Services” is defined to include consultation or other activities or services offered by someone other than a Florida licensed dentist regarding one or more of the following types of products or services:

(a) The suitability of dental office space, furnishings and equipment;

(b) Staff necessary to operate a dental practice;

(c) Regulatory compliance expertise and services;

(d) Methods to increase productivity of a dental practice;

(e) Inventory and supplies required to operate a dental practice;

(f) Information systems designed to produce financial and operational data on the dental practice;

(g) Marketing plans or advertising to increase productivity of a dental practice;

(h) Site selection, relocation, design or physical layout of a dental practice; or

(i) Financial services such as accounting and bookkeeping, monitoring and payment of accounts receivable, payment of leases and subleases, payroll or benefits administration, billing and collection for patient services, payment of federal or state income tax, personal property or intangible taxes, administration of interest expense or indebtedness incurred to finance the operation of the dental practice, or malpractice insurance expenses.

(5) For purposes of implementing the provisions of Sections 466.0285, 466.003 and subsections 466.028(1)(g) and (z), F.S., no dentist shall enter into a practice management agreement with anyone other than a dentist or group of dentists which provides or offers to provide, whether by contract or employment, with or without fee, any practice management service which attempts to govern in any way, whether directly or indirectly, the clinical sufficiency, suitability, reliability or efficacy of a particular product, service, process or activity as it relates to the delivery of dental care. Practice management agreements between dentists and anyone other than a dentist or group of dentists shall not:

(a) Preclude or otherwise restrict, by penalty or operation, the dentist of record's ability to exercise independent professional judgment over all qualitative and quantitative aspects of the delivery of dental care;

(b) Allow anyone other than a dentist of record or the dentist of record's practice to supervise and control the selection, compensation, terms, conditions, obligations or privileges of employment or retention of clinical personnel of the practice;

(c) Limit or define the scope of services offered by the dentist of record or the dentist of record's practice;

(d) Limit the methods of payment accepted by the dentist of record or the dentist of record's practice;

(e) Require the use of patient scheduling systems, marketing plans, promotion or advertising for the dentist of record or the dentist of record's practice which, in the judgment of the dentist of record or the dentist of record's practice will have the effect of discouraging new patients from coming into the practice or discouraging patients of record from seeing the dentist or postponing future appointments or which gives scheduling preference to one individual, class or group of existing or new patients over another individual, class or group of existing or new patients;

(f) Directly or indirectly condition the payment or the amount of the management fee on the referral of patients, and in addition, the management fee shall reasonably relate to the fair market value of the services provided;

(g) Penalize the dentist of record or the dentist of record's practice for reporting perceived violations of this section to, or seeking clarification from, appropriate state or federal agencies, departments or boards.

(6) For purposes of implementing the provisions of Section 466.028(1)(h), F.S., no dentist shall enter into any agreement, or series of agreements, with anyone other than a dentist or group of dentists, which violates the parameters established in subsection (4) or (5) above and entering into such a contract constitutes a de facto employment of the dentist by a nondentist. Except as permitted by Chapter 542, F.S., licensed dentists are prohibited from agreeing not to compete in the provision of dental services with any entity which is not itself a licensed dentist, or which is not licensed or otherwise permitted by law to provide the services which are the subject of the agreement not to compete.

(7) The provisions of this rule are not intended to impair the validity of any contract in existence as of the effective date of this rule. Any existing contract renewed or extended after the effective date of this rule shall be subject to the provisions of this rule.

Specific Authority 466.004 FS. Law Implemented 466.003, 466.028(1)(g), (z), 466.0285, 466.0285(1)(c) FS. History--New 10-16-96, Formerly 59Q-17.013, Amended 3-27-02.

64B5-17.014 Removal of Amalgam Fillings.

(1) The Board of Dentistry has determined that claims regarding amalgam fillings as a causal factor in systemic illnesses are not supported by the Food and Drug Administration, the U.S. Public Health Service, or the National Institutes of Health. The Board therefore deems that the removal of amalgam fillings for the purported purpose of curing or preventing systemic illness constitutes alternative or complementary health care. In compliance with Section 456.41, F.S., any dentist performing such alternative or complementary health care treatment shall inform the patient of the following:

(a) The nature of the treatment and the benefits and risks associated with the treatment; and

(b) The dentist's education, experience and credentials regarding the complementary or alternative treatment option.

(2) Each dentist shall indicate on the patient's record the method(s) by which the requirements of Section 456.41, F.S., were

met.

Specific Authority 466.004 FS. Law Implemented 456.41, 466.028(1)(l), (w), (x), (y) FS. History–New 10-21-02.

64B5-17.015 Office Safety Requirement.

As part of the minimum standard of care, every dental office location shall be required to have an automatic external defibrillator by February 28, 2006. Any dentist practicing after February 28, 2006, without an automatic external defibrillator on site shall be considered to be practicing below the minimum standard of care.

Specific Authority 466.004(4), 466.017(3)(c) FS. Law Implemented 466.017(4), 466.028(1)(x) FS. History–New 5-31-04.