

Regular Session, 2012

HOUSE BILL NO. 172

BY REPRESENTATIVE DIXON

DENTISTRY: Amends provisions of the Dental Practice Act relative to sedation of dental patients

1 AN ACT

2 To amend and reenact R.S. 37:793(A)(1), (6), and (7), (B)(1) and (4), (C)(1), (2), and (3),
3 (E)(1), (G)(1), and (H)(2) and 795(B)(2)(q) and (s), to enact R.S. 37:751(F) and
4 793(A)(9) and (10) and (C)(6), (7), (8), and (9), and to repeal R.S. 37:793(A)(2), (4),
5 and (5) and (C)(4) and (5), relative to the practice of dentistry; to provide for a short
6 title; to provide for definitions; to provide regulations for sedation of dental patients;
7 to authorize promulgation of rules; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 37:793(A)(1), (6), and (7), (B)(1) and (4), (C)(1), (2), and (3), (E)(1),
10 (G)(1), and (H)(2) and 795(B)(2)(q) and (s) are hereby amended and reenacted and R.S.
11 37:751(F) and 793(A)(9) and (10) and (C)(6), (7), (8), and (9) are hereby enacted to read as
12 follows:

13 §751. Definitions; licensure; presumption; short title

14 * * *

15 F. This Chapter shall be known and may be cited as the "Dental Practice
16 Act".

17 * * *

18 §793. Nitrous oxide inhalation analgesia; enteral ~~conscious~~ moderate sedation;
19 parenteral sedation; deep sedation; general anesthesia; definitions; permits;
20 credentials; reporting; fees; limitations; exceptions

21 A. As used in this Section, the following terms have the meanings ascribed
22 to them unless the context clearly indicates otherwise:

1 (1) "Analgesia" is the diminution or elimination of pain in the ~~conscious~~
2 patient.

3 * * *

4 (6) "~~Deep sedation~~" is a ~~controlled state of depressed consciousness~~
5 ~~accompanied by partial loss of protective reflexes, including the inability to~~
6 ~~continually maintain an airway independently and/or to respond appropriately to~~
7 ~~physical stimulation or verbal command, and is produced by a pharmacologic or~~
8 ~~non-pharmacologic method or combination thereof.~~ drug-induced depression of
9 consciousness during which a patient cannot be easily aroused but responds
10 purposefully following repeated or painful stimulation. The ability to independently
11 maintain ventilatory function may be impaired. A patient may require assistance in
12 maintaining a patent airway, and spontaneous ventilation may be inadequate.
13 Cardiovascular function is usually maintained.

14 (7) "General anesthesia" is a ~~controlled state of unconsciousness~~
15 ~~accompanied by partial or complete loss of protective reflexes, including inability~~
16 ~~to independently maintain an airway and respond purposefully to physical~~
17 ~~stimulation or verbal command, and is produced by a pharmacologic or non-~~
18 ~~pharmacologic method or a combination thereof.~~ drug-induced loss of consciousness
19 during which a patient is not arousable, even by painful stimulation. The ability to
20 independently maintain ventilatory function is often impaired. A patient often
21 requires assistance in maintaining a patent airway, and positive pressure ventilation
22 may be required because of depressed spontaneous ventilation or drug-induced
23 depression of neuromuscular function. Cardiovascular function may be impaired.

24 * * *

25 (9) "Minimal sedation", except as provided in Paragraph (C)(9) of this
26 Section, is a minimally depressed level of consciousness, produced by a
27 pharmacological method, which allows the patient to independently and continuously
28 maintain an airway and respond normally to tactile stimulation and verbal
29 commands. The drugs or techniques used to produce minimal sedation should have

1 a margin of safety which is sufficient never to cause unintended loss of
2 consciousness. A patient whose only response is reflex withdrawal from repeated
3 painful stimuli shall not be considered to be in a state of minimal sedation.

4 (10) "Moderate sedation", except as provided in Paragraph (C)(9) of this
5 Section, is a drug-induced depression of consciousness during which a patient
6 responds purposefully to verbal commands, either alone or accompanied by light
7 tactile stimulation. No intervention is required to maintain a patent airway, and
8 spontaneous ventilation is adequate. Cardiovascular function is usually maintained.
9 The drugs or techniques used to produce moderate sedation should have a margin of
10 safety which is sufficient to render unintended loss of consciousness unlikely.
11 Repeated dosing of an agent before the effects of previous dosing can be fully
12 appreciated may result in a greater alteration of the state of consciousness than is the
13 intent of the dentist. A patient whose only response is reflex withdrawal from a
14 painful stimulus shall not be considered to be in a state of moderate sedation.

15 B. The following terms describing routes of administration shall have the
16 meanings ascribed to them unless the context clearly indicates otherwise:

17 (1) "Combined ~~conscious~~ moderate sedation" is any means of obtaining
18 ~~conscious moderate~~ sedation utilizing both inhalation analgesia and either an enteral
19 or parenteral ~~conscious moderate~~ sedation technique.

20 * * *

21 (4) "Parenteral" is any technique of drug administration in which the drug
22 bypasses the gastrointestinal (GI) tract. Examples are intramuscular (IM),
23 intravenous (IV), intranasal (IN), submucosal (SM), and subcutaneous (SC).

24 * * *

25 C.(1) When nitrous oxide inhalation analgesia, enteral ~~conscious moderate~~
26 sedation, parenteral ~~conscious moderate~~ sedation, deep sedation, or general
27 anesthesia are used in a dental practice, board authorization shall be obtained in
28 compliance with board rules and regulations to ~~insure~~ ensure that these procedures
29 are performed in a properly staffed, designed, and equipped facility capable of

1 handling ~~procedure~~, the procedures, problems, and emergency incidents thereto for
2 the level of anesthesia administered. Adequacy of the facility and competence of the
3 anesthesia team shall be determined by the board through the use of qualified
4 anesthesia consultants.

5 (2) A dentist who administers nitrous oxide inhalation analgesia, enteral
6 ~~conscious moderate~~ sedation, parenteral ~~conscious moderate~~ sedation, deep sedation,
7 or general anesthesia in a dental practice shall receive a personal permit from the
8 board for the deepest level of ~~anesthesia/analgesia~~ anesthesia or analgesia to be
9 administered and shall be in compliance with board rules and regulations.

10 (3) When nitrous oxide inhalation analgesia, enteral ~~conscious moderate~~
11 sedation, parenteral ~~conscious moderate~~ sedation, deep sedation, or general
12 anesthesia is administered in any dental office or facility, each office shall receive
13 an office permit from the board for the deepest level of ~~anesthesia/analgesia~~
14 anesthesia or analgesia to be administered and must be in compliance with board
15 rules and regulations.

16 * * *

17 (6) Minimal sedation.

18 (a) The following definitions apply to administration of minimal sedation:

19 (i) "Incremental dosing" is the administration of multiple doses of a drug, not
20 to exceed the MRD of that drug, until a desired effect is reached.

21 (ii) "Maximum recommended dose" or "MRD" is the maximum dose of a
22 drug as recommended by the United States Food and Drug Administration (FDA),
23 and as printed in FDA-approved labeling for unmonitored home use of that drug.

24 (iii) "Supplemental dosing" is a single additional dose of the initial dose of
25 the initial drug administered to a patient under minimal sedation as may be necessary
26 in a prolonged procedure. The supplemental dose should not exceed one-half of the
27 initial dose and should not be administered until the dentist has determined that the
28 clinical half-life of the initial dosing has passed. The total aggregate dose of the drug

1 shall not exceed one and one-half times the MRD of the drug on the day of the
2 treatment.

3 (b) When minimal sedation of an adult is intended, the appropriate initial
4 dosing of a single enteral drug is no more than the MRD of a drug that can be
5 prescribed for unmonitored home use.

6 (c) Permits shall not be required for the induction of minimal sedation on a
7 patient in a dental practice. Such induction of minimal sedation shall include the
8 administration of an enteral sedative, narcotic analgesic medication, or both,
9 administered in doses not exceeding the MRD as printed in FDA-approved labeling
10 for unmonitored home use of the respective drugs.

11 (d) Except in extremely unusual circumstances, the cumulative dose shall not
12 exceed the MRD. It is understood that even at appropriate doses, a patient may
13 occasionally drift into a state that is deeper than minimal sedation. If the intent was
14 to achieve minimal sedation and such sedation was conducted in accordance with the
15 provisions of this Paragraph, then such circumstance shall not in itself constitute a
16 violation of this Chapter. A permit shall not be required for the perioperative use of
17 medication for the purpose of effecting minimal sedation.

18 (7) Moderate or greater sedation.

19 (a) The following definition shall apply to the administration of moderate or
20 greater sedation: "Titration" means administration of incremental doses of a drug
21 until a desired effect is reached.

22 (b) Knowledge of the time of onset, peak response, and duration of action
23 of each drug is essential to avoid oversedation. Although the concept of titration of
24 a drug to the desired level of sedation is critical for patient safety, when the intent is
25 moderate sedation one must know whether the previous dose has taken full effect
26 before administering an additional drug increment.

27 (8) No dentist licensed in accordance with the provisions of this Chapter
28 shall use any enteral medication to induce moderate sedation unless such dentist has
29 obtained a permit for such use in accordance with the provisions of this Chapter.

1 (9) For a patient under thirteen years of age, the administration of more than
2 one agent of any type, including nitrous oxide, shall be considered moderate
3 sedation, not minimal sedation, and shall require a full moderate sedation permit.

4 * * *

5 E.(1) Each licensed dentist or dental hygienist in the practice of dentistry or
6 dental hygiene in this state shall submit a written report within a period of ten days
7 to the board of any mortality or other incident which results in temporary or
8 permanent physical or mental injury to a patient requiring hospitalization of the
9 patient during or as a result of administration by the dentist or dental hygienist of
10 local anesthesia, enteral sedation, nitrous oxide inhalation analgesia, parenteral
11 ~~conscious~~ moderate sedation, deep sedation, or general anesthesia.

12 * * *

13 G. The authority for the administration of anesthetic and sedative agents as
14 described in this Section shall be limited as follows:

15 (1) The administration of enteral ~~conscious~~ moderate sedation, parenteral
16 ~~conscious~~ moderate sedation, deep sedation, and general anesthesia shall be limited
17 to qualified dentists licensed by the board for use on dental patients.

18 * * *

19 H.

20 * * *

21 (2) A personal permit is not required when the dentist uses the services of
22 a ~~trained~~ third-party medical doctor, third-party doctor of osteopathy ~~trained in~~
23 ~~conscious sedation with parenteral drugs; who specializes in anesthesiology, third-~~
24 ~~party~~ certified registered nurse anesthetist, a dentist who has successfully completed
25 ~~a program consistent with Part II of the American Dental Association Guidelines on~~
26 ~~Teaching the Comprehensive Control of Pain and Anxiety in Dentistry, or a qualified~~
27 ~~or an~~ oral and maxillofacial surgeon permitted by the board to administer moderate
28 ~~sedation, deep sedation, and general anesthesia provided that the doctor or certified~~
29 ~~registered nurse anesthetist~~ the third-party anesthetist remains on the premises of the

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 dental facility until any patient given parenteral drugs is sufficiently recovered.
 2 However, when the requirement for obtaining a personal permit is waived by the
 3 board under the provisions of this Chapter with regard to the utilization of ~~a medical~~
 4 ~~doctor or certified registered nurse anesthetist~~, any third party provided for in this
 5 Paragraph, the dentist may only utilize the services of ~~a medical doctor or certified~~
 6 ~~registered nurse anesthetist~~ a third party previously determined by the board to be in
 7 compliance with the board's requirements for the administration of anesthesia in said
 8 dental facility following the initial inspection in relation to the application and
 9 equipment of the provider of anesthesia for an office anesthesia permit.

10 * * *

11 §795. Fees and costs

12 * * *

13 B. Notwithstanding any other provision of this Chapter, the fees and costs
 14 established by the board shall be not less nor more than the range created by the
 15 following schedule:

16 * * *

17 (2) Licenses, permits, and examinations for dentists

18 * * *

19 (q) Application and permitting for \$ 100.00 \$ 400.00
 20 enteral ~~conscious~~ moderate sedation

21 * * *

22 (s) Application and permitting for \$ 100.00 \$ 400.00
 23 pediatric ~~conscious~~ moderate sedation permit

24 * * *

25 Section 2. R.S. 37:793(A)(2), (4), and (5) and (C)(4) and (5) are hereby repealed in
 26 their entirety.

27 Section 3. The Louisiana State Board of Dentistry shall promulgate, in accordance
 28 with the Administrative Procedure Act, any rules necessary to implement the provisions of
 29 this Act.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Dixon

HB No. 172

Abstract: Amends provisions of the Dental Practice Act relative to sedation of dental patients.

Proposed law provides a short title designating present law located in Chapter 9 of Title 37 of the La. Revised Statutes of 1950, comprised of R.S. 37:751-797, as the Dental Practice Act.

Proposed law deletes the defined terms "anxiolysis", "conscious patient", and "conscious sedation" and their respective definitions in present law relative to sedation of dental patients (R.S. 37:793).

Proposed law changes all usage in present law of the term "conscious sedation" to the term "moderate sedation" as defined in proposed law.

Proposed law adds the defined term "minimal sedation", defined as "a minimally depressed level of consciousness, produced by a pharmacological method, which allows the patient to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal commands. The drugs or techniques used to produce minimal sedation should have a margin of safety which is sufficient never to cause unintended loss of consciousness. A patient whose only response is reflex withdrawal from repeated painful stimuli shall not be considered to be in a state of minimal sedation".

Proposed law adds the defined term "moderate sedation", defined as "a drug-induced depression of consciousness during which a patient responds purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No intervention is required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained. The drugs or techniques used to produce moderate sedation should have a margin of safety which is sufficient to render unintended loss of consciousness unlikely. Repeated dosing of an agent before the effects of previous dosing can be fully appreciated may result in a greater alteration of the state of consciousness than is the intent of the dentist. A patient whose only response is reflex withdrawal from a painful stimulus shall not be considered to be in a state of moderate sedation".

Proposed law deletes present law (R.S. 37:793(C)(4)) which provides that no dentist shall use any enteral medications to induce conscious sedation unless such dentist has obtained a permit as required by the provisions of present law.

Proposed law deletes present law (R.S. 37:793(C)(5)) which provides that permits shall not be required for the induction of anxiolysis on a patient in a dental practice.

Proposed law adds the following definitions relative to administration of minimal sedation:

- (1) "Maximum recommended dose" or "MRD" is the maximum dose of a drug as recommended by the U.S. Food and Drug Administration (FDA), and as printed in FDA-approved labeling for unmonitored home use of that drug.
- (2) "Incremental dosing" is the administration of multiple doses of a drug, not to exceed the MRD of that drug, until a desired effect is reached.

- (3) "Supplemental dosing" is a single additional dose of the initial dose of the initial drug administered to a patient under minimal sedation as may be necessary in a prolonged procedure. The supplemental dose should not exceed one-half of the initial dose and should not be administered until the dentist has determined that the clinical half-life of the initial dosing has passed. The total aggregate dose of the drug shall not exceed one and one-half times the MRD of the drug on the day of the treatment.

Proposed law adds the following regulations relative to administration of minimal sedation:

- (1) When minimal sedation of an adult is intended, the appropriate initial dosing of a single enteral drug is no more than the MRD of a drug that can be prescribed for unmonitored home use.
- (2) Permits shall not be required for the induction of minimal sedation on a patient in a dental practice. Such induction of minimal sedation shall include the administration of an enteral sedative, narcotic analgesic medication, or both, administered in doses not exceeding the MRD as printed in FDA-approved labeling for unmonitored home use of the respective drugs.
- (3) Except in extremely unusual circumstances, the cumulative dose shall not exceed the MRD. It is understood that even at appropriate doses, a patient may occasionally drift into a state that is deeper than minimal sedation. If the intent was to achieve minimal sedation and such sedation was conducted in accordance with the provisions of proposed law, then such circumstance shall not in itself constitute a violation of the Dental Practice Act. A permit shall not be required for the perioperative use of medication for the purpose of effecting minimal sedation.

Proposed law adds the following definition relative to administration of moderate or greater sedation: "Titration" means administration of incremental doses of a drug until a desired effect is reached.

Proposed law adds the following regulation relative to administration of moderate or greater sedation: Knowledge of the time of onset, peak response, and duration of action of each drug is essential to avoid oversedation. Although the concept of titration of a drug to the desired level of sedation is critical for patient safety, when the intent is moderate sedation one must know whether the previous dose has taken full effect before administering an additional drug increment.

Proposed law provides that no dentist licensed in accordance with the provisions of present law and proposed law shall use any enteral medication to induce moderate sedation unless such dentist has obtained a permit for such use in accordance with the provisions of present law and proposed law.

Proposed law provides that for a patient under 13 years of age, the administration of more than one agent of any type, including nitrous oxide, shall be considered moderate sedation, not minimal sedation, and shall require a full moderate sedation permit.

Present law (R.S. 37:793(H)(2)) provides that a personal permit is not required when the dentist uses the services of (1) a trained medical doctor, (2) doctor of osteopathy trained in conscious sedation with parenteral drugs, (3) certified registered nurse anesthetist, (4) a dentist who has successfully completed a program consistent with Part II of the American Dental Association Guidelines on Teaching the Comprehensive Control of Pain and Anxiety in Dentistry, or (5) a qualified oral and maxillofacial surgeon provided that the doctor or certified registered nurse anesthetist remains on the premises of the dental facility until any patient given parenteral drugs is sufficiently recovered.

Proposed law revises present law to provide that a personal permit is not required when the dentist uses the services of: (1) a third-party medical doctor, (2) third-party doctor of osteopathy who specializes in anesthesiology, (3) third-party certified registered nurse anesthetist, or (4) an oral and maxillofacial surgeon permitted by the board to administer moderate sedation, deep sedation, and general anesthesia provided that the third-party anesthetist remains on the premises of the dental facility until any patient given parenteral drugs is sufficiently recovered.

Present law (R.S. 37:793(H)(2)) provides further that when the requirement for obtaining a personal permit is waived by the La. State Board of Dentistry (LSBD) under the provisions of present law with regard to the utilization of a medical doctor or certified registered nurse anesthetist, the dentist may only utilize the services of a medical doctor or certified registered nurse anesthetist determined by LSBD to be in compliance with LSBD requirements for the administration of anesthesia in said dental facility following the initial inspection in relation to the application and equipment of the provider of anesthesia.

Proposed law revises present law to provide that when the requirement for obtaining a personal permit is waived by LSBD under the provisions of present law and proposed law with regard to the utilization of any third party provided for in proposed law, the dentist may only utilize the services of a third party previously determined by LSBD to be in compliance with the board's requirements for the administration of anesthesia in said dental facility following the initial inspection in relation to the application and equipment of the provider of anesthesia for an office anesthesia permit.

(Amends R.S. 37:793(A)(1), (6), and (7), (B)(1) and (4), (C)(1), (2), and (3), (E)(1), (G)(1), and (H)(2) and 795(B)(2)(q) and (s); Adds R.S. 37:751(F) and 793(A)(9) and (10) and (C)(6), (7), (8), and (9); Repeals R.S. 37:793(A)(2), (4), and (5) and (C)(4) and (5))