

CHAPTER 188  
HB 1577 - FINAL VERSION

6Mar2018... 0736h  
04/19/2018 1471s  
3May2018... 1909-EBA

2018 SESSION

18-2300  
10/01

HOUSE BILL **1577**

AN ACT relative to the administration of anesthesia by dentists.

SPONSORS: Rep. Dean-Bailey, Rock. 32; Rep. Messmer, Rock. 24; Rep. Cushing, Rock. 21; Rep. W. Marsh, Carr. 8; Sen. Reagan, Dist 17

COMMITTEE: Health, Human Services and Elderly Affairs

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AMENDED ANALYSIS

This bill provides for the regulation of the use of general anesthesia, deep sedation, or moderate anesthesia by dentists and the reporting of adverse events. The bill also provides for dental insurance coverage for children under 13 years of age for dental procedures requiring anesthesia.

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Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears [~~in brackets and struck through.~~]  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Eighteen*

AN ACT relative to the administration of anesthesia by dentists.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 188:1 Rulemaking; Anesthesia. Amend RSA 317-A:12, XII-a through XII-c to read as  
2 follows:

3 XII-a. The use of general anesthesia, deep sedation, and moderate sedation, in  
4 dental treatment under RSA 317-A:20, including:

5 (a) Required credentials.

6 (b) Application and application fee.

7 (c) On-site evaluations of personnel, facility, equipment, and records as they  
8 pertain to the use of ***required drugs***, general anesthesia, deep sedation, or moderate  
9 sedation, or any combination thereof.

10 (d) Fee for the on-site evaluations under subparagraph (c). If the evaluation  
11 is done by a third party, the fee need not be established by rule under or pursuant to  
12 RSA 541-A. Third party fees shall be paid directly to the third party.

13 (e) The issuance of permits for use of general anesthesia, deep sedation, and  
14 moderate sedation, or of permits for use of moderate sedation[;].

15 (f) ***The requirement that the physical presence of the dentist licensed under***  
16 ***RSA 317-A:7, an anesthesiologist licensed under RSA 329, or a nurse anesthetist licensed***  
17 ***under RSA 326-B:18 is required while general anesthesia, deep sedation or moderate***  
18 ***sedation is in effect.***

19 (g) ***The establishment of the qualifications of dentists to administer general***  
20 ***anesthesia or deep sedation which may include a residency training program accredited***  
21 ***by the Commission on Dental Accreditation (CODA) or equivalent, and which may***  
22 ***include a method for established practitioners to document his or her qualifications.***  
23 ***Administration of general anesthesia or deep sedation to patients under the age of 13***  
24 ***shall be subject to additional rules including:***

25 (1) ***In addition to the dentist performing the procedure, there shall be a***  
26 ***dedicated anesthesia provider present to monitor the procedure and recovery from***  
27 ***anesthesia. The dedicated anesthesia provider shall be a dentist who is qualified to***  
28 ***administer general anesthesia or deep sedation, a physician anesthesiologist, or a***  
29 ***certified registered nurse anesthetist (CRNA). The board may exempt dentists who are***

1 *board eligible or board certified in either dental anesthesiology or oral and*  
2 *maxillofacial surgery from this requirement.*

3 *(2) The dentist shall be trained in pediatric advanced life support (PALS)*  
4 *and airway management, equivalent to the American Academy of Pediatrics and*  
5 *American Academy of Pediatric Dentistry (AAP-AAPD) guidelines or equivalent as*  
6 *determined by the board.*

7 *(3) Informed consent shall include the statement that the procedure may*  
8 *be performed in a hospital setting with additional anesthesia personnel, possibly at an*  
9 *increased expense.*

10 *(h) A physical evaluation and medical history shall be taken before the*  
11 *administration of moderate sedation, deep sedation, or general anesthesia. The board*  
12 *shall adopt rules regarding the minimum requirements for physical evaluation and*  
13 *medical history;*

14 XII-b. Procedures which may be assigned by a licensed dentist to dental  
15 hygienists, public health dental hygienists, dental assistants, and to persons not licensed  
16 to practice dentistry[;]. *Such rules shall include additional requirements regarding*  
17 *monitoring patients undergoing general anesthesia, deep sedation, moderate sedation,*  
18 *and subsequent recovery from anesthesia;*

19 XII-c. *The use of minimal anesthesia in patients undergoing dental treatment*  
20 *under RSA 317-A:20, including:*

21 *(a) Adopting a definition of minimal anesthesia, a drug-induced state during*  
22 *which patients respond normally to verbal commands. Patients whose only response is*  
23 *reflex withdrawal from painful stimuli shall not be considered to be in a state of minimal*  
24 *sedation.*

25 *(b) Establishing a margin of safety wide enough to render unintended loss of*  
26 *consciousness unlikely.*

27 *(c) Permits, fees, and training required for dentists who administer pediatric*  
28 *minimal sedation. Such training shall include training in airway management and*  
29 *patient rescue from moderate sedation.*

30 *(d) Equipment and drugs required to safely administer pediatric minimal*  
31 *sedation, which shall include the availability of oxygen and reversal agents.*

32 *(e) Limitations on drugs and dosages which may be used in the*  
33 *administration of pediatric minimal sedation.*

34 *(f) A requirement that a minimum of one staff member, in addition to the*  
35 *dentist, trained in the monitoring and resuscitation of pediatric patients shall be*  
36 *present;*

37 XII-d. Notwithstanding any other provision of law, rules, as the board deems

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1 necessary, relative to qualified dental assistants performing coronal polishing. Such  
2 rules shall not authorize a qualified dental assistant to perform a complete oral  
3 prophylaxis;

4 188:2 New Subparagraphs; Grounds for Professional Misconduct. Amend RSA 317-  
5 A:17, II by inserting after subparagraph (j) the following new subparagraphs:

6 (k) Having more than one patient undergoing moderate sedation, deep  
7 sedation, or general anesthesia on an outpatient basis at any given time unless each  
8 patient is being continuously monitored on a one-to-one ratio while sedated by either  
9 the dentist or another licensed health professional authorized by law to administer  
10 moderate sedation, deep sedation, or general anesthesia.

11 (l) Failing to have patients recovering from moderate sedation, deep sedation,  
12 or general anesthesia closely monitored by licensed health professionals experienced in  
13 the care and resuscitation of patients recovering from moderate sedation, deep sedation,  
14 or general anesthesia. If one licensed professional is responsible for the recovery care of  
15 more than one patient at a time, all of the patients shall be physically in the same room  
16 to allow continuous visual contact with all patients and the patient to recovery staff  
17 ratio should not exceed 3 to one.

18 (m) Failing to have patients continuously monitored with a pulse oximeter or  
19 similar or superior monitoring equipment required by the board while undergoing or  
20 recovering from moderate sedation, deep sedation, or general anesthesia.

21 (n) Failing to perform an adequate history and physical as defined in rules  
22 under RSA 317-A:12, XII-a(h) or to obtain the written informed consent of a patient prior  
23 to the administering general anesthesia, deep sedation, or moderate sedation. In the  
24 case of a minor, the consent shall be obtained from the child's parent or guardian.

25 (o) Failing to report an adverse event or implement a corrective action plan  
26 as required by RSA 317-A:20-a.

27 188:3 Practice of Dentistry; Use of Anesthesia. Amend RSA 317-A:20, II to read as  
28 follows:

29 II.(a) Any dentist who wishes to administer general anesthesia, deep sedation, or  
30 moderate sedation shall apply to the board for the appropriate permit and pay an  
31 application fee set by the board in accordance with RSA 317-A:12, XII-a.

32 (b) *The board shall require the documentation of competence according to the*  
33 *rules adopted under RSA 317-A:12, XII-a(g) before issuing such a permit.*

34 (c) *The rules of the board shall require an appropriate number of hours of*  
35 *continuing education as a condition for issuing or reissuing such a permit.*

36 188:4 New Section; Dentistry; Report of Adverse Events; Corrective Action Plan.  
37 Amend RSA 317-A by inserting after section 20 the following new section:

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1           317-A:20-a Dentist Report of Adverse Events; Corrective Action Plan.

2           I. Any dentist licensed pursuant to this chapter shall report to the board the  
3 occurrence of any adverse health care events resulting in death, brain damage, or  
4 hospitalization, occurring in the dentist's office or facility while utilizing general  
5 anesthesia, deep sedation, or moderate sedation, as soon as is reasonably and practically  
6 possible, but no later than 15 working days after discovery of the event. The report shall  
7 be filed in a format specified by the board and shall identify the office or facility but  
8 shall not include any identifying information for any of the dental professionals, facility  
9 employees, or patients involved. The board may consult with experts and organizations  
10 familiar with patient safety when developing the format for reporting and in further  
11 defining events in order to be consistent with industry standards.

12           II. After receiving a report of an adverse health care event, the board shall  
13 conduct a root cause analysis of the event. Following the analysis, the dentist's office or  
14 facility shall implement a corrective action plan to implement the findings of the  
15 analysis or report to the board any reasons for not taking corrective action. If the root  
16 cause analysis and the implementation of a corrective action plan are complete at the  
17 time an event must be reported, the findings of the analysis and the corrective action  
18 plan shall be included in the report of the event. The findings of the root cause analysis  
19 and a copy of the corrective action plan shall otherwise be filed with the board within 60  
20 days of the event. All proceedings related to the root cause analysis and implementation  
21 of a corrective action plan shall be considered privileged and not subject to discovery or  
22 subpoena.

23           III. All information and data made available to the board and its designees under  
24 this section shall be confidential and shall be exempt from public access under RSA 91-A.

25           IV. The board shall adopt rules for reporting of adverse events, analysis of root  
26 causes, and implementation of corrective action plans required to facilitate the  
27 enforcement of this section.

28           188:5 Coverage for Dental Procedures; Health Policies. Amend RSA 415:18-g, I(a) to  
29 read as follows:

30           (a) Is a child under the age of [6] **13** who is determined by a licensed dentist in  
31 conjunction with a licensed physician to have a dental condition of significant dental  
32 complexity which requires certain dental procedures to be performed in a surgical day  
33 care facility or hospital setting; or

34           188:6 Coverage for Dental Procedures; Health Policies. Amend RSA 415:18-h, I(a) to  
35 read as follows:

36           (a) Is a child under the age of [6] **13** who is determined by a licensed dentist in  
37 conjunction with a licensed physician to have a dental condition of significant

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1 complexity which requires the child to receive general anesthesia for the treatment of  
2 such condition; or

3 188:7 Coverage for Dental Procedures; Health Service Corporations. Amend RSA  
4 420-A:17-b, I(a) to read as follows:

5 (a) Is a child under the age of [6] ~~13~~ who is determined by a licensed dentist in  
6 conjunction with a licensed primary care physician to have a dental condition of  
7 significant dental complexity which requires certain dental procedures to be performed  
8 in a surgical day care facility or hospital setting; or

9 188:8 Coverage for Dental Procedures; Health Maintenance Organizations. Amend  
10 RSA 420-B:8-ee, I(a) to read as follows:

11 (a) Is a child under the age of [6] ~~13~~ who is determined by a licensed dentist in  
12 conjunction with a licensed primary care physician to have a dental condition of  
13 significant dental complexity which requires certain dental procedures to be performed  
14 in a surgical day care facility or hospital setting; or

188:9 Effective Date. This act shall take effect 60 days after its passage.

Approved: June 08, 2018  
Effective Date: August 07, 2018