

By: Nelson

S.B. No. 263

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the State Board of
Dental Examiners.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 251.005, Occupations Code, is amended to
read as follows:

Sec. 251.005. APPLICATION OF SUNSET ACT. The State Board of
Dental Examiners is subject to Chapter 325, Government Code (Texas
Sunset Act). Unless continued in existence as provided by that
chapter, the board is abolished September 1, 2015 [~~2003~~].

SECTION 2. Subsection (a), Section 252.001, Occupations
Code, is amended to read as follows:

(a) The State Board of Dental Examiners consists of 15 [~~18~~]
members appointed by the governor with the advice and consent of the
senate as follows:

(1) eight [~~10~~] reputable dentist members who reside in
this state and have been actively engaged in the practice of
dentistry for at least the five years preceding appointment;

(2) two reputable dental hygienist members who reside
in this state and have been actively engaged in the practice of
dental hygiene for at least the five years preceding appointment;
and

(3) five [~~six~~] members who represent the public.

SECTION 3. Subsection (d), Section 252.002, Occupations

1 Code, is amended to read as follows:

2 (d) A person is not eligible for appointment as a public
3 member of the board if the person or the person's spouse:

4 (1) is registered, certified, or licensed by an
5 occupational regulatory agency in the field of health care;

6 (2) is employed by or participates in the management
7 of a business entity or other organization regulated by or
8 receiving money [~~fun~~ds] from the board;

9 (3) owns or controls [~~or has~~], directly or indirectly,
10 more than a 10 percent interest in a business entity or other
11 organization regulated by or receiving money [~~fun~~ds] from the
12 board;

13 (4) uses or receives a substantial amount of tangible
14 goods, services, or money [~~fun~~ds] from the board, other than
15 compensation or reimbursement authorized by law for board
16 membership, attendance, or expenses; or

17 (5) is employed by a board member.

18 SECTION 4. Section 252.006, Occupations Code, is amended to
19 read as follows:

20 Sec. 252.006. OFFICERS. (a) The board shall elect a
21 secretary from its members to serve for a one-year term [~~terms a~~
22 ~~president and a secretary~~].

23 (b) The governor shall designate a member of the board as
24 the presiding officer of the board to serve in that capacity at the
25 will of the governor. The presiding officer [~~president~~] must be a
26 dentist.

27 SECTION 5. Subsections (a) and (c), Section 252.007,

1 Occupations Code, are amended to read as follows:

2 (a) It is a ground for removal from the board that a member:

3 (1) does not have at the time of appointment the
4 qualifications required by Sections 252.001 and 252.002;

5 (2) does not maintain during the service on the board
6 the qualifications required by Sections 252.001 and 252.002;

7 (3) is ineligible for membership under [~~violates a~~
8 ~~prohibition established by~~] Section 252.003;

9 (4) cannot, because of illness or disability,
10 discharge the member's duties for a substantial part of the member's
11 term; or

12 (5) is absent from more than half of the regularly
13 scheduled board meetings the member is eligible to attend during a
14 calendar year without an excuse approved by a majority vote of the
15 board.

16 (c) If the executive director [~~or any board member~~] has
17 knowledge that a potential ground for removal exists, the executive
18 director [~~or board member~~] shall notify the presiding officer of
19 the board of the potential ground. The presiding officer [~~board~~]
20 shall then notify the governor and the attorney general that a
21 potential ground for removal exists. If the potential ground for
22 removal involves the presiding officer, the executive director
23 shall notify the next highest ranking officer of the board, who
24 shall then notify the governor and the attorney general that a
25 potential ground for removal exists.

26 SECTION 6. Section 252.010, Occupations Code, is amended to
27 read as follows:

1 Sec. 252.010. BOARD MEMBER TRAINING. (a) A person who is
2 appointed to and qualifies for office as a member of the board may
3 not vote, deliberate, or be counted as a member in attendance at a
4 meeting of the board until the person completes a training program
5 that complies with [~~Before a board member may assume the member's~~
6 ~~duties and before the member may be confirmed by the senate, the~~
7 ~~member must complete at least one course of a training program~~
8 ~~established under~~] this section.

9 (b) The [A] training program must [~~shall~~] provide the person
10 with information [~~to a participant~~] regarding:

- 11 (1) this subtitle;
- 12 (2) the programs operated by the board;
- 13 (3) the role and functions of the board;
- 14 (4) the rules of the board, with an emphasis on the
15 rules that relate to disciplinary and investigatory authority;
- 16 (5) the current budget for the board;
- 17 (6) the results of the most recent formal audit of the
18 board;
- 19 (7) the requirements of:
 - 20 (A) the open meetings law, Chapter [~~Chapters~~
21 551, [~~552, and 2001,~~] Government Code;
 - 22 (B) the public information law, Chapter 552,
23 Government Code;
 - 24 (C) the administrative procedure law, Chapter
25 2001, Government Code; and
 - 26 (D) other laws relating to public officials,
27 including

1 ~~[(8) the requirements of the]~~ conflict of interest
2 laws ~~[and other laws relating to public officials]; and~~

3 (8) [(9)] any applicable ethics policies adopted by
4 the board or the Texas Ethics Commission.

5 (c) A person appointed to the board is entitled to
6 reimbursement, as provided by the General Appropriations Act, for
7 the travel expenses incurred in attending the training program
8 regardless of whether the attendance at the program occurs before
9 or after the person qualifies for office. ~~[In developing the~~
10 ~~training program, the board shall consult with the governor's~~
11 ~~office and the Texas Ethics Commission.~~

12 ~~[(d) If another state agency or entity is given authority to~~
13 ~~establish board member training requirements, the board shall allow~~
14 ~~that training instead of developing its own program.]~~

15 SECTION 7. Chapter 253, Occupations Code, is amended by
16 adding Section 253.008 to read as follows:

17 Sec. 253.008. TRAINING FOR EMPLOYEES ON STATE INCENTIVE
18 PROGRAM. The executive director or the executive director's
19 designee shall provide to board employees information and training
20 on the benefits and methods of participation in the state employee
21 incentive program under Subchapter B, Chapter 2108, Government
22 Code.

23 SECTION 8. Chapter 254, Occupations Code, is amended by
24 adding Section 254.011 to read as follows:

25 Sec. 254.011. AGREEMENT WITH HEALTH AND HUMAN SERVICES
26 COMMISSION. The board shall enter into an agreement with the Health
27 and Human Services Commission to improve coordination on issues

1 relating to the state Medicaid program. The agreement must require
2 each agency to:

3 (1) refer to the other agency, as appropriate, cases
4 involving fraud, abuse, or insufficient quality of care under the
5 state Medicaid program;

6 (2) maintain a log of cases referred to the other
7 agency;

8 (3) share information with the other agency, subject
9 to confidentiality requirements, including investigative reports
10 on cases within the jurisdiction of both agencies; and

11 (4) collaborate with the other agency in the
12 investigation of cases and the initiation of appropriate
13 disciplinary action whenever possible.

14 SECTION 9. Section 254.012, Occupations Code, is amended to
15 read as follows:

16 Sec. 254.012. INCLUSION OF MEDICAID-RELATED INFORMATION IN
17 ANNUAL FINANCIAL REPORT. [~~a~~] The board shall include in the
18 annual financial report required by Section 2101.011, Government
19 Code, information on all cases handled by the board during the
20 preceding fiscal year involving fraud, abuse, or insufficient
21 quality of care under the state Medicaid program, including:

22 (1) the number of cases handled;

23 (2) an explanation of the legal basis and reason for
24 each case;

25 (3) the action taken in each case; and

26 (4) for each case the board closed without taking
27 action, an explanation of the reason the case was closed without

1 action [~~file annually with the governor and with the presiding~~
2 ~~officer of each house of the legislature a complete and detailed~~
3 ~~written report accounting for all funds received and disbursed by~~
4 ~~the board during the preceding fiscal year.~~

5 [~~(b) The annual report must be in the form and reported in~~
6 ~~the time provided by the General Appropriations Act].~~

7 SECTION 10. Chapter 254, Occupations Code, is amended by
8 adding Sections 254.013, 254.014, and 254.015 to read as follows:

9 Sec. 254.013. RURAL DENTIST AND DENTAL HYGIENIST LOAN
10 REIMBURSEMENT PROGRAM. The board shall establish a program to
11 provide student loan reimbursement for dentists and dental
12 hygienists who practice in rural health professional shortage areas
13 and medically underserved areas identified by the Texas Department
14 of Health. The board shall fund the program by designating annually
15 a portion of the revenue generated under this subtitle from dentist
16 and dental hygienist licensing fees.

17 Sec. 254.014. USE OF TECHNOLOGY. The board shall develop
18 and implement a policy requiring the executive director and board
19 employees to research and propose appropriate technological
20 solutions to improve the board's ability to perform its functions.
21 The technological solutions must:

22 (1) ensure that the public is able to easily find
23 information about the board on the Internet;

24 (2) ensure that persons who want to use the board's
25 services are able to:

26 (A) interact with the board through the Internet;

27 and

1 (B) access any service that can be provided
2 effectively through the Internet; and

3 (3) be cost-effective and developed through the
4 board's planning processes.

5 Sec. 254.015. USE OF ALTERNATIVE RULEMAKING AND DISPUTE
6 RESOLUTION PROCEDURES. (a) The board shall develop and implement
7 a policy to encourage the use of:

8 (1) negotiated rulemaking procedures under Chapter
9 2008, Government Code, for the adoption of board rules; and

10 (2) appropriate alternative dispute resolution
11 procedures under Chapter 2009, Government Code, to assist in the
12 resolution of internal and external disputes under the board's
13 jurisdiction.

14 (b) The board's procedures relating to alternative dispute
15 resolution must conform, to the extent possible, to any model
16 guidelines issued by the State Office of Administrative Hearings
17 for the use of alternative dispute resolution by state agencies.

18 (c) The board shall designate a trained person to:

19 (1) coordinate the implementation of the policy
20 adopted under Subsection (a);

21 (2) serve as a resource for any training needed to
22 implement the procedures for negotiated rulemaking or alternative
23 dispute resolution; and

24 (3) collect data concerning the effectiveness of those
25 procedures, as implemented by the board.

26 SECTION 11. Sections 255.004 and 255.005, Occupations Code,
27 are amended to read as follows:

1 Sec. 255.004. RECORDS OF COMPLAINTS. (a) The board shall
2 maintain a [~~keep an information~~] file on [~~about~~] each written
3 complaint filed with the board.

4 (b) The [~~information~~] file must include [~~be kept current and~~
5 ~~contain a record for each complaint of~~]:

6 (1) the name of the person who filed the complaint;

7 (2) the date the complaint was received by the board;

8 (3) the subject matter of the complaint;

9 (4) the name of each person contacted in relation to
10 the complaint;

11 (5) [~~(2)~~] a summary of the results of the review or
12 investigation of the complaint; and

13 (6) an explanation of the reason the file was closed,
14 if the board closed the file without taking action other than to
15 investigate the complaint [~~findings made at each step of the~~
16 ~~complaint process;~~

17 [~~(3) an explanation of the legal basis and reason that~~
18 ~~a complaint is dismissed;~~

19 [~~(4) the schedule for disposing of the complaint as~~
20 ~~required by Section 255.006 and a notation of any change in the~~
21 ~~schedule; and~~

22 [~~(5) other relevant information~~].

23 (c) The board shall provide to the person filing the
24 complaint and to each person who is a subject of the complaint a
25 copy of the board's policies and procedures relating to complaint
26 investigation and resolution.

27 Sec. 255.005. NOTIFICATION OF INVESTIGATION [~~COMPLAINT~~]

1 STATUS. If a written complaint is filed with the board that the
2 board has authority to resolve, the board, at least quarterly [~~and~~]
3 until final disposition of the complaint, shall notify the person
4 filing the complaint and each person who is a subject of [parties
5 ~~to]~~ the complaint of the status of the investigation [~~complaint~~]
6 unless the notice would jeopardize an undercover investigation.

7 SECTION 12. Section 255.006, Occupations Code, is amended
8 by amending Subsection (d) and adding Subsections (d-1) and (d-2)
9 to read as follows:

10 (d) The board shall adopt rules concerning the
11 investigation of a complaint filed with the board. The rules
12 adopted under this subsection must:

13 (1) distinguish between categories of complaints;

14 (2) ensure that a complaint is not dismissed without
15 appropriate consideration;

16 (3) require that the board be advised of a complaint
17 that is dismissed and that a letter be sent to the person who filed
18 the complaint explaining the action taken on the dismissed
19 complaint;

20 (4) ensure that the person who filed the complaint has
21 an opportunity to explain the allegations made in the complaint;
22 [~~and~~]

23 (5) require that investigators used by the board be
24 state employees;

25 (6) establish procedures by which a board employee may
26 dismiss a complaint if the investigation does not reveal a
27 violation; and

1 (7) establish procedures by which a board employee may
2 expunge from the records of the board a complaint dismissed under
3 Subdivision (6) if the employee determines the complaint to have
4 been groundless.

5 (d-1) Procedures established under Subsection (d)(6) must:

6 (1) require a board employee to consult with a dentist
7 member of the board before dismissing a complaint relating to
8 patient morbidity, professional conduct, or quality of care;

9 (2) ensure that the decision to dismiss a complaint is
10 made with the appropriate level of review and necessary expertise
11 and experience; and

12 (3) require the dismissal of a complaint to be
13 reported to the board at a public meeting of the board.

14 (d-2) Procedures established under Subsection (d)(7) must:

15 (1) require a board employee to consult with a dentist
16 member of the board before expunging a complaint described by
17 Subsection (d-1)(1);

18 (2) ensure that the decision to expunge a complaint is
19 made with the appropriate level of review and necessary expertise
20 and experience; and

21 (3) require the expungement of a complaint to be
22 reported to the board at a public meeting of the board.

23 SECTION 13. Section 256.101, Occupations Code, is amended
24 by amending Subsection (a) and adding Subsection (a-1) to read as
25 follows:

26 (a) The board shall issue a license to practice dentistry to
27 a reputable dentist or a license to practice dental hygiene to a

1 reputable dental hygienist who:

2 (1) pays the fee set by the board;

3 (2) is licensed in good standing as a dentist or dental
4 hygienist in another state that has licensing requirements
5 substantially equivalent to the requirements of this subtitle;

6 (3) has not been the subject of a final disciplinary
7 action and is not the subject of a pending disciplinary action in
8 any jurisdiction in which the dentist or dental hygienist is or has
9 been licensed;

10 (4) has graduated from a dental or dental hygiene
11 school accredited by the Commission on Dental Accreditation of the
12 American Dental Association and approved by the board under board
13 rule;

14 (5) has passed a national or other examination
15 relating to dentistry or dental hygiene and recognized by the
16 board;

17 (6) has passed the board's jurisprudence examination;

18 (7) has submitted documentation of current
19 cardiopulmonary resuscitation certification;

20 (8) has practiced dentistry or dental hygiene:

21 (A) for at least the three [~~five~~] years preceding
22 the date of application for a license under this section [~~for a~~
23 ~~license to practice dentistry or for at least the three years~~
24 ~~preceding the date of application under this section for a license~~
25 ~~to practice dental hygiene~~]; or

26 (B) as a dental educator at a dental school or
27 dental hygiene school accredited by the Commission on Dental

1 Accreditation of the American Dental Association for at least the
2 five years preceding the date of application for a license under
3 this section;

4 (9) has been endorsed by the board of dentistry in the
5 jurisdiction in which the applicant practices at the time of
6 application; and

7 (10) meets any additional criteria established by
8 board rule.

9 (a-1) The board by rule shall specify the circumstances
10 under which the board may waive the requirement under Subsection
11 (a)(8) that an applicant for a license under this section has been
12 continuously engaged in the practice of dentistry or dental hygiene
13 during the period required by that subsection if the applicant has
14 engaged in the practice of dentistry or dental hygiene for a
15 cumulative total of at least three years before the date of
16 application for a license under this section.

17 SECTION 14. Subchapter C, Chapter 256, Occupations Code, is
18 amended by adding Section 256.1013 to read as follows:

19 Sec. 256.1013. PROVISIONAL LICENSE. (a) The board may
20 issue a provisional license to an applicant currently licensed in
21 another jurisdiction who seeks a license in this state and who:

22 (1) has been licensed in good standing as a dentist or
23 dental hygienist for at least two years in another jurisdiction
24 that has licensing requirements substantially equivalent to the
25 requirements of this subtitle;

26 (2) has passed a national or other examination
27 recognized by the board relating to the practice of dentistry or

1 dental hygiene, as appropriate; and

2 (3) is sponsored by a person who holds an appropriate
3 license under this subtitle and with whom the provisional license
4 holder will practice during the time the person holds a provisional
5 license.

6 (b) The board may waive the requirement of Subsection (a)(3)
7 for an applicant if the board determines that compliance with that
8 subdivision would be a hardship to the applicant.

9 (c) A provisional license is valid until the date the board
10 approves or denies the provisional license holder's application for
11 a license. The board shall issue a license under this subtitle to
12 the provisional license holder if:

13 (1) the provisional license holder is eligible to be
14 licensed under Section 256.101; or

15 (2) the provisional license holder passes the part of
16 the examination under Section 256.003 or 256.055 that relates to
17 the applicant's knowledge and understanding of the laws and rules
18 relating to the practice of dentistry or dental hygiene, as
19 appropriate, in this state and:

20 (A) the board verifies that the provisional
21 license holder meets the academic and experience requirements for a
22 license under this subtitle; and

23 (B) the provisional license holder satisfies any
24 other licensing requirements under this subtitle.

25 (d) The board must approve or deny a provisional license
26 holder's application for a license not later than the 180th day
27 after the date the provisional license is issued. The board may

1 extend the 180-day period if the results of an examination have not
2 been received by the board before the end of that period.

3 (e) The board may establish a fee for provisional licenses
4 in an amount reasonable and necessary to cover the cost of issuing
5 the license.

6 SECTION 15. Section 257.002, Occupations Code, is amended
7 by amending Subsections (b) through (e) and adding Subsections
8 (c-1) and (d-1) to read as follows:

9 (b) A person who is otherwise eligible to renew a license
10 may renew an unexpired license by paying the required renewal fee to
11 the board [~~the required renewal fee~~] before the expiration date of
12 the license. A person whose license has expired may not engage in
13 activities that require a license until the license has been
14 renewed.

15 (c) A person whose license has been expired for 90 days or
16 less may renew the license by paying to the board a [~~the required~~]
17 renewal fee [~~and a fee~~] that is equal to 1-1/2 times the normally
18 required renewal [~~half of the amount of the license application~~]
19 fee.

20 (c-1) A person whose license has been expired for more than
21 90 days but less than one year may renew the license by paying to the
22 board a [~~all unpaid~~] renewal [~~fees and a~~] fee that is equal to two
23 times the normally required renewal [~~the amount of the license~~
24 ~~application~~] fee.

25 (d) A [~~Except as provided by Section 257.003, a~~] person
26 whose license has been expired for one year or more [~~longer~~] may not
27 renew the license. The person may obtain a new license by

1 ~~[submitting to reexamination and]~~ complying with the requirements
2 and procedures, including the examination requirements, for
3 obtaining an original license.

4 (d-1) A person who was licensed in this state, moved to
5 another state, and is currently licensed and has been in practice in
6 the other state for the two years preceding the date of application
7 may obtain a new license without reexamination. The person must pay
8 to the board a fee that is equal to two times the normally required
9 renewal fee for the license.

10 (e) Not later than the 30th day before the ~~[expiration]~~ date
11 ~~[of]~~ a person's license is scheduled to expire, the board shall send
12 written notice of the impending ~~[license]~~ expiration to the person
13 at the person's last known address according to the board's records.

14 SECTION 16. Section 262.053, Occupations Code, is amended
15 to read as follows:

16 Sec. 262.053. MEMBERSHIP RESTRICTIONS ~~[RESTRICTION]~~.

17 (a) In this section, "Texas trade association" means a cooperative
18 and voluntarily joined statewide association of business or
19 professional competitors in this state designed to assist its
20 members and its industry or profession in dealing with mutual
21 business or professional problems and in promoting their common
22 interest.

23 (b) A person may not be a member of the advisory committee
24 if:

25 (1) the person is an officer, employee, or paid
26 consultant of a Texas trade association in the field of health care;

27 (2) the person's spouse is an officer, manager, or paid

1 consultant of a Texas trade association in the field of health care;
2 or

3 (3) the person is required to register as a lobbyist
4 under Chapter 305, Government Code, because of the person's
5 activities for compensation on behalf of a profession related to
6 the operation of the advisory committee.

7 (c) A person is not eligible for appointment as a member of
8 the advisory committee if the person is a member of the board.

9 SECTION 17. Subchapter B, Chapter 262, Occupations Code, is
10 amended by adding Section 262.0555 to read as follows:

11 Sec. 262.0555. GROUNDS FOR REMOVAL. (a) It is a ground for
12 removal from the advisory committee that a member:

13 (1) does not have at the time of taking office the
14 qualifications required by Section 262.052;

15 (2) does not maintain during service on the advisory
16 committee the qualifications required by Section 262.052;

17 (3) is ineligible for membership under Section
18 262.053;

19 (4) cannot, because of illness or disability,
20 discharge the member's duties for a substantial part of the member's
21 term; or

22 (5) is absent from more than half of the regularly
23 scheduled advisory committee meetings that the member is eligible
24 to attend during a calendar year without an excuse approved by a
25 majority vote of the advisory committee.

26 (b) The validity of an action of the advisory committee is
27 not affected by the fact that it is taken when a ground for removal

1 of an advisory committee member exists.

2 (c) If the executive director has knowledge that a potential
3 ground for removal exists, the executive director shall notify the
4 presiding officer of the advisory committee of the potential
5 ground. The presiding officer shall then notify the governor and
6 the attorney general that a potential ground for removal exists. If
7 the potential ground for removal involves the presiding officer,
8 the executive director shall notify the next highest ranking
9 officer of the advisory committee, who shall then notify the
10 governor and the attorney general that a potential ground for
11 removal exists.

12 SECTION 18. Subchapter C, Chapter 262, Occupations Code, is
13 amended by adding Section 262.1025 to read as follows:

14 Sec. 262.1025. AUTHORITY OF ADVISORY COMMITTEE TO RECOMMEND
15 RULES; ADOPTION BY BOARD. (a) The advisory committee may make a
16 recommendation to the board relating to the regulation of the
17 practice of dental hygiene. A recommendation under this subsection
18 may include a proposed rule in a form suitable for publication in
19 the Texas Register.

20 (b) The board may:

21 (1) adopt a rule in accordance with the
22 recommendation; or

23 (2) reject the recommendation.

24 (c) If the board fails to take action on the recommendation
25 before the 91st day after the date the recommendation is submitted
26 to the board, the board shall adopt a rule in accordance with the
27 recommendation.

1 (d) Except as provided by Subsection (e), Section
2 262.102(c) applies to the adoption of a rule under this section.

3 (e) If the recommendation includes a proposed rule, the
4 board is not required to comply with Section 262.102(c) before
5 adopting the proposed rule.

6 SECTION 19. Chapter 263, Occupations Code, is amended by
7 adding Section 263.0075 to read as follows:

8 Sec. 263.0075. INFORMAL SETTLEMENT CONFERENCE;
9 RESTITUTION. (a) The board by rule shall establish procedures by
10 which a panel of board employees may conduct an informal settlement
11 conference to resolve a complaint against a person licensed under
12 this subtitle.

13 (b) Procedures established under this section must:

14 (1) permit involvement of a board member in an
15 informal settlement conference conducted by a panel of board
16 employees;

17 (2) ensure that the panel of board employees
18 conducting the conference has the necessary expertise and
19 experience;

20 (3) require the panel of board employees conducting
21 the conference to use the standardized penalty schedule adopted by
22 the board to determine the appropriate disciplinary action, if any,
23 to recommend to the board;

24 (4) require a settlement of the complaint recommended
25 by the panel of board employees to be approved by the board;

26 (5) permit the board to modify a recommended
27 settlement of the complaint with the approval of the license

1 holder; and

2 (6) permit the panel of board employees to refer the
3 complaint to the State Office of Administrative Hearings for a
4 formal hearing and require the panel to notify the board of the
5 referral.

6 (c) Subject to Subsection (d), the board may order a person
7 licensed under this subtitle to pay restitution to a patient as
8 provided in an agreement resulting from an informal settlement
9 conference instead of or in addition to assessing an administrative
10 penalty under Subchapter A, Chapter 264.

11 (d) The amount of restitution ordered as provided in an
12 agreement resulting from an informal settlement conference may not
13 exceed the amount the patient paid to the license holder for a
14 service regulated by this subtitle. The board may not require
15 payment of other damages or estimate harm in a restitution order.

16 SECTION 20. The heading to Subchapter B, Chapter 264,
17 Occupations Code, is amended to read as follows:

18 SUBCHAPTER B. INJUNCTION; CEASE AND DESIST ORDER

19 SECTION 21. Section 264.052, Occupations Code, is amended
20 to read as follows:

21 Sec. 264.052. REPRESENTATION OF STATE. The attorney
22 general or the district attorney or county attorney of the county in
23 which the unlawful acts occurred shall represent the state in a suit
24 under Section 264.051 [~~this subchapter~~].

25 SECTION 22. Subchapter B, Chapter 264, Occupations Code, is
26 amended by adding Sections 264.0525, 264.0526, and 264.0527 to read
27 as follows:

1 Sec. 264.0525. CEASE AND DESIST ORDER. (a) The board may
2 serve a proposed cease and desist order on a person the board
3 believes is engaging or is likely to engage in an activity without a
4 license or registration certificate required by this subtitle. The
5 order must:

6 (1) be delivered by personal delivery or registered or
7 certified mail, return receipt requested, to the person's last
8 known address;

9 (2) state the acts or practices alleged to be an
10 unauthorized activity; and

11 (3) state the effective date of the order, which may
12 not be before the 21st day after the date the proposed order is
13 delivered or mailed.

14 (b) Unless the person against whom the proposed order is
15 directed requests a hearing in writing before the effective date of
16 the order, the order takes effect and is final and nonappealable as
17 to that person.

18 (c) A requested hearing on a proposed order shall be held
19 not later than the 30th day after the date the board receives the
20 written request for a hearing unless the parties agree to a later
21 hearing date. A hearing under this subsection is subject to Chapter
22 2001, Government Code.

23 (d) After the hearing, the board shall issue or decline to
24 issue a cease and desist order. The proposed order may be modified
25 as necessary to conform to the findings at the hearing. An order
26 issued under this subsection:

27 (1) is immediately final for purposes of enforcement

1 and appeal; and

2 (2) must require the person to immediately cease and
3 desist from the unauthorized activity.

4 (e) The board may release to the public a final cease and
5 desist order issued under this section or information relating to
6 the existence of the order if the board determines that the release
7 would enhance the effective enforcement of the order or will serve
8 the public interest.

9 Sec. 264.0526. EMERGENCY CEASE AND DESIST ORDER. (a) The
10 board may issue an emergency cease and desist order to a person if
11 the board reasonably believes that:

12 (1) the person is engaging or is likely to engage in an
13 activity without a license or registration certificate required by
14 this subtitle; and

15 (2) the unauthorized activity constitutes a clear,
16 imminent, or continuing threat to a person's physical health or
17 well-being.

18 (b) The order must:

19 (1) be delivered on issuance to the person affected by
20 the order by personal delivery or registered or certified mail,
21 return receipt requested, to the person's last known address;

22 (2) state the acts or practices alleged to be an
23 unauthorized activity and require the person immediately to cease
24 and desist from the unauthorized activity; and

25 (3) contain a notice that a request for hearing may be
26 filed under this section.

27 (c) Unless the person against whom the emergency order is

1 directed requests a hearing in writing before the 11th day after the
2 date it is served on the person, the emergency order is final and
3 nonappealable as to that person. A request for a hearing must:

4 (1) be in writing and directed to the board; and

5 (2) state the grounds for the request to set aside or
6 modify the order.

7 (d) On receiving a request for a hearing, the board shall
8 serve notice of the time and place of the hearing by personal
9 delivery or registered or certified mail, return receipt requested.
10 The hearing must be held not later than the 10th day after the date
11 the board receives the request for a hearing unless the parties
12 agree to a later hearing date. A hearing under this subsection is
13 subject to Chapter 2001, Government Code.

14 (e) After the hearing, the board shall affirm, modify, or
15 set aside in whole or in part the emergency cease and desist order.
16 An order affirming or modifying the emergency cease and desist
17 order is immediately final for purposes of enforcement and appeal.

18 (f) An order continues in effect unless the order is stayed
19 by the board. The board may impose any condition before granting a
20 stay of the order.

21 (g) The board may release to the public a final cease and
22 desist order issued under this section or information regarding the
23 existence of the order if the board determines that the release
24 would enhance the effective enforcement of the order or will serve
25 the public interest.

26 Sec. 264.0527. APPEAL OF CEASE AND DESIST ORDER. (a) A
27 person affected by a cease and desist order issued, affirmed, or

1 modified after a hearing may file a petition for judicial review.

2 (b) A filed petition for judicial review does not stay or
3 vacate the order unless the court, after hearing, specifically
4 stays or vacates the order.

5 SECTION 23. Section 264.053, Occupations Code, is amended
6 to read as follows:

7 Sec. 264.053. REMEDIES CUMULATIVE. The remedies [~~remedy~~]
8 provided by this subchapter are [~~is~~] in addition to criminal
9 prosecution and cumulative of other remedies provided to prevent
10 the unlawful practice of dentistry.

11 SECTION 24. Chapter 265, Occupations Code, is amended by
12 adding Section 265.005 to read as follows:

13 Sec. 265.005. X-RAY CERTIFICATE. (a) A dental assistant
14 may not make dental x-rays unless the dental assistant holds a
15 certificate of registration issued by the board under this section.

16 (b) To qualify for a certificate of registration, a dental
17 assistant must pay a fee in an amount determined by the board and:

18 (1) pass an examination administered by the board
19 covering:

20 (A) the procedure for making dental x-rays;

21 (B) jurisprudence; and

22 (C) infection control; or

23 (2) pass an examination administered by the board
24 covering the subject described by Subdivision (1)(B) and be
25 certified as a dental assistant by the Dental Assisting National
26 Board if the board determines that the requirements for
27 certification by that board are sufficient to protect the public.

1 (c) The board shall set the registration fee for a dental
2 assistant who qualifies under Subsection (b)(1) in an amount
3 greater than the amount of the registration fee for a dental
4 assistant who qualifies under Subsection (b)(2).

5 (d) The portion of the examination described by Subsection
6 (b)(1)(B) must be tailored to a dental assistant's responsibilities
7 and role in a dental office.

8 (e) The board shall develop the examination or contract with
9 another person the board determines has the expertise and resources
10 to develop the examination. The board may create an advisory
11 committee consisting of dental industry professionals and
12 educators to advise the board in developing the examination.

13 (f) The examination shall be administered by the board or by
14 a testing service under an agreement with the board.

15 (g) A certificate of registration issued under this section
16 must be renewed annually.

17 (h) The board by rule shall develop a mandatory continuing
18 education program for holders of certificates of registration. The
19 board may not require a person to complete more than 12 hours of
20 continuing education annually. The curriculum must cover standards
21 of care, procedures for infectious disease control, and the
22 requirements of this subtitle. A person may not renew a certificate
23 of registration unless the person complies with the continuing
24 education requirements.

25 SECTION 25. Subtitle D, Title 3, Occupations Code, is
26 amended by adding Chapter 267 to read as follows:

1 CHAPTER 267. LICENSING OF FACULTY MEMBERS OF DENTAL OR DENTAL
2 HYGIENE SCHOOLS

3 Sec. 267.001. LICENSE REQUIRED. (a) A person may not
4 serve as a faculty member of a dental school unless the person holds
5 a dental school faculty member license issued under this chapter.

6 (b) A person may not serve as a faculty member of a dental
7 hygiene school unless the person holds a dental hygiene school
8 faculty member license issued under this chapter.

9 (c) This section does not apply to a person who does not have
10 direct patient contact.

11 Sec. 267.002. EXEMPTIONS. (a) A person is exempt from the
12 requirements of Section 267.001(a) if the person is licensed to
13 practice dentistry in this state.

14 (b) A person is exempt from the requirements of Section
15 267.001(b) if the person is licensed to practice dentistry or
16 dental hygiene in this state.

17 Sec. 267.003. QUALIFICATIONS FOR LICENSE. (a) To qualify
18 for a dental school faculty member license, a person must:

19 (1) file an application with the board that presents
20 proof that the applicant holds:

21 (A) a degree from a dental school; and

22 (B) a full-time or part-time salaried faculty
23 position at a dental school accredited by the Commission on Dental
24 Accreditation of the American Dental Association;

25 (2) submit an endorsement of the application from the
26 dean, department chair, or program director of the school described
27 by Subdivision (1)(B);

1 (3) pay the application fee set by the board; and

2 (4) pass an examination covering jurisprudence
3 administered by the board or by a testing service under an agreement
4 with the board.

5 (b) To qualify for a dental hygiene school faculty member
6 license, a person must:

7 (1) file an application with the board that presents
8 proof that the applicant holds:

9 (A) a degree from a dental hygiene school; and

10 (B) a full-time or part-time salaried faculty
11 position at a dental hygiene school accredited by the Commission on
12 Dental Accreditation of the American Dental Association;

13 (2) submit an endorsement of the application from the
14 dean, department chair, or program director of the school described
15 by Subdivision (1)(B);

16 (3) pay the application fee set by the board; and

17 (4) pass an examination covering jurisprudence
18 administered by the board.

19 (c) An applicant for a license under this chapter must:

20 (1) file an application for the license not later than
21 the 30th day after the date the person begins employment with the
22 dental or dental hygiene school; and

23 (2) pass the examination not later than the sixth
24 month after the date the person begins employment with the school.

25 (d) The board shall set the application fee in an amount
26 sufficient to cover the cost of administering this chapter.

27 (e) Notwithstanding Section 267.001, an applicant may have

1 direct patient contact before the applicant passes the examination.

2 Sec. 267.004. LICENSE RENEWAL. A license issued under this
3 chapter must be renewed annually.

4 Sec. 267.005. LICENSE EXPIRATION. (a) A license issued
5 under this chapter expires on the termination of the license
6 holder's employment with the dental or dental hygiene school.

7 (b) A license holder whose employment with a dental or
8 dental hygiene school terminates and who is subsequently employed
9 by the same or a different dental or dental hygiene school must
10 comply with the requirements for obtaining an original license,
11 except that the person is not required to retake the examination.

12 Sec. 267.006. PRACTICE OF DENTISTRY OR DENTAL HYGIENE
13 PROHIBITED. A license issued under this chapter does not authorize
14 the license holder to engage in the practice of dentistry or dental
15 hygiene.

16 SECTION 26. Subdivision (5), Section 467.001, Health and
17 Safety Code, is amended to read as follows:

18 (5) "Professional" means an individual who:

19 (A) may incorporate under The Texas Professional
20 Corporation Act (Article 1528e, Vernon's Texas Civil Statutes); or

21 (B) is licensed, registered, certified, or
22 otherwise authorized by the state to practice as a licensed
23 vocational nurse, certified social worker, occupational therapist,
24 speech-language pathologist, audiologist, ~~or~~ licensed dietitian,
25 or dental or dental hygiene school faculty member.

26 SECTION 27. Sections 257.003 and 262.057, Occupations Code,
27 are repealed.

1 SECTION 28. (a) One of the four dentist positions on the
2 State Board of Dental Examiners that have terms scheduled to expire
3 February 1, 2005, is abolished on September 1, 2003. On or before
4 September 1, 2003, the members who hold those four positions shall
5 determine by unanimous agreement or by lot which position is
6 abolished on September 1, 2003, and shall inform the president of
7 the board of that determination.

8 (b) One of the three dentist positions on the State Board of
9 Dental Examiners that have terms scheduled to expire February 1,
10 2007, is abolished on September 1, 2003. On or before September 1,
11 2003, the members who hold those three positions shall determine by
12 unanimous agreement or by lot which position is abolished on
13 September 1, 2003, and shall inform the president of the board of
14 that determination.

15 (c) One of the two public member positions on the State
16 Board of Dental Examiners that have terms scheduled to expire
17 February 1, 2009, is abolished on September 1, 2003. On or before
18 September 1, 2003, the members who hold those two positions shall
19 determine by unanimous agreement or by lot which position is
20 abolished on September 1, 2003, and shall inform the president of
21 the board of that determination.

22 SECTION 29. The changes in law made by Section 252.006,
23 Occupations Code, as amended by this Act, do not affect the
24 entitlement of a person who was serving as president of the State
25 Board of Dental Examiners immediately before September 1, 2003, to
26 continue to serve and function in that capacity for the remainder of
27 the person's term as president. Those changes in law apply only to

1 the designation of a presiding officer of the board after that
2 person's term as president expires.

3 SECTION 30. The changes in law made by Section 252.010,
4 Occupations Code, as amended by this Act, do not affect the
5 entitlement of a member serving on the State Board of Dental
6 Examiners immediately before September 1, 2003, to continue to
7 serve and function as a member of the board for the remainder of the
8 member's term. Those changes in law apply only to a member
9 appointed on or after September 1, 2003.

10 SECTION 31. If before implementing Section 254.011,
11 Occupations Code, as added by this Act, a state agency determines
12 that a waiver or authorization from a federal agency is necessary
13 for implementation of that provision, the agency affected by the
14 provision shall request the waiver or authorization and may delay
15 implementing that provision until the waiver or authorization is
16 granted.

17 SECTION 32. The changes in law made by Section 262.053,
18 Occupations Code, as amended by this Act, do not affect the
19 entitlement of a member serving on the Dental Hygiene Advisory
20 Committee immediately before September 1, 2003, to continue to
21 serve and function as a member of the advisory committee for the
22 remainder of the member's term. Those changes in law apply only to
23 a member appointed on or after September 1, 2003.

24 SECTION 33. (a) Except as otherwise provided by this
25 section, this Act takes effect September 1, 2003.

26 (b) The State Board of Dental Examiners and the Health and
27 Human Services Commission shall enter into an agreement under

1 Section 254.011, Occupations Code, as added by this Act, not later
2 than January 1, 2004.

3 (c) A person is not required to obtain a certificate of
4 registration under Section 265.005, Occupations Code, as added by
5 this Act, before September 1, 2004.

6 (d) Notwithstanding Subsection (c) of this section, a
7 person who qualified for registration with the State Board of
8 Dental Examiners under 22 T.A.C. Section 115.10 before September 1,
9 2004, by successfully completing the examination described by
10 Subdivision (3), Subsection (e) of that section, is not required to
11 obtain a certificate of registration under Section 265.005,
12 Occupations Code, as added by this Act, before September 1, 2006.

13 (e) Section 267.001, Occupations Code, as added by this Act,
14 takes effect March 1, 2004.

15 (f) Notwithstanding Subsection (e) of this section, a
16 person who was employed as a faculty member by a dental or dental
17 hygiene school before September 1, 2003, is not required to obtain a
18 license under Chapter 267, Occupations Code, as added by this Act,
19 before September 1, 2004.

20 (g) This section and Section 28 of this Act take effect
21 immediately if this Act receives a vote of two-thirds of all the
22 members elected to each house, as provided by Section 39, Article
23 III, Texas Constitution. If this Act does not receive the vote
24 necessary for immediate effect, this section and Section 28 of this
25 Act take effect September 1, 2003.

COMMITTEE AMENDMENT NO. 1

Amend S.B. No. 263 as follows:

(1) In the recital to SECTION 10 of the bill (senate engrossed version page 7, line 8), strike "254.013, 254.014, and 254.015" and substitute "254.013 and 254.014".

(2) In SECTION 10 of the bill (senate engrossed version page 7, lines 9-16), strike proposed Section 254.013, Occupations Code.

(3) In SECTION 10 of the bill, in proposed Section 254.014, Occupations Code (senate engrossed version page 7, line 17), strike "254.014" and substitute "254.013".

(4) In SECTION 10 of the bill, in proposed Section 254.015, Occupations Code (senate engrossed version page 8, line 5), strike "254.015" and substitute "254.014".

78R9987 SMH-F

Laubenberg

COMMITTEE AMENDMENT NO. 2

Amend S.B. No. 263 as follows:

(1) Between SECTIONS 15 and 16 of the bill (senate engrossed version page 16, between lines 13 and 14), insert the following appropriately numbered SECTION:

SECTION __. Section 257.004(a), Occupations Code, is amended to read as follows:

(a) A person holding a dental or dental hygienist license must submit at the time the person applies for renewal of the license [~~attach to the person's renewal application~~]:

(1) a written statement executed by the person stating [~~proof~~] that the person [~~applicant~~] has successfully completed a current program or course in cardiopulmonary resuscitation that

1 includes a demonstration of skills and a written evaluation; or

2 (2) if the person is not physically able to comply with
3 the requirements of Subdivision (1), a written statement describing
4 the person's physical incapacity executed by a licensed physician.

5 (2) Strike SECTION 27 of the bill (senate engrossed version
6 page 28, lines 26 and 27) and substitute the following
7 appropriately numbered SECTION:

8 SECTION __. Sections 257.003, 257.004(b), and 262.057,
9 Occupations Code, are repealed.

10 (3) Renumber the SECTIONS of the bill accordingly.

11 78R9986 SMH-F

Laubenberg

12 COMMITTEE AMENDMENT NO. 3

13 Amend S.B. No. 263 in SECTION 25 of the bill, in proposed
14 Section 267.001(b), Occupations Code, between "a" and "dental
15 hygiene school faculty member license" (senate engrossed version
16 page 26, lines 7 and 8), by inserting "dental school faculty member
17 license or".

18 78R9988 SMH-F

Laubenberg