

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. Section 252.001, Occupations Code, is amended by
amending Subsection (a) and adding Subsection (a-1) 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.

1 (a-1) At least one of the members appointed under Subsection
2 (a)(1) must be an oral surgeon.

3 SECTION 3. Section 252.002(d), Occupations Code, is amended
4 to read as follows:

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

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

9 (2) is employed by or participates in the management
10 of a business entity or other organization regulated by or
11 receiving money [~~funds~~] from the board;

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

16 (4) uses or receives a substantial amount of tangible
17 goods, services, or money [~~funds~~] from the board, other than
18 compensation or reimbursement authorized by law for board
19 membership, attendance, or expenses; or

20 (5) is employed by a board member.

21 SECTION 4. Section 252.006, Occupations Code, is amended to
22 read as follows:

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

26 (b) The governor shall designate a member of the board as
27 the presiding officer of the board to serve in that capacity at the

1 will of the governor. The presiding officer [~~president~~] must be a
2 dentist.

3 SECTION 5. Sections 252.007(a) and (c), Occupations Code,
4 are amended to read as follows:

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

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

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

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

12 (4) cannot, because of illness or disability,
13 discharge the member's duties for a substantial part of the member's
14 term; or

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

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

1 potential ground for removal exists.

2 SECTION 6. Section 252.010, Occupations Code, is amended to
3 read as follows:

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

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

- 14 (1) this subtitle;
- 15 (2) the programs operated by the board;
- 16 (3) the role and functions of the board;
- 17 (4) the rules of the board, with an emphasis on the
18 rules that relate to disciplinary and investigatory authority;
- 19 (5) the current budget for the board;
- 20 (6) the results of the most recent formal audit of the
21 board;

22 (7) the requirements of:

23 (A) the open meetings law, Chapter [~~Chapters~~]

24 551, [552, and 2001,] Government Code;

25 (B) the public information law, Chapter 552,
26 Government Code;

27 (C) the administrative procedure law, Chapter

1 2001, Government Code; and

2 (D) other laws relating to public officials,
3 including

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

6 (8) [(9)] any applicable ethics policies adopted by
7 the board or the Texas Ethics Commission.

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

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

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

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

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

1 Sec. 254.011. AGREEMENT WITH HEALTH AND HUMAN SERVICES
2 COMMISSION. The board shall enter into an agreement with the Health
3 and Human Services Commission to improve coordination on issues
4 relating to the state Medicaid program. The agreement must require
5 each agency to:

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

9 (2) maintain a log of cases referred to the other
10 agency;

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

14 (4) collaborate with the other agency in the
15 investigation of cases and the initiation of appropriate
16 disciplinary action whenever possible.

17 SECTION 9. Section 254.012, Occupations Code, is amended to
18 read as follows:

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

25 (1) the number of cases handled;

26 (2) an explanation of the legal basis and reason for
27 each case;

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

2 (4) for each case the board closed without taking
3 action, an explanation of the reason the case was closed without
4 action [~~file annually with the governor and with the presiding~~
5 ~~officer of each house of the legislature a complete and detailed~~
6 ~~written report accounting for all funds received and disbursed by~~
7 ~~the board during the preceding fiscal year.~~

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

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

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

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

24 The technological solutions must:

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

27 (2) ensure that persons who want to use the board's

1 services are able to:

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

3 and

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

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

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

11 (1) negotiated rulemaking procedures under Chapter
12 2008, Government Code, for the adoption of board rules; and

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

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

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

22 (1) coordinate the implementation of the policy
23 adopted under Subsection (a);

24 (2) serve as a resource for any training needed to
25 implement the procedures for negotiated rulemaking or alternative
26 dispute resolution; and

27 (3) collect data concerning the effectiveness of those

1 procedures, as implemented by the board.

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

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

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

- 9 (1) the name of the person who filed the complaint;
- 10 (2) the date the complaint was received by the board;
- 11 (3) the subject matter of the complaint;
- 12 (4) the name of each person contacted in relation to
13 the complaint;
- 14 (5) ~~[(2)]~~ a summary of the results of the review or
15 investigation of the complaint; and
- 16 (6) an explanation of the reason the file was closed,
17 if the board closed the file without taking action other than to
18 investigate the complaint ~~[findings made at each step of the~~
19 ~~complaint process,~~
- 20 ~~[(3) an explanation of the legal basis and reason that~~
21 ~~a complaint is dismissed,~~
- 22 ~~[(4) the schedule for disposing of the complaint as~~
23 ~~required by Section 255.006 and a notation of any change in the~~
24 ~~schedule; and~~
- 25 ~~[(5) other relevant information].~~

26 (c) The board shall provide to the person filing the
27 complaint and to each person who is a subject of the complaint a

1 copy of the board's policies and procedures relating to complaint
2 investigation and resolution.

3 Sec. 255.005. NOTIFICATION OF INVESTIGATION [~~COMPLAINT~~]
4 STATUS. If a written complaint is filed with the board that the
5 board has authority to resolve, the board, at least quarterly [~~and~~]
6 until final disposition of the complaint, shall notify the person
7 filing the complaint and each person who is a subject of [parties
8 ~~to]~~ the complaint of the status of the investigation [~~complaint~~]
9 unless the notice would jeopardize an undercover investigation.

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

13 (d) The board shall adopt rules concerning the
14 investigation of a complaint filed with the board. The rules
15 adopted under this subsection must:

16 (1) distinguish between categories of complaints;

17 (2) ensure that a complaint is not dismissed without
18 appropriate consideration;

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

23 (4) ensure that the person who filed the complaint has
24 an opportunity to explain the allegations made in the complaint;
25 [~~and~~]

26 (5) require that investigators used by the board be
27 state employees;

1 (6) establish procedures by which a board employee may
2 dismiss a complaint if the investigation does not reveal a
3 violation; and

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

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

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

12 (2) ensure that the decision to dismiss a complaint is
13 made with the appropriate level of review and necessary expertise
14 and experience; and

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

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

18 (1) require a board employee to consult with a dentist
19 member of the board before expunging a complaint described by
20 Subsection (d-1)(1);

21 (2) ensure that the decision to expunge a complaint is
22 made with the appropriate level of review and necessary expertise
23 and experience; and

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

26 SECTION 13. Section 256.101, Occupations Code, is amended
27 by amending Subsection (a) and adding Subsection (a-1) to read as

1 follows:

2 (a) The board shall issue a license to practice dentistry to
3 a reputable dentist or a license to practice dental hygiene to a
4 reputable dental hygienist who:

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

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

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

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

17 (5) has passed a national or other examination
18 relating to dentistry or dental hygiene and recognized by the
19 board;

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

21 (7) has submitted documentation of current
22 cardiopulmonary resuscitation certification;

23 (8) has practiced dentistry or dental hygiene:

24 (A) for at least the three [~~five~~] years preceding
25 the date of application for a license under this section [~~for a~~
26 ~~license to practice dentistry or for at least the three years~~
27 ~~preceding the date of application under this section for a license~~

1 ~~to practice dental hygiene]; or~~

2 (B) as a dental educator at a dental school or
3 dental hygiene school accredited by the Commission on Dental
4 Accreditation of the American Dental Association for at least the
5 five years preceding the date of application for a license under
6 this section;

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

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

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

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

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

25 (1) has been licensed in good standing as a dentist or
26 dental hygienist for at least two years in another jurisdiction
27 that has licensing requirements substantially equivalent to the

1 requirements of this subtitle;

2 (2) has passed a national or other examination
3 recognized by the board relating to the practice of dentistry or
4 dental hygiene, as appropriate; and

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

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

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

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

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

23 (A) the board verifies that the provisional
24 license holder meets the academic and experience requirements for a
25 license under this subtitle; and

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

1 (d) The board must approve or deny a provisional license
2 holder's application for a license not later than the 180th day
3 after the date the provisional license is issued. The board may
4 extend the 180-day period if the results of an examination have not
5 been received by the board before the end of that period.

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

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

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

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

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

1 (d) A [~~Except as provided by Section 257.003, a~~] person
2 whose license has been expired for one year or more [~~longer~~] may not
3 renew the license. The person may obtain a new license by
4 [~~submitting to reexamination and~~] complying with the requirements
5 and procedures, including the examination requirements, for
6 obtaining an original license.

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

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

17 SECTION 16. Section 262.053, Occupations Code, is amended
18 to read as follows:

19 Sec. 262.053. MEMBERSHIP RESTRICTIONS [~~RESTRICTION~~]. (a)
20 In this section, "Texas trade association" means a cooperative and
21 voluntarily joined statewide association of business or
22 professional competitors in this state designed to assist its
23 members and its industry or profession in dealing with mutual
24 business or professional problems and in promoting their common
25 interest.

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

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

3 (2) the person's spouse is an officer, manager, or paid
4 consultant of a Texas trade association in the field of health care;
5 or

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

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

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

14 Sec. 262.0555. GROUND FOR REMOVAL. (a) It is a ground for
15 removal from the advisory committee that a member:

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

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

20 (3) is ineligible for membership under Section
21 262.053;

22 (4) cannot, because of illness or disability,
23 discharge the member's duties for a substantial part of the member's
24 term; or

25 (5) is absent from more than half of the regularly
26 scheduled advisory committee meetings that the member is eligible
27 to attend during a calendar year without an excuse approved by a

1 majority vote of the advisory committee.

2 (b) The validity of an action of the advisory committee is
3 not affected by the fact that it is taken when a ground for removal
4 of an advisory committee member exists.

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

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

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

23 (b) The board may:

24 (1) adopt a rule in accordance with the
25 recommendation; or

26 (2) reject the recommendation.

27 (c) If the board fails to take action on the recommendation

1 before the 91st day after the date the recommendation is submitted
2 to the board, the board shall adopt a rule in accordance with the
3 recommendation.

4 (d) Except as provided by Subsection (e), Section
5 262.102(c) applies to the adoption of a rule under this section.

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

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

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

16 (b) Procedures established under this section must:

17 (1) permit involvement of a board member in an
18 informal settlement conference conducted by a panel of board
19 employees;

20 (2) ensure that the panel of board employees
21 conducting the conference has the necessary expertise and
22 experience;

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

27 (4) require a settlement of the complaint recommended

1 by the panel of board employees to be approved by the board;

2 (5) permit the board to modify a recommended
3 settlement of the complaint with the approval of the license
4 holder; and

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

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

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

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

21 SUBCHAPTER B. INJUNCTION; CEASE AND DESIST ORDER

22 SECTION 21. Section 264.052, Occupations Code, is amended
23 to read as follows:

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

1 SECTION 22. Subchapter B, Chapter 264, Occupations Code, is
2 amended by adding Sections 264.0525-264.0527 to read as follows:

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

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

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

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

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

20 (c) A requested hearing on a proposed order shall be held
21 not later than the 30th day after the date the board receives the
22 written request for a hearing unless the parties agree to a later
23 hearing date. A hearing under this subsection is subject to Chapter
24 2001, Government Code.

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

1 issued under this subsection:

2 (1) is immediately final for purposes of enforcement
3 and appeal; and

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

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

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

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

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

20 (b) The order must:

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

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

27 (3) contain a notice that a request for hearing may be

1 filed under this section.

2 (c) Unless the person against whom the emergency order is
3 directed requests a hearing in writing before the 11th day after the
4 date it is served on the person, the emergency order is final and
5 nonappealable as to that person. A request for a hearing must:

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

7 (2) state the grounds for the request to set aside or
8 modify the order.

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

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

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

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

1 Sec. 264.0527. APPEAL OF CEASE AND DESIST ORDER. (a) A
2 person affected by a cease and desist order issued, affirmed, or
3 modified after a hearing may file a petition for judicial review.

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

7 SECTION 23. Section 264.053, Occupations Code, is amended
8 to read as follows:

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

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

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

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

20 (1) pass an examination administered by the board
21 covering:

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

23 (B) jurisprudence; and

24 (C) infection control; or

25 (2) pass an examination administered by the board
26 covering the subject described by Subdivision (1)(B) and be
27 certified as a dental assistant by the Dental Assisting National

1 Board if the board determines that the requirements for
2 certification by that board are sufficient to protect the public.

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

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

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

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

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

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

27 SECTION 25. Subtitle D, Title 3, Occupations Code, is

1 amended by adding Chapter 267 to read as follows:

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

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

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

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

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

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

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

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

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

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

26 (2) submit an endorsement of the application from the
27 dean, department chair, or program director of the school described

1 by Subdivision (1)(B);

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (e) Notwithstanding Section 267.001, an applicant may have
2 direct patient contact before the applicant passes the examination.

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

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

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

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

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

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

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

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

27 SECTION 27. Sections 257.003 and 262.057, Occupations Code,

1 are repealed.

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

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

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

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

1 the person's term as president. Those changes in law apply only to
2 the designation of a presiding officer of the board after that
3 person's term as president expires.

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

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

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

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

27 (b) The State Board of Dental Examiners and the Health and

1 Human Services Commission shall enter into an agreement under
2 Section 254.011, Occupations Code, as added by this Act, not later
3 than January 1, 2004.

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

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

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

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

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