

1-1 By: Nelson S.B. No. 263
1-2 (In the Senate - Filed February 10, 2003; February 17, 2003,
1-3 read first time and referred to Committee on Government
1-4 Organization; March 3, 2003, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 6, Nays 0;
1-6 March 3, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 263 By: Wentworth

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the continuation and functions of the State Board of
1-11 Dental Examiners.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 251.005, Occupations Code, is amended to
1-14 read as follows:

1-15 Sec. 251.005. APPLICATION OF SUNSET ACT. The State Board of
1-16 Dental Examiners is subject to Chapter 325, Government Code (Texas
1-17 Sunset Act). Unless continued in existence as provided by that
1-18 chapter, the board is abolished September 1, 2015 [2003].

1-19 SECTION 2. Subsection (a), Section 252.001, Occupations
1-20 Code, is amended to read as follows:

1-21 (a) The State Board of Dental Examiners consists of 15 [~~18~~]
1-22 members appointed by the governor with the advice and consent of the
1-23 senate as follows:

1-24 (1) eight [~~10~~] reputable dentist members who reside in
1-25 this state and have been actively engaged in the practice of
1-26 dentistry for at least the five years preceding appointment;

1-27 (2) two reputable dental hygienist members who reside
1-28 in this state and have been actively engaged in the practice of
1-29 dental hygiene for at least the five years preceding appointment;
1-30 and

1-31 (3) five [~~six~~] members who represent the public.

1-32 SECTION 3. Subsection (d), Section 252.002, Occupations
1-33 Code, is amended to read as follows:

1-34 (d) A person is not eligible for appointment as a public
1-35 member of the board if the person or the person's spouse:

1-36 (1) is registered, certified, or licensed by an
1-37 occupational regulatory agency in the field of health care;

1-38 (2) is employed by or participates in the management
1-39 of a business entity or other organization regulated by or
1-40 receiving money [~~funds~~] from the board;

1-41 (3) owns or controls [~~or has~~], directly or indirectly,
1-42 more than a 10 percent interest in a business entity or other
1-43 organization regulated by or receiving money [~~funds~~] from the
1-44 board;

1-45 (4) uses or receives a substantial amount of tangible
1-46 goods, services, or money [~~funds~~] from the board, other than
1-47 compensation or reimbursement authorized by law for board
1-48 membership, attendance, or expenses; or

1-49 (5) is employed by a board member.

1-50 SECTION 4. Section 252.006, Occupations Code, is amended to
1-51 read as follows:

1-52 Sec. 252.006. OFFICERS. (a) The board shall elect a
1-53 secretary from its members to serve for a one-year term [~~terms a~~
1-54 ~~president and a secretary~~].

1-55 (b) The governor shall designate a member of the board as
1-56 the presiding officer of the board to serve in that capacity at the
1-57 will of the governor. The presiding officer [~~president~~] must be a
1-58 dentist.

1-59 SECTION 5. Subsections (a) and (c), Section 252.007,
1-60 Occupations Code, are amended to read as follows:

1-61 (a) It is a ground for removal from the board that a member:

1-62 (1) does not have at the time of appointment the
1-63 qualifications required by Sections 252.001 and 252.002;

2-1 (2) does not maintain during the service on the board
2-2 the qualifications required by Sections 252.001 and 252.002;

2-3 (3) is ineligible for membership under ~~[violates a~~
2-4 ~~prohibition established by]~~ Section 252.003;

2-5 (4) cannot, because of illness or disability,
2-6 discharge the member's duties for a substantial part of the member's
2-7 term; or

2-8 (5) is absent from more than half of the regularly
2-9 scheduled board meetings the member is eligible to attend during a
2-10 calendar year without an excuse approved by a majority vote of the
2-11 board.

2-12 (c) If the executive director ~~[or any board member]~~ has
2-13 knowledge that a potential ground for removal exists, the executive
2-14 director ~~[or board member]~~ shall notify the presiding officer of
2-15 the board of the potential ground. The presiding officer ~~[board]~~
2-16 shall then notify the governor and the attorney general that a
2-17 potential ground for removal exists. If the potential ground for
2-18 removal involves the presiding officer, the executive director
2-19 shall notify the next highest ranking officer of the board, who
2-20 shall then notify the governor and the attorney general that a
2-21 potential ground for removal exists.

2-22 SECTION 6. Section 252.010, Occupations Code, is amended to
2-23 read as follows:

2-24 Sec. 252.010. BOARD MEMBER TRAINING. (a) A person who is
2-25 appointed to and qualifies for office as a member of the board may
2-26 not vote, deliberate, or be counted as a member in attendance at a
2-27 meeting of the board until the person completes a training program
2-28 that complies with ~~[Before a board member may assume the member's~~
2-29 ~~duties and before the member may be confirmed by the senate, the~~
2-30 ~~member must complete at least one course of a training program~~
2-31 ~~established under]~~ this section.

2-32 (b) The [A] training program must ~~[shall]~~ provide the person
2-33 with information ~~[to a participant]~~ regarding:

- 2-34 (1) this subtitle;
- 2-35 (2) the programs operated by the board;
- 2-36 (3) the role and functions of the board;
- 2-37 (4) the rules of the board, with an emphasis on the
2-38 rules that relate to disciplinary and investigatory authority;
- 2-39 (5) the current budget for the board;
- 2-40 (6) the results of the most recent formal audit of the
2-41 board;

- 2-42 (7) the requirements of:
 - 2-43 (A) the open meetings law, Chapter ~~[Chapters]~~
2-44 551, [552, and 2001,] Government Code;
 - 2-45 (B) the public information law, Chapter 552,
2-46 Government Code;
 - 2-47 (C) the administrative procedure law, Chapter
2-48 2001, Government Code; and
 - 2-49 (D) other laws relating to public officials,
2-50 including

2-51 ~~[(8) the requirements of the]~~ conflict of interest
2-52 laws ~~[and other laws relating to public officials]; and~~
2-53 (8) ~~[(9)]~~ any applicable ethics policies adopted by
2-54 the board or the Texas Ethics Commission.

2-55 (c) A person appointed to the board is entitled to
2-56 reimbursement, as provided by the General Appropriations Act, for
2-57 the travel expenses incurred in attending the training program
2-58 regardless of whether the attendance at the program occurs before
2-59 or after the person qualifies for office. ~~[In developing the~~
2-60 ~~training program, the board shall consult with the governor's~~
2-61 ~~office and the Texas Ethics Commission.~~

2-62 ~~[(d) If another state agency or entity is given authority to~~
2-63 ~~establish board member training requirements, the board shall allow~~
2-64 ~~that training instead of developing its own program.]~~

2-65 SECTION 7. Chapter 253, Occupations Code, is amended by
2-66 adding Section 253.008 to read as follows:

2-67 Sec. 253.008. TRAINING FOR EMPLOYEES ON STATE INCENTIVE
2-68 PROGRAM. The executive director or the executive director's
2-69 designee shall provide to board employees information and training

3-1 on the benefits and methods of participation in the state employee
 3-2 incentive program under Subchapter B, Chapter 2108, Government
 3-3 Code.

3-4 SECTION 8. Chapter 254, Occupations Code, is amended by
 3-5 adding Section 254.011 to read as follows:

3-6 Sec. 254.011. AGREEMENT WITH HEALTH AND HUMAN SERVICES
 3-7 COMMISSION. The board shall enter into an agreement with the Health
 3-8 and Human Services Commission to improve coordination on issues
 3-9 relating to the state Medicaid program. The agreement must require
 3-10 each agency to:

3-11 (1) refer to the other agency, as appropriate, cases
 3-12 involving fraud, abuse, or insufficient quality of care under the
 3-13 state Medicaid program;

3-14 (2) maintain a log of cases referred to the other
 3-15 agency;

3-16 (3) share information with the other agency, subject
 3-17 to confidentiality requirements, including investigative reports
 3-18 on cases within the jurisdiction of both agencies; and

3-19 (4) collaborate with the other agency in the
 3-20 investigation of cases and the initiation of appropriate
 3-21 disciplinary action whenever possible.

3-22 SECTION 9. Section 254.012, Occupations Code, is amended to
 3-23 read as follows:

3-24 Sec. 254.012. INCLUSION OF MEDICAID-RELATED INFORMATION IN
 3-25 ANNUAL FINANCIAL REPORT. ~~[(a)]~~ The board shall include in the
 3-26 annual financial report required by Section 2101.011, Government
 3-27 Code, information on all cases handled by the board during the
 3-28 preceding fiscal year involving fraud, abuse, or insufficient
 3-29 quality of care under the state Medicaid program, including:

3-30 (1) the number of cases handled;

3-31 (2) an explanation of the legal basis and reason for
 3-32 each case;

3-33 (3) the action taken in each case; and

3-34 (4) for each case the board closed without taking
 3-35 action, an explanation of the reason the case was closed without
 3-36 action ~~[file annually with the governor and with the presiding~~
 3-37 ~~officer of each house of the legislature a complete and detailed~~
 3-38 ~~written report accounting for all funds received and disbursed by~~
 3-39 ~~the board during the preceding fiscal year.~~

3-40 ~~[(b) The annual report must be in the form and reported in~~
 3-41 ~~the time provided by the General Appropriations Act].~~

3-42 SECTION 10. Chapter 254, Occupations Code, is amended by
 3-43 adding Sections 254.013, 254.014, and 254.015 to read as follows:

3-44 Sec. 254.013. RURAL DENTIST AND DENTAL HYGIENIST LOAN
 3-45 REIMBURSEMENT PROGRAM. The board shall establish a program to
 3-46 provide student loan reimbursement for dentists and dental
 3-47 hygienists who practice in rural health professional shortage areas
 3-48 and medically underserved areas identified by the Texas Department
 3-49 of Health. The board shall fund the program by designating annually
 3-50 a portion of the revenue generated under this subtitle from dentist
 3-51 and dental hygienist licensing fees.

3-52 Sec. 254.014. USE OF TECHNOLOGY. The board shall develop
 3-53 and implement a policy requiring the executive director and board
 3-54 employees to research and propose appropriate technological
 3-55 solutions to improve the board's ability to perform its functions.
 3-56 The technological solutions must:

3-57 (1) ensure that the public is able to easily find
 3-58 information about the board on the Internet;

3-59 (2) ensure that persons who want to use the board's
 3-60 services are able to:

3-61 (A) interact with the board through the Internet;
 3-62 and

3-63 (B) access any service that can be provided
 3-64 effectively through the Internet; and

3-65 (3) be cost-effective and developed through the
 3-66 board's planning processes.

3-67 Sec. 254.015. USE OF ALTERNATIVE RULEMAKING AND DISPUTE
 3-68 RESOLUTION PROCEDURES. (a) The board shall develop and implement
 3-69 a policy to encourage the use of:

4-1 (1) negotiated rulemaking procedures under Chapter
 4-2 2008, Government Code, for the adoption of board rules; and

4-3 (2) appropriate alternative dispute resolution
 4-4 procedures under Chapter 2009, Government Code, to assist in the
 4-5 resolution of internal and external disputes under the board's
 4-6 jurisdiction.

4-7 (b) The board's procedures relating to alternative dispute
 4-8 resolution must conform, to the extent possible, to any model
 4-9 guidelines issued by the State Office of Administrative Hearings
 4-10 for the use of alternative dispute resolution by state agencies.

4-11 (c) The board shall designate a trained person to:

4-12 (1) coordinate the implementation of the policy
 4-13 adopted under Subsection (a);

4-14 (2) serve as a resource for any training needed to
 4-15 implement the procedures for negotiated rulemaking or alternative
 4-16 dispute resolution; and

4-17 (3) collect data concerning the effectiveness of those
 4-18 procedures, as implemented by the board.

4-19 SECTION 11. Sections 255.004 and 255.005, Occupations Code,
 4-20 are amended to read as follows:

4-21 Sec. 255.004. RECORDS OF COMPLAINTS. (a) The board shall
 4-22 maintain a [keep an information] file on [about] each written
 4-23 complaint filed with the board.

4-24 (b) The [information] file must include [be kept current and
 4-25 contain a record for each complaint of]:

4-26 (1) the name of the person who filed the complaint;

4-27 (2) the date the complaint was received by the board;

4-28 (3) the subject matter of the complaint;

4-29 (4) the name of each person contacted in relation to
 4-30 the complaint;

4-31 (5) ~~[(2)]~~ a summary of the results of the review or
 4-32 investigation of the complaint; and

4-33 (6) an explanation of the reason the file was closed,
 4-34 if the board closed the file without taking action other than to
 4-35 investigate the complaint [findings made at each step of the
 4-36 complaint process,

4-37 ~~[(3) an explanation of the legal basis and reason that~~
 4-38 ~~a complaint is dismissed,~~

4-39 ~~[(4) the schedule for disposing of the complaint as~~
 4-40 ~~required by Section 255.006 and a notation of any change in the~~
 4-41 ~~schedule; and~~

4-42 ~~[(5) other relevant information].~~

4-43 (c) The board shall provide to the person filing the
 4-44 complaint and to each person who is a subject of the complaint a
 4-45 copy of the board's policies and procedures relating to complaint
 4-46 investigation and resolution.

4-47 Sec. 255.005. NOTIFICATION OF INVESTIGATION [~~COMPLAINT~~]
 4-48 STATUS. If a written complaint is filed with the board that the
 4-49 board has authority to resolve, the board, at least quarterly [~~and~~]
 4-50 until final disposition of the complaint, shall notify the person
 4-51 filing the complaint and each person who is a subject of [parties
 4-52 to] the complaint of the status of the investigation [complaint]
 4-53 unless the notice would jeopardize an undercover investigation.

4-54 SECTION 12. Section 255.006, Occupations Code, is amended
 4-55 by amending Subsection (d) and adding Subsections (d-1) and (d-2)
 4-56 to read as follows:

4-57 (d) The board shall adopt rules concerning the
 4-58 investigation of a complaint filed with the board. The rules
 4-59 adopted under this subsection must:

4-60 (1) distinguish between categories of complaints;

4-61 (2) ensure that a complaint is not dismissed without
 4-62 appropriate consideration;

4-63 (3) require that the board be advised of a complaint
 4-64 that is dismissed and that a letter be sent to the person who filed
 4-65 the complaint explaining the action taken on the dismissed
 4-66 complaint;

4-67 (4) ensure that the person who filed the complaint has
 4-68 an opportunity to explain the allegations made in the complaint;
 4-69 [~~and~~]

5-1 (5) require that investigators used by the board be
5-2 state employees;
5-3 (6) establish procedures by which a board employee may
5-4 dismiss a complaint if the investigation does not reveal a
5-5 violation; and
5-6 (7) establish procedures by which a board employee may
5-7 expunge from the records of the board a complaint dismissed under
5-8 Subdivision (6) if the employee determines the complaint to have
5-9 been groundless.
5-10 (d-1) Procedures established under Subsection (d)(6) must:
5-11 (1) require a board employee to consult with a dentist
5-12 member of the board before dismissing a complaint relating to
5-13 patient morbidity, professional conduct, or quality of care;
5-14 (2) ensure that the decision to dismiss a complaint is
5-15 made with the appropriate level of review and necessary expertise
5-16 and experience; and
5-17 (3) require the dismissal of a complaint to be
5-18 reported to the board at a public meeting of the board.
5-19 (d-2) Procedures established under Subsection (d)(7) must:
5-20 (1) require a board employee to consult with a dentist
5-21 member of the board before expunging a complaint described by
5-22 Subsection (d-1)(1);
5-23 (2) ensure that the decision to expunge a complaint is
5-24 made with the appropriate level of review and necessary expertise
5-25 and experience; and
5-26 (3) require the expungement of a complaint to be
5-27 reported to the board at a public meeting of the board.
5-28 SECTION 13. Section 256.101, Occupations Code, is amended
5-29 by amending Subsection (a) and adding Subsection (a-1) to read as
5-30 follows:
5-31 (a) The board shall issue a license to practice dentistry to
5-32 a reputable dentist or a license to practice dental hygiene to a
5-33 reputable dental hygienist who:
5-34 (1) pays the fee set by the board;
5-35 (2) is licensed in good standing as a dentist or dental
5-36 hygienist in another state that has licensing requirements
5-37 substantially equivalent to the requirements of this subtitle;
5-38 (3) has not been the subject of a final disciplinary
5-39 action and is not the subject of a pending disciplinary action in
5-40 any jurisdiction in which the dentist or dental hygienist is or has
5-41 been licensed;
5-42 (4) has graduated from a dental or dental hygiene
5-43 school accredited by the Commission on Dental Accreditation of the
5-44 American Dental Association and approved by the board under board
5-45 rule;
5-46 (5) has passed a national or other examination
5-47 relating to dentistry or dental hygiene and recognized by the
5-48 board;
5-49 (6) has passed the board's jurisprudence examination;
5-50 (7) has submitted documentation of current
5-51 cardiopulmonary resuscitation certification;
5-52 (8) has practiced dentistry or dental hygiene:
5-53 (A) for at least the three [~~five~~] years preceding
5-54 the date of application for a license under this section [~~for a~~
5-55 ~~license to practice dentistry or for at least the three years~~
5-56 ~~preceding the date of application under this section for a license~~
5-57 ~~to practice dental hygiene~~]; or
5-58 (B) as a dental educator at a dental school or
5-59 dental hygiene school accredited by the Commission on Dental
5-60 Accreditation of the American Dental Association for at least the
5-61 five years preceding the date of application for a license under
5-62 this section;
5-63 (9) has been endorsed by the board of dentistry in the
5-64 jurisdiction in which the applicant practices at the time of
5-65 application; and
5-66 (10) meets any additional criteria established by
5-67 board rule.
5-68 (a-1) The board by rule shall specify the circumstances
5-69 under which the board may waive the requirement under Subsection

6-1 (a)(8) that an applicant for a license under this section has been
 6-2 continuously engaged in the practice of dentistry or dental hygiene
 6-3 during the period required by that subsection if the applicant has
 6-4 engaged in the practice of dentistry or dental hygiene for a
 6-5 cumulative total of at least three years before the date of
 6-6 application for a license under this section.

6-7 SECTION 14. Subchapter C, Chapter 256, Occupations Code, is
 6-8 amended by adding Section 256.1013 to read as follows:

6-9 Sec. 256.1013. PROVISIONAL LICENSE. (a) The board may
 6-10 issue a provisional license to an applicant currently licensed in
 6-11 another jurisdiction who seeks a license in this state and who:

6-12 (1) has been licensed in good standing as a dentist or
 6-13 dental hygienist for at least two years in another jurisdiction
 6-14 that has licensing requirements substantially equivalent to the
 6-15 requirements of this subtitle;

6-16 (2) has passed a national or other examination
 6-17 recognized by the board relating to the practice of dentistry or
 6-18 dental hygiene, as appropriate; and

6-19 (3) is sponsored by a person who holds an appropriate
 6-20 license under this subtitle and with whom the provisional license
 6-21 holder will practice during the time the person holds a provisional
 6-22 license.

6-23 (b) The board may waive the requirement of Subsection (a)(3)
 6-24 for an applicant if the board determines that compliance with that
 6-25 subdivision would be a hardship to the applicant.

6-26 (c) A provisional license is valid until the date the board
 6-27 approves or denies the provisional license holder's application for
 6-28 a license. The board shall issue a license under this subtitle to
 6-29 the provisional license holder if:

6-30 (1) the provisional license holder is eligible to be
 6-31 licensed under Section 256.101; or

6-32 (2) the provisional license holder passes the part of
 6-33 the examination under Section 256.003 or 256.055 that relates to
 6-34 the applicant's knowledge and understanding of the laws and rules
 6-35 relating to the practice of dentistry or dental hygiene, as
 6-36 appropriate, in this state and:

6-37 (A) the board verifies that the provisional
 6-38 license holder meets the academic and experience requirements for a
 6-39 license under this subtitle; and

6-40 (B) the provisional license holder satisfies any
 6-41 other licensing requirements under this subtitle.

6-42 (d) The board must approve or deny a provisional license
 6-43 holder's application for a license not later than the 180th day
 6-44 after the date the provisional license is issued. The board may
 6-45 extend the 180-day period if the results of an examination have not
 6-46 been received by the board before the end of that period.

6-47 (e) The board may establish a fee for provisional licenses
 6-48 in an amount reasonable and necessary to cover the cost of issuing
 6-49 the license.

6-50 SECTION 15. Section 257.002, Occupations Code, is amended
 6-51 by amending Subsections (b) through (e) and adding Subsections
 6-52 (c-1) and (d-1) to read as follows:

6-53 (b) A person who is otherwise eligible to renew a license
 6-54 may renew an unexpired license by paying the required renewal fee to
 6-55 the board [~~the required renewal fee~~] before the expiration date of
 6-56 the license. A person whose license has expired may not engage in
 6-57 activities that require a license until the license has been
 6-58 renewed.

6-59 (c) A person whose license has been expired for 90 days or
 6-60 less may renew the license by paying to the board a [~~the required~~]
 6-61 renewal fee [~~and a fee~~] that is equal to 1-1/2 times the normally
 6-62 required renewal [~~half of the amount of the license application~~]
 6-63 fee.

6-64 (c-1) A person whose license has been expired for more than
 6-65 90 days but less than one year may renew the license by paying to the
 6-66 board a [~~all unpaid~~] renewal [~~fees and a~~] fee that is equal to two
 6-67 times the normally required renewal [~~the amount of the license~~
 6-68 application] fee.

6-69 (d) A [~~Except as provided by Section 257.003, a~~] person

7-1 whose license has been expired for one year or more [~~longer~~] may not
 7-2 renew the license. The person may obtain a new license by
 7-3 [~~submitting to reexamination and~~] complying with the requirements
 7-4 and procedures, including the examination requirements, for
 7-5 obtaining an original license.

7-6 (d-1) A person who was licensed in this state, moved to
 7-7 another state, and is currently licensed and has been in practice in
 7-8 the other state for the two years preceding the date of application
 7-9 may obtain a new license without reexamination. The person must pay
 7-10 to the board a fee that is equal to two times the normally required
 7-11 renewal fee for the license.

7-12 (e) Not later than the 30th day before the [~~expiration~~] date
 7-13 [~~of~~] a person's license is scheduled to expire, the board shall send
 7-14 written notice of the impending [~~license~~] expiration to the person
 7-15 at the person's last known address according to the board's records.

7-16 SECTION 16. Section 262.053, Occupations Code, is amended
 7-17 to read as follows:

7-18 Sec. 262.053. MEMBERSHIP RESTRICTIONS [~~RESTRICTION~~].

7-19 (a) In this section, "Texas trade association" means a cooperative
 7-20 and voluntarily joined statewide association of business or
 7-21 professional competitors in this state designed to assist its
 7-22 members and its industry or profession in dealing with mutual
 7-23 business or professional problems and in promoting their common
 7-24 interest.

7-25 (b) A person may not be a member of the advisory committee
 7-26 if:

7-27 (1) the person is an officer, employee, or paid
 7-28 consultant of a Texas trade association in the field of health care;

7-29 (2) the person's spouse is an officer, manager, or paid
 7-30 consultant of a Texas trade association in the field of health care;
 7-31 or

7-32 (3) the person is required to register as a lobbyist
 7-33 under Chapter 305, Government Code, because of the person's
 7-34 activities for compensation on behalf of a profession related to
 7-35 the operation of the advisory committee.

7-36 (c) A person is not eligible for appointment as a member of
 7-37 the advisory committee if the person is a member of the board.

7-38 SECTION 17. Subchapter B, Chapter 262, Occupations Code, is
 7-39 amended by adding Section 262.0555 to read as follows:

7-40 Sec. 262.0555. GROUNDS FOR REMOVAL. (a) It is a ground for
 7-41 removal from the advisory committee that a member:

7-42 (1) does not have at the time of taking office the
 7-43 qualifications required by Section 262.052;

7-44 (2) does not maintain during service on the advisory
 7-45 committee the qualifications required by Section 262.052;

7-46 (3) is ineligible for membership under Section
 7-47 262.053;

7-48 (4) cannot, because of illness or disability,
 7-49 discharge the member's duties for a substantial part of the member's
 7-50 term; or

7-51 (5) is absent from more than half of the regularly
 7-52 scheduled advisory committee meetings that the member is eligible
 7-53 to attend during a calendar year without an excuse approved by a
 7-54 majority vote of the advisory committee.

7-55 (b) The validity of an action of the advisory committee is
 7-56 not affected by the fact that it is taken when a ground for removal
 7-57 of an advisory committee member exists.

7-58 (c) If the executive director has knowledge that a potential
 7-59 ground for removal exists, the executive director shall notify the
 7-60 presiding officer of the advisory committee of the potential
 7-61 ground. The presiding officer shall then notify the governor and
 7-62 the attorney general that a potential ground for removal exists. If
 7-63 the potential ground for removal involves the presiding officer,
 7-64 the executive director shall notify the next highest ranking
 7-65 officer of the advisory committee, who shall then notify the
 7-66 governor and the attorney general that a potential ground for
 7-67 removal exists.

7-68 SECTION 18. Subchapter C, Chapter 262, Occupations Code, is
 7-69 amended by adding Section 262.1025 to read as follows:

8-1 Sec. 262.1025. AUTHORITY OF ADVISORY COMMITTEE TO RECOMMEND
 8-2 RULES; ADOPTION BY BOARD. (a) The advisory committee may make a
 8-3 recommendation to the board relating to the regulation of the
 8-4 practice of dental hygiene. A recommendation under this subsection
 8-5 may include a proposed rule in a form suitable for publication in
 8-6 the Texas Register.

8-7 (b) The board may:
 8-8 (1) adopt a rule in accordance with the
 8-9 recommendation; or
 8-10 (2) reject the recommendation.

8-11 (c) If the board fails to take action on the recommendation
 8-12 before the 91st day after the date the recommendation is submitted
 8-13 to the board, the board shall adopt a rule in accordance with the
 8-14 recommendation.

8-15 (d) Except as provided by Subsection (e), Section
 8-16 262.102(c) applies to the adoption of a rule under this section.

8-17 (e) If the recommendation includes a proposed rule, the
 8-18 board is not required to comply with Section 262.102(c) before
 8-19 adopting the proposed rule.

8-20 SECTION 19. Chapter 263, Occupations Code, is amended by
 8-21 adding Section 263.0075 to read as follows:

8-22 Sec. 263.0075. INFORMAL SETTLEMENT CONFERENCE;
 8-23 RESTITUTION. (a) The board by rule shall establish procedures by
 8-24 which a panel of board employees may conduct an informal settlement
 8-25 conference to resolve a complaint against a person licensed under
 8-26 this subtitle.

8-27 (b) Procedures established under this section must:
 8-28 (1) permit involvement of a board member in an
 8-29 informal settlement conference conducted by a panel of board
 8-30 employees;

8-31 (2) ensure that the panel of board employees
 8-32 conducting the conference has the necessary expertise and
 8-33 experience;

8-34 (3) require the panel of board employees conducting
 8-35 the conference to use the standardized penalty schedule adopted by
 8-36 the board to determine the appropriate disciplinary action, if any,
 8-37 to recommend to the board;

8-38 (4) require a settlement of the complaint recommended
 8-39 by the panel of board employees to be approved by the board;

8-40 (5) permit the board to modify a recommended
 8-41 settlement of the complaint with the approval of the license
 8-42 holder; and

8-43 (6) permit the panel of board employees to refer the
 8-44 complaint to the State Office of Administrative Hearings for a
 8-45 formal hearing and require the panel to notify the board of the
 8-46 referral.

8-47 (c) Subject to Subsection (d), the board may order a person
 8-48 licensed under this subtitle to pay restitution to a patient as
 8-49 provided in an agreement resulting from an informal settlement
 8-50 conference instead of or in addition to assessing an administrative
 8-51 penalty under Subchapter A, Chapter 264.

8-52 (d) The amount of restitution ordered as provided in an
 8-53 agreement resulting from an informal settlement conference may not
 8-54 exceed the amount the patient paid to the license holder for a
 8-55 service regulated by this subtitle. The board may not require
 8-56 payment of other damages or estimate harm in a restitution order.

8-57 SECTION 20. The heading to Subchapter B, Chapter 264,
 8-58 Occupations Code, is amended to read as follows:

8-59 SUBCHAPTER B. INJUNCTION; CEASE AND DESIST ORDER
 8-60 SECTION 21. Section 264.052, Occupations Code, is amended
 8-61 to read as follows:

8-62 Sec. 264.052. REPRESENTATION OF STATE. The attorney
 8-63 general or the district attorney or county attorney of the county in
 8-64 which the unlawful acts occurred shall represent the state in a suit
 8-65 under Section 264.051 [~~this subchapter~~].

8-66 SECTION 22. Subchapter B, Chapter 264, Occupations Code, is
 8-67 amended by adding Sections 264.0525, 264.0526, and 264.0527 to read
 8-68 as follows:

8-69 Sec. 264.0525. CEASE AND DESIST ORDER. (a) The board may

9-1 serve a proposed cease and desist order on a person the board
 9-2 believes is engaging or is likely to engage in an activity without a
 9-3 license or registration certificate required by this subtitle. The
 9-4 order must:

9-5 (1) be delivered by personal delivery or registered or
 9-6 certified mail, return receipt requested, to the person's last
 9-7 known address;

9-8 (2) state the acts or practices alleged to be an
 9-9 unauthorized activity; and

9-10 (3) state the effective date of the order, which may
 9-11 not be before the 21st day after the date the proposed order is
 9-12 delivered or mailed.

9-13 (b) Unless the person against whom the proposed order is
 9-14 directed requests a hearing in writing before the effective date of
 9-15 the order, the order takes effect and is final and nonappealable as
 9-16 to that person.

9-17 (c) A requested hearing on a proposed order shall be held
 9-18 not later than the 30th day after the date the board receives the
 9-19 written request for a hearing unless the parties agree to a later
 9-20 hearing date. A hearing under this subsection is subject to Chapter
 9-21 2001, Government Code.

9-22 (d) After the hearing, the board shall issue or decline to
 9-23 issue a cease and desist order. The proposed order may be modified
 9-24 as necessary to conform to the findings at the hearing. An order
 9-25 issued under this subsection:

9-26 (1) is immediately final for purposes of enforcement
 9-27 and appeal; and

9-28 (2) must require the person to immediately cease and
 9-29 desist from the unauthorized activity.

9-30 (e) The board may release to the public a final cease and
 9-31 desist order issued under this section or information relating to
 9-32 the existence of the order if the board determines that the release
 9-33 would enhance the effective enforcement of the order or will serve
 9-34 the public interest.

9-35 Sec. 264.0526. EMERGENCY CEASE AND DESIST ORDER. (a) The
 9-36 board may issue an emergency cease and desist order to a person if
 9-37 the board reasonably believes that:

9-38 (1) the person is engaging or is likely to engage in an
 9-39 activity without a license or registration certificate required by
 9-40 this subtitle; and

9-41 (2) the unauthorized activity constitutes a clear,
 9-42 imminent, or continuing threat to a person's physical health or
 9-43 well-being.

9-44 (b) The order must:

9-45 (1) be delivered on issuance to the person affected by
 9-46 the order by personal delivery or registered or certified mail,
 9-47 return receipt requested, to the person's last known address;

9-48 (2) state the acts or practices alleged to be an
 9-49 unauthorized activity and require the person immediately to cease
 9-50 and desist from the unauthorized activity; and

9-51 (3) contain a notice that a request for hearing may be
 9-52 filed under this section.

9-53 (c) Unless the person against whom the emergency order is
 9-54 directed requests a hearing in writing before the 11th day after the
 9-55 date it is served on the person, the emergency order is final and
 9-56 nonappealable as to that person. A request for a hearing must:

9-57 (1) be in writing and directed to the board; and

9-58 (2) state the grounds for the request to set aside or
 9-59 modify the order.

9-60 (d) On receiving a request for a hearing, the board shall
 9-61 serve notice of the time and place of the hearing by personal
 9-62 delivery or registered or certified mail, return receipt requested.
 9-63 The hearing must be held not later than the 10th day after the date
 9-64 the board receives the request for a hearing unless the parties
 9-65 agree to a later hearing date. A hearing under this subsection is
 9-66 subject to Chapter 2001, Government Code.

9-67 (e) After the hearing, the board shall affirm, modify, or
 9-68 set aside in whole or in part the emergency cease and desist order.
 9-69 An order affirming or modifying the emergency cease and desist

10-1 order is immediately final for purposes of enforcement and appeal.

10-2 (f) An order continues in effect unless the order is stayed
 10-3 by the board. The board may impose any condition before granting a
 10-4 stay of the order.

10-5 (g) The board may release to the public a final cease and
 10-6 desist order issued under this section or information regarding the
 10-7 existence of the order if the board determines that the release
 10-8 would enhance the effective enforcement of the order or will serve
 10-9 the public interest.

10-10 Sec. 264.0527. APPEAL OF CEASE AND DESIST ORDER. (a) A
 10-11 person affected by a cease and desist order issued, affirmed, or
 10-12 modified after a hearing may file a petition for judicial review.

10-13 (b) A filed petition for judicial review does not stay or
 10-14 vacate the order unless the court, after hearing, specifically
 10-15 stays or vacates the order.

10-16 SECTION 23. Section 264.053, Occupations Code, is amended
 10-17 to read as follows:

10-18 Sec. 264.053. REMEDIES CUMULATIVE. The remedies [~~remedy~~]
 10-19 provided by this subchapter are [~~is~~] in addition to criminal
 10-20 prosecution and cumulative of other remedies provided to prevent
 10-21 the unlawful practice of dentistry.

10-22 SECTION 24. Chapter 265, Occupations Code, is amended by
 10-23 adding Section 265.005 to read as follows:

10-24 Sec. 265.005. X-RAY CERTIFICATE. (a) A dental assistant
 10-25 may not make dental x-rays unless the dental assistant holds a
 10-26 certificate of registration issued by the board under this section.

10-27 (b) To qualify for a certificate of registration, a dental
 10-28 assistant must pay a fee in an amount determined by the board and:

10-29 (1) pass an examination administered by the board
 10-30 covering:

10-31 (A) the procedure for making dental x-rays;

10-32 (B) jurisprudence; and

10-33 (C) infection control; or

10-34 (2) pass an examination administered by the board
 10-35 covering the subject described by Subdivision (1)(B) and be
 10-36 certified as a dental assistant by the Dental Assisting National
 10-37 Board if the board determines that the requirements for
 10-38 certification by that board are sufficient to protect the public.

10-39 (c) The board shall set the registration fee for a dental
 10-40 assistant who qualifies under Subsection (b)(1) in an amount
 10-41 greater than the amount of the registration fee for a dental
 10-42 assistant who qualifies under Subsection (b)(2).

10-43 (d) The portion of the examination described by Subsection
 10-44 (b)(1)(B) must be tailored to a dental assistant's responsibilities
 10-45 and role in a dental office.

10-46 (e) The board shall develop the examination or contract with
 10-47 another person the board determines has the expertise and resources
 10-48 to develop the examination. The board may create an advisory
 10-49 committee consisting of dental industry professionals and
 10-50 educators to advise the board in developing the examination.

10-51 (f) The examination shall be administered by the board or by
 10-52 a testing service under an agreement with the board.

10-53 (g) A certificate of registration issued under this section
 10-54 must be renewed annually.

10-55 (h) The board by rule shall develop a mandatory continuing
 10-56 education program for holders of certificates of registration. The
 10-57 board may not require a person to complete more than 12 hours of
 10-58 continuing education annually. The curriculum must cover standards
 10-59 of care, procedures for infectious disease control, and the
 10-60 requirements of this subtitle. A person may not renew a certificate
 10-61 of registration unless the person complies with the continuing
 10-62 education requirements.

10-63 SECTION 25. Subtitle D, Title 3, Occupations Code, is
 10-64 amended by adding Chapter 267 to read as follows:

10-65 CHAPTER 267. LICENSING OF FACULTY MEMBERS OF DENTAL OR DENTAL
 10-66 HYGIENE SCHOOLS

10-67 Sec. 267.001. LICENSE REQUIRED. (a) A person may not
 10-68 serve as a faculty member of a dental school unless the person holds
 10-69 a dental school faculty member license issued under this chapter.

11-1 (b) A person may not serve as a faculty member of a dental
11-2 hygiene school unless the person holds a dental hygiene school
11-3 faculty member license issued under this chapter.

11-4 (c) This section does not apply to a person who does not have
11-5 direct patient contact.

11-6 Sec. 267.002. EXEMPTIONS. (a) A person is exempt from the
11-7 requirements of Section 267.001(a) if the person is licensed to
11-8 practice dentistry in this state.

11-9 (b) A person is exempt from the requirements of Section
11-10 267.001(b) if the person is licensed to practice dentistry or
11-11 dental hygiene in this state.

11-12 Sec. 267.003. QUALIFICATIONS FOR LICENSE. (a) To qualify
11-13 for a dental school faculty member license, a person must:

11-14 (1) file an application with the board that presents
11-15 proof that the applicant holds:

11-16 (A) a degree from a dental school; and

11-17 (B) a full-time or part-time salaried faculty
11-18 position at a dental school accredited by the Commission on Dental
11-19 Accreditation of the American Dental Association;

11-20 (2) submit an endorsement of the application from the
11-21 dean, department chair, or program director of the school described
11-22 by Subdivision (1)(B);

11-23 (3) pay the application fee set by the board; and

11-24 (4) pass an examination covering jurisprudence
11-25 administered by the board or by a testing service under an agreement
11-26 with the board.

11-27 (b) To qualify for a dental hygiene school faculty member
11-28 license, a person must:

11-29 (1) file an application with the board that presents
11-30 proof that the applicant holds:

11-31 (A) a degree from a dental hygiene school; and

11-32 (B) a full-time or part-time salaried faculty
11-33 position at a dental hygiene school accredited by the Commission on
11-34 Dental Accreditation of the American Dental Association;

11-35 (2) submit an endorsement of the application from the
11-36 dean, department chair, or program director of the school described
11-37 by Subdivision (1)(B);

11-38 (3) pay the application fee set by the board; and

11-39 (4) pass an examination covering jurisprudence
11-40 administered by the board.

11-41 (c) An applicant for a license under this chapter must:

11-42 (1) file an application for the license not later than
11-43 the 30th day after the date the person begins employment with the
11-44 dental or dental hygiene school; and

11-45 (2) pass the examination not later than the sixth
11-46 month after the date the person begins employment with the school.

11-47 (d) The board shall set the application fee in an amount
11-48 sufficient to cover the cost of administering this chapter.

11-49 (e) Notwithstanding Section 267.001, an applicant may have
11-50 direct patient contact before the applicant passes the examination.

11-51 Sec. 267.004. LICENSE RENEWAL. A license issued under this
11-52 chapter must be renewed annually.

11-53 Sec. 267.005. LICENSE EXPIRATION. (a) A license issued
11-54 under this chapter expires on the termination of the license
11-55 holder's employment with the dental or dental hygiene school.

11-56 (b) A license holder whose employment with a dental or
11-57 dental hygiene school terminates and who is subsequently employed
11-58 by the same or a different dental or dental hygiene school must
11-59 comply with the requirements for obtaining an original license,
11-60 except that the person is not required to retake the examination.

11-61 Sec. 267.006. PRACTICE OF DENTISTRY OR DENTAL HYGIENE
11-62 PROHIBITED. A license issued under this chapter does not authorize
11-63 the license holder to engage in the practice of dentistry or dental
11-64 hygiene.

11-65 SECTION 26. Subdivision (5), Section 467.001, Health and
11-66 Safety Code, is amended to read as follows:

11-67 (5) "Professional" means an individual who:

11-68 (A) may incorporate under The Texas Professional
11-69 Corporation Act (Article 1528e, Vernon's Texas Civil Statutes); or

12-1 (B) is licensed, registered, certified, or
 12-2 otherwise authorized by the state to practice as a licensed
 12-3 vocational nurse, certified social worker, occupational therapist,
 12-4 speech-language pathologist, audiologist, ~~or~~ licensed dietitian,
 12-5 or dental or dental hygiene school faculty member.

12-6 SECTION 27. Sections 257.003 and 262.057, Occupations Code,
 12-7 are repealed.

12-8 SECTION 28. (a) One of the four dentist positions on the
 12-9 State Board of Dental Examiners that have terms scheduled to expire
 12-10 February 1, 2005, is abolished on September 1, 2003. On or before
 12-11 September 1, 2003, the members who hold those four positions shall
 12-12 determine by unanimous agreement or by lot which position is
 12-13 abolished on September 1, 2003, and shall inform the president of
 12-14 the board of that determination.

12-15 (b) One of the three dentist positions on the State Board of
 12-16 Dental Examiners that have terms scheduled to expire February 1,
 12-17 2007, is abolished on September 1, 2003. On or before September 1,
 12-18 2003, the members who hold those three positions shall determine by
 12-19 unanimous agreement or by lot which position is abolished on
 12-20 September 1, 2003, and shall inform the president of the board of
 12-21 that determination.

12-22 (c) One of the two public member positions on the State
 12-23 Board of Dental Examiners that have terms scheduled to expire
 12-24 February 1, 2009, is abolished on September 1, 2003. On or before
 12-25 September 1, 2003, the members who hold those two positions shall
 12-26 determine by unanimous agreement or by lot which position is
 12-27 abolished on September 1, 2003, and shall inform the president of
 12-28 the board of that determination.

12-29 SECTION 29. The changes in law made by Section 252.006,
 12-30 Occupations Code, as amended by this Act, do not affect the
 12-31 entitlement of a person who was serving as president of the State
 12-32 Board of Dental Examiners immediately before September 1, 2003, to
 12-33 continue to serve and function in that capacity for the remainder of
 12-34 the person's term as president. Those changes in law apply only to
 12-35 the designation of a presiding officer of the board after that
 12-36 person's term as president expires.

12-37 SECTION 30. The changes in law made by Section 252.010,
 12-38 Occupations Code, as amended by this Act, do not affect the
 12-39 entitlement of a member serving on the State Board of Dental
 12-40 Examiners immediately before September 1, 2003, to continue to
 12-41 serve and function as a member of the board for the remainder of the
 12-42 member's term. Those changes in law apply only to a member
 12-43 appointed on or after September 1, 2003.

12-44 SECTION 31. If before implementing Section 254.011,
 12-45 Occupations Code, as added by this Act, a state agency determines
 12-46 that a waiver or authorization from a federal agency is necessary
 12-47 for implementation of that provision, the agency affected by the
 12-48 provision shall request the waiver or authorization and may delay
 12-49 implementing that provision until the waiver or authorization is
 12-50 granted.

12-51 SECTION 32. The changes in law made by Section 262.053,
 12-52 Occupations Code, as amended by this Act, do not affect the
 12-53 entitlement of a member serving on the Dental Hygiene Advisory
 12-54 Committee immediately before September 1, 2003, to continue to
 12-55 serve and function as a member of the advisory committee for the
 12-56 remainder of the member's term. Those changes in law apply only to
 12-57 a member appointed on or after September 1, 2003.

12-58 SECTION 33. (a) Except as otherwise provided by this
 12-59 section, this Act takes effect September 1, 2003.

12-60 (b) The State Board of Dental Examiners and the Health and
 12-61 Human Services Commission shall enter into an agreement under
 12-62 Section 254.011, Occupations Code, as added by this Act, not later
 12-63 than January 1, 2004.

12-64 (c) A person is not required to obtain a certificate of
 12-65 registration under Section 265.005, Occupations Code, as added by
 12-66 this Act, before September 1, 2004.

12-67 (d) Notwithstanding Subsection (c) of this section, a
 12-68 person who qualified for registration with the State Board of
 12-69 Dental Examiners under 22 T.A.C. Section 115.10 before September 1,

13-1 2004, by successfully completing the examination described by
13-2 Subdivision (3), Subsection (e) of that section, is not required to
13-3 obtain a certificate of registration under Section 265.005,
13-4 Occupations Code, as added by this Act, before September 1, 2006.

13-5 (e) Section 267.001, Occupations Code, as added by this Act,
13-6 takes effect March 1, 2004.

13-7 (f) Notwithstanding Subsection (e) of this section, a
13-8 person who was employed as a faculty member by a dental or dental
13-9 hygiene school before September 1, 2003, is not required to obtain a
13-10 license under Chapter 267, Occupations Code, as added by this Act,
13-11 before September 1, 2004.

13-12 (g) This section and Section 28 of this Act take effect
13-13 immediately if this Act receives a vote of two-thirds of all the
13-14 members elected to each house, as provided by Section 39, Article
13-15 III, Texas Constitution. If this Act does not receive the vote
13-16 necessary for immediate effect, this section and Section 28 of this
13-17 Act take effect September 1, 2003.

13-18 * * * * *