

By: Nelson

S.B. No. 610

A BILL TO BE ENTITLED

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AN ACT

relating to the regulation of the practice of dentistry.

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

SECTION 1. Subsection (a), Section 251.004, Occupations Code, is amended to read as follows:

(a) A person does not practice dentistry as provided by Section 251.003 if the person is:

(1) a faculty member of a reputable dental or dental hygiene school in which the member performs services for the sole benefit of the school;

(2) a student of a reputable dental school who performs the student's operations without pay, except for actual cost of materials, in the presence of and under the direct personal supervision of a demonstrator or teacher who is a faculty member of a reputable dental school;

(3) a person:

(A) who performs laboratory work only on inert matter; and

(B) who does not solicit or obtain work by any means from a person who is not a licensed dentist engaged in the practice of dentistry and does not act as the agent or solicitor of, and does not have any interest in, a dental office or practice or the receipts of a dental office or practice;

(4) a physician licensed in this state who does not

1 represent that the person is practicing dentistry, including a
2 physician who extracts teeth or applies pain relief in the regular
3 practice of the physician's profession;

4 (5) a dental hygienist:

5 (A) who is authorized to practice dental hygiene
6 in this state; and

7 (B) who practices dental hygiene in strict
8 conformity with the state law regulating the practice of dental
9 hygiene;

10 (6) a person who is a member of an established church
11 and practices healing by prayer only;

12 (7) an employee of a licensed dentist in this state who
13 makes dental x-rays in the dental office under the supervision of
14 the dentist;

15 (8) a Dental Health Service Corporation chartered
16 under Section A(1), Article 2.01, Texas Non-Profit Corporation Act
17 (Article 1396-2.01, Vernon's Texas Civil Statutes);

18 (9) a dental intern or dental resident as defined and
19 regulated by board rules;

20 (10) a student:

21 (A) who is in a dental hygiene program accredited
22 by the Commission on Dental Accreditation of the American Dental
23 Association and operated at an accredited institution of higher
24 education;

25 (B) who practices dental hygiene without pay
26 under the general supervision of a dentist and under the
27 supervision of a demonstrator or teacher who is a faculty member of

1 the program:

2 (i) in a clinic operated for the sole
3 benefit of the program's institution of higher education; or

4 (ii) in a clinic operated by a government or
5 nonprofit organization that serves underserved populations as
6 determined by board rule; and

7 (C) who practices in strict conformity with state
8 law regulating the practice of dental hygiene;

9 (11) a dental assistant who performs duties permitted
10 under Chapter 265, in strict conformity with state law;

11 (12) a dentist or dental hygienist licensed by another
12 state or a foreign country who performs a clinical procedure only as
13 a demonstration for professional and technical education purposes,
14 if the dentist or dental hygienist first obtains from the board a
15 temporary license for that purpose;

16 (13) a dental hygienist who is a faculty member of a
17 dental or dental hygiene school while practicing dental hygiene:

18 (A) under the supervision of a dentist licensed
19 in this state or of a teacher or demonstrator who is a dentist
20 faculty member of the school; and

21 (B) in strict conformity with state law
22 regulating the practice of dental hygiene;

23 (14) a dentist who is in a remedial training program
24 sponsored by the Commission on Dental Accreditation of the American
25 Dental Association at an accredited dental or dental hygiene
26 school;

27 (15) a dental hygienist who is in a remedial training

1 program sponsored by the Commission on Dental Accreditation of the
2 American Dental Association at an accredited dental or dental
3 hygiene school and who acts in strict conformity with state law
4 regulating the practice of dental hygiene, except that supervision
5 may be provided by a demonstrator or teacher who is a dentist member
6 of the program;

7 (16) a dentist who is not licensed in this state and
8 who is taking the dental clinical examination offered [~~by the~~
9 ~~Western Regional Examining Board~~] in this state by an examining
10 body designated by the board;

11 (17) a dental hygienist who is not licensed in this
12 state and who is taking the dental hygiene clinical examination
13 offered [~~by the Western Regional Examining Board~~] in this state by
14 an examining body designated by the board if participation is in
15 strict conformity with state law regulating the practice of dental
16 hygiene, except that supervision may be provided by a dentist whose
17 services are secured by the examining body [~~Western Regional~~
18 ~~Examining Board~~];

19 (18) a dentist whose license is in retired status or
20 who is licensed in another state and is attending a continuing
21 education clinical program offered at a dental or dental hygiene
22 school accredited by the Commission on Dental Accreditation of the
23 American Dental Association; or

24 (19) a dental hygienist whose dental hygienist license
25 is in retired status or who is licensed in another state and is
26 attending a continuing education clinical program offered at a
27 dental or dental hygiene school accredited by the Commission on

1 Dental Accreditation of the American Dental Association if tasks
2 are performed in strict conformity with state law regulating the
3 practice of dental hygiene, except that supervision may be provided
4 by a dentist member of the program.

5 SECTION 2. Subsection (d), Section 255.006, Occupations
6 Code, is amended to read as follows:

7 (d) The board shall adopt rules concerning the
8 investigation of a complaint filed with the board. The rules
9 adopted under this subsection must:

10 (1) distinguish between categories of complaints;

11 (2) ensure that a complaint is not dismissed without
12 appropriate consideration;

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

17 (4) ensure that the person who filed the complaint has
18 an opportunity to explain the allegations made in the complaint;

19 (5) require that investigators used by the board be
20 state employees; and

21 (6) establish procedures by which a board employee may
22 dismiss a complaint if the investigation does not reveal a
23 violation[~~, and~~

24 [~~(7) establish procedures by which a board employee
25 may expunge from the records of the board a complaint dismissed
26 under Subdivision (6) if the employee determines the complaint to
27 have been groundless].~~

1 SECTION 3. Section 256.103, Occupations Code, is amended by
2 adding Subsection (c) to read as follows:

3 (c) A person may practice without displaying the person's
4 current registration certificate as required by Subsection (a) for
5 not more than 30 days after the date the person receives from the
6 board written confirmation that the person's original license was
7 issued.

8 SECTION 4. Subsection (b), Section 257.002, Occupations
9 Code, is amended to read as follows:

10 (b) A person who is otherwise eligible to renew a license
11 may renew an unexpired license without monetary penalty by paying
12 the required renewal fee to the board not later than the 10th day
13 after [~~before~~] the expiration date of the license. A person [~~whose~~
14 ~~license has expired~~] may not engage in activities that require a
15 license until the license has been renewed.

16 SECTION 5. Subsections (b) and (c), Section 263.004,
17 Occupations Code, are amended to read as follows:

18 (b) The board may not temporarily suspend a license or
19 permit under this section without notice or hearing unless [~~if~~] at
20 the time of the temporary suspension the board or the executive
21 committee requests the State Office of Administrative Hearings to
22 set a date for a hearing on the temporary suspension.

23 (c) The State Office of Administrative Hearings shall hold a
24 hearing not later than the 30th [~~14th~~] day after the date the
25 license or permit is suspended unless the license or permit holder
26 requests a continuance. The State Office of Administrative
27 Hearings shall hold a second hearing on the suspension and on any

1 other action to be taken against the license or permit holder not
2 later than the 60th day after:

3 (1) the date the license or permit is temporarily
4 suspended; or

5 (2) the date specified in the continuance requested by
6 the license or permit holder.

7 SECTION 6. Subsections (a) and (b), Section 263.006,
8 Occupations Code, are amended to read as follows:

9 (a) The board shall suspend a license holder's license
10 issued under this subtitle on proof [~~if it is determined at an~~
11 ~~administrative hearing~~] that the person has been:

12 (1) initially convicted of:

13 (A) a felony;

14 (B) a misdemeanor under Chapter 22, Penal Code,
15 other than a misdemeanor punishable by fine only;

16 (C) a misdemeanor on conviction of which a
17 defendant is required to register as a sex offender under Chapter
18 62, Code of Criminal Procedure;

19 (D) a misdemeanor under Section 25.07, Penal
20 Code; or

21 (E) a misdemeanor under Section 25.071, Penal
22 Code; or

23 (2) subject to an initial finding by the trier of fact
24 of guilt of a felony under:

25 (A) Chapter 481 or 483, Health and Safety Code;

26 (B) Section 485.033, Health and Safety Code; or

27 (C) the Comprehensive Drug Abuse Prevention and

1 Control Act of 1970 (21 U.S.C. Section 801 et seq.) [~~convicted of a~~
2 ~~felony under Chapter 481 or 483, Health and Safety Code, or Section~~
3 ~~485.033, Health and Safety Code~~].

4 (b) On final conviction for an offense described by
5 Subsection (a), the [The] board shall revoke the person's license
6 [~~on the person's final conviction~~].

7 SECTION 7. Section 264.151, Occupations Code, is amended by
8 adding Subsection (f) to read as follows:

9 (f) Venue for the prosecution of an offense under this
10 section is in Travis County or in the county in which the offense
11 occurred.

12 SECTION 8. Section 266.303, Occupations Code, is amended by
13 adding Subsection (d) to read as follows:

14 (d) Venue for the prosecution of an offense under this
15 section is in Travis County or in the county in which the offense
16 occurred.

17 SECTION 9. Subsection (d-2), Section 255.006, Occupations
18 Code, is repealed.

19 SECTION 10. (a) Section 256.103, Occupations Code, as
20 amended by this Act, applies only to a person licensed on or after
21 the effective date of this Act. A person licensed before that date
22 is governed by the law in effect immediately before the effective
23 date of this Act, and the former law is continued in effect for that
24 purpose.

25 (b) Section 263.006, Occupations Code, as amended by this
26 Act, applies only to a person who is initially convicted of an
27 offense on or after the effective date of this Act. A person

1 initially convicted of an offense before that date is governed by
2 the law in effect on the date the conviction occurred, and the
3 former law is continued in effect for that purpose.

4 (c) Section 257.002, Occupations Code, as amended by this
5 Act, applies only to a license that expires on or after the
6 effective date of this Act. A license that expires before that date
7 is governed by the law in effect on the date the license expired,
8 and the former law is continued in effect for that purpose.

9 (d) Section 263.004, Occupations Code, as amended by this
10 Act, applies only to a license or permit suspended on or after the
11 effective date of this Act. A license or permit suspended before
12 that date is governed by the law in effect on the date the license or
13 permit was suspended, and the former law is continued in effect for
14 that purpose.

15 (e) Sections 264.151 and 266.303, Occupations Code, as
16 amended by this Act, apply only to an offense committed on or after
17 the effective date of this Act. For purposes of this subsection, an
18 offense is committed before the effective date of this Act if any
19 element of the offense occurs before that date. An offense
20 committed before the effective date of this Act is covered by the
21 law in effect when the offense was committed, and the former law is
22 continued in effect for that purpose.

23 SECTION 11. This Act takes effect September 1, 2005.