

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 256.102, Occupations Code, is amended by
2 amending Subsection (c) and adding Subsection (f) to read as
3 follows:

4 (c) A license holder on retired status:

5 (1) is not required to pay license renewal fees; and

6 (2) except as provided by Subsection (f), may not
7 perform any activity regulated under this subtitle.

8 (f) A dentist on retired status may perform an activity
9 regulated under this subtitle if the dentist's practice consists
10 only of voluntary charity care, as defined by board rule. The
11 board's rules under this subsection must prescribe the scope of
12 practice permitted for the retired dentist, the retired dentist's
13 authority to prescribe and administer drugs, and any continuing
14 education requirements applicable to the retired dentist.

15 SECTION 4. Section 256.103, Occupations Code, is amended by
16 adding Subsection (c) to read as follows:

17 (c) A person may practice without displaying the person's
18 current registration certificate as required by Subsection (a) for
19 not more than 30 days after the date the person receives from the
20 board written confirmation that the person's original license was
21 issued.

22 SECTION 5. Section 258.054, Occupations Code, is amended by
23 adding Subsection (c) to read as follows:

24 (c) A dentist may not authorize a dental assistant to make a
25 dental x-ray unless the dental assistant holds an x-ray certificate
26 issued under Section 265.005.

27 SECTION 6. Subsections (b) and (c), Section 263.004,

1 Occupations Code, are amended to read as follows:

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

7 (c) The State Office of Administrative Hearings shall hold a
8 hearing not later than the 30th [~~14th~~] day after the date the
9 license or permit is suspended unless the license or permit holder
10 requests a continuance. The State Office of Administrative
11 Hearings shall hold a second hearing on the suspension and on any
12 other action to be taken against the license or permit holder not
13 later than the 60th day after:

14 (1) the date the license or permit is temporarily
15 suspended; or

16 (2) the date specified in the continuance requested by
17 the license or permit holder.

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

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

23 (1) initially convicted of:

24 (A) a felony;

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

27 (C) a misdemeanor on conviction of which a

1 defendant is required to register as a sex offender under Chapter
2 62, Code of Criminal Procedure;

3 (D) a misdemeanor under Section 25.07, Penal
4 Code; or

5 (E) a misdemeanor under Section 25.071, Penal
6 Code; or

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

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

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

11 (C) the Comprehensive Drug Abuse Prevention and
12 Control Act of 1970 (21 U.S.C. Section 801 et seq.) [~~convicted of a~~
13 ~~felony under Chapter 481 or 483, Health and Safety Code, or Section~~
14 ~~485.033, Health and Safety Code].~~

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

18 SECTION 8. Subsection (b), Section 265.004, Occupations
19 Code, is amended to read as follows:

20 (b) To qualify for a certificate, an applicant must:

21 (1) have at least two years' experience as a dental
22 assistant; and

23 (2) have successfully completed a minimum of 16 hours
24 of clinical and didactic education in pit and fissure sealants
25 taken through an accredited dental hygiene program or a dental
26 assisting program accredited by the Commission on Dental
27 Accreditation of the American Dental Association and approved by

1 the board.

2 SECTION 9. Section 265.005, Occupations Code, is amended to
3 read as follows:

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

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

9 (1) pass an examination administered under this
10 section on completion of a course [~~by the board~~] covering:

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

12 (B) jurisprudence; and

13 (C) infection control; or

14 (2) complete a course and pass an examination
15 [~~administered by the board~~] covering the subject described by
16 Subdivision (1)(B) and be certified as a dental assistant by the
17 Dental Assisting National Board if the board determines that the
18 requirements for certification by that board are sufficient to
19 protect the public.

20 (c) [~~The board shall set the registration fee for a dental~~
21 ~~assistant who qualifies under Subsection (b)(1) in an amount~~
22 ~~greater than the amount of the registration fee for a dental~~
23 ~~assistant who qualifies under Subsection (b)(2).~~

24 [~~(d)~~] The course and [~~portion of the~~] examination described
25 by Subsection (b)(1) [~~(b)(1)(B)~~] must be tailored to a dental
26 assistant's responsibilities and role in a dental office.

27 (d) A course and examination described by Subsection (b) may

1 be offered through self-study, interactive computer courses, or
2 lecture courses and may be offered through the Internet. The course
3 and examination must comply with rules adopted under Subsection (f)
4 and be approved by the board.

5 (e) ~~[The board shall develop the examination or contract~~
6 ~~with another person the board determines has the expertise and~~
7 ~~resources to develop the examination.]~~ The board shall ~~[may]~~
8 create an advisory committee consisting of dentists, dental
9 assistants, and dental assistant ~~[industry professionals and]~~
10 educators to advise the board in adopting rules under Subsection
11 (f).

12 (f) The board by rule shall set:

13 (1) objectives for ~~[developing]~~ the examination and
14 course under Subsection (b)(1); and

15 (2) procedures to ensure the examination's integrity.

16 (g) ~~[(f)]~~ The course and examination under Subsection
17 (b)(1) shall comply with board rules. Any school or program
18 accredited by the Commission on Dental Accreditation of the
19 American Dental Association or any dental industry professional
20 organization may offer a course and examination that complies with
21 board rules.

22 (h) The board, in consultation with the advisory committee,
23 shall develop a program to ensure that courses and examinations
24 developed or administered under this section comply with board
25 rules ~~[be administered by the board or by a testing service under an~~
26 ~~agreement with the board].~~

27 (i) ~~[(g)]~~ A certificate of registration issued under this

1 section must be renewed annually. Except as otherwise provided by
2 this subsection, the board may not require a person who has
3 successfully completed the course and examination required under
4 Subsection (b) to complete an additional course or examination to
5 renew the registration. The board may require a person to complete
6 a new course and examination if the person fails to renew the
7 person's certificate of registration before the second anniversary
8 of the date the certificate expired.

9 (j) [(h)] The board by rule shall develop a mandatory
10 continuing education program for holders of certificates of
11 registration. The board may not require a person to complete more
12 than 12 hours of continuing education annually. The curriculum
13 must cover dental assistant duties [~~standards of care, procedures~~
14 ~~for infectious disease control, and the requirements of this~~
15 ~~subtitle~~].

16 (k) A person may not renew a certificate of registration
17 unless the person complies with the continuing education
18 requirements. The person may fulfill continuing education
19 requirements through board-approved self-study, interactive
20 computer courses, or lecture courses.

21 (l) A dental assistant who is hired as a dental assistant
22 for the first time and who has not previously been issued a
23 certificate under this section may make dental x-rays without
24 complying with this section until the first anniversary of the date
25 on which the dental assistant is hired.

26 SECTION 10. Subsection (d-2), Section 255.006, Occupations
27 Code, is repealed.

1 SECTION 11. (a) Section 256.103, Occupations Code, as
2 amended by this Act, applies only to a person licensed on or after
3 the effective date of this Act. A person licensed before that date
4 is governed by the law in effect immediately before the effective
5 date of this Act, and the former law is continued in effect for that
6 purpose.

7 (b) Section 263.006, Occupations Code, as amended by this
8 Act, applies only to a person who is initially convicted of an
9 offense on or after the effective date of this Act. A person
10 initially convicted of an offense before that date is governed by
11 the law in effect on the date the conviction occurred, and the
12 former law is continued in effect for that purpose.

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

19 SECTION 12. Not later than March 1, 2006, the State Board of
20 Dental Examiners shall adopt the rules required by Subsection (f),
21 Section 256.102, Occupations Code, as added by this Act.

22 SECTION 13. Not later than July 1, 2006, the State Board of
23 Dental Examiners shall adopt the rules required by Subsection (f),
24 Section 265.005, Occupations Code, as amended by this Act.

25 SECTION 14. Compliance with Section 265.005, Occupations
26 Code, as amended by this Act, is required only for a certificate of
27 registration issued or renewed on or after September 1, 2006,

1 except as provided by this section and Section 15 of this Act. If
2 the State Board of Dental Examiners determines that additional time
3 is necessary to implement the new course and examination system
4 under Section 265.005, Occupations Code, as amended by this Act,
5 the board may extend the time required for compliance under this
6 section to January 1, 2007.

7 SECTION 15. (a) This section applies only to a dental
8 assistant who qualified for registration with the State Board of
9 Dental Examiners under former 22 T.A.C. Section 115.10 before
10 September 1, 2004, by successfully completing the examination
11 described by Subdivision (3), Subsection (e) of that section.

12 (b) Section 258.054, Occupations Code, as amended by this
13 Act, does not apply to a dental assistant until on and after
14 September 1, 2007.

15 (c) A dental assistant is not required to obtain a
16 certificate of registration under Section 265.005, Occupations
17 Code, as amended by this Act, before September 1, 2007. Before
18 September 1, 2007, a dental assistant shall comply with:

19 (1) the former law, and the former law is continued in
20 effect for that purpose; or

21 (2) Section 265.005, Occupations Code, as amended by
22 this Act.

23 SECTION 16. This Act takes effect September 1, 2005.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 610 passed the Senate on March 17, 2005, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 27, 2005, by the following vote: Yeas 29, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 610 passed the House, with amendment, on May 25, 2005, by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor