

1-1 By: Nelson S.B. No. 610
1-2 (In the Senate - Filed February 21, 2005; March 1, 2005,
1-3 read first time and referred to Committee on Health and Human
1-4 Services; March 10, 2005, reported favorably, as amended, by the
1-5 following vote: Yeas 7, Nays 0; March 10, 2005, sent to printer.)

1-6 COMMITTEE AMENDMENT NO. 1 By: Nelson

1-7 Amend S.B. No. 610, in SECTION 4 of the bill, in amended
1-8 Subsection (b), Section 257.002, Occupations Code, by striking
1-9 Subsection (b) of that section (Introduced version page 3, 28-34
1-10 lines) and substituting the following:

1-11 (b) A person who is otherwise eligible to renew a license
1-12 may renew an unexpired license without monetary penalty by paying
1-13 the required renewal fee to the board not later than the 10th day
1-14 after ~~[before]~~ the expiration date of the license. A person ~~[whose~~
1-15 ~~license has expired]~~ may not engage in activities that require a
1-16 license until the license has been renewed.

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the regulation of the practice of dentistry.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. Subsection (a), Section 251.004, Occupations
1-22 Code, is amended to read as follows:

1-23 (a) A person does not practice dentistry as provided by
1-24 Section 251.003 if the person is:

1-25 (1) a faculty member of a reputable dental or dental
1-26 hygiene school in which the member performs services for the sole
1-27 benefit of the school;

1-28 (2) a student of a reputable dental school who
1-29 performs the student's operations without pay, except for actual
1-30 cost of materials, in the presence of and under the direct personal
1-31 supervision of a demonstrator or teacher who is a faculty member of
1-32 a reputable dental school;

1-33 (3) a person:

1-34 (A) who performs laboratory work only on inert
1-35 matter; and

1-36 (B) who does not solicit or obtain work by any
1-37 means from a person who is not a licensed dentist engaged in the
1-38 practice of dentistry and does not act as the agent or solicitor of,
1-39 and does not have any interest in, a dental office or practice or
1-40 the receipts of a dental office or practice;

1-41 (4) a physician licensed in this state who does not
1-42 represent that the person is practicing dentistry, including a
1-43 physician who extracts teeth or applies pain relief in the regular
1-44 practice of the physician's profession;

1-45 (5) a dental hygienist:

1-46 (A) who is authorized to practice dental hygiene
1-47 in this state; and

1-48 (B) who practices dental hygiene in strict
1-49 conformity with the state law regulating the practice of dental
1-50 hygiene;

1-51 (6) a person who is a member of an established church
1-52 and practices healing by prayer only;

1-53 (7) an employee of a licensed dentist in this state who
1-54 makes dental x-rays in the dental office under the supervision of
1-55 the dentist;

1-56 (8) a Dental Health Service Corporation chartered
1-57 under Section A(1), Article 2.01, Texas Non-Profit Corporation Act
1-58 (Article 1396-2.01, Vernon's Texas Civil Statutes);

1-59 (9) a dental intern or dental resident as defined and
1-60 regulated by board rules;

1-61 (10) a student:

1-62 (A) who is in a dental hygiene program accredited

2-1 by the Commission on Dental Accreditation of the American Dental
 2-2 Association and operated at an accredited institution of higher
 2-3 education;

2-4 (B) who practices dental hygiene without pay
 2-5 under the general supervision of a dentist and under the
 2-6 supervision of a demonstrator or teacher who is a faculty member of
 2-7 the program:

2-8 (i) in a clinic operated for the sole
 2-9 benefit of the program's institution of higher education; or

2-10 (ii) in a clinic operated by a government or
 2-11 nonprofit organization that serves underserved populations as
 2-12 determined by board rule; and

2-13 (C) who practices in strict conformity with state
 2-14 law regulating the practice of dental hygiene;

2-15 (11) a dental assistant who performs duties permitted
 2-16 under Chapter 265, in strict conformity with state law;

2-17 (12) a dentist or dental hygienist licensed by another
 2-18 state or a foreign country who performs a clinical procedure only as
 2-19 a demonstration for professional and technical education purposes,
 2-20 if the dentist or dental hygienist first obtains from the board a
 2-21 temporary license for that purpose;

2-22 (13) a dental hygienist who is a faculty member of a
 2-23 dental or dental hygiene school while practicing dental hygiene:

2-24 (A) under the supervision of a dentist licensed
 2-25 in this state or of a teacher or demonstrator who is a dentist
 2-26 faculty member of the school; and

2-27 (B) in strict conformity with state law
 2-28 regulating the practice of dental hygiene;

2-29 (14) a dentist who is in a remedial training program
 2-30 sponsored by the Commission on Dental Accreditation of the American
 2-31 Dental Association at an accredited dental or dental hygiene
 2-32 school;

2-33 (15) a dental hygienist who is in a remedial training
 2-34 program sponsored by the Commission on Dental Accreditation of the
 2-35 American Dental Association at an accredited dental or dental
 2-36 hygiene school and who acts in strict conformity with state law
 2-37 regulating the practice of dental hygiene, except that supervision
 2-38 may be provided by a demonstrator or teacher who is a dentist member
 2-39 of the program;

2-40 (16) a dentist who is not licensed in this state and
 2-41 who is taking the dental clinical examination offered [~~by the~~
 2-42 ~~Western Regional Examining Board~~] in this state by an examining
 2-43 body designated by the board;

2-44 (17) a dental hygienist who is not licensed in this
 2-45 state and who is taking the dental hygiene clinical examination
 2-46 offered [~~by the Western Regional Examining Board~~] in this state by
 2-47 an examining body designated by the board if participation is in
 2-48 strict conformity with state law regulating the practice of dental
 2-49 hygiene, except that supervision may be provided by a dentist whose
 2-50 services are secured by the examining body [~~Western Regional~~
 2-51 ~~Examining Board~~];

2-52 (18) a dentist whose license is in retired status or
 2-53 who is licensed in another state and is attending a continuing
 2-54 education clinical program offered at a dental or dental hygiene
 2-55 school accredited by the Commission on Dental Accreditation of the
 2-56 American Dental Association; or

2-57 (19) a dental hygienist whose dental hygienist license
 2-58 is in retired status or who is licensed in another state and is
 2-59 attending a continuing education clinical program offered at a
 2-60 dental or dental hygiene school accredited by the Commission on
 2-61 Dental Accreditation of the American Dental Association if tasks
 2-62 are performed in strict conformity with state law regulating the
 2-63 practice of dental hygiene, except that supervision may be provided
 2-64 by a dentist member of the program.

2-65 SECTION 2. Subsection (d), Section 255.006, Occupations
 2-66 Code, is amended to read as follows:

2-67 (d) The board shall adopt rules concerning the
 2-68 investigation of a complaint filed with the board. The rules
 2-69 adopted under this subsection must:

3-1 (1) distinguish between categories of complaints;
 3-2 (2) ensure that a complaint is not dismissed without
 3-3 appropriate consideration;

3-4 (3) require that the board be advised of a complaint
 3-5 that is dismissed and that a letter be sent to the person who filed
 3-6 the complaint explaining the action taken on the dismissed
 3-7 complaint;

3-8 (4) ensure that the person who filed the complaint has
 3-9 an opportunity to explain the allegations made in the complaint;

3-10 (5) require that investigators used by the board be
 3-11 state employees; and

3-12 (6) establish procedures by which a board employee may
 3-13 dismiss a complaint if the investigation does not reveal a
 3-14 violation[~~, and~~

3-15 [~~(7) establish procedures by which a board employee
 3-16 may expunge from the records of the board a complaint dismissed
 3-17 under Subdivision (6) if the employee determines the complaint to
 3-18 have been groundless].~~

3-19 SECTION 3. Section 256.103, Occupations Code, is amended by
 3-20 adding Subsection (c) to read as follows:

3-21 (c) A person may practice without displaying the person's
 3-22 current registration certificate as required by Subsection (a) for
 3-23 not more than 30 days after the date the person receives from the
 3-24 board written confirmation that the person's original license was
 3-25 issued.

3-26 SECTION 4. Subsection (b), Section 257.002, Occupations
 3-27 Code, is amended to read as follows:

3-28 (b) A person who is otherwise eligible to renew a license
 3-29 may renew an unexpired license by paying the required renewal fee to
 3-30 the board not later than the 10th day after [before] the expiration
 3-31 date of the license. A person who [whose license] has not renewed
 3-32 the person's license by the date required by this subsection
 3-33 [expired] may not engage in activities that require a license until
 3-34 the license has been renewed.

3-35 SECTION 5. Subsections (b) and (c), Section 263.004,
 3-36 Occupations Code, are amended to read as follows:

3-37 (b) The board may not temporarily suspend a license or
 3-38 permit under this section without notice or hearing unless [if] at
 3-39 the time of the temporary suspension the board or the executive
 3-40 committee requests the State Office of Administrative Hearings to
 3-41 set a date for a hearing on the temporary suspension.

3-42 (c) The State Office of Administrative Hearings shall hold a
 3-43 hearing not later than the 30th [14th] day after the date the
 3-44 license or permit is suspended unless the license or permit holder
 3-45 requests a continuance. The State Office of Administrative
 3-46 Hearings shall hold a second hearing on the suspension and on any
 3-47 other action to be taken against the license or permit holder not
 3-48 later than the 60th day after:

3-49 (1) the date the license or permit is temporarily
 3-50 suspended; or

3-51 (2) the date specified in the continuance requested by
 3-52 the license or permit holder.

3-53 SECTION 6. Subsections (a) and (b), Section 263.006,
 3-54 Occupations Code, are amended to read as follows:

3-55 (a) The board shall suspend a license holder's license
 3-56 issued under this subtitle on proof [if it is determined at an
 3-57 administrative hearing] that the person has been:

3-58 (1) initially convicted of:

3-59 (A) a felony;

3-60 (B) a misdemeanor under Chapter 22, Penal Code,
 3-61 other than a misdemeanor punishable by fine only;

3-62 (C) a misdemeanor on conviction of which a
 3-63 defendant is required to register as a sex offender under Chapter
 3-64 62, Code of Criminal Procedure;

3-65 (D) a misdemeanor under Section 25.07, Penal
 3-66 Code; or

3-67 (E) a misdemeanor under Section 25.071, Penal

3-68 Code; or

3-69 (2) subject to an initial finding by the trier of fact

4-1 of guilt of a felony under:

4-2 (A) Chapter 481 or 483, Health and Safety Code;

4-3 (B) Section 485.033, Health and Safety Code; or

4-4 (C) the Comprehensive Drug Abuse Prevention and

4-5 Control Act of 1970 (21 U.S.C. Section 801 et seq.) [~~convicted of a~~

4-6 ~~felony under Chapter 481 or 483, Health and Safety Code, or Section~~

4-7 ~~485.033, Health and Safety Code].~~

4-8 (b) On final conviction for an offense described by

4-9 Subsection (a), the [The] board shall revoke the person's license

4-10 [on the person's final conviction].

4-11 SECTION 7. Section 264.151, Occupations Code, is amended by

4-12 adding Subsection (f) to read as follows:

4-13 (f) Venue for the prosecution of an offense under this

4-14 section is in Travis County or in the county in which the offense

4-15 occurred.

4-16 SECTION 8. Section 266.303, Occupations Code, is amended by

4-17 adding Subsection (d) to read as follows:

4-18 (d) Venue for the prosecution of an offense under this

4-19 section is in Travis County or in the county in which the offense

4-20 occurred.

4-21 SECTION 9. Subsection (d-2), Section 255.006, Occupations

4-22 Code, is repealed.

4-23 SECTION 10. (a) Section 256.103, Occupations Code, as

4-24 amended by this Act, applies only to a person licensed on or after

4-25 the effective date of this Act. A person licensed before that date

4-26 is governed by the law in effect immediately before the effective

4-27 date of this Act, and the former law is continued in effect for that

4-28 purpose.

4-29 (b) Section 263.006, Occupations Code, as amended by this

4-30 Act, applies only to a person who is initially convicted of an

4-31 offense on or after the effective date of this Act. A person

4-32 initially convicted of an offense before that date is governed by

4-33 the law in effect on the date the conviction occurred, and the

4-34 former law is continued in effect for that purpose.

4-35 (c) Section 257.002, Occupations Code, as amended by this

4-36 Act, applies only to a license that expires on or after the

4-37 effective date of this Act. A license that expires before that date

4-38 is governed by the law in effect on the date the license expired,

4-39 and the former law is continued in effect for that purpose.

4-40 (d) Section 263.004, Occupations Code, as amended by this

4-41 Act, applies only to a license or permit suspended on or after the

4-42 effective date of this Act. A license or permit suspended before

4-43 that date is governed by the law in effect on the date the license or

4-44 permit was suspended, and the former law is continued in effect for

4-45 that purpose.

4-46 (e) Sections 264.151 and 266.303, Occupations Code, as

4-47 amended by this Act, apply only to an offense committed on or after

4-48 the effective date of this Act. For purposes of this subsection, an

4-49 offense is committed before the effective date of this Act if any

4-50 element of the offense occurs before that date. An offense

4-51 committed before the effective date of this Act is covered by the

4-52 law in effect when the offense was committed, and the former law is

4-53 continued in effect for that purpose.

4-54 SECTION 11. This Act takes effect September 1, 2005.

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