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H.B. No. 3670

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of the practice of dental assistants,
including the delegation of certain dental acts.

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

SECTION 1. Section 258.002(a), Occupations Code, is amended
to read as follows:

(a) A licensed dentist may delegate to a qualified and
trained dental assistant acting under the dentist's general or
direct supervision any dental act that a reasonable and prudent
dentist would find is within the scope of sound dental judgment to
delegate if:

(1) in the opinion of the delegating dentist, the act:

(A) can be properly and safely performed by the
person to whom the dental act is delegated; and

(B) is performed in a customary manner and is not
in violation of this subtitle or any other statute; ~~and~~

(2) the person to whom the dental act is delegated does
not represent to the public that the person is authorized to
practice dentistry; and

(3) the person to whom the dental act is delegated
holds the appropriate certificate, if a certificate is required to
perform the act.

SECTION 2. Chapter 265, Occupations Code, is amended by
adding Section 265.0001 to read as follows:

1 Sec. 265.0001. DEFINITIONS. In this chapter:

2 (1) "Coronal polishing" means the removal of plaque
3 and extrinsic stain from exposed natural and restored tooth
4 surfaces using an appropriate rotary instrument with rubber cup or
5 brush and polishing agent, including the use of a toothbrush.

6 (2) "Interim treatment of a minor emergency dental
7 condition" means treatment of a condition that:

8 (A) arises unexpectedly;

9 (B) causes pain or discomfort to the patient;

10 (C) is considered reversible;

11 (D) does not require cutting hard or soft tissue;

12 and

13 (E) in the opinion of the treating dentist, may
14 be performed by a properly trained dental assistant.

15 SECTION 3. Section 265.002, Occupations Code, is amended to
16 read as follows:

17 Sec. 265.002. SUPERVISION, DIRECTION, AND RESPONSIBILITY.

18 (a) In this subtitle, a dental assistant is under the direct
19 supervision, direction, and responsibility of a dentist if the
20 dentist:

21 (1) employs the dental assistant or is in charge of the
22 dental assistant; and

23 (2) is physically present in the dental office when
24 the dental assistant performs a delegated dental act.

25 (b) For purposes of Subsection (a)(2), physical presence
26 does not require that the supervising dentist be in the treatment
27 room when the dental assistant performs the service as long as the

1 dentist is in the dental office.

2 (c) In this subtitle, a dental assistant is under the
3 general supervision, direction, and responsibility of a dentist if
4 the dentist:

5 (1) employs the dental assistant or is in charge of the
6 dental assistant; and

7 (2) is responsible for supervising the services to be
8 performed by the dental assistant.

9 SECTION 4. Section 265.003, Occupations Code, is amended to
10 read as follows:

11 Sec. 265.003. PERMITTED DUTIES. (a) A dental assistant who
12 is not professionally licensed may~~[+]~~

13 ~~[(1)]~~ be employed by and work in the office of a
14 licensed and practicing dentist~~[+]~~ and

15 ~~[(2)]~~ perform one or more delegated dental acts under:

16 (1) the direct supervision, direction, and
17 responsibility of the dentist, including:

18 (A) the application of a pit and fissure sealant;

19 (B) coronal polishing, if the dental assistant
20 holds a certificate under Section 265.006; and

21 (C) the application of fluoride varnish; or

22 (2) the general supervision, direction, and
23 responsibility of the dentist, limited to:

24 (A) the making of dental x-rays in compliance
25 with Section 265.005; and

26 (B) the provision of interim treatment of a minor
27 emergency dental condition to an existing patient of the treating

1 dentist.

2 (a-1) A treating dentist who delegates the provision of
3 interim treatment of a minor emergency dental condition to a dental
4 assistant under Subsection (a)(2)(B) shall:

5 (1) delegate the procedure orally or in writing before
6 the dental assistant performs the procedure;

7 (2) retain responsibility for the procedure; and

8 (3) schedule a follow-up appointment with the patient
9 within a reasonable time.

10 (b) A dental assistant who applies ~~[may apply]~~ a pit and
11 fissure sealant under Subsection (a) may cleanse the occlusal and
12 smooth surfaces of the teeth immediately before and for the sole
13 purpose of preparing the tooth area for the placement of the pit and
14 fissure sealant or orthodontic bonding resin. A procedure
15 performed by a dental assistant under this subsection may not be
16 billed as a prophylaxis ~~[only if:~~

17 ~~[(1) the assistant is certified to apply a pit and~~
18 ~~fissure sealant under Section 265.004; and~~

19 ~~[(2) the dentist described by Subsection (a):~~

20 ~~[(A) is a Medicaid provider; or~~

21 ~~[(B) practices in an area determined to be~~
22 ~~underserved by the Texas Department of Health].~~

23 SECTION 5. Section 265.004(b), Occupations Code, is amended
24 to read as follows:

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

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

1 (2) have successfully completed a minimum of eight
2 ~~[16]~~ hours of clinical and didactic education in pit and fissure
3 sealants taken through an accredited dental hygiene program or a
4 dental assisting program accredited by the Commission on Dental
5 Accreditation of the American Dental Association and approved by
6 the board.

7 SECTION 6. Chapter 265, Occupations Code, is amended by
8 adding Section 265.006 to read as follows:

9 Sec. 265.006. CORONAL POLISHING CERTIFICATE. (a) The
10 board shall issue a coronal polishing certificate to a dental
11 assistant who qualifies under this section.

12 (b) To qualify for a coronal polishing certificate, an
13 applicant must have at least two years' experience as a dental
14 assistant and:

15 (1) have successfully completed at least eight hours
16 of clinical and didactic education in coronal polishing taken
17 through a dental assisting program accredited by the Commission on
18 Dental Accreditation of the American Dental Association and
19 approved by the board that includes courses on:

20 (A) oral anatomy and tooth morphology relating to
21 retention of plaque and stain;

22 (B) indications, contraindications, and
23 complications of coronal polishing;

24 (C) principles of coronal polishing, including
25 armamentarium, operator and patient positioning, technique, and
26 polishing agents;

27 (D) infection control procedures;

1 (E) polishing coronal surfaces of teeth; and

2 (F) jurisprudence relating to coronal polishing;

3 or

4 (2) present proof to the board that the assistant has:

5 (A) graduated from a dental assisting program
6 accredited by the Commission on Dental Accreditation of the
7 American Dental Association and approved by the board that includes
8 specific didactic course work and clinical training in coronal
9 polishing; or

10 (B) received certification of completion of
11 requirements specified by the Dental Assisting National Board and
12 approved by the board.

13 SECTION 7. Chapter 265, Occupations Code, is amended by
14 adding Section 265.007 to read as follows:

15 Sec. 265.007. CONTINUING EDUCATION FOR CERTIFICATE
16 HOLDERS. (a) To renew a certificate issued under this chapter, a
17 dental assistant must complete six hours of continuing education
18 each year in areas covering dental assistant duties.

19 (b) A dental assistant holding two or more certificates
20 authorized by this chapter must complete 12 hours of continuing
21 education each year to renew all of the certificates held by the
22 assistant.

23 (c) A dental assistant may fulfill continuing education
24 requirements through board-approved self-study, interactive
25 computer courses, or lecture courses.

26 SECTION 8. The following sections of the Occupations Code
27 are repealed:

- 1 (1) Section 258.002(b);
- 2 (2) Section 265.004(d); and
- 3 (3) Sections 265.005(j) and (k).

4 SECTION 9. The change in law made by this Act to Section
5 265.004(b), Occupations Code, applies only to an application for a
6 pit and fissure sealant certificate under that section that is
7 filed on or after the effective date of this Act. An application
8 filed before that date is governed by the law in effect on the date
9 the application was filed, and the former law is continued in effect
10 for that purpose.

11 SECTION 10. The change in law made by this Act by the
12 enactment of Section 265.007, Occupations Code, applies to a
13 certificate issued under Chapter 265, Occupations Code, that
14 expires on or after the effective date of this Act. A holder of a
15 certificate issued under that chapter that expires before the
16 effective date of this Act may renew that certificate by complying
17 with the law in effect at the time the certificate was issued, and
18 the former law is continued in effect for that purpose.

19 SECTION 11. This Act takes effect September 1, 2009.