

By: Hopson, Marquez, Patrick, Edwards

H.B. No. 3670

Substitute the following for H.B. No. 3670:

By: Davis of Harris

C.S.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; 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 12 [~~16~~]  
2 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 board  
10 shall issue a coronal polishing certificate to a dental assistant  
11 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 12 hours of  
16 clinical and didactic education in coronal polishing taken through  
17 a dental assisting program accredited by the Commission on Dental  
18 Accreditation of the American Dental Association and approved by  
19 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.