

By: Hopson

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, Occupations Code, is amended by
amending Subsection (b) and adding Subsection (d) to read as
follows:

(b) A licensed dentist may delegate to a qualified and
trained dental assistant acting under the dentist's general
supervision any dental act designated by this chapter for
delegation under general supervision 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 [~~under Subsection (a), the application of a
pit and fissure sealant to a dental assistant if the dentist is a
Medicaid provider or the dentist practices in an area determined to
be underserved by the Texas Department of Health. Cleansing of the
occlusal and smooth surfaces of the teeth by a dental assistant is
allowed immediately prior to and for the sole purpose of preparing~~

1 ~~the tooth area for the placement of pit and fissure sealants or~~
2 ~~orthodontic bonding resin, and shall not be billed as a~~
3 ~~prophylaxis].~~

4 (d) If a dental assistant is required to hold a certificate
5 under this subtitle to perform a dental act, the dental assistant
6 must hold the certificate before the act is delegated.

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

9 Sec. 265.0001. DEFINITIONS. In this chapter:

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

14 (2) "Interim treatment of a minor emergency dental
15 condition" means treatment of a condition that:

16 (A) arises unexpectedly;

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

18 (C) is considered reversible; and

19 (D) does not require cutting hard or soft tissue.

20 SECTION 3. Section 265.002, Occupations Code, is amended to
21 read as follows:

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

23 (a) In this subtitle, a dental assistant is under the direct
24 supervision, direction, and responsibility of a dentist if the
25 dentist:

26 (1) employs the dental assistant or is in charge of the
27 dental assistant; and

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

3 (b) In this subtitle, a dental assistant is under the
4 general supervision of a dentist if the dentist is responsible for
5 monitoring the services to be performed by the dental assistant.
6 The dentist is not required to be physically present in the dental
7 office when the dental assistant performs a delegated dental act
8 under general supervision.

9 SECTION 4. Sections 265.003, Occupations Code, is amended
10 to 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 licensed
14 and practicing dentist; and

15 (2) perform one or more delegated dental acts under
16 the direct supervision, direction, and responsibility of the
17 dentist, including:

18 (A) [the] application of a pit and fissure
19 sealant, if the dental assistant is certified to apply a pit and
20 fissure sealant under Section 265.004;

21 (B) coronal polishing, if the dental assistant is
22 certified to perform coronal polishing under Section 265.006; and

23 (C) application of fluoride varnish.

24 (b) A dental assistant who is not professionally licensed
25 may:

26 (1) be employed by and work in the office of a licensed
27 and practicing dentist; and

1 (2) perform the following delegated dental acts under
2 the general supervision, direction, and responsibility of the
3 dentist:

4 (A) making dental x-rays in compliance with
5 Section 265.005; or

6 (B) providing interim treatment of a minor
7 emergency dental condition to an existing patient of the treating
8 dentist, if the treating dentist delegates the procedure orally or
9 in writing before the dental assistant performs the procedure ~~[may~~
10 ~~apply a pit and fissure sealant under Subsection (a) only if:~~

11 ~~(1) the assistant is certified to apply a pit and~~
12 ~~fissure sealant under Section 265.004; and~~

13 ~~(2) the dentist described by Subsection (a):~~

14 ~~(A) is a Medicaid provider; or~~

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

17 (c) The dental acts permitted under this section are not
18 considered to be the practice of dental hygiene as described by
19 Section 262.002.

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

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

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

25 (2) have successfully completed a minimum of eight
26 ~~[16]~~ hours of clinical and didactic education in pit and fissure
27 sealants taken through an accredited dental hygiene program or a

1 dental assisting program accredited by the Commission on Dental
2 Accreditation of the American Dental Association and approved by
3 the board.

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

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

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

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

17 (A) oral anatomy and tooth morphology relating to
18 retention of plaque and stain;

19 (B) indications, contraindications, and
20 complications of coronal polishing;

21 (C) principles of coronal polishing including
22 armamentarium, operator and patient positioning, technique and
23 polishing agents;

24 (D) infection control procedures;

25 (E) polishing coronal surfaces of teeth; and

26 (F) jurisprudence related to coronal polishing;

27 or

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

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

7 (B) received certification of completion of the
8 requirements specified by the Dental Assisting National Board and
9 approved by the board.

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

12 Sec. 265.007. CONTINUING EDUCATION FOR CERTIFICATE
13 HOLDERS. (a) To renew a certificate issued under this chapter, a
14 dental assistant must complete at least six hours, but not more than
15 12 hours, of continuing education each year in areas covering
16 dental assistant duties. A dental assistant holding more than one
17 certificate authorized by this chapter is not required to complete
18 more than the minimum required hours for one certificate.

19 (b) A dental assistant may fulfill continuing education
20 requirements through board-approved self-study, interactive
21 computer courses, or lecture courses.

22 SECTION 8. The following sections of the Occupations Code
23 are repealed:

- 24 (1) Section 265.004(d); and
25 (2) Sections 265.005(j) and (k).

26 SECTION 9. The change in law made by this Act to Section
27 265.004(b), Occupations Code, applies only to an application for a

1 pit and fissure sealant certificate under that section that is
2 filed on or after the effective date of this Act. An application
3 filed before that date is governed by the law in effect on the date
4 the application was filed, and the former law is continued in effect
5 for that purpose.

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

14 (b) The State Board of Dental Examiners shall adopt rules
15 under Section 265.007, Occupations Code, as added by this Act, not
16 later than January 1, 2010.

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