

By: Nelson

S.B. No. 887

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the licensing and regulation of dentists, dental  
3 hygienists, dental assistants, and dental laboratories; providing  
4 penalties.

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

6 SECTION 1. Subsection (b), Section 252.002, Occupations  
7 Code, is amended to read as follows:

8 (b) A person is not eligible for appointment as a dentist or  
9 dental hygienist member of the board if the person[+

10 ~~[(1) is a member of the faculty of a dental or dental~~  
11 ~~hygiene school or of the dental or dental hygiene department of a~~  
12 ~~medical school; or~~

13 ~~[(2)]~~ has a financial interest in any dental, dental  
14 hygiene, or medical school.

15 SECTION 2. Subsection (b), Section 252.004, Occupations  
16 Code, is amended to read as follows:

17 (b) A member may not serve more than two consecutive full  
18 terms [only one six-year term]. The completion of the unexpired  
19 portion of a term does not constitute service for a full term for  
20 purposes of this subsection.

21 SECTION 3. Subsection (a), Section 256.105, Occupations  
22 Code, is amended to read as follows:

23 (a) Each dentist, dental hygienist, and owner or manager of  
24 a dental laboratory licensed or registered with the board shall

1 timely notify the board of:

2 (1) any change of address of the person's place of  
3 business; ~~and~~

4 (2) any change of employers for the dentist or dental  
5 hygienist and any change of owners or managers for the dental  
6 laboratory; and

7 (3) any change of the person's mailing address.

8 SECTION 4. Section 257.001, Occupations Code, is amended by  
9 adding Subsection (d) to read as follows:

10 (d) An initial license issued under this subtitle expires on  
11 the 30th day after the date the license is issued if the holder of  
12 the license fails to pay the required license fee on or before that  
13 date.

14 SECTION 5. Subsection (b), Section 262.054, Occupations  
15 Code, is amended to read as follows:

16 (b) A member may not serve more than two consecutive full  
17 terms ~~[only one six-year term]~~. The completion of the unexpired  
18 portion of a term does not constitute service for a full term for  
19 purposes of this subsection.

20 SECTION 6. Subchapter A, Chapter 264, Occupations Code, is  
21 amended by adding Section 264.0115 to read as follows:

22 Sec. 264.0115. ALTERNATIVE INFORMAL ASSESSMENT OF  
23 ADMINISTRATIVE PENALTY. (a) The board by rule may establish  
24 procedures for the alternative informal assessment of  
25 administrative penalties for violations of this subtitle that do  
26 not involve the provision of direct patient care by a person  
27 licensed or regulated under this subtitle.

1       (b) A penalty assessed under this section may consist only  
2 of a monetary penalty that does not exceed \$1,000 for each  
3 violation. The total amount of penalties assessed against a person  
4 under this section may not exceed \$3,000 in a calendar year. If the  
5 board establishes penalties under this section, the board by rule  
6 shall adopt a standardized schedule of the penalties.

7       (c) The assessment of a penalty under this section is not  
8 valid unless the person against whom the penalty is assessed  
9 receives a notice of violation that contains at a minimum:

10           (1) a clear statement of the violation, including a  
11 citation to the relevant section of this subtitle;

12           (2) the amount of the penalty assessed for each  
13 violation; and

14           (3) a statement that the person may either pay the  
15 penalty or appeal the penalty in writing.

16       (d) If the board establishes penalties under this section,  
17 the board shall establish procedures for categorizing the  
18 penalties.

19       (e) A person who is assessed an administrative penalty under  
20 this section is entitled to a hearing under Chapter 2001,  
21 Government Code.

22       SECTION 7. Section 264.151, Occupations Code, is amended to  
23 read as follows:

24       Sec. 264.151. CRIMINAL PENALTIES [~~PENALTY~~]. (a) A person  
25 commits an offense if the person violates Section 256.001 [~~this~~  
26 ~~subtitle~~]. An offense under this subsection is a felony of the  
27 third degree. Each day of a violation is a separate offense.

1           (b) A person commits an offense if the person violates  
2 Section 256.052. An offense under this subsection [~~section~~] is a  
3 Class A misdemeanor. If it is shown at the trial of an offense under  
4 this subsection that the defendant has previously been convicted of  
5 an offense for a violation of Section 256.052, the offense is a  
6 felony of the third degree.

7           (c) A person commits an offense if the person violates  
8 Subchapter D, Chapter 262. An offense under this subsection is a  
9 Class A misdemeanor. Each day of a violation is a separate offense  
10 [~~A violation under this section does not include a violation to~~  
11 ~~which Section 262.203 applies].~~

12           (d) A person commits an offense if the person is a dentist or  
13 dental hygienist and violates an injunction or cease and desist  
14 order issued under Subchapter B. An offense under this subsection  
15 is a Class A misdemeanor. If it is shown at the trial of an  
16 offense under this subsection [~~section~~] that the defendant was  
17 previously convicted of an offense for a violation of an injunction  
18 or cease and desist order issued under Subchapter B [~~under this~~  
19 ~~section or if the offense involves practicing without an~~  
20 ~~appropriate board license)], the offense is a felony of the third  
21 degree.~~

22           [~~(e)~~] Each day of a violation is a separate offense.

23           SECTION 8. Section 265.005, Occupations Code, is amended by  
24 adding Subsections (m), (n), and (o) to read as follows:

25           (m) A dental assistant who holds a certificate of  
26 registration issued under this section shall display the person's  
27 current certificate of registration in each office in which the

1 person makes dental x-rays. If the person makes dental x-rays at  
2 more than one location, the person may display a duplicate of the  
3 original registration certificate obtained from the board on  
4 payment of a duplicate certificate fee set by the board.

5 (n) A dental assistant who holds a certificate of  
6 registration issued under this section shall timely notify the  
7 board of:

8 (1) any change of address of the person's place of  
9 business;

10 (2) any change of employers; and

11 (3) any change of the person's mailing address.

12 (o) An initial certificate of registration issued under  
13 this section expires on the 30th day after the date the certificate  
14 is issued if the holder of the certificate fails to pay the required  
15 certificate fee on or before that date.

16 SECTION 9. Subsection (a), Section 266.101, Occupations  
17 Code, is amended to read as follows:

18 (a) The council shall review each application for  
19 registration or renewal of registration to determine if the  
20 applicant meets the requirements of this chapter. [~~The council~~  
21 ~~shall provide to the board a list of applicants eligible for~~  
22 ~~registration.~~]

23 SECTION 10. Subchapter D, Chapter 266, Occupations Code, is  
24 amended by adding Section 266.155 to read as follows:

25 Sec. 266.155. INITIAL REGISTRATION CERTIFICATE FEE. An  
26 initial registration certificate issued under this subchapter  
27 expires on the 30th day after the date the registration certificate

1 is issued if the holder of the registration certificate fails to pay  
2 the required registration certificate fee on or before that date.

3 SECTION 11. Section 266.303, Occupations Code, is amended  
4 by amending Subsection (c) and adding Subsections (d) and (e) to  
5 read as follows:

6 (c) An offense for a violation of Section 266.301(c) [~~or~~  
7 ~~(d)~~] is a Class C misdemeanor. If it is shown on the trial of an  
8 offense under this section that the defendant has previously been  
9 convicted for an offense for a violation of Section 266.301(c)  
10 [under this subsection], the offense is a Class A misdemeanor.

11 (d) An offense for a violation of Section 266.301(d) is a  
12 Class B misdemeanor. If it is shown on the trial of an offense under  
13 this section that the defendant has previously been convicted of an  
14 offense for a violation of Section 266.301(d), the offense is a  
15 Class A misdemeanor.

16 (e) Each day of a violation is a separate offense.

17 SECTION 12. Section 262.203, Occupations Code, is repealed.

18 SECTION 13. (a) The changes in law made by this Act by the  
19 repeal of Section 262.203, Occupations Code, and the amendment of  
20 Sections 264.151 and 266.303, Occupations Code, apply only to an  
21 offense committed on or after the effective date of this Act. For  
22 purposes of this section, an offense is committed before the  
23 effective date of this Act if any element of the offense occurs  
24 before that date.

25 (b) An offense committed before the effective date of this  
26 Act is covered by the law in effect when the offense was committed,  
27 and the former law is continued in effect for that purpose.

1           SECTION 14. The changes in law made by this Act by the  
2 enactment of Subsection (d), Section 257.001, Subsection (o),  
3 Section 265.005, and Section 266.155, Occupations Code, apply only  
4 to a license, certificate of registration, or registration  
5 certificate initially issued on or after the effective date of this  
6 Act. A license, certificate of registration, or registration  
7 certificate initially issued before the effective date of this Act  
8 is governed by the law in effect on the date the license,  
9 certificate of registration, or registration certificate is  
10 issued, and the former law is continued in effect for that purpose.

11           SECTION 15. This Act takes effect September 1, 2009.