

1-1 By: Nelson S.B. No. 887  
1-2 (In the Senate - Filed February 17, 2009; March 9, 2009,  
1-3 read first time and referred to Committee on Health and Human  
1-4 Services; March 30, 2009, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;  
1-6 March 30, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 887 By: Nichols

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the licensing and regulation of dentists, dental  
1-11 hygienists, dental assistants, and dental laboratories; providing  
1-12 penalties.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subsection (b), Section 252.002, Occupations  
1-15 Code, is amended to read as follows:

1-16 (b) A person is not eligible for appointment as a dentist or  
1-17 dental hygienist member of the board if the person~~+~~

1-18 ~~[(1) is a member of the faculty of a dental or dental~~  
1-19 ~~hygiene school or of the dental or dental hygiene department of a~~  
1-20 ~~medical school; or~~

1-21 ~~[(2)]~~ has a financial interest in any dental, dental  
1-22 hygiene, or medical school.

1-23 SECTION 2. Subsection (b), Section 252.004, Occupations  
1-24 Code, is amended to read as follows:

1-25 (b) A member may not serve more than two consecutive full  
1-26 terms [only one six-year term]. The completion of the unexpired  
1-27 portion of a term does not constitute service for a full term for  
1-28 purposes of this subsection.

1-29 SECTION 3. Subsection (a), Section 256.105, Occupations  
1-30 Code, is amended to read as follows:

1-31 (a) Each dentist, dental hygienist, and owner or manager of  
1-32 a dental laboratory licensed or registered with the board shall  
1-33 timely notify the board of:

1-34 (1) any change of address of the person's place of  
1-35 business; ~~and~~

1-36 (2) any change of employers for the dentist or dental  
1-37 hygienist and any change of owners or managers for the dental  
1-38 laboratory; and

1-39 (3) any change of the person's mailing address.

1-40 SECTION 4. Section 257.001, Occupations Code, is amended by  
1-41 adding Subsection (d) to read as follows:

1-42 (d) An initial license issued under this subtitle expires on  
1-43 the 30th day after the date the license is issued if the holder of  
1-44 the license fails to pay the required license fee on or before that  
1-45 date.

1-46 SECTION 5. Subsection (b), Section 262.054, Occupations  
1-47 Code, is amended to read as follows:

1-48 (b) A member may not serve more than two consecutive full  
1-49 terms [only one six-year term]. The completion of the unexpired  
1-50 portion of a term does not constitute service for a full term for  
1-51 purposes of this subsection.

1-52 SECTION 6. Subchapter A, Chapter 264, Occupations Code, is  
1-53 amended by adding Section 264.0115 to read as follows:

1-54 Sec. 264.0115. ALTERNATIVE INFORMAL ASSESSMENT OF  
1-55 ADMINISTRATIVE PENALTY. (a) The board by rule may establish  
1-56 procedures for the alternative informal assessment of  
1-57 administrative penalties for violations of this subtitle that do  
1-58 not involve the provision of direct patient care by a person  
1-59 licensed or regulated under this subtitle.

1-60 (b) A penalty assessed under this section may consist only  
1-61 of a monetary penalty that does not exceed \$1,000 for each  
1-62 violation. The total amount of penalties assessed against a person  
1-63 under this section may not exceed \$3,000 in a calendar year. If the

2-1 board establishes penalties under this section, the board by rule  
 2-2 shall adopt a standardized schedule of the penalties.

2-3 (c) The assessment of a penalty under this section is not  
 2-4 valid unless the person against whom the penalty is assessed  
 2-5 receives a notice of violation that contains at a minimum:

2-6 (1) a clear statement of the violation, including a  
 2-7 citation to the relevant section of this subtitle;

2-8 (2) the amount of the penalty assessed for each  
 2-9 violation; and

2-10 (3) a statement that the person may either pay the  
 2-11 penalty or appeal the penalty in writing.

2-12 (d) If the board establishes penalties under this section,  
 2-13 the board shall establish procedures for categorizing the  
 2-14 penalties.

2-15 (e) A person who is assessed an administrative penalty under  
 2-16 this section is entitled to a hearing under Chapter 2001,  
 2-17 Government Code.

2-18 SECTION 7. Section 264.151, Occupations Code, is amended to  
 2-19 read as follows:

2-20 Sec. 264.151. CRIMINAL PENALTIES [~~PENALTY~~]. (a) A person  
 2-21 commits an offense if the person violates Section 256.001 [~~this~~  
 2-22 subtitle]. An offense under this subsection is a felony of the  
 2-23 third degree. Each day of a violation is a separate offense.

2-24 (b) A person commits an offense if the person violates  
 2-25 Section 256.052. An offense under this subsection [~~section~~] is a  
 2-26 Class A misdemeanor. If it is shown at the trial of an offense under  
 2-27 this subsection that the defendant has previously been convicted of  
 2-28 an offense for a violation of Section 256.052, the offense is a  
 2-29 felony of the third degree.

2-30 (c) A person commits an offense if the person violates  
 2-31 Subchapter D, Chapter 262. An offense under this subsection is a  
 2-32 Class A misdemeanor. Each day of a violation is a separate offense  
 2-33 [~~A violation under this section does not include a violation to~~  
 2-34 ~~which Section 262.203 applies].~~

2-35 (d) A person commits an offense if the person is a dentist or  
 2-36 dental hygienist and violates an injunction or cease and desist  
 2-37 order issued under Subchapter B. An offense under this subsection  
 2-38 is a Class A misdemeanor. If it is shown at the trial of an  
 2-39 offense under this subsection [~~section~~] that the defendant was  
 2-40 previously convicted of an offense for a violation of an injunction  
 2-41 or cease and desist order issued under Subchapter B [~~under this~~  
 2-42 ~~section or if the offense involves practicing without an~~  
 2-43 ~~appropriate board license], the offense is a felony of the third~~  
 2-44 degree.

2-45 [~~(e)~~] Each day of a violation is a separate offense.

2-46 SECTION 8. Section 265.005, Occupations Code, is amended by  
 2-47 adding Subsections (m), (n), and (o) to read as follows:

2-48 (m) A dental assistant who holds a certificate of  
 2-49 registration issued under this section shall display the person's  
 2-50 current certificate of registration in each office in which the  
 2-51 person makes dental x-rays. If the person makes dental x-rays at  
 2-52 more than one location, the person may display a duplicate of the  
 2-53 original registration certificate obtained from the board on  
 2-54 payment of a duplicate certificate fee set by the board.

2-55 (n) A dental assistant who holds a certificate of  
 2-56 registration issued under this section shall timely notify the  
 2-57 board of:

2-58 (1) any change of address of the person's place of  
 2-59 business;

2-60 (2) any change of employers; and

2-61 (3) any change of the person's mailing address.

2-62 (o) An initial certificate of registration issued under  
 2-63 this section expires on the 30th day after the date the certificate  
 2-64 is issued if the holder of the certificate fails to pay the required  
 2-65 certificate fee on or before that date.

2-66 SECTION 9. Subsection (a), Section 266.101, Occupations  
 2-67 Code, is amended to read as follows:

2-68 (a) The council shall review each application for  
 2-69 registration or renewal of registration to determine if the

3-1 applicant meets the requirements of this chapter. [~~The council~~  
3-2 ~~shall provide to the board a list of applicants eligible for~~  
3-3 ~~registration.]~~

3-4 SECTION 10. Subchapter D, Chapter 266, Occupations Code, is  
3-5 amended by adding Section 266.155 to read as follows:

3-6 Sec. 266.155. INITIAL REGISTRATION CERTIFICATE FEE. An  
3-7 initial registration certificate issued under this subchapter  
3-8 expires on the 30th day after the date the registration certificate  
3-9 is issued if the holder of the registration certificate fails to pay  
3-10 the required registration certificate fee on or before that date.

3-11 SECTION 11. Section 266.303, Occupations Code, is amended  
3-12 by amending Subsection (c) and adding Subsections (d) and (e) to  
3-13 read as follows:

3-14 (c) An offense for a violation of Section 266.301(c) [~~or~~  
3-15 ~~(d)]~~ is a Class C misdemeanor. If it is shown on the trial of an  
3-16 offense under this section that the defendant has previously been  
3-17 convicted for an offense for a violation of Section 266.301(c)  
3-18 [under this subsection], the offense is a Class A misdemeanor.

3-19 (d) An offense for a violation of Section 266.301(d) is a  
3-20 Class B misdemeanor. If it is shown on the trial of an offense under  
3-21 this section that the defendant has previously been convicted of an  
3-22 offense for a violation of Section 266.301(d), the offense is a  
3-23 Class A misdemeanor.

3-24 (e) Each day of a violation is a separate offense.

3-25 SECTION 12. Section 262.203, Occupations Code, is repealed.

3-26 SECTION 13. (a) The changes in law made by this Act by the  
3-27 repeal of Section 262.203, Occupations Code, and the amendment of  
3-28 Sections 264.151 and 266.303, Occupations Code, apply only to an  
3-29 offense committed on or after the effective date of this Act. For  
3-30 purposes of this section, an offense is committed before the  
3-31 effective date of this Act if any element of the offense occurs  
3-32 before that date.

3-33 (b) An offense committed before the effective date of this  
3-34 Act is covered by the law in effect when the offense was committed,  
3-35 and the former law is continued in effect for that purpose.

3-36 SECTION 14. The changes in law made by this Act by the  
3-37 enactment of Subsection (d), Section 257.001, Subsection (o),  
3-38 Section 265.005, and Section 266.155, Occupations Code, apply only  
3-39 to a license, certificate of registration, or registration  
3-40 certificate initially issued on or after the effective date of this  
3-41 Act. A license, certificate of registration, or registration  
3-42 certificate initially issued before the effective date of this Act  
3-43 is governed by the law in effect on the date the license,  
3-44 certificate of registration, or registration certificate is  
3-45 issued, and the former law is continued in effect for that purpose.

3-46 SECTION 15. This Act takes effect September 1, 2009.

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