

By: Schwertner, et al.  
(Burkett, Thompson of Harris, Raymond)

S.B. No. 313

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the State Board of  
Dental Examiners; imposing fees.

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

SECTION 1. Section 251.005, Occupations Code, is amended to  
read as follows:

Sec. 251.005. APPLICATION OF SUNSET ACT. The State Board of  
Dental Examiners is subject to Chapter 325, Government Code (Texas  
Sunset Act). Unless continued in existence as provided by that  
chapter, the board is abolished September 1, 2029 [~~2017~~].

SECTION 2. Section 252.001(a), Occupations Code, is amended  
to read as follows:

(a) The State Board of Dental Examiners consists of 11 [~~15~~]  
members appointed by the governor with the advice and consent of the  
senate as follows:

(1) six [~~eight~~] reputable dentist members who reside  
in this state and have been actively engaged in the practice of  
dentistry for at least the five years preceding appointment;

(2) three [~~two~~] reputable dental hygienist members who  
reside in this state and have been actively engaged in the practice  
of dental hygiene for at least the five years preceding  
appointment; and

(3) two [~~five~~] members who represent the public.

SECTION 3. Section 252.003, Occupations Code, is amended to

1 read as follows:

2 Sec. 252.003. MEMBERSHIP AND EMPLOYEE RESTRICTIONS.

3 (a) In this section, "Texas trade association" means a  
4 ~~[nonprofit,~~ cooperative~~]~~ and voluntarily joined statewide  
5 association of business or professional competitors in this state  
6 designed to assist its members and its industry or profession in  
7 dealing with mutual business or professional problems and in  
8 promoting their common interest.

9 (b) A person may not be a member of the board and may not be a  
10 board employee employed in a "bona fide executive, administrative,  
11 or professional capacity," as that phrase is used for purposes of  
12 establishing an exemption to the overtime provisions of the federal  
13 Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if:

14 (1) the person is an [An] officer, employee, or paid  
15 consultant of a Texas trade association in the field of health care;  
16 or

17 (2) the person's [may not be a member or employee of  
18 the board who is exempt from the state's position classification  
19 plan or is compensated at or above the amount prescribed by the  
20 General Appropriations Act for B9 of the position classification  
21 salary schedule.

22 ~~[(c) A person who is the]~~ spouse is ~~[of]~~ an officer,  
23 manager, or paid consultant of a Texas trade association in the  
24 field of health care ~~[may not be a board member and may not be a~~  
25 ~~board employee who is exempt from the state's position~~  
26 ~~classification plan or is compensated at or above the amount~~  
27 ~~prescribed by the General Appropriations Act for B9 of the position~~

~~classification salary schedule~~].

(c) ~~[(d)]~~ A person may not serve as a member of the board or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the board.

SECTION 4. Section 252.010, Occupations Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) The training program must provide the person with information regarding:

(1) the law governing board operations ~~[this subtitle];~~

(2) the programs, ~~[operated by the board,~~  
~~[(3) the role and]~~ functions, ~~[of the board,~~  
~~[(4) the]~~ rules, and ~~[of the board, with an emphasis on~~  
~~the rules that relate to disciplinary and investigatory authority,~~  
~~[(5) the current]~~ budget of ~~[for]~~ the board;

(3) the scope of and limitations on the rulemaking authority of the board;

(4) the types of board rules, interpretations, and enforcement actions that may implicate federal antitrust law by limiting competition or impacting prices charged by persons engaged in a profession or business the board regulates, including rules, interpretations, and enforcement actions that:

(A) regulate the scope of practice of persons in a profession or business the board regulates;

1                   (B) restrict advertising by persons in a  
2 profession or business the board regulates;

3                   (C) affect the price of goods or services  
4 provided by persons in a profession or business the board  
5 regulates; and

6                   (D) restrict participation in a profession or  
7 business the board regulates;

8                   (5) [~~(6)~~] the results of the most recent formal audit  
9 of the board;

10                  (6) [~~(7)~~] the requirements of:

11                   (A) laws relating to [the] open meetings [law],  
12 [Chapter 551, Government Code,

13                   [~~(B)~~the] public information [law], [Chapter  
14 552, Government Code,

15                   [~~(C)~~the] administrative procedure [law],  
16 [Chapter 2001, Government Code,] and disclosure of conflicts

17                   [~~(D)~~other laws relating to public officials,  
18 including conflict] of interest [laws]; and

19                   (B) other laws applicable to members of the board  
20 in performing their duties; and

21                  (7) [~~(8)~~] any applicable ethics policies adopted by  
22 the board or the Texas Ethics Commission.

23                  (d) The executive director shall create a training manual  
24 that includes the information required by Subsection (b). The  
25 executive director shall distribute a copy of the training manual  
26 annually to each board member. On receipt of the training manual,  
27 each board member shall sign and submit to the executive director a

1 statement acknowledging receipt of the training manual.

2 SECTION 5. Chapter 254, Occupations Code, is amended by  
3 adding Section 254.0065 to read as follows:

4 Sec. 254.0065. CONFIDENTIALITY OF CERTAIN INFORMATION  
5 REGARDING APPLICANT OR LICENSE HOLDER. (a) In this section,  
6 "license" has the meaning assigned by Section 263.0001.

7 (b) Except as provided by Subsection (c), all information,  
8 records, and proceedings of the board or an authorized agent of the  
9 board relating to the participation of an applicant for or holder of  
10 a license in a peer assistance program or the evaluation of an  
11 applicant or license holder under Section 263.0025 are confidential  
12 and not subject to disclosure under Chapter 552, Government Code.

13 (c) The board may disclose a disciplinary action taken  
14 against a license holder in the enforcement of Section  
15 263.002(a)(1), (7), or (11). The board may not disclose the nature  
16 of the impairment or condition that resulted in the board's action.

17 SECTION 6. Section 254.010(b), Occupations Code, is amended  
18 to read as follows:

19 (b) Rules adopted under this section must include  
20 procedures to:

21 (1) monitor for compliance a license holder who is  
22 ordered by the board to perform a certain act; ~~and~~

23 (2) identify and monitor each license holder who  
24 represents a risk to the public; and

25 (3) periodically review reports filed with the  
26 National Practitioner Data Bank for any report of disciplinary  
27 action taken against a license holder by another state that would

1 constitute grounds for disciplinary action under Section 263.002.

2 SECTION 7. Chapter 255, Occupations Code, is amended by  
3 adding Section 255.0055 to read as follows:

4 Sec. 255.0055. REQUIREMENTS FOR CERTAIN COMPLAINTS.

5 (a) In this section:

6 (1) "Anonymous complaint" means a complaint that lacks  
7 sufficient information to identify the source or the name of the  
8 person who filed the complaint.

9 (2) "Insurance agent" means a person licensed under  
10 Chapter 4054, Insurance Code.

11 (3) "Insurer" means an insurance company or other  
12 entity authorized to engage in the business of insurance under  
13 Subtitle C, Title 6, Insurance Code.

14 (4) "Third-party administrator" means a person  
15 required to have a certificate of authority under Chapter 4151,  
16 Insurance Code.

17 (b) The board may not accept anonymous complaints.

18 (c) Notwithstanding any confidentiality requirements under  
19 Chapter 552, Government Code, or this subtitle, a complaint filed  
20 with the board by an insurance agent, insurer, pharmaceutical  
21 company, or third-party administrator against a license holder must  
22 include the name and address of the insurance agent, insurer,  
23 pharmaceutical company, or third-party administrator filing the  
24 complaint. Not later than the 15th day after the date the complaint  
25 is filed with the board, the board shall notify the license holder  
26 who is the subject of the complaint of the name and address of the  
27 insurance agent, insurer, pharmaceutical company, or third-party

1 administrator who filed the complaint, unless the notice would  
2 jeopardize an investigation.

3 SECTION 8. Section 255.006(a), Occupations Code, is amended  
4 to read as follows:

5 (a) A complaint received under this chapter must be filed  
6 with and reviewed by the board to determine jurisdiction. If the  
7 board has jurisdiction, the board shall complete a preliminary  
8 investigation of the complaint not later than the 60th day after the  
9 date of receiving the complaint. The board shall first determine  
10 whether the person regulated under this subtitle who is the subject  
11 of the complaint [~~license holder~~] constitutes a continuing threat  
12 to the public welfare. On completion of the preliminary  
13 investigation, the board shall determine whether to officially  
14 proceed on the complaint. If the board fails to complete the  
15 preliminary investigation in the time required by this subsection,  
16 the board's official investigation of the complaint is considered  
17 to commence on that date.

18 SECTION 9. Section 256.002(a), Occupations Code, is amended  
19 to read as follows:

20 (a) An applicant for a license to practice dentistry must:

21 (1) be at least 21 years of age; and

22 (2) [~~be of good moral character, and~~

23 [~~3~~] present proof of:

24 (A) graduation from a dental school accredited by  
25 the Commission on Dental Accreditation of the American Dental  
26 Association; or

27 (B) graduation from a dental school that is not

1 accredited by the commission and successful completion of training  
2 in an American Dental Association approved specialty in an  
3 education program accredited by the commission that consists of at  
4 least two years of training as specified by the Council on Dental  
5 Education.

6 SECTION 10. Section 256.053, Occupations Code, is amended  
7 to read as follows:

8 Sec. 256.053. ELIGIBILITY FOR LICENSE. (a) An applicant  
9 for a license to practice dental hygiene in this state must be:

10 (1) at least 18 years of age;  
11 (2) ~~[of good moral character;~~  
12 ~~[(3)]~~ a graduate of an accredited high school or hold a  
13 certificate of high school equivalency; and

14 (3) ~~[(4)]~~ a graduate of a recognized school of  
15 dentistry or dental hygiene accredited by the Commission on Dental  
16 Accreditation of the American Dental Association and approved by  
17 the board or an alternative dental hygiene training program.

18 (b) A school of dentistry or dental hygiene described by  
19 Subsection (a)(3) ~~[(a)(4)]~~ must include at least two full academic  
20 years of instruction or its equivalent at the postsecondary level.

21 SECTION 11. The heading to Section 256.103, Occupations  
22 Code, is amended to read as follows:

23 Sec. 256.103. DISPLAY OF ~~[ANNUAL]~~ REGISTRATION  
24 CERTIFICATE.

25 SECTION 12. The heading to Section 257.001, Occupations  
26 Code, is amended to read as follows:

27 Sec. 257.001. LICENSE EXPIRATION; TERM.



SECTION 13. Section 257.001, Occupations Code, is amended by amending Subsections (a) and (c) and adding Subsection (a-1) to read as follows:

(a) A license issued under this subtitle is valid for a term of one or two years, as determined by board rule.

(a-1) The board by rule may adopt a system under which licenses expire on various dates during the year.

(c) For the year in which the expiration date is changed, license fees payable ~~[on or before March 1]~~ shall be prorated on a monthly basis so that each license holder pays only that portion of the fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license fee is payable.

SECTION 14. Sections 257.002(a) and (f), Occupations Code, are amended to read as follows:

(a) A person required to hold a license as a practitioner under this subtitle who fails or refuses to apply for renewal of a license and pay the required fee on or before the specified date ~~[of each calendar year]~~ is:

(1) suspended from practice; and

(2) subject to the penalties imposed by law on any person unlawfully engaging in a practice regulated under this subtitle.

(f) The requirements prescribed by this section relating to the payment of ~~[annual]~~ license fees and penalties for the failure to timely renew a license do not apply to license holders who are on active duty with the armed forces of the United States and are not

engaged in private or civilian practice.

SECTION 15. Chapter 257, Occupations Code, is amended by adding Section 257.003 to read as follows:

Sec. 257.003. REFUSAL FOR VIOLATION OF BOARD ORDER. The board may refuse to renew a license issued under this subtitle if the license holder is in violation of a board order.

SECTION 16. Section 257.004(c), Occupations Code, is amended to read as follows:

(c) A dentist or dental hygienist licensed by the board who resides in a country other than the United States on the renewal date of the person's license and has not practiced dentistry or dental hygiene in the United States during the license period [~~year~~] preceding the renewal date is exempt from the requirements of Subsection (a) if the person submits proof of foreign residence with the person's renewal application.

SECTION 17. Section 257.005(a), Occupations Code, is amended to read as follows:

(a) The board shall develop a mandatory continuing education program for licensed dentists and dental hygienists. The board by rule shall establish the minimum number of [~~require a license holder to complete at least 12~~] hours of continuing education a license holder is required to complete for each [~~annual~~] registration period to renew the license for a subsequent registration [~~annual~~] period.

SECTION 18. Section 258.002(a), Occupations Code, is amended to read as follows:

(a) A licensed dentist may delegate to a qualified and

1 trained dental assistant acting under the dentist's general or  
2 direct supervision any dental act that a reasonable and prudent  
3 dentist would find is within the scope of sound dental judgment to  
4 delegate if:

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

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

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

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

13 (3) the person to whom the dental act is delegated is  
14 registered under Chapter 265 [~~holds the appropriate certificate~~],  
15 if registration [~~a certificate~~] is required to perform the act.

16 SECTION 19. Section 258.0511, Occupations Code, is amended  
17 by adding Subsection (a-1) to read as follows:

18 (a-1) The board by rule shall establish conditions under  
19 which the board may temporarily or permanently appoint a person as  
20 custodian of a dentist's billing or dental patient records. In  
21 adopting rules under this subsection, the board shall consider the  
22 death of a dentist, the mental or physical incapacitation of a  
23 dentist, and the abandonment of billing or dental patient records  
24 by a dentist as conditions for appointment of a custodian.

25 SECTION 20. Section 258.054(c), Occupations Code, is  
26 amended to read as follows:

27 (c) A dentist may not authorize a dental assistant, other

1 than a dental assistant described by Section 265.001(d), to make a  
 2 dental x-ray unless the dental assistant is registered ~~[holds an~~  
 3 ~~x-ray certificate issued]~~ under Chapter 265 ~~[Section 265.005]~~.

4 SECTION 21. The heading to Subchapter D, Chapter 258,  
 5 Occupations Code, is amended to read as follows:

6 SUBCHAPTER D. ~~[ENTERAL]~~ ADMINISTRATION OF ANESTHESIA

7 SECTION 22. Section 258.151, Occupations Code, is amended  
 8 to read as follows:

9 Sec. 258.151. DEFINITIONS ~~[DEFINITION]~~. In this  
 10 subchapter:

11 (1) "High-risk patient" means a patient who has a  
 12 level 3 or 4 classification according to the American Society of  
 13 Anesthesiologists Physical Status Classification System.

14 (2) "Pediatric patient" means a patient younger than  
 15 13 years of age ~~[, "enteral" means any technique of administering~~  
 16 ~~anesthesia in which the anesthetic is absorbed through the~~  
 17 ~~gastrointestinal tract or oral mucosa. Examples of enterally~~  
 18 ~~administering anesthesia include administering an anesthetic~~  
 19 ~~orally, rectally, sublingually, or intranasally].~~

20 SECTION 23. Sections 258.153, 258.154, and 258.155,  
 21 Occupations Code, are amended to read as follows:

22 Sec. 258.153. RULES. (a) The board shall adopt rules to  
 23 administer this subchapter, including rules to establish ~~[by rule]~~  
 24 the minimum standards for the ~~[enteral]~~ administration of  
 25 anesthesia by a dentist.

26 (b) The rules must be designed to protect the health,  
 27 safety, and welfare of the public and must include requirements

1 relating to:

2 (1) for each type of permit held, the methods that may  
3 be used to [enterally] administer an anesthetic and the anesthetic  
4 agents that may be used;

5 (2) dental patient evaluation, diagnosis, counseling,  
6 and preparation;

7 (3) dental patient monitoring to be performed and  
8 equipment to be used during a procedure and during postprocedure  
9 monitoring;

10 (4) emergency procedures, drugs, and equipment,  
11 including education, training, and certification of personnel, as  
12 appropriate, and including protocols for transfers to a hospital;

13 (5) the documentation necessary to demonstrate  
14 compliance with this subchapter; ~~and~~

15 (6) the period in which protocols or procedures  
16 covered by rules of the board shall be reviewed, updated, or  
17 amended; and

18 (7) the minimum components required to be included in  
19 a preoperative checklist to be used before administering anesthesia  
20 to a patient and retained in the patient's dental record.

21 Sec. 258.154. COMPLIANCE WITH ANESTHESIA RULES. (a) A ~~On~~  
22 ~~and after August 31, 2002, a~~ dentist who practices dentistry in  
23 this state and who ~~[enterally]~~ administers anesthesia or performs a  
24 procedure for which anesthesia is ~~[enterally]~~ administered shall  
25 comply with the rules adopted under this subchapter.

26 (b) The board may require a dentist to submit and comply  
27 with a corrective action plan to remedy or address any current or

potential deficiencies with the dentist's ~~[enteral]~~ administration of anesthesia in accordance with this subtitle or rules of the board.

Sec. 258.155. ~~[ANNUAL]~~ PERMIT REQUIRED. (a) The board shall issue permits to administer anesthesia in the following categories based on the extent to which the intended procedure will alter the patient's mental status and the method of anesthetic delivery:

(1) nitrous oxide;

(2) level 1: minimal sedation;

(3) level 2: moderate sedation (enteral administration);

(4) level 3: moderate sedation (parenteral administration); and

(5) level 4: deep sedation or general anesthesia.

(b) A ~~[Not later than September 1, 2002, the board shall require each]~~ dentist may not administer ~~[who enterally administers]~~ anesthesia unless the dentist obtains the appropriate ~~[or performs a procedure for which anesthesia is enterally administered to annually obtain a]~~ permit issued under this section ~~[from the board by completing a form prescribed by the board]~~.

(c) The board shall set and impose a fee for issuance of a ~~[the]~~ permit in an amount designed to recover the costs of regulating a permit holder under this subchapter.

(d) ~~[(b)]~~ The board shall coordinate the times at which a permit must be renewed with the times at which a dentist's license must be renewed under Chapter 257 so that the times of registration,

1 payment, notice, and imposition of penalties for late payment are  
2 similar and provide a minimum of administrative burden to the board  
3 and to dentists.

4 SECTION 24. Subchapter D, Chapter 258, Occupations Code, is  
5 amended by adding Sections 258.1551 through 258.1557 to read as  
6 follows:

7 Sec. 258.1551. PERMIT QUALIFICATIONS. (a) The board by  
8 rule shall establish the qualifications to obtain each permit  
9 described by Section 258.155, including the education and training  
10 required to obtain the permit.

11 (b) The rules adopted under Subsection (a) must require an  
12 applicant for a level 2, level 3, or level 4 permit to complete  
13 training on:

14 (1) pre-procedural patient evaluation, including the  
15 evaluation of a patient's airway and physical status as classified  
16 by the American Society of Anesthesiologists;

17 (2) the continuous monitoring of a patient's level of  
18 sedation during the administration of anesthesia; and

19 (3) the management of emergency situations.

20 Sec. 258.1552. JURISPRUDENCE EXAMINATION. (a) The board  
21 shall develop and administer an online jurisprudence examination to  
22 determine a permit holder's knowledge of this subchapter, board  
23 rules, and other applicable laws of this state relating to the  
24 administration of anesthesia.

25 (b) A permit holder must pass the online jurisprudence  
26 examination developed by the board once every five years.

27 Sec. 258.1553. PORTABILITY OF ANESTHESIA SERVICES. The

1 board by rule shall require a dentist who applies for the issuance  
2 or renewal of a permit under this subchapter to include in the  
3 application a statement indicating whether the dentist provides or  
4 will provide a permitted anesthesia service in more than one  
5 location.

6 Sec. 258.1554. ADMINISTRATION OF ANESTHESIA TO CERTAIN  
7 PATIENTS. (a) A permit holder under this subchapter may not  
8 administer anesthesia under a level 2, level 3, or level 4 permit to  
9 a pediatric or high-risk patient unless the permit holder has:

10 (1) demonstrated to the satisfaction of the board that  
11 the permit holder has advanced didactic and clinical training; and

12 (2) obtained authorization from the board under this  
13 section.

14 (b) The board by rule may establish limitations on the  
15 administration of anesthesia by a permit holder to a pediatric or  
16 high-risk patient.

17 Sec. 258.1555. CAPNOGRAPHY REQUIRED FOR CERTAIN ANESTHESIA  
18 SERVICES. A permit holder who is administering anesthesia for  
19 which a level 4 permit is required shall use capnography during the  
20 administration of anesthesia.

21 Sec. 258.1556. MINIMUM EMERGENCY PREPAREDNESS STANDARDS.  
22 (a) The board shall adopt rules to establish minimum emergency  
23 preparedness standards and requirements for the administration of  
24 anesthesia under a permit issued under this subchapter. The rules  
25 must require a permit holder to:

26 (1) have available at any time the permit holder  
27 administers anesthesia:



1                   (A) an adequate and unexpired supply of drugs and  
2 anesthetic agents necessary for the safe administration of  
3 anesthesia; and

4                   (B) an automated external defibrillator, as  
5 defined by Section 779.001, Health and Safety Code;

6                   (2) conduct periodic inspections of the permit  
7 holder's equipment in the manner and on the schedule determined by  
8 the board;

9                   (3) maintain and make available to the board on  
10 request an equipment readiness log; and

11                   (4) develop and annually update written policies,  
12 procedures, and training requirements, specific to the permit  
13 holder's equipment and drugs, for responding to emergency  
14 situations involving anesthesia.

15                   (b) Rules adopted under Subsection (a)(4) must require a  
16 holder of a level 2, level 3, or level 4 permit to develop policies  
17 and procedures that include:

18                   (1) advanced cardiac life support rescue protocols;

19                   (2) advanced airway management techniques; and

20                   (3) if the permit holder is authorized to administer  
21 anesthesia to pediatric patients, pediatric advanced life support  
22 rescue protocols.

23                   Sec. 258.1557. EMERGENCY PREPAREDNESS PROTOCOLS. (a) A  
24 permit holder shall develop emergency preparedness protocols,  
25 specific to the permit holder's practice setting, that establish a  
26 plan for the management of medical emergencies in each practice  
27 setting in which the dentist administers anesthesia.

(b) The board shall adopt rules prescribing the content that a permit holder must include in the emergency preparedness protocols developed under Subsection (a). The rules must require a permit holder to include in the permit holder's emergency preparedness protocols the written policies, procedures, and training requirements described by Section 258.1556(a)(4).

SECTION 25. Section 258.156, Occupations Code, is amended to read as follows:

Sec. 258.156. INSPECTIONS. (a) Except as provided by Subsection (h), the [The] board may conduct inspections of a dentist who applies for or holds a permit issued under this subchapter as necessary to enforce this subchapter, including inspections of an office site, equipment, a facility, and any document of the dentist ~~[documents of a dentist's practice that relate to the enteral administration of anesthesia]~~. During an inspection under this section, the board may evaluate a dentist's competency in the administration of anesthesia.

(b) The board shall conduct an inspection with respect to a dentist who holds a level 2, level 3, or level 4 permit not later than the first anniversary of the date the permit is issued.

(c) The board by rule shall adopt a risk-based inspection policy for conducting inspections under this section. The policy must require the board to take into consideration any previous disciplinary action taken against a permit holder for an anesthesia-related violation when determining whether an inspection is necessary.

(d) The board may contract with another state agency or

qualified person to conduct these inspections.

(e) The ~~[(b) Unless it would jeopardize an ongoing investigation, the]~~ board is not required to give ~~[shall provide at least five business days']~~ notice before conducting an ~~[on-site]~~ inspection under this section.

(f) The board shall maintain records of inspections conducted under this section.

(g) The board by rule may establish education and training requirements for inspectors who conduct inspections under this section.

(h) The board may not conduct an inspection under this section with respect to a dentist who administers anesthesia exclusively in a state-licensed hospital or state-licensed ambulatory surgical center. The board may by rule except from inspection under this section a dentist who administers anesthesia exclusively in any other facility that is subject to inspection by the Department of State Health Services or an accrediting body under state law. The board retains all other authority provided by this subtitle over a dentist described by this subsection ~~[(c) This section does not require the board to make an on-site inspection of a dentist's office].~~

SECTION 26. Chapter 258, Occupations Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. ADVISORY COMMITTEE ON DENTAL ANESTHESIA

Sec. 258.201. DEFINITION. In this subchapter, "health care provider" means a person who provides services under a license, certificate, registration, or other authority issued by this state

1 or another state to diagnose, prevent, alleviate, or cure a human  
2 illness or injury.

3 Sec. 258.202. ADVISORY COMMITTEE. (a) The board shall  
4 establish an advisory committee to analyze and report on data and  
5 associated trends concerning anesthesia-related deaths or  
6 incidents as provided by this subchapter. The advisory committee  
7 consists of six members appointed by the board in the manner  
8 provided by Section 258.203 and must include:

- 9 (1) a general dentist;  
10 (2) a dentist anesthesiologist;  
11 (3) an oral and maxillofacial surgeon;  
12 (4) a pediatric dentist;  
13 (5) a physician anesthesiologist; and  
14 (6) a periodontist.

15 (b) In appointing members to the advisory committee, the  
16 board shall maintain a balanced representation of general dentists  
17 and specialists to ensure the advisory committee has expertise with  
18 respect to each permit category.

19 (c) A board member may not serve as a member of the advisory  
20 committee. A former board member may not be appointed to the  
21 advisory committee until the second anniversary of the expiration  
22 of the member's term on the board.

23 (d) Chapter 2110, Government Code, does not apply to the  
24 size, composition, or duration of the advisory committee.

25 Sec. 258.203. APPLICATION PROCESS; APPOINTMENT OF  
26 COMMITTEE MEMBERS. (a) The board by rule shall develop and  
27 implement a process by which a person may apply to be appointed to

1 the advisory committee and shall post the application and  
2 information regarding the application process on the board's  
3 Internet website.

4 (b) The presiding officer of the board shall review each  
5 application received and nominate for appointment to the advisory  
6 committee persons who meet the requirements of Section 258.202. A  
7 person nominated under this subsection may not be appointed to the  
8 advisory committee except on the affirmative vote of at least seven  
9 members of the board.

10 (c) The presiding officer of the board shall designate one  
11 of the nominated members as presiding officer of the advisory  
12 committee, subject to approval of the board.

13 Sec. 258.204. TERMS; VACANCIES. The board by rule shall  
14 establish:

15 (1) the length of a term of a member of the advisory  
16 committee and the staggering of the terms of the members; and

17 (2) the manner in which a vacancy occurring during a  
18 member's term is filled.

19 Sec. 258.205. MEETINGS. The advisory committee is subject  
20 to Chapter 551, Government Code, except that the advisory committee  
21 may conduct a closed meeting to review confidential investigative  
22 files provided by the board under Section 258.206.

23 Sec. 258.206. COMPILATION AND ANALYSIS OF INFORMATION.

24 (a) The board shall identify complaints resolved by the board that  
25 involve anesthesia-related deaths or incidents and compile  
26 confidential, de-identified information derived from the  
27 investigative files on each complaint identified under this

1 subsection.

2 (b) The board shall provide information compiled under  
3 Subsection (a) to the advisory committee. The advisory committee  
4 shall analyze the information compiled under Subsection (a) to  
5 identify any trends and submit a report to the board at least  
6 annually on:

7 (1) the advisory committee's findings; and

8 (2) any recommendations for changes to board rules or  
9 this subtitle based on the advisory committee's analysis.

10 (c) On request of the advisory committee, the board may  
11 provide confidential, de-identified investigative files for review  
12 by the advisory committee.

13 (d) The data provided to the advisory committee under this  
14 section may not include identifying information of a patient or  
15 health care provider, including:

16 (1) the name, address, or date of birth of the patient  
17 or a member of the patient's family; or

18 (2) the name or specific location of a health care  
19 provider that treated the patient.

20 (e) The board shall post on the board's Internet website any  
21 recommendations or findings reported by the advisory committee.

22 Sec. 258.207. COUNSEL FOR ADVISORY COMMITTEE. The board  
23 shall designate an attorney employed by the board to:

24 (1) act as counsel and provide legal advice to the  
25 advisory committee; and

26 (2) be present during the advisory committee's  
27 meetings and deliberations.

1       Sec. 258.208. CONFIDENTIALITY; PRIVILEGE. (a) Any  
2 information pertaining to the investigation of an  
3 anesthesia-related death or incident is confidential.

4       (b) Confidential information that is acquired by the board  
5 and that includes identifying information of an individual or  
6 health care provider is privileged and may not be disclosed to any  
7 person. Information that may not be disclosed under this  
8 subsection includes:

9           (1) the name and address of a patient or a member of  
10 the patient's family; and

11           (2) the identity of a health care provider that  
12 provided any services to the patient or a member of the patient's  
13 family.

14       (c) Advisory committee work product or information obtained  
15 or provided by the board under this subchapter is confidential.  
16 This subsection does not prevent the advisory committee or board  
17 from releasing information described by Subsection (d) or (e).

18       (d) Information is not confidential under this section if  
19 the information is:

20           (1) general information that cannot be connected with  
21 any specific individual, case, or health care provider; and

22           (2) presented as aggregate statistical information  
23 that describes a single data point.

24       (e) The advisory committee may publish statistical studies  
25 and research reports based on information that is confidential  
26 under this section, provided that the information:

27           (1) is published in the aggregate;

1           (2) does not identify a patient or the patient's  
2 family;

3           (3) does not include any information that could be  
4 used to identify a patient or the patient's family; and

5           (4) does not identify a health care provider.

6           (f) The board shall adopt and implement practices and  
7 procedures to ensure that information that is confidential under  
8 this section is not disclosed in violation of this section.

9           (g) Information that is confidential under this section is  
10 excepted from disclosure under Chapter 552, Government Code, as  
11 provided by Section 552.101 of that chapter.

12           Sec. 258.209. SUBPOENA AND DISCOVERY. Advisory committee  
13 work product or information that is confidential under Section  
14 258.208 is privileged, is not subject to subpoena or discovery, and  
15 may not be introduced into evidence in any administrative, civil,  
16 or criminal proceeding against a patient, a member of the family of  
17 a patient, or a health care provider.

18           Sec. 258.210. IMMUNITY. (a) A member of the advisory  
19 committee or a person employed by the board or acting in an advisory  
20 capacity to the advisory committee and who provides information,  
21 counsel, or services to the advisory committee is not liable for  
22 damages for an action taken within the scope of the functions of the  
23 advisory committee.

24           (b) Subsection (a) does not apply if the person acts with  
25 malice or without the reasonable belief that the action is  
26 warranted by the facts known to the person.

27           (c) This section does not provide immunity to a person



1 described by Subsection (a) for a violation of a state or federal  
2 law or rule relating to the privacy of health information or the  
3 transmission of health information, including the Health Insurance  
4 Portability and Accountability Act of 1996 (Pub. L. No. 104-191)  
5 and rules adopted under that Act.

6 Sec. 258.211. FUNDING. The board may accept gifts and  
7 grants from any source to fund the duties of the board and the  
8 advisory committee under this subchapter.

9 SECTION 27. Chapter 263, Occupations Code, is amended by  
10 adding Section 263.0001 to read as follows:

11 Sec. 263.0001. DEFINITION. In this chapter, "license"  
12 means a license, certificate, registration, permit, or other  
13 authorization that is issued under this subtitle.

14 SECTION 28. Section 263.001, Occupations Code, is amended  
15 to read as follows:

16 Sec. 263.001. GROUNDS FOR REFUSAL TO ISSUE LICENSE;  
17 APPLICATION OF OPEN MEETINGS LAW. (a) The board may refuse to  
18 issue a license [by examination] to an [a dental or dental hygiene]  
19 applicant under this subtitle if the person:

20 (1) presents to the board fraudulent or false evidence  
21 of the person's qualification for examination or license;

22 (2) is guilty of any illegality, fraud, or deception  
23 during the examination or the process to secure a license;

24 (3) is habitually intoxicated or is addicted to drugs;

25 (4) commits a dishonest or illegal practice in or  
26 connected to dentistry or dental hygiene;

27 (5) is convicted of a felony under a federal law or law

1 of this state; or

2 (6) is found to have violated a law of this state  
3 relating to the practice of dentistry within the 12 months  
4 preceding the date the person filed an application for a license to  
5 practice dentistry or dental hygiene.

6 (b) The board's deliberations with regard to an application  
7 for a license under this subtitle are exempt from Chapter 551,  
8 Government Code.

9 SECTION 29. Chapter 263, Occupations Code, is amended by  
10 adding Section 263.0025 to read as follows:

11 Sec. 263.0025. SUBMISSION TO MENTAL OR PHYSICAL EVALUATION.

12 (a) In enforcing Section 263.001(a)(3) or Section 263.002(a)(1),  
13 (7), or (11), the board or an authorized agent of the board, on  
14 probable cause, as determined by the board or agent, may request an  
15 applicant for or holder of a license to submit to a mental or  
16 physical evaluation by a physician or other health care  
17 professional designated by the board.

18 (b) If the applicant or license holder refuses to submit to  
19 the evaluation under Subsection (a), the board shall issue an order  
20 requiring the applicant or license holder to show cause why the  
21 applicant or license holder will not submit to the evaluation. The  
22 board shall schedule a hearing on the order not later than the 30th  
23 day after the date notice is served on the applicant or license  
24 holder. The board shall notify the applicant or license holder of  
25 the order and hearing by personal service or certified mail, return  
26 receipt requested.

27 (c) At the hearing, the applicant or license holder and the

1 applicant's or license holder's attorney are entitled to present  
2 testimony or other evidence to show why the applicant or license  
3 holder should not be required to submit to the evaluation. The  
4 applicant or license holder has the burden of proof to show why the  
5 applicant or license holder should not be required to submit to the  
6 evaluation.

7 (d) After the hearing, the board by order shall require the  
8 applicant or license holder to submit to the evaluation not later  
9 than the 60th day after the date of the order or withdraw the  
10 request for an evaluation, as applicable.

11 SECTION 30. Section 263.003, Occupations Code, is amended  
12 to read as follows:

13 Sec. 263.003. HEARING. A person is entitled to a hearing  
14 under Chapter 2001, Government Code, if the board proposes to:

15 (1) refuse to issue a license [~~by examination~~] to the  
16 person;

17 (2) reprimand or impose a fine on the person;

18 (3) place the person on probation after the person's  
19 license has been suspended; or

20 (4) suspend or revoke the license of the person.

21 SECTION 31. Section 263.0065(c), Occupations Code, is  
22 amended to read as follows:

23 (c) A complaint delegated under this section shall be  
24 referred for informal proceedings under Section 263.007 [~~263.0075~~]  
25 if:

26 (1) the committee of employees determines that the  
27 complaint should not be dismissed or settled;

1           (2) the committee is unable to reach an agreed  
2 settlement; or

3           (3) the affected license holder requests that the  
4 complaint be referred for informal proceedings.

5           SECTION 32. Section 263.007, Occupations Code, is amended  
6 by amending Subsection (b) and adding Subsections (c) through (k)  
7 to read as follows:

8           (b) Rules adopted under this section must require that:

9               (1) not later than the 180th day after the date the  
10 board's official investigation of a complaint is commenced, the  
11 board schedule an informal settlement conference unless good cause  
12 is shown by the board for not scheduling the conference by that  
13 date;

14               (2) the board give notice to the license holder of the  
15 time and place of the conference not later than the 45th day before  
16 the date the conference is held;

17               (3) the complainant and the license holder be provided  
18 an opportunity to be heard;

19               (4) the board's legal counsel or a representative of  
20 the attorney general be present to advise the board or the board's  
21 staff; and

22               (5) a member of the board's staff be at the conference  
23 to present the facts the staff reasonably believes the board could  
24 prove at a hearing by competent evidence or qualified witnesses  
25 ~~[provide the complainant, if applicable and permitted by law, an~~  
26 ~~opportunity to be heard,~~

27               ~~[(2) provide the license holder an opportunity to be~~

1 ~~heard, and~~

2 ~~[(3) require the presence of a member of the board's~~  
3 ~~legal staff, if the board has a legal staff, or, if the board does~~  
4 ~~not have a legal staff, an attorney from the attorney general's~~  
5 ~~office to advise the board or the board's employees].~~

6 (c) The license holder is entitled at the conference to:

7 (1) reply to the staff's presentation; and

8 (2) present the facts the license holder reasonably  
9 believes the license holder could prove at a hearing by competent  
10 evidence or qualified witnesses.

11 (d) After ample time is given for the presentations, the  
12 informal settlement conference panel shall recommend that the  
13 investigation be closed or make a recommendation regarding the  
14 disposition of the case in the absence of a hearing under applicable  
15 law concerning contested cases.

16 (e) The board shall prioritize scheduling an informal  
17 settlement conference in accordance with Subsection (b)(1) to  
18 resolve a complaint against a license holder who has previously  
19 been the subject of disciplinary action by the board.

20 (f) A notice under Subsection (b)(2) must be accompanied by  
21 a written statement of the nature of the allegations and the  
22 information the board intends to use at the informal settlement  
23 conference. If the board does not provide the statement or  
24 information at that time, the license holder may use that failure as  
25 grounds for rescheduling the conference. If the complaint includes  
26 an allegation that the license holder has violated the standard of  
27 care in the practice of dentistry or dental hygiene, the notice must

1 include a copy of the report by the expert reviewer. The license  
2 holder must provide to the board the license holder's rebuttal not  
3 later than the 15th day before the date of the conference in order  
4 for that information to be considered at the conference.

5 (g) The board by rule shall define circumstances  
6 constituting good cause for purposes of Subsection (b)(1),  
7 including:

8 (1) an expert reviewer's delinquency in reviewing and  
9 submitting a report to the board under Section 255.0067;

10 (2) a temporary suspension of the license holder's  
11 license under Section 263.004; or

12 (3) the filing of a contested case against the license  
13 holder with the State Office of Administrative Hearings.

14 (h) The board by rule shall define circumstances  
15 constituting good cause to grant a request by a license holder for a  
16 continuance of the informal settlement conference.

17 (i) Information presented by the board or board staff in an  
18 informal settlement conference is confidential and not subject to  
19 disclosure under Chapter 552, Government Code.

20 (j) On request by the license holder under review, the board  
21 shall make a recording of the informal settlement conference  
22 proceeding. The recording is a part of the investigative file and  
23 may not be released to a third party unless authorized under this  
24 subtitle. The board may charge the license holder a fee to cover  
25 the cost of recording the proceeding.

26 (k) The board shall provide a copy of the recording to the  
27 license holder on the license holder's request.

SECTION 33. Chapter 263, Occupations Code, is amended by adding Sections 263.0071, 263.0072, 263.0073, and 263.0074 to read as follows:

Sec. 263.0071. DENTAL REVIEW COMMITTEE. (a) The dental review committee consists of nine members appointed by the governor as follows:

(1) six dentist members;

(2) two dental hygienist members; and

(3) one registered dental assistant member.

(b) A member of the committee serves a six-year term.

(c) If a vacancy occurs during a member's term, the governor shall appoint a replacement to fill the unexpired term.

(d) A member of the committee is entitled to receive a per diem for actual duty in the same manner provided for board members.

(e) A member of the committee is subject to law and the rules of the board, including Sections 252.003, 252.007, and 252.010, as if the committee member were a member of the board, except that a committee member is not subject to Chapter 572, Government Code. The training program a committee member must complete under Section 252.010 must be an abbreviated version of the program under that section that is limited to training relevant to serving on a committee.

Sec. 263.0072. INFORMAL SETTLEMENT CONFERENCE PANEL.

(a) The board shall appoint members of the board and the dental review committee to serve, on a rotating basis, as panelists on an informal settlement conference panel for purposes of this section.

(b) In an informal settlement conference under Section

1 263.007, the board shall appoint at least two panelists to  
2 determine whether an informal disposition is appropriate. At least  
3 one of the panelists must be a dentist.

4 (c) The board by rule shall require that at least one  
5 panelist be physically present at the informal settlement  
6 conference and may authorize another panelist to appear by video  
7 conference.

8 (d) Notwithstanding Subsection (b), an informal settlement  
9 conference may be conducted by one panelist if the license holder  
10 who is the subject of the complaint waives the requirement that at  
11 least two panelists conduct the conference. If the license holder  
12 waives that requirement, the panelist may be a dentist, a dental  
13 hygienist, or a member who represents the public.

14 (e) Notwithstanding Subsections (b) and (d), an informal  
15 settlement conference conducted under Section 263.007 to show  
16 compliance with an order or remedial plan of the board may be  
17 conducted by one panelist.

18 Sec. 263.0073. ROLES AND RESPONSIBILITIES OF PARTICIPANTS  
19 IN INFORMAL SETTLEMENT CONFERENCE. (a) At an informal settlement  
20 conference under Section 263.007, the panel shall make  
21 recommendations for the disposition of the complaint or allegation.  
22 The panel may request the assistance of a board employee at any  
23 time.

24 (b) Board employees shall present a summary of the  
25 allegations against the license holder and of the facts pertaining  
26 to the allegation that the employees reasonably believe may be  
27 proven by competent evidence at a formal hearing.



1        (c) An attorney for the board shall act as counsel to the  
2 panel and shall be present during the informal settlement  
3 conference and the panel's deliberations to advise the panel on  
4 legal issues that arise during the proceeding. The attorney may ask  
5 questions of participants in the conference to clarify any  
6 statement made by the participant. The attorney shall provide to  
7 the panel a historical perspective on comparable cases that have  
8 appeared before the board, keep the proceedings focused on the case  
9 being discussed, and ensure that the board's employees and the  
10 license holder have an opportunity to present information related  
11 to the case. During the panel's deliberations, the attorney may be  
12 present only to advise the panel on legal issues and to provide  
13 information on comparable cases that have appeared before the  
14 board.

15        (d) The panel and board employees shall provide an  
16 opportunity for the license holder and the license holder's  
17 authorized representative to reply to the board employees'  
18 presentation and to present oral and written statements and facts  
19 that the license holder and representative reasonably believe could  
20 be proven by competent evidence at a formal hearing.

21        (e) An employee of the board who participated in the  
22 presentation of the allegation or information gathered in the  
23 investigation of the complaint, the license holder, the license  
24 holder's authorized representative, the complainant, the  
25 witnesses, and members of the public may not be present during the  
26 deliberations of the panel. Only the members of the panel and the  
27 attorney serving as counsel to the panel may be present during the

1 deliberations.

2 (f) During the deliberations, the panel may not reconsider  
3 an expert panel's determinations that are included in a final  
4 written report issued under Section 255.0067.

5 (g) The panel shall recommend the dismissal of the complaint  
6 or allegations or, if the panel determines that the license holder  
7 has violated a statute or board rule, may recommend board action and  
8 terms for an informal settlement of the case.

9 (h) The panel's recommendations under Subsection (g) must  
10 be made in writing and presented to the license holder and the  
11 license holder's authorized representative. The license holder may  
12 accept the proposed settlement within the time established by the  
13 panel at the informal settlement conference. If the license holder  
14 rejects the proposed settlement or does not act within the required  
15 time, the board may proceed with the filing of a formal complaint  
16 with the State Office of Administrative Hearings.

17 Sec. 263.0074. DISMISSAL OF BASELESS COMPLAINT. If, during  
18 the 180-day period prescribed by Section 263.007(b)(1), the board  
19 determines that the complaint is a baseless or unfounded complaint,  
20 the board shall dismiss the complaint and include a statement in the  
21 records of the complaint that the reason for the dismissal is  
22 because the complaint was baseless or unfounded. The board shall  
23 adopt rules that establish criteria for determining that a  
24 complaint is baseless or unfounded.

25 SECTION 34. Section 263.0076, Occupations Code, is amended  
26 to read as follows:

27 Sec. 263.0076. INFORMAL SETTLEMENT CONFERENCE NOTICE

1 REGARDING CERTAIN COMPLAINTS. [~~(a)~~] If an informal settlement  
2 conference is not scheduled for a complaint before the 180-day  
3 period prescribed by Section 263.007(b)(1), the board shall provide  
4 notice to all parties to the complaint. The notice must include an  
5 explanation of the reason why the informal settlement conference  
6 has not been scheduled. The notice under this section is not  
7 required if the notice would jeopardize an investigation [~~will be~~  
8 ~~held under Section 263.0075, notice of the time and place of the~~  
9 ~~conference must be given to the license holder not later than the~~  
10 ~~45th day before the date the conference is held~~].

11 [~~(b) The notice required by Subsection (a) must be~~  
12 ~~accompanied by a written statement of the specific allegations~~  
13 ~~against the license holder and the information the board intends to~~  
14 ~~use at the informal settlement conference. If the board does not~~  
15 ~~provide the statement or information when the notice is provided,~~  
16 ~~the license holder may use that failure as grounds for rescheduling~~  
17 ~~the conference.~~

18 [~~(c) The license holder must provide to the board the~~  
19 ~~license holder's rebuttal not later than the 15th day before the~~  
20 ~~date of the conference in order for that information to be~~  
21 ~~considered at the conference.~~

22 [~~(d) On request by a license holder under review, the board~~  
23 ~~shall make a recording of the informal settlement conference. The~~  
24 ~~recording is a part of the investigative file and may not be~~  
25 ~~released to a third party unless authorized under this subtitle.~~  
26 ~~The board may charge the license holder a fee to cover the cost of~~  
27 ~~recording the conference. The board shall provide a copy of the~~

~~recording to the license holder on the license holder's request.]~~

SECTION 35. Section 263.008, Occupations Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), and (d) to read as follows:

(a) The board may issue a subpoena or a subpoena duces tecum to [request and, if necessary,] compel [by subpoena] the attendance of a witness [witnesses] for examination under oath and the production, for examination and copying, of books, accounts, records, documents, and other evidence relevant to the investigation of an alleged violation of this chapter or another state law relating to the practice of dentistry. The board may administer oaths and take testimony regarding any matter within the board's jurisdiction.

(a-1) The board may delegate the authority granted under Subsection (a) to the executive director or the secretary of the board.

(a-2) A subpoena issued at the request of board staff may be served by certified mail or personally by the board's investigators.

(d) The board shall pay, for photocopies subpoenaed at the request of the board's staff, a reasonable fee in an amount not to exceed the amount the board may charge for copies of the board's records.

SECTION 36. Section 264.011, Occupations Code, is amended to read as follows:

Sec. 264.011. INFORMAL ASSESSMENT OF ADMINISTRATIVE PENALTY. This subchapter does not prevent the board from assessing

1 an administrative penalty using an informal proceeding under  
2 Section 263.007 [~~263.003~~].

3 SECTION 37. Section 265.001, Occupations Code, is amended  
4 to read as follows:

5 Sec. 265.001. REGISTRATION REQUIRED FOR CERTAIN DENTAL  
6 ACTS. (a) Unless the dental assistant is registered under this  
7 chapter, a dental assistant may not:

8 (1) make a dental x-ray; or

9 (2) monitor the administration of nitrous oxide.

10 (b) The board may adopt and enforce rules requiring a dental  
11 assistant to register with the board to perform other dental acts  
12 [~~the registration of dental assistants~~] as necessary to protect the  
13 public health and safety.

14 (c) The board shall maximize the efficient administration  
15 of this chapter by:

16 (1) developing a system to track the number of  
17 registrations held by a dental assistant under this chapter; and

18 (2) coordinating the times at which a dental  
19 assistant's registrations must be renewed so that the times of  
20 registration, payment, notice, and imposition of penalties for late  
21 payment are similar and the administrative burden to the board and  
22 to the dental assistant is reduced.

23 (d) Notwithstanding Subsection (a)(1), a dental assistant  
24 who is hired as a dental assistant for the first time and who has not  
25 previously been issued a registration to make dental x-rays may  
26 make dental x-rays without complying with this chapter until the  
27 first anniversary of the date the dental assistant is hired.

SECTION 38. Chapter 265, Occupations Code, is amended by adding Sections 265.0015, 265.0016, and 265.0017 to read as follows:

Sec. 265.0015. ELIGIBILITY REQUIREMENTS FOR REGISTRATION.

(a) The board by rule shall establish the requirements for each type of registration issued under this chapter, including requiring a dental assistant to:

(1) hold a high school diploma or its equivalent;

(2) complete an educational program approved by the board that provides instruction on:

(A) a dental act that requires a registration under this chapter;

(B) basic life support;

(C) infection control; and

(D) jurisprudence;

(3) pass an examination approved or administered by the board; and

(4) meet any additional qualifications established by the board.

(b) The board may approve courses of instruction and examinations that are provided by private entities for the purposes of this section.

Sec. 265.0016. FEES. The board shall set and collect fees in amounts that are reasonable and necessary to cover the costs of administering this chapter, including registration and renewal fees.

Sec. 265.0017. REGISTRATION EXPIRATION AND RENEWAL. (a) A

1 registration under this chapter is valid for two years.

2 (b) A dental assistant may renew a registration by paying  
3 the required renewal fee and complying with any other renewal  
4 requirements established by the board.

5 (c) A dental assistant whose registration has expired may  
6 not engage in an activity that requires registration until the  
7 registration has been renewed.

8 (d) The board by rule may adopt a system under which  
9 registrations expire on various dates during the year. For the year  
10 in which the expiration date is changed, the board shall prorate  
11 registration fees on a monthly basis so that each registration  
12 holder pays only that portion of the registration fee that is  
13 allocable to the number of months during which the registration is  
14 valid. On renewal of the registration on the new expiration date,  
15 the total renewal fee is payable.

16 SECTION 39. Section 265.003, Occupations Code, is amended  
17 by amending Subsections (a) and (a-1) and adding Subsections (c)  
18 and (d) to read as follows:

19 (a) A dental assistant who is not registered under this  
20 chapter [~~professionally licensed~~] may be employed by and work in  
21 the office of a licensed and practicing dentist and perform one or  
22 more delegated dental acts under:

23 (1) the direct supervision, direction, and  
24 responsibility of the dentist, including[+]

25 [~~(A) the application of a pit and fissure~~  
26 ~~sealant,~~

27 [~~(B) coronal polishing, if the dental assistant~~

1 ~~holds a certificate under Section 265.006, and~~

2 [~~(C)~~] the application of fluoride varnish; or

3 (2) the general supervision, direction, and  
4 responsibility of the dentist, limited to:

5 (A) the making of dental x-rays in compliance  
6 with Section 265.001(d) [~~Section 265.005~~]; and

7 (B) the provision of interim treatment of a minor  
8 emergency dental condition to an existing patient of the treating  
9 dentist.

10 (a-1) A treating dentist who delegates the provision of  
11 interim treatment of a minor emergency dental condition to a dental  
12 assistant under Subsection (a)(2) [~~(a)(2)(B)~~] shall:

13 (1) delegate the procedure orally or in writing before  
14 the dental assistant performs the procedure;

15 (2) retain responsibility for the procedure; and

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

18 (c) A delegating dentist remains responsible for the dental  
19 acts of a registered or nonregistered dental assistant performing  
20 the delegated dental acts.

21 (d) A dental assistant to whom a delegation is made may not  
22 represent to the public that the dental assistant is authorized to  
23 practice dentistry or dental hygiene.

24 SECTION 40. Section 265.005, Occupations Code, is amended  
25 by adding Subsection (p) to read as follows:

26 (p) This section expires September 1, 2018.

27 SECTION 41. Section 265.007, Occupations Code, is amended



by adding Subsection (d) to read as follows:

(d) This section expires September 1, 2018.

SECTION 42. Chapter 265, Occupations Code, is amended by adding Section 265.008 to read as follows:

Sec. 265.008. CONTINUING EDUCATION REQUIRED FOR REGISTRATION RENEWAL. The board by rule shall establish continuing education requirements for dental assistants registered under this chapter, including a minimum number of hours of continuing education required to renew a registration.

SECTION 43. The heading to Subchapter C, Chapter 266, Occupations Code, is amended to read as follows:

SUBCHAPTER C. BOARD POWERS AND DUTIES [~~OF COUNCIL AND BOARD~~]

SECTION 44. Section 266.152(d), Occupations Code, is amended to read as follows:

(d) The owner of a dental laboratory registered with the board on September 1, 1987, is exempt from Subsection (a) if:

(1) the registration of the laboratory has been timely renewed [~~each year~~] since that date, and all registration fees have been paid;

(2) the beneficial ownership of at least 51 percent of the laboratory has not been transferred; and

(3) the owner is employed on the laboratory's premises for not less than 30 hours each week.

SECTION 45. The heading to Section 266.153, Occupations Code, is amended to read as follows:

Sec. 266.153. APPLICATION FOR REGISTRATION; TERM.

SECTION 46. Section 266.153, Occupations Code, is amended

1 by amending Subsection (a) and adding Subsection (d) to read as  
2 follows:

3 (a) An owner or manager of a dental laboratory shall  
4 ~~[annually]~~:

5 (1) apply to the board for the registration of each  
6 dental laboratory doing business in this state to which the owner or  
7 manager is connected or in which the owner or manager has an  
8 interest; and

9 (2) pay the application fee set by the board.

10 (d) A dental laboratory registration issued under this  
11 chapter is valid for a term of one or two years, as determined by  
12 board rule.

13 SECTION 47. Sections [266.154](#)(a) and (c), Occupations Code,  
14 are amended to read as follows:

15 (a) An applicant for renewal of a dental laboratory  
16 registration must provide evidence satisfactory to the board that  
17 at least one employee who works on the dental laboratory's  
18 premises:

19 (1) has completed the minimum number of ~~[at least 12]~~  
20 hours of continuing education during the previous registration  
21 period as required by board rule; or

22 (2) is certified as required by Section [266.152](#)(a), if  
23 applicable.

24 (c) If the owner or manager of a dental laboratory fails to  
25 renew the dental laboratory's registration and pay the ~~[annual]~~  
26 renewal fee before the date the registration expires, the board  
27 shall suspend the registration certificate of the laboratory.

SECTION 48. The following provisions of the Occupations Code are repealed:

- (1) Sections 256.0531(h), (i), and (j);
- (2) Section 262.001(1);
- (3) Subchapter B, Chapter 262;
- (4) Section 262.102(c);
- (5) Section 262.1025;
- (6) Section 262.103;
- (7) Section 263.0075;
- (8) Section 265.003(b);
- (9) Section 265.004;
- (10) Section 265.006;
- (11) Section 266.001(1);
- (12) Subchapter B, Chapter 266;
- (13) Section 266.101; and
- (14) Sections 266.102(a) and (d).

SECTION 49. Not later than March 1, 2018, the State Board of Dental Examiners shall:

- (1) adopt rules and fees necessary to implement Chapters 258 and 265, Occupations Code, as amended by this Act; and
- (2) adopt rules necessary to implement Chapter 263, Occupations Code, as amended by this Act.

SECTION 50. (a) The term of a member of the State Board of Dental Examiners serving on September 1, 2017, expires on that date.

(b) Not later than December 1, 2017, the governor shall appoint 11 members to the State Board of Dental Examiners in

1 accordance with Section 252.001(a), Occupations Code, as amended by  
2 this Act. The governor shall appoint:

3 (1) two dentist members and one dental hygienist  
4 member to terms expiring February 1, 2019;

5 (2) two dentist members, one dental hygienist member,  
6 and one public member to terms expiring February 1, 2021; and

7 (3) two dentist members, one dental hygienist member,  
8 and one public member to terms expiring February 1, 2023.

9 (c) Notwithstanding Section 252.001, Occupations Code, as  
10 amended by this Act, the members whose terms expire under  
11 Subsection (a) of this section shall continue to perform the duties  
12 of office as a 15-member board until six members are appointed under  
13 Subsection (b) of this section and qualified.

14 (d) The governor may appoint to the board under Subsection  
15 (b) of this section a member whose term expires under Subsection (a)  
16 of this section. The expired term of a member described by this  
17 subsection does not constitute a full term for purposes of Section  
18 252.004(b), Occupations Code.

19 SECTION 51. Not later than December 1, 2017, the State Board  
20 of Dental Examiners shall appoint the members of the advisory  
21 committee established under Subchapter E, Chapter 258, Occupations  
22 Code, as added by this Act, in the manner provided by that  
23 subchapter.

24 SECTION 52. Not later than December 1, 2017, the governor  
25 shall appoint the members of the dental review committee in  
26 accordance with Section 263.0071, Occupations Code, as added by  
27 this Act. In making the appointments, the governor shall appoint:

- 1           (1) three members to terms expiring February 1, 2019;  
2           (2) three members to terms expiring February 1, 2021;  
3 and  
4           (3) three members to terms expiring February 1, 2023.

5           SECTION 53. (a) Except as provided by Subsection (b) of  
6 this section, Section 252.010, Occupations Code, as amended by this  
7 Act, applies to a member of the State Board of Dental Examiners  
8 appointed before, on, or after the effective date of this Act.

9           (b) A member of the board appointed after the effective date  
10 of this Act who, before the effective date of this Act, completed  
11 the training program required by Section 252.010, Occupations Code,  
12 as that law existed before the effective date of this Act, is  
13 required to complete additional training only on the subjects added  
14 by this Act to the training program as required by Section 252.010,  
15 Occupations Code. A board member described by this subsection may  
16 not vote, deliberate, or be counted as a member in attendance at a  
17 meeting of the board held on or after December 1, 2017, until the  
18 member completes the additional training.

19          SECTION 54. Not later than September 1, 2022, the State  
20 Board of Dental Examiners shall conduct an inspection under Section  
21 258.156, Occupations Code, as amended by this Act, with respect to a  
22 dentist who holds a level 2, level 3, or level 4 permit issued under  
23 Section 258.155, Occupations Code, before the effective date of  
24 this Act.

25          SECTION 55. (a) On the effective date of this Act, a  
26 certificate issued under former Section 265.004 or 265.006,  
27 Occupations Code, expires.

1           (b) The repeal of a law by this Act does not entitle a person  
2 to a refund of an application, licensing, or other fee paid by the  
3 person before the effective date of this Act.

4           SECTION 56. (a) On and after September 1, 2018, the State  
5 Board of Dental Examiners shall issue a dental x-ray registration  
6 under Section 265.001, Occupations Code, as amended by this Act, to  
7 a dental assistant who renews an unexpired certificate of  
8 registration issued under former Section 265.005, Occupations  
9 Code, and who meets the continuing education requirements  
10 established by the board under Section 265.008, Occupations Code,  
11 as added by this Act. A dental assistant described by this  
12 subsection is not required to meet the eligibility requirements of  
13 Section 265.0015, Occupations Code, as added by this Act, to obtain  
14 or renew a registration issued under this subsection.

15           (b) On and after September 1, 2018, the State Board of  
16 Dental Examiners shall issue a nitrous oxide monitoring  
17 registration under Section 265.001, Occupations Code, as amended by  
18 this Act, to a dental assistant who holds a current nitrous oxide  
19 monitoring certificate issued by the State Board of Dental  
20 Examiners before that date and who meets the continuing education  
21 requirements established by the board under Section 265.008,  
22 Occupations Code, as added by this Act. A dental assistant  
23 described by this subsection is not required to meet the  
24 eligibility requirements of Section 265.0015, Occupations Code, as  
25 added by this Act, to obtain or renew a registration issued under  
26 this subsection.

27           SECTION 57. Section 265.008, Occupations Code, as added by

1 this Act, applies only to the renewal of a registration on or after  
2 September 1, 2018.

3 SECTION 58. On September 1, 2019, a certificate of  
4 registration issued under former Section 265.005, Occupations  
5 Code, or a nitrous oxide monitoring certificate issued by the State  
6 Board of Dental Examiners, expires.

7 SECTION 59. (a) Chapter 263, Occupations Code, as amended  
8 by this Act, applies only to the investigation or disposition of a  
9 complaint filed with the State Board of Dental Examiners on or after  
10 March 1, 2018. A complaint filed before that date is governed by  
11 the law in effect on the date the complaint was filed, and the  
12 former law is continued in effect for that purpose.

13 (b) The changes in law made by this Act do not affect the  
14 validity of a disciplinary action or other proceeding that was  
15 initiated before the effective date of this Act and that is pending  
16 before a court or other governmental entity on that date.

17 SECTION 60. (a) A violation of a law that is repealed by  
18 this Act is governed by the law in effect on the date the violation  
19 was committed, and the former law is continued in effect for that  
20 purpose.

21 (b) For purposes of this section, a violation was committed  
22 before the effective date of this Act if any element of the  
23 violation occurred before that date.

24 SECTION 61. (a) Except as provided by Subsections (b) and  
25 (c) of this section, this Act takes effect September 1, 2017.

26 (b) Sections 258.155 and 258.156, Occupations Code, as  
27 amended by this Act, and Section 258.1554, Occupations Code, as

1 added by this Act, take effect March 1, 2018.

2 (c) Sections 258.002, 258.054, and 265.001, Occupations  
3 Code, as amended by this Act, take effect September 1, 2018.