

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

HOUSE BILL NO. 1606

BY: MONSON

AS INTRODUCED

AN ACT RELATING TO PROFESSIONS AND OCCUPATIONS;

AMENDING 59 O.S. 1981, SECTIONS 328.22, 328.28 AND  
328.32, WHICH RELATE TO DENTISTS; MODIFYING  
PROVISIONS RELATING TO PRACTICING SPECIALIZED  
DENTISTRY; REMOVING LANGUAGE LIMITING CERTAIN  
DENTISTS TO SPECIALTY; ELIMINATING UNLAWFUL ACT OF  
DENTIST PLACING NAME IN CERTAIN PORTIONS OF  
TELEPHONE DIRECTORY; AUTHORIZING REVOCATION AND  
SUSPENSION OF LICENSE FOR DENTISTS WHO PERFORM  
CERTAIN SERVICES WITHOUT A CERTAIN LICENSE; AND  
PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 1981, Section 328.22, is amended to read as follows:

Section 328.22 No person qualified to practice dentistry, as defined herein, shall perform specialized dentistry services or shall announce and/or hold himself out to the public as ~~limiting his practice to~~ practicing dentistry in or as being especially qualified in, any branch of dentistry, without first having obtained a license therefor from the Board of Governors as hereinafter provided. The Board of Governors will, at its discretion, issue licenses in only

those specialities as approved by the Council on Dental Education of the American Dental Association. The issuing of a specialist license by the Board of Governors is a special privilege granted to that member, which allows him to announce to the public that he is especially qualified in a particular branch of dentistry. ~~Any member granted this special privilege must limit his practice to the specialty in which he is licensed, or said specialist's license may be revoked or suspended, as herein provided.~~ The Board of Governors, upon satisfactory proof that a member is a graduate in one of the recognized specialties of dentistry, from a school or educational program approved by the Council on Dental Education of the American Dental Association, and, in addition thereto, such formal education and/or professional knowledge and experience that the Board of Governors, by rule, considers necessary to maintain the graduate standards according to present day specialists' training programs, may issue a license to any member, authorizing such member to hold himself out and announce to the public that he is especially qualified ~~and limits his practice to,~~ and gives special attention in, any one of the recognized branches of the dental profession. Examinations shall be theoretical and practical. The theoretical examinations shall be in writing and include all the subjects represented in the different branches of approved graduate schools. Written examinations may be supplemented with an oral examination. Demonstration of the applicant's skill is also required. A special license shall be required for the practice of each recognized branch of dentistry in order for the member to hold himself out to the public as ~~limiting his practice to,~~ and being specially qualified in, any branch of dentistry. The fee for such examination and special license shall be fixed annually by the Board of Governors, but shall not exceed Three Hundred Dollars (\$300.00). Any applicant failing to pass such examination shall be entitled to one additional

examination for an additional fee as required by the Board of Governors, but not to exceed Three Hundred Dollars (\$300.00).

SECTION 2. AMENDATORY 59 O.S. 1981, Section 328.28, is amended to read as follows:

Section 328.28 A. It shall be unlawful for any dentist to:

1. Engage in forms of advertising of dental services except as herein permitted, and provided that dentists, professional dental corporations and dental partnerships may advertise, by print media in nondisplay type, within their geographic area of the dentist's practice, professional services and fees for simple and routine services, meaning those services regularly and routinely performed by the particular practitioner or practitioners, within his or their practice, so long as the statements advertised are accurate and are capable of factual substantiation and providing such advertisement does not:

- a. publish or circulate any statements, either directly or indirectly, that would be or tend to be fraudulent, deceptive or misleading;
- b. issue any statement as to skill or method of practice of any person or operator;
- c. claim or infer, in any manner, superiority over other dental practitioners;
- d. publish any reports of cases, certificates or testimonials of or from patients or former patients;
- e. claim the use of any secret or patented methods, specific methods of treatment, appliances, medications, chemicals or materials, provided there may be a listing of professional fees for simple and routine services;
- f. advertise any free dental services, free dental examinations or x-rays or the giving or offering to give merchandise or other thing of value exceeding

Five Dollars (\$5.00) as an inducement to secure dental patronage; or

- g. use his name or the name of a dentist with the names of persons who are not licensed dentists, for the purpose of soliciting for dental services.

~~2. Place his name, as a member licensed in a specialty, in any other portion of the classified section of a telephone directory, other than under the properly listed specialty in which he is licensed;~~

~~3. Employ or use solicitors to obtain dental patronage;~~

~~4. 3. Advertise by public exhibitions or by use of specimens of dental work;~~

~~5. 4. Give public demonstrations of skill or methods of practicing dentistry upon or along the sidewalks, streets or highways, or any place other than the dental office where such dentist is known to be regularly engaged in the practice of dentistry;~~

~~6. 5. Pay or accept commissions, in any form or manner, as compensation for another's referring dental patients to any dentist for professional services, radiograms, written work authorizations or other services or articles supplied to the patient;~~

~~7. 6. Advertise by means of billboards or offsite signs;~~

~~8. 7. Advertise that the performance of any dental operation or procedure does not cause pain or discomfort;~~

~~9. 8. Use any potentially deceptive phrase or claim such as: "satisfaction guaranteed", "unique", "under no obligation", "discount", "low fee", "as little as", "as low as", "indestructible", or similar phraseology of a misleading or potentially misleading nature; or utilize as an office name, building name or location name any term or phraseology calculated to call attention to any particular dental practice or type of dental~~

practice or which is or would tend to be deceptive or misleading to members of the public;

~~10.~~ 9. Advertise the length of time in practice or time at a particular location;

~~11.~~ 10. Hold one's self out to the public as practicing dentistry under a trade name, or use an assumed name that is or tends to be either false or misleading to the public;

~~12.~~ 11. Use the services of a dental laboratory located within the State of Oklahoma whose name is not duly filed in the official records of the Board of Governors;

~~13.~~ 12. Use or attempt to use the services of a dental laboratory or dental laboratory technician without issuance of an appropriate written work authorization;

~~14.~~ 13. Operate a commercial dental laboratory and continue in the active practice of dentistry; and

~~15.~~ 14. Authorize, permit or allow his dental hygienist, dental assistant, dental nurse or dental laboratory technician to violate any provisions of this act or any rule or regulation duly promulgated by the Board of Governors.

B. It shall be unlawful for any person to advertise dental services, as defined in this act, unless he is licensed to practice dentistry by the State of Oklahoma.

Any person committing an offense against any of the provisions of this section shall, upon conviction, be subjected to such penalties as are provided in Section 328.49 of this title, and the writ of injunction, without bond, is made available to the Board of Governors for the enforcement of this section and this act.

Notwithstanding any other provisions hereof, a dentist shall be allowed to use nonilluminated signs to be placed or located at the office or office premises, to advertise the dentist's name, the fact that he is engaged in the practice of dentistry, the location of the dental office and the dentist's office hours. No letter may be more

than four (4) inches in height or three (3) inches in width and, if more than one line is used, the lines may be no more than one (1) inch apart. Further, a dentist locating or relocating in a community may announce same in the local press, with the content of such announcements complying with other requirements of this section. A newly licensed dentist or newly licensed specialist may also mail announcements of the opening of his office to members of the dental and allied professions, and such dentist or specialist may also announce the opening or relocating of his dental office by the use of personal professional cards to be given by the dentist or specialist to patients and friends.

Nothing in this section shall prohibit public service, institutional advertising by recognized national, state or local dental associations or societies.

SECTION 3. AMENDATORY 59 O.S. 1981, Section 328.32, is amended to read as follows:

Section 328.32 The Board of Governors shall have power, after a hearing for any causes now existing in the laws of the State of Oklahoma, or for a violation of any acts prohibited herein, to revoke a license of a dentist to practice dentistry, or a specialist license of a dentist, or to suspend the use of the same, or to discipline by probation or reprimand, public or private; and the Board of Governors shall have power to pass upon all petitions for reinstatement. The Board of Governors shall keep a record of the evidence and proceedings in all matters involving the revocation of a license or suspension, probation or reprimand, and shall make findings of fact and a decision thereon. Upon the making of any decision to revoke a license or to suspend a member hereof from practice, or place him or his license under probation, or reprimand a member hereof, the Board of Governors shall immediately forward a certified copy of said decision to the member involved by registered mail, to his last-known business address. Such decision shall be

final, unless such member hereof whose license is revoked, suspended, placed under probation, or who is reprimanded, shall have the right of an appeal as provided in this act. In the event an appeal is not taken within the provisions of this act, the Board of Governors shall make and enter an order striking the name of such person from the roll of membership hereof, or suspending him for the period mentioned in said decision or otherwise carrying out provisions of said decision and shall so notify said member thereof. The Board of Governors shall have power to revoke the license of a member hereof, suspend the member from the practice, reprimand or order a period of probation of said member upon the following grounds:

(a) Upon presentation to the Board of Governors of a certified copy of a court record showing that the member hereof has been convicted of a crime involving turpitude;

(b) Has presented to the Board of Governors a false diploma, license or certificate, or one obtained by fraud or illegal means;

(c) By reason of persistent inebriety, or addiction to drugs, the member is rendered incompetent to continue the practice of dentistry;

(d) Has been guilty of false, fraudulent or misleading advertising, as herein prohibited;

(e) Has permitted, directly or indirectly, by knowledge or acquiescence, an unregistered or unlicensed person to practice dentistry and/or dental hygiene;

(f) Has permitted a dental hygienist to perform any operation other than as authorized by the Board of Governors;

(g) Has been guilty of dishonorable or unprofessional conduct;

(h) Has failed to pay registration fee as herein provided;

(i)  ~~Holds~~  Performs specialized dentistry services or holds himself out as especially qualified in  ~~or limiting his practice to~~ a branch of dentistry without a special license therefor;

(j) Is a menace to the public health by reason of a communicable disease;

(k) Is a menace to the public health by reasons of unsanitary offices, practices, or techniques;

(l) Has been proven mentally unsound or has been admitted to a mental institution, either public or private, and until he is proven mentally competent;

(m) Is grossly immoral;

(n) Is incompetent in the practice of dentistry;

(o) Is guilty of willful negligence in the practice of dentistry;

(p) Is guilty of division of fees, or agreeing to split or divide the fee received for dental service with any person for bringing or referring a patient without the knowledge of the patient or his legal representative;

(q) Has been convicted of violating or has willfully violated the federal or state narcotic or barbiturate laws or has been committed for treatment for drug addiction to an institution, either public or private, and until he has proven himself cured;

(r) Is guilty of using or attempting to use the services of a dental laboratory or dental laboratory technician without issuing a written authorization;

(s) Is guilty of aiding or abetting or encouraging a dental hygienist employed by him to make use of an oral prophylaxis list, or the calling by telephone or by use of letters transmitted through the mails to solicit patronage from patients formerly served in the office of any dentist formerly employing such hygienist;

(t) Is guilty of having more than two dental hygienists per dentist;

(u) Is guilty of patronizing or using the services of any dental laboratory or dental laboratory technician in this state unless such dental laboratory or dental laboratory technician shall have first

complied with the provisions of the act regulating dental laboratories and dental laboratory technicians;

(v) Has placed a dental appliance in the mouth without first having a written authorization from the dentist who caused same to be constructed;

(w) Has authorized, permitted or allowed his or her dental hygienist, dental nurse, dental assistant, or dental laboratory technician to violate any provision of this act or any rules and regulations of the Board of Governors, or has violated any of the provisions of this act.

SECTION 4. This act shall become effective September 1, 1991.

43-1-5201           KVR