

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

SENATE BILL NO. 1026

BY: CAIN

AS INTRODUCED

AN ACT RELATING TO THE PRACTICE OF DENTAL HYGIENE;
AMENDING 59 O.S. 1991, SECTIONS 328.2, 328.3,
328.7, 328.9, 328.13, 328.17, 328.19, 328.21,
328.27, 328.30, 328.31, 328.32, 328.41, 328.44,
328.47 AND 328.49, WHICH RELATE TO DENTISTRY AND
DENTAL HYGIENE; DELETING REFERENCE TO PRACTICE OF
DENTAL HYGIENE; DELETING DEFINITION; REMOVING
DENTAL HYGIENIST MEMBERS FROM COMPOSITION OF BOARD
OF GOVERNORS OF THE REGISTERED DENTISTS OF OKLAHOMA
AND CONFORMING LANGUAGE; CHANGING REFERENCE TO
CERTAIN BOARD AND ACT; DELETING PROHIBITION AGAINST
PRACTICING DENTAL HYGIENE UNLESS LICENSED BY BOARD
OF GOVERNORS AND CONFORMING LANGUAGE; DELETING
AUTHORITY OF BOARD OF GOVERNORS TO REGULATE
PRACTICE OF DENTAL HYGIENE; DELETING APPLICATION OF
CERTAIN REQUIREMENTS AND PROHIBITIONS TO DENTAL
HYGIENISTS; REMOVING CERTAIN CONDITIONS FOR
DISCIPLINING MEMBER OF BOARD OF GOVERNORS; REMOVING
PRACTICE OF DENTAL HYGIENE AND DENTAL HYGIENISTS
FROM JURISDICTION OF BOARD OF GOVERNORS FOR HEARING
COMPLAINTS AND DISCIPLINARY PURPOSES; REMOVING
PRACTICE OF DENTAL HYGIENISTS FROM CERTAIN PENALTY
PROVISIONS; PROVIDING SHORT TITLE; STATING PURPOSE;
DEFINING TERMS; CREATING OKLAHOMA BOARD OF DENTAL

HYGIENE; PROVIDING FOR APPOINTMENT, QUALIFICATIONS, TERMS OF OFFICE, REMOVAL OF MEMBERS, VACANCIES AND COMPENSATION; PROVIDING FOR APPOINTMENT OF EXECUTIVE DIRECTOR AND PROVISIONS RELATED THERETO; STATING POWERS AND DUTIES; PROVIDING FOR EMPLOYMENT OF INVESTIGATORS AND INSPECTORS AND APPOINTMENT OF EXAMINING COMMITTEES; EXEMPTING BOARD MEMBERS AND EMPLOYEES FROM CERTAIN LIABILITY; REQUIRING CERTAIN PROOF OF CONTINUING EDUCATION AND ALLOWING BOARD TO APPROVE PROVIDERS AND COURSE CONTENT; DEFINING MEANING OF PRACTICING DENTAL HYGIENE; PROVIDING FOR CONSTRUCTION OF ACT AS IT RELATES TO CERTAIN PRACTICES; PROHIBITING PRACTICE OF DENTAL HYGIENE UNLESS LICENSE IS OBTAINED AND CERTAIN FEES ARE PAID; STATING QUALIFICATIONS AND CONDITIONS FOR LICENSURE; PROVIDING FOR ADOPTION OF RULES AND REGULATIONS FOR LICENSURE WITHOUT EXAMINATION OF CERTAIN APPLICANTS UNDER CERTAIN CONDITIONS; AUTHORIZING ISSUANCE OF CERTAIN CERTIFICATE AND REQUIRING CERTAIN FEE; MAKING CERTAIN ACTS UNLAWFUL; DECLARING CERTAIN ACTS TO BE UNPROFESSIONAL CONDUCT; PROVIDING FOR NOTICE AND HEARING, DISCIPLINARY ACTIONS AND PROCEDURES RELATED THERETO; STATING CONDITIONS FOR DISCIPLINARY ACTIONS; STATING CERTAIN REQUIREMENT OF PRACTICE AND AUTHORIZING DENTAL HYGIENISTS TO PERFORM CERTAIN SERVICES AND PROCEDURES; AUTHORIZING CERTAIN ACTS UNDER CERTAIN CONDITIONS; PROVIDING FOR RENEWAL OF LICENSE AND PROCEDURES RELATED THERETO; AUTHORIZING BOARD TO SET, REDUCE AND WAIVE CERTAIN FEES AND TO CHANGE FROM ANNUAL TO BIENNIAL LICENSE PERIODS; PROVIDING FOR DUPLICATE

LICENSE AND CERTIFICATE OF RENEWAL; CREATING STATE DENTAL HYGIENE REVOLVING FUND AND REQUIRING TRANSFER OF CERTAIN FUNDS TO REVOLVING FUND; PROVIDING PENALTIES; EXEMPTING CERTAIN PERSONS FROM CERTAIN LIABILITY; AUTHORIZING BOARD TO BRING CERTAIN CIVIL ACTION AND CAUSE CERTAIN PROSECUTION BY DISTRICT ATTORNEY; REPEALING 59 O.S. 1991, SECTIONS 328.24, 328.25, 328.29, 328.33 AND 328.34, WHICH RELATE TO REGULATION OF DENTAL HYGIENISTS BY BOARD OF GOVERNORS OF THE REGISTERED DENTISTS OF OKLAHOMA; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

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

SECTION 1. AMENDATORY 59 O.S. 1991, Section 328.2 is amended to read as follows:

Section 328.2 The practice of dentistry in the State of Oklahoma is hereby declared to affect the public health, safety and general welfare and to be subject to regulation and control in the public's best interest. It is further declared to be a matter of public interest and concern that the dental profession, through advancement and achievement, merits and receives the confidence of the public and that only properly qualified dentists be permitted to practice dentistry and supervise dental assistants and/or dental nurses in the State of Oklahoma. All provisions of this act relating to the practice of dentistry, ~~the practice of dental hygiene,~~ the procedures performed by dental assistants and/or dental nurses, and the fabrication of dental appliances in dental

laboratories by dental laboratory technicians shall be liberally construed to carry out these objects and purposes.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 328.3, is amended to read as follows:

Section 328.3 (a) The term "organization" means the Registered Dentists of Oklahoma.

(b) The term "Board of Governors" means the Board of Governors of the Registered Dentists of Oklahoma.

(c) The term "dentistry" means the practice of dentistry in all of its branches.

(d) The term "dental laboratory technology" means the construction, upon the written work authorization of a licensed dentist, of any dental appliance or thing to be worn in the human mouth, by a dental laboratory technician who uses inert materials and mechanical devices for the fabrication or construction of any such dental appliance or thing.

(e) The term "written work authorization" means a written description of the procedures to be followed in the fabrication or construction of any dental restoration, appliance or thing to be worn in the human mouth by a dental laboratory technician who uses inert materials and mechanical devices for the fabrication or construction of any such dental appliance or thing.

(f) The term "dentist" means a professionally trained individual who has fulfilled the educational requirements and is a graduate of an accredited dental school and who has been licensed by the Board of Governors to administer to the general public through the practice of dentistry as herein defined.

(g) The term "dental office" means an establishment owned and operated by a licensed dentist for the practice of dentistry which may be composed of reception rooms, business offices, private offices, laboratories, and dental operating rooms where dental operations are performed.

~~(h) The term "dental hygienist" means an individual who has fulfilled the educational requirements and is a graduate of an approved school of dental hygiene and who has passed an examination and has been issued a certificate of ability by the Board of Governors and who is authorized to practice dental hygiene as hereinafter defined.~~

~~(i)~~ The term "dental assistant and/or dental nurse" means an individual working for the licensed dentist, under his supervision, and performing duties in the dental office including the limited treatment of patients in accordance with the provisions of this act. The dental assistant and/or dental nurse may assist the dentist with the patient; provided, this shall be done only under the direct supervision and control of the dentist and only in accordance with the educational requirements, rules and regulations promulgated by the Board of Governors.

~~(j)~~ (i) The term "dental laboratory" means an establishment that has been duly granted a permit, and is on the official records of the Board of Governors, where a dental laboratory technician is performing dental laboratory technology. Such dental laboratory may be located either within the office of a dentist or dentists for his or their use, or in a separate location for the commercial use of licensed dentists, whereby using inert materials and mechanical devices the dental laboratory technician fabricates dental restorations, appliances or things to be worn in the human mouth upon the written work authorization of a licensed dentist.

~~(k)~~ (j) The term "dental laboratory technician" means an individual whose name is duly filed on the official records of the Board of Governors, which authorizes him, upon the written work authorization of a licensed dentist, to use inert materials and mechanical devices for the fabrication of any dental restorations, appliances or things to be worn in the human mouth, which services

must be rendered only to the licensed dentist and not to any actual user or prospective user.

SECTION 3. AMENDATORY 59 O.S. 1991, Section 328.7, is amended to read as follows:

Section 328.7 There is hereby constituted a Board of Governors of the organization to be known as "The Board of Governors of the Registered Dentists of Oklahoma", consisting of eight (8) dentist members, ~~one (1) dental hygienist member~~ and two (2) members who shall represent the public in general. One dentist member shall be elected from each of the eight districts. ~~One dental hygienist member shall be elected by dental hygienists residing in the State of Oklahoma who are legally licensed to practice dental hygiene therein.~~ The two public representative members shall be appointed by the Governor, subject to confirmation by the Senate. The members representing the public may not be dentists, dental surgeons, dental hygienists or dental technicians, or be related by blood or marriage within the third degree to any such person. Each member shall hold office for a period of three (3) years and until his/her term expires and/or his/her successor is selected and qualified. Board members shall not serve for more than three (3) consecutive terms. However, upon this act becoming effective, the present members of the Board of Governors shall hold office until their terms expire and/or their successors are elected and qualified as hereinafter provided. The members of the Board of Governors shall be reimbursed for travel expenses as provided in the State Travel Reimbursement Act. The Board of Governors, at its discretion, may affiliate with the American Association of Dental Examiners as an active member and pay regular dues to said association and may send no more than two board members as delegates to regular meetings thereof.

SECTION 4. AMENDATORY 59 O.S. 1991, Section 328.9, is amended to read as follows:

Section 328.9 Nominations for dentist members of the Board of Governors from the several districts shall be by petition signed by at least ten members entitled to vote for such nominees.

~~Nominations for the dental hygienist member of the Board of Governors shall be by petition signed by at least ten (10) dental hygienists entitled to vote for such nominees. The election shall be by ballot. The ballots shall be mailed to those entitled to vote at least thirty (30) days prior to the date of canvassing the ballots and shall be returned by mail to the secretary and the ballots shall be opened and canvassed at a meeting of the board. In other respects, the election shall be as the board may by rule direct. Only members of the organization residing in the respective districts shall be entitled to vote for the dentist members therefrom. Only dental hygienists residing and licensed in the State of Oklahoma shall be entitled to vote for the dental hygienist member.~~ Dentist members of the Board of Governors may be removed from office by special election called by the Board of Governors upon receipt of a written petition signed by at least twenty percent (20%) of the members residing in that district. ~~The dental hygienist member of the Board of Governors may be removed from office by special election called by the Board of Governors upon receipt of a written petition signed by at least twenty percent (20%) of the licensed dental hygienists residing in the State of Oklahoma.~~ If a majority of the votes cast in the special election are in favor of recalling the Board members, he/she will be removed from office as of the date the results of the ballot canvassing are forwarded to the Board of Governors.

SECTION 5. AMENDATORY 59 O.S. 1991, Section 328.13, is amended to read as follows:

Section 328.13 A vacancy among the dentist members on the Board of Governors shall be filled by a special election in the district of the vacancy for the unexpired term within sixty (60) days after

the vacancy occurs, as provided in Section 328.9 of this title. ~~The vacancy of the dental hygienist member on the Board of Governors shall be filled by a special election in the state for the unexpired term within sixty (60) days after the vacancy occurs, as provided in Section 328.9 of this title. Nomination shall be made in the same manner as provided in Section 328.9 of this title, or if no one is nominated within forty-five (45) days from date of vacancy said vacancy shall be filled by appointment by the Board of Governors.~~ A vacancy among the public representative members on the Board of Governors shall be filled by appointment by the Governor, subject to confirmation by the Senate.

SECTION 6. AMENDATORY 59 O.S. 1991, Section 328.17, is amended to read as follows:

Section 328.17 The Board of Governors shall have power to appoint committees and examining boards for the dental specialists ~~and dental hygienists~~, and to hire such employees as it may deem necessary or proper, and fix and pay salaries and necessary expenses therefor. ~~Provided further, upon this act becoming effective, the Board of Governors will have power to appoint one dental hygienist in an advisory capacity to sit with the Board of Governors to assist it in the administration and enforcement of the dental hygienist provisions of this act, and to be present only at a Board of Governors' meeting when the agenda of said meeting includes matters pertinent to the administration and enforcement of the dental hygiene provision of this act. Such appointment will be made from a list of names submitted to the Board of Governors by the dental hygienists of the State of Oklahoma. This appointment shall be for a period of two (2) years or until a successor is appointed.~~ The Board of Governors will also appoint four persons who operate dental laboratories under the permit duly issued pursuant to the provisions of this act to sit with the Board of Governors in an advisory capacity and to assist it in the administration and enforcement of

the laboratory provisions of this act. One member will be appointed from District 2 and District 8 to serve a term of three (3) years; one member will be appointed from District 1 and District 4 to serve for a term of two (2) years; one member will be appointed from District 3 and District 7 to serve for a term of two (2) years; and one member will be appointed from District 5 and District 6 to serve for a term of one (1) year. When the terms of office expire for such members of the advisory board, and members subsequently appointed thereto, the Board of Governors will appoint a member from that district or districts whose members' terms have expired to serve for terms of three (3) years, or until their successors are appointed. Such appointments will be made from a list of names of at least two persons for each position, submitted to the Board of Governors by the persons who operate dental laboratories under permits duly issued pursuant to the provisions of this act.

SECTION 7. AMENDATORY 59 O.S. 1991, Section 328.19, is amended to read as follows:

Section 328.19 Any person shall be regarded as practicing dentistry within the meaning of this act who:

(a) shall hold himself out or employ methods, in any way, representing himself as being engaged in the practice of dentistry;

(b) shall hold himself out, in any way, as being able to diagnose or profess to diagnose or examine clinical material and contract for the treating thereof;

(c) shall treat or profess to treat by professional instructions;

(d) shall hold himself out as treating any of the diseases or disorders or lesions of the oral cavity, teeth, gums, maxillary bones and associate structures;

(e) shall remove teeth;

(f) shall repair or fill cavities in human teeth;

(g) shall correct or attempt the correction of malposed teeth;

(h) shall administer anesthetics, general or local;

(i) shall treat deformities of the jaws and adjacent structures;

(j) shall use x-ray and interpret dental x-ray film;

(k) shall offer or undertake, by any means or methods to remove stains, discolorations or concretions from the teeth;

(l) shall operate or prescribe for any disease, pain, injury, deficiency, deformity, or any physical condition connected with the human mouth;

(m) shall take impression of the teeth and jaws;

(n) shall furnish, supply, construct, reproduce or repair, or offer to furnish, supply, construct, reproduce or repair, prosthetic dentures (sometimes known as plates), bridges or other substitutes for natural teeth for the user or prospective user thereof;

(o) shall adjust or attempt or profess to adjust any prosthetic denture, bridge, appliance or any other structure to be worn in the human mouth;

(p) shall diagnose, make and adjust appliances to artificial casts of malposed teeth for treatment of the malposed teeth in the human mouth, without instructions;

(q) shall write a work authorization to a dental laboratory or dental laboratory technician for the construction, reproduction or repair of any appliance or structure to be worn in the human mouth;

(r) shall own, maintain, or operate an office or offices by holding a financial interest in same for the practice of dentistry.

The fact that a person uses any dental degree, or designation, or any card, device, directory, poster, sign or other media whereby he represents himself to be a dentist shall be prima facie evidence that such person is engaged in the practice of dentistry; provided that nothing in this section shall be so construed as to prevent the following:

(a) Physicians or surgeons, who are regularly licensed and registered under the laws of this state, from administering any kind of treatment coming within the province of medicine or surgery;

(b) The practice of dentistry in the discharge of their official duties by dentists in the United States Army, the United States Navy, the United States Air Force, the United States Coast Guard, the United States Public Health Service, or the United States Veterans Administration;

(c) Dental schools or colleges, as now conducted and approved, or as may be approved, and the practice of dentistry by students in dental schools, colleges or hospitals, approved by the Board of Governors, when acting under the direction and supervision of licensed dentists or dentists holding properly issued permits acting as instructors;

(d) The practice of dentistry by licensed dentists of other states or countries at meetings of the organization or component parts thereof, alumni meetings of dental colleges, or any other recognized educational dental organization, while appearing as clinicians where no fee is paid by the patient;

(e) The practice of dental hygiene, as ~~hereinafter~~ defined in the State Dental Hygiene Act, by a person granted a ~~certificate of ability by the Board of Governors~~ license by the Oklahoma Board of Dental Hygiene;

(f) The practice of dental hygiene, as defined ~~herein~~ in the State Dental Hygiene Act, or the performing of acts by a dental assistant and/or dental nurse who performs said acts under the direct supervision of the dentist and in accordance with all educational requirements, rules, regulations or procedures relating thereto as promulgated by the Board of Governors;

(g) The fabrication of dental appliances pursuant to a specific work authorization written by a licensed dentist, by a dental laboratory technician in a dental laboratory using inert materials

and mechanical devices for the fabrication of any restoration, appliance or thing to be worn in the human mouth.

SECTION 8. AMENDATORY 59 O.S. 1991, Section 328.21, is amended to read as follows:

Section 328.21 No person, ~~unless currently registered to practice dentistry or dental hygiene in this state at the effective date of this act,~~ shall begin the practice of dentistry ~~or dental hygiene~~ for himself, a dentist, any institution or individual, without first applying for and obtaining a license from the Board of Governors, ~~if the applicant is to practice dentistry, or a certificate of ability, if the applicant is to practice dental hygiene.~~ Application shall be made to said Board of Governors in writing, and shall, in every instance, be accompanied by a fee, as required by the Board of Governors, but not to exceed Two Hundred Dollars (\$200.00), together with satisfactory proof that the applicant is of good moral character and twenty-one (21) years of age, or over, at the time of making application to practice dentistry ~~or eighteen (18) years of age, or over, if the applicant is to practice dental hygiene.~~ An application from a candidate who desires to secure a license ~~or certificate of ability~~ from said Board of Governors to practice dentistry ~~or dental hygiene~~ in this state shall be accompanied by satisfactory proof that the applicant is a graduate of and has a degree from the faculty of a dental college, school or dental department of a university, ~~if the applicant is to practice dentistry, or applicant must be a graduate of a training school for dental hygienists, if the applicant is to practice dental hygiene.~~ In either case, the school must be approved by the Commission on Dental Accreditation of the American Dental Association. When said applicant and the accompanying proof are found satisfactory, the Board of Governors shall notify the applicant to appear before it for examination at the time and place to be fixed by the Board of Governors. Examination shall be made in

writing in all theoretical subjects; both theoretical and practical examinations shall be of a character to give a fair test of the qualifications of the applicant to practice dentistry ~~or dental hygiene, whichever the case may be~~. The examination papers and all grading thereon, and the grading of practical work, shall be deemed public documents, and preserved by the secretary of the Board of Governors for a period of two (2) years after the Board of Governors shall have made and published its decision thereon. The Board of Governors shall demand that every applicant for a license to practice dentistry ~~or certificate of ability to practice dental hygiene~~ shall:

(a) Submit, for the files of the Board of Governors, a photostatic copy of a dental degree and a recent photograph duly identified and attested;

(b) Pass an examination given by the board in the theory and practice of the science of dentistry ~~or dental hygiene, whichever the case may be~~. Provided that the Board of Governors may recognize the results of examinations conducted by the Commission on National Dental Examinations or results of regionally conducted examinations with which regions the Board of Governors is affiliated by contract or cooperative agreement pursuant to Section 328.15 of this title, in lieu of, or subject to, such examinations as may be required. Any applicant who shall fail to pass his first examination shall have a right to apply for a second examination, in which case he shall pay an examination fee as required by the Board of Governors, but not to exceed Two Hundred Dollars (\$200.00). Any applicant who shall fail to pass the examination upon his first trial may be given credit for such subjects as the Board of Governors may deem him entitled to, but such credits shall be extended only to the succeeding examinations. If the applicant shall fail to pass a second examination, before further reexamination, the Board of Governors may require evidence of additional education, as specified

by the Board of Governors. After a third examination the Board of Governors may deny applicant another examination.

SECTION 9. AMENDATORY 59 O.S. 1991, Section 328.27, is amended to read as follows:

Section 328.27 The Board of Governors shall have authority upon presentation of satisfactory credentials, and under such rules and regulations as the Board of Governors may prescribe, to issue permits to persons who are graduates of a school of dentistry ~~or dental hygiene~~ approved by the Board, when such persons are licensed in some other state. Such permits shall be issued only upon the certification of the dean of a dental school ~~and/or director of a dental hygiene school~~ located in this state that the applicant is a bona fide member of the staff of that school. Such permits shall be valid for one (1) year and may be reissued by the Board of Governors for only one (1) additional year. The holder of such permits shall be entitled to perform all operations which a person licensed to practice dentistry ~~or dental hygiene~~ in this state would be entitled to perform, but such services will be without fee or compensation other than that received in salary from such positions, and shall be performed only within the facilities of the dental school location or a seminar or postgraduate course and as an adjunct to his or her teaching functions in such school or to the profession.

SECTION 10. AMENDATORY 59 O.S. 1991, Section 328.30, is amended to read as follows:

Section 328.30 Every licensed and registered dentist ~~and certified dental hygienist~~ actively engaged in the practice of dentistry ~~or dental hygiene~~ in this state shall display his license ~~or certificate of ability~~ and the annual renewal certificate hereinafter provided for in his office or place of employment.

SECTION 11. AMENDATORY 59 O.S. 1991, Section 328.31, is amended to read as follows:

Section 328.31 No dentist shall practice dentistry under the name of a corporation, company, clinic, parlor, studio, institute, association or trade name or other title that may suggest a public or semipublic activity, except as hereinafter provided. Any person or persons owning, running, operating, or controlling any room, rooms, or office where dentistry is performed, provided or contracted for, who shall employ, keep or retain any unlicensed or unregistered person or persons and who shall fail, within ten (10) days after demand by the Board of Governors, in writing sent by registered mail, addressed to any such person or persons at said room or office, to furnish to said Board of Governors the names and addresses of all persons practicing or assisting in the practice of dentistry in his place of business or under his control, together with a sworn statement showing by what license or authority said persons are practicing dentistry or assisting in the practice of dentistry, shall be subject to discipline as provided herein, and, in addition to the remedies provided herein, the writ of injunction is made available to the Board of Governors for the enforcement of this act. No corporation, except as herein provided, shall practice dentistry ~~or dental hygiene~~, or engage therein, or hold itself out as being entitled to practice the same, or furnish dental services or dentists, ~~or dental hygienists~~, or advertise under or assume the title of dentists ~~or dental hygienists~~ or equivalent title, or furnish dental advice for any compensation, or advertise or hold itself out with any other person or alone, that it has or owns a dental office or can furnish dental service, or dentists ~~or dental hygienists~~, or solicit through itself, or its agents, officers, employees, directors or trustees, dental patronage for any dentists ~~or dental hygienists~~ employed by any corporation. No person or persons shall own or be interested in or manage any office for the practice of dentistry in any location and operate them under their own name with employed dentist or dentists. No person or persons

shall be associated or connected with, in any manner, any offices or rooms where the profession of dentistry is practiced, unless such person or persons shall be actually engaged for the major portion of their time in the practice of dentistry at such office or rooms; provided, however, that the provisions of this paragraph shall not apply where a member hereof shall choose to practice dentistry, under his own name, without an employed dentist one or more days of a given week or month in different locations. Provided, however, nothing in this section shall prevent one or more dentists from incorporating their practice in a professional corporation in accordance with the provisions of Title 18, Chapter 18, Oklahoma Statutes, known as the Professional Corporation Act.

SECTION 12. AMENDATORY 59 O.S. 1991, 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)~~ (g) Has failed to pay registration fee as herein provided;

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

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

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

~~(l)~~ (k) 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)~~ (l) Is grossly immoral;

~~(n)~~ (m) Is incompetent in the practice of dentistry;

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

~~(p)~~ (o) 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)~~ (p) 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)~~ (q) 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)~~ (r) 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)~~ (s) Has placed a dental appliance in the mouth without first having a written authorization from the dentist who caused same to be constructed;

~~(w)~~ (t) 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 13. AMENDATORY 59 O.S. 1991, Section 328.41, is amended to read as follows:

Section 328.41 On or before the first day of January of each year, every dentist licensed ~~and dental hygienist registered~~ to practice in this state shall transmit to the secretary of the Board of Governors, upon a form prescribed by the Board of Governors, his or her signature, post office address, office address, the number of his or her license certificate ~~or certificate of ability,~~ a statement whether he or she has been engaged during the preceding year in the active and continuous practice of dentistry ~~or dental hygiene~~ whether within or without this state, and such other information as may be required by the Board of Governors, together with the fee herein provided for. On or before the first day of October of each year, the Board of Governors shall determine the amount that may be necessary for the next ensuing fiscal year to carry out and enforce the provisions of this act and shall fix the renewal fee at such reasonable sum as may be necessary for that purpose, but not to exceed One Hundred Dollars (\$100.00) ~~for dentists and Seventy-five Dollars (\$75.00) for dental hygienists,~~ and immediately notify all registered dentists ~~and dental hygienists~~ of the amount of the said fee for the ensuing year. Upon receipt of such renewal fee the Board shall issue a renewal certificate authorizing such dentist ~~or dental hygienist~~ to continue the practice of dentistry ~~or dental hygiene respectively~~ in this state

for a period of one (1) year. Any license ~~or certificate of ability~~ granted under authority of this or any prior dental act shall automatically be canceled if the holder thereof fails to secure the renewal certificate or registration herein provided for within a period of three (3) months from the 31st day of December of each year. Any dentist ~~or dental hygienist~~ whose license ~~or certificate of ability~~ is automatically canceled by reason of failure, neglect or refusal to secure the renewal certificate or registration may be reinstated by the Board of Governors at any time within six (6) months from the date of the automatic cancellation of said license ~~or certificate of ability~~, upon payment of the renewal certificate or registration fee and a penalty fee in an amount as required by the Board of Governors, but not to exceed One Hundred Dollars (\$100.00). If said dentist ~~or dental hygienist~~ shall not apply for renewal of license ~~or certificate of ability~~ within said six (6) months after it shall have been automatically canceled and pay the required fees, then said dentist ~~or dental hygienist~~ shall be required to file an application for and take the examination provided for in this act before again commencing practice. Upon failure of a dentist ~~or dental hygienist~~ to pay the annual renewal fee within two (2) months after January 1, the Board of Governors shall notify such dentist ~~or dental hygienist~~ in writing by registered mail to his or her last-registered address. Failure to mail or receive such notice, however, shall not affect the cancellation of any license ~~or certificate of ability~~ made prior to the effective date of this provision. Provided, however, that the Board of Governors may waive the annual payment of fees herein provided for the renewal of license to any Oklahoma dentist ~~or certificate of ability of any Oklahoma dental hygienist~~ and issue a renewal certificate without the payment of any renewal fee, if said dentist ~~or dental hygienist~~ has held an Oklahoma license ~~or certificate of ability~~ at least twenty-five (25) years but because

of age or physical disability has retired from the practice of dentistry ~~or dental hygiene~~. The waiver of fees herein provided may be continued so long as said retirement continues because of age or physical disability. Provided further, that any dentist ~~or dental hygienist~~ who has had a license to practice dentistry ~~or a certificate of ability to practice dental hygiene~~ in good standing for thirty-five (35) years and has reached the age of sixty-five (65), shall upon application to the Board of Governors be issued renewal certificates for the renewal of their license ~~or certificate of ability~~ without the payment of annual registration fees for the remaining years of their active practice. The Board of Governors, by rule, shall provide for the remittance of fees otherwise required by this act while a dentist ~~or dental hygienist~~ is on active duty with any of the Armed Forces of the United States. In case of a lost or destroyed license ~~or certificate of ability~~ or renewal certificate or registration and upon satisfactory proof of the loss or destruction thereof, the Board of Governors may issue a duplicate, charging therefor a fee as required by the Board of Governors, but not to exceed One Hundred Dollars (\$100.00).

SECTION 14. AMENDATORY 59 O.S. 1991, Section 328.44, is amended to read as follows:

Section 328.44 In all cases involving revocation, suspension or probation or reprimand, the hearing shall be held in the county of the residence of the party charged or where the offense is committed. Upon the filing of a written complaint by any person, or upon its own motion when it has reason to believe a violation of the provisions of this act or of professional ethics has occurred, the Board of Governors shall have power to initiate and conduct investigations of all matters affecting or relating to the organization or its affairs, or the practice of dentistry, ~~or the practice of dental hygiene, or the discipline of dentists or dental hygienists~~ or any other matter within the jurisdiction of the

organization; and in the conduct of such investigation the Board of Governors shall hear said complaint and shall have power to take and hear evidence touching the matters under investigation, administer oaths and affirmations, and upon such investigations, and upon trial or hearing of all matters, jurisdiction to try or hear which is given to said Board of Governors, shall have power to compel the attendance of witnesses and the production of books, papers and documents pertaining to the matter under investigation, or to said trial or hearing, by subpoena issued as hereinafter provided.

Whenever any person subpoenaed to appear and give testimony or to produce such books, papers or documents as required by such subpoena shall refuse to appear or testify before said Board of Governors, or to answer any pertinent or proper questions, he shall be deemed in contempt of said Board of Governors, and it shall be the duty of the presiding officer of said Board of Governors to report the fact to the district court of the State of Oklahoma in and for the county in which said investigation, trial or hearing is being held; thereupon the said court shall issue an attachment in the form usual in said district court, directed to the sheriff of said county, commanding said sheriff to attach such person and forthwith bring him before said district court. On the return of said attachment, and the production of the person attached, the said district court shall have jurisdiction of the matter, and the person charged may purge himself of the contempt in the same way, and the same proceedings shall be had, and the same penalties may impose, and the same punishment inflicted as in the case of a witness subpoenaed to appear and give evidence on the trial of a civil cause before a district court of the State of Oklahoma. Any member of said Board of Governors shall have power to administer oaths and issue any subpoena herein provided for. A subpoena may be served upon any person in Oklahoma, with the same fees and mileage by any officer authorized to serve subpoenas in civil actions, in the same manner

as is prescribed by the code of civil procedure for subpoenas issued out of the district courts of this state. No witness shall be compelled to attend a hearing outside of the county where such hearing is held. Depositions may be taken and used in the same manner as in civil case provided for.

SECTION 15. AMENDATORY 59 O.S. 1991, Section 328.47, is amended to read as follows:

Section 328.47 The Board of Governors, subject to the provisions of this act, may, by rule, provide the mode of procedure in all cases of complaints against dentists ~~or dental hygienists~~. All provisions of this act relating to hearings before the Board of Governors, and any appeals therefrom, and procedures therefor are exclusive and shall control over any act including Title 75 of the Oklahoma Statutes, Section 301, i. e., sig.

SECTION 16. AMENDATORY 59 O.S. 1991, Section 328.49, is amended to read as follows:

Section 328.49 Any person, firm or corporation who shall practice or attempt to practice dentistry ~~or dental hygiene~~ within the State of Oklahoma, after his license ~~or certificate of ability, respectively,~~ shall have been revoked, or while under suspension, as herein provided, or without having complied with the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be punishable by a fine of not less than One Hundred Dollars (\$100.00), and not exceeding Five Hundred Dollars (\$500.00), or by imprisonment in the county jail not less than thirty (30) days nor exceeding one (1) year or by both such fine and imprisonment. Each day of such violation shall be a separate offense. The writ of injunction, without bond, is also made available to the Board of Governors for the enforcement of this act. Any person who shall practice dentistry ~~or dental hygiene~~ or conduct the business of a dental laboratory in this state within the meaning of this act without having first obtained a license, ~~certificate of ability,~~ or

permit, ~~respectively~~, from the Board of Governors, or who violates any of the provisions of this act, the penalty for which is not herein specifically provided, shall be deemed guilty of a misdemeanor. Anyone convicted of such misdemeanor under this act shall be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail for not less than thirty (30) days nor more than twelve (12) months, or both such fine and imprisonment, in the discretion of the court. Each day of such violation shall be a separate offense. The writ of injunction, without bond, is also made available to the Board of Governors for the enforcement of this act. Any person, firm, or corporation found guilty of a second and subsequent offense under the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction therefor shall be punished by imprisonment in the county jail for a period of not less than sixty (60) days, and a fine of not less than Five Hundred Dollars (\$500.00), and not exceeding One Thousand Five Hundred Dollars (\$1,500.00), and shall have his license, ~~certificate of ability~~, or permit, ~~respectively~~, revoked for a period of five (5) years by the Board of Governors of the Registered Dentists of Oklahoma. Each day of violation shall be a separate offense. In addition to any other penalties provided herein, any person found guilty of contempt of court by reason of the violation of any order or judgment of injunction prohibiting the unlicensed practice of dentistry now in effect or hereafter entered pursuant to any provision of this act, shall be punished by imprisonment in the county jail for a minimum time of not less than thirty (30) days or a maximum of not more than one (1) year and by a fine of not less than Five Hundred Dollars (\$500.00); and in addition, the court may require defendant to furnish a good and sufficient bond in a penal sum to be set by the court, not less than One Thousand Dollars (\$1,000.00), which shall be conditioned upon future compliance in

all particulars with the order or injunction entered, and in the event of failure of defendant to furnish such bond when so ordered, he shall be confined in the county jail pending his compliance therewith. Such bond shall be mandatory as to any person hereafter found guilty of a second contempt of court for violation of any such order or judgment of injunction entered pursuant to this act, or any prior dental act.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 328.81 of Title 59, unless there is created a duplication in numbering, reads as follows:

Sections 17 through 35 of this act shall be known and may be cited as the "State Dental Hygiene Act".

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 328.82 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The practice of dental hygiene in this state is hereby declared to affect the public health, safety and general welfare and to be subject to regulation and control in the public's best interest. It is further declared to be a matter of public interest and concern that the dental hygiene profession, through advancement and achievement, merits and receives the confidence of the public and that only properly qualified and licensed dental hygienists be permitted to practice dental hygiene.

B. All provisions of the State Dental Hygiene Act relating to the practice of dental hygiene shall be liberally construed to carry out the objects and purposes set forth in this section.

C. In the case of any inconsistencies between the State Dental Hygiene Act and The State Dental Act, the State Dental Hygiene Act shall prevail and supersede The State Dental Act.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 328.83 of Title 59, unless there is created a duplication in numbering, reads as follows:

As used in the State Dental Hygiene Act:

1. "Board" means the Oklahoma Board of Dental Hygiene;

2. "Dental hygiene" means the science and practice of the prevention and treatment of oral disease through the provision of educational, therapeutic, clinical and preventive services. These services include, but are not limited to:

- a. preliminary oral examination, including periodontal charting and classification of occlusion,
- b. prophylaxis consisting of removing calcareous deposits, stains and accumulated accretions from the supragingival and subgingival surfaces of the teeth and polishing of the surfaces of the teeth,
- c. removal of diseased crevicular tissue,
- d. the application to the teeth or gums of desensitizing agents or agents for the prevention of dental caries or periodontal disease,
- e. the administration of local anesthesia, and
- f. such additional related duties, supplemental to the practice of dental hygiene as defined in the State Dental Hygiene Act, as may be added by rule of the Board;

3. "Dental hygienist" means an individual who:

- a. has graduated from an accredited dental hygiene program as herein defined,
- b. has passed an examination administered by the Board, and
- c. has been issued a license by the Board and is authorized to practice dental hygiene;

4. "Accredited dental hygiene program" means a program of dental hygiene instruction in a college or institution of higher education which has a minimum of two (2) academic years of curriculum, which program is accredited by a national accrediting

agency recognized by the Council on Postsecondary Accreditation or the United States Department of Education and which has been approved by the board;

5. "General supervision" means performance of dental hygiene services or procedures with the knowledge and intent of a supervising dentist, but not requiring that the dentist, or in the case of someone assisting a dental hygienist, the dental hygienist, be physically present while the services or procedures are being performed; and

6. "Direct supervision" means performance of dental hygiene services or procedures with the knowledge and intent of a supervising dentist, requiring that the dentist, or in the case of someone assisting a dental hygienist, the dental hygienist, be physically present while the services or procedures are being performed.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 328.84 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created, to continue until July 1, 1998, pursuant to the provisions of the Oklahoma Sunset Law, the Oklahoma Board of Dental Hygiene.

The Board shall consist of seven (7) members, appointed by the Governor with the consent of the Senate, who shall be residents of this state for no less than five (5) years immediately preceding appointment to office. Four members shall be licensed dental hygienists actively engaged in dental hygiene at the time of appointment and shall have not less than five (5) years' experience in dental hygiene. The Governor shall appoint the four dental hygienist members of the Board from a list of not less than eight names submitted by the Oklahoma Dental Hygienists' Association. Three members shall be public representatives. Three members shall be public representatives. The members representing the public may

not be dentists, dental surgeons, dental hygienists or dental technicians, or be related by blood or marriage within the third degree to any such persons.

B. Members shall serve for a term of office of five (5) years. Provided, the initial members of the Board shall be appointed for the following terms:

1. Two dental hygienists and two public members for three (3) years; and

2. Two dental hygienists and one public member for five (5) years.

C. Vacancies shall be filled in the same manner as the original appointment. A member shall serve until a successor is appointed and qualified. No member shall serve more than two consecutive five-year terms. The Governor may remove any member from the Board for neglect of duty or for just cause.

D. Each member of the Board shall receive actual and necessary travel expenses as provided in the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 328.85 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The officers of the Oklahoma Board of Dental Hygiene shall be a president and a secretary-treasurer who shall be elected by the Board from among its members at the time of each annual meeting. The term of each officer shall be for one (1) year, commencing at the conclusion of the annual meeting. An annual meeting shall be held at a time and place designated by the Board during each calendar year.

B. Special meetings may be held at such times and places as shall be provided by the Board. Special meetings may be called by the president or upon a petition signed by any three members with

ten (10) days' notice in writing to each member of the Board of the time and place of such meeting.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 328.86 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Board of Dental Hygiene may appoint and fix the compensation of an executive director, who may be a licensed dental hygienist, to act as the administrative officer for the Board. The executive director shall be a nonvoting, ex-officio member of the Board and responsible to the Board to perform all administrative functions as delegated by the Board. The executive director shall be bonded pursuant to the provisions of Sections 85.26 through 85.31 of Title 74 of the Oklahoma Statutes. The executive director may, with the approval of the Board, hire or make contracts with other persons or entities to provide services necessary to carry out the responsibilities of the Board.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 328.87 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Board of Dental Hygiene shall have the power and duty to:

1. Have a seal;
2. Sue and be sued;
3. Employ independent attorneys in those circumstances when the Attorney General's office is not in a position to provide support or otherwise represent the Board;
4. Seek the advice and assistance of the Attorney General in the enforcement of the State Dental Hygiene Act;
5. Employ investigators and inspectors;
6. Enter into contracts;
7. Acquire, hold, encumber and dispose of real and personal property as may be necessary;

8. Promulgate rules and regulations to carry out the provisions of the State Dental Hygiene Act; provided, unless revised, rescinded or modified by the Oklahoma Board of Dental Hygiene, rules and regulations promulgated by the Board of Governors of the Registered Dentists of Oklahoma under The State Dental Act with respect to the practice of dental hygiene shall remain in full force and effect upon the enactment of the State Dental Hygiene Act and shall be enforced by the Oklahoma Board of Dental Hygiene;

9. Discipline persons licensed under the State Dental Hygiene Act;

10. Keep a record and give notice of all meetings of the Board;

11. Maintain records in which the name, address and license number of all licensees shall be recorded, together with a record of all license renewals, suspensions, revocations, probations, fines, stipulations, censures and reprimands;

12. Provide for the examination, licensure and renewal of licenses of all applicants;

13. Approve dental hygiene programs;

14. Establish dental procedures to qualify unlicensed persons to perform specific patient services related to licensed dental hygiene services; and

15. Administer oaths and take testimony on matters within the Board's jurisdiction.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 328.88 of Title 59, unless there is created a duplication in numbering, reads as follows:

Any person or persons employed as investigators or inspectors under the State Dental Hygiene Act shall be bonded pursuant to the provisions of Sections 85.26 through 85.31 of Title 74 of the Oklahoma Statutes, sworn and appointed by written order of the Oklahoma Board of Dental Hygiene and shall act as the Board may direct. The Board shall have the power to appoint examining

committees for dental hygienists and to hire such employees as it may deem necessary or proper, and fix and pay salaries and necessary expenses.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 328.89 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Board of Dental Hygiene members, jointly and individually, shall not be liable for damages or other relief in an action by reason of the member's performance of a duty, function or activity as a member of the Board or by reason of a recommendation or action of the Board when the member acts in the reasonable belief that the action or recommendation is warranted by facts known to the member or to the Board after reasonable efforts to ascertain the facts upon which the action or recommendation is made. Such immunity shall apply to employees of the Board when acting at the direction of the Board.

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 328.90 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Board of Dental Hygiene shall set the hours of continuing education required as a prerequisite for renewal of a dental hygiene license. The Board shall have discretion to approve providers of continuing education courses and course content in the interest of ensuring the quality of continuing education.

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 328.91 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Any person shall be regarded as practicing dental hygiene within the meaning of the State Dental Hygiene Act who:

1. Holds himself or herself out, employs methods, or, in any way, represents himself or herself as being engaged in the practice of dental hygiene;

2. Appends the letters RDH after his or her name; or

3. Offers or undertakes by any means to remove stains, discolorations or concretions from the teeth or engage in the practice of dental hygiene as defined in Section 19 of this act.

B. Nothing in this section shall be construed to prevent the following:

1. The practice of dental hygiene which is incidental to the program of study by students enrolled in accredited dental hygiene education programs approved by the Board;

2. The practice of a legally qualified dental hygienist of another state who is employed by the United States Government or any bureau, division or agency thereof, while in the discharge of his or her official duties;

3. The practice of any licensed dentist performing patient services which fall within their licensed scope of practice;

4. The application of fluoride to the exposed surface of the teeth;

5. Coronal polishing by a dental assistant who holds a current coronal polishing certificate issued by the Board of Governors of the Registered Dentists of Oklahoma; or

6. Taking of oral radiographs by a dental assistant who holds a current radiation safety certificate issued by the Board of Governors of the Registered Dentists of Oklahoma.

SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 328.92 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. No person, unless currently licensed to practice dental hygiene in this state as of the effective date of the State Dental Hygiene Act, shall begin to practice dental hygiene for himself or herself, a dentist, any institution or individual without first applying for and obtaining a license from the Oklahoma Board of Dental Hygiene. Application shall be made to the Board in writing,

and shall be accompanied by a fee as required by the Board, not to exceed Five Hundred Dollars (\$500.00), together with satisfactory proof that the applicant:

1. Is of good moral character;
2. Is eighteen (18) years of age or over at the time of the application; and
3. Is a graduate of an accredited dental hygiene program approved by the Board.

When the applicant and the accompanying proof are found satisfactory, the Board shall notify the applicant to appear before it for examination at the time and place to be fixed by the Board.

B. The Board shall require that every applicant for a dental hygiene license shall:

1. Submit, for the files of the Board, a photostatic copy of a degree or certificate showing successful completion of an accredited dental hygiene program and a recent photograph duly identified and attested;

2. Inform the Board about any convictions resulting from felony or misdemeanor charges as well as any action taken against any professional license ever held. The Board may refuse to issue a license to an applicant based on a previous conviction or action against a license for an activity that would constitute grounds for discipline if engaged in by a licensee of the Board;

3. Pass both written and clinical examinations given by the Board in such subjects as the Board may determine and including both the theory and practice of the science of dental hygiene, provided:

- a. the Board may recognize the results of examinations conducted by the Commission on National Dental Examinations, or its equivalent, in lieu of all or part of the written examination or results of regionally conducted examinations with which the Board is affiliated by contract or cooperative agreement

pursuant to the State Dental Hygiene Act in lieu of all or part of the clinical examinations as may be required, and

- b. an applicant who fails such examinations shall be subject to re-examination according to the rules and regulations of the Board. The Board may require the applicant retaking any examinations to pay additional fees for each additional examination, not to exceed the cost of taking the initial examination. The passing score shall be established by the Board in its rules. If the applicant shall fail to pass a second examination, before further re-examination, the Board may require evidence of additional education, as specified by the Board. After a third examination, the Board may deny the applicant another examination.

SECTION 29. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 328.93 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Board of Dental Hygiene may adopt rules and regulations to issue a dental hygiene license without examination of an applicant who is legally licensed as a dental hygienist under the laws of another state, territory or the District of Columbia, if the applicant:

1. Has successfully completed an accredited dental hygiene program;
2. Meets the other qualifications required for licensing as a dental hygienist in this state; and
3. Pays a fee set by the Board not to exceed Five Hundred Dollars (\$500.00).

B. The Board may issue a certificate to any dental hygienist licensed in good standing in this state attesting to that fact upon

payment of a fee set by the Board, not to exceed Twenty-five Dollars (\$25.00).

SECTION 30. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 328.94 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful for any dental hygienist to:

1. Pay or accept commission in any form or manner as compensation for referring patients to any person for professional services;

2. Perform any oral services other than those authorized pursuant to the State Dental Hygiene Act; and

3. Fail to keep his or her license and annual registration certificate prominently displayed in the office in which he or she practices.

B. It shall be considered unprofessional conduct for a licensed dental hygienist to knowingly fail to comply with commonly accepted national infection control guidelines and standards such as those established by the Centers for Disease Control, OSHA, or the Oklahoma Board of Dental Hygiene.

SECTION 31. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 328.95 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Pursuant to the provisions of Article II of the Administrative Procedures Act, Section 309 et seq. of Title 75 of the Oklahoma Statutes, after notice and hearing, the Oklahoma Board of Dental Hygiene shall have the power to take the following disciplinary actions for any violation of the State Dental Hygiene Act or for any rule promulgated pursuant thereto:

1. Refuse to issue or renew or revoke or suspend a license of a dental hygienist;

2. Place a licensee on probation;

3. Reprimand a licensee; or

4. Levy a fine as set by the Board.

The Board shall also have the power to pass upon all petitions by a dental hygienist for reinstatement to good standing.

B. The Board shall keep a record of the evidence and proceedings in all matters involving the refusal to issue or renew, revocation or suspension of a license or reprimand or probation of a dental hygienist and shall make the findings of fact and a decision thereon. The Board shall immediately forward a certified copy of the decision to the dental hygienist involved by registered mail to the last-known business address.

C. The decision shall be final unless appealed by the dental hygienist. If an appeal is not timely taken as provided in the Administrative Procedures Act, the decision shall be carried out by:

1. Striking the name of the dental hygienist from the rolls;
2. Suspending the dental hygienist for the period mentioned in issuing a reprimand; or
3. Acting as otherwise required by the decision.

D. The Board shall have power to refuse to issue or renew or to revoke or suspend the license, reprimand, place on probation or levy a fine against a dental hygienist upon grounds that the licensee or applicant:

1. Has engaged in fraud, deceit or misrepresentation in procuring or attempting to procure a license to practice dental hygiene;

2. Is convicted of a crime that substantially relates to qualifications, functions and duties of a dental hygienist;

3. Is incompetent or negligent in his or her practice as a dental hygienist;

4. Is habitually intemperate or addicted to the use of habit-forming drugs;

5. Is judicially determined to be mentally incompetent;

6. Has engaged in unprofessional conduct;

7. Has advertised or attempted to maintain patronage in a false, misleading, or deceptive manner;

8. Has failed to maintain licensure; or

9. Has violated or aided and abetted any person to violate any provisions of the State Dental Hygiene Act or any rules adopted pursuant thereto.

SECTION 32. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 328.96 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Dental hygienists shall practice under the general supervision of a licensed dentist, unless otherwise specified in the State Dental Hygiene Act. Dental hygienists may perform the following services and procedures:

1. Dental x-rays, application of fluorides to the teeth, and all services authorized for dental assistants as set forth in The State Dental Act, Section 328.1 et seq. of Title 59 of the Oklahoma Statutes, or by the rules and regulations approved by the Board of Governors of the Registered Dentists of Oklahoma;

2. The practice of dental hygiene as defined in Section 19 of this act; and

3. Such additional procedures which are supplemental to the practice of dental hygiene as the Oklahoma Board of Dental Hygiene may approve by rule or regulation pursuant to the State Dental Hygiene Act and under general or direct supervision as specified by the Board.

B. In addition to the services and procedures set out in subsection A of this section, those dental hygienists who have completed education and training as specified by the Board may provide, under direct supervision:

1. Administration of analgesia (nitrous oxide); and

2. Administration of local anesthetics.

SECTION 33. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 328.97 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The license issued under the State Dental Hygiene Act shall be renewed annually, except as herein provided.

B. On or before October 1 of each year, the Oklahoma Board of Dental Hygiene or the executive director shall mail an application for renewal of license to every dental hygienist to whom a license was issued or renewed in the course of the preceding year. The applicant shall complete the application blank and return it to the Board on or before December 31 of the same year. The application shall be accompanied by a renewal fee and any documentation of certification in cardiopulmonary resuscitation and completion of continuing education courses as the Board may require.

C. Upon receipt of the application, required documentation, and fee, the executive director shall verify the accuracy of the application to the Board and the Board shall issue to the applicant a certificate of renewal for the next calendar year beginning January 1 and expiring December 31. The certificate of renewal shall render the holder a legal practitioner of dental hygiene for the period stated on the renewal. Any licensee who allows his or her license to lapse by failing to renew the license may be reinstated by meeting such requirements as the Board may prescribe.

D. The Board is authorized to fix the annual license renewal fee for dental hygienists. The Board is authorized to change the annual renewal period and license to a biennial renewal period and license fee; provided, the biennial fee shall be no greater than double the then current annual renewal license fee. The Board may, by rule, provide for a reduced fee or waive the license renewal fee for dental hygienists who have held an active dental hygiene license for thirty- five (35) years or are on active duty with any of the armed forces. E. In case of a lost or destroyed license or

certificate of license renewal, upon proof of loss or destruction and payment of a fee set by the Board not to exceed One Hundred Dollars (\$100.00), the Board may issue a duplicate license or certificate of renewal.

SECTION 34. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 328.98 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. All monies received by the Oklahoma Board of Dental Hygiene under the State Dental Hygiene Act shall be deposited with the State Treasurer and accredited to the "State Dental Hygiene Revolving Fund", herein created. The amount so deposited is hereby dedicated and appropriated to the Board for the payment of the expense of examinations, licensing, investigations, the providing of forms and other related expenses necessitated by the State Dental Hygiene Act. All payments out of said fund shall be made by the State Treasurer on warrants issued against claims approved by the Board and submitted to the Director of State Finance for audit and payment.

B. All unexpended and all unencumbered funds of The State Dental Fund, created pursuant to Section 328.42 of Title 59 of the Oklahoma Statutes, that were collected as fees from dental hygienists are hereby transferred to the State Dental Hygiene Fund.

SECTION 35. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 328.99 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Any person who shall practice or offer to practice dental hygiene without a valid license issued under the State Dental Hygiene Act or who shall authorize, employ or enable another person who is not so licensed to practice or offer to practice dental hygiene in this state, upon conviction, shall be guilty of a misdemeanor. Such misdemeanor shall be punishable by a fine of up to Five Hundred Dollars (\$500.00) or imprisonment of up to thirty (30) days in jail for the first offense, and punishable by a fine of

up to One Thousand Dollars (\$1,000.00), or imprisonment of up to one (1) year in the county jail for subsequent offenses, or by both such fine and imprisonment.

B. No person reporting to the Oklahoma Board of Dental Hygiene under oath and in good faith any information such person may have relating to the alleged incidents of malpractice or the qualifications, fitness or character of a person licensed to practice dental hygiene or relating to alleged violations of the State Dental Hygiene Act shall be subject to civil action for damages as a result of reporting such information. Any person who terminates employment of, or otherwise retaliates against, a person who has in good faith reported a suspected violation of the State Dental Hygiene Act, upon conviction, shall be guilty of a misdemeanor, punishable by a fine of up to Five Hundred Dollars (\$500.00) or imprisonment of up to thirty (30) days in the county jail.

C. The Board may bring a civil action in any district court to enforce the provisions of the State Dental Hygiene Act.

D. The Board may cause the prosecution of all persons violating the provisions of the State Dental Hygiene Act and the district attorney shall prosecute violations under the State Dental Hygiene Act.

SECTION 36. REPEALER 59 O.S. 1991, Sections 328.24, 328.25, 328.29, 328.33 and 328.34, are hereby repealed.

SECTION 37. This act shall become effective July 1, 1992.

SECTION 38. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-2-1918

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