

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

2ND CONFERENCE COMMITTEE  
SUBSTITUTE FOR ENGROSSED  
SENATE BILL NO. 1109

By: Williams (Don), Brown,  
Capps, Williams (Penny)  
and Wright of the Senate

and

Settle, Benson, Anthony,  
Vaughn (George), Tyler,  
Kirby and Perry of the  
House

2ND CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to professions and occupations; providing short title; stating purpose; defining terms; creating Dental Board; providing for powers; providing for election and appointment of members, terms of office, reimbursement, transition of certain board members, district boundaries, nomination procedures, recall and removal of members, and vacancies; providing for officers, duties of office, meetings, and administrative officer; creating Dental Advisory Committee and providing for appointment of members, term of office, vacancies, purpose, officer, meetings and reports; providing for additional powers; providing application procedures for license to practice dentistry and dental hygiene; stating eligibility requirements for dentistry examination and providing for examination; providing for specialists license and limited license for dentistry; authorizing issuance of permits for certain persons licensed in another state; requiring certain dental school staff be licensed dentists; authorizing issuance of license to dentists practicing in other states under certain conditions; stating eligibility requirements for examination to practice dental hygiene; providing for examination and issuance of license to practice dental hygiene; providing for temporary license and license with or without examination for hygienists who have practiced in other states under certain conditions; requiring annual renewal of licenses and permits and requiring certain fees and continuing education; providing for suspension for failure to submit fees and proof of continuing education and for reinstatement under certain conditions; requiring automatic revocation under certain conditions; requiring new application under certain conditions; requiring application for permit to operate a dental laboratory; requiring annual licensure and fee for such laboratories; construing act to not include certain laboratories in dental offices; providing for enforcement of act and criminal penalties for certain violations; authorizing Board to conduct certain administrative proceedings and to impose certain penalties and

sanctions; providing for appeal; providing for recovery of certain costs and fees; providing for civil suit for restraining order and injunction and for recovery of certain fees; providing for criminal contempt proceeding and request for certain criminal actions; providing penalties; requiring certain supervision for practice of dental hygiene and stating certain limitations on use of dental hygienists and tasks performed; requiring certain supervision for dental assistants and limitations on tasks performed; providing for Certified Dental Assistant; authorizing use of dental laboratory technician and dental laboratory for certain functions and requiring certain prescription; requiring certain documentation; providing for disciplinary action by Board for certain acts; providing for filing complaints with Board and related procedures; creating Review Panel and granting certain authority to Panel; providing for disciplinary hearings and authorizing Board to take certain actions; providing for emergency show cause hearings and related procedures; making certain professional corporations subject to Dental Act and providing for related enforcement actions, issuance of certain certificate, and maintenance of certain registry; prohibiting certain acts; requiring display of licenses and permits; requiring permit for administering general anesthesia and deep sedation; defining terms and providing for adoption of differing definitions; authorizing Board to establish certain fees and charges with certain statutory limitations; creating and abolishing revolving funds and providing for transfer of certain funds; requiring distribution of annual report and requiring report include certain information; providing for promulgation of rules and continuance of certain prior rules for certain period; requiring certain additional notice and granting certain right; authorizing act to replace former dental act and providing for enforcement of certain prior actions; stating statute of limitation; repealing 59 O.S. 1991, Sections 328.1, 328.2, 328.3, 328.4, 328.5, 328.7, 328.8, 328.9, 328.10, 328.11, 328.12, 328.13, 328.14, 328.15, 328.16, 328.17, 328.18, 328.19, 328.20, 328.21, 328.22, 328.23, 328.24, 328.25, 328.26, 328.27, 328.28, 328.29, 328.30, 328.31, 328.32, 328.33, 328.34, 328.35, 328.36, 328.37, 328.38, 328.39, 328.40, 328.41, 328.42, 328.43, 328.44, 328.45, 328.46, 328.47, 328.48, 328.49 and 328.50, which relate to The State Dental Act; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Dental Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.2 of Title 59, unless there is created a duplication in numbering, reads as follows:

The State of Oklahoma, for the benefit of the dental health, welfare and safety of its citizens, exercises its police powers by the adoption of this act to regulate the legal and prohibit the illegal practice of dentistry. It is in the best interest of the citizens to regulate the practice of dentistry, to prohibit persons from practicing dentistry who have not completed the educational requirements and been licensed by the Dental Board, and to prescribe the minimum education and requirements for all individuals who practice dentistry, who assist, who practice dental hygiene, and who operate dental laboratories. This act establishes the statutory scheme for restricting the practice of dentistry to qualified and regulated individuals only, and protects all citizens from persons who illegally practice dentistry, and establishes the Board as the agency of this state to carry out and enforce the provisions of the Dental Act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.3 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. As used in this act:

1. "Dental Board" or "the Board" means the agency of this state charged with enforcing this act and by its enforcement, promoting the dental health of the people of this state;

2. "Dentistry" means the healing art concerned with the examination, diagnosis, treatment planning, care and treatment of conditions in the human oral cavity and the adjoining tissues and structures;

3. a. "Practice of general or specialty dentistry" means the practice of the healing art of providing dental care generally or as a specialist and shall include, but is not limited to, the following acts:

(1) representing oneself as a dentist; or, as one authorized to perform dentistry,

- (2) holding oneself out as able to diagnose, develop a treatment plan and treat dental disease or any disease or disorder within the scope of one's professional training,
- (3) removal of human teeth,
- (4) restoration of health, form or function of human teeth,
- (5) correction or attempted correction of malposed human teeth,
- (6) administration of anesthetics, general or local,
- (7) treatment of deformities of the jaws and adjacent structures,
- (8) making, using or interpreting diagnostic imaging,
- (9) removal of stains, discolorations or concretions from human teeth,
- (10) operation on or prescription for disease, pain, injury, deficiency, deformity or other condition,
- (11) making impressions of human teeth or jaws,
- (12) fabrication, construction, reproduction, furnishing, supplying, repairing or manufacturing any portion of a tooth, prosthetic denture, bridge, oral appliance or other substitute for human teeth or gums,
- (13) attempting to or adjusting a fabricated tooth, prosthetic denture, bridge, oral appliance or other substitute for teeth or gums, to be worn in a human mouth,
- (14) making or adjusting appliances to artificial casts of malposed teeth for use in the treatment of the malposed teeth in the human mouth, without a laboratory prescription,
- (15) writing a laboratory prescription to a dental laboratory or dental laboratory technician for the construction, reproduction or repair of an

appliance or structure to be worn in a human mouth,

(16) operating a dental office or conducting a dental activity with the public as a patient,

(17) performing any act which may be performed by a dental hygienist, or

(18) obtaining a medical history or performing a physical examination.

b. The following acts or actions are excluded from the definition of the practice of general or specialty dentistry and shall be exempt from all the provisions of this act:

(1) the administering of any treatment or surgery within the province of the practice of medicine or nursing by a licensed physician or nurse,

(2) the practice of dentistry or dental hygiene for the United States Armed Services, Coast Guard, Public Health Service or the Veterans' Administration,

(3) in an accredited dental school, actions by students under the supervision of a dentist who holds a permit issued by the Board for the individual to teach dentistry,

(4) actions of a dental clinician, or of a participant at an educational meeting or dental school, where no fee is paid by or charged to the patient, and

(5) in response to an emergency, the rendering of immediate dental care reasonably required by the circumstances, including care provided by a dentist.

c. The following actions also shall be excluded from the definition of the practice of general or specialty dentistry but shall be subject to all the provisions of this act:

- (1) the practice of dental hygiene by an individual with a license from the Board,
- (2) actions of a dental assistant in a dental office under the supervision of a dentist, and in accordance with the rules of the Board,
- (3) fabrication of a dental appliance pursuant to a laboratory prescription from a dentist, by a dental laboratory technician,
- (4) actions of a dentist, dental hygienist, dental assistant, or dental laboratory technician while teaching in an accredited institution, school or college,
- (5) actions by an unlicensed individual that would otherwise constitute the practice of dentistry performed while teaching in an accredited dental school, and
- (6) a dentist practicing in a facility which grants privileges to individuals within the scope of one's professional training where the facility is accredited by the Joint Commission on Accreditation of Health Care Organizations, or its successors, or, is a medicare approved facility for the delivery of health care;

4. "Dentist" means a graduate of an accredited dental school, licensed by the Board to practice general or specialty dentistry;

5. "Foreign dentist" means a graduate of an accredited dental school, licensed to practice general or specialty dentistry in another state or territory, but not licensed in Oklahoma;

6. "Dental office" means any location in this state which is used for the practice of dentistry;

7. "Dental hygienist" means a graduate from an accredited school of dental hygiene who holds a license from the Board;

8. "Dental hygiene" or "hygiene" means the promotion of oral health and the prevention of oral disease by providing educational, clinical and therapeutic services in the offices of, for patients of, and under the supervision of a dentist, including

polishing and removing calcareous deposits and stains, giving topical caries prevention treatment, making diagnostic images, and providing other patient care as may be permitted by the rules and regulations of the Board;

9. "Dental assistant" means an individual who assists in the delivery of dentistry to a patient of a dentist and may be authorized by the Board to perform expanded duties;

10. "Dental laboratory" means a permitted location, evidenced by the records of the Board, where a dental laboratory technician performs dental laboratory technology whether in the office of a dentist or not;

11. "Dental laboratory technician" means a registered individual, as evidenced by the records of the Board, who practices dental laboratory technology and renders services and work products to a dentist and not to the public;

12. "Dental laboratory technology" means using materials and mechanical devices for the fabrication of dental restorations, appliances or other devices following a laboratory prescription of a dentist;

13. "Laboratory prescription" means a written description which is signed and dated by the prescribing dentist for the fabrication of dental restorations, devices or appliances;

14. "Supervision" means the direction by a dentist, pursuant to his examination and diagnosis, of services performed on a patient of the dentist, by a dental hygienist, or dental assistant, and the dentist evaluates the services before the patient leaves his office. Provided, the dentist's evaluation of a service is not required for a dental hygienist of the dentist to perform a prophylaxis, topical fluoride application, diagnostic imaging or periodontal charting on the dentist's patient of record who gives a written consent also signed by the dentist and kept on file in the dentist's office, on a form approved by the Board;

15. "Patient of record" is an individual who has given a medical history, been examined and diagnosed by a dentist, during the preceding twelve (12) months, and considers that he is a patient of the dentist, for general or specialized dentistry; and

16. "Accredited" shall mean any institution or program accredited by the Commission on Dental Accreditation of the American Dental Association.

B. The male gender has been generally used throughout this act for the convenience of the authors in writing it and to give the text uniformity. While the male gender is used, the act shall apply equally to all females. Similarly, an individual may reference to the provisions of the act using either the male or female gender. Accordingly, the act can be quoted and cited using either the male or female gender.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.4 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 1. There is hereby constituted the Dental Board, which shall be an agency of state government.

2. The Board shall:

- a. have a seal,
- b. sue and be sued in its name, and
- c. enforce the provisions of this act.

3. The Board may:

- a. promote the dental health of the people of this state,
- b. employ independent attorneys,
- c. seek and receive the advice and assistance of the Attorney General's office of this state,
- d. engage investigators,
- e. have one or more employees,
- f. enter into contracts, and
- g. acquire, rent, hold, encumber and dispose of real and personal property as is needed.

B. 1. The Board shall consist of eight dentist members, one dental hygienist member, and two members who shall be selected from the public and represent the public. One dentist member of the Board shall be elected from the dentists residing in each of the six congressional districts as established by law in Section 5.1 et seq. of Title 14 of the Oklahoma Statutes, and its



successors, for the election of members to the United States House of Representatives. Two dentists shall be elected at-large by all of the dentists licensed by the Board. No more than two dentist members of the Board may be from the same county. One dental hygienist member shall be elected by all dental hygienists residing in this state. The two public members shall be appointed by the Governor, subject to confirmation by the Senate. No public member appointed after the effective date of this act may be a dentist, dental laboratory technician, dental assistant, or dental hygienist, or married to one of the foregoing.

2. Each member of the Board shall hold office for a period of three (3) years and until a successor in office is elected and sworn in. Individuals who have previously served on the Board, including boards under predecessor acts, shall have their public service counted in determining their eligibility to serve on the Board. No individual who has completed three terms on the Board, including terms served on the Board under predecessor acts, shall be eligible to serve further. After the effective date of this act, to be eligible to be elected and to serve on the Board, a dentist must have practiced in Oklahoma for at least five (5) years and for the five (5) years prior to his election, not have been subject to an adverse sanction by the Board.

3. The members of the Board shall be reimbursed for travel expenses as provided in the State Travel Reimbursement Act. The Board may affiliate with the American Association of Dental Examiners as an active member, pay regular dues and send Board members as delegates to its meetings.

C. The change from the districting formula of the former State Dental Act to the congressional districts specified in subsection B of this section shall be accomplished in the following manner:

1. Effective immediately, the Board member elected as a member from the former district number listed below shall serve in the following capacity:

Former District No. 1 shall serve the 6th Congressional District

Former District No. 2 shall serve the 1st Congressional District

Former District No. 3 shall serve the 4th Congressional District

Former District No. 4 shall serve the at large No. 1 position

Former District No. 5 shall serve the 5th Congressional District

Former District No. 6 shall serve the 3rd Congressional District

Former District No. 7 shall serve the 2nd Congressional District

Former District No. 8 shall serve the at large No. 2 position;

2. In the 1995 election, the Board members serving Congressional Districts 2 and 3 shall be elected by the dentists residing in their respective districts; the Board member serving the at large No. 2 position shall be elected by all the dentists;

3. In the 1996 election, the Board members serving Congressional Districts 1 and 4 shall be elected by the dentists residing in their respective districts;

4. In the 1997 election, the Board members serving Congressional Districts 5 and 6 shall be elected by the dentists residing in their respective districts; the Board member serving the at large No. 1 position shall be elected by all the dentists; and

5. The district boundaries shall be redistricted every ten (10) years in conjunction with congressional redistricting. In the event that Oklahoma shall lose a seat in Congress, five of the eight dentists serving on the Board shall represent districts and three shall serve at large. In the event that Oklahoma shall gain a seat in Congress, seven of the eight dentists serving on the Board shall represent districts and one shall serve at large. Thereafter, the Board members shall be elected from the respective congressional districts, or at large, as described in subsection B of this section, as their terms expire.

D. 1. Nominations for dentist members of the Board from the congressional districts shall be by petition, signed by at least

ten dentists who are residents of the district. Nominations for the at-large members shall be by petition signed by at least twenty-five dentists. Nominations for the dental hygienist member shall be by petition signed by at least ten dental hygienists.

2. The elections shall be by ballot. The ballots shall be mailed by the Board to those entitled to vote at least thirty (30) days prior to the date of counting the ballots and shall be returned by mail to the secretary, and opened and counted at a meeting of the Board. In other respects, elections shall be as the Board may by rule direct.

3. Only dentists residing in the respective congressional districts shall be entitled to vote for the dental Board member from that district. At-large Board members shall be elected by all dentists. Only dental hygienists residing in this state shall be entitled to vote for the dental hygienist Board member.

4. Dentist members of the Board may be recalled and removed from the Board in a special election called by the Board upon receipt of a written petition signed by at least twenty percent (20%) of the dentists residing in the district or, for an at-large Board member, by a recall petition signed by one hundred or more dentists. The dental hygienist member of the Board may be recalled and removed from office by special election called by the Board upon receipt of a written petition signed by at least ten percent (10%) of the dental hygienists. If a majority of the votes cast are in favor of recalling the Board member, the member will be removed from the Board, effective on the date the ballots are counted.

E. If there is a vacancy among the members of the Board, then the vacancy shall be filled at the next annual election of Board members; provided however, that in the interim period, between the vacancy and the next annual election, the vacancy shall be filled as provided for in the bylaws of the Board.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.5 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 1. The officers of the Dental Board shall be a president, first vice-president, second vice-president and secretary-treasurer.

2. The duties of each office shall be prescribed in bylaws adopted as rules but approved by sixty percent (60%) or more of the members of the Board. The bylaws shall provide for the means and notice for all meetings of the Board.

3. The president, vice-presidents and secretary-treasurer shall be elected by the Board from among its members at the time of each annual meeting of the Board. The individuals elected president, vice-presidents and secretary-treasurer shall assume the duties of their respective offices at the conclusion of the meeting at which they are elected. The term of office shall be for one (1) year and until their successors are elected.

B. At the annual meeting, reports of the proceedings of the Board since the last annual meeting, reports of officers and committees and recommendations of the Board shall be received. Matters of interest pertaining to the organization, the enforcement of this act and the practice of dentistry may also be considered and acted upon. At the annual meeting, there shall be a specific date, time and place set for four or more regular meetings of the Board. One regular meeting shall occur during each calendar quarter of each year. The Board, at any meeting, may decide upon and schedule more frequent regular meetings. At any regular meeting, the Board may consider and act on any matter. The Board may provide for one or more members of the Board to be present in the office of the Board between regular and special meetings of the Board. When a member of the Board is present in the office of the Board, all new matters coming to the office shall be directed to the Board member for such administrative action as he determines is needed.

C. Special meetings of the Board may be held at such times and places as shall be provided for in the bylaws of the Board. At special meetings the only matters that may be considered and acted upon are those described in the notice given to the members of the calling of a special meeting.

D. The Board may appoint an individual to be the principal administrative officer of the Board and may confer upon that person and the office the title selected by the Board, based upon the person's education, background, experience and ability. The individual may attend Board meetings but is not a voting member of the Board. The individual will be responsible to perform the administrative functions delegated by the Board, and shall give a bond in the amount of Fifteen Thousand Dollars (\$15,000.00) for the faithful discharge of duties, the premium therefor to be paid from the Dental Revolving Fund.

E. 1. There is hereby created the Dental Advisory Committee, to be composed of seven (7) members to be appointed by the Dental Board. To qualify as a member, a person must have been in active practice in Oklahoma for five (5) years immediately preceding the appointment. Two members shall be licensed dentists, two members shall be licensed dental hygienists, two members shall be dental assistants and one member shall be a dental laboratory technician. Members of the committee shall be selected and designated by the Board from a list of not less than four full-time and actively practicing persons submitted to the Board by associations representing those persons.

2. Members shall hold office for a term of three (3) years. No member shall be appointed to serve more than two consecutive terms. Vacancies shall be filled in the manner of the original appointment for the unexpired portion of the term only.

3. The purpose of the committee shall be to provide assistance to the Board in the performance of its duties under this act.

4. Members of the committee shall elect from their number a chairperson. The committee shall meet no less than once each year. A majority of the members of the committee shall report on its action, findings and recommendations to the Board in a written report directed to the president of the Board. Such reports shall be signed by at least a majority of the members of the committee.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.6 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Dental Board shall have the following powers:

1. To enforce the Dental Act;
2. To adopt, in accordance with the Administrative Procedures Act, rules consistent with and to implement the Dental Act;
3. To adopt bylaws for the governance of the Board, its employees and agents;
4. To examine and test the qualifications of applicants, and to issue licenses to applicants and dentists, and provide for their renewal;
5. To examine and test the qualifications of applicants, and to issue licenses to applicants and dental hygienists, and provide for their renewal;
6. To examine and test the qualifications of applicants, and to issue permits to dental assistants for expanded duties, and provide for the renewal of those permits;
7. To determine the qualifications of and to issue permits for the operation of dental laboratories and provide for the renewal of those permits;
8. To maintain and update annually the names and addresses of all dentists, dental hygienists, permitted dental assistants, dental laboratory technicians, and dental laboratories, who are licensed, permitted or registered in this state;
9. To account for all receipts and expenditures of the monies of the Board, including annually preparing and publishing a statement of receipts and expenditures of the Board for each calendar year. The annual statement of receipts and disbursements to the Board shall be audited by the State Auditor and Inspector or an independent accounting firm, and the audit report shall be certified to be true and correct under oath by the president and treasurer of the Board to the Governor of Oklahoma;
10. Within limits prescribed in the Dental Act, to set all charges, fees and civil penalties to be imposed and collected;

11. To maintain an office staff and to employ counsel and other advisors, including advisory committees, to the Board;

12. To investigate and to issue investigative and other subpoenas, pursuant to and complying with the Administrative Procedures Act; provided, the Board shall afford to all respondents in administrative Board proceedings, comparable subpoena powers for the preparation of a defense as are exercised or are capable of being exercised by the Board;

13. To initiate proceedings and impose disciplinary sanctions against persons who violate the Dental Act, including persons who practice dentistry without a license;

14. To conduct in a uniform and reasonable manner, inspections of dental offices and dental laboratories located in this state, and their business records. However, nothing in this act shall alter or change the existing Oklahoma law regarding the prohibition against unreasonable searches and seizures and the requirement that, subject to the recognized exceptions, agents of the Board first obtain a search warrant before entering a dentist's office, or conducting a search of any dentist, dental office, or other premises;

15. To transfer to the District Attorneys Council Revolving Fund One Thousand Dollars (\$1,000.00) for each contempt or criminal action prosecuted by a state district attorney against a person for the unlicensed practice of dentistry;

16. To establish continuing education requirements for dentists, dental hygienists and dental assistants with an expanded duty permit;

17. Except where the Legislature has acted, to recognize the minimum standards of care established or which are established by the American Dental Association;

18. To establish guidelines for courses of study necessary for continuing education and expanding functions for dental hygienists, dental assistants, and dental laboratory technicians, and, when and to whom appropriate, to authorize the individual to perform expanded functions;

19. To promulgate rules applicable to appeals to the Board under the Oklahoma Dental Mediation Act. An appeal to the Board may be heard and decided by any two members of the Board, who by direction of the president of the Board shall sit and act as the mediation appeal body of the Board;

20. To hire one or more investigators to conduct investigations of alleged violations and to enforce this act; and

21. To undertake all such other acts or actions needed, necessary or required to enforce the Dental Act, to maintain an office and office staff to serve the members of the Board and to inform, educate, advise and regulate, in an orderly manner, all persons who are licensed, permitted or registered under this act regarding this law and the rules of the Board.

B. The Board shall also have all the powers reasonably needed or necessary to carry out the foregoing.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.7 of Title 59, unless there is created a duplication in numbering, reads as follows:

Every applicant for a license to practice general or specialty dentistry, or a license to practice dental hygiene shall:

1. Complete and file with the Dental Board the application form, examination fee and photograph, as prescribed by the Board, at least forty-five (45) days before the date on which the examination is to be given;

2. Attach a statement, under oath, by the applicant of all violations of law, other than traffic violations not involving alcoholic use or driving under the influence, applicable to the applicant; and

3. With respect to an applicant who has previously been licensed by another state, provide proof of that license, and include a statement under oath by the applicant whether the applicant's license in another state has been suspended or revoked and whether the applicant is currently involved in any disciplinary investigation or has been the subject of any other adverse action by another state.



SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.8 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 1. An individual is eligible to take an examination for a license to practice general dentistry in Oklahoma who:

- a. is an individual twenty-one (21) years of age and is of good moral character,
- b. is a citizen of the United States or is lawfully entitled to remain and work in the United States,
- c. is a graduate of an accredited dental school or college, and
- d. has completed and filed the application and provided copies of the documents required by the Dental Board and paid the examination fee.

2. To determine whether any individual subject to this act has a good moral character, the Board may consider, among other things, whether his license to practice dentistry has been suspended or revoked or whether he is currently involved in any disciplinary action concerning his license. The Board also shall consider whether or not the individual has been convicted of a misdemeanor other than a traffic violation not involving alcoholic use or been convicted of a felony.

3. The Board may by rule establish other requirements to be disclosed by all applicants that reasonably relate to one's good moral character. The Board shall take into consideration and require the applicant to disclose to it all prior circumstances in which the applicant has become chemically dependent.

B. 1. Unless otherwise provided, an individual seeking a license to practice general dentistry in this state, after having complied with the rules of the Board to determine eligibility, must:

- a. present to the Board a certificate granted by the National Joint Commission on Dental Examinations which contains a notation that he has passed the Board's examination, and

b. be examined on practical knowledge and clinical skills to practice dentistry as the Board deems necessary.

2. The Board also shall examine each applicant in writing on the contents and interpretation of the Dental Act and its rules.

3. All eligible individuals who present the appropriate certificate and successfully complete the examinations required must be registered as dentists on the Board register and are entitled to receive a license to practice general dentistry in Oklahoma.

4. Any applicant to practice dentistry who twice fails to pass the examination of the Board shall not be eligible for reexamination within six (6) months after the second examination. As a condition to being reexamined, the Board may require an applicant to pursue further education or training in the area of any deficiency resulting in his failing the examination.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.9 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 1. The Dental Board may issue a specialists license authorizing a dentist or foreign dentist to announce, hold himself out and to practice in Oklahoma as a specialist in a dental specialty recognized and defined by the American Dental Association and the Board.

2. No individual may be licensed as a specialist nor practice as a specialist unless he is licensed to practice general dentistry in a state and has successfully completed the education requirements for a specialty practice recognized and defined by the American Dental Association and the Board.

B. 1. An individual who has successfully completed the educational requirements, is licensed to practice general dentistry in a state and been issued a specialists license by any state may file his credentials with, and complete the application required by, the Board and seek a specialty license in this state without being examined by the Board in the specialty. Upon the Board conducting its investigation of the individual and his

application and being satisfied about his competence to practice, his good moral character, and after passing the examination on the contents and interpretation of the Dental Act, the applicant may be licensed by the Board and may commence specialty practice as a dentist.

2. In conducting an investigation, the Board may require of the applicant the same background information as is required above. The Board also may require that the applicant have successfully completed the same educational requirements as required by this state, and that the state from which the applicant presents credentials, afford equal licensure by credentials to dentists.

C. An individual to whom a specialists license has been issued who has not been licensed in Oklahoma to practice general dentistry or who is holding himself out as practicing only in a specialty must limit his practice in this state to the practice of that specialty.

D. 1. Except as authorized in subsection B of this section, all applicants for license in a specialty shall satisfactorily pass an examination for that specialty practice, as the Board may by rule require.

2. An applicant for a specialty license who fails the examination shall be entitled to retake the examination upon such terms and conditions as the Board may by rule require.

E. Applicants who have met the requirements of this act to be licensed in a specialty practice must be registered by the Board and are entitled to be licensed to practice as a dentist in that specialty.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.10 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Dental Board, by rule as it establishes, may without examination grant a limited license for the practice of general dentistry in this state to any graduate of an accredited dental school or college, who is otherwise qualified, upon request of the  
Req. No. 2623Page 19

governing board of any institution for a graduate to serve as a dental intern or resident in the institution, with the limited duties as may be defined in such request.

B. 1. No limited general practice license shall be granted to any person whose license to practice dentistry has been revoked or to whom a license has been refused.

2. A limited general practice license shall not permit the holder to open an office for private practice or to receive compensation for the practice of dentistry except such salary as may be paid by the federal government, or the State of Oklahoma, or their subdivisions, or the public or private institution where he will be employed.

C. A limited general practice license shall contain such limitations on the practice as the Board directs and may be revoked by the Board at any regular or special meeting, held not less than ten (10) days after service of written notice on the holder. The notice shall state that the Board believes grounds exist for the revocation of the license and that matter will come before the Board at a specific date and time, affording to the holder the right to appear and object.

D. Limited general practice licenses may be renewed annually in the discretion of the Board.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.11 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Dental Board shall have authority, without examination, upon presentation of satisfactory credentials, and under such rules as the Board may prescribe, to issue permits to individuals who are graduates of a school of dentistry or dental hygiene approved by the Board, and are licensed in another state. Such permits shall be issued only upon the certification of the dean of a dental school 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 renewed. The holders of such permits shall be

entitled to perform as would a person holding a dentist license or a license to practice dental hygiene are entitled to perform in this state, 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 in a seminar or postgraduate course and as an adjunct to his teaching functions or to the profession.

B. A staff member of a dental school, to perform faculty or private practice, must be licensed as a dentist.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.12 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Dental Board may issue a license to practice general dentistry, with or without examination, to a foreign dentist who actually has been in the practice of dentistry in another state or territory of the United States of America for at least five (5) years upon the presentation of the certificate of the Board of Dental Examiners or like agency of the state or territory in which said foreign dentist is a practitioner or last practiced, or other source acceptable to the Board, certifying to the applicant's length of practice, competency and good moral character. The Board also may require the applicant to have completed the same professional and continuing educational requirements as required of dentists. The applicant also must state whether he has had a report filed against him within the preceding three (3) years reflected by a search of the American Association of Dental Examiners' records of examinations and the national practitioner's data bank, established under the Health Care Quality Act of 1986, as amended, or such other reporting agencies as the Board designates. If a report has been filed within the preceding three (3) years, the Board, after an appropriate inquiry, must find and determine whether the report reflects adversely in a material way upon the applicant's present competence to practice dentistry or his good moral character.

B. The application must be accompanied by the Board's required fee. Provided, however, the state or territory from which the applicant presents his license shall at the least require professional education, competency and moral character standards, substantially equivalent to those required by the Board for the practice of dentistry in this state, and afford substantially equivalent licensure by credentials to dentists. Notwithstanding, the Board shall not license under this section any individual that would not otherwise be eligible to be licensed.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.13 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Any individual is eligible to take an examination for a license to practice dental hygiene in this state who:

1. Is an individual over eighteen (18) years of age and is of good moral character;
2. Is a citizen of the United States or is lawfully entitled to remain and work in the United States;
3. Is a graduate of an accredited school of dental hygiene, dental school or college; and
4. Has completed and filed the application and provided copies of documents required by the Dental Board and paid the examination fee.

B. 1. Unless otherwise provided, an individual seeking a license to practice dental hygiene in this state, after having complied with the rules of the Board to determine eligibility, must:

- a. present to the Board a certificate granted by the Joint Commission on National Dental Examinations which certifies that he has passed the Board's examination, and
- b. be examined on practical knowledge and clinical skills to practice dental hygiene as the Board deems necessary.

2. The Board also shall examine each applicant in written contents and interpretation of the Dental Act and its rules.

3. All eligible individuals who present the appropriate certificate and successfully complete the examinations required must be registered as dental hygienists on the Board register and are entitled to receive a license to practice dental hygiene in Oklahoma.

4. Upon an individual having satisfied the requirements of this section, and the Board having completed its examination where one is given, conducted its investigation and being satisfied about the individual's competency and good moral character, the Board may issue to the individual a license allowing the individual to practice as a dental hygienist.

C. The Board may, in its discretion, issue a temporary and nonrenewable license to practice dental hygiene, having a duration not longer than twelve (12) months, upon the presentation of the certificate of the Board of Dental Examiners or a like organization of another state or territory in which the dental hygienist has been licensed, and which has standards of education and licensure substantially equivalent to those required by the Board for the practice of dental hygiene, or upon the presentation of a like certificate from an accredited school of dental hygiene, certifying to the applicant's competency and good moral character. The issuance of a temporary license gives the dental hygienist the same rights and privileges as one who holds a permanent license to practice dental hygiene in this state. The dental hygienist holding a temporary license will be governed by this act and all rules of the Board.

D. The Board may, at its discretion, issue a license to practice dental hygiene, either with or without examination, to a dental hygienist who shall have been in an actual and legal practice of dental hygiene in some other state or territory of the United States of America for at least two (2) years preceding upon the presentation of the certificate of the Board of Dental Examiners or a like organization of the state or territory in which the dental hygienist has been licensed certifying to the

applicant's competency and good moral character; provided, however, that the state or territory from which the applicant presents credentials shall have required the applicant to complete substantially equivalent educational requirements, competency and possess a good moral character as those required by the Board for the practice of dental hygiene and afford equal licensure by credentials in that state or territory to dental hygienists of this state.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.14 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. All licenses and permits must be renewed annually. Each holder of a license to practice dentistry, license to practice dental hygiene, or permit held by an dental assistant must, upon payment of the required fee and submission of proof of completion of any required continuing education, be granted a renewal thereof which will authorize continuation of the authorized practice for one (1) year.

B. The annual renewal fee must be paid, and proof of any required continuing education submitted, on or before June 30. Failure to pay the fee or submit the proof to the Board by June 30 of each year automatically suspends the license or permit. It may be reinstated only upon payment of the fee for reinstatement in addition to the annual fee due and submission of proof of completion of any required continuing education.

C. If a license or permit which is suspended is not reinstated within twelve (12) months after suspension, it is automatically revoked.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.15 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Any individual who has obtained from the Dental Board a general or a specialty license to practice dentistry, a license to practice dental hygiene, or a permit for an dental assistant, and



who fails to obtain a renewal license or permit must, before resuming practice, make application to the Board, under such rules as the Board may prescribe, for the restoration of the license or permit.

B. Upon application being made, the Board shall determine whether the applicant possesses the qualifications prescribed for the granting of a license or permit, and whether the applicant continues to possess a good moral character. If the Board so determines, it shall thereupon issue the license or permit and thereafter the individual holder thereof may make application annually for renewal, as provided in this chapter.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.16 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 1. All individuals, persons, firms, corporations, limited liability companies or partnerships within this state engaging in the business of a dental laboratory shall file with the secretary of the Dental Board a written application, the form of which shall be prescribed by the Board, for a permit to operate a dental laboratory in this state, and pay the fee required by the Board. This application shall include the names and addresses of all individuals, persons, firms, corporations, limited liability companies, or partnerships owning or operating the dental laboratory. Upon receipt of such application and fee, the Board shall determine the qualifications of and may grant a permit to the applying dental laboratory to conduct the business of a dental laboratory within this state.

2. No individual, person, firm, corporation, limited liability company or partnership shall begin the operation of a dental laboratory without having completed the application, paid the fee and obtained a permit from the Board. However, a dental laboratory in the office of a dentist does not require a permit unless it provides dental laboratory services or work products to persons other than the dentist at that location.

B. Annually thereafter, or before the first day of January, every dental laboratory within this state required to be permitted shall apply for and may receive a permit from the Board to operate a dental laboratory for that calendar year. The annual fee shall be set by the Board. Any change in ownership or location of a dental laboratory shall immediately be communicated to the Board who will endorse upon the permit, without further fee, the change in ownership or location. The current annual permit of a dental laboratory shall be conspicuously displayed at all times at the place of business of the dental laboratory.

C. Nothing in this act shall be construed to prohibit a dentist from owning or operating a private, noncommercial dental laboratory in his dental office for his use in the practice of dentistry.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.17 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Dental Board is responsible for the enforcement of this act against all persons who are in violation, including, but not limited to, individuals offering to or actually practicing dentistry or dental hygiene who do not hold the required license. The Board shall establish as a high priority the enforcement of the provisions of this act against all persons who are unlicensed by the Board and who are engaged in the practice of dentistry in this state.

B. The practice in this state of dentistry or dental hygiene by any person who does not hold a currently valid license issued by the Board is prohibited, and any person so acting shall be guilty of a misdemeanor.

C. It shall also be a misdemeanor under this act for any person who does not hold a license, issued by the Board, to:

1. Offer to practice or practice dentistry or dental hygiene in this state;

2. While holding a license to practice dental hygiene or permit issued by the Board, offer to practice or practice dentistry in this state;

3. Employ or use the words: Doctor, Dentist, D.D.S., D.M.D. or any modification or derivative of any one of the above when its use is to give the impression that the person is a dentist when the person is not a dentist; or

4. Give false or fraudulent evidence or information to the Board in an attempt to gain from the Board a license or permit.

D. Each separate violation of this section by any person shall constitute a separate offense.

E. It shall also be a misdemeanor under this section for any person to aid or abet another person in the violation of this section.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.18 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 1. If a person engages in the practice of dentistry or dental hygiene without the required license or permit or in other ways violates this act, the Dental Board may initiate and conduct at the office of the Board, and in its name, an administrative proceeding which complies with the requirements of Article II of the Administrative Procedures Act, against a named person, who shall be the respondent. If as a result of the proceeding the Board determines that the person engaged in the practice of dentistry or dental hygiene without the required license or permit, or otherwise violated this act, then the Board may impose one or more of the following:

- a. for each separate violation, an administrative penalty of not less than Five Hundred Dollars (\$500.00) but which in the aggregate for all violations does not exceed One Thousand Five Hundred Dollars (\$1,500.00),

- b. suspension for a stated time but not to exceed one (1) year, or a revocation of the person's license or permit, or
- c. a censure. The Board may order publication of the censure. When a public censure is ordered, the Board shall specify the wording of the censure and in what publication it shall appear.

2. Appeals from the order of the Board shall be taken in the time and manner prescribed in the Administrative Procedures Act. In addition to any remedies provided for under the Administrative Procedures Act, the prevailing party on an appeal, including appeals taken from a Board action, shall be entitled to recover costs and a reasonable attorney's fee.

B. 1. The Board, in its name, may bring a civil suit, in the District Court of Oklahoma County, against a named person who shall be the defendant for a temporary restraining order and permanent injunction from thereafter further engaging in conduct which constitutes the practice of dentistry or dental hygiene without the required license or permit or which in other ways is a violation of this act. In such suit, the prevailing party shall be entitled to recover costs and a reasonable attorney's fee.

2. The prevailing party on any appeal from the District Court in such an action also shall be entitled to recover costs and a reasonable attorney's fee.

3. When the Board pursuant to this act, or any predecessor board under any preceding state dental act, has sought and obtained an injunction against the person for engaging in the practice of dentistry or dental hygiene without the required license or permit or for a violation of this act or any predecessor state dental act, and if the defendant continues to engage in such conduct, then the Board can initiate a request that the District Attorney of Oklahoma County bring a criminal contempt proceeding, as defined in Section 565 et seq. of Title 21 of the Oklahoma Statutes, in the name of the State of Oklahoma against the defendant. A duplicate copy of the Board's request shall be filed with the Attorney General of Oklahoma.

C. 1. If a person engages in the practice of dentistry or dental hygiene without the required license or permit, or otherwise violates the provisions of this act or any rule promulgated or order issued pursuant thereto, the Board may initiate a request that the district attorney of the county in Oklahoma where such conduct or violation is believed to have occurred bring a criminal action in that county in the name of the State of Oklahoma and against the person who shall be named the defendant. A duplicate copy of the Board's request shall be filed with the Attorney General of Oklahoma.

2. Upon conviction, the defendant shall be punished as follows:

- a. for a first offense, a fine of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Five Hundred Dollars (\$1,500.00), or imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment,
- b. for a second offense, a fine of not less than One Thousand Five Hundred Dollars (\$1,500.00) nor more than Two Thousand Five Hundred Dollars (\$2,500.00), or imprisonment in the county jail for not more than ninety (90) days, or both such fine and imprisonment, or
- c. for a third or subsequent offense, a fine of not less than Two Thousand Five Hundred Dollars (\$2,500.00) nor more than Five Thousand Dollars (\$5,000.00), or imprisonment in the county jail for not more than one hundred eighty (180) days, or both such fine and imprisonment.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.19 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 1. The holder of a license to practice dental hygiene may practice dental hygiene under the supervision of a dentist in the following places:

- a. in a dental office,
- b. in an accredited school or college of dentistry or hygiene, and
- c. in such other places authorized in rules adopted by the Dental Board.

2. A dental hygienist may practice only under the supervision of a dentist, except when otherwise provided for by a rule of the Board.

3. A dentist may utilize and supervise in his dental office the equivalent of two full-time dental hygienists to provide hygiene care and services to patients of the dentist.

B. 1. A dentist may assign to a dental hygienist working under his supervision and in the dental office of the dentist only the tasks not prohibited by this act and which are permitted under this act or by rule of the Board.

2. A dentist cannot assign to a dental hygienist and a dental hygienist shall not perform the following:

- a. diagnosis, or treatment planning,
- b. prescription of medications,
- c. placement of restorative materials in the oral cavity, except as authorized by the Board,
- d. the initial fitting and adjusting; or, other fitting or adjusting of prosthodontic appliances in the oral cavity, except as authorized by the Board,
- e. surgery on hard or soft tissues,
- f. administration of injectable local anesthesia or nitrous oxide analgesia, except where the individual has successfully completed a Board-approved course of study and training, and then only to the extent of that study and training,
- g. parenteral administration of other pharmacologic drug or agent to a patient, or
- h. any procedure that may contribute to or result in an irreversible alteration of the oral anatomy.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.20 of Title 59, Req. No. 2623Page 30

unless there is created a duplication in numbering, reads as follows:

A. A dentist may assign to a dental assistant working under the supervision and in the dental office of the dentist only the tasks not prohibited by this act and which are permitted under this act or by a rule of the Dental Board.

B. 1. All tasks assigned to a dental assistant must be performed under the supervision of the dentist who made the assignment.

2. A dental assistant shall not perform the following:

- a. diagnosis, or treatment planning,
- b. prescription of medications,
- c. placement of restorative materials in the oral cavity, except as authorized by the Board,
- d. the initial fitting and adjusting; or, other fittings or adjusting of prosthodontic appliances in the oral cavity, except under the direction and supervision of a licensed dentist, or except as authorized by the Board,
- e. surgery on hard or soft tissues,
- f. administration of injectable local anesthesia or nitrous oxide analgesia,
- g. monitor a patient who is subject to nitrous oxide analgesia, except where the dental assistant has successfully completed a Board-approved course of study and training, and then only to the extent of that study and training,
- h. parenteral administration of other pharmacologic drug or agent to a patient,
- i. any procedure that may contribute to or result in an irreversible alteration of the oral anatomy,
- j. a Board-approved expanded duty by a dental assistant, when the dental assistant does not hold a permit for expanded duties, or
- k. scaling of calculus and root planing.

C. A dental assistant who has completed the education or training and passed the examination for the recognized Certified Dental Assistant Program may be recognized as a Certified Dental Assistant (CDA).

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.21 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A dentist may utilize a dental laboratory technician and a dental laboratory to construct or repair, extraorally, a part of a tooth, a tooth, teeth, prosthetic dentures, bridges, other replacements for teeth, splints or orthodontic or prosthetic appliances. Any dentist who employs or engages the services of a dental laboratory shall furnish a laboratory prescription for each patient for which work is requested.

B. Laboratory prescriptions issued by a dentist shall be in duplicate on consecutively numbered forms and shall be completed in full and signed by the prescribing dentist. A dentist is required to retain the duplicate copy of his laboratory prescriptions and to produce his copy for inspection and copying by a member of the Dental Board, or by an agent or employee of the Board for a period of three (3) years from the date of the laboratory prescriptions.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.22 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. In addition to other violations of this act, the occurrence of one or more of the following may subject a dentist to disciplinary action by the Dental Board:

1. A plea of guilty or a conviction of a misdemeanor involving moral turpitude or of a felony;

2. Presenting to the Board a false diploma, license or certificate, or one obtained by fraud or illegal means;



3. By reason of persistent inebriety, or addiction to drugs, the dentist is rendered incompetent to continue the practice of dentistry;

4. Publishing false, fraudulent or misleading advertising;

5. Authorizing or aiding an unlicensed person to practice dentistry; or an individual who does not hold a license to practice dental hygiene, to practice dental hygiene; or a dental assistant who does not have a permit to perform an expanded duty, to perform the expanded duty;

6. Authorizing or aiding a dental hygienist to perform any procedure prohibited by this act;

7. Authorizing or aiding a dental assistant to perform any procedure prohibited by this act;

8. Failure to pay registration fees as herein provided;

9. Holding oneself out as a specialist in one of the recognized dental specialties approved by the American Dental Association and the Board without having or holding a specialty license issued by the Board therefor;

10. Endangering the health of patients by reason of having a highly communicable disease and continuing to practice without approved and appropriate safeguards;

11. Being a menace to the public health by reason of practicing in an unsafe or unsanitary manner or place;

12. Being shown to be mentally unsound;

13. Being shown to be grossly immoral and that such condition represents a threat to patient care or treatment;

14. Being incompetent to perform or practice dentistry while in the delivery of dental care to a patient;

15. Gross negligence in the practice of dentistry;

16. Offering to effect or effecting a division of fees, or agreeing to split or divide a fee for dental services with any person in exchange for the person bringing or referring a patient;

17. A plea of guilty or conviction of violating the federal or state controlled and dangerous substance laws; or being involuntarily committed to an institution for treatment for controlled substance abuse, until recovery or in remission;

18. Using or attempting to use the services of a dental laboratory or dental laboratory technician without issuing to that person a laboratory prescription;

19. Authorizing or aiding a dental hygienist to solicit patronage from patients of a dentist formerly employing the dental hygienist;

20. Having more than the equivalent of two full-time dental hygienists, for each dentist actively practicing in the same dental office and who will supervise the dental hygienists;

21. Knowingly patronizing or using the services of any dental laboratory or dental laboratory technician in this state who has not complied with the provisions of this act regulating dental laboratories and dental laboratory technicians;

22. Authorizing or aiding a dental hygienist, dental assistant or dental laboratory technician to violate the provisions of this act;

23. Willfully betraying confidential information of and to the detriment of a patient;

24. Writing a false, unnecessary or excessive prescription for any drug or narcotic or for any controlled dangerous substance under either the federal or Oklahoma law;

25. Prescribing or administering any drug or treatment without having established a valid dentist-patient relationship;

26. Violating or attempting to violate the provisions of this act, or the permanent rules promulgated by the Board, as a principal, accessory or accomplice;

27. Engaging in nonconsensual physical contact with a patient which is sexual in nature or directing a verbal communication which is intended to be sexually demeaning to a patient;

28. Practicing dentistry without having or displaying the license issued to the dentist by the Board to practice dentistry at the dentist's primary place of practice;

29. Being dishonest in a material way with a patient;

30. Failing to retain all patient records for at least three (3) years, except that the failure to retain records shall not be a violation under this act, where the dentist shows that the

records were lost, destroyed or removed by another, without the consent of the dentist;

31. Failing to retain the dentist's copy of any laboratory prescription for at least three (3) years, except that the failure to retain records shall not be a violation under this act, where the dentist shows that the records were lost, destroyed or removed by another, without the consent of the dentist; or

32. Violating the state dental act of another state resulting in a plea of guilty, conviction, suspension, or revocation of the license of the dentist under the law of that state.

B. In addition to other violations of this act, the occurrence of one or more of the following shall subject a dental hygienist to disciplinary action by the Board:

1. A plea of guilty or a conviction of a misdemeanor involving moral turpitude or of a felony;

2. Presentation to the Board of a false diploma, license or certificate, or one obtained by fraud or illegal means;

3. By reason of persistent inebriety, or addiction to drugs, the dental hygienist is rendered incompetent to continue the practice of dental hygiene;

4. Failure to pay registration fees as herein provided;

5. Endangering the health of patients by reason of having a highly communicable disease and continuing to practice without taking the approved and appropriate safeguards;

6. Being shown to be mentally unsound;

7. Being shown to be grossly immoral and that such condition represents a threat to patient care or treatment;

8. Being incompetent to perform or to practice dental hygiene while delivering dental hygiene care to a patient;

9. Gross negligence in the practice of dental hygiene;

10. A plea of guilty or a conviction of violating the federal or state controlled and dangerous substance laws; or being involuntarily committed to an institution for treatment of controlled substance abuse, until in remission;

11. Practicing or attempting to practice dental hygiene other than in the office of, and under the supervision of, a dentist, except as provided by rules of the Board;

12. Attempting to solicit or soliciting patients of a dentist to become patients of another dentist for dental care or for the service and care of a dental hygienist;

13. Violating or attempting to violate the provisions of this act, or the permanent rules promulgated by the Board, as a principal, accessory or accomplice; or

14. Being dishonest in a material way with a dentist or a patient.

C. In addition to other violations of this act, the occurrence of one or more of the following shall subject a dental assistant to disciplinary action by the Board or under this act:

1. A plea of guilty or a conviction of a misdemeanor involving moral turpitude, or of a felony;

2. By reason of persistent inebriety, or addiction to drugs, the dental assistant is rendered incompetent to continue to assist the dentist in the delivery of dental care;

3. Performing an expanded duty without having a permit from the Board for the expanded duty;

4. Performing an act, or delivering care or a service which is prohibited to be performed by a dental assistant under this act or the rules promulgated pursuant thereto;

5. Endangering the health of patients, by reason of having a highly communicable disease and continuing to practice without taking the approved or appropriate safeguards;

6. Being incompetent to assist a dentist while in the delivery of dental care to a patient;

7. A plea of guilty or a conviction of violating the federal or state controlled and dangerous substance laws; or being involuntarily committed to an institution for treatment of controlled substance abuse, until in remission;

8. Violating or attempting to violate the provisions of this act, or the permanent rules promulgated by the Board, as a principal, accessory or accomplice; or

9. Being dishonest in a material way with a dentist or a patient.

D. In addition to other violations of this act, the following shall subject a dental laboratory technician to disciplinary action by the Board:

1. Publishing false, fraudulent or misleading advertising;

2. Providing the services or the product of a dental laboratory technician at a place or in a facility which is not permitted as a dental laboratory, unless it is exempt from the requirement of being permitted;

3. Furnishing, supplying, constructing, reproducing, altering, restoring or repairing a prosthetic tooth, teeth, dentures, bridges, crowns or other substitutes for natural human teeth or gums, or portions thereof, without the laboratory prescription of a dentist and when a prescription is required;

4. Failing to pay fees as herein provided;

5. Failing to return prescribed work to a dentist or his office;

6. Having on the premises of a dental laboratory or in the possession of a dental laboratory technician, dental equipment not necessary for a dental laboratory's functions;

7. Violating or attempting to violate the provisions of this act, or the permanent rules promulgated by the Board, as a principal, accessory or accomplice; or

8. Being dishonest in a material way with a dentist.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.23 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 1. Any person may file a written and signed complaint alleging that another person has sought to practice or has illegally practiced dentistry or dental hygiene, or has otherwise violated the provisions of this act, and the facts upon which the allegations are based. The complaint shall be directed by the president of the Dental Board to two specific Board members for review and where the complaint is directed against a dentist, one

of the two Board members shall be the dentist Board member from the same district as the dentist against whom the complaint is directed.

2. The reviewing Board members are referred to as the Review Panel. The Review Panel may conduct or cause to be conducted such additional investigation of the allegations and the complaint as they reasonably determined may be needed to establish, based on the evidence available to the panel, if it is more likely than not that a violation of the provisions of this act has occurred and if the person or persons named in the complaint have more likely than not violated the provisions of this act.

3. In conducting its investigation, the Review Panel may seek evidence, take statements, take and hear evidence and administer oaths and affirmations. The Review Panel may also use Board attorneys and investigators appointed by the Board to seek evidence.

4. Upon the Review Panel finding based on the evidence available to the Panel that it is more likely than not that a violation of the provisions of this act has occurred and that the person or persons named in the complaint have violated the provisions of this act and that there is sufficient evidence in the possession of the Review Panel to support its making a recommendation, the Review Panel may then recommend in writing to the Board that it proceed with a hearing on the complaint and the matters alleged therein. The Board, upon receiving the written recommendation from the Review Panel, shall hold a hearing, or direct that such other action as the Board is authorized to take by this act be commenced. Where the Board holds a hearing, the members of the Review Panel shall be excluded from participating in the hearing and the decision. At the conclusion of the hearing, the Board may dismiss the complaint or find against the respondent and impose any penalty or remedy authorized by this act that the Board determines to be appropriate.

5. The Review Panel may also elect not to pursue immediate Board action or litigation and may secure an agreement regarding what this act requires, that the individual does not intend to

violate the provisions of this act, and regarding future compliance with this act. The agreement may take any form satisfactory to the Review Panel and the individual, from a verbal to a written agreement. Where a written agreement is entered into, it shall remain part of the investigation file and may be used against the subject only where he violates the agreement. Informal resolution of complaints is encouraged. When the Review Panel achieves any settlement, it can do so, subject to the settlement being finally reviewed and approved by the Board. The Review Panel may act without complying with the open meeting laws of this state.

B. Disciplinary hearings before the Board shall comply with Article II of the Administrative Procedures Act, Section 308a et seq. of Title 75 of the Oklahoma Statutes, and any amendments thereto.

C. When the Board finds any person engaged in an act set forth in Section 22 of this act, it may enter an order imposing one or more of the following:

1. Refusal to issue a license or permit provided for in this act;

2. Revocation or suspension of the license or permit. The maximum period for a suspension of a license or permit shall be one (1) year. The maximum period of probation shall be two (2) years, except for an individual participating in a chemical dependency program, the period of probation shall not exceed four (4) years. The Board may, as part of any probation, impose terms and conditions affecting the probation which are reasonable and consistent with the violation;

3. Enter a censure; or

4. Impose a total civil penalty not to exceed One Thousand Five Hundred Dollars (\$1,500.00).

D. 1. Upon competent evidence presented or brought before the Board resulting in it making and entering a finding that an emergency situation exists, and that the dental health, welfare and safety of the public is materially threatened thereby and by a person being licensed or holding a permit, then the Board may

order that an emergency show cause hearing be conducted. The Board shall give the person that would be adversely affected not less than five (5) days' prior written notice at the person's last-known residential and office address, of the Board's finding that an emergency situation exists and of the date, place and time for the hearing.

2. At the hearing, the Board shall have the burden of establishing that the dental health, welfare and safety of the public is materially threatened by the respondent continuing to be licensed or to hold a permit. The respondent at the hearing may defend.

3. At the conclusion of the hearing on the finding, the Board may take such action as is supported by the evidentiary record, including ordering a suspension of a license or a permit, for a stated time duration, or a revocation. The respondent shall be entitled to appeal the decision and action of the Board to the District Court of Oklahoma County as in the case with all other administrative orders and actions of the Board.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.24 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Professional corporations organized under the Professional Corporation Act, for the purpose of practicing dentistry, shall be subject to all the provisions of this act, except that professional corporations shall not be required to be licensed or acquire a permit. Individuals who are licensed or hold a permit, shall be responsible under this act for their personal conduct without regard to the fact that they are acting as officers, directors, stockholders, agents or employees of a professional corporation. The officers, directors, stockholders, agents and employees of a professional corporation shall be vicariously responsible under this act as individuals for the acts and actions of the professional corporation, except where an individual can show that he voted against the action taken by the corporation which led to or caused a violation of the provisions of this act,



or that he is an individual who does not, directly or indirectly, manage the affairs of the professional corporation.

B. Enforcement actions by the Dental Board for violations of the provisions of this act can be brought against a professional corporation as well as individuals who are or have acted as its officers, directors, shareholders, agents and employees and who are subject to this act.

C. 1. The Board is authorized to issue the certificate contemplated by subsection (c) of Section 804 of Title 18 of the Oklahoma Statutes and shall maintain a record of each certificate issued.

2. The Board shall maintain a registry of each professional corporation authorized to practice dentistry in this state under the Professional Corporation Act.

3. Each professional corporation authorized to practice dentistry in this state must register the professional corporation with the Board and update that registration when directed by the Board. The Board shall provide the form and establish within the schedule of charges and fees provided for in this act, the charge for the registration of a professional corporation authorized to practice dentistry. Annually, the Board shall publish a summary of the registry of all professional corporations authorized to practice dentistry in this state.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.25 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A dentist may not:

1. Publish false, fraudulent or misleading advertising;
2. Publish a false, fraudulent or misleading statement concerning the skill or method of practice;
3. Advertise having the ability or skill to practice dentistry without causing pain;

4. Use claims of or personal testimonials of superior quality dental care;

5. Use statements which contain assurances or guarantees of the success of treatment by a dentist; or

6. Publish oneself as a specialist in one of the recognized dental specialties approved by the American Dental Association and the Board without having or holding a specialty license issued by the Board therefor.

B. A person who is not a dentist may not solicit or advertise to the public that he is a dentist or is in the practice of dentistry.

C. A dentist may use a trade name in connection with the practice of dentistry provided that:

1. The use of the trade name is not false, fraudulent or misleading;

2. The advertisement in which the trade name appears includes the name of the dentist actually providing the dental services;

3. The name of the dentist actually providing the dental services shall appear on all billing invoices or statements sent to a patient and on the receipts if any given to a patient;

4. Treatment records are maintained for each patient that clearly identify the dentist who performed the dental service for the patient; and

5. Where advertisements are made in the trade name or the trade name is published in any advertisement, a record shall be maintained by the dentist of the advertisement, including a film and audio record, for three (3) years from the publication.

D. No person regulated under this act may publish a false, fraudulent or misleading advertisement.

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.26 of Title 59, unless there is created a duplication in numbering, reads as follows:

Every dentist, dental hygienist, and dental assistant actively engaged in the practice of dentistry, dental hygiene or dental assisting in this state shall display his license or permit and the annual renewal certificate in his primary practice location.

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.27 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. No dentist may administer general anesthesia, or deep sedation to patients unless he has been issued a permit authorizing him to do so by the Dental Board.

B. The Board may require a dentist to have a permit to administer conscious sedation to dental patients under such standards, conditions and other requirements as the Board may by rule prescribe.

C. As a condition for issuing a permit under subsections A and B of this section, the Board may:

1. Require an inspection of a dental office;
2. Specify, by rule, the equipment which is to be present when general anesthesia, deep sedation or conscious sedation is being administered; and
3. Require a periodic inspection of the equipment used to administer general anesthesia and deep sedation.

D. 1. "Conscious sedation" means a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal command and that is produced by a pharmacologic or nonpharmacologic method or a combination thereof. The conscious is defined as "one who has intact protective reflexes, including the ability to maintain an airway, and who is capable of rational response to question or command". The drugs and techniques used should carry a margin of safety wide enough to render unintended loss of consciousness unlikely;

2. "Deep sedation" is a controlled state of depressed consciousness accompanied by partial loss of protective reflexes, including the inability to continually maintain an airway independently and/or to respond purposefully to verbal command, and is produced by a pharmacologic or nonpharmacologic method or combination thereof; and

3. "General anesthesia" is a controlled state of unconsciousness accompanied by partial or complete loss of protective reflexes, including inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, and is produced by a pharmacologic or nonpharmacologic method or a combination thereof.

Provided, should the American Dental Association publish a differing definition of the terms "conscious sedation", "deep sedation", and "general anesthesia", then the Board, by rule, may adopt that definition to apply to this section, in lieu of the above definitions.

SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.28 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Dental Board is authorized by permanent rules promulgated under the Administrative Procedures Act to establish a schedule of fees and charges to be imposed, provided that the fees and charges shall be not less and not greater than the range created by the following schedule:

1. LICENSURE FEES:

a. Reciprocity/Criteria Approval

Dentists -	\$500.00 - \$1,500.00
Dental Hygienists -	\$100.00 - \$300.00

b. Application for Licensure by Clinical Examination

Dentists -	\$200.00 - \$600.00
Dental Hygienists -	\$100.00 - \$300.00

Theoretical or Written Only Re-Takes

Dentists -	\$20.00 - \$30.00
Dental Hygienists -	\$10.00 - \$30.00

c. Faculty Permits, Intern Permits, Temporary Dental Hygiene Permits

Dentists -	\$100.00 - \$300.00
Dental Hygienists -	\$50.00 - \$150.00

d. General Anesthesia Permit

Dentists -	\$100.00 - \$300.00
------------	---------------------

- e. Conscious Sedation Permit
  - Dentists - \$100.00 - \$300.00
- f. Specialty Examination
  - Dentists - \$300.00 - \$900.00
- 2. ANNUAL RENEWAL FEES
  - a. Dentists - \$100.00 - \$300.00
  - b. Dental Hygienists - \$75.00 - \$225.00
  - c. General Anesthesia - \$100.00 - \$300.00
  - d. Dental Laboratories - \$20.00 - \$60.00
- 3. PRESCRIPTION BOOKS
  - \$2.50 - \$7.50
- 4. CERTIFIED DENTAL ASSISTANTS PERMIT OR DENTAL ASSISTANTS PERMIT FOR EXPANDED DUTIES AND THE ANNUAL RENEWAL FEE
  - \$10.00 - \$60.00
- 5. DENTAL LABORATORY PERMITS
  - \$20.00 - \$60.00
- 6. DUPLICATE LICENSE
  - \$10.00 - \$30.00
- 7. DUPLICATE CERTIFICATE OR REGISTRATION
  - \$5.00 - \$15.00
- 8. CERTIFICATE OF GOOD STANDING
  - \$5.00 - \$15.00
- 9. PENALTY FEES - LATE FEE/ANNUAL REGISTRATION
  - a. Dentists - \$100.00 - \$300.00
  - b. Dental Hygienists - \$50.00 - \$150.00
  - c. Certified and Expanded Duty
    - Permits for Dental Assistants - \$20.00 - \$30.00
- 10. CORPORATE CERTIFICATION LETTER
  - \$2.50 - \$7.50
- 11. COPIES OF PUBLIC RECORDS
  - \$0.25 - \$0.75 per copy
- 12. LIST PREPARATION FOR DENTISTS, DENTAL HYGIENISTS, DENTAL ASSISTANTS AND DENTAL LABORATORIES
  - \$0.25 - \$0.75 per page
  - A \$25.00 - \$75.00 fee will be charged for each new list compiled. All lists produced by the Board must

be requested in writing noting the specific use of said list.

SECTION 29. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.29 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created in the State Treasury a revolving fund for the Dental Board, to be designated the "Dental Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Board pursuant to this act. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Dental Board for necessary expenses incurred in carrying out the provisions of this act, including attorney fees; provided, however, no member of the Board shall receive compensation under this act other than per diem and necessary travel expenses paid pursuant to the State Travel Reimbursement Act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

B. The State Dental Fund is hereby abolished. On July 1, 1994, any unencumbered funds in the State Dental Fund shall be transferred to the credit of the Dental Revolving Fund. Any unexpended funds remaining in the State Dental Fund after November 15, 1994, shall be transferred to the credit of the Dental Revolving Fund.

SECTION 30. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.30 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Beginning with the first full calendar year after this act becomes effective, and for each succeeding calendar year, after the end of each year, the Dental Board shall produce at least one hundred copies and have available for general distribution, an annual report of its activities for the year. The report shall include the following:

1. The number of complaints received during the year;
2. The number of Board hearings completed during the year;
3. The name and principal office address at the end of the year of each individual holding a license, certificate, permit or who is registered;
4. The report of all receipts and expenditures of the Board for the calendar year; and
5. Any other information regarding the actions of the Board that the president or the Board members determine to track or report on for that year.

B. The Board may charge the reasonable cost of the printing of the report to persons seeking copies of the report.

SECTION 31. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.31 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 1. Rules of the State Dental Board in effect on the effective date of this act shall continue in force and effect as the rules under this act, except where they are inconsistent with this act, for a period of one (1) year from the effective date of this act or until new rules are promulgated.

2. The Board shall promulgate new rules under this act within one (1) year of the effective date of this act. Rules shall be promulgated by the Board pursuant to Article I of the Administrative Procedures Act, Section 250.3 et seq. of Title 75 of the Oklahoma Statutes. In addition to public notice required under the Administrative Procedures Act, actual written notice must be mailed to the last-known address of each dentist, not less than thirty (30) days prior to the vote on the rules, or be given by publishing the exact text of proposed rules and regulations not less than forty-five (45) days prior to the vote on the proposed rules, in any publication which is distributed to at least seventy-five percent (75%) of the dentists who are regulated under this act.

B. Any individual or person regulated under this act shall have the right to challenge the validity or applicability of a

rule pursuant to the provisions of the Administrative Procedures Act.

SECTION 32. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.32 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Upon this act becoming effective, it shall replace the former State Dental Act, except as provided in subsection B of this section.

B. For one (1) year after the effective date of this act, the Dental Board may bring enforcement actions for acts or occurrences that happened prior to the effective date of this act. In such actions, the former State Dental Act and rules and regulations promulgated by the Board under the former State Dental Act shall apply.

SECTION 33. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.33 of Title 59, unless there is created a duplication in numbering, reads as follows:

Administrative proceedings, civil actions, or criminal prosecutions under this act can be commenced only within four (4) years of the date of the action or occurrence that constitutes a violation of this act.

SECTION 34. REPEALER 59 O.S. 1991, Sections 328.1, 328.2, 328.3, 328.4, 328.5, 328.7, 328.8, 328.9, 328.10, 328.11, 328.12, 328.13, 328.14, 328.15, 328.16, 328.17, 328.18, 328.19, 328.20, 328.21, 328.22, 328.23, 328.24, 328.25, 328.26, 328.27, 328.28, 328.29, 328.30, 328.31, 328.32, 328.33, 328.34, 328.35, 328.36, 328.37, 328.38, 328.39, 328.40, 328.41, 328.42, 328.43, 328.44, 328.45, 328.46, 328.47, 328.48, 328.49 and 328.50, are hereby repealed.

SECTION 35. This act shall become effective July 1, 1994.

SECTION 36. 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.

44-2-2623

JY