

SHORT TITLE: Dentistry; relating to disciplinary actions against dentists; permitting delegation of authority to perform certain reversible procedures; defining and clarifying terms; requiring adoption of certain rules; effective date.

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

SENATE BILL NO. 310

By: Long (Lewis)

AS INTRODUCED

An Act relating to dentistry; amending 59 O.S. 1991, Section 328.32, which relates to disciplinary actions against dentists; clarifying language; permitting delegation of authority to perform certain reversible procedures; defining and clarifying terms; requiring adoption of certain rules and prohibiting certain action; requiring certain rules provide for certain treatment and method; requiring Board of Governors of the Registered Dentists of Oklahoma consider certain factors and conform punishment to certain findings; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 1991, Section 328.32, is amended to read as follows:

Section 328.32 A. The Board of Governors of the Registered Dentists of Oklahoma shall have power, after a hearing for any causes now existing in the laws of ~~the State of Oklahoma~~ this state, or for a violation of any acts prohibited herein, to revoke a license of a dentist to practice dentistry, or a specialist license of a dentist, or to suspend the use of the same, or to discipline by probation or reprimand, public or private; and the Board of

Governors shall have power to pass upon all petitions for reinstatement.

B. The Board of Governors shall keep a record of the evidence and proceedings in all matters involving the revocation of a license or suspension, probation or reprimand, and shall make findings of fact and a decision thereon. Upon the making of any decision to revoke a license or to suspend a member ~~hereof~~ from practice, or place him or his license under probation, or reprimand a member ~~hereof~~, the Board of Governors shall immediately forward a certified copy of ~~said~~ the decision to the member involved by registered mail, to his last-known business address. ~~Such~~ The decision shall be final, unless ~~such~~ the member ~~hereof~~ whose license is revoked, suspended, placed under probation, or who is reprimanded, ~~shall have the right of an appeal~~ appeals the decision as provided in this act. In the event an appeal is not ~~taken within~~ made pursuant to the provisions of this act, the Board of Governors shall make and enter an order striking the name of ~~such~~ the person from the roll of membership ~~hereof~~, or suspending ~~him~~ the member for the period mentioned in ~~said~~ the decision or otherwise carrying out provisions of ~~said~~ the decision and shall so notify ~~said~~ the member thereof.

C. The Board of Governors shall have the power to revoke the license of a member ~~hereof~~, suspend the member from ~~the~~ practice, reprimand or order a period of probation of ~~said~~ the member upon the following grounds:

~~(a)~~ 1. Upon presentation to the Board of Governors of a certified copy of a court record showing that the member ~~hereof~~ has been convicted of a crime involving turpitude;

~~(b)~~ 2. Has presented to the Board of Governors a false diploma, license or certificate, or one obtained by fraud or illegal means;

~~(c)~~ 3. By reason of persistent inebriety, or addiction to drugs, the member is rendered incompetent to continue the practice of dentistry;

~~(d)~~ 4. Has been guilty of false, fraudulent or misleading advertising, as herein prohibited;

~~(e)~~ 5. Has permitted, directly or indirectly, by knowledge or acquiescence, an unregistered or unlicensed person to practice dentistry ~~and/or~~ dental hygiene;

~~(f)~~ 6. Has permitted a dental hygienist to perform any operation other than as authorized by the Board of Governors;

~~(g)~~ 7. Has been guilty of dishonorable or unprofessional conduct;

~~(h)~~ 8. Has failed to pay registration fee as herein provided;

~~(i)~~ 9. Holds himself out as especially qualified in or limiting his practice to a branch of dentistry without a special license therefor;

~~(j)~~ 10. Is a menace to the public health by reason of a communicable disease;

~~(k)~~ 11. Is a menace to the public health by reasons of unsanitary offices, practices, or techniques;

~~(l)~~ 12. Has been proven mentally unsound or has been admitted to a mental institution, either public or private, and until he is proven mentally competent;

~~(m)~~ 13. Is grossly immoral;

~~(n)~~ 14. Is incompetent in the practice of dentistry;

~~(o)~~ 15. Is guilty of willful negligence in the practice of dentistry;

~~(p)~~ 16. Is guilty of division of fees, or agreeing to split or divide the fee received for dental service with any person for bringing or referring a patient without the knowledge of the patient or his legal representative;

~~(q)~~ 17. Has been convicted of violating or has willfully violated the federal or state narcotic or barbiturate laws or has been committed for treatment for drug addiction to an institution, either public or private, and until he has proven himself cured;

~~(r)~~ 18. Is guilty of using or attempting to use the services of a dental laboratory or dental laboratory technician without issuing a written authorization;

~~(s)~~ 19. Is guilty of aiding or abetting or encouraging a dental hygienist employed by him to make use of an oral prophylaxis list, or the calling by telephone or by use of letters transmitted through the mails to solicit patronage from patients formerly served in the office of any dentist formerly employing such hygienist;

~~(t)~~ 20. Is guilty of having more than two dental hygienists per dentist;

~~(u)~~ 21. Is guilty of patronizing or using the services of any dental laboratory or dental laboratory technician in this state unless such dental laboratory or dental laboratory technician shall have first complied with the provisions of the act regulating dental laboratories and dental laboratory technicians;

~~(v)~~ 22. Has placed a dental appliance in the mouth without first having a written authorization from the dentist who caused same to be constructed; or

~~(w)~~ 23. Has authorized, permitted or allowed his or her dental hygienist, dental nurse, dental assistant, or dental laboratory technician to violate any provision of this act or any rules and regulations of the Board of Governors, or has violated any of the provisions of this act.

D. 1. It shall not be unlawful or unethical for any dentist to delegate to any dental hygienist, dental nurse, dental assistant or dental laboratory technician, acting under supervision of the dentist, the authority to perform any reversible procedure, including, but not limited to, those acts described in paragraphs 11, 13, 14, 15 or 16 of subsection C of this section.

2. For the purposes of this section, "reversible procedure" means any procedure which can be reversed or corrected by a dentist.

3. A dental hygienist, dental nurse, dental assistant or dental laboratory technician is acting under the supervision of the dentist when the dentist instructs him or her as to the work to be performed and is personally present at the dental office when the work is performed.

4. The Board of Governors may adopt rules governing the training and conditions related to the delegation of functions, but the Board may not prohibit the delegation of functions.

E. Before imposing discipline, the Board of Governors shall adopt rules of general application which shall guide the Board in exercising its discretion in determining the punishment to be imposed in any individual proceeding against a dentist. The rules shall provide for fair and consistent treatment of dentists, including a method for using precedent to ensure consistency. In adopting the rules, the Board shall consider:

1. The actual harm, if any, to the patient;
2. The potential for harm to the patient;
3. Previous violations committed by the dentist;
4. Malice, intent, bad faith or dishonesty of the dentist; and
5. Any factors relating to the mitigation of punishment.

F. The Board shall make reasonable efforts to conform any punishment to specific findings regarding such matters.

SECTION 2. This act shall become effective September 1, 1993.

44-1-0448

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