

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1880

By: Gray of the House

and

Robinson, Long (Lewis),
Snyder and Williams (Don)
of the Senate

COMMITTEE SUBSTITUTE

(professions and occupations - Dental Board - Certified
Dental Assistant - repealing 49 sections in Title 59 -
codification - effective date - emergency)

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:

Sections 1 through 35 of 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 practice of dentistry
and prohibit the illegal practice of dentistry.

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:

As used in this act:

1. "Accredited" means any institution or program accredited by the Commission on Dental Accreditation of the American Dental Association;

2. "Board" means the Board of Dentistry;

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

4. "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 of the Board;

5. "Dental hygienist" means a graduate from an accredited school of dental hygiene which has a minimum of two (2) academic years of dental hygiene curriculum, and who holds a license from the Board;

6. "Dental laboratory" means a location approved by the Board where a dental laboratory technician performs dental laboratory technology pursuant to a permit issued by the Board whether in the office of a dentist or not;

7. "Dental laboratory technician" means an individual who practices dental laboratory technology pursuant to a permit issued by the Board and who renders goods and services to a dentist and not to the public;

8. "Dental laboratory technology" means the fabrication of dental restorations, appliances, or other devices pursuant to a laboratory prescription of a dentist;

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

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

11. "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;

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

13. "Out-of-state 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;

14. "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 or she is a patient of the dentist, for general or specialty dentistry;

15. 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 making a dental activity available to the public,
- (17) performing any act which may be performed by a dental hygienist, or
- (18) obtaining a medical history or performing a physical examination which is directly related to, or incidental to, the performance of dental services.

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 of the provisions of this act:

- (1) the administering of any treatment or surgery within the scope of 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) actions by students in an accredited dental school, 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 of the provisions of this act:

- (1) the practice of dental hygiene by an individual pursuant to a license issued by 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 by a dental laboratory technician pursuant to a prescription from a dentist,
- (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) actions by 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;

16. "Scaling" means the instrumentation by scaler or by periodontal curette of the crown and root surfaces of the teeth.

17. "Supervision" means the performance, pursuant to the dentist's examination and diagnosis, of services performed on a patient of the dentist, by a dental hygienist or dental assistant,

with evaluation by the dentist of the services before the patient leaves the dentist's office; provided, the dentist's evaluation of a service is not required for a dental hygienist employed by the dentist to perform a prophylaxis, topical fluoride application, diagnostic imaging or periodontal charting on the dentist's patient of record who gives written consent if the record is signed by the dentist and kept on file in the dentist's office on a form approved by the Board.

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. Pursuant to Section 39 of Article V of the Oklahoma Constitution, there is hereby created the Board of Dentistry, which shall be an agency of state government.

2. The Board shall:

- a. adopt 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. seek and receive the advice and assistance of the Office of the Attorney General of this state,
- c. engage investigators,
- d. have one or more employees,
- e. enter into contracts, and
- f. acquire, rent, hold, encumber and dispose of real and personal property as is needed.

B. 1. The Board shall consist of eight (8) dentist members, two dental hygienist members, and two members who shall be selected from and represent the public. One dentist member of the Board shall be elected by the dentists residing in each of the eight geographical districts. The two dental hygienist members of the

Board shall be elected at-large by dental hygienists residing in this state. The two members of the Board who represent the public shall be appointed by the Governor, subject to confirmation by the Senate. No public member of the Board may be a dentist, dental laboratory technician, dental assistant, or dental hygienist, or be related within the third degree of consanguinity or affinity to any such person.

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 qualified. 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 Boards under predecessor acts, shall be eligible to serve. After the effective date of this act, to be eligible to be elected to and to serve on the Board, a dentist or dental hygienist must have been licensed to practice in this state for at least five (5) years, and for the five (5) years prior to the election, not have been subject to an adverse sanction by the Board.

3. The members of the Board of Governors of the Registered Dentists of Oklahoma on the effective date of this act shall serve as members of the Board of Dentistry for their respective districts for the remainder of the terms for which they were elected.

4. The members of the Board shall be reimbursed for travel expenses as provided in the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes. 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. For the purpose of this act, this state shall be divided into eight geographical districts which

shall consist of the following counties with the following designations:

District No. 1: Cimarron, Texas, Beaver, Harper, Woods, Alfalfa, Grant, Kay, Ellis, Woodward, Major, Garfield, Noble, Dewey, Blaine, Kingfisher and Logan;

District No. 2: Tulsa and Creek;

District No. 3: Roger Mills, Custer, Beckham, Washita, Harmon, Greer, Kiowa, Caddo, Jackson and Tillman;

District No. 4: Canadian, Grady, McClain, Comanche, Cotton, Stephens, Jefferson, Garvin, Murray, Carter and Love;

District No. 5: Oklahoma;

District No. 6: Lincoln, Cleveland, Pottawatomie, Seminole, Okfuskee, Hughes, Pontotoc, Coal, Johnston, Marshall and Bryan;

District No. 7: Mayes, Wagoner, Cherokee, Adair, Okmulgee, Muskogee, Sequoyah, McIntosh, Haskell, Pittsburg, Latimer, LeFlore, Atoka, Pushmataha, Choctaw and McCurtain; and

District No. 8: Osage, Payne, Washington, Nowata, Craig, Ottawa, Rogers, Delaware and Pawnee.

D. 1. Nominations for dentist members of the Board from the districts shall be by petition, signed by at least ten dentists who are residents of the district. Nominations for the dental hygienist members 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-Treasurer of the Board, then opened and counted at a meeting of the Board. In other respects, elections shall be conducted as the Board may by rule direct.

3. Only dentists residing in the respective districts shall be entitled to vote for the Board member for that district. Only

dental hygienists residing in this state shall be entitled to vote for the dental hygienist Board members.

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. The dental hygienist members of the Board may be recalled and removed from office by a special election called by the Board upon receipt of a written petition signed by at least ten percent (10%) of the dental hygienists residing in the state. If a majority of the votes cast are in favor of recalling the Board member, the member shall be removed from the Board, effective on the date the ballots are counted.

E. A vacancy on the Board shall be filled for the remainder of the term 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 in the rules 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 Board of Dentistry shall be a president, first vice president, second vice president, and secretary-treasurer.

2. The duties of each officer shall be prescribed in the rules of the Board, which shall be approved by sixty percent (60%) or more of the members 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 these offices 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 enforcement of this act and the practice of dentistry may also be considered. At the annual meeting, there shall be a specific date, time, and place set for four or more regularly scheduled meetings of the Board. One regularly scheduled meeting shall occur during each calendar quarter of each year. In all other respects, the Board shall be subject to the provisions of the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes.

C. 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 principal administrative officer shall be responsible for the performance of 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 created by Section 32 of this act.

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 Board of Dentistry shall have the following powers:

1. To enforce the Dental Act;
2. To adopt rules in accordance with the Administrative Procedures Act and consistent with the Dental Act;

3. To examine and test the qualifications of applicants for licenses to practice dentistry, to issue licenses to applicants and dentists, and to provide for renewal of licenses;

4. To examine and test the qualifications of applicants for licenses to practice dental hygiene, to issue licenses to applicants and dental hygienists, and to provide for renewal of licenses;

5. To examine and test the qualifications of applicants for permits to perform certain specific duties, to issue permits to dental assistants for such duties, and to provide for the renewal of permits;

6. To determine the qualifications of and to issue permits for the operation of dental laboratories and to provide for the renewal of permits;

7. To maintain the names and addresses of all dentists, dental hygienists, dental assistants, dental laboratory technicians, and dental laboratories, who are licensed, permitted, or registered in this state;

8. 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 Secretary-Treasurer of the Board to the Governor;

9. Within limits prescribed in the Dental Act, to set all charges, fees, and civil penalties to be imposed and collected;

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

11. To investigate and to issue investigative and other subpoenas, pursuant to and complying with the Administrative

Procedures Act, Section 250 et seq. of Title 75 of the Oklahoma Statutes;

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

13. To conduct in a uniform and reasonable manner, inspections of dental offices and dental laboratories located in this state, and their business records;

14. To establish continuing education requirements for dentists, dental hygienists, and dental assistants who hold permits used by the Board;

15. To recognize the minimum standards of care established by the American Dental Association; provided, this paragraph shall not alter the standard of care applied in civil actions;

16. To establish guidelines for courses of study necessary for additional functions for dental hygienists, dental assistants, and dental laboratory technicians, and, when appropriate, to authorize the individual to perform additional functions;

17. 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;

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

19. To take all other actions necessary 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 powers reasonably necessary to carry out the provisions of this section.

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 Board of Dentistry an application form and photograph, as prescribed by the Board, at least thirty (30) days before the date on which the examination is to be given;

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

3. With respect to an applicant who holds or who has held a license or permit issued by another state, provide proof of that license or permit, and include a statement under oath by the applicant whether the applicant's license or permit 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 at least twenty-one (21) years of age and is of good moral character,
- b. is a citizen of the United States or is otherwise 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 an application with the Board of Dentistry, provided copies of all documents required by the Board, and paid the examination fee.

2. To determine whether any applicant has a good moral character, the Board may consider, among other things, whether the applicant's license to practice dentistry has been suspended or revoked or whether the applicant is currently involved in any disciplinary action concerning the license. The Board shall also consider whether or not the individual has been convicted of a misdemeanor other than a traffic violation not involving the use of drugs or alcohol, 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 moral character. The Board shall take into consideration and require the applicant to disclose 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 the applicant 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 shall examine each applicant in writing on the contents and interpretation of the Dental Act and the rules of the Board.

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 disclosed by 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 Board of Dentistry shall issue a specialty license authorizing a dentist or out-of-state dentist to hold oneself out to the public and to practice in this state as a specialist in a dental specialty recognized by the Council on Dental Education of the American Dental Association or in the case of dental anesthesiologists, which is recognized by the American Society of Dentist Anesthesiologists.

2. No individual shall be issued a specialty license nor practice a dental specialty unless the individual is licensed to practice general dentistry in a state and has successfully completed the educational requirements for a specialty practice recognized and defined by the Council on Dental Education of the American Dental Association or in the case of dental anesthesiologists, which is recognized by the American Society of Dentist Anesthesiologists.

B. 1. An individual who has successfully completed the educational requirements, is licensed to practice general dentistry in a state and has been issued a specialty license by any state may file 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, or the Board may accept the National Specialty Examination for specialty licensure. After the

Board conducts its investigation of the individual including the individual's application, competence to practice and good moral character, and after the applicant passes 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 by this act. 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. Individuals to whom a specialty license has been issued who have not been licensed in this state to practice general dentistry must limit their practice in this state to the practice of that specialty.

D. 1. Except as authorized in subsection B of this section, all applicants for a specialty license 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 section 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 Board of Dentistry, by rule, 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 governing board of any institution 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 a salary paid by the federal government, or by the State of Oklahoma, or their subdivisions, or the public or private institution where the holder of the license 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 regularly scheduled 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 the matter will come before the Board at a specific date and time, affording to the holder the right to appear and object and to be represented by counsel at the expense of the holder of the license.

D. Limited general practice licenses may be renewed annually at 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 Board of Dentistry 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 is entitled to perform in this state, but such services shall 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, or in a seminar or postgraduate course and as an adjunct to 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 Board of Dentistry may issue a license to practice general dentistry, with or without examination, to an out-of-state dentist who actually has been in the practice of dentistry in another state or territory of the United States for at least five (5) years upon the presentation of the certificate of the board of the dental licensing agency of the state or territory in which the out-of-state 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; provided, however, the state or territory from which the applicant presents a 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. The Board shall not license under this section any individual that would not otherwise be eligible to be licensed. The Board may require the applicant to have completed the same professional and continuing educational requirements as required of dentists. The applicant shall state whether a report has been filed against the applicant 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 upon the applicant's present moral character.

B. The application must be accompanied by the fee set by the Board by rule.

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 at least eighteen (18) years of age and is of good moral character;

2. Is a citizen of the United States or is otherwise lawfully entitled to remain and work in the United States;

3. Is a graduate of an accredited school of dental hygiene, dental school or dental college; and

4. Has completed and filed an application with the Board of Dentistry, provided copies of all documents required by the 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 from the Joint Commission on National Dental Examinations which certifies that the applicant has passed the Board's examination, and
- b. be examined on practical knowledge and clinical skills relating to the practice of dental hygiene as the Board deems necessary.

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

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 this state.

4. After an applicant has satisfied the requirements of this section, and the Board has completed its examination, where one is given, conducted its investigation, and is 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 dental licensing agency 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 shall 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 for at least two (2) years preceding the presentation of the certificate of the dental licensing agency 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 meet standards substantially equivalent with those required by the Board for the practice of dental hygiene including requirements for education, competency, and good moral character, 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 a 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. Proof of having met any continuing education requirements must be submitted to the Board on or before June 30. Failure to pay

the renewal fee or submit the proof of continuing education to the Board of Dentistry by January 1 of each year automatically suspends the license or permit. A license suspended under this subsection may be reinstated only upon payment of the fee for reinstatement, in addition to the annual fee, 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 Board of Dentistry a general or a specialty license to practice dentistry, a license to practice dental hygiene, or a permit to perform specific functions as a 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 receipt of an application for restoration of a license or permit, the Board shall determine whether the applicant possesses the qualifications prescribed for the license or permit, and whether the applicant continues to possess a good moral character. If the Board determines that its requirements have been met, it shall issue the license or permit and thereafter the individual holder may make application annually for renewal, as provided in this act.

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 persons, firms, corporations, limited liability companies or partnerships within this state engaging in the business of a dental laboratory shall file with the Secretary-Treasurer of

the Board of Dentistry 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 persons, firms, corporations, limited liability companies, or partnerships owning or operating the dental laboratory. Upon receipt of the 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 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 goods or services to persons other than the dentist at that location.

B. Annually, 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 a dental office for the dentist's 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 Board of Dentistry 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 acting without a license 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. Solicit or advertise to the public that he or she is a dentist or dental hygienist or practices dentistry or dental hygiene;

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

4. 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 intended to give the impression that the person is a dentist when the person is not a dentist; or

5. 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 in other ways violates this act, the Board of Dentistry 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, Section 308a et seq. of Title 75 of the Oklahoma Statutes, 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 not to exceed one (1) year, or revocation of any license or permit issued by the Board, 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, Section 250 et seq. of Title 75 of the Oklahoma Statutes. 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 reasonable attorney fees.

B. 1. The Board may bring a civil action in the District Court of Oklahoma County against a named person for a temporary restraining order and permanent injunction from thereafter engaging in conduct which constitutes the practice of dentistry or dental hygiene without the required license or which in other ways is a violation of this act. In an action filed under this subsection, the prevailing party shall be entitled to recover costs and reasonable attorney fees.

2. The prevailing party on any appeal from the District Court in an action filed under this subsection shall be entitled to recover costs and reasonable attorney fees.

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 a 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, the Board may seek civil contempt relief or any other relief as provided by law.

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, the Board may request that the district attorney of the county in which such conduct or violation is believed to have occurred bring a criminal action in that county

against the person. 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 by both such fine and imprisonment.

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

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 Board of Dentistry.

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 the dental office of the dentist 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 the dentist's 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 shall not assign to a dental hygienist and a dental hygienist shall not perform the following:

- a. diagnosis,
- b. treatment planning; however, subject to the rules of the Board, a dental hygienist may, under the supervision of a dentist, establish for the dentist's patient a treatment plan only for dental hygiene,
- c. prescription of medications,
- d. placement of restorative materials in the oral cavity, except as authorized by the Board,
- e. fitting or adjusting of prosthodontic appliances in the oral cavity, except as authorized by the Board,
- f. surgery,
- g. administration of injectable local anesthesia or nitrous oxide analgesia, except where the dental hygienist 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, or
- i. 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, 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 or rules of the Board of Dentistry and which are permitted under this act or the rules of the 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. fitting 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,
- 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,
- k. scaling and root planing,
- l. soft tissue curettage,
- m. removal of overhanging margins,
- n. periodontal probing, or
- o. polishing restorations except as authorized by the Board.

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 the laboratory prescriptions and to produce the copy for inspection and copying by a member of the Board

of Dentistry, 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:

In addition to other violations of this act, the occurrence of any of the following may subject a dentist to disciplinary action by the Board of Dentistry:

1. A plea of guilty or a conviction of a felony or of a misdemeanor involving moral turpitude;
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 dentist is rendered incompetent to continue the practice of dentistry;
4. Publishing a false, fraudulent, or misleading advertisement or statement;
5. Advertising having the ability or skill to practice dentistry without causing pain;
6. Using claims of or personal testimonials of superior quality dental care;
7. Using statements which contain assurances or guarantees of the success of treatment by a dentist;
8. Authorizing or aiding an unlicensed person to practice dentistry, dental hygiene, or a function for which a permit is required;
9. Authorizing or aiding a dental hygienist to perform any procedure prohibited by this act;
10. Authorizing or aiding a dental assistant to perform any procedure prohibited by this act;
11. Failure to pay registration fees as required by this act;
12. Failure to complete required continuing education;

13. Holding oneself out as a specialist in one of the recognized dental specialties without having or holding the appropriate specialty license issued by the Board;

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

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

16. Being shown to be mentally unsound;

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

18. Being incompetent to perform or practice dentistry while delivering dental care to a patient;

19. Gross negligence in the practice of dentistry;

20. 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;

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

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

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

24. 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;

25. 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;

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

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

28. Writing a false, unnecessary or excessive prescription for any drug or narcotic which is a controlled dangerous substance under either federal or state law;

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

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

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

32. 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;

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

34. 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;

35. 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

36. 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.

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:

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 of Dentistry:

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

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 required by this act;

5. Failure to complete required continuing education;

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

7. Being shown to be mentally unsound;

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

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

10. Gross negligence in the practice of dental hygiene;

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

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

13. 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;

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

15. Being dishonest in a material way with a dentist or a patient; or

16. Engaging in nonconsensual physical contact with a patient which is sexual in nature, or engaging in a verbal communication which is intended to be sexually demeaning to a patient.

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:

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 of Dentistry:

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

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 of the Board;

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

6. Being incompetent to assist a dentist while delivering dental care to a patient;

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

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

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

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:

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

1. Publishing false, fraudulent or misleading advertising;

2. Providing the services or the products of a dental laboratory technician at a place or in a facility for which no permit as a dental laboratory has been obtained from the Board, unless it is exempt from the requirement of a permit;

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 when a prescription is required;

4. Failing to pay fees required by this act;

5. Failing to return prescribed work to a dentist or the dental office of the dentist;

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 rules of the Board, as a principal, accessory or accomplice; or

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

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:

A. 1. Any person may file a written and signed complaint with the Board of Dentistry, 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 Board to two specific Board members for review and where the complaint is directed against a dentist, one of the two Board members may be the dentist Board member from the same district as the dentist against whom the complaint is directed.

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

3. In conducting its investigation, a 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 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 other authorized action be commenced. When 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 that the individual will not violate the provisions of this act in the future. The agreement may take any form satisfactory to the Review Panel and the individual and may be verbal or written. When a written agreement is entered into, it shall remain part of the investigation file and may be used against the subject only when the subject 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 a person engaged in any act set forth in Sections 22, 23, 24 or 25 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 a 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 being presented to the Board resulting in a finding that an emergency situation exists, and that the dental health, welfare, and safety of the public is materially threatened thereby by a person licensed or holding a permit, the Board may order that an emergency 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, the Board may take such action as is supported by the record, including ordering a suspension or revocation of a license or permit. 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 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. Professional corporations organized under the Professional Corporation Act, for the purpose of practicing dentistry, shall be subject to all of 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 or she voted against the action taken by the corporation which led to or caused a violation of the provisions of this act, or that he or she is an individual who does not, directly or indirectly, manage the affairs of the professional corporation.

B. Enforcement actions by the Board of Dentistry for violations of this act may 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. The Board shall annually publish a summary of the registry of all professional corporations authorized to practice dentistry in this state.

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:

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. Any 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 are 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 date of publication.

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:

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

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. Except as provided in subsection D of this section, no dentist may administer general anesthesia or deep sedation to a patient unless the dentist has been issued a permit authorizing the dentist to do so by the Board of Dentistry.

B. Except as provided in subsection D of this section, 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. A dentist anesthesiologist who holds a specialty license issued by the Board shall not be required to comply with the provisions of this section.

E. 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. A person is conscious 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 sufficient 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 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.

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:

The Board of Dentistry 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 Retakes

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 - \$65.00 - \$195.00

c. General Anesthesia - \$100.00 - \$300.00

d. Dental Laboratories - \$20.00 - \$60.00

e. Professional Corporation - \$10.00 - \$20.00

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 OR PROFESSIONAL CORPORATION REGISTRATION
- \$5.00 - \$20.00
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 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. There is hereby created in the State Treasury a revolving fund for the Board of Dentistry, 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 this fund are hereby appropriated and may be budgeted and expended by the 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, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes. Expenditures from this 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, 1995, 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, 1995, shall be transferred to the credit of the Dental Revolving Fund.

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:

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 Board of Dentistry 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 34. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.34 of Title 59, unless there is created a duplication in numbering, reads as follows:

Rules of the Board of Governors of the Registered Dentists in effect on the effective date of this act, shall continue in force and effect as the rules of the Board of Dentistry.

SECTION 35. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 329.35 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 Board of Dentistry may bring enforcement actions for acts or occurrences that occurred prior to the effective date of this act. In such actions, the former State Dental Act and rules promulgated thereunder by the Board of Governors of the Registered Dentists of Oklahoma shall apply.

SECTION 36. AMENDATORY 59 O.S. 1991, Section 328.62, is amended to read as follows:

Section 328.62 As used in the Oklahoma Dental Mediation Act:

1. "Dentist" means a professionally trained individual who has fulfilled the educational requirements, is a graduate of an accredited dental school, and who has been licensed by the Board of ~~Governors of Registered Dentists~~ Dentistry to administer to the

general public through the practice of dentistry as defined in ~~Section 328.19 of Title 59 of the Oklahoma Statutes~~ Section 3 of this act; and

2. "Mediation committee" means a committee of persons duly constituted of or appointed by any voluntary dental association or society, or, the Board of ~~Governors of Registered Dentists of the State of Oklahoma~~ Dentistry of this state. The mediation committee is authorized, upon receiving a written request for a review, to conduct a review of the complaints or requests for review of persons, the treatment performed by a licensed dentist and, where appropriate, hold hearings and conduct personal examinations of dental treatment of patients. The mediation committee may, but shall not be obligated to:

- a. evaluate the quality of health care services provided by the dentist being reviewed,
- b. determine whether health care services rendered were professionally indicated or were performed in compliance with the applicable standards of care,
- c. where appropriate, determine whether the cost of health care rendered was considered reasonable given the circumstances of the particular case,
- d. evaluate the quality and timeliness of health care services rendered by a licensed dentist for a patient, and
- e. recommend to the parties, a method of settlement, for their acceptance or rejection.

Any decision by the mediation committee not to review a matter shall be communicated by the committee to the affected persons within thirty (30) days after the committee has received the material submitted pursuant to Section ~~6~~ 328.65 of this ~~act~~ title.

SECTION 37. AMENDATORY 59 O.S. 1991, Section 328.64, is amended to read as follows:

Section 328.64 A. Except as provided by subsections B and C of this section, any reports, statements, memoranda, proceedings, findings, or other records of mediation committees shall be privileged and shall not be subject to discovery, subpoena or other means of legal compulsion for their release to any person or entity and shall not be admissible in evidence in any judicial or administrative proceeding. Nor shall any participants in the mediation process be compelled to disclose the proceedings of the mediation committee by deposition, interrogatories, requests for admission, or other means of legal compulsion for use as evidence in any judicial or administrative proceeding. This privilege may be claimed by the legal entity creating the mediation committee, the mediation committee, the individual members of the mediation committee, the dentist whose conduct is being examined, the patient requesting mediation and any witnesses testifying before or supplying information to the mediation committee. Such privilege shall only protect information derived from the mediation proceedings and shall not restrict discovery directed to the dentist who treated the patient, even though the testimony or records of the dentist have become part of the mediation record.

B. Nothing in this section shall limit the authority, which may otherwise be provided by law, of the Board of ~~Governors of Registered Dentists~~ Dentistry from obtaining records of proceedings of the mediation committee in conjunction with the determination of appeals of mediation committee recommendations, or on behalf of an investigation being conducted of the Board of ~~Governors of Registered Dentists~~ Dentistry to restrict or revoke the license, registration, or other authorization to practice of any dentist licensed under state law.

C. Nothing in this section shall limit the authority, which otherwise may be provided by law, of the Attorney General of the State of Oklahoma, a District Attorney, or a United States Attorney

from obtaining records of proceedings of the mediation committee for use in investigations or litigation, conducted by the State of Oklahoma or the federal government.

SECTION 38. AMENDATORY 59 O.S. 1991, Section 328.67, is amended to read as follows:

Section 328.67 The patient or dentist may appeal the recommendation of the mediation committee to an appellate body to be known as the state mediation appeals committee. A request for an appeal shall be timely filed and conducted in accordance with the prescribed rules. A party must first request an appeal with the state mediation appeals committee before proceeding with a final appeal to the Board of ~~Governors of Registered Dentists~~ Dentistry. If no intermediate appeal is provided by the applicable mediation program rules, a party may proceed directly to a final appeal before the Board of ~~Governors of Registered Dentists~~ Dentistry, pursuant to Section ~~9~~ 328.68 of this ~~act~~ title. The state mediation appeals committee may either affirm, modify or reverse the recommendation of the mediation committee, and shall issue its written nonbinding recommendation to the parties.

SECTION 39. AMENDATORY 59 O.S. 1991, Section 328.68, is amended to read as follows:

Section 328.68 The patient or dentist may file a request for a final appeal of a recommendation of the mediation committee or a recommendation of the state mediation appeals committee to the Board of ~~Governors of Registered Dentists~~ Dentistry within thirty (30) days after the date of mailing of the mediation committee recommendation or the state mediation appeals committee recommendation. If such recommendation is not mailed, a patient or dentist may file a final request for an appeal within thirty (30) days after the date of delivery of such recommendation to the appealing party.

SECTION 40. AMENDATORY 59 O.S. 1991, Section 328.69, is amended to read as follows:

Section 328.69 The Board of ~~Governors of Registered Dentists~~ Dentistry shall review the record of the mediation committee recommendation and the state mediation appeals committee in determining any final appeal. The Board of ~~Governors of Registered Dentists~~ Dentistry may conduct a formal hearing upon the request of a party or upon its own initiative and may affirm, modify, or reverse the recommendation appealed. Any formal hearing shall be conducted by one or more members of the Board of ~~Governors of Registered Dentists~~ Dentistry as it may determine, and a hearing shall be conducted in accordance with such rules as it may prescribe. The action of the Board of ~~Governors of Registered Dentists~~ Dentistry in ruling upon the appealed recommendation shall constitute a final nonappealable decision⁷; however, the final recommendation of the Board of ~~Governors of Registered Dentists~~ Dentistry shall not be binding on the parties involved in the dispute.

SECTION 41. AMENDATORY 59 O.S. 1991, Section 328.70, is amended to read as follows:

Section 328.70 The mediation committee, the state mediation appeals committee, and the Board of ~~Governors of Registered Dentists~~ Dentistry shall not be bound by common law or statutory rules of evidence or by technical rules of procedure, but any hearing shall be conducted in such manner as to ascertain the substantial rights of the parties. Mediation committees, state mediation appeals committees, and the Board of ~~Governors of Registered Dentists~~ Dentistry shall apply reasonable procedural rules consistent with the provisions of the Dental Mediation Act. Each governing organization which is involved in the formation of mediation committees as described in paragraph 2 of Section ~~3~~ 328.62 of this

~~act title~~ shall adopt and, from time to time, may modify and amend rules of procedure.

SECTION 42. AMENDATORY 59 O.S. 1991, Section 328.71, is amended to read as follows:

Section 328.71 A. The protections of Section ~~5~~ 328.64 of this ~~act title~~ relating to the records created by mediation committee shall apply equally to any records, documents, or proceedings produced in any appeal of a mediation committee recommendation or the state mediation appeals committee's recommendation, and protections from liability contained in Section ~~4~~ 328.63 of this ~~act title~~ shall apply equally to persons conducting or participating in appeal proceedings.

B. Neither the whole nor any portion of the findings or recommendations of the mediation committee, state mediation appeals committee and the Board of ~~Governors of Registered Dentists~~ Dentistry shall be introduced or admissible during any hearing or trial of litigation brought by the patient, unless both patient and dentist, after the court filing of a petition/complaint agree that the whole or a portion of the findings of the Mediation Committee, State Mediation Appeals Committee and the Board of ~~Governors of Registered Dentists~~ Dentistry will be introduced or admitted during a hearing or trial.

SECTION 43. RECODIFICATION 59 O.S. 1991, Sections 328.60, 328.61, 328.62, as amended by Section 36 of this act, 328.63, 328.64, as amended by Section 37 of this act, 328.65, 328.66, 328.67, 328.68, 328.69, 328.70, 328.71, as amended by Sections 38, 39, 40, 41 and 42 of this act, 328.72 and 328.73, shall be recodified as Sections 329.60, 329.61, 329.62, 329.63, 329.64, 329.65, 329.66, 329.67, 329.68, 329.69, 329.70, 329.71, 329.72 and 329.73 of Title 59 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 44. 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 45. This act shall become effective July 1, 1995.

SECTION 46. 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.

45-1-1111

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