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ENGROSSED HOUSE
BILL NO. 1121

By: Roach and Gray of the
House

and

Long (Lewis) of the
Senate

(professions and occupations - amending various sections
of Title 59 - State Dental Act - repealing 18 sections in
Title 59 - codification - effective date - emergency)

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

SECTION 1. AMENDATORY 59 O.S. 1991, Section 328.1, is
amended to read as follows:

Section 328.1 ~~This act~~ A. Chapter 7 of this title shall be
known and may be cited as "The the "Oklahoma State Dental Act".

B. Upon becoming effective, it shall replace The State Dental
Act, except as provided in subsection C of this section.

C. For one (1) year after the effective date of the Oklahoma
State Dental Act, the Dental Board may bring enforcement actions for
acts or occurrences that happened prior to the effective date of the
Oklahoma State Dental Act. In such actions, The State Dental Act
and rules promulgated by the Board of Governors of the Registered
Dentists of Oklahoma under The State Dental Act shall apply.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 328.2, is
amended to read as follows:

Section 328.2 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 the Oklahoma State Dental Act to regulate the legal practice of dentistry in the State of Oklahoma is hereby declared to affect the public health, safety and general welfare and to be subject to regulation and control in the public's best interest. It is further declared to be a matter of public interest and concern that the dental profession, through advancement and achievement, merits and receives the confidence of the public and that only properly qualified dentists be permitted to practice dentistry and supervise dental assistants and/or dental nurses in the State of Oklahoma. All provisions of this act relating to the practice of dentistry, the practice of dental hygiene, the procedures performed by dental assistants and/or dental nurses, and the fabrication of dental appliances in dental laboratories by dental laboratory technicians shall be liberally construed to carry out these objects and purposes and prohibit the illegal practice of dentistry. It is in the best interest of the citizens to regulate the practice of dentistry, to prohibit persons from practicing dentistry who have not completed the educational requirements and been licensed by the Dental Board, and to prescribe the minimum education and requirements for all individuals who practice dentistry, who assist, who practice dental hygiene, and who operate dental laboratories. The Oklahoma State Dental Act establishes the statutory scheme for restricting the practice of dentistry to qualified and regulated individuals only, protects all citizens from persons who illegally practice dentistry, and establishes the Dental Board as the agency of this state to carry out and enforce the provisions of the Oklahoma State Dental Act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 328.3a of Title 59, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma State Dental Act:

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

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

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

- (1) representing oneself as a dentist; or, as one authorized to perform dentistry,
- (2) holding oneself out as able to diagnose, develop a treatment plan and treat dental disease or any disease or disorder within the scope of one's professional training,
- (3) removal of human teeth,
- (4) restoration of health, form or function of human teeth,
- (5) correction or attempted correction of malposed human teeth,
- (6) administration of anesthetics, general or local,
- (7) treatment of deformities of the jaws and adjacent structures,
- (8) making, using or interpreting diagnostic imaging,
- (9) removal of stains, discolorations or concretions from human teeth,
- (10) operation on or prescription for disease, pain, injury, deficiency, deformity or other condition,

- (11) making impressions of human teeth or jaws,
- (12) fabrication, construction, reproduction, furnishing, supplying, repairing or manufacturing any portion of a tooth, prosthetic denture, bridge, oral appliance or other substitute for human teeth or gums,
- (13) attempting to or adjusting a fabricated tooth, prosthetic denture, bridge, oral appliance or other substitute for teeth or gums, to be worn in a human mouth,
- (14) making or adjusting appliances to artificial casts of malposed teeth for use in the treatment of the malposed teeth in the human mouth, without a laboratory prescription,
- (15) writing a laboratory prescription to a dental laboratory or dental laboratory technician for the construction, reproduction or repair of an appliance or structure to be worn in a human mouth,
- (16) operating a dental office or conducting a dental activity with the public as a patient,
- (17) performing any act which may be performed by a dental hygienist, or
- (18) obtaining a medical history or performing a physical examination.

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

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

- (2) the practice of dentistry or dental hygiene for the United States Armed Services, Coast Guard, Public Health Service or the Veterans' Administration,
- (3) in an accredited dental school, actions by students under the supervision of a dentist who holds a permit issued by the Board for the individual to teach dentistry,
- (4) actions of a dental clinician, or of a participant at an educational meeting or dental school, where no fee is paid by or charged to the patient, and
- (5) in response to an emergency, the rendering of immediate dental care reasonably required by the circumstances, including care provided by a dentist.

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

- (1) the practice of dental hygiene by an individual with a license from the Board,
- (2) actions of a dental assistant in a dental office under the supervision of a dentist, and in accordance with the rules of the Board,
- (3) fabrication of a dental appliance pursuant to a laboratory prescription from a dentist, by a dental laboratory technician,
- (4) actions of a dentist, dental hygienist, dental assistant, or dental laboratory technician while teaching in an accredited institution, school or college,

(5) actions by an unlicensed individual that would otherwise constitute the practice of dentistry performed while teaching in an accredited dental school, and

(6) a dentist practicing in a facility which grants privileges to individuals within the scope of one's professional training where the facility is accredited by the Joint Commission on Accreditation of Health Care Organizations, or its successors, or, is a medicare-approved facility for the delivery of health care;

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

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

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

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

8. "Dental hygiene" or "hygiene" means the promotion of oral health and the prevention of oral disease by providing educational, clinical and therapeutic services in the offices of, for patients of, and under the supervision of a dentist, including polishing and removing calcareous deposits and stains, giving topical caries prevention treatment, making diagnostic images, and providing other patient care as may be permitted by the rules of the Board;

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

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

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

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

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

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

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

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

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

SECTION 4. AMENDATORY 59 O.S. 1991, Section 328.7, is amended to read as follows:

Section 328.7 A. 1. There is hereby constituted a the Dental Board of Governors of the organization to be known as "The Board of Governors of the Registered Dentists of Oklahoma", consisting which shall be an agency of state government. The Board shall consist of:

- a. eight (8) dentist members, ~~one (1)~~
- b. two dental hygienist member members, and
- c. two (2) members who shall be selected from the public and represent the public in general.

2. a. One dentist member of the Board shall be elected ~~from~~ by the dentists residing in each of the eight geographical districts. One

- b. Two dental hygienist member members shall be elected by all dental hygienists residing in the State of Oklahoma ~~who are legally licensed to practice dental hygiene therein.~~

- c. The two public representative members shall be appointed by the Governor, subject to confirmation by the Senate. The members representing the public ~~may~~ after July 1, 1995, shall not be dentists, dental surgeons, dental hygienists or dental laboratory technicians or dental assistants, or be related by ~~blood or marriage within the third degree~~ to any such person.

B. Each member of the Board shall hold office for a period of three (3) years and until ~~his/her term expires and/or his/her a~~ successor is selected and qualified. Board members shall not serve for more than three (3) consecutive terms. However, upon this act becoming effective, the present members of the Board of Governors

~~shall hold office until their terms expire and/or their successors are elected and qualified as hereinafter provided~~ elected and takes the oath of office. Individuals who have previously served on the Board, including boards under predecessor acts, shall have their public service counted in determining their eligibility to serve on the Board. No individual who has completed three terms on the Board, including terms served on the Board under predecessor acts, shall be eligible to serve further. After July 1, 1995, to be eligible to be elected and to serve on the Board, a dentist or dental hygienist must have practiced in Oklahoma for at least five (5) years, and for the five (5) years prior to his election, not have been subject to an adverse sanction by the Board.

C. The members of the Board ~~of Governors~~ shall be reimbursed for travel expenses as provided in the State Travel Reimbursement Act. The Board ~~of Governors, at its discretion,~~ may affiliate with the American Association of Dental Examiners as an active member and pay regular dues to said association and may send ~~no more than two~~ Board members as delegates to ~~regular~~ meetings thereof.

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

2. The Board shall promulgate new rules under the Oklahoma State Dental Act within one (1) year of the effective date of the Oklahoma State Dental Act. Rules shall be promulgated by the Board

pursuant to Article I of the Administrative Procedures Act. In addition to public notice required under the Administrative Procedures Act, actual written notice must be mailed to the last-known address of each dentist, not less than thirty (30) days prior to the vote on the rules, or be given by publishing the exact text of proposed rules not less than forty-five (45) days prior to the vote on the proposed rules, in any publication which is distributed to at least seventy-five percent (75%) of the dentists who are regulated under the Oklahoma State Dental Act.

E. Any individual or person regulated under the Oklahoma State Dental Act shall have the right to challenge the validity or applicability of a rule pursuant to the provisions of the Administrative Procedures Act.

SECTION 5. AMENDATORY 59 O.S. 1991, Section 328.8, is amended to read as follows:

Section 328.8 For the purpose of ~~this act~~ the Oklahoma State Dental Act, the State of Oklahoma is divided into eight geographical districts, which districts shall be designated and shall comprise the following counties ~~to-wit~~:

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, Pittsburgh, Latimer, LeFlore, Atoka, Pushmataha, Choctaw and McCurtain.

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

SECTION 6. AMENDATORY 59 O.S. 1991, Section 328.9, is amended to read as follows:

Section 328.9 A. 1. Nominations for dentist members of the Dental Board of Governors from the several districts shall be by petition signed by at least ten ~~members entitled to vote for such nominees~~ dentists who are residents of the district.

2. Nominations for the at-large members shall be by petition signed by at least twenty-five dentists but shall be appointed by the Governor, subject to confirmation by the Senate.

3. Nominations for the dental hygienist ~~member~~ members of the Board ~~of Governors~~ shall be by petition signed by at least ten dental hygienists ~~entitled to vote for such nominees.~~

B. The ~~election~~ 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 ~~canvassing~~ counting the ballots and shall be returned by mail to the secretary and ~~the ballots shall be opened and canvassed~~ counted at a meeting of the Board. In other respects, the election shall be as the Board may by rule direct.

C. 1. Only ~~members of the organization~~ dentists residing in the respective districts shall be entitled to vote for the dentist ~~members therefrom~~ Board member from that district.

2. Only dental hygienists residing ~~and licensed~~ in the State of Oklahoma shall be entitled to vote for the dental hygienist ~~member~~ Board members.

D. 1. Dentist members of the Board ~~of Governors~~ may be recalled and removed from office by the Board in a special election

called by the Board ~~of Governors~~ upon receipt of a written petition signed by at least twenty percent (20%) of the ~~members~~ dentists residing in that district.

2. The dental hygienist ~~member~~ members of the Board ~~of Governors~~ may be recalled and removed from office by special election called by the Board ~~of Governors~~ upon receipt of a written petition signed by at least ~~twenty percent (20%)~~ ten percent (10%) of the ~~licensed~~ dental hygienists residing in the State of Oklahoma.

3. If a majority of the votes cast in the special election are in favor of recalling the Board members, ~~he/she will~~ the member shall be removed from ~~office as of~~ the Board, effective on the date ~~the results of the ballot canvassing are forwarded to the Board of Governors~~ ballots are counted.

SECTION 7. AMENDATORY 59 O.S. 1991, Section 328.13, is amended to read as follows:

Section 328.13 A vacancy among the ~~dentist~~ members on the Board ~~of Governors~~ shall be filled by a special at the next annual election ~~in the district of the vacancy for the unexpired term within sixty (60) days after the vacancy occurs~~ of Board members, as provided in Section 328.9 of this title. ~~The vacancy of the dental hygienist member on the Board of Governors shall be filled by a special election in the state for the unexpired term within sixty (60) days after the vacancy occurs, as provided in Section 328.9 of this title. Nomination shall be made in the same manner as provided in Section 328.9 of this title, or if no one is nominated within forty-five (45) days from date of vacancy said vacancy shall be filled by appointment by the Board of Governors. A vacancy among the public representative members on the Board of Governors shall be filled by appointment by the Governor, subject to confirmation by the Senate;~~ provided however, that in the interim period, between the vacancy and the next annual election, the vacancy shall be filled as provided for in the bylaws of the Board.

SECTION 8. AMENDATORY 59 O.S. 1991, Section 328.10, is amended to read as follows:

Section 328.10 A. The officers of the ~~organization~~ Dental Board shall be a president, first vice-president, second vice-president, and a secretary-treasurer.

B. The duties of ~~said officers~~ each office shall be prescribed ~~by in bylaws adopted as rules but approved by sixty percent (60%) or more of the members of the Board of Governors. Provided that at the will of the board, the secretary-treasurer may be one and the same person.~~

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

SECTION 9. AMENDATORY 59 O.S. 1991, Section 328.11, is amended to read as follows:

Section 328.11 A. At the annual meeting, reports of the proceedings of the Dental Board ~~of Governors~~ since the last annual meeting, reports of officers and committees and recommendations of the Board ~~of Governors~~ shall be received. Matters of interest pertaining to the ~~organization~~ enforcement of the Oklahoma State Dental Act and the practice of dentistry may also be considered and acted upon.

B. 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 regular meeting shall occur during each calendar quarter of each year. The Board, at any meeting, may decide upon and

schedule more frequent regular meetings. At any regular meeting, the Board may consider and act on any matter. The Board may provide for one or more members of the Board to be present in the office of the Board between regular and special meetings of the Board.

SECTION 10. AMENDATORY 59 O.S. 1991, Section 328.12, is amended to read as follows:

Section 328.12 ~~Special meetings of the Board of Governors may be held at such times and places as shall be provided by for in the bylaws of the Board of Governors. Special meetings may be called by the president and three members or upon a petition signed by any four members of the Board of Governors, and in case of such called special meeting, ten (10) days' notice in writing shall be given to the members of the Board of Governors of the time and place of such called meeting.~~ At special meetings, the only matters that may be considered and acted upon are those described in the notice given to the members of the calling of a special meeting.

SECTION 11. AMENDATORY 59 O.S. 1991, Section 328.14, is amended to read as follows:

Section 328.14 ~~The Board of Governors, at its discretion, may appoint an executive secretary to act as the individual to be the principal administrative officer for the Board of Governors. Such person will be an ex officio member of the Board of Governors and is and may confer upon that individual and the office the title selected by the Board, based upon the individual's education, background, experience and ability. The individual may attend Board meetings but shall not be a voting member of the Board. Such individual shall be responsible to the Board of Governors to perform all administrative functions delegated to him such individual and to the office by the Board of Governors, and will shall give a bond in the amount of Fifteen Thousand Dollars (\$15,000.00) for the faithful discharge of his duties, the premium therefor to be paid from the State Dental Revolving Fund.~~

SECTION 12. AMENDATORY 59 O.S. 1991, Section 328.15, is amended to read as follows:

Section 328.15 ~~The organization shall be governed by the Dental Board of Governors which shall have the power and duties conferred in the State Dental Act. In addition thereto, the Board of Governors shall have the power and authority to promulgate:~~

1. Promote the dental health of the people of this state;

2. Seek and receive the advice and assistance of the Office of the Attorney General of this state;

3. Acquire, rent, hold, encumber and dispose of real and personal property as is needed;

4. Adopt a seal;

5. Promulgate rules and regulations in accordance with the Administrative Procedures Act, necessary to carry out the provisions of the Oklahoma State Dental Act as it deems necessary and proper to protect the dental health of the public. ~~Further, the Board of Governors shall be charged with:~~

~~1. The executive functions of the organization; and~~

~~2. Examinations of all candidates; and~~

~~3. Enforcement of~~ 6. Enforce the provisions of the Oklahoma State Dental Act; and

~~4. The inspection of dental offices and dental laboratories;~~
and

~~5. The establishment of minimum standards of dental care by cooperating with the Office of Public Affairs and other state and federal departments, who maintain dental facilities or offer dental care to persons in the various state and federal institutions. The Board may enter into cooperative contracts or agreements with another state or combination of states for purposes of formulating and conducting regional simultaneous examinations, such as the Central Regional Dental Testing Service, Inc., or successor entity or comparable entities. The Board of Governors, on or before~~

~~October 1 of each year, shall establish or set, within limits prescribed in the State Dental Act, all fees to be collected pursuant to the State Dental Act.~~

7. Adopt bylaws for the governance of the Board, its employees and agents;

8. Examine and test the qualifications of applicants, and issue licenses to applicants and dentists, and provide for their renewal;

9. Examine and test the qualifications of applicants, and issue licenses to applicants and dental hygienists, and provide for their renewal;

10. Examine and test the qualifications of applicants, and issue permits to dental assistants for expanded duties, and provide for the renewal of those permits;

11. Determine the qualifications of and to issue permits for the operation of dental laboratories and provide for the renewal of those permits;

12. Maintain and update annually the names and addresses of all dentists, dental hygienists, permitted dental assistants, dental laboratory technicians, and dental laboratories, who are licensed, permitted or registered in this state;

13. Account for all receipts and expenditures of the monies of the Board, including annually preparing and publishing a statement of receipts and expenditures of the Board for each calendar year. The annual statement of receipts and disbursements to the Board shall be audited by the State Auditor and Inspector or an independent accounting firm, and the audit report shall be certified to be true and correct under oath by the president and treasurer of the Board to the Governor of Oklahoma;

14. Within limits prescribed in the Oklahoma State Dental Act, set all charges, fees and administrative penalties to be imposed and collected;

15. Employ administrative personnel, counsel and other advisors, including advisory committees and investigators to conduct investigations of alleged violations and to enforce the Oklahoma State Dental Act;

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

17. Initiate proceedings and impose disciplinary sanctions against persons who violate the Oklahoma State Dental Act, including persons who practice dentistry without a license;

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

19. Establish continuing education requirements and guidelines for courses of study necessary for continuing education for dentists, dental hygienists, dental assistants and dental laboratory technicians;

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

21. Establish guidelines for expanding functions for dental hygienists, dental assistants, and dental laboratory technicians,

and, when and to whom appropriate, to authorize the individual to perform expanded functions;

22. Promulgate rules applicable to appeals to the Board under the Oklahoma Dental Mediation Act;

23. Enter into contracts; and

24. Undertake all such other acts or actions needed, necessary or required to enforce the Oklahoma State Dental Act, and inform, educate, advise and regulate, in an orderly manner, all persons who are licensed, permitted or registered pursuant to the Oklahoma State Dental Act regarding this law and the rules of the Board.

SECTION 13. AMENDATORY 59 O.S. 1991, Section 328.17, is amended to read as follows:

Section 328.17 ~~The A. There is hereby created the Dental Advisory Committee, to be composed of seven (7) members to be appointed by the Dental Board of Governors shall have power to appoint committees and examining boards for the dental specialists and dental hygienists, and to hire such employees as it may deem necessary or proper, and fix and pay salaries and necessary expenses therefor. Provided further, upon this act becoming effective, the Board of Governors will have power to appoint one dental hygienist in an advisory capacity to sit with the Board of Governors to assist it in the administration and enforcement of the dental hygienist provisions of this act, and to be present only at a Board of Governors' meeting when the agenda of said meeting includes matters pertinent to the administration and enforcement of the dental hygiene provision of this act. Such appointment will be made from a list of names submitted to the Board of Governors by the dental hygienists of the State of Oklahoma. This appointment shall be for a period of two (2) years or until a successor is appointed. The Board of Governors will also appoint four persons who operate dental laboratories under the permit duly issued pursuant to the provisions of this act to sit with the Board of Governors in an advisory~~

~~capacity and to assist it in the administration and enforcement of the laboratory provisions of this act. One member will be appointed from District 2 and District 8 to serve a term of three (3) years; one member will be appointed from District 1 and District 4 to serve for a term of two (2) years; one member will be appointed from District 3 and District 7 to serve for a term of two (2) years; and one member will be appointed from District 5 and District 6 to serve for a term of one (1) year. When the terms of office expire for such members of the advisory board, and members subsequently appointed thereto, the Board of Governors will appoint a member from that district or districts whose members' terms have expired to serve for terms of three (3) years, or until their successors are appointed. Such appointments will be made from a list of names of at least two persons for each position, submitted to the Board of Governors by the persons who operate dental laboratories under permits duly issued pursuant to the provisions of this act. To qualify as a member, a person must have been in active practice in Oklahoma for five (5) years immediately preceding the appointment. Two members shall be licensed dentists, two members shall be licensed dental hygienists, two members shall be dental assistants and one member shall be a dental laboratory technician. Members of the committee shall be selected and designated by the Board from a list of not less than four full-time and actively practicing persons submitted to the Board by associations representing those persons.~~

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

C. The purpose of the committee shall be to provide assistance to the Board in the performance of its duties pursuant to the Oklahoma State Dental Act.

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

SECTION 14. AMENDATORY 59 O.S. 1991, Section 328.21, is amended to read as follows:

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

~~by the Commission on Dental Accreditation of the American Dental Association~~

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

1. Complete and file with the Dental Board the application form, examination fee and photograph, as prescribed by the Board, at least thirty (30) days before the date on which the examination is to be given;

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

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

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

a. is an individual twenty-one (21) years of age and is of good moral character,

b. is a citizen of the United States or is lawfully entitled to remain and work in the United States,

c. is a graduate of an accredited dental school or college, and

d. has completed and filed the application and provided copies of the documents required by the Dental Board and paid the examination fee.

2. To determine whether any individual subject to the provisions of the Oklahoma State Dental Act has a good moral

character, the Board may consider, among other things, whether such individual's license to practice dentistry has been suspended or revoked or whether such individual is currently involved in any disciplinary action concerning the license of such individual. The Board also shall consider whether or not the individual has been convicted of a misdemeanor other than a traffic violation not involving alcoholic use or been convicted of a felony.

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

C. When ~~said~~ the applicant and the accompanying proof are found satisfactory, the Board ~~of Governors~~ shall notify the applicant to appear before it for examination except as otherwise provided by the Oklahoma State Dental Act at the time and place to be fixed by the Board ~~of Governors~~. ~~Examination shall be made in writing in all theoretical subjects; both theoretical and practical examinations shall be of a character to give a fair test of the qualifications of the applicant to practice dentistry or dental hygiene, whichever the case may be. The examination papers and all grading thereon, and the grading of practical work, shall be deemed public documents, and preserved by the secretary of the Board of Governors for a period of two (2) years after the Board of Governors shall have made and published its decision thereon. The Board of Governors shall demand that every applicant for a license to practice dentistry or certificate of ability to practice dental hygiene shall:~~

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

~~(b) Pass an examination given by the board in the theory and practice of the science of dentistry or dental hygiene, whichever~~

~~the case may be. Provided that the Board of Governors may recognize the results of examinations conducted by the Commission on National Dental Examinations or results of regionally conducted examinations with which regions the Board of Governors is affiliated by contract or cooperative agreement pursuant to Section 328.15 of this title, in lieu of, or subject to, such examinations as may be required.~~

D. 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 such individual has passed the Board's examination, and
- b. be examined on practical knowledge and clinical skills to practice dentistry as the Board deems necessary.

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

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

4. Any applicant to practice dentistry who shall fail twice fails to pass his first the examination of the Board shall have a right to apply for a second examination, in which case he shall pay an examination fee as required by the Board of Governors, but not to exceed Two Hundred Dollars (\$200.00). Any applicant who shall fail to pass the examination upon his first trial may be given credit for such subjects as the Board of Governors may deem him entitled to, but such credits shall be extended only to the succeeding examinations. If the applicant shall fail to pass a second examination, before further re-examination, the Board of Governors

~~may require evidence of additional education, as specified by the Board of Governors. After a third examination the Board of Governors may deny applicant another examination~~ not be eligible for reexamination within six (6) months after the second examination.
As a condition to being reexamined, the Board may require an applicant to pursue further education or training in the area of any deficiency resulting in failing the examination.

SECTION 15. AMENDATORY 59 O.S. 1991, Section 328.22, is amended to read as follows:

Section 328.22 A. 1. The Dental Board may issue a specialist license authorizing a dentist or foreign dentist to announce, hold oneself out and to practice in Oklahoma as a specialist in a dental specialty recognized and defined by the American Dental Association and the Board.

2. No person qualified to individual may be licensed as a specialist nor practice dentistry, as defined herein, shall announce and/or hold himself out to the public as limiting his practice to, or as being especially qualified in, any branch of dentistry, as a specialist without first having obtained a license therefor from the Board of Governors as hereinafter provided. The Board of Governors will, at its discretion, issue licenses in only those specialities as approved by the Council on Dental Education of to practice general dentistry in a state and has successfully completed the educational requirements for a specialty practice recognized and defined by the American Dental Association and the Board. The issuing of a specialist license by the Board of Governors is a special privilege granted to that member, which allows him to announce to the public that he is especially qualified in a particular branch of dentistry. Any member granted this special privilege must limit his practice to the specialty in which he is licensed, or said specialist's license may be revoked or suspended, as herein provided. The Board of Governors, upon satisfactory proof

~~that a member is a graduate in one of the recognized specialties of dentistry, from a school or educational program approved by the Council on Dental Education of the American Dental Association, and, in addition thereto, such formal education and/or professional knowledge and experience that the Board of Governors, by rule, considers necessary to maintain the graduate standards according to present day specialists' training programs,~~

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 specialist license by any state may file his credentials with, and complete the application required by, the Board and seek a specialist 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, the application, competence to practice, and the good moral character of such individual, and after the applicant passes the examination on the contents and interpretation of the Oklahoma State Dental Act, the Board may issue a license to any member the applicant, authorizing such member to hold himself out and announce to the public that he is especially qualified and limits his practice to, and gives special attention in, any one of the recognized branches of the dental profession. Examinations shall be theoretical and practical. The theoretical examinations shall be in writing and include all the subjects represented in the different branches of approved graduate schools. Written examinations may be supplemented with an oral examination. Demonstration of the applicant's skill is also required. A special license shall be required for the practice of each recognized branch of dentistry in order for the member to hold himself out to the public as limiting his practice to, and being specially qualified in, any branch of dentistry. The fee for such examination and special license shall be fixed annually by the Board

~~of Governors, but shall not exceed Three Hundred Dollars (\$300.00). Any applicant failing to pass such examination shall be entitled to one additional examination for an additional fee as required by the Board of Governors, but not to exceed Three Hundred Dollars (\$300.00) applicant to commence specialty practice as a dentist.~~

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

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

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

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

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

SECTION 16. AMENDATORY 59 O.S. 1991, Section 328.23, is amended to read as follows:

Section 328.23 A. The Dental Board may, ~~at its discretion,~~ issue a license to practice general dentistry, ~~either~~ with or without examination, to a foreign dentist who shall have actually

~~has been in actual legal the practice of dentistry in some other another state or territory of the United States of America for at least five (5) years, and is a member in good standing of the American Dental Association, upon the presentation of the certificate of the Board of Dental Examiners or like organization agency of the state or territory in which said foreign dentist is a practitioner or last practiced, or other source acceptable to the Board, certifying to the applicant's length of practice, competency and good moral character, and upon the payment of a fee as required by the Board of Governors not to exceed Five Hundred Dollars (\$500.00); provided, however, the state or territory from which such applicant may come shall have obtained equal standard of laws regarding the practice of dentistry and will afford equal privileges to members hereof in good standing. Any member hereof who is desirous of changing his residence to that of another state or territory shall, upon application to the Board of Governors, and upon payment of a fee of Five Dollars (\$5.00), receive a certificate which shall attest that he is a member in good standing hereof. The Board also may require the applicant to have completed the same professional and continuing educational requirements as required of dentists in this state. The applicant also must state whether such individual has had a report filed against such individual 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 date 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 such foreign dentist's good moral character.~~

B. The application must be accompanied by the Board's required fee. Provided, however, the state or territory from which the applicant presents 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 the credentials to dentists.

C. The Board shall not license any individual pursuant to this section who would not otherwise be eligible to be licensed pursuant to the Oklahoma State Dental Act.

SECTION 17. AMENDATORY 59 O.S. 1991, Section 328.26, is amended to read as follows:

Section 328.26 A. ~~The Dental Board of Governors shall have authority, upon presentation of satisfactory credentials, to, by such rules as it promulgates, may issue a permit limited license for the practice of general dentistry in this state, without examination, to a graduate of an ~~approved~~ accredited dental school or college who ~~has not been licensed to practice dentistry in this state. Such permit will be granted for a period of one (1) year. Internships and residencies must be in state-maintained or operated hospitals, or in privately owned hospitals, which have internships or residencies as approved by the Board of Governors; or as a dentist employed by the dental division of the State Department of Health, the Department of Mental Health and Substance Abuse Services or the Department of Human Services. Provided such hospitals maintain a recognized resident staff of one or more registered and licensed dentists, and that the dental department of the State Department of Health, the Department of Mental Health and Substance Abuse Services or the Department of Human Services has at its head a dentist licensed in Oklahoma. Such intern, resident, or employee shall operate under the direction of the dental staff or head of department, his work to be limited to the patients confined to the~~~~

~~hospital or to the patients he is entitled to serve when serving as a dentist for the State Department of Health, the Department of Mental Health and Substance Abuse Services or the Department of Human Services. Such intern, resident, or employee shall serve without fee or compensation other than that received in salary from such position. The Board of Governors shall have the power to revoke the permit of any such intern, resident or employee at any time within the year for which it is issued upon the recommendation of such procedure by the chairman of the dental department of the hospital in which he serves, or by the recommendation of the head of the dental department of the State Department of Health, the Department of Mental Health and Substance Abuse Services or the Department of Human Services, or for any other reason which the Board of Governors may deem justifiable. Such limited permits granted for the purpose of internship, residency, or a dentist employed by the State Department of Health, the Department of Mental Health and Substance Abuse Services or the Department of Human Services shall automatically expire at the end of one (1) year, and shall be subject for renewal for only one (1) additional year except for dental specialities requiring additional time, which may be renewed for two (2) additional years~~ is otherwise qualified, upon request of the governing board of any institution for a graduate to serve as a dental intern or resident in the institution, with the limited duties as may be defined in such request.

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

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

their subdivisions, or the public or private institution where such dentist will be employed.

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

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

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 328.26a of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Professional corporations organized under the Professional Corporation Act, for the purpose of practicing dentistry, shall be subject to all the provisions of the Oklahoma State Dental 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 pursuant to the Oklahoma State Dental 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 pursuant to the Oklahoma State Dental Act as individuals for the acts and actions of the professional corporation, except where an individual can show that such individual voted against the action taken by the corporation which led to or caused a violation of the provisions of the Oklahoma State Dental Act, or that such individual is an individual who does

not, directly or indirectly, manage the affairs of the professional corporation.

B. Enforcement actions by the Oklahoma Dental Board for violations of the provisions of the Oklahoma State Dental Act can be brought against a professional corporation as well as individuals who are or have acted as its officers, directors, shareholders, agents and employees and who are subject to the Oklahoma State Dental 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 the Oklahoma State Dental Act the charge for the registration of a professional corporation authorized to practice dentistry. Annually, the Board shall publish a summary of the registry of all professional corporations authorized to practice dentistry in this state.

SECTION 19. AMENDATORY 59 O.S. 1991, Section 328.24, is amended to read as follows:

Section 328.24 A. Any individual is eligible to take an examination for a license to practice dental hygiene in this state who:

1. Is an individual over eighteen (18) years of age and is of good moral character;

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

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

4. Has completed and filed the application and provided copies of documents required by the Dental Board and paid the examination fee.

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

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

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

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

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

4. 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. 1. The Board may issue a temporary and nonrenewable license to practice dental hygiene, having a duration not longer than twelve (12) months, upon the presentation of the certificate of the Board of Dental Examiners or a like organization of another state or territory in which the dental hygienist has been licensed, and which has standards of education and licensure substantially equivalent to those required by the Board for the practice of dental hygiene, or upon the presentation of a like certificate from an accredited school of dental hygiene, certifying to the applicant's competency and good moral character.

2. The issuance of a temporary license gives the dental hygienist the same rights and privileges as one who holds a permanent license to practice dental hygiene in this state. The dental hygienist holding a temporary license will be governed by the Oklahoma State Dental Act and all rules of the Board promulgated thereto.

D. The Board may, ~~at its discretion,~~ issue a ~~certificate of ability~~ license to practice dental hygiene, ~~either~~ with or without examination, to a dental hygienist who ~~shall have~~ has been in actual and legal practice of dental hygiene in some other state or territory of the United States of America for at least two (2) years preceding ~~application, and is a member in good standing of the American Dental Hygiene Association,~~ upon the presentation of the certificate of the Board of Dental Examiners or a like organization of the state or territory in which said dental hygienist ~~is a practitioner~~ has been licensed, certifying to the applicant's competency and good character, ~~and upon the payment of a fee as required by the Board of Governors not to exceed One Hundred Dollars (\$100.00); provided, however, that the state or territory from which such application may come shall have obtained equal standard of laws regarding the practice of dental hygiene and will afford equal privileges to members hereof. Any member hereof in good standing~~

~~who is desirous of changing his residence to that of another state or territory shall, upon application to the Board of Governors, and upon payment of a fee of Five Dollars (\$5.00), receive a certificate which shall attest that he is a member in good standing hereof;~~
provided, however, that the state or territory from which the applicant presents credentials shall have required the applicant to complete substantially equivalent educational requirements, competency and possess a good moral character as those required by the Board for the practice of dental hygiene and afford equal licensure by credentials in that state or territory to dental hygienists of this state.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 328.24a of Title 59, unless there is created a duplication in numbering, reads as follows:

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

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

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

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

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

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

- a. diagnosis,
- b. treatment planning, however, subject to Board regulation 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. the initial fitting and adjusting; or, other fitting or adjusting of prosthodontic appliances in the oral cavity, except as authorized by the Board,
- f. surgery on hard or soft tissues,
- g. administration of injectable local anesthesia or nitrous oxide analgesia, except where the individual has successfully completed a Board-approved course of study and training, and then only to the extent of that study and training,
- 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 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 328.24b 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 the Oklahoma State Dental Act and which are permitted pursuant to the Oklahoma State Dental Act or by a rule of the Dental Board.

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

2. A dental assistant shall not perform the following:

- a. diagnosis, or treatment planning,
- b. prescription of medications,
- c. placement of restorative materials in the oral cavity, except as authorized by the Board,
- d. the initial fitting and adjusting; or, other fittings or adjusting of prosthodontic appliances in the oral cavity, except under the direction and supervision of a licensed dentist, or except as authorized by the Board,
- e. surgery on hard or soft tissues,
- f. administration of injectable local anesthesia or nitrous oxide analgesia,
- g. monitor a patient who is subject to nitrous oxide analgesia, except where the dental assistant has successfully completed a Board-approved course of study and training, and then only to the extent of that study and training,
- h. parenteral administration of other pharmacologic drug or agent to a patient,
- i. any procedure that may contribute to or result in an irreversible alteration of the oral anatomy,
- j. a Board-approved expanded duty by a dental assistant, when the dental assistant does not hold a permit for expanded duties,
- 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 22. AMENDATORY 59 O.S. 1991, Section 328.27, is amended to read as follows:

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

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

SECTION 23. AMENDATORY 59 O.S. 1991, Section 328.41, is amended to read as follows:

Section 328.41 ~~On or before the first day of January of each year, every dentist licensed and dental hygienist registered to practice in this state shall transmit to the secretary of the Board of Governors, upon a form prescribed by the Board of Governors, his or her signature, post office address, office address, the number of his or her license certificate or certificate of ability, a statement whether he or she has been engaged during the preceding year in the active and continuous practice of dentistry or dental hygiene whether within or without this state, and such other information as may be required by the Board of Governors, together with the fee herein provided for. On or before the first day of October of each year, the Board of Governors shall determine the amount that may be necessary for the next ensuing fiscal year to carry out and enforce the provisions of this act and shall fix the renewal fee at such reasonable sum as may be necessary for that purpose, but not to exceed One Hundred Dollars (\$100.00) for dentists and Seventy-five Dollars (\$75.00) for dental hygienists, and immediately notify all registered dentists and dental hygienists of the amount of the said fee for the ensuing year. Upon receipt of such renewal fee the Board shall issue a renewal certificate authorizing such dentist or dental hygienist to continue the~~ A. All licenses and permits shall be renewed annually. Each holder of a license to practice dentistry, license to practice dental hygiene, or permit held by a dental assistant shall, 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 of dentistry or dental hygiene respectively in this state for a period of one (1) year. Any license or certificate of ability granted under authority of this or any prior dental act shall automatically be canceled if the holder thereof fails to secure the renewal certificate or registration herein provided for within a period of three (3) months

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

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

B. Proof of any required continuing education must be submitted on or before June 30 of each year. Failure to pay the fee or submit the proof to the Board by January 1 of each year automatically suspends the license or permit. It may be reinstated only upon payment of the fee for reinstatement in addition to the annual fee due and submission of proof of completion of any required continuing education.

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

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

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

SECTION 24. AMENDATORY 59 O.S. 1991, Section 328.30, is amended to read as follows:

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

SECTION 25. AMENDATORY 59 O.S. 1991, Section 328.36, is amended to read as follows:

Section 328.36 A. All individuals, persons, firms, corporations, limited liability companies or partnerships within this state engaging in the business of a dental laboratory, ~~as defined by Section 328.35 of this title~~, shall file with the secretary of the Dental Board ~~of Governors~~ a written application, the form of which shall be prescribed by the Board ~~of Governors~~, for a permit to operate a dental laboratory in this state and pay a fee as required by the Board, ~~but not to exceed Twenty Dollars (\$20.00).~~ ~~This~~

B. The application shall include the names and addresses of all individuals, persons, firms, corporations, limited liability companies or partnerships owning or operating the dental laboratory. Upon receipt of such application and fee, the Board ~~of Governors~~ shall determine the qualification of and may grant a permit to the

applying dental laboratory to conduct the business of a dental laboratory within the state.

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

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

E. Nothing in the Oklahoma State Dental Act shall be construed to prohibit a dentist from owning or operating a private, noncommercial dental laboratory in his dental office for use in the practice of dentistry.

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 328.36a of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A dentist may utilize a dental laboratory technician and a dental laboratory to construct or repair, extraorally, a part of a tooth, a tooth, teeth, prosthetic dentures, bridges, other replacements for teeth, splints or orthodontic or prosthetic appliances. Any dentist who employs or engages the services of a

dental laboratory shall furnish a laboratory prescription for each patient for which work is requested.

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

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 328.36b of Title 59, unless there is created a duplication in numbering, reads as follows:

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

1. LICENSURE FEES:

a. Reciprocity/Criteria Approval

Dentists - \$500.00 - \$1,500.00

Dental Hygienists - \$100.00 - \$300.00

b. Application for Licensure by Clinical Examination

Dentists - \$200.00 - \$600.00

Dental Hygienists - \$100.00 - \$300.00

Theoretical or Written Only Re-Takes

Dentists - \$20.00 - \$30.00

Dental Hygienists - \$10.00 - \$30.00

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

Dentists - \$100.00 - \$300.00

Dental Hygienists - \$50.00 - \$150.00

d. General Anesthesia Permit

	Dentists -	\$100.00 -	\$300.00
e.	Conscious Sedation Permit		
	Dentists -	\$100.00 -	\$300.00
f.	Specialty Examination		
	Dentists -	\$300.00 -	\$900.00
2.	ANNUAL RENEWAL FEES		
a.	Dentists -	\$100.00 -	\$300.00
b.	Dental Hygienists -	\$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 28. AMENDATORY 59 O.S. 1991, Section 328.42, is amended to read as follows:

Section 328.42 A. All fees paid ~~under this act~~ pursuant to the Oklahoma State Dental Act shall be ~~paid to the State Treasurer and be placed in the State Treasury in a separate and distinct fund to be known as "The~~ deposited into the Oklahoma State Dental Revolving Fund." ~~All monies in said fund, or so much thereof as may be necessary, shall be expended from time to time in the payment of all necessary expenses incurred in effectuating the purposes of this act, including attorneys' fees, upon warrants issued by the State Treasurer against claims submitted by the board to the Director of State Finance for audit and payment; provided, however, that no member of the Board of Governors shall receive any other compensation than his allotted per diem, subsistence and travel pay according to Section 7 of this act; provided, however, if the secretary-treasurer shall be a member of the Board, he shall receive such other compensation as the Board may approve.~~

B. There is hereby created in the State Treasury a revolving fund for the Dental Board, to be designated the "Oklahoma State 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 the Oklahoma State Dental Act. All monies accruing to the credit of said fund are hereby

appropriated and may be budgeted and expended by the Dental Board for necessary expenses, including but not limited to attorney fees incurred in carrying out the provisions of the Oklahoma State Dental Act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

C. No member of the Board shall receive compensation pursuant to the Oklahoma State Dental Act other than per diem and necessary travel expenses paid pursuant to the State Travel Reimbursement Act.

SECTION 29. AMENDATORY 59 O.S. 1991, Section 328.28, is amended to read as follows:

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

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

~~a. publish or circulate any statements, either directly or indirectly, that would be or tend to be Publish false, fraudulent, deceptive or misleading advertising;~~

~~b. issue any 2. Publish a false, fraudulent or misleading statement as to concerning the skill or method of practice of any person or operator;~~

~~c. claim or infer, in any manner, superiority over other 3. Use claims of or personal testimonials of superior quality dental practitioners care;~~

~~d. publish any reports of cases, certificates or testimonials of or from patients or former patients;~~

~~e. claim the use of any secret or patented methods, specific methods of treatment, appliances, medications, chemicals or materials, provided there may be a listing of professional fees for simple and routine services;~~

~~f. advertise any free dental services, free dental examinations or x-rays or the giving or offering to give merchandise or other thing of value exceeding Five Dollars (\$5.00) as an inducement to secure dental patronage; or~~

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

~~2. Place his name, as a member licensed in a specialty, in any other portion of the classified section of a telephone directory, other than under the properly listed 4. Publish oneself as a specialist in one of the recognized dental specialties approved by the American Dental Association and the Dental Board without having or holding a specialty in which he is licensed license issued by the Board therefor;~~

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

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

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

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

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

~~8. 5. Advertise that the performance of any dental operation or procedure does not cause having the ability to practice dentistry without causing pain or discomfort; or~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

C. No person regulated pursuant to the Oklahoma State Dental Act may publish a false, fraudulent or misleading advertisement.

~~B. D.~~ It shall be unlawful for any person who is not a dentist to advertise dental services, as defined in this act, unless he is licensed to practice dentistry by the State of Oklahoma or solicit to the public that such person is a dentist or is in the practice of dentistry.

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

~~Notwithstanding any other provisions hereof, a dentist shall be allowed to use nonilluminated signs to be placed or located at the office or office premises, to advertise the dentist's name, the fact that he is engaged in the practice of dentistry, the location of the~~

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

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

SECTION 30. AMENDATORY 59 O.S. 1991, Section 328.32, is amended to read as follows:

Section 328.32 ~~The~~ In addition to other violations of the Oklahoma State Dental Act, the Board of Governors shall have power, after a hearing for any causes now existing in the laws of the State of Oklahoma, or for a violation of any acts prohibited herein, to revoke a license of pursuant to procedures established pursuant to the Oklahoma State Dental Act and by rules promulgated pursuant thereto may subject a dentist to ~~practice dentistry, or a specialist license of a dentist, or to suspend the use of the same, or to discipline by probation or reprimand, public or private; and the Board of Governors shall have power to pass upon all petitions for reinstatement. The Board of Governors shall keep a record of the evidence and proceedings in all matters involving the revocation of a license or suspension, probation or reprimand, and shall make findings of fact and a decision thereon. Upon the making of any decision to revoke a license or to suspend a member hereof from~~

~~practice, or place him or his license under probation, or reprimand a member hereof, the Board of Governors shall immediately forward a certified copy of said decision to the member involved by registered mail, to his last-known business address. Such decision shall be final, unless such member hereof whose license is revoked, suspended, placed under probation, or who is reprimanded, shall have the right of an appeal as provided in this act. In the event an appeal is not taken within the provisions of this act, the Board of Governors shall make and enter an order striking the name of such person from the roll of membership hereof, or suspending him for the period mentioned in said decision or otherwise carrying out provisions of said decision and shall so notify said member thereof. The Board of Governors shall have power to revoke the license of a member hereof, suspend the member from the practice, reprimand or order a period of probation of said member upon the following grounds disciplinary action for:~~

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

~~(b) Has presented 2. A plea of guilty or a conviction of a felony;~~

~~3. Presenting to the Board of Governors a false diploma, license or certificate, or one obtained by fraud or illegal means;~~

~~(c) 4. By reason of persistent inebriety, or addiction to drugs, the member dentist is rendered incompetent to continue the practice of dentistry;~~

~~(d) Has been guilty of 5. Publishing false, fraudulent or misleading advertising, as herein prohibited;~~

~~(e) Has permitted, directly or indirectly, by knowledge or acquiescence, an unregistered or 6. Authorizing or aiding an unlicensed person to practice dentistry and/or an individual who~~

does not hold a licence to practice dental hygiene, to practice dental hygiene, or a dental assistant who does not have a permit to perform an expanded duty, to perform the expanded duty;

~~(f) Has permitted~~ 7. Authorizing or aiding a dental hygienist to perform any ~~operation other than as authorized by the Board of Governors~~ procedure prohibited by the Oklahoma State Dental Act;

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

~~(h) Has failed~~

8. Authorizing or aiding a dental assistant to perform any procedure prohibited by the Oklahoma State Dental Act;

9. Failure to pay registration fee fees as herein provided required by the Oklahoma State Dental Act;

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

~~(j) Is a menace to the public health~~

10. Failure to complete the required continuing education;

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

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

~~(k) Is~~ 13. Being a menace to the public health by reasons of practicing in an unsafe or unsanitary offices, practices, or techniques manner or place;

~~(l) Has been proven~~ 14. Being shown to be mentally unsound or has been admitted to a mental institution, either public or private, and until he is proven mentally competent;

~~(m) Is~~ 15. Being shown to be grossly immoral and that such condition represents a threat to patient care or treatment;

~~(n) Is 16. Being incompetent in the to perform or practice of dentistry while in the delivery of dental care to a patient;~~

~~(o) Is guilty of willful 17. Gross negligence in the practice of dentistry;~~

~~(p) Is guilty of 18. Offering to effect or effecting a division of fees, or agreeing to split or divide the a fee received for dental service services with any person for in exchange for the person bringing or referring a patient without the knowledge of the patient or his legal representative;~~

~~(q) Has been convicted 19. A plea of guilty or nolo contendere or conviction of violating or has willfully violated the federal or state narcotic or barbiturate laws or has been uniform controlled dangerous substance laws, or being involuntarily committed for treatment for drug addiction to an institution, either public or private, and until he has proven himself cured for treatment for substance abuse, until recovery or in remission;~~

~~(r) Is guilty of using 20. Using or attempting to use the services of a dental laboratory or dental laboratory technician without issuing a written authorization to that person a laboratory prescription;~~

~~(s) Is guilty of 21. Authorizing or 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 of a dentist formerly served in the office of any dentist formerly employing such dental hygienist;~~

~~(t) Is guilty of having 22. Having more than two full-time dental hygienists per dentist for each dentist actively practicing in the same dental office and who will supervise the dental hygienists;~~

~~(u) Is guilty of 23. Knowingly 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~~ who has complied with the provisions of the ~~act~~ Oklahoma State Dental Act regulating dental laboratories and dental laboratory technicians;

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

~~(w) Has authorized, permitted or allowed his or her~~ 24. Authorizing or aiding a dental hygienist, dental nurse, dental assistant, or dental laboratory technician to violate any provision of this act the Oklahoma State Dental Act or any rules and regulations of the Board of Governors, or has violated;

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

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

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

28. Violating or attempting to violate the provisions of the Oklahoma State Dental Act, or the permanent rules promulgated by the Board, as a principal, accessory or accomplice;

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

30. 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;

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

32. Failing to retain all patient records for at least three (3) years, except that the failure to retain records shall not be a violation pursuant to the Oklahoma State Dental Act, if the dentist

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

33. 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 pursuant to the Oklahoma State Dental Act if the dentist shows that the records were lost, destroyed or removed by another, without the consent of the dentist;

34. 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; or

35. Violating any of the provisions of ~~this act~~ the Oklahoma State Dental Act.

SECTION 31. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 328.32a of Title 59, unless there is created a duplication in numbering, reads as follows:

A. No dentist shall administer general anesthesia or deep sedation to patients unless such dentist has been issued a permit authorizing the administration of general anesthesia or deep sedation to patients by the Dental Board.

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

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

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

D. 1. For purposes of this section:

- a. "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,
- b. "conscious" means a quality or state in which a person has intact protective reflexes, including the ability to maintain an airway, and is capable of rational response to question or command. The Board shall require that any drugs and techniques used in producing conscious sedation carry a margin of safety wide enough to render unintended loss of consciousness unlikely,
- c. "deep sedation" is a controlled state of depressed consciousness accompanied by partial loss of protective reflexes, including the inability to continually maintain an airway independently and/or to respond purposefully to verbal command, and is produced by a pharmacologic or nonpharmacologic method or combination thereof, and
- d. "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.

2. If the American Dental Association publishes a definition of the terms "conscious sedation", "deep sedation", and "general anesthesia" which is different than the terms specified by paragraph 1 of this subsection, then the Board, by rule, may adopt that

definition to apply to this section, in lieu of the definitions specified by paragraph 1 of this subsection.

SECTION 32. AMENDATORY 59 O.S. 1991, Section 328.33, is amended to read as follows:

Section 328.33 ~~The~~ In addition to other violations of the Oklahoma State Dental Act, the Dental Board of Governors shall have the power, after a hearing for any of the causes now existing in the laws of the State of Oklahoma, or for a violation of this act, or for a violation of the prescribed duties, rules and regulations as the Board of Governors may adopt, to revoke or suspend a certificate of ability of a dental hygienist or to discipline by probation or reprimand, public or private. The Board of Governors shall also have the power to pass upon all petitions by a dental hygienist for reinstatement to good standing. The Board of Governors shall keep a record of the evidence and proceedings in all matters involving the revocation or suspension of a certificate of ability or reprimand or probation of a dental hygienist and shall make findings of fact and a decision thereon. The Board of Governors shall immediately forward a certified copy of said decision to the dental hygienist involved by registered mail to his last known business address. The decision shall be final unless the dental hygienist shall appeal as provided by this act. If an appeal is not timely taken the decision shall be carried out by striking the name of the dental hygienist from the rolls, or suspending him for the period mentioned in issuing a reprimand, or otherwise acting as required by the decision. The Board of Governors shall have power to revoke or suspend the certificate of ability, reprimand, or place on probation pursuant to procedures established pursuant to the State Dental Act and by rules promulgated pursuant thereto may subject a dental hygienist for a violation of one or more of the following to disciplinary action for:

~~(a) Upon presentation 1. Presentation to the Board of Governors of a certified copy of a court record, showing that a dental hygienist has been convicted of a crime of a plea of guilty or a conviction of a misdemeanor involving moral turpitude;~~

~~2. A plea of guilty or a conviction of a felony;~~

~~(b) The presentation 3. Presentation to the Board of Governors of a false diploma, license or certificate, or one obtained by fraud or illegal means;~~

~~(c) 4. By reasons of persistent inebriety or addiction to drugs, the dental hygienist is rendered incompetent to continue the practice of dental hygiene;~~

~~(d) Has been guilty of dishonorable or unprofessional conduct;~~

~~(e) Has failed 5. Failure to pay registration fees as herein provided by the Oklahoma State Dental Act;~~

~~(f) Is a menace to the public health 6. Failure to complete the required continuing education;~~

~~7. Endangering the health of patients by reason of having a highly communicable disease and continuing to practice without taking the approved and appropriate safeguards;~~

~~(g) Has been proven 8. Being shown to be mentally unsound or has been admitted to a mental institution, either public or private, and until he has proven himself mentally competent;~~

~~(h) Is 9. Being shown to be grossly immoral and that such condition represents a threat to patient care or treatment;~~

~~(i) Is 10. Being incompetent in the to perform or to practice of dental hygiene while delivering dental hygiene care to a patient;~~

~~(j) Is guilty of willful 11. Gross negligence in the practice of dental hygiene;~~

~~(k) Has been convicted of violating or has willfully violated 12. A plea of guilty or nolo contendere or a conviction of violating 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~~
uniform controlled dangerous substance laws; or being involuntarily
committed to an institution for treatment of substance abuse, until
in remission;

~~(l) Is practicing~~ 13. Practicing or attempting to practice
dental hygiene in any place other than in the office of, and under
the supervision of a dentist, and under his supervision except as
provided by rules of the Board;

~~(m) Is using or attempting to use in any manner whatsoever any~~
~~oral prophylaxis list, call list, records, reprints or copies of~~
~~same, or information gathered therefrom, of the names of patients~~
~~whom such dental hygienist might have served in the office of a~~
~~prior employer, unless such names appear upon the bona fide call or~~
~~oral prophylaxis list of his present employer and were caused to so~~
~~appear through the legitimate practice of dentistry, as provided for~~
~~in this act; or~~

~~(n) Has violated~~ 14. 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;

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

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

17. Violating or attempting to violate any part of this act the
Oklahoma State Dental Act or rules and regulations of the Board of
Governors as a principal, accessory or accomplice.

SECTION 33. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 328.33a of Title 59, unless
there is created a duplication in numbering, reads as follows:

In addition to other violations of the Oklahoma State Dental
Act, the occurrence of one or more of the following shall subject a

dental assistant to disciplinary action by the Board or pursuant to the Oklahoma State Dental Act:

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

2. A plea of guilty or a conviction of a felony;

3. 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;

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

5. Performing an act, or delivering care or a service which is prohibited to be performed by a dental assistant pursuant to the Oklahoma State Dental Act or the rules promulgated pursuant thereto;

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

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

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

9. Violating or attempting to violate the provisions of the Oklahoma State Dental Act, or the permanent rules promulgated by the Board, as a principal, accessory or accomplice; or

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

SECTION 34. AMENDATORY 59 O.S. 1991, Section 328.39, is amended to read as follows:

Section 328.39 ~~It shall be unlawful for any dental laboratory or dental laboratory technician to:~~

~~(a) advertise or publish directly or indirectly, or circulate through the usual commercial channels, such as the press, magazines, directories, radio, television, sign, display or leaflets that the dental laboratory or dental laboratory technician is engaged in the business of dental technology;~~

~~(b) permit the placing of the name of the dental laboratory or the name of any dental laboratory technician in any city, commercial, telephone, or other public directory or directories in public or office buildings, using what is known as display type or type that is in any way dissimilar from the standard in size, shape or color, or to use any other device tending to give the name visual prominence over other names listed;~~

~~(c) advertise services, techniques, or materials, or quote prices in or on any magazine, newspaper, directory, radio, periodical, or by any other means available to the public generally;~~

~~(d) use any outside window sign, or other outside signs to attract the attention of the general public;~~

~~(e) work for or be employed by any dental laboratory not authorized in this act;~~

~~(f) be employed by any dental laboratory which violates the provisions of this act;~~

~~(g) furnish, supply, construct, reproduce, alter, restore or repair~~ In addition to other violations of the Oklahoma State Dental Act, the following shall subject a dental laboratory technician to disciplinary action by the Board:

1. Publishing false, fraudulent or misleading advertising;

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

3. Furnishing, supplying, constructing, reproducing, altering, restoring or repairing a prosthetic tooth, teeth, dentures and

~~restorations (sometimes known as false teeth), bridges, crowns or other substitutes for natural human teeth or gums, or portions thereof, without the ~~written, signed and dated work authorization~~ laboratory prescription of a dentist ~~therefor~~ and when a prescription is required;~~

~~(h) fail 4. Failing to pay permit fee fees as herein provided by the Oklahoma State Dental Act;~~

~~(i) fail 5. Failing to return prescribed work to the prescribing a dentist or his the office of the dentist;~~

~~(j) perform dental laboratory work without a written work authorization;~~

~~(k) have 6. Having on its the premises of a dental laboratory or in its the possession of a dental laboratory technician dental equipment not necessary for the conduct of a dental laboratory's function functions; or~~

~~(l) have violated 7. Violating or attempting to violate any of the provisions of this act the Oklahoma State Dental Act or the rules promulgated by the Board as a principal accessory or accomplice; or~~

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

~~Any person committing an offense against any of the provisions of this section shall, upon conviction, be subjected to such penalties as are provided in this act, and the writ of injunction without bond is made available to the Board of Governors for the enforcement of this act. Provided, however, a dental laboratory may advertise in professional dental periodicals and solicit patronage by means of enclosures in sealed envelopes addressed to dentists only.~~

SECTION 35. AMENDATORY 59 O.S. 1991, Section 328.44, is amended to read as follows:

Section 328.44 ~~In all cases involving revocation, suspension or probation or reprimand, the hearing shall be held in the county of the residence of the party charged or where the offense is~~

~~committed.~~ A. Upon the filing of a written and signed complaint by any person, alleging that another person has sought to practice or has illegally practiced dentistry or dental hygiene, or has otherwise violated the provisions of the Oklahoma State Dental Act, and the facts upon which the allegations are based or upon its own motion when it has reason to believe a violation of the provisions of ~~this act or of professional ethics has occurred~~ the Oklahoma State Dental Act, the Dental Board of Governors shall have power to initiate and conduct investigations of all matters affecting ~~or relating to the organization or its affairs, or the practice of dentistry, or the practice of dental hygiene, or the discipline of dentists or dental hygienists or any other matter within the jurisdiction of the organization; and in the conduct of such investigation the Board of Governors shall hear said complaint and shall have power to take and hear evidence touching the matters under investigation, administer oaths and affirmations, and upon such investigations, and upon trial or hearing of all matters, jurisdiction to try or hear which is given to said Board of Governors, shall have power to compel the attendance of witnesses and the production of books, papers and documents pertaining to the matter under investigation, or to said trial or hearing, by subpoena issued as hereinafter provided. Whenever any person subpoenaed to appear and give testimony or to produce such books, papers or documents as required by such subpoena shall refuse to appear or testify before said Board of Governors, or to answer any pertinent or proper questions, he shall be deemed in contempt of said Board of Governors, and it shall be the duty of the presiding officer of said Board of Governors to report the fact to the district court of the State of Oklahoma in and for the county in which said investigation, trial or hearing is being held; thereupon the said court shall issue an attachment in the form usual in said district court, directed to the sheriff of said county, commanding said sheriff to attach such~~

~~person and forthwith bring him before said district court. On the return of said attachment, and the production of the person attached, the said district court shall have jurisdiction of the matter, and the person charged may purge himself of the contempt in the same way, and the same proceedings shall be had, and the same penalties may impose, and the same punishment inflicted as in the case of a witness subpoenaed to appear and give evidence on the trial of a civil cause before a district court of the State of Oklahoma. Any member of said Board of Governors shall have power to administer oaths and issue any subpoena herein provided for. A subpoena may be served upon any person in Oklahoma, with the same fees and mileage by any officer authorized to serve subpoenas in civil actions, in the same manner as is prescribed by the code of civil procedure for subpoenas issued out of the district courts of this state. No witness shall be compelled to attend a hearing outside of the county where such hearing is held. Depositions may be taken and used in the same manner as in civil case provided for implementation and enforcement of the provisions of the Oklahoma State Dental Act.~~

B. 1. The complaint shall be directed by the president of the Dental Board to two specific Board members for review and where the complaint is directed against a dentist, one of the two Board members may be the dentist Board member from the same district as the dentist against whom the complaint is directed.

2. The Board members reviewing the complaint shall be known as the Review Panel for purposes of this section. The Review Panel may conduct or cause to be conducted such additional investigation of the allegations and the complaint as they reasonably determined may be needed to establish, based on the evidence available to the panel, if it is more likely than not that a violation of the provisions of the Oklahoma State Dental Act has occurred and if the

person or persons named in the complaint have more likely than not violated the provisions of the Oklahoma State Dental Act.

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

4. Upon the Review Panel finding based on the evidence available to the Panel that it is more likely than not that a violation of the provisions of the Oklahoma State Dental Act has occurred and that the person or persons named in the complaint have violated the provisions of the Oklahoma State Dental Act and that there is sufficient evidence in the possession of the Review Panel to support its making a recommendation, the Review Panel may then recommend in writing to the Board that it proceed with a hearing on the complaint and the matters alleged therein. The Board, upon receiving the written recommendation from the Review Panel, shall hold a hearing, or direct that such other action as the Board is authorized to take by the Oklahoma State Dental Act 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 the Oklahoma State Dental Act that the Board determines to be appropriate.

5. The Review Panel may also elect not to pursue immediate Board action or litigation and may secure an agreement regarding what this act requires, that the individual does not intend to violate the provisions of the Oklahoma State Dental Act, and regarding future compliance with the Oklahoma State Dental Act. The agreement may take any form satisfactory to the Review Panel and the individual, from a verbal to a written agreement. When a written agreement is entered into, it shall remain part of the investigation

file and may be used against the subject only when he violates the agreement. Informal resolution of complaints is encouraged. When the Review Panel achieves any settlement, it can do so, subject to the settlement being finally reviewed and approved by the Board. The Review Panel may act without complying with the open meeting laws of this state.

SECTION 36. AMENDATORY 59 O.S. 1991, Section 328.45, is amended to read as follows:

Section 328.45 Any person complained against, as herein provided, shall be given reasonable notice in writing ~~by registered mail and have a reasonable opportunity and right to defend against a charge, so preferred against him, by the introduction of evidence and the right to be represented by counsel and to examine and cross examine witnesses. He shall also have the right to the issuance of subpoenas for attendance of witnesses to appear and testify or to produce books and records, as herein provided~~ pursuant to Article II of the Administrative Procedures Act.

SECTION 37. AMENDATORY 59 O.S. 1991, Section 328.46, is amended to read as follows:

Section 328.46 A record of all hearings shall be made and preserved by the Dental Board of Governors pursuant to Article II of the Administrative Procedures Act.

SECTION 38. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 328.46a of Title 59, unless there is created a duplication in numbering, reads as follows:

A. When the Board finds any person engaged in a violation of the Oklahoma State Dental Act, the Board may enter an order imposing one or more of the following:

1. Refusal to issue a license or permit provided for in the Oklahoma State Dental Act;

2. Revocation or suspension of the license or permit. The maximum period for a suspension of a license or permit shall be one

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

3. Enter a censure; or

4. Assess an administrative penalty not to exceed One Thousand Five Hundred Dollars (\$1,500.00).

B. 1. Upon competent evidence presented or brought before the Board resulting in it making and entering a finding that an emergency situation exists, and that the dental health, welfare and safety of the public is materially threatened thereby and by a person being licensed or holding a permit, then the Board may order that an emergency show cause hearing be conducted. The Board shall give the person that would be adversely affected not less than five (5) days' prior written notice at the person's last-known residential and office address, of the Board's finding that an emergency situation exists and of the date, place and time for the hearing.

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

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

administrative orders and actions of the Board pursuant to Article II of the Administrative Procedures Act.

SECTION 39. AMENDATORY 59 O.S. 1991, Section 328.49, is amended to read as follows:

Section 328.49 ~~Any~~ A. 1. If a person engages in the practice of dentistry or dental hygiene without the required license or permit or in other ways violates the Oklahoma State Dental Act, the Dental Board may initiate and conduct at the office of the Board, and in its name, an administrative proceeding which complies with the requirements of Article II of the Administrative Procedures Act, against a named person, who shall be the respondent. If as a result of the proceeding the Board determines that the person engaged in the practice of dentistry or dental hygiene without the required license or permit, or otherwise violated the Oklahoma State Dental Act, then the Board may impose one or more of the following:

- a. for each separate violation, an administrative penalty of not less than Five Hundred Dollars (\$500.00) but which in the aggregate for all violations does not exceed One Thousand Five Hundred Dollars (\$1,500.00),
- b. suspension for a stated time but not to exceed one (1) year, or a revocation of the person's license or permit, or
- c. a censure. The Board may order publication of the censure. When a public censure is ordered, the Board shall specify the wording of the censure and in what publication it shall appear.

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

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

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

C. 1. If a person, ~~firm or corporation who shall~~ engages in the practice ~~or attempt to practice~~ of dentistry or dental hygiene within the State of Oklahoma, ~~after his~~ without the required license or ~~certificate of ability, respectively, shall have been revoked, or while under suspension, as herein provided~~ permit, or ~~without having complied with~~ otherwise violates the provisions of ~~this act~~ the Oklahoma State Dental Act or any rule promulgated or order issued pursuant thereto, ~~shall be guilty of a misdemeanor, and upon conviction shall be punishable by a fine of not less than One Hundred Dollars (\$100.00), and not exceeding Five Hundred Dollars~~

~~(\$500.00), or by imprisonment in the county jail not less than thirty (30) days nor exceeding one (1) year or by both such fine and imprisonment. Each day of such violation shall be a separate offense. The writ of injunction, without bond, is also made available to the Board of Governors for the enforcement of this act. Any person who shall practice dentistry or dental hygiene or conduct the business of a dental laboratory in this state within the meaning of this act without having first obtained a license, certificate of ability, or permit, respectively, from the Board of Governors, or who violates any of the provisions of this act, the penalty for which is not herein specifically provided, shall be deemed guilty of a misdemeanor. Anyone convicted of such misdemeanor under this act shall be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail for not less than thirty (30) days nor more than twelve (12) months, or both such fine and imprisonment, in the discretion of the court. Each day of such violation shall be a separate offense. The writ of injunction, without bond, is also made available to the Board of Governors for the enforcement of this act. Any person, firm, or corporation found guilty of the Board may initiate a request that the district attorney of the county in Oklahoma where such conduct or violation is believed to have occurred bring a criminal action in that county in the name of the State of Oklahoma and against the person who shall be named the defendant. A duplicate copy of the Board's request shall be filed with the Attorney General of Oklahoma.~~

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

- a. for a first offense, a fine of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Five Hundred Dollars (\$1,500.00), or imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment,

b. ~~for a second and subsequent offense under the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction therefor shall be punished by imprisonment in the county jail for a period of not less than sixty (60) days, and, a fine of not less than Five Hundred Dollars (\$500.00), and not exceeding One Thousand Five Hundred Dollars (\$1,500.00), and shall have his license, certificate of ability, or permit, respectively, revoked for a period of five (5) years by the Board of Governors of the Registered Dentists of Oklahoma. Each day of violation shall be a separate offense. In addition to any other penalties provided herein, any person found guilty of contempt of court by reason of the violation of any order or judgment of injunction prohibiting the unlicensed practice of dentistry now in effect or hereafter entered pursuant to any provision of this act, shall be punished by imprisonment in the county jail for a minimum time of not less than thirty (30) days or a maximum of not more than one (1) year and by a fine of not less than Five Hundred Dollars (\$500.00); and in addition, the court may require defendant to furnish a good and sufficient bond in a penal sum to be set by the court, not less than One Thousand Dollars (\$1,000.00), which shall be conditioned upon future compliance in all particulars with the order or injunction entered, and in the event of failure of defendant to furnish such bond when so ordered, he shall be confined in the county jail pending his compliance therewith. Such bond shall be mandatory as to any person hereafter found guilty of a second contempt of court for violation of any such~~

~~order or judgment of injunction entered pursuant to this act, or any prior dental act~~ nor more than Two Thousand Five Hundred Dollars (\$2,500.00), or imprisonment in the county jail for not more than ninety (90) days, or both such fine and imprisonment,
or

c. for a third or subsequent offense, a fine of not less than Two Thousand Five Hundred Dollars (\$2,500.00) nor more than Five Thousand Dollars (\$5,000.00), or imprisonment in the county jail for not more than one hundred eighty (180) days, or both such fine and imprisonment.

SECTION 40. AMENDATORY 59 O.S. 1991, Section 328.43, is amended to read as follows:

Section 328.43 Jurisdiction and venue for appeal from the decision of the Dental Board of Governors shall be in the district court of the State of Oklahoma ~~in all cases involving the revocation, suspension, probation or reprimand of license or certificate or the holder thereof as in this act provided. Notice of intention to appeal from a decision of the Board of Governors must be given at the time of announcement of such decision. Appellant shall have ten (10) days from the date of the decision of the Board of Governors in which to file his petition with the district court clerk of the county in which he resides, setting forth the grounds relied upon for such appeal and, on this date, appellant will forward a certified copy of the petition on file in such appeal, by registered mail, to the Board of Governors, at its offices in Oklahoma City, Oklahoma. Such appeal shall be heard by the district court and determined upon the record. Within sixty (60) days following receipt by the Board of Governors of the petition for appeal the Board shall cause said record of all proceedings and evidence appearing before it to be transcribed and~~

~~filed in the district court. Such appeal shall not stay enforcement of the Board's decision unless the district court shall, upon sufficient hearing, determine that the public health will not be adversely affected by such a stay of enforcement pending outcome of such appeal. The Supreme Court of Oklahoma shall have jurisdiction of appeal from the district court and the rules of civil procedure govern such appeals pursuant to Article II of the Administrative Procedures Act.~~

SECTION 41. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 328.43a of Title 59, unless there is created a duplication in numbering, reads as follows:

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

SECTION 42. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 328.43b of Title 59, unless there is created a duplication in numbering, reads as follows:

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

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

C. It shall also be a misdemeanor pursuant to the Oklahoma State Dental Act for any person who does not hold a license, issued by the Board, to:

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

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

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

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

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

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

SECTION 43. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 328.43c of Title 59, unless there is created a duplication in numbering, reads as follows:

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

1. The number of complaints received during the year;
2. The number of Board hearings completed during the year;

3. The name and principal office address at the end of the year of each individual holding a license, certificate, permit or who is registered;

4. The report of all receipts and expenditures of the Board for the calendar year; and

5. Any other information regarding the actions of the Board that the president or the Board members determine to track or report on for that year.

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

SECTION 44. AMENDATORY 59 O.S. 1991, Section 328.60, is amended to read as follows:

Section 328.60 This ~~act~~ part shall be known and may be cited as the "Oklahoma Dental Mediation Act".

SECTION 45. AMENDATORY 59 O.S. 1991, Section 328.61, is amended to read as follows:

Section 328.61 A. It is the declared public policy of the State of Oklahoma that the provision of quality dental health care is essential to the well-being of all citizens of this state, as is the expeditious resolution of disputes relating to dental treatment. The monitoring and assessment of dental services through a mediation system is an efficient and reasonable method of providing an alternative dispute resolution mechanism for patient-dentist disputes while also promoting quality health care that addresses patients' concerns about the quality of treatment.

B. The Legislature, ~~therefore,~~ declares that for the public good, and the general welfare of the citizens of this state, the enactment of the Oklahoma Dental Mediation Act is required.

SECTION 46. 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 to administer to the general public through the practice of dentistry as defined in Section 328.19 of Title 59 of the Oklahoma Statutes~~ graduate of an accredited dental school, licensed by the Board to practice general or specialty dentistry; and

2. "Mediation committee" means a committee of persons duly constituted of or appointed by any voluntary dental association or society, or, the Dental ~~Board of Governors of Registered Dentists of the State of Oklahoma~~. 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 47. AMENDATORY 59 O.S. 1991, Section 328.63, is amended to read as follows:

Section 328.63 A. A Any mediation committee, entities creating such mediation committees, members and staff of such mediation committee, and other persons who assist ~~such~~ mediation committees shall not be liable in any way for damages or injunctive relief under any law of this state with respect to ~~any~~ the action taken in good faith by such mediation committee.

B. Any person who supplies information to a mediation committee in good faith and with reasonable belief that such information is true shall not be liable in any way for damages or injunctive relief under any law of this state with respect to giving ~~such~~ information to the mediation committee.

SECTION 48. 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~~ Participants in the mediation process shall not 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 Dental Board ~~of Governors of Registered Dentists~~ 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~~ 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 49. AMENDATORY 59 O.S. 1991, Section 328.65, is amended to read as follows:

Section 328.65 A. A patient may voluntarily seek review of a course of treatment rendered by a dentist. Such review is not mandatory or required prior to the initiation of litigation and ~~this act~~ the Oklahoma Dental Mediation Act shall in no way limit the patient's access to the courts nor in any way require the patient to participate in mediation proceedings as a prerequisite to initiating suit. If the patient elects to participate in the mediation

procedure, the patient must file a written request for the review with a mediation committee in accordance with such rules that the organizations appointing the mediation committee may prescribe. In the request for review, the patient must provide the mediation committee with a true and correct statement of all material facts relating to the course of treatment complained of, the nature of the complaint, and the requested relief sought, in addition to any other requirements that may be prescribed by rule by the Dental Board.

B. The dentist shall thereafter submit a true and correct statement of all material facts relating to the course of treatment complained of, the nature of the complaint, and his recommendation of action, if any, in addition to any other requirements that may be prescribed by rule by the Dental Board.

C. The material submitted by the patient and dentist shall be provided by the committee to the opposing party.

SECTION 50. AMENDATORY 59 O.S. 1991, Section 328.66, is amended to read as follows:

Section 328.66 A. Written recommendations of a mediation committee rendered pursuant to a request for review shall be given to the patient and the dentist concerned, by delivery thereof or by mailing such recommendations to the last-known address of each.

B. The recommendations of the mediation committee shall not be binding on the patient or the dentist, but shall provide an objective assessment of the facts and the course of treatment rendered, ~~and~~ In addition, the recommendations shall include, when appropriate, a proposed remedy or solution to the complaint presented in the request for review.

SECTION 51. 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 Dental Board ~~of Governors of Registered Dentists~~. 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~~, 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 52. 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 Dental Board ~~of Governors of Registered Dentists~~ 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 53. AMENDATORY 59 O.S. 1991, Section 328.69, is amended to read as follows:

Section 328.69 The Dental Board ~~of Governors of Registered Dentists~~ 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~~ 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~~ 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~~ in ruling upon the appealed recommendation shall constitute a final nonappealable decision, however, the final recommendation of the Board ~~of Governors of Registered Dentists~~ shall not be binding on the parties involved in the dispute.

SECTION 54. 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 Dental Board ~~of Governors of Registered Dentists~~ 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~~ 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 55. 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 Dental Board of Governors of Registered Dentists 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 Dental Board of Governors of Registered Dentists will be introduced or admitted during a hearing or trial.

SECTION 56. AMENDATORY 59 O.S. 1991, Section 328.72, is amended to read as follows:

Section 328.72 The Oklahoma Dental Mediation Act ~~being~~ is a general act intended as a unified coverage of the subject matter, and no part of it shall be deemed to be impliedly repealed by subsequent legislation if such construction can reasonably be avoided. This legislation affirmatively elects out, to the extent permitted by law, from the coverage and reporting requirements of the federal legislation, PL 99-660, with respect to all persons practicing dentistry in this state.

SECTION 57. AMENDATORY 59 O.S. 1991, Section 328.73, is amended to read as follows:

Section 328.73 A. A person may pursue any remedy now available through the courts, without first utilizing the provisions of the Oklahoma Dental Mediation Act.

B. Nothing provided for in ~~this act~~ the Oklahoma Dental Mediation Act shall in any manner limit, alter, modify, delay, compromise or otherwise effect in any respect a patient's right to initiate litigation for relief.

SECTION 58. REPEALER 59 O.S. 1991, Sections 328.3, 328.4, 328.5, 328.16, 328.18, 328.19, 328.20, 328.25, 328.29,

328.31, 328.34, 328.35, 328.37, 328.38, 328.40, 328.47, 328.48 and 328.50, are hereby repealed.

SECTION 59. This act shall become effective July 1, 1995.

SECTION 60. 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.

Passed the House of Representatives the 15th day of March, 1995.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1995.

President of the Senate