

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

COMMITTEE SUBSTITUTE

FOR HOUSE BILL NO. 2090

By: Glover of the House

and

Robinson of the Senate

COMMITTEE SUBSTITUTE

An Act relating to dentistry; amending Section 3, Chapter 282, O.S.L. 1993, as last amended by Section 2, Chapter 358, O.S.L. 1995 (25 O.S. Supp. 1996, Section 307.1) and 59 O.S. 1991, Sections 328.7, as amended by Section 2, Chapter 2, O.S.L. 1996, 328.9, 328.13, 328.40, and Sections 15 and 18, Chapter 2, O.S.L. 1996 (59 O.S. Supp. 1996, Sections 328.7, 328.43a and 328.51a), which relate to the Open Meeting Act and to the Board of Dentistry, written work authorization, settlement agreements, and fees; authorizing Board to hold meetings by teleconference; clarifying and conforming language; requiring certain oath of office; modifying eligibility requirements for serving on the Board; stating make-up of certain geographic regions; modifying procedures for electing and recalling Board members; updating obsolete language; modifying time period for retaining original laboratory prescription; modifying review panel procedures for investigating and dismissing complaints; modifying bases for certain recommendation; modifying content of settlement agreement and conditions under which settlement agreement must be reviewed and approved by Board; modifying and adding fees; repealing 59 O.S. 1991, Section 328.8, which relates to certain geographic districts; and providing an effective date.

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

SECTION 1. AMENDATORY Section 3, Chapter 282, O.S.L. 1993, as last amended by Section 2, Chapter 358, O.S.L. 1995 (25 O.S. Supp. 1996, Section 307.1), is amended to read as follows:

Section 307.1 A. No public body shall hold meetings by teleconference except:

1. Oklahoma Futures;
2. The Oklahoma State Regents for Higher Education;
3. The Oklahoma Board of Medical Licensure and Supervision;

4. The State Board of Osteopathic Examiners; ~~and~~  
5. The Board of Dentistry; and  
6. The Variance and Appeals Boards created in Sections 1021.1, 1697 and 1850.16 of Title 59 of the Oklahoma Statutes.

B. No public body authorized to hold meetings by teleconference shall conduct an executive session by teleconference.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 328.7, as amended by Section 2, Chapter 2, O.S.L. 1996 (59 O.S. Supp. 1996, Section 328.7), is amended to read as follows:

Section 328.7 A. 1. Pursuant to Section 39 of Article V of the Constitution of the State of Oklahoma, there is hereby created a ~~"~~ the Board of Dentistry" which shall be an agency of state government. The Board shall adopt a seal, sue and be sued in its own name, and implement and enforce the provisions of the State Dental Act.

2. Whenever the term "The Board of Governors of the Registered Dentists of Oklahoma" or a term of like import appears in the Oklahoma Statutes, it shall mean the Board of Dentistry.

3. Whenever the terms "Board" or "Board of Governors" appear in the State Dental Act, the terms shall mean the Board of Dentistry.

B. 1. The Board shall consist of eight ~~(8)~~ dentist members, one dental hygienist member and two members who shall represent the public. One dentist member shall be elected ~~from~~ by the dentists residing in each of the eight geographical districts established by subsection C of this section. ~~One~~ The dental hygienist member shall be elected at-large by the dental hygienists residing in this state ~~who are legally licensed to practice dental hygiene therein.~~ The two public representative members shall be appointed by the Governor, subject to confirmation by the Senate. No public representative member may be a dentist, dental hygienist, dental assistant, dental laboratory technician, or holder of a permit to operate a dental laboratory, or be related within the third degree of consanguinity or affinity to any such person.

2. Before assuming duties on the Board, each member shall take and subscribe to the oath of office or affirmation provided in Article XV of the Oklahoma Constitution, which oath or affirmation shall be administered and filed as provided in the Article.

3. Each member of the Board shall hold office for a ~~period~~ term of three (3) years and until a successor in office is elected and qualified. Board members shall not serve for more than three (3) consecutive terms. To be eligible to be elected to and serve on the Board, a dentist or dental hygienist must have been licensed to practice in this state for at least five (5) years, and for the five (5) years prior to the date of counting the ballots, not have been subject to a penalty imposed by the Board or its predecessor board.

~~2.~~ 4. The members of The Board of Governors of the Registered Dentists of Oklahoma on November 1, 1996, shall serve as members of the Board of Dentistry for the remainder of the terms for which they were elected.

C. For the purpose of nominating and electing dentist members of the Board, this state shall be divided into eight geographical districts, which shall consist of the following counties within the following districts:

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

District No. 2: Tulsa and Creek.

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

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

District No. 5: Oklahoma.

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

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

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

SECTION 3. AMENDATORY 59 O.S. 1991, Section 328.9, is amended to read as follows:

Section 328.9 A. Nominations for dentist members of the Board of ~~Governors from the several districts~~ Dentistry shall be by petition, signed by at least ten ~~members entitled to vote for such nominees~~ dentists residing in the district to be represented by the nominee. Nominations for the dental hygienist member of the Board ~~of Governors~~ shall be by petition signed by at least ten dental hygienists ~~entitled to vote for such nominees~~ residing in the state.

B. The ~~election~~ elections shall be by secret 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~~ secretary-treasurer of the Board, then opened and ~~canvassed~~ counted at a meeting of the ~~board~~ Board. In other respects, ~~the election~~ elections shall be conducted as ~~the board may by rule direct~~ provided in the rules of the Board.

C. Only ~~members of the organization~~ dentists residing in the ~~respective districts~~ a district shall be entitled to vote for the ~~dentist members therefrom~~ Board member from that district. Only dental hygienists residing ~~and licensed in the State of Oklahoma~~ this state shall be entitled to vote for the dental hygienist Board member.

D. Dentist members of the Board ~~of Governors~~ may be recalled and removed from ~~office by~~ the Board in a special recall election to be 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~~ a district. The dental hygienist member of the Board ~~of Governors~~ may be recalled and removed from ~~office~~ by the Board in a special recall election to be called by the Board ~~of Governors~~ upon receipt of a written petition signed by at least twenty percent (20%) of the ~~licensed~~ dental hygienists residing in ~~the State of Oklahoma~~ this state. If a majority of

the votes cast in the special recall election are in favor of recalling the Board ~~members, he/she will~~ member, the member shall be removed from ~~office as of the Board,~~ effective on the date the results of the ~~ballot canvassing are forwarded to~~ special recall election are certified by the Board ~~of Governors.~~

SECTION 4. AMENDATORY 59 O.S. 1991, Section 328.13, is amended to read as follows:

Section 328.13 A vacancy among the dentist members ~~on~~ of the Board of ~~Governors~~ Dentistry shall be filled by a special election in the district of the vacancy for the unexpired term within sixty (60) days after the vacancy occurs, as provided in Section 328.9 of this title. ~~The~~ A 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,~~ the vacancy shall be filled by appointment by the Board ~~of Governors.~~ A vacancy among the public representative members ~~on~~ of the Board ~~of Governors~~ shall be filled by appointment by the Governor, subject to confirmation by the Senate.

SECTION 5. AMENDATORY 59 O.S. 1991, Section 328.40, is amended to read as follows:

Section 328.40 It shall be unlawful for any dental laboratory or dental laboratory technician to perform any phase of dental laboratory technology, ~~as in this act defined,~~ without a properly completed ~~written work authorization from a licensed laboratory~~ prescription of a dentist. ~~Written work authorization~~ Laboratory prescriptions shall be on forms prescribed by the Board of ~~Governors~~ Dentistry. After completion ~~of said,~~ prescribed work, ~~it~~ shall be returned by the dental laboratory or dental laboratory technician to the prescribing dentist or his or her office with name or number of the ~~written work authorization~~ laboratory prescription accompanying the invoice. Dental laboratories shall retain the original ~~work authorization~~ laboratory prescription for

a period of ~~two (2)~~ three (3) years for inspection by the Board ~~of Governors~~, a member of the Board ~~of Governors~~, or its agents or employees. The serial number of the ~~work authorization~~ laboratory prescription shall appear on models and correspond to all appliances being fabricated. Any model or appliance in possession of any dental laboratory or dental laboratory technician without a ~~written work authorization~~ laboratory prescription and corresponding name and serial number on the model or appliance shall be prima facie evidence of violation of ~~this act~~ the State Dental Act. Any dental laboratory or dental laboratory technician who shall violate the provisions of ~~this act~~ the State Dental Act, or who shall refuse to allow the Board ~~of Governors~~, a member of the Board ~~of Governors~~, or its agents or employees to inspect such ~~work authorizations~~ laboratory prescriptions or appliances being fabricated is subject to such penalties as are provided in ~~this act~~ the State Dental Act. The writ of injunction without bond is available to the Board ~~of Governors~~ for the enforcement of ~~this act~~ the State Dental Act.

SECTION 6. AMENDATORY Section 15, Chapter 2, O.S.L. 1996 (59 O.S. Supp. 1996, Section 328.43a), is amended to read as follows:

Section 328.43a A. Any person may file a written and signed complaint with the Board of Dentistry, alleging that another person has sought to practice or has illegally practiced dentistry or dental hygiene, or has otherwise violated the provisions of the State Dental Act or the rules of the Board, and the facts upon which the allegations are based. The complaint shall be directed by the president of the Board to two specific Board members for review.

B. The Board members who review a complaint shall constitute a review panel. A review panel may conduct or cause to be conducted any ~~additional~~ investigation of the allegations in the complaint as it reasonably determines may be needed to establish, based on the evidence available to the panel, whether it is more likely than not that:

1. A violation of the provisions of the State Dental Act or the rules of the Board has occurred; and

2. The person named in the complaint has committed the violation.

C. In conducting its investigation, a review panel may seek evidence, take statements, take and hear evidence, and administer oaths and affirmations. A review panel may also use Board attorneys and investigators appointed by the Board to seek evidence.

D. ~~Upon 1.~~ If a review panel ~~finding~~ determines, based on the evidence available to the panel, that it is more likely than not that a violation of the provisions of the State Dental Act or the rules of the Board has occurred, ~~and~~ and that the person named in the complaint has more likely than not committed the violation, ~~and that there is sufficient evidence in the possession of the review panel to support a recommendation,~~ the review panel may ~~then~~ recommend in writing to the Board that the Board initiate an individual proceeding, pursuant to Article II of the Administrative Procedures Act, against the person named in the complaint. The members of the review panel shall be excluded from participating as Board members in an individual proceeding initiated by the Board based upon their recommendation.

~~E. 2.~~ The review panel may elect not to recommend that the Board initiate an individual proceeding against the person named in the complaint and may secure a written and signed settlement agreement ~~that~~ with such person will. A settlement agreement:

- a. shall specify the provisions of the State Dental Act or the rules of the Board which such person is alleged to have violated,
- b. shall provide that such person agrees not to violate the provisions of the State Dental Act or the rules of the Board in the future. ~~A settlement agreement must be stated in writing and,~~
- c. may contain any of the penalties specified in Section 328.44a of this title, and

d. ~~may take any form satisfactory~~ contain any other provisions agreeable to the review panel and the person involved.

3. When a settlement agreement is entered into, it shall remain part of the investigation file, and may be used against the person involved only if the person involved violates the settlement agreement. Informal resolution of complaints is encouraged. ~~Any~~ All settlement ~~agreement made by a review panel~~ agreements shall be reported to the Board. A settlement agreement must receive final review and approval by the Board if it contains any of the following penalties specified in Section 328.44a of this title:

- a. suspension of a license, certificate or permit issued by the Board,
- b. revocation of a license, certificate or permit issued by the Board,
- c. issuance of a censure,
- d. placement on probation, or
- e. restriction of the services that can be provided by a dentist or a dental hygienist.

E. If a review panel does not make the determination specified in subsection D of this section, the panel shall dismiss the complaint and direct the principal administrative officer of the Board to give written notification of the dismissal to the person who filed the complaint and to the person named in the complaint.

F. A review panel may act without complying with the Oklahoma Open Meeting Act.

SECTION 7. AMENDATORY Section 18, Chapter 2, O.S.L. 1996 (59 O.S. Supp. 1996, Section 328.51a), is amended to read as follows:

Section 328.51a A. The Board of Dentistry is authorized, ~~by rule,~~ to establish, by rule, fees ~~and charges~~ to be ~~imposed~~ charged for the purpose of implementing and enforcing the State Dental Act. Notwithstanding any other provisions of the State Dental Act, the fees ~~and charges~~ established by the Board shall be

not less nor more than the range created by the following schedule:

1. LICENSE, CERTIFICATE, AND PERMIT APPLICATION FEES:

	Minimum	Maximum
a. License or Certificate by Examination		
Dentist	\$200.00	\$400.00
Dental Hygienist	\$100.00	\$200.00
b. License or Certificate by Credentialing		
Dentist	\$500.00	\$1,000.00
Dental Hygienist	\$100.00	\$200.00
c. Dental Specialty License by Examination	\$300.00	
	\$600.00	
d. Dental Specialty License by Credentialing	\$500.00	
	\$1,000.00	
e. Faculty Permit		
Dentist	\$100.00	\$200.00
Dental Hygienist	\$50.00	\$100.00
f. Dental Intern Permit	\$100.00	\$200.00
g. Temporary Certificate to Practice Dental Hygiene		
\$50.00	\$100.00	
h. Dental Assistant Permit for Expanded Duties	\$10.00	
	\$60.00	
i. Permit to Operate a Dental Laboratory	\$20.00	\$60.00
j. General Anesthesia		
<del>Conscious Sedation or Deep Sedation</del> Permit		
Dentist	\$100.00	\$200.00
<u>k. Conscious Sedation Permit</u>		
<u>Dentist</u>	<u>\$100.00</u>	<u>\$200.00</u>

2. RE-EXAMINATION FEES:

a. License or Certificate by Examination		
Dentist	\$200.00	\$400.00
Dental Hygienist	\$100.00	\$200.00
b. Dental Specialty License by Examination	\$300.00	\$600.00
<u>c. Jurisprudence Only</u>		

Re-Examination

<u>Dentist</u>	<u>\$10.00</u>	<u>\$20.00</u>
<u>Dental Hygienist</u>	<u>\$10.00</u>	<u>\$20.00</u>

3. ANNUAL RENEWAL FEES:

a.	Dentist	\$100.00	\$200.00
b.	Dental Hygienist	\$65.00	\$130.00
c.	Dental Specialty License	\$100.00	\$200.00
d.	Faculty Permit		
	Dentist	\$50.00	\$100.00
	Dental Hygienist	\$50.00	\$100.00
e.	Dental Intern Permit	\$50.00	\$100.00
f.	<del>Certified Dental Assistant</del>		
	<del>Permit</del>	<del>\$50.00</del>	<del>\$100.00</del>
<del>g.</del>	Dental Assistant Permit for Expanded Duties	\$10.00	\$60.00
<del>h.g.</del>	Permit to Operate a Dental Laboratory	\$20.00	\$60.00
<del>i.h.</del>	<del>General Anesthesia, Conscious</del>		
	<del>Sedation or Deep Sedation</del>		
	<del>Permit</del>		
	Dentist	\$100.00	\$200.00
i.	<u>Conscious Sedation Permit</u>		
	<u>Dentist</u>	<u>\$100.00</u>	<u>\$200.00</u>

4. PENALTY FEES FOR LATE RENEWAL OF LICENSE, CERTIFICATE OR PERMIT:

a.	Dentist	\$100.00	\$200.00
b.	Dental Hygienist	\$50.00	\$100.00
c.	Dental Specialty License	\$100.00	\$200.00
d.	<del>Certified Dental Assistant</del>		
	<del>Permit</del>	<del>\$10.00</del>	<del>\$30.00</del>
<del>e.</del>	Dental Assistant Permit for Expanded Duties	\$10.00	\$30.00
<del>f.e.</del>	Permit to Operate a Dental Laboratory	\$20.00	\$60.00
<del>g.f.</del>	<del>General Anesthesia,</del>		
	<del>Conscious Sedation, or Deep</del>		
	<del>Sedation Permit</del>		
	Dentist	\$100.00	\$200.00

g. Conscious Sedation Permit

<u>Dentist</u>	<u>\$100.00</u>	<u>\$200.00</u>
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5. OTHER FEES AND CHARGES:

- |   |                   |                   |
|---|-------------------|-------------------|
| a. Duplicate License  | \$10.00           | \$30.00           |
| b. Duplicate Certificate, Permit or Registration  | \$5.00            | \$15.00           |
| c. Certificate of Good Standing   | \$5.00            | \$15.00           |
| d. Professional Entity Certification Letter   | \$5.00            | \$20.00           |
| e. Professional Entity Registration or Update   | \$5.00            | \$20.00           |
| f. <u>Laboratory</u> Prescription Books   | \$2.50            | \$7.50            |
| g. <del>Preparation of Lists</del> <u>List of Dentists, Dental Hygienists, Dental Assistants who hold a Permit for Expanded Duties, and Holders of a Permit to Operate a Dental Laboratory - Per Page</u> | <del>\$0.25</del> | <del>\$0.75</del> |

~~6. LIST PREPARATION FOR DENTISTS, DENTAL HYGIENISTS, DENTAL ASSISTANTS AND DENTAL LABORATORIES:~~

~~A Twenty-five Dollar (\$25.00) - Seventy-five Dollar (\$75.00) fee will be charged for each new list compiled. All lists produced by~~  
the Name and Principal Office  
Address of all Persons who hold  
a License, Certificate, or Permit  
issued by the Board. (A request  
for a list shall be submitted to  
the Board ~~must be requested~~ in  
writing noting the specific  
proposed use of said the list.)                    \$25.00  
\$75.00

B. A person who holds a license to practice dentistry in this state, and who also holds a dental specialty license, shall not be required to pay an annual renewal fee for the dental specialty license if the licensee has paid the annual renewal fee for the license to practice dentistry.

SECTION 8. REPEALER 59 O.S. 1991, Section 328.8, is hereby repealed.

SECTION 9. This act shall become effective November 1, 1997.

46-1-6595 KSM