

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 2465

By: Stanley

AS INTRODUCED

An Act relating to professions and occupations;  
amending 59 O.S. 1991, Sections 328.3, 328.15, as  
amended by Section 4, Chapter 2, O.S.L. 1996,  
328.21 and 328.27 (59 O.S. Supp. 1997, Section  
328.15), which relate to the State Dental Act;  
modifying, clarifying and adding definitions;  
authorizing the Board of Dentistry to enter into  
certain contracts; adding and modifying certain  
powers and duties of the Board; providing for  
licensure of dentists and dental hygienists;  
clarifying and updating language; adding  
requirements for test subjects; making certain  
requirements for licensure; requiring certain proof  
of graduations; setting certain grounds for which  
penalties may be imposed; authorizing dentists to  
make certain assignments for dental assistants;  
prohibiting certain assignments; repealing 59 O.S.  
1991, Sections 328.4, 328.5 and 328.30, as amended  
by Section 20, Chapter 2, O.S.L. 1996 (59 O.S.  
Supp. 1997, Section 328.30), which relate to  
powers, duties and membership of the Board of  
Dentistry and certain display of license  
requirement for dentists; providing for  
codification; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 1991, Section 328.3, is amended to read as follows:

Section 328.3 ~~(a) The term "organization" means the Registered Dentists of Oklahoma.~~

~~(b) The term~~ For purposes of the State Dental Act:

1. "Board" or "Board of Governors" means the Board of ~~Governors of the Registered Dentists of Oklahoma.~~ Dentistry;

~~(c) The term "dentistry"~~ 2. "Dentistry" means the practice of dentistry in all of its branches.;

~~(d) The term "dental"~~ 3. "Dental laboratory technology" means the construction, upon the ~~written work authorization~~ laboratory prescription of a licensed dentist, of any dental appliance or thing to be worn in the human mouth, by a dental laboratory technician who uses inert materials and mechanical devices for the fabrication or construction of any such dental appliance or thing.;

~~(e) The term "written~~ 4. "Laboratory prescription" and "work authorization" means are synonymous and mean a written description of the procedures to be followed in the fabrication or construction of any dental restoration, appliance or thing to be worn in the human mouth by a dental laboratory technician who uses inert materials and mechanical devices for the fabrication or construction of any such dental appliance or thing.;

~~(f) The term "dentist"~~ 5. "Dentist" means a ~~professionally trained individual who has fulfilled the educational requirements and is~~ a graduate of an accredited dental ~~school and college~~ school and college who has been licensed by the Board ~~of Governors to administer to the general public through the~~ to practice of dentistry as herein defined.;

~~(g) The term "dental~~ 6. "Dental office" means an establishment owned and operated by a licensed dentist for the practice of dentistry which may be composed of reception rooms, business offices, private offices, laboratories, and dental operating rooms where dental operations are performed.;

~~(h) The term "dental~~ 7. "Dental hygienist" means an individual who has fulfilled the educational requirements and is a graduate of an ~~approved~~ accredited school of dental hygiene and who has ~~passed~~ an examination and has been issued a certificate of ability by the Board of Governors and who is authorized to practice dental hygiene as hereinafter defined.;

~~(i) The term "dental~~ 8. "Dental assistant and/or dental nurse" means an individual ~~working for the licensed~~ who assists in the delivery of dentistry to patients of record of a dentist, under his supervision of the dentist, and performing who performs duties in the dental office, including the limited treatment of patients, in accordance with the provisions of this act. ~~The dental assistant and/or dental nurse may assist the dentist with the patient, provided, this shall be done only under the direct supervision and control of the dentist and only in accordance with the educational requirements, the State Dental Act and rules and regulations promulgated by the Board of Governors.~~;

~~(j) The term "dental~~ 9. "Dental laboratory" means an establishment that has been duly granted a permit, and is on the official records of the Board of Governors a location, whether in a dental office or not, where a dentist or a dental laboratory technician is performing performs dental laboratory technology. ~~Such dental laboratory may be located either within the office of a dentist or dentists for his or their use, or in a separate location for the commercial use of licensed dentists, whereby using inert materials and mechanical devices the dental laboratory technician fabricates dental restorations, appliances or things to be worn in~~

~~the human mouth upon the written work authorization of a licensed dentist.;~~

~~(k) The term "dental~~ 10. "Dental laboratory technician" means an individual whose name is duly filed on the official records of the Board ~~of Governors~~, which authorizes ~~him~~ the technician, upon the ~~written work authorization~~ laboratory prescription of a licensed dentist, to use inert materials and mechanical devices for the fabrication of any dental restorations, appliances or things to be worn in the human mouth, which services must be rendered only to the licensed dentist and not to any actual user or prospective user; and

11. "Patient" or "patient of record" means an individual who has given a medical history and has been examined and diagnosed by a dentist, during the preceding ten (10) months, and who considers himself a patient of the dentist for general or specialized dentistry.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 328.15, as amended by Section 4, Chapter 2, O.S.L. 1996 (59 O.S. Supp. 1997, Section 328.15), is amended to read as follows:

Section 328.15 A. Pursuant to and in compliance with Article I of the Administrative Procedures Act, the Board of Dentistry shall have the power to formulate, adopt and promulgate rules as may be necessary to regulate the practice of dentistry in this state and to implement and enforce the provisions of the State Dental Act.

B. The Board is authorized and empowered to:

1. Examine and test the qualifications of applicants for a license, certificate or permit to be issued by the Board;

2. Enter into cooperative contracts or agreements with another state or combination of states for purposes of formulating and conducting simultaneous regional examinations of applicants for a license to practice dentistry or a certificate of ability to practice dental hygiene;

~~3.~~ 3. Maintain a list of the name, current mailing address and principal office address of all persons who hold a license, certificate or permit issued by the Board;

~~3.~~ 4. 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 fiscal year. The Board's annual statement of receipts and expenditures shall be audited by the State Auditor and Inspector or an independent accounting firm, and the audit report shall be certified to the Governor of this state to be true and correct, under oath, by the president and secretary-treasurer of the Board;

~~4.~~ 5. Within limits prescribed in the State Dental Act, set all fees, charges and administrative penalties to be imposed and collected by the Board;

~~5.~~ 6. Maintain an office staff and employ legal counsel and other advisors to the Board, including but not limited to advisory committees;

~~6.~~ 7. Investigate and issue investigative and other subpoenas, pursuant to Article II of the Administrative Procedures Act;

~~7.~~ 8. Initiate individual proceedings and issue orders imposing administrative penalties, pursuant to Article II of the Administrative Procedures Act, against any dentist, dental hygienist, dental assistant, dental laboratory technician, or holder of a permit to operate a dental laboratory who has violated the State Dental Act or the rules of the Board;

~~8.~~ 9. Conduct, in a uniform and reasonable manner, inspections of dental offices and dental laboratories and their business records;

~~9.~~ 10. Establish ~~guidelines for courses of study necessary for expanded duties~~ eligibility requirements of experience, knowledge and education for dental hygienists and dental assistants who participate in training courses approved by the Board and, ~~when~~

~~appropriate,~~ issue permits ~~authorizing individuals to perform~~ for expanded duties to those dental hygienists and dental assistants who meet the eligibility requirements;

~~10.~~ 11. Establish continuing education requirements for dentists, dental hygienists and dental assistants who hold expanded duty permits issued by the Board;

~~11.~~ 12. Recognize the parameters of care established and approved by the American Dental Association;

~~12.~~ 13. Formulate, adopt and promulgate rules, pursuant to Article I of the Administrative Procedures Act, as may be necessary to implement and enforce the provisions of the Oklahoma Dental Mediation Act;

~~13.~~ 14. Hire one or more investigators to conduct investigations of alleged violations of the State Dental Act or the rules of the Board;

~~14.~~ 15. Seek and receive advice and assistance of the Office of the Attorney General of this state;

~~15.~~ 16. Promote the dental health of the people of this state;

~~16.~~ 17. Inform, educate and advise all persons who hold a license, certificate or permit issued by the Board, or who are otherwise regulated by the Board, regarding the State Dental Act and the rules of the Board;

~~17.~~ 18. Affiliate with the American Association of Dental Examiners as an active member, pay regular dues and send members of the Board as delegates to its meetings;

~~18.~~ 19. Enter into contracts;

~~19.~~ 20. Acquire, rent, hold, encumber and dispose of personal property as is needed; and

~~20.~~ 21. Take all other actions necessary to implement and enforce the State Dental Act.

SECTION 3. AMENDATORY 59 O.S. 1991, Section 328.21, is amended to read as follows:

Section 328.21 A. No person, unless ~~currently~~ registered to practice dentistry or dental hygiene in this state ~~at the effective date of this act~~ on July 1, 1970, 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~~ Dentistry, if the applicant is to practice dentistry, or a certificate of ability, if the applicant is to practice dental hygiene.

B. Application shall be made to ~~said the~~ the Board ~~of Governors~~ in writing, and shall, ~~in every instance,~~ be accompanied by ~~a~~ the fee, ~~as required~~ established by the rules of the Board ~~of Governors~~, but ~~not to exceed Two Hundred Dollars (\$200.00),~~ together with satisfactory proof that the applicant is:

1. Is of good moral character; and

2. Is 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.

C. An application from a candidate who desires to secure a license or certificate of ability from ~~said the~~ the Board ~~of Governors~~ to practice dentistry or dental hygiene in this state shall be accompanied by satisfactory proof that the applicant is a:

1. 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~~

2. A graduate of a training school for dental hygienists, if the applicant is to practice dental hygiene. ~~In either case, the~~ The school must or dental department of a university, in either case, shall be approved accredited by the Commission on Dental Accreditation of the American Dental Association.

D. 1. When ~~said the~~ the applicant and the accompanying proof are found satisfactory, the Board ~~of Governors~~ shall notify the applicant to appear ~~before it~~ for examination 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, and shall consist of three parts, namely:

- a. a written theoretical examination,
- b. a clinical examination, and
- c. a written jurisprudence examination, relating to the contents and interpretation of the State Dental Act and the rules of the Board.

2. The theoretical and jurisprudence examination papers and all grading thereon, and the grading of ~~practical work~~ the clinical examination, shall be deemed public documents, and preserved by the secretary-treasurer of the Board ~~of Governors~~ for a period of two (2) years after the Board ~~of Governors shall have made~~ has made and published its decision thereon.

E. 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)~~ 1. Submit, for the files of the Board ~~of Governors~~, a photostatic copy of a dental degree, an official transcript and a recent photograph duly identified and attested; and

~~(b)~~ 2. 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~~ 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.

F. Any applicant who ~~shall fail~~ fails to pass ~~his~~ any part of ~~the~~ first examination ~~shall have a right to~~ may apply for a second examination, in which case ~~he~~ the applicant shall pay ~~an examination~~ a re-examination fee as ~~required~~ established by the rules of the Board of Governors, ~~but not to exceed Two Hundred Dollars (\$200.00).~~ Any applicant who ~~shall fail~~ fails 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~~ may allow, but such credits shall be extended only to the succeeding examinations. If the applicant ~~shall fail~~ fails 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.

SECTION 4. AMENDATORY 59 O.S. 1991, Section 328.27, is amended to read as follows:

Section 328.27 The Board of Governors ~~shall have authority~~ Dentistry may, without examination, upon presentation of satisfactory credentials, and under such rules ~~and regulations~~ as the Board of Governors may prescribe, ~~to issue permits to persons~~ a faculty permit to a person who ~~are graduates~~ is a graduate of a ~~school of dentistry or~~ an accredited dental college or an accredited school of dental hygiene approved by the Board, ~~when such persons are~~ and is licensed to practice dentistry or dental hygiene in ~~some other~~ another state. ~~Such permits~~ A faculty permit shall be issued only upon the certification of the dean of ~~a~~ an accredited dental ~~school and/or~~ college or the director of a an accredited school of dental hygiene school located in this state that the applicant is a bona fide member of the teaching staff of that college or school. ~~Such permits~~ A faculty permit shall be valid for one (1) year and may be ~~reissued~~ renewed by the Board of Governors ~~for only one (1) additional year.~~ The holder of ~~such permits~~ a faculty permit shall

be entitled to perform ~~all operations which~~ as a person licensed holding a license to practice dentistry or a certificate to practice dental hygiene is entitled to perform in this state ~~would be entitled to perform~~, but ~~such~~ all services ~~will performed~~ shall be without ~~fee or~~ compensation other than that received in salary from ~~such positions~~ a faculty position, and shall be performed only within the facilities of ~~the~~ an accredited dental college or accredited school ~~location~~ of dental hygiene or in a seminar or postgraduate course and as an adjunct to ~~his or her~~ teaching functions ~~in such school or to the profession~~. A holder of a faculty permit shall not engage in faculty or private practice of dentistry.

SECTION 5. 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:

The following acts or occurrences by a dental assistant shall constitute grounds for which the penalties specified in Section 328.44a of Title 59 of the Oklahoma Statutes may be imposed by order of the Board of Dentistry:

1. Pleading guilty or nolo contendere to, or being convicted of, a felony, a misdemeanor involving moral turpitude, or a violation of federal or state controlled dangerous substances laws;
2. By reason of persistent inebriety or addiction to drugs, being incompetent to continue to assist a dentist in the delivery of health care;
3. Performing a duty for which a permit for expanded duties is required by the rules of the Board, without holding the required permit;
4. Performing an act, or delivering care or a service, which is prohibited from being performed by a dental assistant under the State Dental Act or the rules of the Board;

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

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

7. Being involuntarily committed to an institution for treatment of substance abuse, until recovery or remission;

8. Willfully disclosing confidential information;

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

10. Assisting a dentist by performing an expanded duty without displaying, at the dental assistant's primary place of service, a permit issued by the Board for the expanded duty and the current renewal certificate;

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

12. Violating or attempting to violate the provisions of the State Dental Act or the rules of the Board, as a principal, accessory or accomplice.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 328.34a of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 1. A dentist may assign to a dental assistant working under the supervision of the dentist only the tasks not prohibited by the State Dental Act or the rules of the Board of Dentistry and which are permitted under the State Dental Act or the rules of the Board.

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

- a. diagnosis,
- b. treatment planning,
- c. prescription of medications,

- d. placement of restorative materials in a human oral cavity, except as authorized by the Board,
- e. fitting or adjusting of prosthodontic appliances in a human oral cavity, except as authorized by the Board,
- f. surgery,
- g. administration of injectable local anesthesia, nitrous oxide analgesia or general anesthesia,
- h. monitoring of a patient who has been administered nitrous oxide analgesia, except when 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,
- i. parenteral administration of other pharmacologic drugs or agents to a patient,
- j. any procedure that may contribute to or result in an irreversible alteration of the human oral anatomy, or
- k. a Board-approved expanded duty, when the dental assistant does not hold a permit issued by the Board for the expanded duty.

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

SECTION 7. REPEALER 59 O.S. 1991, Sections 328.4, 328.5 and 328.30, as amended by Section 20, Chapter 2, O.S.L. 1996 (59 O.S. Supp. 1997, Section 328.30), are hereby repealed.

SECTION 8. This act shall become effective November 1, 1998.

46-2-9084

KSM