

SHORT TITLE: Dentistry; authorizing dental hygienists to practice in additional locations and expanding service which may be provided; effective date.

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

SENATE BILL NO. 514

By: Long

AS INTRODUCED

An Act relating to dentistry; amending 59 O.S. 1991, Sections 328.3, 328.19, 328.29, 328.30, as amended by Section 20, Chapter 2, O.S.L. 1996, 328.33 and 328.34 and Section 18, Chapter 2, O.S.L. 1996 (59 O.S. Supp. 1996, Sections 328.30 and 328.51a), which relate to the practice, licensure, and discipline of dentists and dental hygienists; adding and modifying definitions; modifying gender references; clarifying acts constituting practice of dentistry; authorizing dental hygienists to practice in additional locations and expanding service which may be provided; requiring authorization of licensed dentist and promulgation of certain rules; deleting certain fees; 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"~~ As used in the State Dental Act:

1. "Certificate of ability" means the license required to practice dental hygiene;

2. "Dental hygiene" or the "practice of dental hygiene" means the science and practice of the promotion of oral health and the prevention and treatment of oral disease through the provision of educational, therapeutic, clinical, and preventive services. These include, but are not limited to:

- a. health history assessment,
- b. dental hygiene examination and the charting of oral conditions which include periodontal charting, dental charting, and classifying occlusion,
- c. dental hygiene assessment and treatment planning for dental hygiene services,
- d. prophylaxis, which means the removal of calcareous deposits, stains, accretions, or concretions from the supragingival and subgingival surfaces of the teeth utilizing instrumentation by scaler or periodontal curette on the crown and root surfaces of human teeth, including rotary or power driven instruments. The use of a rubber cap or brush on the crowns of human teeth by a dental assistant, who holds a current expanded duty permit in coronal polishing issued by the Board, shall not be considered a prophylaxis,
- e. periodontal scaling and root planing,
- f. application of pit and fissure sealants,
- g. application of agents for the prevention and treatment of periodontal disease,
- h. nutritional and dietary evaluation of the dental hygiene patient,
- i. soft tissue curettage,
- j. placement of temporary fillings,
- k. removal of overhanging margins,
- l. removal of periodontal packs,
- m. dental implant maintenance,

n. administration of local anesthesia and nitrous oxide analgesia after completion of training approved by the Board of Dentistry, and

o. other procedures as authorized by statute or rule;

3. "Dental hygienist" means an individual who has fulfilled the educational requirements and is a graduate from an institution of higher education whose dental hygiene educational program has a minimum of two (2) academic years of dental hygiene curriculum and is accredited by the Commission on Dental Accreditation;

4. "Health services facility" means any hospital; nursing home; home health agency; group home serving the elderly, handicapped, and juveniles; state-operated institution of the Department of Corrections; federal, state, and local public health facility; and other such facilities deemed appropriate by the Board;

5. "Organization" means the Registered Dentists of Oklahoma;

~~—(b) The term~~ 6. "Board" or "Board of Governors" means the Board of Governors of the Registered Dentists of Oklahoma. of Dentistry;

~~(c) The term "dentistry"~~ 7. "Dentistry" means the practice of dentistry in all of its branches;

~~(d) The term "dental"~~ 8. "Dental laboratory technology" means the construction, upon the written work authorization 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"~~ 9. "Written work authorization" means 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"~~ 10. "Dentist" means a professionally trained individual who has fulfilled the educational requirements and is a graduate of an accredited dental school and who has been licensed by the Board of Governors to administer to the general public through the practice of dentistry as herein defined.;

~~(g) The term "dental"~~ 11. "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 hygienist" means an individual who has fulfilled the educational requirements and is a graduate of an approved 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"~~ 12. "Dental assistant and/or or dental nurse" means an individual working for the licensed dentist, under his or her supervision, and performing duties in the dental office including the limited treatment of patients in accordance with the provisions of ~~this act~~ the State Dental Act. The dental assistant and/or 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, and rules ~~and regulations~~ promulgated by the Board of Governors.;

~~(j) The term "dental"~~ 13. "Dental laboratory" means an establishment that has been duly granted a permit, and is on the official records of the Board of Governors, where a dental laboratory technician is performing dental laboratory technology. ~~Such~~ A 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; and

~~(k) The term "dental~~ 14. "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 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.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 328.19, is amended to read as follows:

Section 328.19 ~~Any person~~ A. Anyone who acts in the following manner shall be regarded as practicing dentistry within the meaning of ~~this act who~~ the State Dental Act:

~~(a) shall hold himself~~ 1. Holds oneself out or ~~employ~~ employs methods, in any way, representing ~~himself~~ oneself as being engaged in the practice of dentistry;

~~(b) shall hold himself~~ 2. Holds oneself out, in any way, as being able to diagnose or profess to diagnose or examine clinical material and contract for the treating thereof;

~~(c) shall treat~~ 3. Treats or ~~profess~~ professes to treat by professional instructions;

~~(d) shall hold himself~~ 4. Holds oneself out as treating any of the diseases or disorders or lesions of the oral cavity, teeth, gums, maxillary bones, and associate structures;

~~(e) shall remove~~ 5. Removes teeth;

~~(f) shall repair~~ 6. Repairs or ~~fill~~ fills cavities in human teeth;

~~(g) shall correct~~ 7. Corrects or ~~attempt~~ attempts the correction of malposed teeth;

~~(h) shall administer~~ 8. Administers anesthetics, general or local;

~~(i) shall treat~~ 9. Treats deformities of the jaws and adjacent structures;

~~(j) shall use~~ 10. Uses x-ray and ~~interpret~~ interprets dental x-ray film;

~~(k) shall offer~~ 11. Offers or ~~undertake~~ undertakes, by any means or methods, to remove stains, discolorations, or concretions from the teeth;

~~(l) shall operate~~ 12. Operates or ~~prescribe~~ prescribes for any disease, pain, injury, deficiency, deformity, or any physical condition connected with the human mouth;

~~(m) shall take~~ 13. Takes impression of the teeth and jaws;

~~(n) shall furnish, supply, construct, reproduce or repair, or offer~~ 14. Furnishes, supplies, constructs, reproduces, or repairs, or offers to furnish, supply, construct, reproduce, or repair, prosthetic dentures (sometimes known as plates), bridges, or other substitutes for natural teeth for the user or prospective user thereof;

~~(o) shall adjust or attempt or profess~~ 15. Adjusts or attempts or professes to adjust any prosthetic denture, bridge, appliance, or any other structure to be worn in the human mouth;

~~(p) shall diagnose, make and adjust~~ 16. Diagnoses, makes, and adjusts appliances to artificial casts of malposed teeth for treatment of the malposed teeth in the human mouth, without instructions;

~~(q) shall write~~ 17. Writes a work authorization to a dental laboratory or dental laboratory technician for the construction, reproduction or repair of any appliance or structure to be worn in the human mouth; or

~~(r) shall own, maintain, or operate~~ 18. Owns, maintains, or operates an office or offices by holding a financial interest in same for the practice of dentistry.

B. The fact that a person uses any dental degree, or designation, or any card, device, directory, poster, sign or other media ~~whereby he represents~~ to represent himself or herself to be a dentist shall be prima facie evidence that ~~such~~ the person is engaged in the practice of dentistry; provided that nothing in this section shall be so construed as to prevent the following:

~~(a)~~ 1. Physicians or surgeons, who are regularly licensed and registered under the laws of this state, from administering any kind of treatment coming within the province of medicine or surgery;

~~(b)~~ 2. The practice of dentistry in the discharge of their official duties by dentists in the United States Army, the United States Navy, the United States Air Force, the United States Coast Guard, the United States Public Health Service, or the United States Veterans Administration;

~~(c)~~ 3. Dental schools or colleges, as now conducted and approved, or as may be approved, and the practice of dentistry by students in dental schools, colleges or hospitals, approved by the Board ~~of Governors~~, when acting under the direction and supervision of licensed dentists or dentists holding properly issued permits acting as instructors;

~~(d)~~ 4. The practice of dentistry by licensed dentists of other states or countries at meetings of the organization or component parts thereof, alumni meetings of dental colleges, or any other recognized educational dental organization, while appearing as clinicians where no fee is paid by the patient;

~~(e)~~ 5. The practice of dental hygiene, as hereinafter defined, by a person granted a certificate of ability by the Board ~~of Governors~~;

~~(f) The practice of dental hygiene, as defined herein, or the 6.~~  
The performing of acts by a dental assistant ~~and/or~~ or dental nurse who performs ~~said~~ the acts under the direct supervision of the dentist and in accordance with all educational requirements, rules, ~~regulations~~ or procedures relating thereto as promulgated by the Board of Governors; or

~~(g) 7.~~ The fabrication of dental appliances pursuant to a specific work authorization written by a licensed dentist, by a dental laboratory technician in a dental laboratory using inert materials and mechanical devices for the fabrication of any restoration, appliance or thing to be worn in the human mouth.

SECTION 3. AMENDATORY 59 O.S. 1991, Section 328.29, is amended to read as follows:

Section 328.29 A. It shall be unlawful for any dental hygienist to:

~~(a) advertise~~ 1. Advertise or publish, directly or indirectly, or circulate through the usual commercial channels, such as the press, magazines, directories, radio, television, sign, display or by leaflets, the fact that he or she is in the practice of dental hygiene;

~~(b) place~~ 2. Place his or her name in any city, commercial or other directory;

~~(c) place~~ 3. Place his or her name in the classified section of a telephone directory;

~~(d) offer~~ 4. Offer free dental service or examination as an inducement to gain patronage;

~~(e) claim~~ 5. Claim the use of any secret or patented methods or treatments;

~~(f) employ~~ 6. Employ or use solicitors to obtain patronage;

~~(g) pay~~ 7. Pay or accept commission in any form or manner as compensation for referring patients to any person for professional services;

~~(h) in~~ 8. In any way advertise as having ability to diagnose or prescribe for any treatment;

~~(i) publish~~ 9. Publish any schedule or comparative prices or fees for his or her services;

~~(j) claim~~ 10. Claim or infer superiority over other dental hygienists;

~~(k) perform~~ 11. Perform any services in the mouth other than those which are hereafter authorized by the Board of ~~Governors~~ Dentistry pursuant to authority conferred by ~~this act~~ the State Dental Act;

~~(l) attempt~~ 12. Attempt to ~~conduct a practice of~~ dental hygiene ~~in some other location other than in an office of a dentist and under his supervision~~ without the authorization of a licensed dentist;

~~(m) attempt~~ 13. Attempt to use in any manner whatsoever any oral prophylaxis list, call list, records, reprints or copies of same or information gathered therefrom, or the names of patients whom he or she has formerly treated when serving as an employee in the office of a dentist for whom he or she was formerly employed; or

~~(n) fail~~ 14. Fail to keep prominently displayed in the office of the dentist for whom ~~he or she is~~ employed ~~his or her~~ the certificate of ability and annual registration certificate.

B. Any person committing an offense against any of the provisions of this section, including duly promulgated rules ~~and regulations~~ of the Board, shall, upon conviction, be subjected to such penalties as are provided in ~~this act~~ the State Dental Act, and the writ of injunction without bond is made available to the Board ~~of Governors~~ for the enforcement of ~~this act~~ the State Dental Act. Provided, however, a dental hygienist may place his or her name in letters no larger than those used by his or her dentist employer on the door, window or premises, with the letters R.D.H. or the words, dental hygienist, following his or her name.

SECTION 4. AMENDATORY 59 O.S. 1991, Section 328.30, as amended by Section 20, Chapter 2, O.S.L. 1996 (59 O.S. Supp. 1996, Section 328.30), is amended to read as follows:

Section 328.30 Every ~~certified~~ licensed dental hygienist actively engaged in the practice of ~~dentistry or~~ dental hygiene in this state shall display his or her license or certificate of ability and the annual renewal certificate hereinafter provided for in his or her office or place of employment.

SECTION 5. AMENDATORY 59 O.S. 1991, Section 328.33, is amended to read as follows:

Section 328.33 A. The Board of ~~Governors~~ Dentistry shall have the power, after a hearing for any of the causes now existing in the laws of ~~the State of Oklahoma~~ this state, or for a violation of ~~this act~~ the State Dental Act, or for a violation of the ~~prescribed~~ prescribed or the duties, ~~prescribed or the~~ rules and regulations as promulgated by 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~~ the decision to the dental hygienist involved by registered mail to his or her last-known business address. The decision shall be final unless the dental hygienist ~~shall appeal~~ appeals the decision as provided by ~~this act~~ the State Dental 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.

B. The Board ~~of Governors~~ shall have power to revoke or suspend the certificate of ability, reprimand, or place on probation a dental hygienist for a violation of one or more of the following:

~~(a)~~ 1. Upon 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 involving turpitude;

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

~~(c)~~ 3. By reasons of persistent inebriety or addiction to drugs, the dental hygienist is rendered incompetent to continue the practice of dental hygiene;

~~(d)~~ 4. Has been guilty of dishonorable or unprofessional conduct;

~~(e)~~ 5. Has failed to pay registration fees as herein provided;

~~(f)~~ 6. Is a menace to the public health by reason of communicable disease;

~~(g)~~ 7. Has been proven mentally unsound or has been admitted to a mental institution, either public or private, and until ~~he has~~ proven ~~himself~~ mentally competent;

~~(h)~~ 8. Is grossly immoral;

~~(i)~~ 9. Is incompetent in the practice of dental hygiene;

~~(j)~~ 10. Is guilty of willful negligence in the practice of dental hygiene;

~~(k)~~ 11. Has been convicted of violating or has willfully violated the federal or state narcotic or barbiturate laws; or has been committed for treatment for drug addiction to an institution, either public or private, and until ~~he has~~ proven ~~himself~~ cured;

~~(l)~~ 12. Is practicing or attempting to practice dental hygiene in any place other than the office of a dentist, and under his supervision without the authorization of a licensed dentist;

~~(m)~~ 13. 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 or her present employer and were caused to so appear through the legitimate practice of dentistry, as provided for in ~~this act~~ the State Dental Act; or

~~(n)~~ 14. Has violated any part of ~~this act~~ the State Dental Act or rules and regulations of the Board of Governors.

SECTION 6. AMENDATORY 59 O.S. 1991, Section 328.34, is amended to read as follows:

Section 328.34 ~~Any dentist may employ up to two registered dental hygienists. Such dental hygienists may remove lime deposits, accretions, and stains from exposed surfaces of the teeth, and directly beneath the free margin of the gum, give topical caries prevention treatment to the extracoronal surfaces of the teeth, and take x-rays pertaining to the field of dentistry and may perform other acts in accordance with the rules of prescribed duties, regulations and procedures promulgated by the Board of Governors. He may operate only in the office of a dentist, or in hospitals under the direct supervision of dentists; provided, Boards of Education or any organized health service may employ registered hygienists whose services shall be limited to the examination of teeth and the teaching of dental hygiene or as otherwise authorized by the~~ In order to ensure public oral health care access to dental hygiene services, dental hygienists may be employed, and may practice in dental offices, health service facilities, and public or private schools with the authorization of a licensed dentist.

Dental hygienists who practice in health service facilities and public or private schools are required to carry professional liability insurance. Dental hygienists, according to their professional education, may provide other services pertaining to the field of dentistry such as: exposing intra and extra-oral radiographs, application of fluorides and desensitizing agents, cleaning of removable prostheses, removing sutures, and other services in accordance with the rules promulgated by the Board of Governors Dentistry.

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 fees and charges to be imposed 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,<br>Conscious Sedation or Deep<br>Sedation Permit           |                    |                     |
|                         | Dentist  | \$100.00           | \$200.00            |
| 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<br>Examination                                     | \$300.00           | \$600.00            |
| 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<br/>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.</del>           | <u>g.</u> Permit to Operate a Dental Laboratory                                | \$20.00            | \$60.00             |
| <del>i.</del>           | <u>h.</u> General Anesthesia, Conscious<br>Sedation or Deep Sedation<br>Permit |                    |                     |

|         |          |          |
|---------|----------|----------|
| Dentist | \$100.00 | \$200.00 |
|---------|----------|----------|

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 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.</del> | <u>e.</u> Permit to Operate a Dental Laboratory                                 | \$20.00            | \$60.00            |
| <del>g.</del> | <u>f.</u> General Anesthesia,<br>Conscious Sedation, or Deep<br>Sedation Permit |                    |                    |

|         |          |          |
|---------|----------|----------|
| Dentist | \$100.00 | \$200.00 |
|---------|----------|----------|

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. | Prescription Books   | \$2.50  | \$7.50  |
| g. | Preparation of Lists of Dentists, Dental Hygienists,<br>Dental Assistants who hold a Permit for Expanded<br>Duties, and Holders of a Permit to Operate a Dental<br>Laboratory - Per Page | \$0.25  | \$0.75  |

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 Board must be

requested in writing noting the specific use of said list.

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. This act shall become effective November 1, 1997.

46-1-0697 JY