

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. 296

By: Morgan

AS INTRODUCED

An Act relating to the State Dental Act and to insurance; amending 59 O.S. 1991, Section 328.3, as amended by Section 1, Chapter 377, O.S.L. 1998, 328.7, as last amended by Section 2, Chapter 108, O.S.L. 1997, 328.20, as amended by Section 5, Chapter 2, O.S.L. 1996, 328.36, as amended by Section 11, Chapter 2, O.S.L. 1996, 328.39, as amended by Section 12, Chapter 2, O.S.L. 1996, and Section 13, Chapter 2, O.S.L. 1996 (59 O.S. Supp. 1998, Sections 328.3, 328.7, 328.20, 328.36, 328.39 and 328.39a), which relate to definitions, State Board of Dentistry, written work authorizations, permits to operate dental laboratory, dental laboratory technicians, and dental laboratory permit holders; adding certain definitions, changing certain definitions, and deleting certain definitions; deleting certain reference to certain term; deleting certain provision relating to term of service of certain members; providing for filling of vacancies; changing description of certain laboratory work authorized; requiring retention of certain documents for specified period; requiring certain identification of certain items; making certain delivery requirements; regularizing usage; clarifying references; modifying and expanding statements of acts or occurrences constituting grounds for which certain penalties may be imposed; amending Section 1, Chapter 66, O.S.L. 1998 (36 O.S. Supp. 1998, Section 6060.6), which relates to dental procedures for certain minor and severely disabled persons; deleting reference to medical or emotional condition; providing for recodification; repealing 59 O.S. 1991, Sections 328.13, as amended by Section 4, Chapter 108, O.S.L. 1997, 328.17, 328.35 and 328.40, as amended by Section 5, Chapter 108, O.S.L. 1997 (59 O.S. Supp. 1998, Sections 328.13 and 328.40), which relate to vacancies, committees and examining boards for dental specialists, hygienists, and laboratories, definitions, and written work authorizations; 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, as amended by Section 1, Chapter 377, O.S.L. 1998 (59 O.S. Supp. 1998, Section 328.3), is amended to read as follows:

Section 328.3 As used in the State Dental Act, the following words, phrases, or terms, unless the context otherwise indicates, shall have the following meanings:

1. "Accredited dental college" means an institution whose dental educational program is accredited by the Commission on Dental Accreditation of the American Dental Association;

2. "Board" and "Board of Governors" are synonymous and mean the Board of Dentistry;

~~2.~~ 3. "Dentistry" means the practice of dentistry in all of its branches;

~~3. "Dental laboratory technology" means the construction, upon the laboratory prescription of a 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;~~

~~4. "Laboratory prescription" and "work authorization" 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 dental appliance or thing;~~

~~5.~~ 4. "Dentist" means a graduate of an accredited dental college who has been issued a license by the Board to practice dentistry as defined in Section 328.19 of this title;

~~6.~~ 5. "Dental office" means an establishment owned and operated by a 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;

~~7.~~ 6. "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 and who is authorized to practice dental hygiene as hereinafter defined;

~~8.~~ 7. "Dental assistant and/or dental nurse" means an individual working for a dentist, under the dentist's supervision, and performing duties in the dental office, including the limited treatment of patients in accordance with the provisions of the State Dental Act; the dental assistant 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 promulgated by the Board;

~~9.~~ 8. "Dental laboratory" means a location, whether in a dental office or not, where a dentist or a dental laboratory technician performs dental laboratory technology;

~~10.~~ 9. "Dental laboratory technician" means an individual whose name is duly filed in the official records of the Board, which authorizes the technician, upon the laboratory prescription of a 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~~ perform dental laboratory technology, which services must be rendered only to the prescribing dentist and not to ~~any actual user or prospective user~~ the public;

10. "Dental laboratory technology" means using materials and mechanical devices for the construction, reproduction or repair of dental restorations, appliances or other devices to be worn in a human mouth;

11. "Dental specialty" means a specialized practice of a branch of dentistry, recognized and defined by the American Dental Association and the rules of the Board; ~~and~~

12. "Laboratory prescription" means a written description, dated and signed by a dentist, of dental laboratory technology to be performed by a dental laboratory technician; and

13. "Out-of-state dentist" means a graduate of an accredited dental college who holds a license to practice dentistry in another state but who is not licensed to practice dentistry in this state.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 328.7, as last amended by Section 2, Chapter 108, O.S.L. 1997 (59 O.S. Supp. 1998, Section 328.7), is amended to read as follows:

Section 328.7 A. 1. Pursuant to Section 39 of Article V of the Oklahoma Constitution ~~of the State of Oklahoma~~, there is hereby created 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 dentist members, one dental hygienist member and two members who shall represent the public. One dentist member shall be elected by the dentists residing in each of the eight geographical districts established by subsection C of this section. 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 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.

~~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.

D. A vacancy among the dentist members of the Board 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. A vacancy of the dental hygienist member on the Board 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, the vacancy shall be filled by appointment by the Board. A vacancy among the public representative members of the Board shall be filled by appointment by the Governor, subject to confirmation by the Senate.

SECTION 3. AMENDATORY 59 O.S. 1991, Section 328.20, as amended by Section 5, Chapter 2, O.S.L. 1996 (59 O.S. Supp. 1998, Section 328.20), is amended to read as follows:

Section 328.20 A. A dentist may utilize a dental laboratory technician and a dental laboratory to ~~construct, reproduce or repair, extraorally, prosthetic teeth, prosthetic dentures, bridges, other replacements for teeth, splints or orthodontic or prosthetic appliances to be worn in a human mouth~~ perform dental laboratory technology. Except as provided in subsection C of Section 328.36 of this title, a dentist who utilizes the services of a dental laboratory technician or dental laboratory shall furnish a ~~written~~

~~work authorization~~ laboratory prescription for each patient for whom a work product is ~~requested~~ prescribed.

B. ~~Written work authorizations~~ Laboratory prescriptions issued by a dentist shall be in duplicate on consecutively numbered forms approved by the Board of Dentistry and shall be completed in full and signed by the prescribing dentist. A The owner of a dental laboratory shall retain each original laboratory prescription received from a prescribing dentist and produce the document for inspection and copying by a member of the Board or by an agent or employee of the Board, for a period of three (3) years from the date of the laboratory prescription. The prescribing dentist is required to shall retain the duplicate copy of each written work authorization laboratory prescription and to produce the copy document for inspection and copying by a member of the Board or by an agent or employee of the Board, for a period of three (3) years from the date of the written work authorization laboratory prescription.

C. The number of the laboratory prescription shall appear on all dental models and correspond to all dental restorations, appliances or other devices being constructed, reproduced or repaired. Any dental model, restoration, appliance or other device in the possession of a dental laboratory technician or dental laboratory without a laboratory prescription and corresponding number on the model, restoration, appliance or device shall be prima facie evidence of a violation of the State Dental Act. After completion, the prescribed work product shall be returned by the dental laboratory technician or dental laboratory to the prescribing dentist or the dental office of the dentist with the name or number of the laboratory prescription accompanying the invoice.

SECTION 4. AMENDATORY 59 O.S. 1991, Section 328.36, as amended by Section 11, Chapter 2, O.S.L. 1996 (59 O.S. Supp. 1998, Section 328.36), is amended to read as follows:

Section 328.36 A. 1. ~~All persons, firms, corporations or partnerships in this state who desire~~ Any person, firm, corporation, partnership or other legal entity who desires to operate a dental laboratory, ~~in this state~~ shall file with the Board of Dentistry a ~~written application,~~ on a form prescribed by the Board, an application for a permit to operate a dental laboratory and pay the fee established by the rules of the Board. ~~This~~ The application shall include the ~~names and addresses of all persons, firms, corporations or partnerships owning or operating~~ name and address of each person, firm, corporation, partnership or other legal entity who owns an interest in or will operate the dental laboratory. Upon receipt of the application and fee, the Board shall determine the qualifications of the applicant and may grant a permit to the applicant to operate a dental laboratory ~~within the state.~~

2. Except as provided in subsection C of this section, no person, firm, corporation, ~~or~~ partnership or other legal entity shall operate a dental laboratory in this state without having obtained a permit from the Board.

B. Any change in ownership, operation or location of a dental laboratory shall immediately be communicated to the Board, which shall endorse upon the permit, without further fee, the change in ownership, operation or location.

C. Nothing in the State Dental Act shall be construed to:

1. Prohibit a dentist from owning or operating a private, noncommercial dental laboratory in a dental office for the dentist's use in the practice of dentistry;

2. Require a dentist to obtain a permit from the Board for the operation of a dental laboratory in the office of the dentist unless dental laboratory technology is provided to persons other than the dentist at that location; or

3. Require a dentist to issue a ~~written work authorization~~ laboratory prescription for dental laboratory technology to be



provided by an employee of, in the office of, and for a patient of, the dentist.

SECTION 5. AMENDATORY 59 O.S. 1991, Section 328.39, as amended by Section 12, Chapter 2, O.S.L. 1996 (59 O.S. Supp. 1998, Section 328.39), is amended to read as follows:

Section 328.39 The following acts or occurrences by a dental laboratory technician shall constitute grounds for which the penalties specified in Section ~~16~~ 328.44a of this ~~act~~ title may be imposed by order of the Board of Dentistry:

1. Publishing a false, fraudulent or misleading advertisement or statement;

2. ~~Providing~~ Performing or providing dental laboratory technology at a location for which no permit to operate a dental laboratory has been issued by the Board, except as provided in subsection C of Section 328.36 of ~~Title 59 of the Oklahoma Statutes~~ this title;

3. ~~Constructing, reproducing, altering, restoring, repairing, furnishing or supplying a prosthetic tooth, teeth, dentures, bridges, crowns, or other substitutes for human teeth or gums, or portions thereof, without a written work authorization~~ Performing or providing dental laboratory technology without a laboratory prescription of a dentist, except as provided in subsection C of Section 328.36 of this title;

4. Failing to return a prescribed work product to a the prescribing dentist or the dental office of the dentist;

5. Refusing to allow a member of the Board or an agent or employee of the Board to inspect laboratory prescriptions or dental restorations, appliances or other devices that are being constructed, reproduced or repaired;

6. Possessing dental equipment not necessary for performing dental laboratory technology;

~~6.~~ 7. Being dishonest in a material way with a dentist; or

~~7.~~ 8. 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. AMENDATORY Section 13, Chapter 2, O.S.L. 1996 (59 O.S. Supp. 1998, Section 328.39a), is amended to read as follows:

Section 328.39a The following acts or occurrences by a holder of a permit to operate a dental laboratory shall constitute grounds for which the penalties specified in Section ~~16~~ 328.44a of this ~~act~~ title may be imposed by order of the Board of Dentistry:

1. Publishing a false, fraudulent or misleading advertisement or statement;
2. ~~Providing~~ Performing or providing dental laboratory technology at a location for which no permit to operate a dental laboratory has been issued by the Board, except as provided in subsection C of Section 328.36 of Title 59 of the Oklahoma Statutes;
3. ~~Constructing, reproducing, altering, restoring, repairing, furnishing or supplying a prosthetic tooth, teeth, dentures, bridges, crowns, or other substitutes for human teeth or gums, or portions thereof, without a written work authorization~~ Performing or providing dental laboratory technology without a laboratory prescription of a dentist, except as provided in subsection C of Section 328.36 of ~~Title 59 of the Oklahoma Statutes~~ this title;
4. Failing to return a prescribed work product to a prescribing dentist or the dental office of the dentist;
5. Refusing to allow a member of the Board or an agent or employee of the Board to inspect laboratory prescriptions or dental restorations, appliances or other devices that are being constructed, reproduced or repaired;
6. Failing to retain an original laboratory prescription received from a prescribing dentist for a period of three (3) years from the date of the laboratory prescription, except that the

failure to retain a document shall not be a violation of the State Dental Act if the owner of the dental laboratory shows that the document was lost, destroyed, or removed by another, without the consent of the owner;

7. Possessing dental equipment not necessary for performing dental laboratory technology;

~~6.~~ 8. Failing to pay fees as required by the State Dental Act or the rules of the Board;

~~7.~~ 9. Operating a dental laboratory without displaying, at the primary place of operation, a permit issued by the Board for the operation of the dental laboratory and the current renewal certificate;

~~8.~~ 10. Being dishonest in a material way with a dentist; or

~~9.~~ 11. 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 7. AMENDATORY Section 1, Chapter 66, O.S.L. 1998 (36 O.S. Supp. 1998, Section 6060.6), is amended to read as follows:

Section 6060.6 A. Any health benefit plan that is offered, issued or renewed in this state on or after January 1, 1999, that provides hospitalization benefits shall provide coverage for anesthesia expenses, hospital and ambulatory surgical center expenses, and physician expenses associated with any medically necessary dental procedure when provided to a covered person who is:

1. Severely disabled; or

2. A minor eight (8) years of age or ~~under~~ younger,

and who ~~has a medical or emotional condition which~~ requires hospitalization or general anesthesia for dental care.

B. A health benefit plan may require prior authorization for either inpatient or outpatient hospitalization for dental care in the same manner that prior authorization is required for hospitalization for other covered diseases or conditions.

C. Coverage provided for in subsection A of this section shall be subject to the same annual deductibles, copayments or coinsurance limits as established for all other covered benefits under the health benefit plan.

D. As used in this section, "health benefit plan" means any plan or arrangement as defined in subsection C of Section 6060.4 of ~~Title 36 of the Oklahoma Statutes~~ this title.

SECTION 8. RECODIFICATION 59 O.S. 1991, Section 328.20, as last amended by Section 3 of this act, shall be recodified as Section 328.36a of Title 59 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 9. REPEALER 59 O.S. 1991, Sections 328.13, as amended by Section 4, Chapter 108, O.S.L. 1997, 328.17, 328.35 and 328.40, as amended by Section 5, Chapter 108, O.S.L. 1997 (59 O.S. Supp. 1998, Sections 328.13 and 328.40), are hereby repealed.

SECTION 10. This act shall become effective November 1, 1999.

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