

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

SENATE BILL 978

By: Morgan

AS INTRODUCED

An Act relating to professions and occupations; amending 59 O.S. 2001, Sections 328.29, 328.33 and 328.34, which relate to the State Dental Act; modifying unlawful acts and violations by dental hygienists; clarifying language; authorizing dental hygiene practice under certain circumstances; requiring evaluation of certain dental hygiene services; providing for codification; making language gender neutral; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2001, Section 328.29, is amended to read as follows:

Section 328.29 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 pursuant to authority conferred by this 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~~ the dentist's supervision, except as provided in Section 328.34 of this title and Section 4 of this act;

~~(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~~ a certificate of ability and an annual registration certificate.

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, and the writ of injunction without bond is made available to the Board of Governors for the enforcement of this act. Provided, however, a dental hygienist may place his or her name in letters no larger than those used by ~~his or her~~ the 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 2. AMENDATORY 59 O.S. 2001, Section 328.33, is amended to read as follows:

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

~~(l)~~ 12. Is practicing or attempting to practice dental hygiene in any place other than the office of a dentist, and under ~~his~~ the supervision of a dentist, except as provided in Section 328.34 of this title and Section 4 of this act;

~~(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~~ the dental hygienist's present employer and were caused to so appear through the legitimate practice of dentistry, as provided for in this act; or

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

SECTION 3. AMENDATORY 59 O.S. 2001, 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, including application of sealants, in accordance with the rules of prescribed duties, regulations and procedures promulgated by the Board of Governors. ~~He~~ A dental hygienist may operate only ~~in:~~

1. In the office of a dentist, ~~or in;~~

2. In hospitals under the direct supervision of dentists;

~~provided, Boards~~

3. As an employee of a board of Education education or any organized health service ~~may employ registered hygienists whose~~ where services shall be limited to the examination of teeth and the teaching of dental hygiene;

4. In a public or private school where the licensed dentist who employs the registered dental hygienist is under a Medicaid contract with the Oklahoma Health Care Authority which authorizes dental services for Medicaid eligible individuals; or ~~as~~

5. As otherwise authorized by the Board of Governors.

SECTION 4. 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 registered dental hygienist, employed by a licensed dentist who is under contract with the Oklahoma Health Care Authority to provide dental services funded by Medicaid in a public or private school, may practice dental hygiene under that contract pursuant to Section 328.34 of Title 59 of the Oklahoma Statutes. The dental hygiene treatment shall be evaluated by the dentist within a reasonable time as determined by the nature of the procedures performed, the needs of the patient, and the professional judgment of the dentist, and such evaluation shall be discussed with the parent or guardian of the Medicaid eligible individual.

SECTION 5. This act shall become effective November 1, 2002.

48-2-2240

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