

ENGROSSED SENATE AMENDMENT
TO
ENGROSSED HOUSE
BILL NO. 1443

By: Stanley of the House

and

Crutchfield of the Senate

(public health and safety - amending 59 O.S.,
Section 328.43a - State Board of Dentistry - review
panels - codification - effective date -
emergency)

AMENDMENT NO. 1. Page 1, strike the stricken title, enacting
clause and entire bill and insert

"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 by dental hygienists;
updating references; clarifying language; making
language gender neutral; modifying and adding new
criteria for Board revocation or suspension of
license; providing for practice of dental hygiene in
specified locations; modifying number of hygienists
which may be employed; deleting activities authorized
for dental hygienists; authorizing dentist to
delegate specified procedures; providing specified
limits on performance of such procedures; requiring
treatment facilities to maintain specified records;
authorizing treatment facilities to employ certain
persons; authorizing Board to promulgate certain
rules, establish specified guidelines, authorize
specified procedures and establish level of
supervision; prohibiting independent practice of
dental hygiene; providing construction of act; and
declaring an emergency.

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 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~~ in any place or in any manner other than ~~in an office of a dentist and under his supervision~~ as authorized by Section 328.34 of this title;

~~(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 ~~certificate of ability~~ license and annual ~~registration~~ renewal certificate.

B. 1. Any person committing an offense against any of the provisions of this section, including, but not limited to, duly promulgated rules ~~and regulations~~ of the Board shall, upon conviction thereof, be subjected to such penalties as are provided in ~~this act,~~ and the State Dental Act.

2. A writ of injunction without bond ~~is~~ shall be made available to the Board of ~~Governors~~ Dentistry for the enforcement of ~~this act~~ the State Dental Act. ~~Provided, however,~~

C. It shall not be a violation of the State Dental Act for a dental hygienist ~~may~~ to 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 2. AMENDATORY 59 O.S. 2001, 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, to revoke or suspend a license of a dental hygienist or to discipline by probation or reprimand, public or private, for any:

1. Any of the causes now existing in the laws of the State of Oklahoma, ~~or for a;~~

2. A violation of this act, the provisions of the State Dental Act; or ~~for a~~

3. A violation of the ~~prescribed duties, rules and regulations~~ as of 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~~ promulgated pursuant to the State Dental Act.

B. The Board ~~of Governors~~ shall also have the power to ~~pass~~ act upon ~~all petitions~~ a petition 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~~ license or reprimand or probation of a dental hygienist ~~and.~~ The Board 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~~ the last-known business address of the dental hygienist.

C. 1. The decision shall be final unless the dental hygienist ~~shall appeal~~ appeals the decision as provided by ~~this act~~ the State Dental Act.

2. 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.

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

~~(a) Upon presentation to the Board of Governors of a certified copy of a court record, showing that a dental hygienist has been~~

1. Pleading guilty or nolo contendere to, or being convicted of, a ~~crime~~ felony, a misdemeanor involving moral turpitude, or a violation of federal or state controlled dangerous substances laws;

~~(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)~~ ~~By reasons~~ 3. Being, by reason 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 by the State Dental Act;

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

~~(g)~~ 7. Has been proven mentally ~~unsound~~ incapacitated or has been admitted to a mental institution, either public or private, and until ~~he~~ the dental hygienist has been proven himself to be 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 a~~ facility, either public or private, and until ~~he~~ the dental hygienist has been proven himself cured;

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

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

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

14. Violating the state dental act of another state resulting in a plea of guilty or nolo contendere, conviction or suspension or revocation of the license of the dental hygienist under the laws of that state;

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

16. Failing to comply with the terms and conditions of an order imposing suspension of a license or placement on probation issued pursuant to Section 328.44a of this title.

SECTION 3. AMENDATORY 59 O.S. 2001, Section 328.34, is amended to read as follows:

Section 328.34 ~~Any~~ A. A dental hygienist may practice dental hygiene under the supervision of a dentist in a dental office or treatment facility. A dentist may employ up to not more than the equivalent of two full-time registered dental hygienists for each dentist actively practicing in the same dental office. 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 Board of Governors.~~

B. 1. A dentist may delegate to a dental hygienist the following procedures:

- a. the duties and expanded duties authorized for dental assistants by the State Dental Act or the rules of the Board of Dentistry,
- b. health history assessment pertaining to dental hygiene,
- c. dental hygiene examination and the charting of intra-oral and extra-oral conditions, which include periodontal charting, dental charting and classifying occlusion,
- d. dental hygiene assessment and treatment planning for procedures authorized by the supervisory dentist,
- e. prophylaxis, which means the removal of any and all calcareous deposits, stains, accretions, or concretions from the supragingival and subgingival surfaces of human teeth, utilizing instrumentation by scaler or periodontal curette on the crown and root surfaces of human teeth, including rotary or power driven instruments. This paragraph shall not be construed to prohibit 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 for Coronal Polishing/Topical Fluoride issued by the Board,
- f. periodontal scaling and root planing,
- g. dental hygiene nutritional and dietary evaluation,

- h. placement of subgingival prescription drugs for prevention and treatment of periodontal disease,
- i. soft tissue curettage,
- j. placement of temporary fillings,
- k. removal of overhanging margins,
- l. dental implant maintenance,
- m. removal of periodontal packs,
- n. polishing of amalgam restorations, and
- o. other procedures authorized by the Board.

2. The procedures specified in subparagraphs b through o of paragraph 1 of this subsection may be performed only by a dentist or a dental hygienist.

3. Except as provided in subsections C and D of this section, the procedures specified in paragraph 1 of this subsection may be performed by a dental hygienist only on a patient of record and only under the supervision of a dentist. The level of supervision, whether direct, indirect or general, shall be at the discretion of the supervisory dentist. Authorization for general supervision shall be limited to a maximum of thirteen (13) months following an examination by the supervisory dentist of a patient of record.

C. 1. A dentist may authorize procedures to be performed by a dental hygienist, without complying with the provisions of paragraph 3 of subsection B of this section, if:

- a. the dental hygienist has at least two (2) years experience in the practice of dental hygiene,
- b. the authorization to perform the procedures is in writing and signed by the dentist, and
- c. the procedures are performed during an initial visit to a person in a treatment facility.

2. The person upon whom the procedures are performed must be referred to the authorizing dentist after completion of the procedures performed pursuant to paragraph 1 of this subsection.

3. A dental hygienist shall not perform a second set of procedures on a person pursuant to this subsection until the person has been examined and accepted for dental care by the authorizing dentist.

4. The treatment facility in which any procedure is performed by a dental hygienist pursuant to this subsection shall note each such procedure in the medical records of the person upon whom the procedure was performed.

D. A treatment facility may employ dental hygienists whose services shall be limited to the examination of teeth and the teaching of dental hygiene or as otherwise authorized by the Board.

E. The Board is authorized to:

1. Prescribe, by rule, advanced procedures that may be performed by a dental hygienist who has satisfactorily completed a course of study regarding the performance of such procedures. The advance procedures shall include the administration of local anesthesia and the administration of nitrous oxide analgesia;

2. Establish guidelines for courses of study necessary for a dental hygienist to perform advanced procedures;

3. Issue authorization to perform advanced procedures to those dental hygienists who meet the eligibility requirements; and

4. Establish the level of supervision, whether direct, indirect or general, under which the advanced procedures may be performed.

F. A dental hygienist shall not own or operate an independent practice of dental hygiene.

G. Nothing in the State Dental Act shall be construed to prohibit a dentist from performing any of the procedures that may be performed by a dental hygienist.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval."

Passed the Senate the 1st day of April, 2003.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2003.

Presiding Officer of the House
of Representatives