

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

HOUSE BILL HB1312

By: Paulk

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; updating language; removing certain practices from list of unlawful practices and from those subject to revocation and suspension and other administrative penalties; providing for dental hygiene license to practice; specifying authorized practices; providing for powers and duties of the State Board of Dentistry; authorizing dental hygienists to practice in specified places; 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 It shall be unlawful for any dental hygienist to:

~~(a) advertise~~ A. 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~~ the State Dental Act;

~~(l)~~ 12. Practice or attempt to conduct a practice of dental hygiene in some other any location other than in an office of a dentist and under his supervision those authorized pursuant to the State Dental Act or rules promulgated by the Board thereto;

~~(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 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 State Board of Dentistry 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,~~

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. 1. The State 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, or for a violation of ~~this act~~ the State Dental Act, or for a violation of the prescribed duties, rules ~~and regulations~~ as the Board ~~of Governors~~ may ~~adopt~~ promulgate, to revoke or suspend a certificate of ability of a dental hygienist or to discipline by probation or reprimand, public or private.

2. The Board ~~of Governors~~ shall also have the power to pass upon all petitions by a dental hygienist for reinstatement to good standing.

3. 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 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 last-known business address. The decision shall be final unless the dental hygienist ~~shall appeal~~ appeals 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~~ the dental hygienist 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~~ license, 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 in 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 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~~ controlled dangerous substance 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~~ been cured;

~~(l)~~ ~~Is practicing~~ 12. ~~The practice of or attempting~~ the attempt to practice dental hygiene in any ~~place~~ location other than ~~the~~

~~office of a dentist, and under his supervision~~ those authorized pursuant to the State Dental Act or rules promulgated by the Board thereto;

~~(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 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 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 in accordance with the rules of prescribed duties, regulations and procedures promulgated by the Board of Governors.~~

He A. Dental hygienists having been issued a certificate of ability by the Board, which is a license to practice dental hygiene in this state, may provide dental hygiene services pursuant to this section if such dental hygienists have completed a minimum of two (2) academic years of dental hygiene curriculum from an institution of higher education which has been accredited by the Commission on Dental Accreditation of the American Dental Association.

B. 1. The procedures and services specified in this subsection which may be provided by a licensed dental hygienist include but are not limited to the following:

- a. all procedures and expanded duties authorized for dental assistants,
- 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 teeth, including instrumentation by scaler or periodontal curette on the crowns and root surfaces of human teeth, including rotary or power-driven instruments. This subparagraph shall not be construed to prohibit the use of a rubber cup 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; provided that procedure is not represented as a prophylaxis,
- 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,
- o. advanced procedures authorized by the Board which includes the administration of local anesthesia and administration of nitrous oxide analgesia after completion of a course of study approved by the Board of Dentistry and under the supervision guidelines provided by rule, and
- p. other procedures as authorized by statute or rules promulgated by the Board pursuant to the State Dental Act.

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

3. The procedures specified in paragraph 1 of this subsection may be performed by a dental hygienist only under the supervision of a dentist. Unless otherwise provided for by the State Dental Act or by rules promulgated by the State Board of Dentistry pursuant thereto, the level of supervision shall be at the discretion of the supervisory dentist.

C. The Board is authorized and empowered to:

1. Prescribe, by rule, advanced procedures that may be performed by a dental hygienist who has satisfactorily completed a Board-approved course of study and examination regarding the performance of such procedures;

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.

D. A dental hygienist may operate only practice:

1. Under supervision of a dentist:

- a. in the office of a dentist, ~~or~~
- b. 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,~~
- c. in clinical facilities of accredited dental colleges and dental hygiene programs,
- d. for boards of education, and
- e. for any organized health service; and

2. In such other settings as provided for by the State Dental Act or rules promulgated by the Board of Dentistry pursuant thereto.

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.

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