

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

HOUSE BILL HB1444

By: Stanley

AS INTRODUCED

An Act relating to professions and occupations; amending 59 O.S. 2001, Sections 328.3, 328.29, 328.33 and 328.34, which relate to the State Dental Act; adding and modifying definitions; authorizing the practice of dental hygiene in treatment facilities; authorizing certain delegations; authorizing certain discretion; adding to powers and duties of the State Board of Dentistry relating to dental hygienists and dental assistants; authorizing advanced procedures; providing for guidelines, levels of suspension and eligibility requirements; prohibiting certain actions; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2001, Section 328.3, 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. "Accredited dental hygiene program" means a dental hygiene educational program which is accredited by the Commission on Dental Accreditation of the American Dental Association;

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

4. "Dentistry" means the practice of dentistry in all of its branches;

5. "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. "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. "Dental hygienist" means an individual who has fulfilled the educational requirements and is a graduate of an accredited dental hygiene program and who has passed an examination and has been issued a ~~certificate of ability~~ license by the Board and who is authorized to practice dental hygiene ~~as hereinafter defined~~;

8. "Dental assistant and/or dental nurse" means an individual working for a dentist, under the dentist's direct supervision, and performing duties in the dental office or a treatment facility, including the limited treatment of patients in accordance with the provisions of the State Dental Act; ~~the~~. A dental assistant or dental nurse may assist ~~the~~ a 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. "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. "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 perform dental laboratory technology, which services must be rendered only to the prescribing dentist and not to the public;

11. "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;

12. "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;

13. "Direct supervision" means the supervisory dentist is in the dental office or treatment facility and, during the appointment, personally examines the patient, personally diagnoses any conditions to be treated, personally authorizes the procedures to be performed by a dental hygienist or dental assistant, remains in the dental office or treatment facility while the procedures are being performed and, before dismissal of the patient, evaluates the results of the dental treatment;

14. "General supervision" means the supervisory dentist has previously diagnosed any conditions to be treated, has personally authorized the procedures to be performed by a dental hygienist, and will evaluate the results of the dental treatment within a reasonable time as determined by the nature of the procedures performed, the needs of the patient, and the professional judgment of the supervisory dentist;

15. "Indirect supervision" means the supervisory dentist is in the dental office or treatment facility and, during the appointment, personally examines the patient, personally diagnoses any conditions to be treated, personally authorizes the procedures to be performed by a dental hygienist, remains in the dental office or treatment facility while the procedures are being performed, and will evaluate the results of the dental treatment within a reasonable time as determined by the nature of the procedures performed, the needs of the patient, and the professional judgment of the supervisory dentist;

16. "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~~

~~14.~~ 17. "Out-of-state dental hygienist" means a graduate of an accredited dental hygiene program who holds a license to practice dental hygiene in another state or territory but who is not licensed to practice dental hygiene in this state;

18. "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;

19. "Patient" or "patient of record" means an individual who has given a medical history, and has been examined and accepted for dental care by a dentist;

20. "Supervision" means direct supervision, indirect supervision, or general supervision; and

21. "Treatment facility" means:

- a. a federal, state or local public health facility,
- b. a group home or residential care facility servicing the elderly, handicapped or juveniles,
- c. a hospital,
- d. a nursing home,
- e. a penal institution operated by or under contract with the federal or state government,
- f. a public or private school,
- g. a patient of record's private residence,
- h. an accredited dental college,
- i. an accredited dental hygiene program, or
- j. such other places as are authorized by the rules of the Board.

SECTION 2. 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 other than in ~~an~~ a dental office

~~of a dentist~~ or a treatment facility and under ~~his~~ the supervision of a 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 ~~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~~ the State Dental Act, ~~and the~~.

2. A writ of injunction without bond ~~is~~ shall be 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 3. 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 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)~~ 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 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 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, 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 other than ~~the~~ a dental office of a dentist or treatment facility, and under ~~his~~ the supervision of a 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~~ 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)~~ 14. Has violated any part of ~~this act~~ the State Dental Act or rules ~~and regulations~~ of the Board ~~of Governors~~.

SECTION 4. 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 or a treatment facility 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 or treatment facility. 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. A dentist may delegate to a dental hygienist the following procedures:

1. The procedures and expanded duties authorized for dental assistants by the State Dental Act or the rules of the Board;
2. Health history assessment pertaining to dental hygiene;

3. Dental hygiene examination and the charting of intra-oral and extra-oral conditions, which include periodontal charting, dental charting and classifying occlusion;

4. Dental hygiene assessment and treatment planning for procedures authorized by the supervisory dentist;

5. Prophylaxis, which means the removal of calcareous deposits, stains, accretions, or concretions from the supra gingival 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 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;

6. Periodontal scaling and root planing;

7. Dental hygiene nutritional and dietary evaluation;

8. Placement of subgingival prescription drugs for prevention and treatment of periodontal disease;

9. Soft tissue curettage;

10. Place of temporary fillings;

11. Removal of overhanging margins;

12. Dental implant maintenance;

13. Removal of periodontal packs; and

14. Polishing of amalgam restorations.

C. The procedures specified in paragraphs 2 through 14 of subsection B of this section may be performed only by a dentist or a dental hygienist.

D. The procedures specified in subsection B of this section 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, except that authorization for general

supervision shall be limited to a maximum period of time established by the rules of the Board, not exceeding thirteen (13) months, following an examination by the supervisory dentist of a patient of record.

E. 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 course of study 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.

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 5. 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. The Board of Dentistry is authorized and empowered to prescribe, by rule, the duties which may be performed by a dental assistant; provided, however, all duties of a dental assistant shall be performed only in a dental office or treatment facility and only under the direct supervision of a dentist.

B. The Board is authorized and empowered to:

1. Prescribe, by rule, expanded duties that may be performed by a dental assistant who has satisfactorily completed a course of study regarding the performance of such duties;

2. Establish guidelines for courses of study necessary for a dental assistant to perform expanded duties; and

3. Issue expanded duty permits to those dental assistants who meet the eligibility requirements.

SECTION 6. This act shall become effective November 1, 2003.

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