

ENGROSSED HOUSE
BILL NO. 2458

By: Peterson (Pam) and Auffet
of the House

and

Lamb of the Senate

An Act relating to professions and occupations;
amending 59 O.S. 2001, Sections 328.3, as last
amended by Section 1, Chapter 377, O.S.L. 2005 and
328.15, as last amended by Section 2, Chapter 377,
O.S.L. 2005 (59 O.S. Supp. 2005, Sections 328.3 and
328.15), which relate to the State Dental Act;
modifying definition; deleting limitation on
investigators licensed by the Board of Dentistry; 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, as
last amended by Section 1, Chapter 377, O.S.L. 2005 (59 O.S. Supp.
2005, 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" means 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 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. A dental assistant or dental nurse may assist 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, diagnoses any conditions to be treated, 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 has personally diagnosed any conditions to be treated, 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. "Investigations" means an investigation proceeding, authorized under Sections 328.15 and 328.43a of this title, to

investigate alleged violations of the State Dental Act or the rules of the Board;

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

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

19. "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;

20. "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;

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

22. "Treatment facility" means:

- a. a federal, state or local public health facility,
- b. a private health facility,
- c. a group home or residential care facility serving the elderly, handicapped or juveniles,
- d. a hospital,
- e. a nursing home,
- f. a penal institution operated by or under contract with the federal or state government,
- g. a public or private school,
- h. a patient of record's private residence,
- i. a mobile dental unit,
- j. an accredited dental college,
- ~~j.~~ k. an accredited dental hygiene program, or

~~k.~~ 1. such other places as are authorized by the rules of the Board.

SECTION 2. AMENDATORY 59 O.S. 2001, Section 328.15, as last amended by Section 2, Chapter 377, O.S.L. 2005 (59 O.S. Supp. 2005, Section 328.15), is amended to read as follows:

Section 328.15 A. Pursuant to and in compliance with Article I of the Administrative Procedures Act, the Board of Dentistry shall have the power to formulate, adopt, and promulgate rules as may be necessary to regulate the practice of dentistry in this state and to implement and enforce the provisions of the State Dental Act.

B. The Board is authorized and empowered to:

1. Examine and test the qualifications of applicants for a license or permit to be issued by the Board;

2. Affiliate by contract or cooperative agreement with another state or combination of states for the purpose of conducting simultaneous regional examinations of applicants for a license to practice dentistry, dental hygiene, or a dental specialty;

3. Maintain a list of the name, current mailing address and principal office address of all persons who hold a license or permit issued by the Board;

4. Account for all receipts and expenditures of the monies of the Board, including annually preparing and publishing a statement of receipts and expenditures of the Board for each fiscal year. The Board's annual statement of receipts and expenditures shall be audited by the State Auditor and Inspector or an independent accounting firm, and the audit report shall be certified to the Governor of this state to be true and correct, under oath, by the president and secretary-treasurer of the Board;

5. Within limits prescribed in the State Dental Act, set all fees and administrative penalties to be imposed and collected by the Board;

6. Maintain an office staff and employ legal counsel and other advisors to the Board, including advisory committees;

7. Investigate and issue investigative and other subpoenas, pursuant to Article II of the Administrative Procedures Act;

8. Initiate individual proceedings and issue orders imposing administrative penalties, pursuant to Article II of the Administrative Procedures Act, against any dentist, dental hygienist, dental assistant, dental laboratory technician, or holder of a permit to operate a dental laboratory who has violated the State Dental Act or the rules of the Board;

9. Conduct, in a uniform and reasonable manner, inspections of dental offices and dental laboratories and their business records;

10. Establish guidelines for courses of study necessary for expanded duties of dental assistants and, when appropriate, issue permits authorizing dental assistants to perform expanded duties;

11. Establish continuing education requirements for dentists, dental hygienists, and dental assistants who hold expanded duty permits issued by the Board;

12. Recognize the parameters of care established and approved by the American Dental Association;

13. Formulate, adopt, and promulgate rules, pursuant to Article I of the Administrative Procedures Act, as may be necessary to implement and enforce the provisions of the Oklahoma Dental Mediation Act;

14. Hire one or more investigators to conduct investigations of alleged violations of the State Dental Act or the rules of the Board. The investigator may be a certified peace officer who shall be commissioned with all the powers and authority of peace officers of this state ~~for the sole purpose of enforcement of the State Dental Act and rules of the Board as they relate to those individuals that are licensed, receive certificates and permits from the State Dental Board;~~

15. Seek and receive advice and assistance of the Office of the Attorney General of this state;

16. Promote the dental health of the people of this state;

17. Inform, educate, and advise all persons who hold a license or permit issued by the Board, or who are otherwise regulated by the Board, regarding the State Dental Act and the rules of the Board;

18. Affiliate with the American Association of Dental Examiners as an active member, pay regular dues, and send members of the Board as delegates to its meetings;

19. Enter into contracts;

20. Acquire, rent, hold, encumber, and dispose of personal property as is needed;

21. Receive or accept the surrender of a license, permit, or certificate granted to any person by the Board as provided in Section 328.44a of this title; and

22. Take all other actions necessary to implement and enforce the State Dental Act.

SECTION 3. This act shall become effective November 1, 2006.

Passed the House of Representatives the 15th day of March, 2006.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2006.

Presiding Officer of the Senate