

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1862

By: Kirt

6
7 COMMITTEE SUBSTITUTE

8 An Act relating to the practice of dentistry;
9 amending 59 O.S. 2011, Section 328.19, as last
10 amended by Section 6, Chapter 229, O.S.L. 2015 (59
11 O.S. Supp. 2019, Section 328.19), which relates to
12 acts constituting practice of dentistry; modifying
13 certain list of acts; amending 59 O.S. 2011, Section
14 328.21, as last amended by Section 3, Chapter 397,
15 O.S.L. 2019 (59 O.S. Supp. 2019, Section 328.21),
16 which relates to application for license; broadening
17 accepted examinations; amending 59 O.S. 2011, Section
18 328.23a, as amended by Section 10, Chapter 229,
19 O.S.L. 2015 (59 O.S. Supp. 2019, Section 328.23a),
20 which relates to special volunteer license; modifying
21 certain requirement; amending 59 O.S. 2011, Section
22 328.25, as last amended by Section 11, Chapter 363,
23 O.S.L. 2019 (59 O.S. Supp. 2019, Section 328.25),
24 which relates to oral maxillofacial surgery assistant
permits; modifying certain continuing education
requirements; updating statutory reference; amending
Section 19, Chapter 229, O.S.L. 2015 (59 O.S. Supp.
2019, Section 328.31b), which relates to patient
record keeping requirements; modifying certain
records requirement; amending 59 O.S. 2011, Section
328.32, as last amended by Section 7, Chapter 397,
O.S.L. 2019 (59 O.S. Supp. 2019, Section 328.32),
which relates to grounds for penalties; modifying
certain grounds; adding reference; amending 59 O.S.
2011, Section 328.33, as last amended by Section 5,
Chapter 113, O.S.L. 2016 (59 O.S. Supp. 2019, Section
328.33), which relates to disciplinary action; adding
certain violations; authorizing certain
advertisement; amending 59 O.S. 2011, Section
328.36a, which relates to laboratory prescriptions;

1 modifying time period of certain requirement;
2 allowing certain referrals; amending 59 O.S. 2011,
3 Section 328.41, as last amended by Section 9, Chapter
4 397, O.S.L. 2019 (59 O.S. Supp. 2019, Section
5 328.41), which relates to continuing education
6 requirements; modifying requirements; amending 59
7 O.S. 2011, Section 328.48, which relates to annual
8 statements of receipts and expenditures; updating
9 term; providing for certain electronic transmission;
10 repealing 59 O.S. 2011, Section 328.29, which relates
11 to unlawful practices for dental hygienists;
12 repealing 59 O.S. 2011, Sections 328.32 and 328.41,
13 as last amended by Sections 3 and 4, Chapter 428,
14 O.S.L. 2019 (59 O.S. Supp. 2019, Sections 328.32 and
15 328.41), which relate to dentistry; and providing an
16 effective date.

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

18 SECTION 1. AMENDATORY 59 O.S. 2011, Section 328.19, as
19 last amended by Section 6, Chapter 229, O.S.L. 2015 (59 O.S. Supp.
20 2019, Section 328.19), is amended to read as follows:

21 Section 328.19. A. The following acts by any person shall be
22 regarded as practicing dentistry within the meaning of the State
23 Dental Act:

24 1. Representing oneself to the public as being a dentist or as
one authorized to practice dentistry;

2. Representing oneself to the public as being able to diagnose
or examine clinical material or contract for the treating thereof;

3. Representing oneself as treating or professing to treat by
professional instructions or by advertised use of professional
equipment or products;

1 4. Representing oneself to the public as treating any of the
2 diseases or disorders or lesions of the oral cavity, teeth, gums,
3 maxillary bones~~7~~ and associate structures;

4 5. Removing human teeth;

5 6. Repairing or filling cavities in human teeth;

6 7. Correcting or attempting to correct malposed teeth;

7 8. Administering anesthetics, general or local;

8 9. Treating deformities of the jaws and adjacent structures;

9 10. Using x-ray and interpreting dental x-ray film,
10 radiographs, scans or three-dimensional imaging;

11 11. Offering, undertaking or assisting, by any means or
12 methods, to remove stains, discolorations~~7~~ or concretions from the
13 teeth;

14 12. Operating or prescribing for any disease, pain, injury,
15 deficiency, deformity~~7~~ or any physical condition connected with the
16 human mouth;

17 13. Taking impressions or scans of the teeth and jaws;

18 14. Furnishing, supplying, constructing, reproducing~~7~~ or
19 repairing, or offering to furnish, supply, construct, reproduce~~7~~ or
20 repair, prosthetic dentures, sometimes known as plates, bridges~~7~~ or
21 other substitutes for natural teeth for the user or prospective user
22 thereof;

1 15. Adjusting or attempting to adjust any prosthetic denture,
2 bridge, appliance, or any other structure to be worn in the human
3 mouth;

4 16. Diagnosing, making, and adjusting appliances or aligners to
5 artificial casts of malposed teeth for treatment of the malposed
6 teeth in the human mouth, without instructions;

7 17. Writing a laboratory prescription to a dental laboratory or
8 dental laboratory technician for the construction, reproduction or
9 repair of any appliance or structure to be worn in the human mouth;

10 18. Owning, maintaining, or operating an office or offices by
11 holding a financial interest in same for the practice of dentistry;
12 or

13 19. Any other procedure otherwise defined in the State Dental
14 Act requiring a valid license or permit to perform while the person
15 does not hold such valid license or permit issued by the Board.

16 B. The fact that a person uses any dental degree, or
17 designation, or any card, device, directory, poster, sign or other
18 media representing oneself to be a dentist shall be prima facie
19 evidence that the person is engaged in the practice of dentistry;
20 provided that nothing in this section shall be so construed as to
21 prevent the following:

22 1. Physicians or surgeons, who are licensed under the laws of
23 this state, from administering any kind of treatment coming within
24 the province of medicine or surgery;

1 2. The practice of dentistry in the discharge of their official
2 duties by dentists in the United States Army, the United States
3 Navy, the United States Air Force, the United States Marine Corps,
4 the United States Coast Guard, the United States Public Health
5 Service, or the United States Veterans Administration;

6 3. Dental schools or colleges, as now conducted and approved,
7 or as may be approved, and the practice of dentistry by students in
8 dental schools, colleges or hospitals, approved by the Board, when
9 acting under the direction and supervision of licensed dentists or
10 dentists holding properly issued permits acting as instructors;

11 4. Acts of a dental clinician or other participant at a dental
12 educational meeting or at an accredited dental college, when no fee
13 is charged to or paid by a patient;

14 5. The practice of dental hygiene, as defined herein, by a
15 person granted a license by the Board;

16 6. The performing of acts by a dental assistant or oral
17 maxillofacial surgery assistant who performs the acts under the
18 direct supervision or direct visual supervision of a dentist and in
19 accordance with the provisions of the State Dental Act and the rules
20 promulgated by the Board; or

21 7. The fabrication of dental appliances pursuant to a
22 laboratory prescription of a dentist, by a dental laboratory
23 technician in a dental laboratory using inert materials and
24

1 mechanical devices for the fabrication of any restoration, appliance
2 or thing to be worn in the human mouth.

3 SECTION 2. AMENDATORY 59 O.S. 2011, Section 328.21, as
4 last amended by Section 3, Chapter 397, O.S.L. 2019 (59 O.S. Supp.
5 2019, Section 328.21), is amended to read as follows:

6 Section 328.21. A. No person shall practice dentistry or
7 dental hygiene without first applying for and obtaining a license
8 from the Board of Dentistry.

9 B. Application shall be made to the Board in writing and shall
10 be accompanied by the fee established by the rules of the Board,
11 together with satisfactory proof that the applicant:

12 1. Is of good moral character;

13 2. Is twenty-one (21) years of age, or over, at the time of
14 making application to practice dentistry or eighteen (18) years of
15 age, or over, if the applicant is to practice dental hygiene;

16 3. Has passed a written theoretical examination and a clinical
17 examination approved by the Board; and

18 4. Has passed a written jurisprudence examination over the
19 rules and laws affecting dentistry in this state.

20 C. An application from a candidate who desires to secure a
21 license from the Board to practice dentistry or dental hygiene in
22 this state shall be accompanied by satisfactory proof that the
23 applicant:

24

1 1. Is a graduate of an accredited dental college, if the
2 applicant is to practice dentistry;

3 2. Is a graduate of an accredited dental hygiene program, if
4 the applicant is to practice dental hygiene; and

5 3. Has passed all portions of the National Board Dental
6 Examination or the National Board Dental Hygiene Examination.

7 D. Pursuant to Section 328.15 of this title, the Board may
8 affiliate as a member state, and accept regional exams including,
9 but not limited to, the Western Regional Examination Board (WREB),
10 Central Regional Dental Testing Service (CRDTS), the Commission on
11 Dental Competency Assessments (CDCA) or another regional exam that
12 includes the following requirements:

13 a. for dental licensing the following components:

- 14 (1) a fixed prosthetic component of the preparation
15 of an anterior all porcelain crown and the
16 preparation of a three-unit posterior bridge,
17 (2) a periodontal component on a live patient,
18 (3) an endodontic component,
19 (4) an anterior class III and posterior class II
20 restorative component on a live patient,
21 (5) a diagnosis and treatment planning section as
22 approved by the Board, as specified in Section
23 328.15 of this title, and
24

(6) the Board may determine equivalencies based on components of other exams for the purpose of credentialing, or

b. for dental hygienists licensing the following components:

(1) clinical patient treatments with an evaluation of specific clinical skills as well as the candidate's compliance with professional standards during the treatment as approved by the Board in Section 325.15 of this title and shall include:

(a) extra/intra oral assessment,

(b) periodontal probing, and

(c) scaling/subgingival calculus removal and supragingival deposit removal.

E. When the applicant and the accompanying proof are found satisfactory, the Board shall notify the applicant to appear for the jurisprudence examination at the time and place to be fixed by the Board. A dental student or a dental hygiene student in their last semester of a dental or dental hygiene program, having met all other requirements, may make application and take the jurisprudence examination with a letter from the dean of the dental school or director of the hygiene program stating that the applicant is a candidate for graduation within the next six (6) months.

1 F. The Board shall require every applicant for a license to
2 practice dentistry or dental hygiene to submit, for the files of the
3 Board, a copy of a dental degree or dental hygiene degree, an
4 official transcript, a recent photograph duly identified and
5 attested, and any other information as required by the Board.

6 G. Any applicant who fails to pass the jurisprudence
7 examination may apply for a second examination, in which case the
8 applicant shall pay a reexamination fee as established by the
9 statutes or rules of the State Dental Act.

10 H. Any applicant who fails to pass the clinical examination as
11 described in paragraph 4 of subsection C of this section may be
12 given credit for such subjects as the Board may allow, but such
13 credits shall be extended only to the succeeding examinations. If
14 the applicant fails to pass a second examination, before further re-
15 examination, the Board may require evidence of additional education,
16 as specified by the Board. After a third examination, the Board may
17 deny the applicant another examination.

18 I. A dentist or dental hygienist currently licensed in another
19 state having met the qualifications in paragraphs 1 through 3 of
20 subsections B and C of this section may apply for a license by
21 credentials upon meeting the following:

22 1. A dentist holding a general dentist license in good standing
23 and having practiced for at least five hundred (500) hours within
24 the previous five (5) years immediately prior to application and

1 having passed a regional examination substantially equivalent to the
2 requirements for this state may apply for licensure by credentials;

3 2. A dental hygienist holding a dental hygiene license in good
4 standing and having practiced for at least four hundred twenty (420)
5 hours within the previous five (5) years immediately prior to
6 application and having passed a regional examination substantially
7 equivalent to the requirements for Oklahoma may apply for licensure
8 by credentials. Applicants for credentialing must include:

9 a. a letter of good standing from all states ever
10 licensed, and

11 b. any other requirements as set forth by the rules;

12 3. An applicant applying for a dental or dental hygiene license
13 by credentials shall only be required to pass the jurisprudence
14 portion of the examination requirements as set forth in paragraph 4
15 of subsection C of this section; or

16 4. A dental hygienist applying for credentialing for advanced
17 procedures by providing proof of passage of the advanced procedure
18 in a WREB, CDCA or CRDTS exam.

19 J. There shall be two types of advanced procedure available for
20 dental hygienists upon completion of a CODA approved program or
21 course that has been approved by the Board:

22 1. Administration of nitrous oxide; and

23 2. Administration of local anesthesia.
24

1 K. All licensees and permit holders shall display their current
2 permit or license in a visible place within the dental office or
3 treatment facility.

4 SECTION 3. AMENDATORY 59 O.S. 2011, Section 328.23a, as
5 amended by Section 10, Chapter 229, O.S.L. 2015 (59 O.S. Supp. 2019,
6 Section 328.23a), is amended to read as follows:

7 Section 328.23a. A. There is established a special volunteer
8 license for dentists and a special volunteer license for dental
9 hygienists who are retired from active practice or out-of-state
10 licensees in active practice who are in the Oklahoma Medical Reserve
11 Corps or assisting with emergency management, emergency operations,
12 or hazard mitigation in response to any emergency, man-made
13 disaster, or natural disaster, or participating in public health
14 initiatives, disaster drills, and community service events that are
15 endorsed by a city, county, or state health department in the state
16 and wish to donate their expertise for the dental care and treatment
17 of indigent and needy persons of the state. The special volunteer
18 license shall be:

19 1. Issued by the Board of Dentistry to eligible persons;

20 2. Issued without the payment of an application fee, license
21 fee or renewal fee;

22 3. Issued or renewed without any continuing education
23 requirements for a period less than one (1) calendar year; and

24 4. Issued for one (1) calendar year or part thereof.

1 B. A dentist or dental hygienist must meet the following
2 requirements to be eligible for a special volunteer license:

3 1. Completion of a special volunteer dental or dental hygiene
4 license application, including documentation of the dentist's dental
5 or dental hygiene school graduation and practice history;

6 2. Documentation that the dentist or dental hygienist has been
7 previously issued a full and unrestricted license to practice
8 dentistry or dental hygiene in ~~Oklahoma~~ this state or in another
9 state of the United States and that he or she has never been the
10 subject of any reportable medical or dental disciplinary action in
11 any jurisdiction. If the dentist or dental hygienist is licensed in
12 more than one state and any license of the licensee is suspended,
13 revoked, or subject to any agency order limiting or restricting
14 practice privileges, or has been voluntarily terminated under threat
15 of sanction, the dentist or dental hygienist shall be ineligible to
16 receive a special volunteer license;

17 3. Acknowledgement and documentation that the dentist's or
18 dental hygienist's practice under the special volunteer license will
19 be exclusively and totally devoted to providing dental care to needy
20 and indigent persons in ~~Oklahoma~~ this state;

21 4. Acknowledgement and documentation that the dentist or dental
22 hygienist will not receive or have the expectation to receive any
23 payment or compensation, either direct or indirect, for any dental
24 services rendered under the special volunteer license; and

1 5. A listing of all locations and dates that the person will be
2 completing volunteer work under the special volunteer license.

3 C. The Board of Dentistry shall have jurisdiction over
4 dentists, dental hygienists, dental assistants, and dental
5 technicians who volunteer their professional services in the state.
6 Dental assistants and dental technicians shall work under the direct
7 supervision of a dentist.

8 D. Dental assistants may be issued a volunteer permit at the
9 request of an entity that provides dental services to the needy.
10 Volunteers in a volunteer initiative who are not dentists or dental
11 hygienists shall be named and provided on a list to the Board by the
12 entity hosting the volunteer initiative with any other requirements
13 as set forth by the Board. The Board shall provide written
14 documentation to the host entity designating all persons who may
15 participate in the volunteer initiative, including authorization of
16 the timetable requested by the host entity for granting licensure
17 exemption. Any person working under a volunteer dental assistant
18 permit shall not receive payment or compensation for any services
19 rendered under the volunteer dental assistant permit. Volunteer
20 dental assistant permits shall be limited to specific dates and
21 locations of services to be provided.

22 E. All persons providing care shall do so under the provisions
23 specified in Section 328.1 et seq. of this title or rules
24 promulgated by the Board. Only those functions authorized by law or

1 administrative rule shall be performed by the named person approved
2 by the Board.

3 F. Volunteers shall not use sedation or general anesthesia
4 during volunteer procedures.

5 G. Volunteers shall use a form to be provided by the Board for
6 any patient with clear instructions for any and all follow-up care.

7 H. At any time, the Board shall revoke a volunteer license
8 based on documentation of failure to participate according to state
9 laws or administrative rules.

10 I. A special volunteer license shall be restricted to services
11 provided at the locations listed on the application or for a
12 specific not-for-profit treatment provider group as approved by the
13 Board.

14 SECTION 4. AMENDATORY 59 O.S. 2011, Section 328.25, as
15 last amended by Section 11, Chapter 363, O.S.L. 2019 (59 O.S. Supp.
16 2019, Section 328.25), is amended to read as follows:

17 Section 328.25. A. No person shall practice as an oral
18 maxillofacial surgery assistant without having obtained a permit as
19 an oral maxillofacial surgery assistant from the Board of Dentistry.

20 B. Any person seeking to obtain an oral maxillofacial surgery
21 assistant permit must have a supervising oral maxillofacial surgeon
22 with a current Oklahoma license and complete the requirements set
23 forth by the Board.
24

1 C. The application shall be made to the Board in writing and
2 shall be accompanied by the fee established by the Board, together
3 with the satisfactory proof that the applicant:

4 1. Passes a background check with criteria established by the
5 Board; and

6 2. Has completed all of the training requirements for the oral
7 maxillofacial surgery assistant permit as established by the Board.

8 D. An oral maxillofacial surgery assistant permit shall be
9 considered a temporary training permit until all of the training
10 requirements, as established by the Board for each oral
11 maxillofacial surgery assistant, have been completed and approved by
12 the Board.

13 E. A temporary training permit for each oral maxillofacial
14 surgery assistant shall not be extended beyond two (2) years.

15 F. All oral maxillofacial surgery assistants are required to be
16 under direct supervision or direct visual supervision at all times
17 by a licensed oral maxillofacial surgeon.

18 G. If an oral maxillofacial surgery assistant is not currently
19 employed by an oral maxillofacial surgeon, the oral maxillofacial
20 surgery assistant permit shall automatically revert to a dental
21 assistant permit as set forth in Section 328.24 of this title and
22 may be eligible for an expanded function assisting a dentist who
23 holds a parenteral or pediatric anesthesia permit; provided, only
24 the dentist may administer anesthesia and assess the patient's level

1 of sedation. The oral maxillofacial surgery assistant permit may be
2 reinstated upon employment under a licensed oral maxillofacial
3 surgeon.

4 H. Any oral maxillofacial surgeon shall notify the Board within
5 thirty (30) days of an oral maxillofacial surgery assistant no
6 longer under his or her supervision.

7 I. An applicant for an oral maxillofacial surgery assistant
8 permit shall provide satisfactory proof of:

9 1. Successful completion of the Dental Anesthesia Assistant
10 National Certification Examination (DAANCE) provided by the American
11 Association of Oral Maxillofacial Surgeons (AAOMS) or another
12 program or examination as approved by the Board;

13 2. A valid BLS certification;

14 3. Employment and completion of a minimum of six (6) months of
15 training under the direct supervision of a licensed oral
16 maxillofacial surgeon prior to starting DAANCE or another program or
17 examination as approved by the Board;

18 4. A standardized course approved by the Board including a
19 minimum of four (4) hours of didactic training that must include
20 anatomy, intravenous access or phlebotomy, technique, risks and
21 complications, and hands-on experience starting and maintaining
22 intravenous lines on a human or simulator/manikin, and pharmacology;

23 5. Completion of an infection-control course as approved by the
24 Board.

1 J. An oral maxillofacial surgery assistant who has completed
2 all the requirements shall receive a permit to practice as an oral
3 maxillofacial surgery assistant within a dental office, surgery
4 center, dental ambulatory surgery center or hospital.

5 K. Oral maxillofacial surgery assistants shall be required to
6 complete ~~twelve (12)~~ eight (8) hours of continuing education every
7 ~~three (3)~~ two (2) years in classes approved by AAOMS that are
8 certified by the American Dental Association CERP program or another
9 program approved by the Board. The continuing education requirement
10 shall include at least one (1) hour on infection control.

11 L. The anesthesia committee provided pursuant to Section 328.17
12 of this title may make a recommendation to the Board for an oral
13 maxillofacial surgery assistant holding a temporary training permit
14 to substitute training received from another state university,
15 dental school or technical training institute or training acquired
16 in a surgery center or hospital while working under the authority of
17 a licensed physician, to qualify as a partial substitute for the
18 requirements to attain an oral maxillofacial surgery assistant
19 permit.

20 M. An oral maxillofacial surgery assistant may only accept
21 delegation from an oral and maxillofacial surgeon:

22 1. Under direct supervision:
23
24

- a. initiate and discontinue an intravenous line for a patient being prepared to receive intravenous medications, sedation or general anesthesia, or
- b. draw up and prepare medications;

2. Under direct visual supervision:

- a. follow instructions of the oral surgeon while acting as an accessory hand on behalf of the oral surgeon that is administering the medication and actively treating the patient. For the purposes of this section, "administer" means to have the sole responsibility for anesthesia care, including determining medicines to be used and the dosage, timing, route of delivery and administration of medication and the assessment of the level of anesthesia and monitoring the physiological results of such care; provided, only an oral surgeon or dentist possessing a current general anesthesia permit may administer or assess the level of sedation or general anesthesia and monitor the results of such care,
- b. follow instructions of the oral surgeon to adjust the rate of intravenous fluids to maintain or keep the line patent or open and adjust an electronic device to provide medications such as an infusion pump, and

1 c. assist the oral surgeon by reading, recording vital
2 signs of a patient receiving deep sedation or general
3 anesthesia; provided, only an oral surgeon may assess
4 the level of sedation; and

5 3. Only an oral surgeon shall be responsible to diagnose,
6 treat, monitor, determine and administer the selection of the drug,
7 dosage, and timing of all anesthetic medications and care of the
8 patient through the perioperative period shall rest solely with the
9 supervising oral and maxillofacial surgeon.

10 4. Nothing in ~~this act~~ the State Dental Act shall be construed
11 as to allow an oral surgery assistant or dental assistant to
12 administer anesthesia care to a patient.

13 SECTION 5. AMENDATORY Section 19, Chapter 229, O.S.L.
14 2015 (59 O.S. Supp. 2019, Section 328.31b), is amended to read as
15 follows:

16 Section 328.31b. A. Every dental office or treatment facility,
17 whether individual, group or multi-doctor practice operating under a
18 name, trade name or other professional entity shall maintain written
19 records on each patient treated at the facility and shall make these
20 records available to the Board and other regulatory entities or be
21 subject to the penalties as set forth in Section 328.44 of this
22 title.

1 B. Each licensed dentist shall maintain written records on each
2 patient that shall contain, at a minimum, the following information
3 about the patient:

4 1. A health history listing known illnesses, other treating
5 physicians, and current medications prescribed;

6 2. Results of clinical examination and tests conducted,
7 including the identification, or lack thereof, of any oral pathology
8 or diseases;

9 3. Treatment plan proposed by the dentist;

10 4. Treatment rendered to the patient. The patient record shall
11 clearly identify the dentist and the dental hygienist providing the
12 treatment with the dentist, specialty or dental hygienist license
13 number. The patient record shall include documentation of any
14 medications prescribed, administered or dispensed to the patient;

15 5. Whenever patient records are released or transferred, the
16 dentist releasing or transferring the records shall maintain either
17 the original records or copies thereof and a notation shall be made
18 in the retained records indicating to whom the records were released
19 or transferred; and

20 6. All claims being submitted for insurance must be signed,
21 stamped or have an electronic signature by the treating dentist.

22 C. Patient records may be kept in an electronic data format,
23 provided that the dentist maintains a backup copy of information
24 stored in the data processing system using disk, tape or other

1 electronic back-up system and that backup is updated on a regular
2 basis, at least weekly, to assure that data is not lost due to
3 system failure. Any electronic data system shall be capable of
4 producing a hard copy on demand.

5 D. All patient records shall be maintained for seven (7) years
6 from the date of treatment.

7 E. Each licensed dentist shall retain a copy of each entry in
8 his or her patient appointment book or such other log, calendar,
9 book, file or computer data used in lieu of an appointment book for
10 a period of no less than seven (7) years from the date of each entry
11 thereon.

12 SECTION 6. AMENDATORY 59 O.S. 2011, Section 328.32, as
13 last amended by Section 7, Chapter 397, O.S.L. 2019 (59 O.S. Supp.
14 2019, Section 328.32), is amended to read as follows:

15 Section 328.32. A. The following acts or occurrences by a
16 dentist shall constitute grounds for which the penalties specified
17 in Section 328.44a of this title may be imposed by order of the
18 Board of Dentistry or be the basis for denying a new applicant any
19 license or permit issued by the Board:

20 1. Pleading guilty or nolo contendere to, or being convicted
21 of, a felony, a misdemeanor involving moral turpitude, any crime in
22 which an individual would be required to be a registered sex
23 offender under Oklahoma law, any violent crime, Medicaid fraud,
24

1 insurance fraud, identity theft, embezzlement or a violation of
2 federal or state controlled dangerous substances laws;

3 2. Presenting to the Board a false diploma, license, or
4 certificate, or one obtained by fraud or illegal means, or providing
5 other false information on an application or renewal;

6 3. Being, by reason of persistent inebriety or addiction to
7 drugs, incompetent to continue the practice of dentistry;

8 4. Publishing a false, fraudulent, or misleading advertisement
9 or statement;

10 5. Authorizing or aiding an unlicensed person to practice
11 dentistry, to practice dental hygiene, or to perform a function for
12 which a permit from the Board is required;

13 6. Authorizing or aiding a dental hygienist to perform any
14 procedure prohibited by the State Dental Act or the rules of the
15 Board;

16 7. Authorizing or aiding a dental assistant or oral
17 maxillofacial surgery assistant to perform any procedure prohibited
18 by the State Dental Act or the rules of the Board;

19 8. Failing to pay fees as required by the State Dental Act or
20 the rules of the Board;

21 9. Failing to complete continuing education requirements;

22 10. Representing himself or herself to the public as a
23 specialist in a dental specialty without holding a dental specialty
24 license therefor;

- 1 11. Representing himself or herself to the public as a
2 specialist whose practice is limited to a dental specialty, when
3 such representation is false, fraudulent, or misleading;
- 4 12. Endangering the health of patients by reason of having a
5 highly communicable disease and continuing to practice dentistry
6 without taking appropriate safeguards;
- 7 13. Practicing dentistry in an unsafe or unsanitary manner or
8 place, including but not limited to repeated failures to follow
9 Centers for Disease Control (CDC) or Occupational Health Safety
10 Administration (OSHA) guidelines;
- 11 14. Being shown to be mentally unsound;
- 12 15. Being shown to be grossly immoral and that such condition
13 represents a threat to patient care or treatment;
- 14 16. Being incompetent to practice dentistry while delivering
15 care to a patient;
- 16 17. Committing gross negligence in the practice of dentistry;
- 17 18. Committing repeated acts of negligence in the practice of
18 dentistry;
- 19 19. Offering to effect or effecting a division of fees, or
20 agreeing to split or divide a fee for dental services with any
21 person, in exchange for the person bringing or referring a patient;
- 22 20. Being involuntarily committed to an institution for
23 treatment for substance abuse, until recovery or remission;
- 24

1 21. Using or attempting to use the services of a dental
2 laboratory or dental laboratory technician without issuing a
3 laboratory prescription, except as provided in subsection C of
4 Section 328.36 of this title;

5 22. Aiding, abetting~~r~~, or encouraging a dental hygienist
6 employed by the dentist to make use of an oral prophylaxis list, or
7 the calling by telephone or by use of letters transmitted through
8 the mails to solicit patronage from patients formerly served in the
9 office of any dentist formerly employing such hygienist;

10 23. Having more than the equivalent of three full-time dental
11 hygienists for each dentist actively practicing in the same dental
12 office;

13 24. Allowing a person not holding a permit or license issued by
14 the Board to assist in the treatment of a patient without having a
15 license or permit issued by the Board;

16 25. Knowingly patronizing or using the services of a dental
17 laboratory or dental laboratory technician who has not complied with
18 the provisions of the State Dental Act and the rules of the Board;

19 26. Authorizing or aiding a dental hygienist, dental assistant,
20 oral maxillofacial surgery assistant, dental laboratory technician,
21 or holder of a permit to operate a dental laboratory to violate any
22 provision of the State Dental Act or the rules of the Board;

23 27. Willfully disclosing information protected by the Health
24 Information Portability and Accountability Act, P.L. 104-191;

1 28. Writing a false, unnecessary⁷ or excessive prescription for
2 any drug or narcotic which is a controlled dangerous substance under
3 either federal or state law including, but not limited to,
4 prescribing, dispensing or administering opioid drugs in excess of
5 the maximum limits authorized in Section 2-309I of Title 63 of the
6 Oklahoma Statutes;

7 29. Prescribing or administering any drug or treatment without
8 having established a valid dentist-patient relationship;

9 30. Using or administering nitrous oxide gas in a dental office
10 in an inappropriate or unauthorized manner;

11 31. Engaging in nonconsensual physical contact with a patient
12 which is sexual in nature, or engaging in a verbal communication
13 which is intended to be sexually demeaning to a patient;

14 32. Practicing dentistry without displaying, at the dentist's
15 primary place of practice, the license issued to the dentist by the
16 Board to practice dentistry and the current renewal certificate;

17 33. Being dishonest in a material way with a patient;

18 34. Failing to retain all patient records for at least seven
19 (7) years from the date of the last treatment as provided by Section
20 328.31b of this title, except that the failure to retain records
21 shall not be a violation of the State Dental Act if the dentist
22 shows that the records were lost, destroyed⁷ or removed by another,
23 without the consent of the dentist;

1 35. Failing to retain the dentist's copy of any laboratory
2 prescription for at least ~~three (3)~~ seven (7) years, except that the
3 failure to retain records shall not be a violation of the State
4 Dental Act if the dentist shows that the records were lost,
5 destroyed, or removed by another, without the consent of the
6 dentist;

7 36. Allowing any corporation, organization, group, person, or
8 other legal entity, except another dentist or a professional entity
9 that is in compliance with the registration requirements of
10 subsection B of Section 328.31 of this title, to direct, control, or
11 interfere with the dentist's clinical judgment. Clinical judgment
12 shall include, but not be limited to, such matters as selection of a
13 course of treatment, control of patient records, policies and
14 decisions relating to pricing, credit, refunds, warranties and
15 advertising, and decisions relating to office personnel and hours of
16 practice. Nothing in this paragraph shall be construed to:

- 17 a. limit a patient's right of informed consent, or
- 18 b. prohibit insurers, preferred provider organizations
19 and managed care plans from operating pursuant to the
20 applicable provisions of the Oklahoma Insurance Code
21 and the Public Health Code;

22 37. Violating the state dental act of another state resulting
23 in a plea of guilty or nolo contendere, conviction or suspension or
24

1 revocation or other sanction by another state board, of the license
2 of the dentist under the laws of that state;

3 38. Violating or attempting to violate the provisions of the
4 State Dental Act or the rules of the Board, a state or federal
5 statute or rule relating to scheduled drugs, fraud, a violent crime
6 or any crime for which the penalty includes the requirement of
7 registration as a sex offender in Oklahoma as a principal, accessory
8 or accomplice;

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

12 40. Failing to cooperate during an investigation or providing
13 false information, verbally or in writing, to the Board, the Board's
14 investigator or an agent of the Board;

15 41. Having multiple administrative or civil actions reported to
16 the National Practitioner Databank; or

17 42. Failing to complete an approved two-hour course on opioid
18 and scheduled drug prescribing within one (1) year of obtaining a
19 license or a violation of a law related to controlled dangerous
20 substances including prescribing laws pursuant to Section 2-309D of
21 Title 63 of the Oklahoma Statutes.

22 B. The provisions of the State Dental Act shall not be
23 construed to prohibit any dentist from displaying or otherwise
24 advertising that the dentist is also currently licensed, registered,

1 certified, or otherwise credentialed pursuant to the laws of this
2 state or a nationally recognized credentialing board, if authorized
3 by the laws of the state or credentialing board to display or
4 otherwise advertise as a licensed, registered, certified, or
5 credentialed dentist.

6 SECTION 7. AMENDATORY 59 O.S. 2011, Section 328.33, as
7 last amended by Section 5, Chapter 113, O.S.L. 2016 (59 O.S. Supp.
8 2019, Section 328.33), is amended to read as follows:

9 Section 328.33. A. The following acts or occurrences by a
10 dental hygienist shall constitute grounds for which the penalties
11 specified in Section 328.44a of this title may be imposed by order
12 of the Board of Dentistry or be the basis for denying a new
13 applicant any license or permit issued by the Board:

14 1. Any of the causes now existing in the laws of ~~the State of~~
15 ~~Oklahoma~~ this state;

16 2. A violation of the provisions of the State Dental Act; or

17 3. A violation of the rules of the Board promulgated pursuant
18 to the State Dental Act.

19 B. The Board shall also have the power to act upon a petition
20 by a dental hygienist for reinstatement to good standing. The Board
21 shall keep a record of the evidence and proceedings in all matters
22 involving the revocation or suspension of a license or reprimand or
23 probation of a dental hygienist. The Board shall make findings of
24 fact and a decision thereon. The Board shall immediately forward a

1 certified copy of the decision to the dental hygienist involved by
2 registered mail to the last-known business address of the dental
3 hygienist.

4 C. 1. The decision shall be final unless the dental hygienist
5 appeals the decision as provided by the State Dental Act.

6 2. If an appeal is not timely taken, the decision shall be
7 carried out by striking the name of the dental hygienist from the
8 rolls, or suspending the dental hygienist for the period mentioned
9 in issuing a reprimand, or otherwise acting as required by the
10 decision.

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

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

17 2. Presenting to the Board a false diploma, license or
18 certificate, or one obtained by fraud or illegal means;

19 3. Being, by reason of persistent inebriety or addiction to
20 drugs, incompetent to continue the practice of dental hygiene;

21 4. Has been guilty of dishonorable or unprofessional conduct;

22 5. Failure to pay registration fees as provided by the State
23 Dental Act;

1 6. Is a menace to the public health by reason of communicable
2 disease;

3 7. Being shown to be mentally incapacitated or has been
4 admitted to a mental institution, either public or private, and
5 until the dental hygienist has been proven to be mentally competent;

6 8. Being shown to be grossly immoral;

7 9. Being incompetent in the practice of dental hygiene;

8 10. Committing willful negligence in the practice of dental
9 hygiene;

10 11. Being involuntarily committed for treatment for drug
11 addiction to a facility, either public or private, and until the
12 dental hygienist has been proven cured;

13 12. Practicing or attempting to practice dental hygiene in any
14 place or in any manner other than as authorized by Section 328.34 of
15 this title;

16 13. Claim the use of any secret or patented methods or
17 treatments with materials not approved by the Food and Drug
18 Administration;

19 14. Make statements or advertise as having ability to diagnose
20 or prescribe for any treatment;

21 15. Perform any services in the mouth other than those
22 authorized by the Board of Dentistry pursuant to authority conferred
23 by the State Dental Act;
24

1 16. Attempt to conduct a practice of dental hygiene in any
2 place or in any manner other than as authorized by Section 328.34 of
3 this title;

4 17. Attempt to use in any manner whatsoever any oral
5 prophylaxis list, call list, records, reprints or copies of same or
6 information gathered therefrom, or the names of patients whom he or
7 she has formerly treated when serving as an employee in the office
8 of a dentist for whom he or she was formerly employed; or

9 18. Fail to keep prominently displayed in the office of the
10 dentist for whom he or she is employed his or her current valid
11 license renewal certificate;

12 19. Using or attempting to use in any manner whatsoever any
13 oral prophylaxis list, call list, records, reprints or copies of
14 same, or information gathered therefrom, of the names of patients
15 whom such dental hygienist might have served in the office of a
16 prior employer, unless such names appear upon the bona fide call or
17 oral prophylaxis list of the present employer of the dental
18 hygienist and were caused to so appear through the legitimate
19 practice of dentistry, as provided for in the State Dental Act;

20 ~~14.~~ 20. Violating the state dental act of another state
21 resulting in a plea of guilty or nolo contendere, conviction, or
22 suspension or revocation of the license of the dental hygienist
23 under the laws of that state;

1 ~~15.~~ 21. Violating or attempting to violate the provisions of
2 the State Dental Act or the rules of the Board, as a principal,
3 accessory or accomplice;

4 ~~16.~~ 22. Failing to comply with the terms and conditions of an
5 order imposing suspension of a license or placement on probation
6 issued pursuant to Section 328.44a of this title; or

7 ~~17.~~ 23. Any violation that would otherwise be a violation for a
8 dentist under Section 328.32 of this title.

9 E. A dental hygienist may advertise that he or she is
10 practicing in the office of the supervising dentist in which he or
11 she is employed.

12 SECTION 8. AMENDATORY 59 O.S. 2011, Section 328.36a, is
13 amended to read as follows:

14 Section 328.36a. A. A dentist may utilize a dental laboratory
15 technician and a dental laboratory to perform or provide dental
16 laboratory technology. Except as provided in subsection C of
17 Section 328.36 of this title, a dentist who utilizes the services of
18 a dental laboratory technician or dental laboratory shall furnish a
19 laboratory prescription for each patient for whom a work product is
20 prescribed.

21 B. Laboratory prescriptions issued by a dentist shall be on
22 forms containing the minimum information required by subsection D of
23 this section and shall be produced or printed by each dentist. Such
24 forms shall be provided by the Board of Dentistry or downloaded from

1 the Board's website. All forms shall be completed in full and
2 signed by the prescribing dentist. The owner of a dental laboratory
3 shall retain each original laboratory prescription received from a
4 prescribing dentist and produce the document for inspection and
5 copying by a member of the Board or by an agent or employee of the
6 Board, for a period of ~~three (3)~~ seven (7) years from the date of
7 the laboratory prescription. The prescribing dentist shall retain
8 the duplicate copy of each laboratory prescription and produce the
9 document for inspection and copying by a member of the Board or by
10 an agent or employee of the Board, for a period of ~~three (3)~~ seven
11 (7) years from the date of the laboratory prescription.

12 C. The patient's name or the identification number of the
13 laboratory prescription shall appear on all dental models and
14 correspond to all dental restorations, appliances or other devices
15 being constructed, reproduced or repaired. Any dental model,
16 restoration, appliance or other device in the possession of a dental
17 laboratory technician or dental laboratory without a laboratory
18 prescription and corresponding number on the model, restoration,
19 appliance or device shall be prima facie evidence of a violation of
20 the State Dental Act. After completion, the prescribed work product
21 shall be returned by the dental laboratory technician or dental
22 laboratory to the prescribing dentist or the dental office of the
23 dentist with the name or number of the laboratory prescription
24 accompanying the invoice.

1 D. At a minimum, prescriptions shall contain the following
2 information:

3 1. The name and address of the dental laboratory;

4 2. The patient's name and/or identifying number. In the event
5 such identifying number is used, the name of the patient shall be
6 written on a copy of the prescription retained by the dentist;

7 3. A description of the work to be completed with diagrams, if
8 applicable;

9 4. A description of the type of materials to be used;

10 5. The actual date on which the authorization or prescription
11 was written or completed;

12 6. The signature in ink or by electronic method of the dentist
13 issuing the prescription and the state license number and address of
14 such dentist; and

15 7. A section to be completed by the dental laboratory and
16 returned to the issuing dentist that shall disclose all information
17 and certify that the information is accurate by including the
18 signature of a reasonable part of the primary contractor.

19 E. The Board shall make readily available a sample form on the
20 Board's website for use by any licensee at no cost.

21 F. A dentist may produce, transfer and retain copies of the
22 form electronically.

23 G. A dentist may refer a patient to a dental laboratory for the
24 purpose of selecting the shading or matching shades of a prosthetic

1 device being prepared for the dentist to deliver to the patient.

2 The dentist must maintain a copy of the prescription written for the
3 lab.

4 SECTION 9. AMENDATORY 59 O.S. 2011, Section 328.41, as
5 last amended by Section 9, Chapter 397, O.S.L. 2019 (59 O.S. Supp.
6 2019, Section 328.41), is amended to read as follows:

7 Section 328.41. A. 1. On or before the last day of December
8 of each year, every dentist, dental hygienist, dental assistant,
9 oral maxillofacial surgery assistant and other licensee or permit
10 holders previously licensed or permitted by the Board to practice in
11 this state, with the exception of those listed in paragraph 2 of
12 this subsection, shall submit a completed renewal application with
13 information as may be required by the Board, together with an annual
14 renewal fee established by the rules of the Board. Upon receipt of
15 the annual renewal fee, the Board shall issue a renewal certificate
16 authorizing the dentist, dental hygienist, dental assistant, or oral
17 maxillofacial surgery assistant to continue the practice of
18 dentistry or dental hygiene, respectively, in this state for a
19 period of one (1) year. Every license or permit issued by the Board
20 shall begin on January 1 and expire on December 31 of each year.

21 2. Beginning July 1, 2017, resident and fellowship permits
22 shall be valid from July 1 through June 30 of each year and dental
23 student intern permits shall be valid from August 1 through July 31
24 of each year.

1 B. ~~Continuing education requirements shall be due at the end of~~
2 ~~each three-year period ending in 2019 as follows:~~

3 1. Beginning July 1, 2019, ~~through June 30, 2021~~, continuing
4 education requirements shall be due at the end of each two-year
5 period ~~as follows:~~

6 a. ~~dentists.~~

7 2. Continuing education shall consist of:

8 a. a live, in-person cardiopulmonary resuscitation class
9 approved by the Board,

10 b. an ethics class approved by the Board, and

11 c. two (2) hours of opioid and scheduled drug
12 prescribing,

13 d. any combination of the following:

14 (1) classes at a university accredited by the
15 Commission on Dental Accreditation (CODA). A
16 dentist who teaches one or more classes at a
17 university accredited by CODA shall receive one
18 (1) credit hour of continuing education per
19 eighteen (18) credit hours taught,

20 (2) a scientific-based medical treatment and patient
21 care class approved by the Board,

22 (3) any program sponsored by the Veterans
23 Administration or Armed Forces provided at a
24 government facility,

- 1 (4) formal meetings by national or state professional
2 organizations for dentistry, or university
3 sponsored professional alumni clinical meetings
4 approved by the Board,
5 (5) organized study clubs,
6 (6) uncompensated volunteer work at an event approved
7 by the Board not to exceed seven (7) hours for a
8 dentist or four (4) hours for a dental hygienist,
9 or
10 (7) practice management-related courses not to exceed
11 four (4) hours for a dentist or two (2) hours for
12 a dental hygienist.

13 3. Dentists shall complete forty (40) hours, ~~including a one-~~
14 ~~time two-hour opioid and scheduled drug prescribing class,~~

15 ~~b. hygienists~~

16 with no more than twenty (20) hours to be completed online.

17 Hygienists shall complete twenty (20) hours,

18 ~~c. oral~~

19 with no more than ten (10) hours to be completed online.

20 Interactive classes or webinar classes may, at the discretion of the
21 Board, count as in-person.

22 4. Oral maxillofacial surgery assistants shall complete eight
23 (8) hours, including one (1) hour of infection control.

24 ~~d. dental~~

1 5. Dental assistants shall have two (2) hours of infection
2 control, ~~and~~

3 ~~e. any.~~

4 5. Any newly licensed dentist shall complete a two-hour opioid
5 and scheduled drug prescribing class within one (1) year of
6 obtaining licensure, ~~and~~

7 ~~2. Any newly licensed dentist shall complete a two-hour opioid~~
8 ~~and scheduled drug prescribing class within one (1) year of~~
9 ~~obtaining licensure, and~~

10 ~~3. Beginning in 2020, continuing education requirements shall~~
11 ~~be due at the end of each two-year period as follows:~~

12 ~~a. dentists shall complete forty (40) hours, including a~~
13 ~~one-time, two-hour opioid and scheduled drug~~
14 ~~prescribing class,~~

15 ~~b. hygienists shall complete twenty (20) hours,~~

16 ~~c. OMS assistants shall complete eight (8) hours, and~~

17 ~~d. dental assistants shall have two (2) hours of~~
18 ~~infection control.~~

19 C. Upon failure of a dentist, dental hygienist, dental
20 assistant, ~~or~~ oral maxillofacial surgery assistant to pay the annual
21 renewal fee within two (2) months after January 1, the Board shall
22 notify the dentist, dental hygienist, dental assistant, ~~or~~ oral
23 maxillofacial surgery assistant in writing by certified mail to the
24 last-known mailing address of the dentist, dental hygienist, dental

1 assistant, or oral maxillofacial surgery assistant as reflected in
2 the records of the Board.

3 D. Any dentist, dental hygienist, dental assistant, or oral
4 maxillofacial surgery assistant whose license or permit is
5 automatically canceled by reason of failure, neglect or refusal to
6 secure the renewal certificate may be reinstated by the Board at any
7 time within one (1) year from the date of the expiration of the
8 license, upon payment of the annual renewal fee and a penalty fee
9 established by the rules of the Board. If the dentist, dental
10 hygienist, dental assistant, or oral maxillofacial surgery assistant
11 does not apply for renewal of the license or permit and pay the
12 required fees within one (1) year after the license has expired,
13 then the dentist, dental hygienist, dental assistant, or oral
14 maxillofacial surgery assistant shall be required to file an
15 application for and take the examination or other requirements
16 provided for in the State Dental Act or the rules promulgated by the
17 Board before again commencing practice.

18 E. The Board, by rule, shall provide for the remittance of fees
19 otherwise required by the State Dental Act while a dentist or dental
20 hygienist is on active duty with any of the Armed Forces of the
21 United States.

22 F. In case of a lost or destroyed license or renewal
23 certificate and upon satisfactory proof of the loss or destruction
24

1 thereof, the Board may issue a duplicate, charging therefor a fee
2 established by the rules of the Board.

3 G. A dentist, dental hygienist, oral maxillofacial surgery
4 assistant or dental assistant that is in good standing and not under
5 investigation that notifies the Board in writing of a voluntary
6 nonrenewal of license or requests retirement status shall have a
7 right to renew or reinstate his or her license within five (5) years
8 from the date of notice. The Board may require any training or
9 continuing education requirements to be met prior to reinstatement.

10 H. A dentist, dental hygienist, oral maxillofacial dental
11 assistant or dental assistant that has not had an active license or
12 permit in excess of five (5) years shall be required to apply as a
13 new applicant.

14 I. Any application for a license or permit that has remained
15 inactive for more than one (1) year shall be closed.

16 SECTION 10. AMENDATORY 59 O.S. 2011, Section 328.48, is
17 amended to read as follows:

18 Section 328.48. It shall be the duty of the Board of Dentistry,
19 annually, to have prepared a statement showing the total amount of
20 receipts and expenditures of the Board for the preceding twelve (12)
21 months. The statement shall be properly certified under oath by the
22 president and ~~secretary-treasurer~~ Executive Director of the Board to
23 the Governor of this state and may be sent electronically.
24

1 SECTION 11. REPEALER 59 O.S. 2011, Section 328.29, is
2 hereby repealed.

3 SECTION 12. REPEALER 59 O.S. 2011, Section 328.32, as
4 last amended by Section 3, Chapter 428, O.S.L. 2019 (59 O.S. Supp.
5 2019, Section 328.32), is hereby repealed

6 SECTION 13. REPEALER 59 O.S. 2011, Section 328.41, as
7 last amended by Section 4, Chapter 428, O.S.L. 2019 (59 O.S. Supp.
8 2019, Section 328.41), is hereby repealed.

9 SECTION 14. This act shall become effective November 1, 2020.

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