

1 **SENATE FLOOR VERSION**

2 February 22, 2024

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1929

By: Kidd of the Senate

and

Hasenbeck of the House

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9 An Act relating to the practice of dentistry;
10 amending 59 O.S. 2021, Section 328.3, as amended by
11 Section 1, Chapter 220, O.S.L. 2023 (59 O.S. Supp.
12 2023, Section 328.3), which relates to definitions
13 used in the State Dental Act; modifying definition;
14 amending 59 O.S. 2021, Section 328.15, as amended by
15 Section 1, Chapter 158, O.S.L. 2022 (59 O.S. Supp.
16 2023, Section 328.15), which relates to powers of the
17 Board of Dentistry; broadening certain powers;
18 amending 59 O.S. 2021, Section 328.21, as last
19 amended by Section 2, Chapter 220, O.S.L. 2023 (59
20 O.S. Supp. 2023, Section 328.21), which relates to
21 application for license; providing for eligibility of
22 certain dental hygienists for specified advanced
23 procedure; amending 59 O.S. 2021, Section 328.23a, as
24 amended by Section 4, Chapter 158, O.S.L. 2022 (59
O.S. Supp. 2023, Section 328.23a), which relates to
special volunteer licenses; authorizing licensure of
active duty military personnel; providing certain
exemption; authorizing licensure of out-of-state
dentists for specified purpose; amending 59 O.S.
2021, Section 328.24, as amended by Section 4,
Chapter 220, O.S.L. 2023 (59 O.S. Supp. 2023, Section
328.24), which relates to expanded duty permits for
dental assistants and oral maxillofacial surgery
assistants; modifying types of permits; amending 59
O.S. 2021, Section 328.31b, which relates to patient
recordkeeping requirements; modifying minimum
requirements of patient records; amending 59 O.S.
2021, Section 328.32, as last amended by Section 5,
Chapter 220, O.S.L. 2023 (59 O.S. Supp. 2023, Section

328.32), which relates to grounds for penalties; broadening grounds for penalties; granting certain immunity from civil or criminal liability; amending 59 O.S. 2021, Section 328.41, as amended by Section 7, Chapter 158, O.S.L. 2022 (59 O.S. Supp. 2023, Section 328.41), which relates to continuing education requirements; providing exemption for active duty military personnel; amending 59 O.S. 2021, Section 328.43a, which relates to complaints and investigations; broadening certain authority of review and investigative panels; amending 59 O.S. 2021, Section 328.44a, which relates to penalties and reviews; clarifying applicability of the State Dental Act and rules of the Board; providing for withdrawal of certain orders under specified conditions; stipulating certain procedures and considerations; authorizing certain summary denial; directing certain vote and settlement agreement; amending 59 O.S. 2021, Section 328.44b, which relates to surrender of license, permit, or certificate; modifying requirements for acceptance of surrender; updating statutory references; updating statutory language; making language gender neutral; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2021, Section 328.3, as amended by Section 1, Chapter 220, O.S.L. 2023 (59 O.S. Supp. 2023, 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;

1 2. "Accredited dental hygiene program" means a dental hygiene
2 educational program which is accredited by the Commission on Dental
3 Accreditation of the American Dental Association;

4 3. "Accredited dental assisting program or class" means a
5 dental assisting program which is accredited by the Commission on
6 Dental Accreditation of the American Dental Association or a class
7 approved by the Board of Dentistry;

8 4. "Advanced procedure" means a dental procedure for which a
9 dental hygienist has received special training in a course of study
10 approved by the Board;

11 5. "Board" means the Board of Dentistry;

12 6. "Certified dental assistant" means a dental assistant who
13 has earned and maintains current certified dental assistant
14 certification from the Dental Assisting National Board (DANB);

15 7. "Coronal polishing" means a procedure limited to the removal
16 of plaque and stain from exposed tooth surfaces, utilizing a slow
17 speed hand piece with a prophylaxis/polishing cup or brush and polishing
18 agent and is not prophylaxis. To be considered prophylaxis,
19 examination for calculus and scaling must be done by a dental
20 hygienist or dentist;

21 8. "Deep sedation" means a drug-induced depression of
22 consciousness during which patients cannot be easily aroused but
23 respond purposefully following repeated or painful stimulation. The
24 ability to independently maintain ventilator function may be

1 impaired. Patients may require assistance in maintaining a patent
2 airway, and spontaneous ventilation may be inadequate.

3 Cardiovascular function is usually maintained;

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

6 10. "Dentist" means a graduate of an accredited dental college
7 who has been issued a license by the Board to practice dentistry as
8 defined in Section 328.19 of this title;

9 11. "Dental ambulatory surgical center (DASC)" means a facility
10 that operates exclusively for the purpose of furnishing outpatient
11 surgical services to patients. A DASC shall have the same
12 privileges and requirements as a dental office and additionally must
13 be an accredited facility by the appropriate entity;

14 12. "Dental office" means an establishment owned and operated
15 by a dentist for the practice of dentistry, which may be composed of
16 reception rooms, business offices, private offices, laboratories,
17 and dental operating rooms where dental operations are performed;

18 13. "Dental hygiene" means the science and practice of the
19 promotion of oral health and prevention and treatment of oral
20 disease through the provision of educational, therapeutic, clinical,
21 and preventive services;

22 14. "Dental hygienist" means an individual who has fulfilled
23 the educational requirements and is a graduate of an accredited
24 dental hygiene program and who has passed an examination and has

1 | been issued a license by the Board and who is authorized to practice
2 | dental hygiene as ~~hereinafter~~ defined in this section;

3 | 15. "Dental assistant" or "oral maxillofacial surgery
4 | assistant" means an individual working for a dentist, under the
5 | dentist's direct supervision or direct visual supervision, and
6 | performing duties in the dental office or a treatment facility
7 | including the limited treatment of patients in accordance with the
8 | provisions of the State Dental Act. A dental assistant or oral
9 | maxillofacial surgery assistant may assist a dentist with the
10 | patient; provided, this shall be done only under the direct
11 | supervision or direct visual supervision and control of the dentist
12 | and only in accordance with the educational requirements and rules
13 | promulgated by the Board;

14 | 16. "Dental laboratory" means a location, whether in a dental
15 | office or not, where a dentist or a dental laboratory technician
16 | performs dental laboratory technology;

17 | 17. "Dental laboratory technician" means an individual whose
18 | name is duly filed in the official records of the Board, which
19 | authorizes the technician, upon the laboratory prescription of a
20 | dentist, to perform dental laboratory technology, which services
21 | must be rendered only to the prescribing dentist and not to the
22 | public;

23 | 18. "Dental laboratory technology" means using materials and
24 | mechanical devices for the construction, reproduction or repair of

1 dental restorations, appliances or other devices to be worn in a
2 human mouth;

3 19. "Dental specialty" means a specialized practice of a branch
4 of dentistry, recognized by the Board, where the dental college and
5 specialty program are accredited by the Commission on Dental
6 Accreditation (CODA), or a dental specialty recognized by the Board,
7 requiring a minimum number of hours of approved education and
8 training and/or recognition by a nationally recognized association
9 or accreditation board;

10 20. "Direct supervision" means the supervisory dentist is in
11 the dental office or treatment facility and, during the appointment,
12 personally examines the patient, diagnoses any conditions to be
13 treated, and authorizes the procedures to be performed by a dental
14 hygienist, dental assistant, or oral maxillofacial surgery
15 assistant. The supervising dentist is continuously on-site and
16 physically present in the dental office or treatment facility while
17 the procedures are being performed and, before dismissal of the
18 patient, evaluates the results of the dental treatment;

19 21. "Direct visual supervision" means the supervisory dentist
20 has direct ongoing visual oversight which shall be maintained at all
21 times during any procedure authorized to be performed by a dental
22 assistant or an oral maxillofacial surgery assistant;

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1 22. "Expanded duty" means a dental procedure for which a dental
2 assistant has received special training in a course of study
3 approved by the Board;

4 23. "Fellowship" means a program designed for post-residency
5 graduates to gain knowledge and experience in a specialized field;

6 24. "General anesthesia" means a drug-induced loss of
7 consciousness during which patients are not arousable, even by
8 painful stimulation. The ability to independently maintain
9 ventilator function is often impaired. Patients often require
10 assistance in maintaining a patent airway, and positive pressure
11 ventilation may be required because of depressed spontaneous
12 ventilation or drug-induced depression of neuromuscular function.
13 Cardiovascular function may be impaired;

14 25. "General supervision" means the supervisory dentist has
15 diagnosed any conditions to be treated within the past thirteen (13)
16 months, has personally authorized the procedures to be performed by
17 a dental hygienist, and will evaluate the results of the dental
18 treatment within a reasonable time as determined by the nature of
19 the procedures performed, the needs of the patient, and the
20 professional judgment of the supervisory dentist. General
21 supervision may only be used to supervise a dental hygienist and may
22 not be used to supervise an oral maxillofacial surgery assistant or
23 dental assistant except as provided by Section 7 328.58 of this ~~act~~
24 title;

1 26. "Indirect supervision" means the supervisory dentist is in
2 the dental office or treatment facility and has personally diagnosed
3 any conditions to be treated, authorizes the procedures to be
4 performed by a dental hygienist, remains in the dental office or
5 treatment facility while the procedures are being performed, and
6 will evaluate the results of the dental treatment within a
7 reasonable time as determined by the nature of the procedures
8 performed, the needs of the patient, and the professional judgment
9 of the supervisory dentist. Indirect supervision may not be used
10 for an oral maxillofacial surgery assistant or a dental assistant;

11 27. "Investigations" means an investigation proceeding,
12 authorized under Sections 328.15A and 328.43a of this title, to
13 investigate alleged violations of the State Dental Act or the rules
14 of the Board;

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

18 29. "Minimal sedation" means a minimally depressed level of
19 consciousness, produced by a pharmacological method, that retains
20 the patient's ability to independently and continuously maintain an
21 airway and respond normally to tactile stimulation and verbal
22 command. Although cognitive function and coordination may be
23 modestly impaired, ventilator and cardiovascular functions are
24 unaffected;

1 30. "Mobile dental anesthesia provider" means a licensed and
2 anesthesia-permitted dentist, physician or Certified Registered
3 Nurse Anesthetist (CRNA) that has a mobile dental unit and provides
4 anesthesia in dental offices and facilities in the state;

5 31. "Mobile dental clinic" means a permitted motor vehicle or
6 trailer utilized as a dental clinic, and/or that contains dental
7 equipment and is used to provide dental services to patients on-site
8 and shall not include a mobile dental anesthesia provider. A mobile
9 dental clinic shall also mean and include a volunteer mobile dental
10 facility that is directly affiliated with a church or religious
11 organization as defined by Section 501(c)(3) or 501(d) of the United
12 States Internal Revenue Code, the church or religious organization
13 with which it is affiliated is clearly indicated on the exterior of
14 the volunteer mobile dental facility, and such facility does not
15 receive any form of payment either directly or indirectly for work
16 provided to patients other than donations through the affiliated
17 church or religious organization; provided, that the volunteer
18 mobile dental facility shall be exempt from any registration fee
19 required under the State Dental Act;

20 32. "Moderate sedation" means a drug-induced depression of
21 consciousness during which patients respond purposefully to verbal
22 commands, either alone or accompanied by light tactile stimulation.
23 No interventions are required to maintain a patent airway, and
24

1 spontaneous ventilation is adequate. Cardiovascular function is
2 usually maintained;

3 33. "Prophylaxis" means the removal of any and all calcareous
4 deposits, stains, accretions or concretions from the supragingival
5 and subgingival surfaces of human teeth, utilizing instrumentation
6 by scaler or periodontal curette on the crown and root surfaces of
7 human teeth including rotary or power-driven instruments. This
8 procedure may only be performed by a dentist or dental hygienist;

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

12 35. "Residencies" are programs designed for advanced clinical
13 and didactic training in general dentistry or other specialties or
14 other specialists at the post-doctoral level recognized by the
15 Commission on Dental Accreditation (CODA) or the Board;

16 36. "Supervision" means direct supervision, direct visual
17 supervision, indirect supervision or general supervision;

18 37. "Teledentistry" means the remote delivery of dental patient
19 care via telecommunications and other technology for the exchange of
20 clinical information and images for dental consultation, preliminary
21 treatment planning and patient monitoring; and

22 38. "Treatment facility" means:

23 a. a federal, tribal, state or local public health
24 facility,

- b. a Federally Qualified Health Center (FQHC),
- c. a private health facility,
- d. a group home or residential care facility serving the elderly, ~~handicapped~~ disabled or juveniles,
- e. a hospital or dental ambulatory surgery center (DASC),
- f. a nursing home,
- g. a penal institution operated by or under contract with the federal or state government,
- h. a public or private school,
- i. a patient of record's private residence,
- j. a mobile dental clinic,
- k. a dental college, dental program, dental hygiene program or dental assisting program accredited by the Commission on Dental Accreditation, or
- l. such other places as are authorized by the Board.

SECTION 2. AMENDATORY 59 O.S. 2021, Section 328.15, as amended by Section 1, Chapter 158, O.S.L. 2022 (59 O.S. Supp. 2023, 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 1. Examine and test the qualifications of applicants for a
2 license or permit to be issued by the Board;
- 3 2. Affiliate by contract or cooperative agreement with another
4 state or combination of states for the purpose of conducting
5 simultaneous regional examinations of applicants for a license to
6 practice dentistry, dental hygiene, or a dental specialty;
- 7 3. Maintain a list of the name, current mailing address and
8 official address of all persons who hold a license or permit issued
9 by the Board;
- 10 4. Account for all receipts and expenditures of the monies of
11 the Board including annually preparing and publishing a statement of
12 receipts and expenditures of the Board for each fiscal year;
- 13 5. Within limits prescribed in the State Dental Act, set ~~all~~
14 fees and administrative penalties to be imposed and collected by the
15 Board as provided by rules;
- 16 6. Employ an Executive Director, legal counsel and other
17 advisors to the Board including advisory committees;
- 18 7. Investigate and issue investigative and other subpoenas,
19 pursuant to Article II of the Administrative Procedures Act;
- 20 8. Initiate individual proceedings and issue orders imposing
21 administrative penalties, pursuant to Article II of the
22 Administrative Procedures Act, against any dentist, dental
23 hygienist, dental assistant, oral maxillofacial surgery assistant,
24 dental laboratory technician, or holder of a permit to operate a

1 dental laboratory who has violated the State Dental Act or the rules
2 of the Board;

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

6 10. Establish guidelines for courses of study necessary for
7 dental assistants, oral maxillofacial surgery assistants and, when
8 appropriate, issue permits authorizing dental assistants or oral
9 maxillofacial surgery assistants to perform expanded duties;

10 11. Establish continuing education requirements for dentists,
11 dental hygienists, dental assistants and oral maxillofacial surgery
12 assistants who hold permits issued by the Board;

13 12. Recognize the parameters and standards of care established
14 and approved by the American Dental Association or another
15 nationally recognized medical or dental association that establishes
16 guidelines for health care as it relates to dentistry. The Board
17 shall have the sole authority to determine scope of practice of
18 licensees considering these standards and guidelines;

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

23 14. Seek and receive advice and assistance of the Office of the
24 Attorney General of this state;

1 15. Promote the dental health and the education of dental
2 health of the people of this state;

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

6 17. Affiliate with the American Association of Dental Boards as
7 an active member, pay regular dues, and send members of the Board as
8 delegates to its meetings;

9 18. Enter into contracts;

10 19. Acquire by purchase, lease, gift, solicitation of gift or
11 by any other manner, hold, encumber, and dispose of personal
12 property as is needed, maintain, use and operate or contract for the
13 maintenance, use and operation of or lease of any and all property
14 of any kind, real, personal or mixed or any interest therein unless
15 otherwise provided by the State Dental Act; provided, all contracts
16 for real property shall be subject to the provisions of Section 63
17 of Title 74 of the Oklahoma Statutes;

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

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

SECTION 3. AMENDATORY 59 O.S. 2021, Section 328.21, as last amended by Section 2, Chapter 220, O.S.L. 2023 (59 O.S. Supp. 2023, Section 328.21), is amended to read as follows:

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

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

1. Is of good moral character;

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

3. Has passed a written theoretical examination and a clinical examination approved by the Board within the previous five (5) years; and

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

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

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

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

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

5 D. Pursuant to Section 328.15 of this title, the Board may
6 affiliate as a member state, and accept regional exams from the
7 Commission on Dental Competency Assessments (CDCA-WREB-CITA) if the
8 following requirements are included:

9 1. For dental licensing the following components on a live
10 patient or manikin:

11 a. a fixed prosthetic component of the preparation of an
12 anterior all porcelain crown and the preparation of a
13 three-unit posterior bridge,

14 b. a periodontal component,

15 c. an endodontic component,

16 d. an anterior class III and posterior class II
17 restorative component,

18 e. a diagnosis and treatment planning section as approved
19 by the Board, as specified in Section 328.15 of this
20 title, and

21 f. the Board may determine equivalencies based on
22 components of other exams for the purpose of
23 credentialing; or
24

1 2. For dental hygienists licensing the following components on
2 a live patient or manikin:

3 a. clinical patient treatments with an evaluation of
4 specific clinical skills, and

5 b. evaluation of the candidate's compliance with
6 professional standards during the treatment as
7 approved by the Board in Section 328.15 of this title
8 and shall include:

9 (1) extra/intra oral assessment,

10 (2) periodontal probing, and

11 (3) scaling/subgingival calculus removal and
12 supragingival deposit removal.

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

22 F. The Board shall require every applicant for a license to
23 practice dentistry or dental hygiene to submit, for the files of the
24 Board, a copy of a dental degree or dental hygiene degree, an

1 official transcript, a recent photograph duly identified and
2 attested, and any other information as required by the Board.

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

7 H. A dentist or dental hygienist currently licensed in another
8 state having met the qualifications in paragraphs 1 through 3 of
9 subsections B and C of this section may apply for a license by
10 credentials upon meeting the following:

11 1. A dentist holding a general dentist license in good standing
12 and having practiced for at least five hundred (500) hours within
13 the previous five (5) years immediately prior to application and
14 having passed a regional examination substantially equivalent to the
15 requirements for this state may apply for licensure by credentials;

16 2. A dental hygienist holding a dental hygiene license in good
17 standing and having practiced for at least four hundred twenty (420)
18 hours within the previous five (5) years immediately prior to
19 application and having passed a regional examination substantially
20 equivalent to the requirements for this state may apply for
21 licensure by credentials. Applicants for credentialing must
22 include:

23 a. a letter of good standing from all states in which the
24 applicant has ever been licensed, and

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

2 3. An applicant applying for a dental or dental hygiene license
3 by credentials shall only be required to pass the jurisprudence
4 portion of the examination requirements as set forth in paragraph 4
5 of subsection B of this section.

6 I. 1. There shall be ~~six~~ seven types of advanced procedures
7 available for dental hygienists upon completion of a Commission on
8 Dental Accreditation (CODA) approved program, course, or
9 certification program that has been approved by the Board:

10 a. administration of nitrous oxide,

11 b. administration of local anesthesia,

12 c. neuromodulator administration,

13 d. therapeutic use of lasers,

14 e. phlebotomy ~~and~~ ,

15 f. venipuncture, and

16 ~~f.~~ g. elder care and public health pursuant to Section 7
17 328.58 of this ~~act~~ title.

18 2. A dental hygienist holding an advanced procedure permit or
19 credential in any other state for two (2) years shall be eligible
20 for the advanced procedure permit by credentials; provided, that
21 application for the advanced procedure permit by credentials for
22 administration of local anesthesia shall additionally require proof
23 of passage of such advanced procedure in a CDCA-WREB-CITA exam.
24

1 3. For all advanced procedures other than administration of
2 local anesthesia, a dental hygienist may apply by filling out an
3 application with required documentation of training as required by
4 state law and rules of the Board. A dental hygienist licensed by
5 the Board prior to January 30, 2024, shall be eligible for the
6 advanced procedure of therapeutic use of lasers upon submission of
7 an affidavit attesting to two (2) years of practice using lasers.

8 4. All advanced procedures shall be added to the dental hygiene
9 license upon approval.

10 J. All licensees and permit holders shall display the current
11 permit or license in a visible place within the dental office or
12 treatment facility.

13 K. The Board shall have the authority to temporarily change
14 requirements of an examination due to availability or changes in the
15 examination format, not to exceed one (1) year.

16 L. During a year in which governmental officials have declared
17 a health pandemic, a state or federal disaster, or other natural or
18 man-made disaster, the Board shall have the authority through a
19 resolution to change or make allowances in requirements of all
20 candidates for licensure and issue temporary licenses for extended
21 periods of time or as needed until the event passes. The resolution
22 shall have a beginning and an end date and shall automatically
23 expire no less than thirty (30) days after the end of the disaster
24 is declared by governmental officials.

1 M. Every licensee or permit holder shall have an official
2 address and email address listed with the Board. Every licensee or
3 permit holder shall update the address within thirty (30) calendar
4 days of moving. Official notification of any action of the Board
5 adverse to a licensee or permit holder including but not limited to
6 notification of license or permit cancellation due to nonrenewal,
7 notice of a formal complaint, or a decision of the hearing panel or
8 board, shall be served to the licensee or permit holder by
9 registered mail at the official address, in person, to the
10 licensee's or permit holder's attorney, by agreement of the
11 individual, by a process server, or by an investigator of the Board
12 pursuant to Section 2004 of Title 12 of the Oklahoma Statutes.

13 SECTION 4. AMENDATORY 59 O.S. 2021, Section 328.23a, as
14 amended by Section 4, Chapter 158, O.S.L. 2022 (59 O.S. Supp. 2023,
15 Section 328.23a), is amended to read as follows:

16 Section 328.23a. A. There is established a special volunteer
17 license for dentists and a special volunteer license for dental
18 hygienists who are retired from active practice or out-of-state
19 licensees in active practice who are in the Oklahoma Medical Reserve
20 Corps or assisting with emergency management, emergency operations
21 or hazard mitigation in response to any emergency, man-made disaster
22 or natural disaster, or participating in public health initiatives,
23 disaster drills and community service events that are endorsed by a
24 city or county health department or the State Department of Health

1 and wish to donate their expertise for the dental care and treatment
2 of indigent and needy persons of the state. A special volunteer
3 license may also be issued for any live patient training approved by
4 the Board of Dentistry. The special volunteer license shall be:

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

6 2. Issued without the payment of an application fee, license
7 fee or renewal fee;

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

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

11 B. A special volunteer license may be issued for a dentist or
12 dental hygienist who is on active duty military service. This
13 license shall not be subject to paragraph 4 of subsection A of this
14 section and may be issued for the time period of the tour of duty.

15 C. A dentist or dental hygienist must meet the following
16 requirements to be eligible for a special volunteer license:

17 1. Completion of a special volunteer dental or dental hygiene
18 license application including documentation of the ~~dentist's~~ dental
19 or dental hygiene school graduation and practice history;

20 2. Documentation that the dentist or dental hygienist has been
21 previously issued a full and unrestricted license to practice
22 dentistry or dental hygiene in this state or in another state of the
23 United States and that he or she has never been the subject of any
24 reportable medical or dental disciplinary action in any

jurisdiction. If the dentist or dental hygienist is licensed in more than one state and any license of the licensee is suspended, revoked, or subject to any agency order limiting or restricting practice privileges, or has been voluntarily terminated under threat of sanction, the dentist or dental hygienist shall be ineligible to receive a special volunteer license;

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

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

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

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

~~D.~~ E. Dental assistants may be issued a volunteer permit at the request of an entity that provides dental services to the needy. Volunteers in a volunteer initiative who are not dentists or dental

1 hygienists shall be named and provided on a list to the Board by the
2 entity hosting the volunteer initiative with any other requirements
3 as set forth by the Board. The Board shall provide written
4 documentation to the host entity designating all persons who may
5 participate in the volunteer initiative including authorization of
6 the timetable requested by the host entity for granting licensure
7 exemption. Any person working under a volunteer dental assistant
8 permit shall not receive payment or compensation for any services
9 rendered under the volunteer dental assistant permit. Volunteer
10 dental assistant permits shall be limited to specific dates and
11 locations of services to be provided.

12 ~~E.~~ F. All persons providing care shall do so under the
13 provisions specified in Section 328.1 et seq. of this title or rules
14 promulgated by the Board. Only those functions authorized by law or
15 administrative rule shall be performed by the named person approved
16 by the Board.

17 ~~F.~~ G. Volunteers shall not use sedation or general anesthesia
18 during volunteer procedures.

19 ~~G.~~ H. Volunteers shall use a form to be provided by the Board
20 for any patient with clear instructions for any and all follow-up
21 care.

22 ~~H.~~ I. At any time, the Board shall revoke a volunteer license
23 based on documentation of failure to participate according to state
24 laws or administrative rules.

1 ~~F.~~ J. A special volunteer license shall be restricted to
2 services provided at the locations listed on the application or for
3 a specific not-for-profit treatment provider group as approved by
4 the Board.

5 K. A special volunteer license may be issued to a dentist with
6 an active license in good standing in another state for the purpose
7 of participating in a continuing education class that includes live
8 patient treatment as a part of the training program.

9 SECTION 5. AMENDATORY 59 O.S. 2021, Section 328.24, as
10 amended by Section 4, Chapter 220, O.S.L. 2023 (59 O.S. Supp. 2023,
11 Section 328.24), is amended to read as follows:

12 Section 328.24. A. No person shall practice as a dental
13 assistant or oral maxillofacial surgery assistant for more than one
14 (1) day in a calendar year without having applied for a permit as a
15 dental assistant or oral maxillofacial surgery assistant from the
16 Board of Dentistry within thirty (30) days of beginning employment.
17 During this time period, the dental assistant shall work under the
18 direct visual supervision of a dentist at all times.

19 B. The application shall be made to the Board in writing and
20 shall be accompanied by the fee established by the Board, together
21 with satisfactory proof that the applicant passes a background check
22 with criteria established by the Board.

23 C. Beginning January 1, 2020, every dental assistant receiving
24 a permit shall complete a class on infection control as approved by

1 the Board within one (1) year from the date of receipt of the
2 permit. Any person holding a valid dental assistant permit prior to
3 January 1, 2020, shall complete an infection-control class as
4 approved by the Board before December 31, 2020. Failure to complete
5 the class shall be grounds for discipline pursuant to Section
6 328.29a of this title.

7 D. There shall be ~~seven~~ eight types of expanded duty permits
8 available for dental assistants or oral maxillofacial surgery
9 assistants upon completion of a program approved by the Commission
10 on Dental Accreditation (CODA) or a course that has been approved by
11 the Board:

12 1. Radiation safety;

13 2. Coronal polishing and topical fluoride;

14 3. Sealants;

15 4. Assisting in the administration of nitrous oxide;

16 5. Phlebotomy ~~and venipuncture~~;

17 6. Venipuncture;

18 7. Elder care and public health; or

19 ~~7.~~ 8. Assisting a dentist who holds a parenteral or pediatric
20 anesthesia permit; provided, only the dentist may administer
21 anesthesia and assess the patient's level of sedation.

22 All expanded duties shall be added to the dental assistant
23 license or oral maxillofacial surgery assistant license upon
24 approval.

1 E. The training requirements for all expanded duty permits
2 shall be set forth by the Board. A program that is not CODA-
3 certified must meet the standards set forth and be approved by the
4 Board.

5 F. An applicant for a dental assistant permit who has graduated
6 from a dental assisting program accredited by CODA and has passed
7 the jurisprudence ~~test~~ examination shall receive all expanded duty
8 permits provided for in subsection D of this section if the course
9 materials approved by the Board are covered in the program.

10 G. A dental assistant who holds an out-of-state dental
11 assistant permit with expanded duties may apply for credentialing
12 and reciprocity for a dental assistant permit including any expanded
13 duty by demonstrating the following:

14 1. The dental assistant has had a valid dental assistant permit
15 in another state for a minimum of two (2) years and is in good
16 standing;

17 2. The dental assistant has had a valid expanded duty in
18 another state for a minimum of one (1) year; and

19 3. The dental assistant provides a certificate or proof of
20 completion of an educational class for the expanded duty and that
21 the dental assistant has been providing this treatment to dental
22 patients while working as a dental assistant in a dental office for
23 one (1) year.

1 H. Any person having served in the military as a dental
2 assistant shall receive credentialing and reciprocity for expanded
3 functions by demonstrating the following:

4 1. Proof of military service in excess of two (2) years with
5 any certifications or training in the expanded function areas; and

6 2. Verification from the commanding officer of the medical
7 program or the appropriate supervisor stating that the dental
8 assistant provided the expanded functions on patients in the
9 military dental facility for a minimum of one (1) year within the
10 past five (5) years.

11 SECTION 6. AMENDATORY 59 O.S. 2021, Section 328.31b, is
12 amended to read as follows:

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

20 B. Each licensed dentist shall maintain written records on each
21 patient that shall contain, at a minimum, the following information
22 about the patient:

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

1 2. Results of a clinical examination and, including a physical
2 intraoral examination and head and neck examination, tests
3 conducted, and any lab results including the identification, or lack
4 thereof, of any oral pathology or diseases;

5 3. Treatment plan proposed by the dentist; and

6 4. Treatment rendered to the patient. The patient record shall
7 clearly identify the dentist and the dental hygienist providing the
8 treatment with the dentist, specialty or dental hygienist license
9 number. The patient record shall include documentation of any
10 medications prescribed, administered or dispensed to the patient.

11 C. Whenever patient records are released or transferred, the
12 dentist releasing or transferring the records shall maintain either
13 the original records or copies thereof and a notation shall be made
14 in the retained records indicating to whom the records were released
15 or transferred.

16 D. All claims being submitted for insurance must be signed,
17 stamped or have an electronic signature by the treating dentist.

18 E. Patient records may be kept in an electronic data format,
19 provided that the dentist maintains a backup copy of information
20 stored in the data processing system using disk, tape or other
21 electronic back-up system and that backup is updated on a regular
22 basis, at least weekly, to assure that data is not lost due to
23 system failure. Any electronic data system shall be capable of
24 producing a hard copy on demand.

1 F. All patient records shall be maintained for seven (7) years
2 from the date of treatment.

3 G. Each licensed dentist shall retain a copy of each entry in
4 his or her patient appointment book or such other log, calendar,
5 book, file or computer data used in lieu of an appointment book for
6 a period ~~of~~ no less than seven (7) years from the date of each entry
7 thereon.

8 SECTION 7. AMENDATORY 59 O.S. 2021, Section 328.32, as
9 last amended by Section 5, Chapter 220, O.S.L. 2023 (59 O.S. Supp.
10 2023, Section 328.32), is amended to read as follows:

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

16 1. Pleading guilty or nolo contendere to, or being convicted
17 of, a felony, a misdemeanor involving moral turpitude, any crime in
18 which an individual would be required to be a registered sex
19 offender under state law, any violent crime, Medicaid fraud,
20 insurance fraud, identity theft, embezzlement or a violation of
21 federal or state controlled dangerous substances laws;

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

1 3. Being, by reason of persistent inebriety or addiction to
2 drugs, incompetent to continue the practice of dentistry or failing
3 to notify the Board of a licensee, permit holder, or other health
4 professional that is practicing while impaired or is in a state of
5 physical or mental health that the licensee or permit holder
6 suspects constitutes a threat to patient care within seventy-two
7 (72) hours of witness or belief of such conditions;

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 as listed in Section 328.22 of this title;

1 11. Practicing below the basic standard of care of a patient
2 which an ordinary prudent dentist with similar training and
3 experience within the local area would have provided including, but
4 not limited to, failing to complete proper training and demonstrate
5 proficiency for any procedure delegated to a dental hygienist or
6 dental assistant;

7 12. Endangering the health of patients by reason of having a
8 highly communicable disease and continuing to practice dentistry
9 without taking appropriate safeguards;

10 13. Practicing dentistry in an unsafe or unsanitary manner or
11 place including but not limited to repeated failures to follow
12 Centers for Disease Control and Prevention (CDC) or Occupational
13 Safety and Health Administration (OSHA) guidelines;

14 14. Being shown to be mentally unsound;

15 15. Being shown to be grossly immoral and that such condition
16 represents a threat to patient care or treatment;

17 16. Being incompetent to practice dentistry while delivering
18 care to a patient;

19 17. Committing gross negligence in the practice of dentistry;

20 18. Committing repeated acts of negligence in the practice of
21 dentistry;

22 19. Offering to effect or effecting a division of fees, or
23 agreeing to split or divide a fee for dental services with any
24 person, in exchange for the person bringing or referring a patient;

1 20. Being involuntarily committed to an institution for
2 treatment for substance abuse, until recovery or remission;

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

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

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

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

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

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

1 27. Willfully disclosing information protected by the Health
2 ~~Information~~ Insurance Portability and Accountability Act of 1996,
3 P.L. 104-191;

4 28. Writing a false, unnecessary, or excessive prescription for
5 any drug or narcotic which is a controlled dangerous substance under
6 either federal or state law, or prescribing, dispensing or
7 administering opioid drugs in excess of the maximum limits
8 authorized in Section 2-309I of Title 63 of the Oklahoma Statutes;

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

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

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

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

19 33. Being dishonest in a material way with a patient or during
20 the practice of dentistry;

21 34. Failing to retain all patient records for at least seven
22 (7) years from the date of the last treatment as provided by Section
23 328.31b of this title, except that the failure to retain records
24 shall not be a violation of the State Dental Act if the dentist

1 shows that the records were lost, destroyed, or removed by another,
2 without the consent of the dentist;

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

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

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

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

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 this state as a principal,
8 accessory 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 Data Bank;

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 43. Falling below the basic standard of care of a licensed
23 dentist or dentist practicing in his or her specialty, a dental
24 hygienist, dental assistant, or other licensee or permit holder

pursuant to the State Dental Act and Section 20.1 of Title 76 of the Oklahoma Statutes; or

44. Failing to provide patient records as provided by Sections 19 and 20 of Title 76 of the Oklahoma Statutes.

B. Any person making a report in good faith to the Board or to a peer assistance group regarding a professional suspected of practicing dentistry while being impaired pursuant to paragraph 3 of subsection A of this section shall be immune from any civil or criminal liability arising from such reports.

C. The provisions of the State Dental Act shall not be construed to prohibit any dentist from displaying or otherwise advertising that the dentist is also currently licensed, registered, certified or otherwise credentialed pursuant to the laws of this state or a nationally recognized credentialing board, if authorized by the laws of the state or credentialing board to display or otherwise advertise as a licensed, registered, certified, or credentialed dentist.

SECTION 8. AMENDATORY 59 O.S. 2021, Section 328.41, as amended by Section 7, Chapter 158, O.S.L. 2022 (59 O.S. Supp. 2023, Section 328.41), is amended to read as follows:

Section 328.41. A. 1. On or before the last day of December of each year, every dentist, dental hygienist, dental assistant, oral maxillofacial surgery assistant and other licensee or permit holders previously licensed or permitted by the Board of Dentistry

1 to practice in this state, with the exception of those listed in
2 paragraph 2 of this subsection, shall submit a completed renewal
3 application with information as may be required by the Board,
4 together with an annual renewal fee established by the rules of the
5 Board. Upon receipt of the annual renewal fee, the Board shall
6 issue a renewal certificate authorizing the dentist, dental
7 hygienist, dental assistant or oral maxillofacial surgery assistant
8 to continue the practice of dentistry or dental hygiene,
9 respectively, in this state for a period of one (1) year. Every
10 license or permit issued by the Board shall begin on January 1 and
11 expire on December 31 of each year.

12 2. Resident and fellowship permits shall be valid from July 1
13 through June 30 of each year and dental student intern permits shall
14 be valid from August 1 through July 31 of each year.

15 B. ~~Beginning July 1, 2021, continuing~~ Continuing education
16 requirements shall be due at the end of each two-year period.

17 C. 1. Continuing education requirements for a dentist or
18 dental hygienist shall consist of:

- 19 a. a live, in-person cardiopulmonary resuscitation class
- 20 approved by the Board,
- 21 b. an ethics class approved by the Board,
- 22 c. for a dentist, two (2) hours of opioid and scheduled
- 23 drug prescribing classes, and
- 24 d. any combination of the following:

- (1) completion of classes at a university, college or technology center school accredited by the Commission on Dental Accreditation (CODA) or college courses related to dentistry, which shall count equal to credit hours received on a transcript,
- (2) teaching one or more classes at a school or program accredited by CODA, for which the dentist or dental hygienist shall receive credit for the semester credit hours and one (1) hour of credit per eighteen (18) hours of clinical instruction,
- (3) publishing papers, presenting clinics and lecturing, for which the dentist or dental hygienist shall receive six (6) credit hours for each hour of the original presentation and hour-for-hour credit for a subsequent presentation of the same material. No more than fifty percent (50%) of total required continuing education hours may be fulfilled by activities described in this division,
- (4) a scientific-based medical treatment and patient care class approved by the Board,
- (5) any health-related program sponsored by the ~~Veterans Administration~~ United States Department

1 of Veteran Affairs or Armed Forces provided at a
2 government facility,

3 (6) formal meetings by national or state professional
4 organizations for dental providers, or
5 university-sponsored professional alumni clinical
6 meetings approved by the Board,

7 (7) organized study clubs,

8 (8) uncompensated volunteer work at an event approved
9 by the Board not to exceed seven (7) hours for a
10 dentist or four (4) hours for a dental hygienist,
11 or

12 (9) practice-management-related courses not to exceed
13 four (4) hours for a dentist or two (2) hours for
14 a dental hygienist.

15 2. Full-time graduate study, internships, residencies and
16 dentists and dental hygienists engaged in a full-time program
17 accredited by CODA shall be exempt from continuing education for a
18 continuing education year per academic year completed.

19 3. New graduates of dental and hygiene programs shall not be
20 required to complete continuing education for the first year after
21 graduation. Continuing education requirements for dentists and
22 dental hygienists who are new graduates shall begin July 1 of the
23 calendar year following the year of graduation. Hours shall be
24 prorated by year of new licensure.

1 4. A dentist or dental hygienist on active duty military
2 service shall be exempt from continuing education if he or she is:

3 a. currently on full-time active duty service as a
4 dentist or dental hygienist for a minimum of eighteen
5 (18) months in a two-year continuing education cycle,
6 or

7 b. a licensed dentist or dental hygienist serving in the
8 reserve components of the armed forces as specified in
9 10 U.S.C., Section 10101, who is actively deployed
10 outside of the United States for a minimum of eighteen
11 (18) months in a two-year continuing education cycle.

12 D. 1. Dentists shall complete forty (40) hours of continuing
13 education with no more than twenty (20) hours to be completed
14 online. ~~Hygienists~~ Dental hygienists shall complete twenty (20)
15 hours of continuing education with no more than ten (10) hours to be
16 completed online. Interactive classes or webinar classes may, at
17 the discretion of the Board, count as in-person.

18 2. Oral maxillofacial surgery assistants shall complete eight
19 (8) hours of continuing education including one (1) hour of
20 infection control.

21 3. Dental assistants shall complete two (2) hours of infection
22 control.

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

4 E. Upon failure of a dentist, dental hygienist, dental
5 assistant or oral maxillofacial surgery assistant to pay the annual
6 renewal fee within two (2) months after January 1 of each year, the
7 Board shall notify the dentist, dental hygienist, dental assistant,
8 oral maxillofacial surgery assistant, or other permit holder that
9 the license or permit will be officially canceled as of April 1
10 pursuant to subsection M of Section 328.21 of this title. A list of
11 canceled licenses or permits not otherwise renewed shall be
12 published at the following meeting of the Board.

13 F. Any dentist, dental hygienist, dental assistant or oral
14 maxillofacial surgery assistant whose license or permit is
15 automatically canceled by reason of failure, neglect or refusal to
16 secure the renewal certificate may be reinstated by the Board at any
17 time within one (1) year from the date of the expiration of the
18 license, upon payment of the annual renewal fee and a penalty fee
19 established by the rules of the Board. If the dentist, dental
20 hygienist, dental assistant, or oral maxillofacial surgery assistant
21 does not apply for renewal of the license or permit and pay the
22 required fees within one (1) year after the license has expired,
23 then the dentist, dental hygienist, dental assistant or oral
24 maxillofacial surgery assistant shall be required to file an

1 application for and take the examination or other requirements
2 provided for in the State Dental Act or the rules promulgated by the
3 Board before again commencing practice.

4 G. The Board, by rule, shall provide for the remittance of fees
5 otherwise required by the State Dental Act while a dentist or dental
6 hygienist is on active duty with any of the Armed Forces of the
7 United States.

8 H. In case of a lost or destroyed license or renewal
9 certificate and upon satisfactory proof of the loss or destruction
10 thereof, the Board may issue a duplicate, charging therefor a fee
11 established by the rules of the Board.

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

19 J. A dentist, dental hygienist, oral maxillofacial dental
20 assistant or dental assistant that has not had an active license or
21 permit in excess of five (5) years shall be required to apply as a
22 new applicant.

23 K. Any application for a license or permit that has remained
24 inactive for more than one (1) year shall be closed.

SECTION 9. AMENDATORY 59 O.S. 2021, Section 328.43a, is amended to read as follows:

Section 328.43a. A. 1. Upon the receipt of a complaint to the Board of Dentistry alleging a violation of the State Dental Act or other state or federal law by a licensee, permit holder or other individual under the authority of the Board, the Board ~~President~~ president shall assign up to three Board members as the review and investigative panel. The remaining Board members shall constitute the Board member jury panel. In the event the complaint is anesthesia-related, the Board ~~President~~ president or acting president may, at his or her discretion, add one or more members of the anesthesia committee to the review and investigative ~~and review~~ panel.

2. The review and investigative panel, in its discretion, may notify the respondent of the complaint at any time prior to its dismissal of the complaint or making a recommendation to the Board.

B. The review and investigative panel shall confer and shall conduct or cause to be conducted any investigation of the allegations in the complaint as it reasonably determines may be needed to establish, based on the evidence available to the panel, whether it is more likely than not that:

1. A violation of the provisions of the State Dental Act or the rules of the Board has occurred; and

1 2. The person named in the complaint has committed the
2 violation.

3 C. 1. In conducting its investigation, a review and
4 investigative panel may seek evidence, take statements, take and
5 hear evidence, and administer oaths and affirmations and shall have
6 any other powers as defined by the Administrative Procedures Act. A
7 review and investigative panel may also use Board attorneys and
8 investigators appointed by the Board to seek evidence.

9 2. The review and investigative panel shall not have contact or
10 discussions regarding the investigation with the other Board members
11 that shall be on the jury panel during the investigative phase.

12 3. No Board member that is a dentist living in the same
13 district as a dentist that is the subject of a complaint shall serve
14 on a review and investigative panel or on the Board member jury
15 panel.

16 4. All records, documents, and other materials during the
17 review and investigative panel portion shall be considered
18 investigative files and not be subject to the Oklahoma Open Records
19 Act.

20 D. The Board ~~President~~ president or other member of the Board
21 shall act as the presiding administrative judge during any
22 proceeding. The presiding administrative judge shall be allowed to
23 seek advice from judicial counsel or other legal counsel appointed
24 by the Board.

1 E. The review and investigative ~~and review~~ panel shall have the
2 authority to:

3 1. Dismiss the complaint as unfounded;

4 2. Refer the case to mediation pursuant to the Oklahoma Dental
5 Mediation Act. The mediation panel shall report to the review and
6 investigative panel that a mediation was successful or refer the
7 matter back to the review and investigative panel at which time they
8 will reassume jurisdiction or dismiss the complaint;

9 3. Issue a private reprimand, settlement agreement, or
10 remediation agreement that shall not include any restriction upon
11 the licensee's or permit holder's license or permit;

12 4. Assess an administrative fine not to exceed One Thousand
13 Five Hundred Dollars (\$1,500.00) per violation pursuant to a private
14 settlement agreement; and

15 5. Issue a formal complaint for a hearing of the Board member
16 jury panel pursuant to Article II of the Administrative Procedures
17 Act against the licensee or permit holder.

18 The review and investigative panel and the Board ~~President~~
19 president shall have the authority to authorize the Executive
20 Director or the Board's attorney to file an injunction in district
21 court for illegal activity pursuant to the State Dental Act when
22 needed.

23 F. In the event of a majority of members of the Board being
24 recused from the Board member jury panel, the Board ~~President~~

1 president or presiding administrative judge shall appoint one or
2 more previous Board members with a current active license in good
3 standing to serve as a jury panel member.

4 G. Any action as set forth in paragraphs 1 through 3 of
5 subsection E of this section shall remain part of the investigation
6 file, and may be disclosed or used against the respondent only if
7 the respondent violates the settlement agreement or if ordered by a
8 court of competent jurisdiction.

9 H. The Board of Dentistry, its employees, independent
10 contractors, appointed committee members and other agents shall keep
11 confidential all information obtained in the following
12 circumstances:

13 1. During an investigation into allegations of violations of
14 the State Dental Act, including but not limited to:

15 a. any review or investigation made to determine whether
16 to allow an applicant to take an examination, or

17 b. whether the Board shall grant a license, certificate,
18 or permit;

19 2. In the course of conducting an investigation;

20 3. Reviewing investigative reports provided to the Board by a
21 registrant; and

22 4. Receiving and reviewing examination and test scores.

23 I. The ~~President~~ president of the Board or presiding
24 administrative judge shall approve any private settlement agreement.

1 J. The ~~investigative~~ review and investigative panel may make a
2 recommendation for an agreed settlement order to be approved by the
3 Board. The agreed settlement order may include any recommendation
4 agreed upon between the license holder including, but not limited
5 to, any penalty available to the Board pursuant to Section 328.44a
6 of this title.

7 K. A formal complaint issued by the review and investigative
8 panel shall specify the basic factual allegations and the provisions
9 of the State Dental Act, state law or rules that the license or
10 permit holder is alleged to have violated. The formal notice of a
11 complaint shall be served to the license or permit holder either in
12 person, to ~~their~~ his or her attorney, by agreement of the
13 individual, by an investigator of the Board or a formal process
14 server pursuant to Section 2004 of Title 12 of the Oklahoma
15 Statutes.

16 L. Any information obtained and all contents of any
17 investigation file shall be exempt from the provisions of the
18 Oklahoma Open Records Act.

19 SECTION 10. AMENDATORY 59 O.S. 2021, Section 328.44a, is
20 amended to read as follows:

21 Section 328.44a. A. The Board of Dentistry is authorized,
22 after notice and opportunity for a hearing pursuant to Article II of
23 the Administrative Procedures Act, to issue an order imposing one or
24 more of the following penalties whenever the Board finds, by clear

1 and convincing evidence, that a dentist, dental hygienist, dental
2 assistant, oral maxillofacial surgery assistant, dental laboratory
3 technician, holder of a permit to operate a dental laboratory, or an
4 entity operating pursuant to the provisions of the Professional
5 Entity Act or the State Dental Act has committed any of the acts or
6 occurrences ~~set forth in Sections 328.29, 328.29a, 328.32, 328.33,~~
7 ~~328.39 and 328.39a of this title~~ prohibited by the State Dental Act
8 or rules of the Board:

9 1. Refusal to issue a license or permit, or a renewal thereof,
10 provided for in the State Dental Act;

11 2. Suspension of a license or permit issued by the Board for a
12 period of time deemed appropriate by the Board;

13 3. Revocation of a license or permit issued by the Board;

14 4. Imposition of an administrative penalty not to exceed One
15 Thousand Five Hundred Dollars (\$1,500.00) per violation;

16 5. Issuance of a censure;

17 6. Placement on probation for a period of time and under such
18 terms and conditions as deemed appropriate by the Board;

19 7. Probation monitoring fees, which shall be the responsibility
20 of the licensee on all probations; or

21 8. Restriction of the services that can be provided by a
22 dentist or dental hygienist, under such terms and conditions as
23 deemed appropriate by the Board.

1 B. A dentist, dental hygienist, dental assistant, oral
2 maxillofacial surgery assistant, dental laboratory technician, or
3 holder of a permit to operate a dental laboratory, against whom a
4 penalty is imposed by an order of the Board pursuant to the
5 provisions of this section, shall have the right to seek a judicial
6 review of such order pursuant to Article II of the Administrative
7 Procedures Act.

8 C. The Board may issue a summary suspension on a licensee or
9 permit holder who is found guilty of a felony charge and is
10 sentenced to incarceration in a state or federal facility.

11 D. 1. A licensee or permit holder may petition the Board to
12 reopen and withdraw an order after the expiration of seven (7) years
13 from the date of issue if:

14 a. the order does not include allegations or a finding of
15 direct patient harm,

16 b. the licensee has maintained an active full-time
17 practice in good standing and has not received an
18 additional order or private reprimand since the issue
19 of the order,

20 c. the licensee has not been the subject of any
21 settlement reports in the National Practitioner Data
22 Bank within the previous seven (7) years, and

23 d. the order concerns an administrative violation and
24 does not include a direct action against the licensee

1 including, but not limited to, probation or suspension
2 of the license.

3 2. Upon receipt of a motion to reopen and withdraw an order,
4 the president of the Board shall assign a panel for review and
5 investigation to be brought to the Board. The Board shall take into
6 consideration the issues causing the order; any changes to laws
7 relevant to the order since its issue that may have resulted in a
8 different outcome if such laws had been in place at the time of the
9 complaint; any actions by the licensee to better his or her
10 abilities as a practicing licensee; current patient outcomes;
11 service to his or her community or state; and any other issues,
12 testimony, or other information relating to the licensee found
13 during an investigation or submitted to the Board.

14 3. The panel and the president may make a determination that
15 the case is not appropriate to bring before the Board and shall have
16 the authority to summarily deny the order and, if appropriate, to
17 advise the licensee of requirements to complete for future
18 consideration. The panel may choose to keep the matter pending
19 while the licensee completes the requirements advised.

20 4. Upon a case brought before the Board, the Board shall vote
21 to withdraw or stay the order. If the order is withdrawn, it shall
22 revert to a private settlement agreement pursuant to Section 328.43a
23 of this title.

1 SECTION 11. AMENDATORY 59 O.S. 2021, Section 328.44b, is
2 amended to read as follows:

3 Section 328.44b. A. A holder of a license, a permit, or
4 certificate granted by the Board of Dentistry shall have the right
5 to surrender the license, permit, or certificate, in writing,
6 notarized, to the Board if the holder is in good standing with the
7 Board as determined, in its discretion, by the Board. The Board
8 shall accept such surrender in writing after approval at a regular
9 or special Board meeting with the statement that the holder is in
10 good standing with the Board. Any holder who has surrendered a
11 license, permit, or certificate issued by the Board and who shall
12 apply for a license, permit, or certificate after surrender shall be
13 subject to all statutes and rules of the Board applicable at the
14 time of the new application.

15 B. A holder of a license, permit, or certificate shall not be
16 considered to be in good standing if an investigation of a complaint
17 is pending against the holder. The Board shall not accept a
18 surrender until a complaint is dismissed by the review panel, ~~a~~
19 ~~settlement agreement~~ an agreed order or agreed order of surrender is
20 entered, or the Board determines that an individual proceeding shall
21 be initiated pursuant to Section 328.43a of this title.

22 C. If a holder of a license, permit, or certificate wishes to
23 surrender the license, permit, or certificate during the pendency of
24 an initial proceeding, the Board may accept or reject the surrender,

1 in its discretion. The acceptance must be in writing after approval
2 by the Board at a regular or special Board meeting. Any acceptance
3 shall contain the statement that the acceptance is pending
4 disciplinary action. No person who surrenders a license, permit, or
5 certificate to the Board during a pending disciplinary action shall
6 be eligible for reinstatement for a period of five (5) years from
7 the date the surrender is accepted by the Board.

8 D. The Board shall retain jurisdiction over the holder of any
9 license, permit, or certificate for all disciplinary matters pending
10 at the time surrender is sought by the holder or over any person
11 that does not renew his or her license while an investigation is
12 pending.

13 E. All surrenders of licenses, permits, or certificates,
14 whether the holder is or is not in good standing, shall be reported
15 to the ~~national practitioner data bank~~ National Practitioner Data
16 Bank with the notation in good standing or pending disciplinary
17 action.

18 SECTION 12. This act shall become effective November 1, 2024.

19 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
20 February 22, 2024 - DO PASS AS AMENDED BY CS
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