

OCCUPATIONS CODE

TITLE 3. HEALTH PROFESSIONS

SUBTITLE D. DENTISTRY

CHAPTER 251. GENERAL PROVISIONS RELATING TO PRACTICE OF DENTISTRY

Sec. 251.001. SHORT TITLE. This subtitle may be cited as the Dental Practice Act.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 251.002. DEFINITIONS. In this subtitle:

(1) "Board" means the State Board of Dental Examiners.

(2) "Executive director" means the executive director of the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 251.003. PRACTICE OF DENTISTRY. (a) For purposes of this subtitle, a person practices dentistry if the person:

(1) represents to the public that the person is a dentist or dental surgeon or uses or permits to be used for the person or another person the title of "Doctor," "Dr.," "Doctor of Dental Surgery," "D.D.S.," "Doctor of Dental Medicine," "D.M.D.," or another description, including the use of the terms "denturist" or "denturism," that, directly or indirectly, represents that the person is able to:

(A) diagnose, treat, or remove stains or concretions from human teeth; or

(B) provide surgical and adjunctive treatment for a disease, pain, injury, deficiency, deformity, or physical condition of the human teeth, oral cavity, alveolar process, gums, jaws, or directly related and adjacent masticatory structures;

(2) performs or offers to perform by any means the:

(A) cleaning of human teeth;

(B) removal of stains, concretions, or deposits from teeth in the human mouth; or

(C) diagnosis, treatment, operation, or prescription for a disease, pain, injury, deficiency, deformity, or physical condition of the human teeth, oral cavity, alveolar

process, gums, or jaws;

(3) prescribes, makes, or causes to be made or offers to prescribe, make, or cause to be made by any means an impression of any portion of the human mouth, teeth, gums, or jaws:

(A) to diagnose, prescribe, or treat, or aid in the diagnosis, prescription, or treatment, of a physical condition of the human mouth, teeth, gums, or jaws; or

(B) to construct or aid in the construction of a dental appliance, denture, dental bridge, false teeth, dental plate of false teeth, or another substitute for human teeth;

(4) owns, maintains, or operates an office or place of business in which the person employs or engages under any type of contract another person to practice dentistry;

(5) fits, adjusts, repairs, or substitutes or offers to fit, adjust, repair, or substitute in the human mouth or directly related and adjacent masticatory structures a dental appliance, structure, prosthesis, or denture;

(6) aids in the fitting, adjusting, repairing, or substituting or causes to be fitted, adjusted, repaired, or substituted in the human mouth or directly related and adjacent masticatory structures a dental appliance, structure, prosthesis, or denture;

(7) without a written prescription or work order signed by a dentist legally practicing dentistry in this state or in the jurisdiction in which the dentist maintains the dentist's office:

(A) makes, processes, reproduces, repairs, or relines a full or partial denture, fixed or removable dental bridge or appliance, dental plate of false teeth, artificial dental restoration, or a substitute or corrective device or appliance for the human teeth, gums, jaws, mouth, alveolar process, or any part for another; or

(B) offers, undertakes, aids, abets, or causes another person to engage in an activity described by Paragraph (A);

(8) directly or indirectly offers, undertakes, or causes another to perform for any person an act, service, or part of an act or service in the practice of dentistry, including:

(A) inducing, administering, prescribing, or dispensing anesthesia or an anesthetic drug, medicine, or an agent in any way related to the practice of dentistry;

(B) permitting or allowing another to use the person's license or certificate to practice dentistry in this state; or

(C) aiding or abetting the practice of dentistry by a person not licensed by the board to practice dentistry;

(9) controls, influences, attempts to control or influence, or otherwise interferes with the exercise of a dentist's independent professional judgment regarding the diagnosis or treatment of a dental disease, disorder, or physical condition; or

(10) represents that the person is a denturist or uses another title that is intended to convey to the public that the services offered by the person are included within the practice of dentistry.

(b) The practice of dentistry under Subsection (a)(9) does not:

(1) require an entity to pay for services that are not provided for in an agreement; or

(2) exempt a dentist who is a member of a hospital staff from following hospital bylaws, medical staff bylaws, or established policies approved by the governing board and the medical and dental staff of the hospital.

(c) In this subtitle, the practice of the dental specialty of oral and maxillofacial surgery includes the diagnosis of and the surgical and adjunctive treatment of diseases, injuries, and defects involving the functional and aesthetic aspects of the hard and soft tissues of the oral and maxillofacial region.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 251.004. EXEMPTION FROM PRACTICE OF DENTISTRY. (a) A person does not practice dentistry as provided by Section [251.003](#) if the person is:

(1) a faculty member of a reputable dental or dental hygiene school in which the member performs services for the sole benefit of the school;

(2) a student of a reputable dental school who performs the student's operations without pay, except for actual cost of materials, in the presence of and under the direct personal supervision of a demonstrator or teacher who is a faculty member of a reputable dental school;

(3) a person:

(A) who performs laboratory work only on inert matter; and

(B) who does not solicit or obtain work by any means from a person who is not a licensed dentist engaged in the practice of dentistry and does not act as the agent or solicitor of, and does not have any interest in, a dental office or practice or the receipts of a dental office or practice;

(4) a physician licensed in this state who does not represent that the person is practicing dentistry, including a physician who extracts teeth or applies pain relief in the regular practice of the physician's profession;

(5) a dental hygienist:

(A) who is authorized to practice dental hygiene in this state; and

(B) who practices dental hygiene in strict conformity with the state law regulating the practice of dental hygiene;

(6) a person who is a member of an established church and practices healing by prayer only;

(7) an employee of a licensed dentist in this state who makes dental x-rays in the dental office under the supervision of the dentist;

(8) a Dental Health Service Corporation chartered under Section A(1), Article 2.01, Texas Non-Profit Corporation Act (Article 1396-2.01, Vernon's Texas Civil Statutes);

(9) a dental intern or dental resident as defined and regulated by board rules;

(10) a student:

(A) who is in a dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association and operated at an accredited institution of higher

education;

(B) who practices dental hygiene without pay under the general supervision of a dentist and under the supervision of a demonstrator or teacher who is a faculty member of the program:

(i) in a clinic operated for the sole benefit of the program's institution of higher education; or

(ii) in a clinic operated by a government or nonprofit organization that serves underserved populations as determined by board rule; and

(C) who practices in strict conformity with state law regulating the practice of dental hygiene;

(11) a dental assistant who performs duties permitted under Chapter 265, in strict conformity with state law;

(12) a dentist or dental hygienist licensed by another state or a foreign country who performs a clinical procedure only as a demonstration for professional and technical education purposes, if the dentist or dental hygienist first obtains from the board a temporary license for that purpose;

(13) a dental hygienist who is a faculty member of a dental or dental hygiene school while practicing dental hygiene:

(A) under the supervision of a dentist licensed in this state or of a teacher or demonstrator who is a dentist faculty member of the school; and

(B) in strict conformity with state law regulating the practice of dental hygiene;

(14) a dentist who is in a remedial training program sponsored by the Commission on Dental Accreditation of the American Dental Association at an accredited dental or dental hygiene school;

(15) a dental hygienist who is in a remedial training program sponsored by the Commission on Dental Accreditation of the American Dental Association at an accredited dental or dental hygiene school and who acts in strict conformity with state law regulating the practice of dental hygiene, except that supervision may be provided by a demonstrator or teacher who is a dentist member of the program;

(16) a dentist who is not licensed in this state and who is taking the dental clinical examination offered in this state by an examining body designated by the board;

(17) a dental hygienist who is not licensed in this state and who is taking the dental hygiene clinical examination offered in this state by an examining body designated by the board if participation is in strict conformity with state law regulating the practice of dental hygiene, except that supervision may be provided by a dentist whose services are secured by the examining body;

(18) a dentist whose license is in retired status or who is licensed in another state and is attending a continuing education clinical program offered at a dental or dental hygiene school accredited by the Commission on Dental Accreditation of the American Dental Association; or

(19) a dental hygienist whose dental hygienist license is in retired status or who is licensed in another state and is attending a continuing education clinical program offered at a dental or dental hygiene school accredited by the Commission on Dental Accreditation of the American Dental Association if tasks are performed in strict conformity with state law regulating the practice of dental hygiene, except that supervision may be provided by a dentist member of the program.

(b) A person's activities described by Subsections (a)(14), (15), and (18) are considered not to be the practice of dentistry only to the extent the person is participating in the specified program.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.071(a), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 810 (S.B. 610), Sec. 1, eff. September 1, 2005.

Sec. 251.005. APPLICATION OF SUNSET ACT. The State Board of Dental Examiners is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by

that chapter, the board is abolished September 1, 2029.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 17, Sec. 1, eff. Sept. 1, 2003; Acts 2001, 77th Leg., ch. 1481, Sec. 1.02, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 17, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1232 (S.B. [652](#)), Sec. 3.06, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. [313](#)), Sec. 1, eff. September 1, 2017.

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SUBTITLE D. DENTISTRY

CHAPTER 252. STATE BOARD OF DENTAL EXAMINERS

Sec. 252.001. BOARD MEMBERSHIP. (a) The State Board of Dental Examiners consists of 11 members appointed by the governor with the advice and consent of the senate as follows:

(1) six reputable dentist members who reside in this state and have been actively engaged in the practice of dentistry for at least the five years preceding appointment;

(2) three reputable dental hygienist members who reside in this state and have been actively engaged in the practice of dental hygiene for at least the five years preceding appointment; and

(3) two members who represent the public.

(b) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

(c) In making an appointment under this section, the governor shall attempt to appoint members of different minority groups, including females, African Americans, Hispanic Americans, Native Americans, and Asian Americans.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 17, Sec. 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1170, Sec. 8.01, eff. Sept. 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 2, eff. September 1, 2017.

Sec. 252.002. MEMBER ELIGIBILITY. (a) A person is not eligible for appointment as a member if:

(1) the person's license to practice dentistry or dental hygiene has been revoked by the board for a violation of a statute of this state relating to the practice of dentistry or dental hygiene and the revocation is not overturned by final order of a court; or

(2) the person is an adverse party in civil litigation against the board.

(b) A person is not eligible for appointment as a dentist or dental hygienist member of the board if the person has a financial interest in any dental, dental hygiene, or medical school.

(c) A person is not eligible for appointment as a dental hygienist member of the board if the person is licensed to practice dentistry in this state.

(d) A person is not eligible for appointment as a public member of the board if the person or the person's spouse:

(1) is registered, certified, or licensed by an occupational regulatory agency in the field of health care;

(2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the board;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the board;

(4) uses or receives a substantial amount of tangible goods, services, or money from the board, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses; or

(5) is employed by a board member.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 17, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 772 (S.B. 887), Sec. 1, eff. September 1, 2009.

Sec. 252.003. MEMBERSHIP AND EMPLOYEE RESTRICTIONS.

(a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the board and may not be a

board employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of health care; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of health care.

(c) A person may not serve as a member of the board or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.072(a), eff. Sept. 1, 2001.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 3, eff. September 1, 2017.

Sec. 252.004. TERMS OF OFFICE. (a) Members of the board serve staggered six-year terms. The terms of one-third of the members expire February 1 of each odd-numbered year.

(b) A member may not serve more than two consecutive full terms. The completion of the unexpired portion of a term does not constitute service for a full term for purposes of this subsection.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 772 (S.B. 887), Sec. 2, eff. September 1, 2009.

Sec. 252.005. PRIVILEGES OF OFFICE. Members of the board have full and identical privileges, except that only dentist members may participate in the decision to pass or fail an applicant for a license to practice dentistry during the clinical portion of the board examinations.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 252.006. OFFICERS. (a) The board shall elect a secretary from its members to serve for a one-year term.

(b) The governor shall designate a member of the board as the presiding officer of the board to serve in that capacity at the will of the governor. The presiding officer must be a dentist.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 17, Sec. 4, eff. Sept. 1, 2003.

Sec. 252.007. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the board that a member:

(1) does not have at the time of appointment the qualifications required by Sections 252.001 and 252.002;

(2) does not maintain during the service on the board the qualifications required by Sections 252.001 and 252.002;

(3) is ineligible for membership under Section 252.003;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled board meetings the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that the action is taken when a ground for removal of a board member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 17, Sec. 5, eff. Sept. 1, 2003.

Sec. 252.008. PER DIEM; REIMBURSEMENT. (a) Each board member is entitled to a per diem set by legislative appropriation for each day the member engages in board business.

(b) A board member may receive reimbursement for travel expenses, including expenses for meals and lodging, incurred in performing an official duty as prescribed by the General Appropriations Act.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 252.009. MEETINGS. The board shall hold meetings at least twice a year at times and places the board determines are most convenient for applicants for examination.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1249, Sec. 1, eff. Sept. 1, 2001.

Sec. 252.010. BOARD MEMBER TRAINING. (a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the law governing board operations;

(2) the programs, functions, rules, and budget of the board;

(3) the scope of and limitations on the rulemaking authority of the board;

(4) the types of board rules, interpretations, and enforcement actions that may implicate federal antitrust law by limiting competition or impacting prices charged by persons engaged in a profession or business the board regulates, including rules, interpretations, and enforcement actions that:

(A) regulate the scope of practice of persons in a profession or business the board regulates;

(B) restrict advertising by persons in a profession or business the board regulates;

(C) affect the price of goods or services provided by persons in a profession or business the board regulates; and

(D) restrict participation in a profession or business the board regulates;

(5) the results of the most recent formal audit of the board;

(6) the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosure of conflicts of interest; and

(B) other laws applicable to members of the board in performing their duties; and

(7) any applicable ethics policies adopted by the board or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

(d) The executive director shall create a training manual that includes the information required by Subsection (b). The executive director shall distribute a copy of the training manual annually to each board member. On receipt of the training manual, each board member shall sign and submit to the executive director a statement acknowledging receipt of the training manual.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 17, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 4, eff. September 1, 2017.

Sec. 252.011. OATH OF OFFICE. Before assuming the duties of office, each board member shall file with the secretary of state a copy of the constitutional oath of office taken by the member.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

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SUBTITLE D. DENTISTRY

CHAPTER 253. EXECUTIVE DIRECTOR AND PERSONNEL

Sec. 253.001. EXECUTIVE DIRECTOR. (a) The board may employ an executive director to assist the board in performing its duties.

(b) The board shall set the executive director's salary.
Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 253.003. PERSONNEL. (a) The executive director, with the board's consent, may employ an assistant executive director to perform the executive director's duties when the executive director is absent or unable to act.

(b) The board may employ:

(1) committees, clerks, advisors, consultants, dentists, hygienists, or examiners to assist the board in performing its duties; and

(2) other persons determined necessary:

(A) to assist the local prosecuting officers of a county in the enforcement of state laws prohibiting the unlawful practice of dentistry; and

(B) to carry out other purposes for which funds are appropriated.

(c) The board shall employ other employees as needed to assist the executive director in performing the executive director's duties and in carrying out the purposes of this subtitle.

(d) A person assisting a local prosecuting officer under this section is subject to the direction and control of the prosecuting officer. This subsection does not change the authority granted by law to the prosecuting officer.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.073(a), eff. Sept. 1, 2001.

Sec. 253.004. DIVISION OF RESPONSIBILITIES. The board

shall develop and implement policies that clearly define the responsibilities of the board and the staff of the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 253.005. QUALIFICATIONS AND STANDARDS OF CONDUCT INFORMATION. The board shall provide, as often as necessary, to its members and employees information regarding:

(1) qualifications for office or employment under this subtitle; and

(2) responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 253.006. CAREER LADDER PROGRAM; PERFORMANCE EVALUATIONS. (a) The executive director or the executive director's designee shall develop an intra-agency career ladder program. The program must require the intra-agency postings of all nonentry level positions concurrently with any public posting.

(b) The executive director or the executive director's designee shall develop a system of annual performance evaluations. All merit pay for board employees must be based on the system established under this subsection.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 253.007. EQUAL OPPORTUNITY POLICY; REPORT. (a) The executive director or the executive director's designee shall prepare and maintain a written policy statement to ensure implementation of an equal employment opportunity program under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that are in compliance with requirements of Chapter 21, Labor Code;

(2) a comprehensive analysis of the board workforce that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underuse in the board workforce of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of significant underuse.

(b) A policy statement prepared under Subsection (a) must:

(1) cover an annual period;

(2) be updated annually;

(3) be reviewed by the Commission on Human Rights for compliance with Subsection (a)(1); and

(4) be filed with the governor.

(c) The governor shall deliver a biennial report to the legislature based on the information received under Subsection (b). The report may be made separately or as a part of other biennial reports made to the legislature.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

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CHAPTER 254. BOARD POWERS AND DUTIES

Sec. 254.001. GENERAL RULEMAKING AUTHORITY. (a) The board may adopt and enforce rules necessary to:

(1) perform its duties; and
(2) ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

(b) The board may adopt rules governing:
(1) the board's proceedings; and
(2) the examination of applicants for a license to practice dentistry.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 254.0011. RULES RELATING TO CONTROL OF DENTAL PRACTICE. (a) The board may adopt rules relating to the practice of dentistry as described by Section [251.003\(a\)\(9\)](#) to prohibit a dentist from engaging in contracts that allow a person who is not a dentist to influence or interfere with the exercise of the dentist's independent professional judgment.

(b) Rules adopted by the board under this subtitle may not preclude a dentist's right to contract with a management service organization. Rules affecting contracts for provision of management services apply the same to dentists contracting with management service organizations and to dentists otherwise contracting for management services.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.074(a), eff. Sept. 1, 2001.

Sec. 254.002. RULES REGARDING ADVERTISING AND COMPETITIVE BIDDING. (a) Except as provided by Section [259.005](#), the board may not adopt rules restricting advertising or competitive bidding except to prohibit false, misleading, and deceptive practices by the license holder.

(b) The board may adopt and enforce reasonable restrictions

to regulate advertising relating to the practice of dentistry by a person engaged in the practice of dentistry as provided by Section 259.005.

(c) The board may not include in the board's rules to prohibit false, misleading, or deceptive advertising under Subsection (a) a rule that:

(1) restricts the use of any advertising medium;

(2) restricts a person's personal appearance or use of the person's voice in an advertisement;

(3) relates to the size or duration of a person's advertisement; or

(4) restricts the person's advertisement under a trade name, except the board may require that a trade name advertisement include the name of each dental owner of the practice.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 254.003. RULES REGARDING INFECTION CONTROL. The board shall investigate infection control in the dental profession and may adopt and enforce rules to control the spread of infection in the practice of dentistry as necessary to protect the public health and safety.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 254.004. FEES. (a) The board shall establish reasonable and necessary fees so that the fees, in the aggregate, produce sufficient revenue to cover the cost of administering this subtitle.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 448, Sec. 31(1)(3), eff. September 1, 2015.

(c) The board shall collect an additional \$55 surcharge for each of the following fees:

(1) the fee for the issuance of a dental license; and

(2) the fee for the renewal of a dental license.

(d) The board shall deposit each surcharge collected to the credit of the dental public assurance account. The dental public assurance account is an account in the general revenue fund that shall be appropriated only to the board to pay for the board's

enforcement program, including an expert panel.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.075(a), eff. Sept. 1, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 709 (H.B. 3201), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 448 (H.B. 7), Sec. 31(1)(3), eff. September 1, 2015.

Sec. 254.005. SIGNATURE AND SEAL ON LICENSE REQUIRED. A license issued to a dentist must be signed by each board member and imprinted with the board's seal.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 254.006. BOARD RECORDS AND CONFIDENTIALITY OF RECORDS.

(a) Except as provided by this section, the investigation files and other records of the board are public records and open to inspection at reasonable times.

(b) Investigation files and other records are confidential, except the board shall inform the license holder of the specific allegations against the license holder. The board may share investigation files and other records with another state regulatory agency or a local, state, or federal law enforcement agency.

(c) The exception from public disclosure of investigation files and records provided by this section does not apply to the disclosure of a disciplinary action of the board, including:

- (1) the revocation or suspension of a license;
- (2) the imposition of a fine on a license holder;
- (3) the placement on probation with conditions of a license holder whose license has been suspended;
- (4) the reprimand of a license holder; or
- (5) the issuance of a warning letter to a license holder.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.076(a), eff. Sept. 1, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 709 (H.B. 3201), Sec. 2, eff. January 1, 2014.

Sec. 254.0065. CONFIDENTIALITY OF CERTAIN INFORMATION REGARDING APPLICANT OR LICENSE HOLDER. (a) In this section, "license" has the meaning assigned by Section 263.0001.

(b) Except as provided by Subsection (c), all information, records, and proceedings of the board or an authorized agent of the board relating to the participation of an applicant for or holder of a license in a peer assistance program or the evaluation of an applicant or license holder under Section 263.0025 are confidential and not subject to disclosure under Chapter 552, Government Code.

(c) The board may disclose a disciplinary action taken against a license holder in the enforcement of Section 263.002(a)(1), (7), or (11). The board may not disclose the nature of the impairment or condition that resulted in the board's action. Added by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 5, eff. September 1, 2017.

Sec. 254.007. RECORDS REGARDING PERSONS AUTHORIZED TO PRACTICE. (a) The board shall keep records of the name, permanent address, and place of business of each person authorized under this subtitle to practice dentistry, dental hygiene, or another profession or business under the board's jurisdiction as provided by law.

(b) The board shall collect annually from each licensed dentist the dentist's name, age, practice locations, hours worked each week, weeks worked each year, and number and type of auxiliaries employed.

(c) The information collected under Subsection (b) shall be compiled in report form by practice composition and by county reflecting the overall full-time equivalency tabulations as defined by the federal Department of Health and Human Services.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.076(b), eff. Sept. 1, 2001.

Sec. 254.008. CIVIL LIABILITY. (a) In the absence of fraud, conspiracy, or malice, a member of the board, a full-time or part-time employee of the board, a person who contracts with the board, a witness called to testify by the board, or a consultant or hearing officer appointed by the board is not liable or subject to suit in a civil action for any damage caused by the person for an investigation, report, recommendation, statement, evaluation, finding, order, or award made in the performance of the person's official duties.

(b) The purpose of this section is to protect the persons designated by Subsection (a) from being harassed and threatened with legal action while performing official duties.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.077(a), eff. Sept. 1, 2001.

Sec. 254.009. ASSISTANCE OF PROSECUTOR. (a) The board shall aid in the enforcement of state law regulating the practice of dentistry.

(b) A board member may present to a prosecuting officer a complaint relating to a violation of state law regulating the practice of dentistry.

(c) The board and its members, officers, counsel, and agents may assist the prosecuting officer in the trial of a case involving an alleged violation of state law.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 254.010. MONITORING OF LICENSE HOLDER. (a) The board by rule shall develop a system to monitor a license holder's compliance with this subtitle.

(b) Rules adopted under this section must include procedures to:

(1) monitor for compliance a license holder who is ordered by the board to perform a certain act;

(2) identify and monitor each license holder who represents a risk to the public; and

(3) periodically review reports filed with the National Practitioner Data Bank for any report of disciplinary action taken against a license holder by another state that would constitute grounds for disciplinary action under Section 263.002. Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 6, eff. September 1, 2017.

Sec. 254.011. AGREEMENT WITH HEALTH AND HUMAN SERVICES COMMISSION. The board shall enter into an agreement with the Health and Human Services Commission to improve coordination on issues relating to the state Medicaid program. The agreement must require each agency to:

(1) refer to the other agency, as appropriate, cases involving fraud, abuse, or insufficient quality of care under the state Medicaid program;

(2) maintain a log of cases referred to the other agency;

(3) share information with the other agency, subject to confidentiality requirements, including investigative reports on cases within the jurisdiction of both agencies; and

(4) collaborate with the other agency in the investigation of cases and the initiation of appropriate disciplinary action whenever possible.

Added by Acts 2003, 78th Leg., ch. 17, Sec. 8, eff. Sept. 1, 2003.

Sec. 254.012. INCLUSION OF MEDICAID-RELATED INFORMATION IN ANNUAL FINANCIAL REPORT. The board shall include in the annual financial report required by Section 2101.011, Government Code, information on all cases handled by the board during the preceding fiscal year involving fraud, abuse, or insufficient quality of care under the state Medicaid program, including:

(1) the number of cases handled;

(2) an explanation of the legal basis and reason for each case;

(3) the action taken in each case; and

(4) for each case the board closed without taking action, an explanation of the reason the case was closed without action.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 17, Sec. 9, eff. Sept. 1, 2003.

Sec. 254.013. PEACE OFFICERS. (a) The board may commission as a peace officer to enforce this subtitle an employee who has been certified as qualified to be a peace officer by the Texas Commission on Law Enforcement.

(b) An employee commissioned as a peace officer under this subtitle has the powers, privileges, and immunities of a peace officer while carrying out duties as a peace officer under this subtitle.

Added by Acts 2003, 78th Leg., ch. 474, Sec. 2, eff. June 20, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.56, eff. May 18, 2013.

Sec. 254.014. USE OF ALTERNATIVE RULEMAKING AND DISPUTE RESOLUTION PROCEDURES. (a) The board shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of board rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the board's jurisdiction.

(b) The board's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The board shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative

dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the board.

Added by Acts 2003, 78th Leg., ch. 17, Sec. 10, eff. Sept. 1, 2003.

Sec. 254.015. USE OF TECHNOLOGY. The board shall develop and implement a policy requiring the executive director and board employees to research and propose appropriate technological solutions to improve the board's ability to perform its functions. The technological solutions must:

(1) ensure that the public is able to easily find information about the board on the Internet;

(2) ensure that persons who want to use the board's services are able to:

(A) interact with the board through the Internet; and

(B) access any service that can be provided effectively through the Internet; and

(3) be cost-effective and developed through the board's planning processes.

Added by Acts 2003, 78th Leg., ch. 17, Sec. 10, eff. Sept. 1, 2003.

Renumbered from Occupations Code, Section 254.013 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(70), eff. September 1, 2005.

Sec. 254.016. INFORMATION PROVIDED TO LICENSE HOLDERS. At least once each biennium, the board shall provide to license holders information on:

(1) prescribing and dispensing pain medications, with particular emphasis on Schedule II and Schedule III controlled substances;

(2) abusive and addictive behavior of certain persons who use prescription pain medications;

(3) common diversion strategies employed by certain persons who use prescription pain medications, including fraudulent prescription patterns; and

(4) the appropriate use of pain medications and the

differences between addiction, pseudo-addiction, tolerance, and physical dependence.

Added by Acts 2003, 78th Leg., ch. 1163, Sec. 3, eff. Sept. 1, 2003.
Renumbered from Occupations Code, Section 254.013 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(71), eff. September 1, 2005.

Sec. 254.017. POISON CONTROL CENTER INFORMATION. The board shall provide to license holders information regarding the services provided by poison control centers.

Added by Acts 2003, 78th Leg., ch. 1163, Sec. 3, eff. Sept. 1, 2003.
Renumbered from Occupations Code, Section 254.014 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(72), eff. September 1, 2005.

Sec. 254.018. TESTIMONY. A member of the board may not express an oral or written opinion or serve as an expert witness in a civil action that is:

(1) related to an administrative matter within the board's jurisdiction;

(2) brought against or for a person licensed or registered under this subtitle; and

(3) for the injury to or death of a patient or for a violation of the standard of care or the commission of malpractice.

Added by Acts 2007, 80th Leg., R.S., Ch. 1119 (H.B. 3876), Sec. 3, eff. September 1, 2007.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 709 (H.B. 3201), Sec. 3, eff. January 1, 2014.

Sec. 254.019. DEFINITIONS. (a) In this section:

(1) "Business support services" has the meaning assigned by Section 73.001, Business & Commerce Code.

(2) "Dental support organization" has the meaning assigned by Section 73.001, Business & Commerce Code.

(b) The board shall collect the following information from dentists licensed by the board in conjunction with the issuance and

renewal of each dental license:

(1) the number and type of dentists employed by the license holder, if any;

(2) the name under which the license holder provides dental services and each location at which those services are provided by that license holder;

(3) whether the license holder is a participating provider under the Medicaid program operated under Chapter 32, Human Resources Code, or the child health plan program operated under Chapter 62, Health and Safety Code;

(4) whether the license holder contracts or enters into an agreement for business support services with a dental support organization and, if so, the name and address of the dental support organization;

(5) whether the license holder owns all or part of a dental support organization and, if so, the name and address of the dental support organization and of each dental office at which the dental support organization provides services to patients;

(6) whether the license holder is a party to a dental support agreement and, if so, the name and address of the dental support organization that provides services under the agreement; and

(7) if the license holder owns all or part of a dental support organization, whether the license holder's practice is a party to a dental support agreement and, if so, the name and address of the dental support organization that provides services under the agreement.

(c) If requested by the board, a dental support organization shall provide to the board the address of the locations where the organization provides business support services in this state and the name of each dentist providing dental services at each location.

(d) The board shall provide an option for the electronic submission of the information required under this section.

(e) Not later than November 1 of each even-numbered year, the board shall provide a report to the legislature on the information collected under this section and on the board's use of

the information in the exercise of the board's statutory authority to regulate the practice of dentistry.

Added by Acts 2013, 83rd Leg., R.S., Ch. 709 (H.B. [3201](#)), Sec. 4, eff. September 1, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 603 (S.B. [519](#)), Sec. 2, eff. September 1, 2015.

OCCUPATIONS CODE

TITLE 3. HEALTH PROFESSIONS

SUBTITLE D. DENTISTRY

CHAPTER 255. PUBLIC INTEREST INFORMATION AND COMPLAINT PROCEDURES

Sec. 255.001. PUBLIC INTEREST INFORMATION. (a) The board shall prepare information of public interest describing the functions of the board and procedures by which complaints are filed with and resolved by the board.

(b) The board shall make the information available to the public and appropriate state agencies.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 255.002. COMPLAINTS. (a) The board by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the board for the purpose of directing complaints to the board. The board may provide for that notice:

(1) on each registration form, application, brochure, or written contract for services of a person regulated under this subtitle;

(2) on a sign prominently displayed in the place of business of each person regulated under this subtitle; or

(3) in a bill for service provided by a person regulated under this subtitle.

(b) The board shall list with its regular telephone number any toll-free telephone number established under other state law that may be called to present a complaint about a health professional.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 255.003. ASSISTANCE WITH COMPLAINT. The board shall provide reasonable assistance to a person who wishes to file a complaint with the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 255.004. RECORDS OF COMPLAINTS. (a) The board shall

maintain a file on each written complaint filed with the board.

(b) The file must include:

- (1) the name of the person who filed the complaint;
- (2) the date the complaint was received by the board;
- (3) the subject matter of the complaint;
- (4) the name of each person contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and
- (6) an explanation of the reason the file was closed, if the board closed the file without taking action other than to investigate the complaint

(c) The board shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the board's policies and procedures relating to complaint investigation and resolution.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 17, Sec. 11, eff. Sept. 1, 2003.

Sec. 255.005. NOTIFICATION OF INVESTIGATION STATUS. If a written complaint is filed with the board that the board has authority to resolve, the board, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 17, Sec. 11, eff. Sept. 1, 2003.

Sec. 255.0055. REQUIREMENTS FOR CERTAIN COMPLAINTS.

(a) In this section:

(1) "Anonymous complaint" means a complaint that lacks sufficient information to identify the source or the name of the person who filed the complaint.

(2) "Insurance agent" means a person licensed under Chapter 4054, Insurance Code.

(3) "Insurer" means an insurance company or other

entity authorized to engage in the business of insurance under Subtitle C, Title 6, Insurance Code.

(4) "Third-party administrator" means a person required to have a certificate of authority under Chapter 4151, Insurance Code.

(b) The board may not accept anonymous complaints.

(c) Notwithstanding any confidentiality requirements under Chapter 552, Government Code, or this subtitle, a complaint filed with the board by an insurance agent, insurer, pharmaceutical company, or third-party administrator against a license holder must include the name and address of the insurance agent, insurer, pharmaceutical company, or third-party administrator filing the complaint. Not later than the 15th day after the date the complaint is filed with the board, the board shall notify the license holder who is the subject of the complaint of the name and address of the insurance agent, insurer, pharmaceutical company, or third-party administrator who filed the complaint, unless the notice would jeopardize an investigation.

Added by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 7, eff. September 1, 2017.

Sec. 255.006. GENERAL RULES REGARDING COMPLAINT INVESTIGATION AND DISPOSITION. (a) A complaint received under this chapter must be filed with and reviewed by the board to determine jurisdiction. If the board has jurisdiction, the board shall complete a preliminary investigation of the complaint not later than the 60th day after the date of receiving the complaint. The board shall first determine whether the person regulated under this subtitle who is the subject of the complaint constitutes a continuing threat to the public welfare. On completion of the preliminary investigation, the board shall determine whether to officially proceed on the complaint. If the board fails to complete the preliminary investigation in the time required by this subsection, the board's official investigation of the complaint is considered to commence on that date.

(b) The board may not consider a complaint that is filed with the board after the fourth anniversary of the date:

(1) the act that is the basis of the complaint occurred; or

(2) the complainant discovered, or in the exercise of reasonable diligence should have discovered, the occurrence of the act that is the basis of the complaint.

(c) The board by rule shall:

(1) adopt a form to standardize information concerning complaints filed with the board; and

(2) prescribe information to be provided to a person when the person files a complaint with the board.

(d) The board shall adopt rules concerning the investigation of a complaint filed with the board. The rules adopted under this subsection must:

(1) distinguish between categories of complaints;

(2) ensure that a complaint is not dismissed without appropriate consideration;

(3) require that the board be advised of a complaint that is dismissed and that a letter be sent to the person who filed the complaint explaining the action taken on the dismissed complaint;

(4) ensure that the person who filed the complaint has an opportunity to explain the allegations made in the complaint;

(5) require that investigators used by the board be state employees; and

(6) establish procedures by which a board employee may dismiss a complaint if the investigation does not reveal a violation.

(d-1) Procedures established under Subsection (d)(6) must:

(1) ensure that the decision to dismiss a complaint is made with the appropriate level of review and necessary expertise and experience; and

(2) require the dismissal of a complaint to be reported to the board at a public meeting of the board.

(d-2) Repealed by Acts 2005, 79th Leg., Ch. 810, Sec. 10, eff. September 1, 2005.

(e) The board shall:

(1) dispose of each complaint in a timely manner; and

(2) establish a schedule for conducting each phase of a complaint that is under the control of the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 17, Sec. 12, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 810 (S.B. 610), Sec. 2, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 810 (S.B. 610), Sec. 10, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 709 (H.B. 3201), Sec. 5, eff. January 1, 2014.

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 8, eff. September 1, 2017.

Sec. 255.0065. COMPOSITION OF EXPERT PANELS. (a) The board by rule shall provide for expert panels appointed by the board to assist with complaints and investigations relating to professional competency by acting as expert dentist and dental hygienist reviewers.

(b) Each member of the expert dentist panel must be licensed to practice dentistry in this state. Each member of the expert dental hygienist panel must be licensed to practice dental hygiene in this state.

(c) The rules adopted under this section must include provisions governing the composition of the panel, qualifications for membership on the panel, length of time a member may serve on the panel, grounds for removal from the panel, the avoidance of conflicts of interest, including situations in which the affected license holder and the panel member live or work in the same geographical area or are competitors, and the duties to be performed by the panel.

(d) The board's rules governing grounds for removal from the panel must include providing for the removal of a panel member who is repeatedly delinquent in reviewing complaints and in submitting reports to the board.

Added by Acts 2013, 83rd Leg., R.S., Ch. 709 (H.B. 3201), Sec. 6, eff. January 1, 2014.

Sec. 255.0066. DETERMINATION OF COMPETENCY. (a) If the preliminary investigation under Section 255.006(a) indicates that an act by a license holder falls below an acceptable standard of care, the complaint shall be reviewed by an expert panel authorized under Section 255.0065 consisting of license holders who practice in the same specialty as the license holder who is the subject of the complaint or in another specialty that is similar to the license holder's specialty.

(b) The expert panel shall report in writing the panel's determinations based on the review of the complaint under Subsection (a). The report must specify the standard of care that applies to the facts that are the basis of the complaint and the clinical basis for the panel's determinations, including any reliance on peer-reviewed journals, studies, or reports.

Added by Acts 2013, 83rd Leg., R.S., Ch. 709 (H.B. 3201), Sec. 6, eff. January 1, 2014.

Sec. 255.0067. REPORTS; PROCEDURES FOR EXPERT REVIEW.

(a) A license holder on an expert panel authorized by Section 255.0065 who is initially selected to review a complaint shall:

(1) determine whether the license holder who is the subject of the complaint has violated the standard of care applicable to the circumstances; and

(2) issue a preliminary written report of that determination.

(b) A second expert reviewer shall review the first expert reviewer's preliminary report and other information associated with the complaint. If the second reviewer agrees with the first reviewer, the first reviewer shall issue a final written report on the matter.

(c) If the second expert reviewer does not agree with the conclusions of the first expert reviewer, a third expert reviewer shall review the preliminary report and information and decide between the conclusions reached by the first two reviewers. The final written report shall be issued by the third reviewer or the reviewer with whom the third reviewer concurs.

(d) In reviewing a complaint, the expert reviewers assigned to examine the complaint may consult and communicate with each other about the complaint in formulating their opinions and reports.

Added by Acts 2013, 83rd Leg., R.S., Ch. 709 (H.B. 3201), Sec. 6, eff. January 1, 2014.

Sec. 255.007. NOTICE TO BOARD CONCERNING COMPLAINTS. (a) The executive director shall notify the board of a complaint that is unresolved after the second anniversary of the date the complaint is filed.

(b) The executive director shall explain to the board the reasons that the complaint has not been resolved. The executive director shall periodically provide the notice and explanation required by this section at regularly scheduled board meetings.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 255.008. PUBLIC PARTICIPATION. (a) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the board's jurisdiction, except to the extent the communication would be ex parte under any law.

(b) The board shall prepare and maintain a written plan that describes how a person who does not speak English may be provided reasonable access to the board's programs.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.078(a), eff. Sept. 1, 2001.

OCCUPATIONS CODE

TITLE 3. HEALTH PROFESSIONS

SUBTITLE D. DENTISTRY

CHAPTER 256. LICENSING OF DENTISTS AND DENTAL HYGIENISTS

SUBCHAPTER A. ISSUANCE OF LICENSE TO PRACTICE DENTISTRY

Sec. 256.001. LICENSE REQUIRED. A person may not practice or offer to practice dentistry or dental surgery or represent that the person practices dentistry unless the person holds a license issued by the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 256.002. MINIMUM QUALIFICATIONS OF DENTAL APPLICANT.

(a) An applicant for a license to practice dentistry must:

- (1) be at least 21 years of age; and
- (2) present proof of:

(A) graduation from a dental school accredited by the Commission on Dental Accreditation of the American Dental Association; or

(B) graduation from a dental school that is not accredited by the commission and successful completion of training in an American Dental Association approved specialty in an education program accredited by the commission that consists of at least two years of training as specified by the Council on Dental Education.

(b) The board shall grant a dental license to an applicant who:

- (1) meets the qualifications of this section;
- (2) pays an application fee set by the board; and
- (3) satisfactorily passes the examination required by

the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.079(a), eff. Sept. 1, 2001.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 9, eff.

September 1, 2017.

Sec. 256.003. EXAMINATION. (a) The board shall provide for the examination of an applicant for a dental license.

(b) The examination must consist of subjects and operations relating to dentistry, including:

- (1) anatomy;
- (2) physiology;
- (3) anaesthesia;
- (4) biochemistry;
- (5) dental materials;
- (6) diagnosis;
- (7) treatment planning;
- (8) ethics;
- (9) jurisprudence;
- (10) hygiene;
- (11) pharmacology;
- (12) operative dentistry;
- (13) oral surgery;
- (14) orthodontia;
- (15) periodontia;
- (16) prosthetic dentistry;
- (17) pathology;
- (18) microbiology; and
- (19) any other subject regularly taught in reputable dental schools that the board may require.

(c) The board shall contract with one or more independent or regional testing services for any required clinical examination. If the board uses one or more regional testing services, the board may contract for or otherwise use licensed dentists to provide assistance to the regional testing service or services.

(d) The board shall have the written portion of the board's jurisprudence examination validated by an independent testing professional.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1249, Sec. 2, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 14.079(b), eff. Sept. 1, 2001.

Sec. 256.005. EXAMINATION RESULTS. (a) The board shall notify each examinee of the results of the examination not later than the 30th day after the date the examination is administered. If an examination is graded or reviewed by a national testing service, the board shall notify examinees of the results of the examination not later than the 14th day after the date the board receives the results from the testing service.

(b) If the notice of the examination results graded or reviewed by a national testing service will be delayed for longer than 90 days after the examination date, the board shall notify the examinee of the reason for the delay before the 90th day.

(c) If requested in writing by a person who fails the examination, the board shall provide to the person an analysis of the person's performance on the examination as prescribed by board rule.

(d) If the board contracts with an independent or regional testing service, this section does not apply. The contract with the testing service must provide for the notification of results as provided by Subsection (a).

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.079(c), eff. Sept. 1, 2001.

Sec. 256.006. REEXAMINATION. (a) The board by rule shall establish the conditions under which and the number of times an applicant may retake an examination.

(b) The board may require an applicant who fails the examination to meet additional education requirements.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. ISSUANCE OF LICENSE TO DENTAL HYGIENIST

Sec. 256.051. DEFINITION. In this chapter, "dental hygienist" means a person who practices dental hygiene under a license issued under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 256.052. LICENSE REQUIRED. A person may not practice or offer to practice dental hygiene in this state unless the person is licensed under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 256.053. ELIGIBILITY FOR LICENSE. (a) An applicant for a license to practice dental hygiene in this state must be:

(1) at least 18 years of age;

(2) a graduate of an accredited high school or hold a certificate of high school equivalency; and

(3) a graduate of a recognized school of dentistry or dental hygiene accredited by the Commission on Dental Accreditation of the American Dental Association and approved by the board or an alternative dental hygiene training program.

(b) A school of dentistry or dental hygiene described by Subsection (a)(3) must include at least two full academic years of instruction or its equivalent at the postsecondary level.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.080(a), eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1470, Sec. 3.01, eff. Sept. 1, 2001.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 10, eff. September 1, 2017.

Sec. 256.0531. ALTERNATIVE DENTAL HYGIENE TRAINING PROGRAMS. (a) It is the intent of the legislature that programs approved by the board under this section provide hygiene training that is substantially equivalent to training provided under traditional programs.

(b) An alternative dental hygiene training program must meet the following requirements:

(1) the program must be determined to be eligible for accreditation by the Commission on Dental Accreditation of the American Dental Association before students can enroll in the program;

(2) the program must require hygiene students to complete four semesters of didactic education from a school of dentistry, dental hygiene school, or other educational institution approved by the board;

(3) didactic education shall be provided by instruction in the classroom or by distance learning, remote coursework, or similar modes of instruction offered by an institution accredited by the Commission on Dental Accreditation of the American Dental Association;

(4) didactic education shall include instruction in anatomy, pharmacology, x-ray, ethics, jurisprudence, hygiene, and any other subject regularly taught in reputable schools of dentistry and dental hygiene that the board may require;

(5) the program must require hygiene students to complete not less than 1,000 hours of clinical training under the direct supervision of a dentist qualified under Subsection (d) or a dental hygienist qualified under Subsection (f) during a 12-month period. Students must satisfactorily complete 75 full-mouth prophylaxes and demonstrate the ability to accurately record the location and extent of dental restorations, chart mobility, furcations, gingival recession, keratinized gingiva, and pocket depth on six aspects of each tooth; and

(6) clinical training may occur simultaneously with didactic education.

(c) Prior to commencing training, a hygiene student must have completed no less than two years of full-time employment in a position involving clinical duties with dental patients.

(d) To be qualified to train a hygiene student under this section, a dentist must:

(1) be licensed in Texas and have practiced in Texas for at least five years;

(2) have completed a certification or calibration course approved by the board for purposes of this section;

(3) meet recertification requirements at intervals of no more than three years;

(4) also practice in a dental office located outside a standard metropolitan statistical area, as defined by the United

States Census Bureau, or practice in an area that the Texas Department of Health has determined is underserved or an area that has been designated by the United States as having a shortage of dental professionals; and

(5) have posted a notice visible to patients stating: "This practice has been approved as an alternative dental hygiene training program. Students in the program may be performing services."

(e) A hygiene student who completes the requirements of a program under this section must satisfactorily pass the examination required for all hygiene license applicants under this chapter.

(f) A dental hygienist may train hygiene students under this section if:

(1) the dental hygienist is employed by a dentist who provides training under this section and the hygienist works under the direct supervision of the dentist in the same office as the dentist;

(2) the dental hygienist has practiced full-time dental hygiene for the five years immediately preceding the time the training is provided; and

(3) the dental hygienist has completed a certification or calibration course approved by the board and meets recertification requirements at intervals of no more than five years.

(g) A dentist who supervises a dental hygienist trained under this section has the same liability for acts performed by the hygienist as if the hygienist were trained in a different manner.

(h) Repealed by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 48(1), eff. September 1, 2017.

(i) Repealed by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 48(1), eff. September 1, 2017.

(j) Repealed by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 48(1), eff. September 1, 2017.

(k) A student in an alternative dental hygiene training program is not considered to be practicing dentistry as described by Section 251.003.

(l) The board shall adopt rules requiring the dentist to

give written notice to patients, where applicable, that services will be performed by a student in an alternative dental hygiene training program, and requiring the dentist or the dentist's staff to give oral notice to patients, where applicable, at the time the patient's hygiene appointment is made or confirmed, that services will be performed by a student in an alternative dental hygiene training program.

(m) The board may adopt rules necessary to implement this section. The board shall adopt a rule requiring notification to dental hygiene students that accreditation of the alternative dental hygiene training program is a requirement for obtaining a license under this chapter.

Added by Acts 2001, 77th Leg., ch. 1470, Sec. 3.02, eff. Sept. 1, 2001.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 48(1), eff. September 1, 2017.

Sec. 256.054. APPLICATION FOR EXAMINATION. To take the examination under Section 256.055, an applicant for a license must:

(1) submit an application on a form prescribed by the board;

(2) pay the application fee set by the board;

(3) attach to the application:

(A) proof of current certification in cardiopulmonary resuscitation approved by the American Heart Association or American Red Cross; or

(B) if the applicant is not physically able to comply with the certification requirements of Paragraph (A), a written statement describing the person's physical incapacity executed by a licensed physician or an instructor in cardiopulmonary resuscitation approved by the American Heart Association or American Red Cross; and

(4) provide any other information the board requires to determine the applicant's qualifications.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.081(a), eff. Sept. 1,

2001.

Sec. 256.055. LICENSE EXAMINATION. (a) The board shall provide for the examination of an applicant for a dental hygienist license.

(b) The examination must include subjects and operations relating to dentistry and dental hygiene, including:

- (1) anatomy;
- (2) pharmacology;
- (3) x-ray;
- (4) ethics;
- (5) jurisprudence;
- (6) hygiene;
- (7) dental hygiene treatment planning;
- (8) dental materials;
- (9) physiology;
- (10) pathology;
- (11) microbiology; and
- (12) any other subject regularly taught in reputable schools of dentistry and dental hygiene that the board may require.

(c) The board shall contract with one or more independent or regional testing services for any required clinical examination. If the board uses one or more regional testing services, the board may contract for or otherwise use licensed dental hygienists to provide assistance to the regional testing service or services.

(d) The board shall have the written portion of the board's jurisprudence examination validated by an independent testing professional.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1249, Sec. 3, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 14.081(b), eff. Sept. 1, 2001.

Sec. 256.056. EXAMINATION RESULTS. (a) The board shall notify each examinee of the results of the examination within a reasonable time after the date of the examination.

(b) If the board contracts with an independent or regional testing service, the contract with the service must provide for the

notification of results.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.081(c), eff. Sept. 1, 2001.

Sec. 256.057. REEXAMINATION. (a) The board by rule shall establish the conditions under which and the number of times an applicant may retake an examination.

(b) The board may require an applicant who fails the examination to meet additional education requirements set by the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 256.058. ISSUANCE OF LICENSE. The board shall issue a license to practice dental hygiene to an applicant who has passed all phases of the examination.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER C. GENERAL LICENSE PROVISIONS

Sec. 256.101. ISSUANCE OF LICENSE TO CERTAIN OUT-OF-STATE APPLICANTS. (a) The board shall issue a license to practice dentistry to a reputable dentist or a license to practice dental hygiene to a reputable dental hygienist who:

(1) pays the fee set by the board;

(2) is licensed in good standing as a dentist or dental hygienist in another state that has licensing requirements substantially equivalent to the requirements of this subtitle;

(3) has not been the subject of a final disciplinary action and is not the subject of a pending disciplinary action in any jurisdiction in which the dentist or dental hygienist is or has been licensed;

(4) has graduated from a dental or dental hygiene school accredited by the Commission on Dental Accreditation of the American Dental Association and approved by the board under board rule;

(5) has passed a national or other examination

relating to dentistry or dental hygiene and recognized by the board;

(6) has passed the board's jurisprudence examination;

(7) has submitted documentation of current cardiopulmonary resuscitation certification;

(8) has practiced dentistry or dental hygiene:

(A) for at least the three years preceding the date of application for a license under this section; or

(B) as a dental educator at a dental school or dental hygiene school accredited by the Commission on Dental Accreditation of the American Dental Association for at least the five years preceding the date of application for a license under this section;

(9) has been endorsed by the board of dentistry in the jurisdiction in which the applicant practices at the time of application; and

(10) meets any additional criteria established by board rule.

(a-1) The board by rule shall specify the circumstances under which the board may waive the requirement under Subsection (a)(8) that an applicant for a license under this section has been continuously engaged in the practice of dentistry or dental hygiene during the period required by that subsection if the applicant has engaged in the practice of dentistry or dental hygiene for a cumulative total of at least three years before the date of application for a license under this section.

(b) If the board does not complete the processing of an application under this section before the 181st day after the date all documentation and examination results required by this section have been received, the board shall issue a license to the applicant.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1249, Sec. 4, 5, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 17, Sec. 13, eff. Sept. 1, 2003.

Sec. 256.1013. PROVISIONAL LICENSE. (a) The board may issue a provisional license to an applicant currently licensed in

another jurisdiction who seeks a license in this state and who:

(1) has been licensed in good standing as a dentist or dental hygienist for at least two years in another jurisdiction that has licensing requirements substantially equivalent to the requirements of this subtitle;

(2) is a graduate of a recognized school of dentistry or dental hygiene accredited by the Commission on Dental Accreditation of the American Dental Association and approved by the board;

(3) has passed a national or other examination recognized by the board relating to the practice of dentistry or dental hygiene, as appropriate; and

(4) is sponsored by a person who holds an appropriate license under this subtitle and with whom the provisional license holder will practice during the time the person holds a provisional license.

(b) The board may waive the requirement of Subsection (a)(4) for an applicant if the board determines that compliance with that subdivision would be a hardship to the applicant.

(c) A provisional license is valid until the date the board approves or denies the provisional license holder's application for a license. The board shall issue a license under this subtitle to the provisional license holder if:

(1) the provisional license holder is eligible to be licensed under Section [256.101](#); or

(2) the provisional license holder passes the part of the examination under Section [256.003](#) or [256.055](#) that relates to the applicant's knowledge and understanding of the laws and rules relating to the practice of dentistry or dental hygiene, as appropriate, in this state and:

(A) the board verifies that the provisional license holder meets the academic and experience requirements for a license under this subtitle; and

(B) the provisional license holder satisfies any other licensing requirements under this subtitle.

(d) The board must approve or deny a provisional license holder's application for a license not later than the 180th day

after the date the provisional license is issued. The board may extend the 180-day period if the results of an examination have not been received by the board before the end of that period.

(e) The board may establish a fee for provisional licenses in an amount reasonable and necessary to cover the cost of issuing the license.

Added by Acts 2003, 78th Leg., ch. 17, Sec. 14, eff. Sept. 1, 2003.

Sec. 256.1015. TEMPORARY LICENSE. (a) The board, upon payment by the applicant of a fee set by the board, shall grant a temporary license to practice dentistry to any reputable dentist or a temporary license to practice dental hygiene to any reputable dental hygienist who:

(1) meets all requirements of Section 256.101 except those of Subsection (a)(8); and

(2) is employed by a nonprofit corporation that accepts Medicaid reimbursement.

(b) A license granted under this section expires immediately when a licensee fails to meet the requirements of this section.

Added by Acts 2001, 77th Leg., ch. 1470, Sec. 5.01, eff. Sept. 1, 2001.

Sec. 256.1016. TEMPORARY LICENSE FOR CHARITABLE PURPOSE.

(a) In this section, "voluntary charity care" has the meaning assigned by board rule under Section 256.102.

(b) The board shall grant a temporary license for a dentist whose practice consists only of voluntary charity care to a reputable dentist who meets the requirements of Sections 256.101(a)(3), (4), and (5) and who:

(1) ceased practicing dentistry in another state that the board has determined has licensing requirements that are substantially similar to the requirements of this state not more than two years before the date the dentist applies for a license under this section and was licensed in good standing at the time the dentist ceased practicing dentistry; or

(2) is currently licensed in another state that the

board has determined has licensing requirements that are substantially similar to the requirements of this state.

(c) A dentist issued a license under this section shall:

(1) confine the dentist's practice to voluntary charity care;

(2) practice only in a geographic area specified by the license; and

(3) practice only for the period specified by the license.

(d) The board shall adopt rules as necessary to implement this section.

(e) The board shall take disciplinary action against a dentist licensed under this section for a violation of this subtitle or board rules in the same manner as against a dentist licensed under Subchapter A.

Added by Acts 2013, 83rd Leg., R.S., Ch. 306 (H.B. 1491), Sec. 1, eff. June 14, 2013.

Sec. 256.1017. MILITARY LIMITED VOLUNTEER LICENSE.

(a) The board shall adopt rules relating to the issuance of a military limited volunteer license under this section.

(b) The board may issue a military limited volunteer license to practice dentistry to a dentist or a military limited volunteer license to practice dental hygiene to a dental hygienist who:

(1) is licensed and in good standing, or was licensed and retired in good standing, as a dentist or dental hygienist in another state;

(2) is or was authorized as a dentist or dental hygienist to treat personnel enlisted in a branch of the United States armed forces or veterans; and

(3) meets any other requirement prescribed by board rule.

(c) The board may not issue a license under this section to an applicant who:

(1) holds a dental or dental hygienist license that:

(A) is currently under active investigation; or

(B) is or was subject to a disciplinary order or

action or to denial by another jurisdiction;

(2) holds a license to prescribe, dispense, administer, supply, or sell a controlled substance that:

(A) is currently under active investigation; or

(B) is or was subject to a disciplinary order or action or to denial by another jurisdiction; or

(3) has been convicted of, is on deferred adjudication community supervision or deferred disposition for, or is under active investigation for the commission of:

(A) a felony; or

(B) a misdemeanor involving moral turpitude.

(d) A dentist or dental hygienist may practice dentistry or dental hygiene under a license issued under this section only at a clinic that primarily treats indigent patients. The dentist or dental hygienist may not receive compensation for dental or dental hygiene services rendered at the clinic.

(e) A military limited volunteer license holder is subject to board rules, including rules regarding disciplinary action, license registration and renewal, and continuing education.

Added by Acts 2017, 85th Leg., R.S., Ch. 270 (H.B. 2007), Sec. 1, eff. September 1, 2017.

Sec. 256.102. RETIRED STATUS. (a) The board by rule may allow a license holder to place the person's license on retired status. A license holder must apply to the board for retired status, on a form prescribed by the board, before the expiration date of the person's license.

(b) In determining whether to grant retired status, the board shall consider the age, years of practice, and the status of the license holder at the time of the application.

(c) A license holder on retired status:

(1) is not required to pay license renewal fees; and

(2) except as provided by Subsection (f), may not perform any activity regulated under this subtitle.

(d) To reinstate a license placed on retired status, the license holder must submit a written request for reinstatement to the board. The board may return the license to active status and

issue a renewal license if the license holder complies with any education or other requirement established by board rule and pays the renewal fee in effect at the time of the requested reinstatement.

(e) The board may charge a reasonable administrative fee to cover the cost of research and the preparation of documentation for the board's consideration of a request for reinstatement of a license on retired status.

(f) A dentist on retired status may perform an activity regulated under this subtitle if the dentist's practice consists only of voluntary charity care, as defined by board rule. The board's rules under this subsection must prescribe the scope of practice permitted for the retired dentist, the retired dentist's authority to prescribe and administer drugs, and any continuing education requirements applicable to the retired dentist.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 810 (S.B. 610), Sec. 3, eff. September 1, 2005.

Sec. 256.103. DISPLAY OF REGISTRATION CERTIFICATE. (a) A licensed dentist or dental hygienist shall display the person's current registration certificate in each office in which the person provides dental services. If the dentist or dental hygienist provides dental services at more than one location, the person may display a duplicate of the original registration certificate obtained from the board on payment of a duplicate certificate fee set by the board.

(b) A licensed dentist may not operate on a patient's mouth or treat lesions of the mouth or teeth unless the dentist displays the dentist's registration certificate.

(c) A person may practice without displaying the person's current registration certificate as required by Subsection (a) for not more than 30 days after the date the person receives from the board written confirmation that the person's original license was issued.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended

by Acts 2001, 77th Leg., ch. 1420, Sec. 14.083(a), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 810 (S.B. 610), Sec. 4, eff. September 1, 2005.

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 11, eff. September 1, 2017.

Sec. 256.104. DUPLICATE LICENSE. (a) The board may issue a duplicate license to a person whose license is lost or destroyed if the person:

- (1) pays a reasonable fee; and
- (2) presents to the board an application for a duplicate license, including an affidavit explaining the loss or destruction and stating that the person is the same person originally granted the license.

(b) If board records do not show that the person was previously licensed, the board may refuse to issue a duplicate license.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 256.105. NOTIFICATION OF CHANGE OF INFORMATION. (a) Each dentist, dental hygienist, and owner or manager of a dental laboratory licensed or registered with the board shall timely notify the board of:

- (1) any change of address of the person's place of business;
- (2) any change of employers for the dentist or dental hygienist and any change of owners or managers for the dental laboratory; and
- (3) any change of the person's mailing address.

(b) Notification under Subsection (a) is timely if the board receives the notice not later than the 60th day after the date the change occurs.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1249, Sec. 6, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 772 (S.B. [887](#)), Sec. 3, eff. September 1, 2009.

Sec. 256.106. DELEGATED AUTHORITY TO ISSUE LICENSES. The board may delegate authority to board employees to issue licenses under this subtitle to applicants who clearly meet all licensing requirements. If the board employees determine that the applicant does not clearly meet all licensing requirements, the application shall be returned to the board. A license issued under this section does not require formal board approval.

Added by Acts 2013, 83rd Leg., R.S., Ch. 709 (H.B. [3201](#)), Sec. 7, eff. January 1, 2014.

OCCUPATIONS CODE
TITLE 3. HEALTH PROFESSIONS
SUBTITLE D. DENTISTRY
CHAPTER 257. LICENSE RENEWAL

Sec. 257.001. LICENSE EXPIRATION; TERM. (a) A license issued under this subtitle is valid for a term of one or two years, as determined by board rule.

(a-1) The board by rule may adopt a system under which licenses expire on various dates during the year.

(b) Dates of license suspension and reinstatement after failure to pay the license fee shall be adjusted accordingly.

(c) For the year in which the expiration date is changed, license fees payable shall be prorated on a monthly basis so that each license holder pays only that portion of the fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license fee is payable.

(d) An initial license issued under this subtitle expires on the 30th day after the date the license is issued if the holder of the license fails to pay the required license fee on or before that date.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 772 (S.B. 887), Sec. 4, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 12, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 13, eff. September 1, 2017.

Sec. 257.002. LICENSE RENEWAL. (a) A person required to hold a license as a practitioner under this subtitle who fails or refuses to apply for renewal of a license and pay the required fee on or before the specified date is:

- (1) suspended from practice; and
- (2) subject to the penalties imposed by law on any

person unlawfully engaging in a practice regulated under this subtitle.

(b) A person who is otherwise eligible to renew a license may renew an unexpired license by paying the required renewal fee to the board before the expiration date of the license. A person whose license has expired may not engage in activities that require a license until the license has been renewed.

(c) A person whose license has been expired for 90 days or less may renew the license by paying to the board a renewal fee that is equal to 1-1/2 times the normally required renewal fee.

(c-1) A person whose license has been expired for more than 90 days but less than one year may renew the license by paying to the board a renewal fee that is equal to two times the normally required renewal fee.

(d) Except as provided by Subsection (d-1) or (d-2), a person whose license has been expired for one year or more may not renew the license. The person may obtain a new license by complying with the requirements and procedures, including the examination requirements, for obtaining an original license.

(d-1) A person who was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding the date of application may obtain a new license without reexamination. The person must pay to the board a fee that is equal to two times the normally required renewal fee for the license.

(d-2) The board may renew the license of a person whose license has been expired for one year or more without requiring the person to comply with the requirements and procedures for an original license if the person places the person's renewed license on retired status and confines the person's practice solely to voluntary charity care under Section [256.102\(f\)](#).

(e) Not later than the 30th day before the date a person's license is scheduled to expire, the board shall send written notice of the impending expiration to the person at the person's last known address according to the board's records.

(f) The requirements prescribed by this section relating to the payment of license fees and penalties for the failure to timely

renew a license do not apply to license holders who are on active duty with the armed forces of the United States and are not engaged in private or civilian practice.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.084(a), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 17, Sec. 15, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 456 (H.B. 643), Sec. 1, eff. September 1, 2007.

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 14, eff. September 1, 2017.

Sec. 257.003. REFUSAL FOR VIOLATION OF BOARD ORDER. The board may refuse to renew a license issued under this subtitle if the license holder is in violation of a board order.

Added by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 15, eff. September 1, 2017.

Sec. 257.004. CARDIOPULMONARY RESUSCITATION REQUIREMENTS.

(a) A person holding a dental or dental hygienist license must submit at the time the person applies for renewal of the license:

(1) a written statement executed by the person stating that the person has successfully completed a current program or course in cardiopulmonary resuscitation that includes a demonstration of skills and a written evaluation; or

(2) if the person is not physically able to comply with the requirements of Subdivision (1), a written statement describing the person's physical incapacity executed by a licensed physician.

(b) Repealed by Acts 2003, 78th Leg., ch. 17, Sec. 28, eff. Sept. 1, 2003.

(c) A dentist or dental hygienist licensed by the board who resides in a country other than the United States on the renewal date of the person's license and has not practiced dentistry or dental hygiene in the United States during the license period preceding the renewal date is exempt from the requirements of Subsection (a) if the person submits proof of foreign residence with the person's renewal application.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1249, Sec. 7, eff. Jan. 1, 2002; Acts 2003, 78th Leg., ch. 17, Sec. 16, 28, eff. Sept. 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 16, eff. September 1, 2017.

Sec. 257.005. CONTINUING EDUCATION FOR DENTIST AND DENTAL HYGIENIST. (a) The board shall develop a mandatory continuing education program for licensed dentists and dental hygienists. The board by rule shall establish the minimum number of hours of continuing education a license holder is required to complete for each registration period to renew the license for a subsequent registration period.

(b) The board may:

(1) assess the continuing education needs of license holders; and

(2) require license holders to attend continuing education courses specified by the board.

(c) The board by rule shall:

(1) identify the key factors required for competent performance of professional duties under this subtitle;

(2) develop a process to evaluate and approve continuing education courses; and

(3) develop a process to assess a license holder's participation and performance in continuing education courses to evaluate the overall effectiveness of the program.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.079(d), eff. Sept. 1, 2001.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 17, eff. September 1, 2017.

OCCUPATIONS CODE
TITLE 3. HEALTH PROFESSIONS
SUBTITLE D. DENTISTRY
CHAPTER 258. PRACTICE BY DENTIST

SUBCHAPTER A. DELEGATION BY DENTIST

Sec. 258.001. IMPERMISSIBLE DELEGATIONS. A dentist may not delegate:

(1) an act to an individual who, by board order, is prohibited from performing the act;

(2) any of the following acts to a person not licensed as a dentist or dental hygienist:

(A) the removal of calculus, deposits, or accretions from the natural and restored surfaces of exposed human teeth and restorations in the human mouth;

(B) root planing or the smoothing and polishing of roughened root surfaces or exposed human teeth; or

(C) any other act the delegation of which is prohibited by board rule;

(3) any of the following acts to a person not licensed as a dentist:

(A) comprehensive examination or diagnosis and treatment planning;

(B) a surgical or cutting procedure on hard or soft tissue;

(C) the prescription of a drug, medication, or work authorization;

(D) the taking of an impression for a final restoration, appliance, or prosthesis;

(E) the making of an intraoral occlusal adjustment;

(F) direct pulp capping, pulpotomy, or any other endodontic procedure;

(G) the final placement and intraoral adjustment of a fixed or removable appliance; or

(H) the placement of any final restoration; or

(4) the authority to an individual to administer a local anesthetic agent, inhalation sedative agent, parenteral sedative agent, or general anesthetic agent if the individual is not licensed as:

(A) a dentist with a permit issued by the board for the procedure being performed, if a permit is required;

(B) a certified registered nurse anesthetist licensed by the Texas Board of Nursing, only if the delegating dentist holds a permit issued by the board for the procedure being performed, if a permit is required; or

(C) a physician anesthesiologist licensed by the Texas Medical Board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 889 (H.B. [2426](#)), Sec. 37, eff. September 1, 2007.

Sec. 258.002. DELEGATION TO DENTAL ASSISTANT.

Text of subsection effective until September 01, 2018

(a) A licensed dentist may delegate to a qualified and trained dental assistant acting under the dentist's general or direct supervision any dental act that a reasonable and prudent dentist would find is within the scope of sound dental judgment to delegate if:

(1) in the opinion of the delegating dentist, the act:

(A) can be properly and safely performed by the person to whom the dental act is delegated; and

(B) is performed in a customary manner and is not in violation of this subtitle or any other statute;

(2) the person to whom the dental act is delegated does not represent to the public that the person is authorized to practice dentistry; and

(3) the person to whom the dental act is delegated holds the appropriate certificate, if a certificate is required to perform the act.

Text of subsection effective on September 01, 2018

(a) A licensed dentist may delegate to a qualified and trained dental assistant acting under the dentist's general or direct supervision any dental act that a reasonable and prudent dentist would find is within the scope of sound dental judgment to delegate if:

(1) in the opinion of the delegating dentist, the act:

(A) can be properly and safely performed by the person to whom the dental act is delegated; and

(B) is performed in a customary manner and is not in violation of this subtitle or any other statute;

(2) the person to whom the dental act is delegated does not represent to the public that the person is authorized to practice dentistry; and

(3) the person to whom the dental act is delegated is registered under Chapter 265, if registration is required to perform the act.

(b) Repealed by Acts 2009, 81st Leg., R.S., Ch. 476, Sec. 8(1), eff. September 1, 2009.

(c) The board by rule shall establish guidelines regarding the types of dental acts that may be properly or safely delegated by a dentist, including a determination of which delegated dental acts, if any, require competency testing before a person may perform the act.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1470, Sec. 4.01, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1144, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 476 (S.B. 455), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 476 (S.B. 455), Sec. 8(1), eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 18, eff. September 1, 2018.

Sec. 258.003. RESPONSIBILITY OF DELEGATING DENTIST. A delegating dentist is responsible for a dental act performed by the person to whom the dentist delegates the act.

SUBCHAPTER B. GENERAL PRACTICE PROVISIONS

Sec. 258.051. DENTIST RECORDS. (a) The records of a diagnosis made and treatment performed for and on a dental patient are the property of the dentist performing the dental service.

(b) A dentist's records may not be sold, pledged as collateral, or transferred to any person other than the patient unless the transfer is made in compliance with Subchapter C and board rules.

(c) This section does not prevent the voluntary submission of records to an insurance company to determine benefits when consent for the disclosure has been granted under Section 258.104. Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.086(a), eff. Sept. 1, 2001.

Sec. 258.0511. ACCESS TO DENTAL RECORDS. (a) An owner, shareholder, partner, or executive officer of a clinic or other entity that provides dental services for the public shall designate a license holder as the dental custodian of records to provide records to the board or a dentist who has provided dental treatment and to comply with other law regulating dental patient records.

(a-1) The board by rule shall establish conditions under which the board may temporarily or permanently appoint a person as custodian of a dentist's billing or dental patient records. In adopting rules under this subsection, the board shall consider the death of a dentist, the mental or physical incapacitation of a dentist, and the abandonment of billing or dental patient records by a dentist as conditions for appointment of a custodian.

(b) On demand, the dental custodian of records shall give access to the board and produce for the board all records or other evidence related to the investigation or prosecution of an alleged violation of this subtitle or another law regulating the practice of dentistry in this state.

(c) The board shall adopt rules regarding the designation

and duties of a dental custodian of records.

(d) Section 264.101 applies to a violation of this section. Added by Acts 2007, 80th Leg., R.S., Ch. 1119 (H.B. 3876), Sec. 1, eff. September 1, 2007.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 19, eff. September 1, 2017.

Sec. 258.052. CASE HISTORIES AND PHYSICAL EVALUATIONS. (a) A dentist may take a complete case history and perform a complete physical evaluation that may be used to admit a patient to a hospital for the practice of dentistry if the activity is necessary in the exercise of due care in the practice of dentistry.

(b) A dentist is not automatically entitled to membership on a hospital's medical staff or to exercise clinical privileges at a hospital solely because the dentist is licensed in this state or because the dentist is authorized to take a case history and perform a physical evaluation.

(c) A dentist may not be denied membership on a hospital's medical staff or the right to the exercise of clinical privileges at a hospital solely because the person is a dentist rather than a physician.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 258.053. USE OF CERTAIN DRUGS. (a) In this section, "narcotic drugs," "dangerous drugs," and "controlled substances" have the meanings defined or recognized by federal law or the law of this state.

(b) A dentist may not:

(1) prescribe, provide, obtain, order, administer, possess, dispense, give, or deliver to or for any person a narcotic drug, dangerous drug, or controlled substance:

(A) that is not necessary or required; or

(B) the use or possession of which would promote addiction to the drug or substance; or

(2) aid, abet, or cause another person to engage in an action described by Subdivision (1).

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 258.054. USE OF X-RAY EQUIPMENT. (a) A dentist may authorize a qualified person to perform beam calibration and characterization, quality assurance, instrument specification, acceptance testing, shielding design, or protection analysis on radiation-emitting equipment or radiopharmaceuticals for a procedure that involves the diagnosis or treatment of disease or another dental condition in humans.

(b) A dentist's authorization and the performance of authorized activities by a qualified person does not constitute the practice of medical physics under Chapter 602.

Text of subsection effective until September 01, 2018

(c) A dentist may not authorize a dental assistant to make a dental x-ray unless the dental assistant holds an x-ray certificate issued under Section 265.005.

Text of subsection effective on September 01, 2018

(c) A dentist may not authorize a dental assistant, other than a dental assistant described by Section 265.001(d), to make a dental x-ray unless the dental assistant is registered under Chapter 265.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 810 (S.B. 610), Sec. 5, eff. September 1, 2005.

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 20, eff. September 1, 2018.

Sec. 258.055. PRACTICE OF DENTISTRY ON CERTAIN CHILDREN.

(a) The parent or guardian of a child younger than 18 years of age may be present in the treatment room during the child's dental treatment or procedure, unless the dentist determines in the dentist's professional judgment that the presence of the parent or guardian in the treatment room is likely to have an adverse effect on the treatment or the child.

(b) In this section, "parent or guardian" includes a person

authorized by law to consent for the medical or dental treatment of a child younger than 18 years of age.

Added by Acts 2013, 83rd Leg., R.S., Ch. 709 (H.B. 3201), Sec. 8, eff. January 1, 2014.

SUBCHAPTER C. DENTAL PRIVILEGE

Sec. 258.101. DEFINITIONS. In this subchapter:

(1) "Dental record" means dental information about a patient:

(A) created or maintained by a dentist; and

(B) relating to the history or treatment of the patient.

(2) "Dentist" means a person licensed to practice dentistry.

(3) "Patient" means a person who consults with a dentist to receive dental care.

(4) "Privilege" means the confidentiality privilege created by this subchapter.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.086(b), eff. Sept. 1, 2001.

Sec. 258.102. SCOPE OF PRIVILEGE. (a) The following information is privileged and may not be disclosed except as provided by this subchapter:

(1) a communication between a dentist and a patient that relates to a professional service provided by the dentist; and

(2) a dental record.

(b) The privilege described by this section applies regardless of when the patient received the professional service from the dentist.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.086(b), eff. Sept. 1, 2001.

Sec. 258.103. HOLDER OF PRIVILEGE. (a) The patient is the holder of the privilege.

(b) The following persons may claim the privilege on the

patient's behalf:

- (1) a person authorized to act on the patient's behalf;
- (2) a dentist acting on the patient's behalf; and
- (3) an agent or employee of a person listed in Subdivision (1) or (2).

(c) A person's authority to claim the privilege is presumed in the absence of evidence to the contrary.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.086(b), eff. Sept. 1, 2001.

Sec. 258.104. CONSENT TO DISCLOSURE OF PRIVILEGED INFORMATION. (a) A person may disclose privileged information if the patient consents to the disclosure as provided in this section.

(b) Consent for the release of privileged information must be in writing and be signed by:

- (1) the patient;
- (2) a parent or legal guardian of the patient, if the patient is a minor;
- (3) a legal guardian of the patient, if the patient has been adjudicated incompetent to manage the patient's personal affairs;

(4) an attorney ad litem appointed for the patient, as authorized by:

- (A) Chapter 107, Family Code;
- (B) Subtitle B, Title 6, Health and Safety Code;
- (C) Subtitle C, Title 7, Health and Safety Code;
- (D) Subtitle D, Title 7, Health and Safety Code;
- (E) Subtitle E, Title 7, Health and Safety Code;
- (F) Chapter V, Texas Probate Code; or
- (G) any other law; or

(5) a personal representative of the patient, if the patient is deceased.

(c) The consent required under this section must specify:

- (1) the information covered by the release;
- (2) the person to whom the information is to be released; and
- (3) the purpose for the release.

(d) A person may withdraw consent granted under this section by notifying in writing the person who maintains the information. Withdrawal of consent does not affect information disclosed before the written notice of the withdrawal is delivered.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.086(b), eff. Sept. 1, 2001.

Sec. 258.105. EXCEPTION TO PRIVILEGE FOR CERTAIN PROCEEDINGS. (a) The privilege does not apply in a court or administrative proceeding if the proceeding is:

(1) brought by the patient against a dentist, including a malpractice, criminal, or license revocation proceeding, and the disclosure is relevant to a claim or defense of the dentist; or

(2) to collect on a claim for dental services rendered to the patient.

(b) The privilege does not apply to the disclosure of a dental record:

(1) to the board in a disciplinary investigation or proceeding against a dentist conducted under this subtitle; or

(2) in a criminal investigation or proceeding against a dentist in which the board is participating or assisting by providing a record obtained from the dentist.

(c) The board may not reveal the identity of a patient whose dental record is disclosed under Subsection (b).

(d) Privileged information is discoverable in a criminal prosecution if:

(1) the patient is a victim, witness, or defendant; and

(2) the court in which the prosecution is pending rules, after an in camera review, that the information is relevant for discovery purposes.

(e) Privileged information is admissible in a criminal prosecution if:

(1) the patient is a victim, witness, or defendant; and

(2) the court in which the prosecution is pending

rules, after an in camera review, that the information is relevant.

(f) The privilege does not apply to a grand jury subpoena.
Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.086(b), eff. Sept. 1, 2001.

Sec. 258.106. EXCEPTION TO PRIVILEGE FOR CERTAIN DISCLOSURES BY DENTIST. (a) The privilege does not apply to the disclosure of information by a dentist to:

(1) a governmental agency, if:

(A) the disclosure is required by another law;
and

(B) the agency agrees to keep confidential the identity of a patient whose dental record is disclosed;

(2) medical or law enforcement personnel, if the dentist determines that it is more likely than not that the following will occur:

(A) imminent physical injury to the patient, the dentist, or others; or

(B) immediate mental or emotional injury to the patient;

(3) a person in relation to a management or financial audit, program evaluation, or research, if the person agrees to keep confidential the identity of a patient whose dental record is disclosed;

(4) a person involved in the payment or collection of fees for services rendered by a dentist, if necessary; or

(5) another dentist, or a person under the direction of the dentist, who participates in the diagnosis, evaluation, or treatment of the patient.

(b) A person who receives information under Subsection (a)(3) may not disclose a patient's identity in writing.

(c) A record reflecting a charge or specific service provided may be disclosed only when necessary in the collection of fees for a service provided by a dentist, professional association, or other entity qualified to provide or arrange for a service.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.086(b), eff. Sept. 1, 2001.

Sec. 258.107. EXCEPTION TO PRIVILEGE FOR CERTAIN LEGISLATIVE INQUIRIES. A state hospital or state school may disclose a dental record if:

(1) the state hospital or state school created the record;

(2) an inquiry authorized by the legislature requests the information; and

(3) the entity receiving the record agrees not to disclose a patient's identity.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.086(b), eff. Sept. 1, 2001.

Sec. 258.108. LIMIT ON DISCLOSURE. A person who receives privileged information may disclose the information to another person only to the extent consistent with the purpose for which the information was obtained.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.086(b), eff. Sept. 1, 2001.

Sec. 258.109. REQUEST FOR DENTAL RECORD: TIMING; EXCEPTION. (a) If disclosure of a dental record is authorized under this subchapter, a dentist shall disclose the dental record within a reasonable period after it is requested but not later than:

(1) the 30th day after the date on which it is requested from the dentist; or

(2) a date ordered by a court.

(b) A dentist may refuse to disclose the requested record if the dentist determines that providing the information would be harmful to the physical, mental, or emotional health of the patient, except that requests from the board may not be refused. If the dentist determines that disclosing the record would be harmful, the dentist shall notify the person requesting the record and explain why the information would be harmful. The person requesting the record may challenge in court the dentist's refusal to disclose the record. If the court finds that the dentist made the refusal in bad faith, the court may order the disclosure of the

record and award costs and attorney's fees incurred by the person to obtain the information.

(c) In disclosing a dental record under this section, a dentist shall redact privileged information about another person.

(d) A dentist may charge a reasonable fee for providing a dental record under this section. For purposes of this subsection, a fee established under Section [241.154](#), Health and Safety Code, is a reasonable fee.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.086(b), eff. Sept. 1, 2001.

SUBCHAPTER D. ADMINISTRATION OF ANESTHESIA

Sec. 258.151. DEFINITIONS. In this subchapter:

(1) "High-risk patient" means a patient who has a level 3 or 4 classification according to the American Society of Anesthesiologists Physical Status Classification System.

(2) "Pediatric patient" means a patient younger than 13 years of age.

Added by Acts 2001, 77th Leg., ch. 349, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. [313](#)), Sec. 22, eff. September 1, 2017.

Sec. 258.152. APPLICABILITY. Rules adopted by the board under this subchapter do not apply to:

(1) the regional injection of an anesthetic to reduce or eliminate sensation, especially pain, in one part of the body; or

(2) the administration of anxiolytics and analgesics that are not being used in conjunction with the administration of nitrous oxide and that are administered in doses that do not have the probability of placing the dental patient at risk for loss of the dental patient's life-preserving protective reflexes.

Added by Acts 2001, 77th Leg., ch. 349, Sec. 1, eff. Sept. 1, 2001.

Sec. 258.153. RULES. (a) The board shall adopt rules to

administer this subchapter, including rules to establish the minimum standards for the administration of anesthesia by a dentist.

(b) The rules must be designed to protect the health, safety, and welfare of the public and must include requirements relating to:

(1) for each type of permit held, the methods that may be used to administer an anesthetic and the anesthetic agents that may be used;

(2) dental patient evaluation, diagnosis, counseling, and preparation;

(3) dental patient monitoring to be performed and equipment to be used during a procedure and during postprocedure monitoring;

(4) emergency procedures, drugs, and equipment, including education, training, and certification of personnel, as appropriate, and including protocols for transfers to a hospital;

(5) the documentation necessary to demonstrate compliance with this subchapter;

(6) the period in which protocols or procedures covered by rules of the board shall be reviewed, updated, or amended; and

(7) the minimum components required to be included in a preoperative checklist to be used before administering anesthesia to a patient and retained in the patient's dental record.

Added by Acts 2001, 77th Leg., ch. 349, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 23, eff. September 1, 2017.

Sec. 258.154. COMPLIANCE WITH ANESTHESIA RULES. (a) A dentist who practices dentistry in this state and who administers anesthesia or performs a procedure for which anesthesia is administered shall comply with the rules adopted under this subchapter.

(b) The board may require a dentist to submit and comply with a corrective action plan to remedy or address any current or

potential deficiencies with the dentist's administration of anesthesia in accordance with this subtitle or rules of the board. Added by Acts 2001, 77th Leg., ch. 349, Sec. 1, eff. Sept. 1, 2001. Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 23, eff. September 1, 2017.

Text of section effective until March 01, 2018

Sec. 258.155. ANNUAL PERMIT. (a) Not later than September 1, 2002, the board shall require each dentist who enterally administers anesthesia or performs a procedure for which anesthesia is enterally administered to annually obtain a permit from the board by completing a form prescribed by the board. The board shall set and impose a fee for the permit in an amount designed to recover the costs of regulating a permit holder under this subchapter.

(b) The board shall coordinate the times at which a permit must be renewed with the times at which a dentist's license must be renewed under Chapter 257 so that the times of registration, payment, notice, and imposition of penalties for late payment are similar and provide a minimum of administrative burden to the board and to dentists.

Added by Acts 2001, 77th Leg., ch. 349, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 23, eff. March 1, 2018.

Text of section effective on March 01, 2018

Sec. 258.155. PERMIT REQUIRED. (a) The board shall issue permits to administer anesthesia in the following categories based on the extent to which the intended procedure will alter the patient's mental status and the method of anesthetic delivery:

- (1) nitrous oxide;
- (2) level 1: minimal sedation;
- (3) level 2: moderate sedation (enteral administration);
- (4) level 3: moderate sedation (parenteral

administration); and

(5) level 4: deep sedation or general anesthesia.

(b) A dentist may not administer anesthesia unless the dentist obtains the appropriate permit issued under this section.

(c) The board shall set and impose a fee for issuance of a permit in an amount designed to recover the costs of regulating a permit holder under this subchapter.

(d) The board shall coordinate the times at which a permit must be renewed with the times at which a dentist's license must be renewed under Chapter 257 so that the times of registration, payment, notice, and imposition of penalties for late payment are similar and provide a minimum of administrative burden to the board and to dentists.

Added by Acts 2001, 77th Leg., ch. 349, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 23, eff. March 1, 2018.

Sec. 258.1551. PERMIT QUALIFICATIONS. (a) The board by rule shall establish the qualifications to obtain each permit described by Section 258.155, including the education and training required to obtain the permit.

(b) The rules adopted under Subsection (a) must require an applicant for a level 2, level 3, or level 4 permit to complete training on:

(1) pre-procedural patient evaluation, including the evaluation of a patient's airway and physical status as classified by the American Society of Anesthesiologists;

(2) the continuous monitoring of a patient's level of sedation during the administration of anesthesia; and

(3) the management of emergency situations.

Added by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 24, eff. September 1, 2017.

Sec. 258.1552. JURISPRUDENCE EXAMINATION. (a) The board shall develop and administer an online jurisprudence examination to determine a permit holder's knowledge of this subchapter, board

rules, and other applicable laws of this state relating to the administration of anesthesia.

(b) A permit holder must pass the online jurisprudence examination developed by the board once every five years.

Added by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 24, eff. September 1, 2017.

Sec. 258.1553. PORTABILITY OF ANESTHESIA SERVICES. The board by rule shall require a dentist who applies for the issuance or renewal of a permit under this subchapter to include in the application a statement indicating whether the dentist provides or will provide a permitted anesthesia service in more than one location.

Added by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 24, eff. September 1, 2017.

Text of section effective on March 01, 2018

Sec. 258.1554. ADMINISTRATION OF ANESTHESIA TO CERTAIN PATIENTS. (a) A permit holder under this subchapter may not administer anesthesia under a level 2, level 3, or level 4 permit to a pediatric or high-risk patient unless the permit holder has:

(1) demonstrated to the satisfaction of the board that the permit holder has advanced didactic and clinical training; and

(2) obtained authorization from the board under this section.

(b) The board by rule may establish limitations on the administration of anesthesia by a permit holder to a pediatric or high-risk patient.

Added by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 24, eff. March 1, 2018.

Sec. 258.1555. CAPNOGRAPHY REQUIRED FOR CERTAIN ANESTHESIA SERVICES. A permit holder who is administering anesthesia for which a level 4 permit is required shall use capnography during the administration of anesthesia.

Added by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 24, eff. September 1, 2017.

Sec. 258.1556. MINIMUM EMERGENCY PREPAREDNESS STANDARDS.

(a) The board shall adopt rules to establish minimum emergency preparedness standards and requirements for the administration of anesthesia under a permit issued under this subchapter. The rules must require a permit holder to:

(1) have available at any time the permit holder administers anesthesia:

(A) an adequate and unexpired supply of drugs and anesthetic agents necessary for the safe administration of anesthesia; and

(B) an automated external defibrillator, as defined by Section 779.001, Health and Safety Code;

(2) conduct periodic inspections of the permit holder's equipment in the manner and on the schedule determined by the board;

(3) maintain and make available to the board on request an equipment readiness log; and

(4) develop and annually update written policies, procedures, and training requirements, specific to the permit holder's equipment and drugs, for responding to emergency situations involving anesthesia.

(b) Rules adopted under Subsection (a)(4) must require a holder of a level 2, level 3, or level 4 permit to develop policies and procedures that include:

(1) advanced cardiac life support rescue protocols;

(2) advanced airway management techniques; and

(3) if the permit holder is authorized to administer anesthesia to pediatric patients, pediatric advanced life support rescue protocols.

Added by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 24, eff. September 1, 2017.

Sec. 258.1557. EMERGENCY PREPAREDNESS PROTOCOLS. (a) A permit holder shall develop emergency preparedness protocols, specific to the permit holder's practice setting, that establish a plan for the management of medical emergencies in each practice

setting in which the dentist administers anesthesia.

(b) The board shall adopt rules prescribing the content that a permit holder must include in the emergency preparedness protocols developed under Subsection (a). The rules must require a permit holder to include in the permit holder's emergency preparedness protocols the written policies, procedures, and training requirements described by Section 258.1556(a)(4).

Added by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 24, eff. September 1, 2017.

Text of section effective until March 01, 2018

Sec. 258.156. INSPECTIONS. (a) The board may conduct inspections to enforce this subchapter, including inspections of an office site and of documents of a dentist's practice that relate to the enteral administration of anesthesia. The board may contract with another state agency or qualified person to conduct these inspections.

(b) Unless it would jeopardize an ongoing investigation, the board shall provide at least five business days' notice before conducting an on-site inspection under this section.

(c) This section does not require the board to make an on-site inspection of a dentist's office.

Added by Acts 2001, 77th Leg., ch. 349, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 25, eff. March 1, 2018.

Text of section effective on March 01, 2018

Sec. 258.156. INSPECTIONS. (a) Except as provided by Subsection (h), the board may conduct inspections of a dentist who applies for or holds a permit issued under this subchapter as necessary to enforce this subchapter, including inspections of an office site, equipment, a facility, and any document of the dentist. During an inspection under this section, the board may evaluate a dentist's competency in the administration of anesthesia.

(b) The board shall conduct an inspection with respect to a dentist who holds a level 2, level 3, or level 4 permit not later than the first anniversary of the date the permit is issued.

(c) The board by rule shall adopt a risk-based inspection policy for conducting inspections under this section. The policy must require the board to take into consideration any previous disciplinary action taken against a permit holder for an anesthesia-related violation when determining whether an inspection is necessary.

(d) The board may contract with another state agency or qualified person to conduct these inspections.

(e) The board is not required to give notice before conducting an inspection under this section.

(f) The board shall maintain records of inspections conducted under this section.

(g) The board by rule may establish education and training requirements for inspectors who conduct inspections under this section.

(h) The board may not conduct an inspection under this section with respect to a dentist who administers anesthesia exclusively in a state-licensed hospital or state-licensed ambulatory surgical center. The board may by rule except from inspection under this section a dentist who administers anesthesia exclusively in any other facility that is subject to inspection by the Department of State Health Services or an accrediting body under state law. The board retains all other authority provided by this subtitle over a dentist described by this subsection.

Added by Acts 2001, 77th Leg., ch. 349, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 25, eff. March 1, 2018.

Sec. 258.157. REQUESTS FOR INSPECTION AND ADVISORY OPINION.

(a) The board may consider a request by a dentist for an on-site inspection. The board may, in its discretion and on payment of a fee in an amount established by the board, conduct the inspection and issue an advisory opinion.

(b) An advisory opinion issued by the board under this section is not binding on the board, and the board, except as provided by Subsection (c), may take any action under this subtitle in relation to the situation addressed by the advisory opinion that the board considers appropriate.

(c) A dentist who requests and relies on an advisory opinion of the board may use the opinion as mitigating evidence in an action or proceeding to impose an administrative or civil penalty under this subtitle. The board or court, as appropriate, shall take proof of reliance on an advisory opinion into consideration and mitigate the imposition of administrative or civil penalties accordingly.

Added by Acts 2001, 77th Leg., ch. 349, Sec. 1, eff. Sept. 1, 2001.

SUBCHAPTER E. ADVISORY COMMITTEE ON DENTAL ANESTHESIA

Sec. 258.201. DEFINITION. In this subchapter, "health care provider" means a person who provides services under a license, certificate, registration, or other authority issued by this state or another state to diagnose, prevent, alleviate, or cure a human illness or injury.

Added by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 26, eff. September 1, 2017.

Sec. 258.202. ADVISORY COMMITTEE. (a) The board shall establish an advisory committee to analyze and report on data and associated trends concerning anesthesia-related deaths or incidents as provided by this subchapter. The advisory committee consists of six members appointed by the board in the manner provided by Section 258.203 and must include:

- (1) a general dentist;
- (2) a dentist anesthesiologist;
- (3) an oral and maxillofacial surgeon;
- (4) a pediatric dentist;
- (5) a physician anesthesiologist; and
- (6) a periodontist.

(b) In appointing members to the advisory committee, the board shall maintain a balanced representation of general dentists

and specialists to ensure the advisory committee has expertise with respect to each permit category.

(c) A board member may not serve as a member of the advisory committee. A former board member may not be appointed to the advisory committee until the second anniversary of the expiration of the member's term on the board.

(d) Chapter 2110, Government Code, does not apply to the size, composition, or duration of the advisory committee.
Added by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 26, eff. September 1, 2017.

Sec. 258.203. APPLICATION PROCESS; APPOINTMENT OF COMMITTEE MEMBERS. (a) The board by rule shall develop and implement a process by which a person may apply to be appointed to the advisory committee and shall post the application and information regarding the application process on the board's Internet website.

(b) The presiding officer of the board shall review each application received and nominate for appointment to the advisory committee persons who meet the requirements of Section 258.202. A person nominated under this subsection may not be appointed to the advisory committee except on the affirmative vote of at least seven members of the board.

(c) The presiding officer of the board shall designate one of the nominated members as presiding officer of the advisory committee, subject to approval of the board.
Added by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 26, eff. September 1, 2017.

Sec. 258.204. TERMS; VACANCIES. The board by rule shall establish:

(1) the length of a term of a member of the advisory committee and the staggering of the terms of the members; and

(2) the manner in which a vacancy occurring during a member's term is filled.

Added by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 26, eff. September 1, 2017.

Sec. 258.205. MEETINGS. The advisory committee is subject to Chapter 551, Government Code, except that the advisory committee may conduct a closed meeting to review confidential investigative files provided by the board under Section 258.206.

Added by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 26, eff. September 1, 2017.

Sec. 258.206. COMPILATION AND ANALYSIS OF INFORMATION.

(a) The board shall identify complaints resolved by the board that involve anesthesia-related deaths or incidents and compile confidential, de-identified information derived from the investigative files on each complaint identified under this subsection.

(b) The board shall provide information compiled under Subsection (a) to the advisory committee. The advisory committee shall analyze the information compiled under Subsection (a) to identify any trends and submit a report to the board at least annually on:

(1) the advisory committee's findings; and

(2) any recommendations for changes to board rules or this subtitle based on the advisory committee's analysis.

(c) On request of the advisory committee, the board may provide confidential, de-identified investigative files for review by the advisory committee.

(d) The data provided to the advisory committee under this section may not include identifying information of a patient or health care provider, including:

(1) the name, address, or date of birth of the patient or a member of the patient's family; or

(2) the name or specific location of a health care provider that treated the patient.

(e) The board shall post on the board's Internet website any recommendations or findings reported by the advisory committee.

Added by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 26, eff. September 1, 2017.

Sec. 258.207. COUNSEL FOR ADVISORY COMMITTEE. The board

shall designate an attorney employed by the board to:

(1) act as counsel and provide legal advice to the advisory committee; and

(2) be present during the advisory committee's meetings and deliberations.

Added by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 26, eff. September 1, 2017.

Sec. 258.208. CONFIDENTIALITY; PRIVILEGE. (a) Any information pertaining to the investigation of an anesthesia-related death or incident is confidential.

(b) Confidential information that is acquired by the board and that includes identifying information of an individual or health care provider is privileged and may not be disclosed to any person. Information that may not be disclosed under this subsection includes:

(1) the name and address of a patient or a member of the patient's family; and

(2) the identity of a health care provider that provided any services to the patient or a member of the patient's family.

(c) Advisory committee work product or information obtained or provided by the board under this subchapter is confidential. This subsection does not prevent the advisory committee or board from releasing information described by Subsection (d) or (e).

(d) Information is not confidential under this section if the information is:

(1) general information that cannot be connected with any specific individual, case, or health care provider; and

(2) presented as aggregate statistical information that describes a single data point.

(e) The advisory committee may publish statistical studies and research reports based on information that is confidential under this section, provided that the information:

(1) is published in the aggregate;

(2) does not identify a patient or the patient's

family;

(3) does not include any information that could be used to identify a patient or the patient's family; and

(4) does not identify a health care provider.

(f) The board shall adopt and implement practices and procedures to ensure that information that is confidential under this section is not disclosed in violation of this section.

(g) Information that is confidential under this section is excepted from disclosure under Chapter 552, Government Code, as provided by Section 552.101 of that chapter.

Added by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 26, eff. September 1, 2017.

Sec. 258.209. SUBPOENA AND DISCOVERY. Advisory committee work product or information that is confidential under Section 258.208 is privileged, is not subject to subpoena or discovery, and may not be introduced into evidence in any administrative, civil, or criminal proceeding against a patient, a member of the family of a patient, or a health care provider.

Added by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 26, eff. September 1, 2017.

Sec. 258.210. IMMUNITY. (a) A member of the advisory committee or a person employed by the board or acting in an advisory capacity to the advisory committee and who provides information, counsel, or services to the advisory committee is not liable for damages for an action taken within the scope of the functions of the advisory committee.

(b) Subsection (a) does not apply if the person acts with malice or without the reasonable belief that the action is warranted by the facts known to the person.

(c) This section does not provide immunity to a person described by Subsection (a) for a violation of a state or federal law or rule relating to the privacy of health information or the transmission of health information, including the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) and rules adopted under that Act.

Added by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. [313](#)), Sec. 26, eff. September 1, 2017.

Sec. 258.211. FUNDING. The board may accept gifts and grants from any source to fund the duties of the board and the advisory committee under this subchapter.

Added by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. [313](#)), Sec. 26, eff. September 1, 2017.

OCCUPATIONS CODE

TITLE 3. HEALTH PROFESSIONS

SUBTITLE D. DENTISTRY

CHAPTER 259. PROHIBITED OR RESTRICTED COMMERCIAL OR PROFESSIONAL
ACTIVITIES

Sec. 259.001. FALSE STATEMENTS TO PATIENTS. A dentist may not, in the practice of dentistry, make a misrepresentation or a false or misleading statement to a patient or prospective patient. Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 259.002. NOTIFICATION OF QUALIFICATIONS. Each dental office shall post at or near the entrance of the office the name of, each degree received by, and each school attended by each dentist practicing in the office. Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 259.003. USE OF TRADE NAME. (a) A person may use a corporation, company, association, or trade name, provided that each patient shall be given the name of the treating dentist, in writing, either before or after each office visit.

(b) An advertisement under a corporation, company, association, or trade name must include prominently the name of at least one dentist practicing under the name.

(c) A person using a business or trade name described by Subsection (b) shall file with the board a list of each dentist who practices under that name and a list of each trade name used if that name is different from the name described by Subsection (b).

(d) If information provided under Subsection (c) changes, the person must file updated information with the board not later than the 30th day after the date of the change.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.087(a), eff. Sept. 1, 2001.

Sec. 259.004. DUTIES OF DENTIST IN CERTAIN EMPLOYMENT OR CONTRACTUAL ARRANGEMENTS. (a) A person providing dental services

under an agreement that allows another person to control or influence any aspect of the delivery of dental services, including a business or professional aspect, shall report to the board on request and in accordance with board rules:

- (1) information concerning the agreement;
- (2) the manner in which patients are billed;
- (3) the manner in which the dental service provider is paid and any information provided to patients concerning payment agreements; and
- (4) information concerning the service provider agreement provided to shareholders of organizations contracting with a dental service provider.

(b) A person who practices dentistry and has another dentist practicing with or under the person is responsible for all professional acts performed under the name of the person, regardless of whether the dentist has an ownership interest or an employment or contractual relationship. This section does not affect an individual license holder's responsibilities and rights under this subtitle.

(c) A statute relating to the practice of dentistry in this state may not be construed to prohibit a licensed dentist from maintaining more than one office in this state if the dentist:

- (1) assumes full legal responsibility and liability for the dental services provided in each office; and
- (2) complies with the requirements prescribed by board rules.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 259.005. AUTHORIZED ADVERTISING RESTRICTIONS. Board rules adopted under Section [254.002](#) to regulate advertising may include restrictions that prohibit communications to the public that:

- (1) are false, misleading, or deceptive;
- (2) state an opinion regarding the quality of dental services;
- (3) appeal to an individual's anxiety in an excessive or unfair way;

(4) intimidate or exert undue pressure or undue influence over a prospective patient;

(5) create unjustified expectations concerning the potential result of a dental treatment;

(6) refer to benefits or other attributes of dental procedures or products that involve significant risks without including realistic assessments of the safety and efficacy of those procedures or products;

(7) contain statistical data, representations, or other information that is not susceptible to reasonable verification by the public;

(8) refer to a fee for dental services without disclosing that additional fees may be involved in individual cases, if the possibility of additional fees may be reasonably predicted;

(9) offer a discount for dental services without disclosing the total fee to which the discount will apply; or

(10) fail to make truthful disclosure of the source and authorship of any message published under a dentist's byline.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 259.006. UNLAWFUL ADVERTISING IN GENERAL. (a) A person may not engage in false, misleading, or deceptive advertising in connection with the practice of dentistry.

(b) A person regulated by the board may not engage in advertising that does not comply with the reasonable restrictions adopted by the board under Section [259.005](#).

(c) For the first violation of the board's advertising restrictions, a person may not be prosecuted under this subtitle before the 31st day after the date the person has been given notice by certified or registered mail, return receipt requested, of the alleged violation. The notice must:

(1) include a copy of the applicable portions of this subtitle and all board rules relating to advertising;

(2) describe the alleged unlawful advertising;

(3) identify the board restriction violated; and

(4) include a statement informing the person that the

person has 30 days from the date of the notice to cure the violation.

(d) A person may be prosecuted if the violation is not cured within the prescribed time.

(e) Subsection (c) does not apply to a subsequent violation of the board's advertising restrictions.

(f) This section does not authorize the board to discipline a dentist for an act of an advertising agent that results in a communication to the public that violates the restrictions adopted by the board under Section 259.005 if the advertisement does not specify the name of the dentist or the name under which the dentist practices unless:

(1) the advertising agent is owned or controlled by the dentist;

(2) the dentist provided to the advertising agent for distribution to the public any information that does not comply with the board's restrictions; or

(3) the content of the advertising is determined by the dentist.

(g) The board may bring an action in district court to enjoin an advertising agent from using any advertisement, marketing scheme, or practice that violates the restrictions adopted by the board under Section 259.005. Notwithstanding any other provision of this subtitle, an injunction under this section is the board's sole remedy against an advertising or marketing agent for a violation of this section.

(h) The remedies provided in this section are in addition to the procedures and remedies provided for in Subchapter E, Chapter 17, Business & Commerce Code.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 259.007. UNLAWFUL ADVERTISING: OUT-OF-STATE PROVIDER. A person who is not domiciled and located in this state and subject to the laws of this state may not advertise or cause or permit to be advertised, published, directly or indirectly, printed, or circulated in this state a notice, statement, or offer of any service, drug, or fee relating to the practice of dentistry,

unless the advertising conspicuously discloses that the person is not licensed to practice dentistry in this state.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 259.008. UNPROFESSIONAL CONDUCT. A person may not directly or indirectly engage in unprofessional conduct relating to dentistry, including:

(1) obtaining or attempting to collect a fee by fraud or misrepresentation;

(2) orally soliciting dental business if the solicitation is:

(A) directed to an individual or a group of less than five individuals; and

(B) made for the primary purpose of attracting the individual or the group to a particular dental practice;

(3) employing, directly or indirectly, or permitting an unlicensed person to perform dental services on a person, except as authorized by law;

(4) claiming or circulating a statement of:

(A) professional superiority; or

(B) performance of professional services in a superior manner;

(5) forging, altering, or changing a legal document relating to the practice of dentistry, including a diploma, license, registration certificate, or transcript;

(6) being a party to or benefiting from the forgery, alteration, or changing of a legal document relating to the practice of dentistry;

(7) making a false statement or misusing a legal document relating to the practice of dentistry;

(8) accepting employment as a dentist under a false, misleading, or deceptive referral scheme;

(9) advertising the performance of dental work without pain or discomfort to the patient; or

(10) advertising a prediction of future satisfaction or success of a dental service.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended

by Acts 2001, 77th Leg., ch. 1420, Sec. 14.088(a), eff. Sept. 1, 2001.

OCCUPATIONS CODE

TITLE 3. HEALTH PROFESSIONS

SUBTITLE D. DENTISTRY

CHAPTER 260. OPERATION OF CERTAIN DENTAL PRACTICES

Sec. 260.001. EMPLOYMENT BY ESTATE OF DENTIST OR PERSON ACTING FOR MENTALLY INCOMPETENT DENTIST. (a) This subtitle does not prevent a person who is the administrator or executor of the estate of a dentist or a person who is legally authorized to act for a dentist adjudicated to be mentally incompetent from employing a licensed dentist to:

(1) carry on the deceased or mentally incompetent dentist's practice for a reasonable period, as determined by the board; or

(2) conclude the affairs of the practice, including the sale of any assets.

(b) This subtitle does not prevent a licensed dentist from working for a person described by Subsection (a) during the administration of the estate or the period of incompetency.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 260.002. EMPLOYMENT BY CERTAIN NONPROFIT HEALTH ORGANIZATIONS. (a) The board shall, on a form and under rules adopted by the board, approve and certify a health organization to contract with or employ dentists licensed by the board if the organization, in its application to the board, presents satisfactory proof to the board that the organization:

(1) is a nonprofit corporation under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) and Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section 501); and

(2) is organized and operated as:

(A) a migrant, community, or homeless health center under 42 U.S.C. Section 254b or 254c; or

(B) a federally qualified health center under 42 U.S.C. Section 1396d(1)(2)(B).

(b) A dentist providing dental services under Subsection

(a) shall provide those services free of charge or at a reduced fee equal to the patient's ability to pay in strict compliance with 42 U.S.C. Section 254b or 254c.

(c) The board may refuse to approve or certify a health organization that applies to the board under this section if the board determines that the nonprofit corporation is established, organized, or operated in violation of or with the intent to circumvent this section.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 260.003. EMPLOYMENT BY ORGANIZATIONS SERVING UNDERSERVED POPULATIONS. A dentist licensed by the board may be employed by or contract with an organization if:

(1) the organization is a nonprofit corporation under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) and Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section 501); and

(2) the organization is:

(A) approved by the board as an organization that provides services to underserved populations for no fee or a reduced fee; or

(B) a clinic that provides dental services primarily to individuals who have acquired immune deficiency syndrome or the human immunodeficiency virus.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 260.004. EMPLOYMENT BY GOVERNMENTAL ENTITY. A dentist licensed by the board may be employed by or contract with a governmental entity that provides dental services under federal or state law.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

OCCUPATIONS CODE

TITLE 3. HEALTH PROFESSIONS

SUBTITLE D. DENTISTRY

CHAPTER 261. CONFIDENTIALITY AND IMMUNITY OF DENTAL PEER REVIEW
COMMITTEE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 261.001. DEFINITIONS. In this chapter:

(1) "Dental association" means an organization that is composed of members who are dentists and incorporated under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) or exempt from the payment of federal income taxes under Section 501(a) of the Internal Revenue Code of 1986 as an organization described by Section 501(c) of the Internal Revenue Code of 1986.

(2) "Dental peer review committee" means a peer review, judicial, or grievance committee of a dental association authorized to evaluate the quality of dental services or the competence of dentists. The term includes a member, employee, assistant, investigator, attorney, or other agent serving the committee.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. CONFIDENTIALITY AND DISCLOSURE OF INFORMATION

Sec. 261.051. CONFIDENTIALITY OF PROCEEDINGS. (a) Except as otherwise provided by this chapter:

(1) a dental peer review committee's proceedings and records are confidential; and

(2) communications made to a dental peer review committee are privileged.

(b) If a court makes a preliminary finding that the proceedings or records of or the communications made to a dental peer review committee are relevant to an anticompetitive action or an action brought under federal civil rights provisions (42 U.S.C. Section 1983), the proceedings, records, or communications are not

confidential to the extent they are relevant to the action.
Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 261.052. DISCLOSURE OF INFORMATION. Communications made to a dental peer review committee and the records and proceedings of the committee may be disclosed to:

- (1) another dental peer review committee;
- (2) an appropriate state or federal agency;
- (3) a national accreditation body; or
- (4) the registration or licensing entity in any state.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 261.053. DISCLOSURE TO AFFECTED DENTIST. (a) Disclosure to the affected dentist of confidential peer review committee information pertinent to the matter under review does not waive the confidentiality provisions of this chapter.

(b) If a dental peer review committee takes action that may result in censure or a license suspension, restriction, limitation, or revocation by the board or in the denial of membership or privileges in a health care entity, the committee shall give the affected dentist:

- (1) a written copy of the recommendation of the committee; and
- (2) a copy of the final decision, including a statement of the basis for the decision.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 261.054. COMMITTEE'S EVIDENTIARY PRIVILEGE. (a) Unless disclosure is required or authorized by law, records or determinations of or communications to a dental peer review committee are not subject to subpoena or discovery and are not admissible as evidence in a civil judicial or administrative proceeding unless the committee executes in writing a waiver of the confidentiality privilege.

(b) The evidentiary privilege created by this chapter may be invoked by any person in any civil judicial or administrative proceeding unless the person has secured a waiver of the privilege

executed in writing by the presiding officer, assistant presiding officer, or secretary of the affected dental peer review committee.

(c) If a dental peer review committee or a person participating in peer review named as a defendant in a civil action filed as a result of participation in peer review may use otherwise confidential information in the person's defense or in a claim or suit under Section 261.104, the plaintiff in the proceeding may disclose the records or determinations of a peer review committee or communications made to a peer review committee in rebuttal to information supplied by the defendant.

(d) A person seeking access to privileged information must plead and prove waiver of the privilege.

(e) A member, employee, or agent of a dental peer review committee who provides access to privileged communications or records in cooperation with a law enforcement authority in a criminal investigation is not considered to have waived a privilege established under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 261.055. COMPLIANCE WITH BOARD SUBPOENAS. (a) A person, including the governing body and medical staff of a health care entity, shall comply with a subpoena for a document or information issued by the board as authorized by law.

(b) The disclosure of a document or information under a board subpoena does not constitute a waiver of the privilege established under this chapter.

(c) Failure to comply with a board subpoena constitutes grounds for disciplinary action against the facility or individual by the appropriate licensing board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER C. CIVIL LIABILITY

Sec. 261.101. COMMITTEE IMMUNITY FROM SUIT. (a) In the absence of fraud, conspiracy, or malice, a dental peer review committee is not subject to a suit for damages arising from investigating a disagreement or complaint, holding a hearing to

determine facts, or making an evaluation, recommendation, decision, or award involving a dentist who is a member of a dental association or another dentist, a dental patient, or a third party requesting the committee's services.

(b) The purpose of this section is to protect a dental peer review committee from being harassed and threatened with legal action in performing official duties.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 261.102. COMMITTEE PARTICIPANTS' IMMUNITY FROM SUIT. A cause of action does not accrue against a member, agent, or employee of a dental peer review committee for an act, statement, determination, or recommendation made or an act reported, without malice, in the course of peer review under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 261.103. IMMUNITY FROM SUIT. A person is immune from civil liability if:

(1) the person reports or furnishes information to a dental peer review committee or the board in good faith;

(2) the person:

(A) is a member, employee, or agent of the board, of a dental peer review committee, or of a dental organization committee or a dental organization who takes an action or makes a recommendation within the scope of the functions of a peer review program; and

(B) acts without malice and in the reasonable belief that the action or recommendation is warranted by the facts known to the person; or

(3) the person, including a health care entity or dental peer review committee, without malice participates in a dental peer review activity or furnishes a record, information, or assistance to a dental peer review committee or the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 261.104. COUNTERCLAIM FOR FRIVOLOUS SUIT. A dental peer review committee, a person participating in peer review, or

any other person named as a defendant in a civil action filed as a result of participation in peer review may file a counterclaim in a pending action or may prove a cause of action in a subsequent suit to recover defense costs, including court costs, attorney's fees, and damages incurred as a result of the civil action, if the plaintiff's original suit is determined:

(1) to be frivolous; or

(2) to have been brought in bad faith.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

OCCUPATIONS CODE
TITLE 3. HEALTH PROFESSIONS
SUBTITLE D. DENTISTRY
CHAPTER 262. REGULATION OF DENTAL HYGIENISTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 262.001. DEFINITIONS. In this chapter:

(1) Repealed by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 48(2), eff. September 1, 2017.

(2) "Dental hygienist" means a person who practices dental hygiene under a license issued by the board under Chapter 256.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 48(2), eff. September 1, 2017.

Sec. 262.002. PRACTICE OF DENTAL HYGIENE. (a) A person practices dental hygiene if the person:

(1) removes accumulated matter, tartar, deposits, accretions, or stains, other than mottled enamel stains, from the natural and restored surface of exposed human teeth and restorations in the human mouth;

(2) smoothes roughened root surfaces;

(3) polishes exposed human teeth, restorations in the human mouth, or roughened root surfaces;

(4) topically applies drugs to the surface tissues of the human mouth or the exposed surface of human teeth;

(5) makes dental x-rays; and

(6) performs any other service, task, or procedure prescribed by board rule.

(b) A person legally practicing dental hygiene does not violate state law regulating the practice of dentistry.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 262.003. EXEMPTIONS. This chapter does not apply to:

(1) a licensed dentist practicing dentistry in this state, except as provided by Subchapter D;

(2) a physician authorized to practice medicine in this state; or

(3) an employee of a licensed dentist who makes dental x-rays in the office of and under the supervision of a dentist practicing dentistry in this state.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER C. POWERS AND DUTIES OF BOARD RELATING TO DENTAL HYGIENISTS

Sec. 262.101. BOARD POWERS AND DUTIES. The board shall:

(1) administer this chapter; and

(2) regulate all matters concerning dental hygienists and the practice of dental hygiene.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 262.102. RULEMAKING AUTHORITY OF BOARD. (a) The board shall adopt and enforce rules that are necessary and advisable to carry out the purposes of and to enforce this chapter, including rules relating to professional conduct for dental hygienists.

(b) As necessary to protect public health and safety, the board may adopt and enforce a rule to establish the number of dental hygienists a dentist may employ.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 48(4), eff. September 1, 2017.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 48(4), eff. September 1, 2017.

SUBCHAPTER D. PRACTICE BY LICENSE HOLDER

Sec. 262.151. DELEGATION OF DUTIES BY DENTIST. (a) A licensed dentist may delegate orally or in writing a service, task, or procedure to a dental hygienist who is under the supervision and

responsibility of the dentist, if:

(1) the dental hygienist is licensed to perform the service, task, or procedure;

(2) the supervising dentist examines the patient:

(A) at the time the service, task, or procedure is performed by the dental hygienist; or

(B) during the 12 calendar months preceding the date of performance of the service, task, or procedure by the dental hygienist; and

(3) the dental hygienist does not:

(A) diagnose a dental disease or ailment;

(B) prescribe a treatment or a regimen;

(C) prescribe, order, or dispense medication; or

(D) perform any procedure that is irreversible or involves the intentional cutting of soft or hard tissue by any means.

(b) A licensed dentist may delegate to a dental hygienist any act that a dentist may delegate to a dental assistant.

(c) A dentist is not required to be on the premises when the dental hygienist performs a delegated act.

(d) This chapter does not prevent a dentist from authorizing a dental hygienist employed by the dentist to:

(1) instruct and educate a patient in proper oral hygiene; or

(2) provide to a patient a medication ordered by the dentist.

(e) This chapter does not prevent a dental hygienist from incidentally removing cementum during root planing.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 262.1515. DELEGATION OF DUTIES TO DENTAL HYGIENIST PRACTICING IN CERTAIN FACILITIES. (a) A licensed dentist may delegate a service, task, or procedure, pursuant to this section, to a dental hygienist, without complying with Section [262.151\(a\)\(2\)](#) if:

(1) the dental hygienist has at least two years' experience in the practice of dental hygiene; and

(2) the service, task, or procedure is performed in one of the following locations:

(A) a nursing facility as defined in Section [242.301](#), Health and Safety Code;

(B) a school-based health center established under Subchapter B, Chapter [38](#), Education Code; or

(C) a community health center as defined by Section [136.002](#), Human Resources Code.

(b) The patient must be referred to a licensed dentist after the completion of a service, task, or procedure performed under Subsection (a).

(c) A dental hygienist may only perform delegated tasks or procedures with respect to a patient for six months unless the patient has been examined by a dentist in compliance with Section [262.151](#)(a)(2).

(d) A dental hygienist may not perform any service, task, or procedure under this section without the express authorization of a dentist.

(e) The facility under Subsection (a)(2) shall note each delegated service, task, or procedure performed by the dental hygienist under this section in the patient's medical records.

Added by Acts 2001, 77th Leg., ch. 1470, Sec. 4.02, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. [2018](#)), Sec. 15.0045, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 270 (S.B. [97](#)), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 270 (S.B. [97](#)), Sec. 2, eff. September 1, 2009.

Sec. 262.152. PERFORMANCE OF DELEGATED DUTIES. Except as provided by Section [262.1515](#), a dental hygienist shall practice dental hygiene:

(1) in the dental office of a supervising dentist licensed by the board; or

(2) in an alternate setting, including a nursing home,

the patient's home, a school, a hospital, a state institution, a public health clinic, or another institution, under the supervision of a supervising dentist.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.091(a), eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 270 (S.B. 97), Sec. 3, eff. September 1, 2009.

SUBCHAPTER E. PROHIBITED PRACTICES; CIVIL LIABILITY; PENALTIES

Sec. 262.201. PROHIBITED PRACTICE. A dental hygienist may not practice or offer to practice dental hygiene under a name other than the name appearing on the person's license.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 262.202. CIVIL LIABILITY. A dental hygienist who administers to a person cardiopulmonary resuscitation or other emergency care in an emergency situation is not liable to the person for damages unless the emergency care is performed in a wilfully or wantonly negligent manner.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

OCCUPATIONS CODE

TITLE 3. HEALTH PROFESSIONS

SUBTITLE D. DENTISTRY

CHAPTER 263. LICENSE DENIAL AND DISCIPLINARY PROCEEDINGS

Sec. 263.0001. DEFINITION. In this chapter, "license" means a license, certificate, registration, permit, or other authorization that is issued under this subtitle.

Added by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 27, eff. September 1, 2017.

Sec. 263.001. GROUNDS FOR REFUSAL TO ISSUE LICENSE; APPLICATION OF OPEN MEETINGS LAW. (a) The board may refuse to issue a license to an applicant under this subtitle if the person:

(1) presents to the board fraudulent or false evidence of the person's qualification for examination or license;

(2) is guilty of any illegality, fraud, or deception during the examination or the process to secure a license;

(3) is habitually intoxicated or is addicted to drugs;

(4) commits a dishonest or illegal practice in or connected to dentistry or dental hygiene;

(5) is convicted of a felony under a federal law or law of this state; or

(6) is found to have violated a law of this state relating to the practice of dentistry within the 12 months preceding the date the person filed an application for a license to practice dentistry or dental hygiene.

(b) The board's deliberations with regard to an application for a license under this subtitle are exempt from Chapter 551, Government Code.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.092(a), eff. Sept. 1, 2001.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 28, eff. September 1, 2017.

Sec. 263.002. GROUNDS FOR DISCIPLINARY ACTION IN GENERAL.

(a) The board, after notice and hearing, may reprimand a person who holds a license issued under this subtitle, issue a warning letter to a person licensed under this subtitle, impose a fine on a person licensed under this subtitle, impose an administrative penalty under Subchapter A, Chapter 264, on a person who holds a license under this subtitle, place on probation with conditions a person whose license has been suspended, or revoke or suspend a person's license issued under this subtitle if the person:

- (1) is adjudged under the law to be insane;
- (2) is convicted of a misdemeanor involving fraud or a felony under federal law or the law of any state;
- (3) practices dentistry or dental hygiene in a manner that constitutes dishonorable conduct;
- (4) fails to treat a patient according to the standard of care in the practice of dentistry or dental hygiene;
- (5) engages in deception or misrepresentation in soliciting or obtaining patronage;
- (6) obtains a license by fraud or misrepresentation;
- (7) is addicted to or habitually intemperate in the use of alcoholic beverages or drugs or has improperly obtained, possessed, used, or distributed habit-forming drugs or narcotics;
- (8) holds a dental license and employs, permits, or has employed or permitted a person not licensed to practice dentistry to practice dentistry in an office of the dentist that is under the dentist's control or management;
- (9) fails to use proper diligence in the person's practice or fails to safeguard the person's patients against avoidable infections;
- (10) violates or refuses to comply with a law relating to the regulation of dentists or dental hygienists;
- (11) is physically or mentally incapable of practicing in a manner that is safe for the person's dental patients;
- (12) is negligent in performing dental services and that negligence causes injury or damage to a dental patient;
- (13) holds a license or certificate to practice dentistry or dental hygiene in another state and that state, based

on an act by the person that is the same as an act described in this section:

- (A) reprimands the person;
- (B) suspends or revokes the person's license or certificate or places the person on probation; or
- (C) imposes another restriction on the person's practice; or

(14) knowingly provides or agrees to provide dental care in a manner that violates a federal or state law that:

- (A) regulates a plan to provide, arrange for, pay for, or reimburse any part of the cost of dental care services; or
- (B) regulates the business of insurance.

(b) If a person holds a license to practice dentistry or dental hygiene, the board may reprimand or impose a fine on the person, issue a warning letter to the person, place the person's license on probation, or suspend or revoke the person's license under Subsection (a)(10) only if a majority of the board determines that the person has committed an act described by Subsection (a)(10).

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.092(b), eff. Sept. 1, 2001.

Sec. 263.0025. SUBMISSION TO MENTAL OR PHYSICAL EVALUATION.

(a) In enforcing Section 263.001(a)(3) or Section 263.002(a)(1), (7), or (11), the board or an authorized agent of the board, on probable cause, as determined by the board or agent, may request an applicant for or holder of a license to submit to a mental or physical evaluation by a physician or other health care professional designated by the board.

(b) If the applicant or license holder refuses to submit to the evaluation under Subsection (a), the board shall issue an order requiring the applicant or license holder to show cause why the applicant or license holder will not submit to the evaluation. The board shall schedule a hearing on the order not later than the 30th day after the date notice is served on the applicant or license holder. The board shall notify the applicant or license holder of

the order and hearing by personal service or certified mail, return receipt requested.

(c) At the hearing, the applicant or license holder and the applicant's or license holder's attorney are entitled to present testimony or other evidence to show why the applicant or license holder should not be required to submit to the evaluation. The applicant or license holder has the burden of proof to show why the applicant or license holder should not be required to submit to the evaluation.

(d) After the hearing, the board by order shall require the applicant or license holder to submit to the evaluation not later than the 60th day after the date of the order or withdraw the request for an evaluation, as applicable.

Added by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 29, eff. September 1, 2017.

Sec. 263.003. HEARING. A person is entitled to a hearing under Chapter 2001, Government Code, if the board proposes to:

- (1) refuse to issue a license to the person;
- (2) reprimand or impose a fine on the person;
- (3) place the person on probation after the person's license has been suspended; or
- (4) suspend or revoke the license of the person.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.092(c), eff. Sept. 1, 2001.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 30, eff. September 1, 2017.

Sec. 263.004. TEMPORARY SUSPENSION IN EMERGENCY. (a) If the board or an executive committee of the board determines from the evidence or information presented that the continued practice by a person licensed under this subtitle, or the continued performance by a person licensed under this subtitle of a procedure for which the person holds a permit issued by the board, would constitute a clear, imminent, or continuing threat to a person's physical health

or well-being, the board or the executive committee shall temporarily suspend the person's license or permit, as applicable.

(b) The board may not temporarily suspend a license or permit under this section without notice or hearing unless at the time of the temporary suspension the board or the executive committee requests the State Office of Administrative Hearings to set a date for a hearing on the temporary suspension.

(c) The State Office of Administrative Hearings shall hold a hearing not later than the 30th day after the date the license or permit is suspended unless the license or permit holder requests a continuance. The State Office of Administrative Hearings shall hold a second hearing on the suspension and on any other action to be taken against the license or permit holder not later than the 60th day after:

(1) the date the license or permit is temporarily suspended; or

(2) the date specified in the continuance requested by the license or permit holder.

(d) If the State Office of Administrative Hearings does not hold a hearing within the time provided by Subsection (c), the suspended license or permit is automatically reinstated.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1249, Sec. 9, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 810 (S.B. 610), Sec. 6, eff. September 1, 2005.

Sec. 263.005. PROBATION. If a license suspension is probated, the board may require the license holder to:

(1) report regularly to the board on matters that are the basis of the probation;

(2) limit practice to the areas prescribed by the board; or

(3) continue or review professional education until the license holder attains a degree of skill satisfactory to the board in the areas that are the basis of the probation.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 263.006. SUSPENSION OR REVOCATION REQUIRED FOR CERTAIN DRUG OFFENSES. (a) The board shall suspend a license holder's license issued under this subtitle on proof that the person has been:

(1) initially convicted of:

(A) a felony;

(B) a misdemeanor under Chapter 22, Penal Code, other than a misdemeanor punishable by fine only;

(C) a misdemeanor on conviction of which a defendant is required to register as a sex offender under Chapter 62, Code of Criminal Procedure;

(D) a misdemeanor under Section 25.07, Penal Code; or

(E) a misdemeanor under Section 25.071, Penal Code; or

(2) subject to an initial finding by the trier of fact of guilt of a felony under:

(A) Chapter 481 or 483, Health and Safety Code;

(B) Section 485.033, Health and Safety Code; or

(C) the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. Section 801 et seq.).

(b) On final conviction for an offense described by Subsection (a), the board shall revoke the person's license.

(c) The board may not reinstate or reissue a license suspended or revoked under this section unless an express determination is made that the reinstatement or reissuance of the license is in the best interests of the public and the person whose license was suspended or revoked. The board must base that determination on substantial evidence contained in an investigative report.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 810 (S.B. 610), Sec. 7, eff. September 1, 2005.

Sec. 263.0065. DELEGATION OF CERTAIN COMPLAINT

DISPOSITIONS. (a) The board may delegate to a committee of board employees the authority to dismiss or enter into an agreed settlement of a complaint that does not relate directly to patient care or that involves only administrative violations.

(b) The disposition determined by the committee must be approved by the board at a public meeting.

(c) A complaint delegated under this section shall be referred for informal proceedings under Section 263.007 if:

(1) the committee of employees determines that the complaint should not be dismissed or settled;

(2) the committee is unable to reach an agreed settlement; or

(3) the affected license holder requests that the complaint be referred for informal proceedings.

Added by Acts 2013, 83rd Leg., R.S., Ch. 709 (H.B. 3201), Sec. 9, eff. January 1, 2014.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 31, eff. September 1, 2017.

Sec. 263.007. INFORMAL PROCEEDING. (a) The board by rule shall adopt procedures governing:

(1) informal disposition of a contested case under Section 2001.056, Government Code; and

(2) an informal proceeding held in compliance with Section 2001.054, Government Code.

(b) Rules adopted under this section must require that:

(1) not later than the 180th day after the date the board's official investigation of a complaint is commenced, the board schedule an informal settlement conference unless good cause is shown by the board for not scheduling the conference by that date;

(2) the board give notice to the license holder of the time and place of the conference not later than the 45th day before the date the conference is held;

(3) the complainant and the license holder be provided an opportunity to be heard;

(4) the board's legal counsel or a representative of the attorney general be present to advise the board or the board's staff; and

(5) a member of the board's staff be at the conference to present the facts the staff reasonably believes the board could prove at a hearing by competent evidence or qualified witnesses.

(c) The license holder is entitled at the conference to:

(1) reply to the staff's presentation; and

(2) present the facts the license holder reasonably believes the license holder could prove at a hearing by competent evidence or qualified witnesses.

(d) After ample time is given for the presentations, the informal settlement conference panel shall recommend that the investigation be closed or make a recommendation regarding the disposition of the case in the absence of a hearing under applicable law concerning contested cases.

(e) The board shall prioritize scheduling an informal settlement conference in accordance with Subsection (b)(1) to resolve a complaint against a license holder who has previously been the subject of disciplinary action by the board.

(f) A notice under Subsection (b)(2) must be accompanied by a written statement of the nature of the allegations and the information the board intends to use at the informal settlement conference. If the board does not provide the statement or information at that time, the license holder may use that failure as grounds for rescheduling the conference. If the complaint includes an allegation that the license holder has violated the standard of care in the practice of dentistry or dental hygiene, the notice must include a copy of the report by the expert reviewer. The license holder must provide to the board the license holder's rebuttal not later than the 15th day before the date of the conference in order for that information to be considered at the conference.

(g) The board by rule shall define circumstances constituting good cause for purposes of Subsection (b)(1), including:

(1) an expert reviewer's delinquency in reviewing and

submitting a report to the board under Section 255.0067;

(2) a temporary suspension of the license holder's license under Section 263.004; or

(3) the filing of a contested case against the license holder with the State Office of Administrative Hearings.

(h) The board by rule shall define circumstances constituting good cause to grant a request by a license holder for a continuance of the informal settlement conference.

(i) Information presented by the board or board staff in an informal settlement conference is confidential and not subject to disclosure under Chapter 552, Government Code.

(j) On request by the license holder under review, the board shall make a recording of the informal settlement conference proceeding. The recording is a part of the investigative file and may not be released to a third party unless authorized under this subtitle. The board may charge the license holder a fee to cover the cost of recording the proceeding.

(k) The board shall provide a copy of the recording to the license holder on the license holder's request.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 32, eff. September 1, 2017.

Sec. 263.0071. DENTAL REVIEW COMMITTEE. (a) The dental review committee consists of nine members appointed by the governor as follows:

- (1) six dentist members;
- (2) two dental hygienist members; and
- (3) one registered dental assistant member.

(b) Members of the committee serve staggered six-year terms, with the terms of three members expiring on February 1 of each odd-numbered year.

(c) If a vacancy occurs during a member's term, the governor shall appoint a replacement to fill the unexpired term.

(d) A member of the committee is entitled to receive a per diem for actual duty in the same manner provided for board members.

(e) A member of the committee is subject to law and the rules of the board, including Sections 252.003, 252.007, and 252.010, as if the committee member were a member of the board, except that a committee member is not subject to Chapter 572, Government Code. The training program a committee member must complete under Section 252.010 must be an abbreviated version of the program under that section that is limited to training relevant to serving on a committee.

Added by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 33, eff. September 1, 2017.

Sec. 263.0072. INFORMAL SETTLEMENT CONFERENCE PANEL.

(a) The board shall appoint members of the board and the dental review committee to serve, on a rotating basis, as panelists on an informal settlement conference panel for purposes of this section.

(b) In an informal settlement conference under Section 263.007, the board shall appoint at least two panelists to determine whether an informal disposition is appropriate. At least one of the panelists must be a dentist.

(c) The board by rule shall require that at least one panelist be physically present at the informal settlement conference and may authorize another panelist to appear by video conference.

(d) Notwithstanding Subsection (b), an informal settlement conference may be conducted by one panelist if the license holder who is the subject of the complaint waives the requirement that at least two panelists conduct the conference. If the license holder waives that requirement, the panelist may be a dentist, a dental hygienist, or a member who represents the public.

(e) Notwithstanding Subsections (b) and (d), an informal settlement conference conducted under Section 263.007 to show compliance with an order or remedial plan of the board may be conducted by one panelist.

Added by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 33, eff. September 1, 2017.

Sec. 263.0073. ROLES AND RESPONSIBILITIES OF PARTICIPANTS

IN INFORMAL SETTLEMENT CONFERENCE. (a) At an informal settlement conference under Section 263.007, the panel shall make recommendations for the disposition of the complaint or allegation. The panel may request the assistance of a board employee at any time.

(b) Board employees shall present a summary of the allegations against the license holder and of the facts pertaining to the allegation that the employees reasonably believe may be proven by competent evidence at a formal hearing.

(c) An attorney for the board shall act as counsel to the panel and shall be present during the informal settlement conference and the panel's deliberations to advise the panel on legal issues that arise during the proceeding. The attorney may ask questions of participants in the conference to clarify any statement made by the participant. The attorney shall provide to the panel a historical perspective on comparable cases that have appeared before the board, keep the proceedings focused on the case being discussed, and ensure that the board's employees and the license holder have an opportunity to present information related to the case. During the panel's deliberations, the attorney may be present only to advise the panel on legal issues and to provide information on comparable cases that have appeared before the board.

(d) The panel and board employees shall provide an opportunity for the license holder and the license holder's authorized representative to reply to the board employees' presentation and to present oral and written statements and facts that the license holder and representative reasonably believe could be proven by competent evidence at a formal hearing.

(e) An employee of the board who participated in the presentation of the allegation or information gathered in the investigation of the complaint, the license holder, the license holder's authorized representative, the complainant, the witnesses, and members of the public may not be present during the deliberations of the panel. Only the members of the panel and the attorney serving as counsel to the panel may be present during the deliberations.

(f) During the deliberations, the panel may not reconsider an expert panel's determinations that are included in a final written report issued under Section [255.0067](#).

(g) The panel shall recommend the dismissal of the complaint or allegations or, if the panel determines that the license holder has violated a statute or board rule, may recommend board action and terms for an informal settlement of the case.

(h) The panel's recommendations under Subsection (g) must be made in writing and presented to the license holder and the license holder's authorized representative. The license holder may accept the proposed settlement within the time established by the panel at the informal settlement conference. If the license holder rejects the proposed settlement or does not act within the required time, the board may proceed with the filing of a formal complaint with the State Office of Administrative Hearings.

Added by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. [313](#)), Sec. 33, eff. September 1, 2017.

Sec. 263.0074. DISMISSAL OF BASELESS COMPLAINT. If, during the 180-day period prescribed by Section [263.007\(b\)\(1\)](#), the board determines that the complaint is a baseless or unfounded complaint, the board shall dismiss the complaint and include a statement in the records of the complaint that the reason for the dismissal is because the complaint was baseless or unfounded. The board shall adopt rules that establish criteria for determining that a complaint is baseless or unfounded.

Added by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. [313](#)), Sec. 33, eff. September 1, 2017.

Sec. 263.0076. INFORMAL SETTLEMENT CONFERENCE NOTICE REGARDING CERTAIN COMPLAINTS. If an informal settlement conference is not scheduled for a complaint before the 180-day period prescribed by Section [263.007\(b\)\(1\)](#), the board shall provide notice to all parties to the complaint. The notice must include an explanation of the reason why the informal settlement conference has not been scheduled. The notice under this section is not required if the notice would jeopardize an investigation.

Added by Acts 2013, 83rd Leg., R.S., Ch. 709 (H.B. 3201), Sec. 9, eff. January 1, 2014.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 34, eff. September 1, 2017.

Sec. 263.0077. REMEDIAL PLAN. (a) The board may issue and establish the terms of a remedial plan to resolve the investigation of a complaint filed under this subtitle.

(b) A remedial plan may not contain a provision that:

(1) revokes, suspends, limits, or restricts a person's license or other authorization to practice dentistry or dental hygiene; or

(2) assesses an administrative penalty against a person.

(c) A remedial plan may not be imposed to resolve a complaint:

(1) concerning:

(A) a patient death;

(B) the commission of a felony; or

(C) a matter in which the license holder engaged in inappropriate sexual behavior or contact with a patient or became financially or personally involved with a patient in an inappropriate manner; or

(2) in which the appropriate resolution may involve a restriction on the manner in which a license holder practices dentistry or dental hygiene.

(d) The board may not issue a remedial plan to resolve a complaint against a license holder if the license holder has previously entered into a remedial plan with the board for the resolution of a different complaint filed under this subtitle.

(e) The board may assess a fee against a license holder participating in a remedial plan in an amount necessary to recover the costs of administering the plan.

(f) A remedial plan is public information.

(g) In civil litigation, a remedial plan is a settlement agreement under Rule 408, Texas Rules of Evidence.

(h) The board shall adopt rules necessary to implement this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 709 (H.B. 3201), Sec. 9, eff. January 1, 2014.

Sec. 263.008. SUBPOENA. (a) The board may issue a subpoena or a subpoena duces tecum to compel the attendance of a witness for examination under oath and the production, for examination and copying, of books, accounts, records, documents, and other evidence relevant to the investigation of an alleged violation of this chapter or another state law relating to the practice of dentistry. The board may administer oaths and take testimony regarding any matter within the board's jurisdiction.

(a-1) The board may delegate the authority granted under Subsection (a) to the executive director or the secretary of the board.

(a-2) A subpoena issued at the request of board staff may be served by certified mail or personally by the board's investigators.

(b) The board may request the attorney general to file suit against a person who fails to comply with a subpoena issued by the board to enforce the subpoena. The suit must be filed in a Travis County district court.

(c) The court on finding that good cause exists for the issuance of the subpoena shall order the person to comply with the subpoena.

(d) The board shall pay, for photocopies subpoenaed at the request of the board's staff, a reasonable fee in an amount not to exceed the amount the board may charge for copies of the board's records.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.093(a), eff. Sept. 1, 2001.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 35, eff. September 1, 2017.

Sec. 263.009. APPEAL. A person aggrieved by a decision of the board under this chapter is entitled to appeal as provided by Chapter [2001](#), Government Code.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

OCCUPATIONS CODE
TITLE 3. HEALTH PROFESSIONS
SUBTITLE D. DENTISTRY
CHAPTER 264. PENALTIES AND ENFORCEMENT PROVISIONS

SUBCHAPTER A. ADMINISTRATIVE PENALTY

Sec. 264.001. IMPOSITION OF PENALTY. The board may impose an administrative penalty on a person licensed or regulated under this subtitle who violates this subtitle or a rule or order adopted under this subtitle.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 264.002. AMOUNT OF PENALTY. (a) The amount of the administrative penalty may not exceed \$5,000 for each violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(b) The executive director or a board subcommittee, of which, at least one member is a public member of the board, shall determine the amount of the penalty based on a standardized penalty schedule. The board by rule shall develop the schedule based on:

- (1) the seriousness of the violation, including:
 - (A) the nature, circumstances, extent, and gravity of the violation; and
 - (B) the hazard or potential hazard created to the health, safety, or welfare of the public;
- (2) the economic damage to property or the environment caused by the violation;
- (3) the history of previous violations;
- (4) the amount necessary to deter a future violation;
- (5) efforts made to correct the violation; and
- (6) any other matter that justice may require.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 264.003. REPORT AND NOTICE OF VIOLATION AND PENALTY. (a) If the executive director or a board subcommittee determines that a violation has occurred, the executive director or board

subcommittee may issue to the board a report stating:

- (1) the facts on which the determination is based; and
- (2) the recommendation of the executive director or the subcommittee on the imposition of the administrative penalty, including a recommendation on the amount of the penalty.

(b) Not later than the 14th day after the date the report is approved by the board, the executive director shall give written notice of the report to the person on whom the penalty may be imposed. The notice may be given by certified mail. The notice must:

- (1) include a notice of each alleged violation;
- (2) state the amount of the recommended penalty; and
- (3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 264.004. PENALTY TO BE PAID OR HEARING REQUESTED. (a) Not later than the 20th day after the date the person receives the notice, the person may:

- (1) accept, in writing, the executive director's or subcommittee's determination and recommended administrative penalty; or

- (2) make a written request for a hearing on the occurrence of the violation, the amount of the penalty, or both.

(b) If the person accepts the determination and recommended penalty, the board by order shall approve the determination and impose the recommended penalty.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 264.005. HEARING. (a) If the person requests a hearing or fails to respond in a timely manner to the notice, the executive director shall set a hearing and give notice of the hearing to the person.

(b) An administrative law judge of the State Office of Administrative Hearings shall hold the hearing.

(c) The administrative law judge shall make findings of fact

and conclusions of law and promptly issue to the board a proposal for decision as to the occurrence of the violation and the amount of any proposed administrative penalty.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 264.006. DECISION BY BOARD. (a) Based on the findings of fact, conclusions of law, and proposal for decision, the board by order may determine that:

(1) a violation occurred and impose an administrative penalty; or

(2) a violation did not occur.

(b) The notice of the board's order given to the person under Chapter 2001, Government Code, must include a statement of the right of the person to judicial review of the order.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 264.007. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.

(a) Not later than the 30th day after the date the board's order becomes final, the person shall:

(1) pay the administrative penalty;

(2) pay the penalty and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both; or

(3) without paying the penalty, file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both.

(b) Within the 30-day period, a person who acts under Subsection (a)(3) may:

(1) stay enforcement of the penalty by:

(A) paying the penalty to the court for placement in an escrow account; or

(B) giving to the court a supersedeas bond that is approved by the court and that is:

(i) for the amount of the penalty; and

(ii) effective until judicial review of the board's order is final; or

(2) request the court to stay enforcement of the

penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the executive director by certified mail.

(c) On receipt of a copy of an affidavit under Subsection (b)(2), the executive director may file with the court a contest to the affidavit not later than the fifth day after the date the copy is received.

(d) The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the penalty and to give a supersedeas bond.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 264.008. COLLECTION OF PENALTY. If the person does not pay the administrative penalty and the enforcement of the penalty is not stayed, the executive director may refer the matter to the attorney general for collection of the penalty.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 264.009. DETERMINATION BY COURT. (a) If the court sustains the determination that a violation has occurred after the court reviews the board's order imposing an administrative penalty, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced penalty.

(b) If the court does not sustain the determination that a violation occurred, the court shall order that a penalty is not owed.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 264.010. REMITTANCE OF PENALTY AND INTEREST. (a) If after judicial review, the penalty is reduced or not upheld by the court, the court shall, after the judgment becomes final:

(1) order that the appropriate amount, plus accrued interest, be remitted to the person if the person paid the penalty; or

(2) order the release of the bond after the person pays the penalty imposed if the person posted a supersedeas bond.

(b) The interest paid under Subsection (a)(1) is the rate charged on loans to depository institutions by the New York Federal Reserve Bank. The interest is paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 264.011. INFORMAL ASSESSMENT OF ADMINISTRATIVE PENALTY. This subchapter does not prevent the board from assessing an administrative penalty using an informal proceeding under Section [263.007](#).

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. [313](#)), Sec. 36, eff. September 1, 2017.

Sec. 264.0115. ALTERNATIVE INFORMAL ASSESSMENT OF ADMINISTRATIVE PENALTY. (a) The board by rule may establish procedures for the alternative informal assessment of administrative penalties for violations of this subtitle that do not involve the provision of direct patient care by a person licensed or regulated under this subtitle.

(b) A penalty assessed under this section may consist only of a monetary penalty that does not exceed \$1,000 for each violation. The total amount of penalties assessed against a person under this section may not exceed \$3,000 in a calendar year. If the board establishes penalties under this section, the board by rule shall adopt a standardized schedule of the penalties.

(c) The assessment of a penalty under this section is not valid unless the person against whom the penalty is assessed receives a notice of violation that contains at a minimum:

(1) a clear statement of the violation, including a

citation to the relevant section of this subtitle;

(2) the amount of the penalty assessed for each violation; and

(3) a statement that the person may either pay the penalty or appeal the penalty in writing.

(d) If the board establishes penalties under this section, the board shall establish procedures for categorizing the penalties.

(e) A person who is assessed an administrative penalty under this section is entitled to a hearing under Chapter 2001, Government Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 772 (S.B. 887), Sec. 6, eff. September 1, 2009.

Sec. 264.012. ADMINISTRATIVE PROCEDURE. A proceeding under this subchapter is subject to Chapter 2001, Government Code. Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. INJUNCTION; CEASE AND DESIST ORDER

Sec. 264.051. INJUNCTION. (a) The state shall file suit for injunction against a person who practices or intends to practice dentistry in violation of state law. The suit shall be filed in the county in which the defendant practices or intends to practice dentistry.

(b) The state is not required to demonstrate that any person was injured by the alleged prohibited practice.

(c) If the defendant is found to have been unlawfully practicing dentistry or to be about to provide services in a manner that is the unlawful practice of dentistry, the court shall permanently enjoin the defendant from practicing dentistry in violation of law.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 264.052. REPRESENTATION OF STATE. The attorney general or the district attorney or county attorney of the county in which the unlawful acts occurred shall represent the state in a suit

under Section [264.051](#).

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 17, Sec. 22, eff. Sept. 1, 2003.

Sec. 264.0525. CEASE AND DESIST ORDER. (a) The board may serve a proposed cease and desist order on a person the board believes is engaging or is likely to engage in an activity without a license or registration certificate required by this subtitle. The order must:

(1) be delivered by personal delivery or registered or certified mail, return receipt requested, to the person's last known address;

(2) state the acts or practices alleged to be an unauthorized activity; and

(3) state the effective date of the order, which may not be before the 21st day after the date the proposed order is delivered or mailed.

(b) Unless the person against whom the proposed order is directed requests a hearing in writing before the effective date of the order, the order takes effect and is final and nonappealable as to that person.

(c) A requested hearing on a proposed order shall be held not later than the 30th day after the date the board receives the written request for a hearing unless the parties agree to a later hearing date. A hearing under this subsection is subject to Chapter [2001](#), Government Code.

(d) After the hearing, the board shall issue or decline to issue a cease and desist order. The proposed order may be modified as necessary to conform to the findings at the hearing. An order issued under this subsection:

(1) is immediately final for purposes of enforcement and appeal; and

(2) must require the person to immediately cease and desist from the unauthorized activity.

(e) The board may release to the public a final cease and desist order issued under this section or information relating to the existence of the order if the board determines that the release

would enhance the effective enforcement of the order or will serve the public interest.

Added by Acts 2003, 78th Leg., ch. 17, Sec. 23, eff. Sept. 1, 2003.

Sec. 264.0526. EMERGENCY CEASE AND DESIST ORDER. (a) The board may issue an emergency cease and desist order to a person if the board reasonably believes that:

(1) the person is engaging or is likely to engage in an activity without a license or registration certificate required by this subtitle; and

(2) the unauthorized activity constitutes a clear, imminent, or continuing threat to a person's physical health or well-being.

(b) The order must:

(1) be delivered on issuance to the person affected by the order by personal delivery or registered or certified mail, return receipt requested, to the person's last known address;

(2) state the acts or practices alleged to be an unauthorized activity and require the person immediately to cease and desist from the unauthorized activity; and

(3) contain a notice that a request for hearing may be filed under this section.

(c) Unless the person against whom the emergency order is directed requests a hearing in writing before the 11th day after the date it is served on the person, the emergency order is final and nonappealable as to that person. A request for a hearing must:

(1) be in writing and directed to the board; and

(2) state the grounds for the request to set aside or modify the order.

(d) On receiving a request for a hearing, the board shall serve notice of the time and place of the hearing by personal delivery or registered or certified mail, return receipt requested. The hearing must be held not later than the 10th day after the date the board receives the request for a hearing unless the parties agree to a later hearing date. A hearing under this subsection is subject to Chapter 2001, Government Code.

(e) After the hearing, the board shall affirm, modify, or

set aside in whole or in part the emergency cease and desist order. An order affirming or modifying the emergency cease and desist order is immediately final for purposes of enforcement and appeal.

(f) An order continues in effect unless the order is stayed by the board. The board may impose any condition before granting a stay of the order.

(g) The board may release to the public a final cease and desist order issued under this section or information regarding the existence of the order if the board determines that the release would enhance the effective enforcement of the order or will serve the public interest.

Added by Acts 2003, 78th Leg., ch. 17, Sec. 23, eff. Sept. 1, 2003.

Sec. 264.0527. APPEAL OF CEASE AND DESIST ORDER. (a) A person affected by a cease and desist order issued, affirmed, or modified after a hearing may file a petition for judicial review.

(b) A filed petition for judicial review does not stay or vacate the order unless the court, after hearing, specifically stays or vacates the order.

Added by Acts 2003, 78th Leg., ch. 17, Sec. 23, eff. Sept. 1, 2003.

Sec. 264.053. REMEDIES CUMULATIVE. The remedies provided by this subchapter are in addition to criminal prosecution and cumulative of other remedies provided to prevent the unlawful practice of dentistry.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 17, Sec. 24, eff. Sept. 1, 2003.

SUBCHAPTER C. CIVIL PENALTY

Sec. 264.101. CIVIL PENALTY. (a) A person who violates a provision of this subtitle is liable to the state for a civil penalty in an amount not to exceed \$5,000.

(b) Each day a violation continues or occurs is a separate violation for the purpose of imposing the civil penalty.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 264.102. COLLECTION OF CIVIL PENALTY. At the board's request, the attorney general or the district attorney or county attorney of the county in which the violation is alleged to have occurred shall file suit to collect the civil penalty.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER D. CRIMINAL PENALTY

Sec. 264.151. CRIMINAL PENALTIES. (a) A person commits an offense if the person violates Section 256.001. An offense under this subsection is a felony of the third degree. Each day of a violation is a separate offense.

(b) A person commits an offense if the person violates Section 256.052. An offense under this subsection is a Class A misdemeanor. If it is shown at the trial of an offense under this subsection that the defendant has previously been convicted of an offense for a violation of Section 256.052, the offense is a felony of the third degree.

(c) A person commits an offense if the person violates Subchapter D, Chapter 262. An offense under this subsection is a Class A misdemeanor. Each day of a violation is a separate offense.

(d) A person commits an offense if the person is a dentist or dental hygienist and violates an injunction or cease and desist order issued under Subchapter B. An offense under this subsection is a Class A misdemeanor. If it is shown at the trial of an offense under this subsection that the defendant was previously convicted of an offense for a violation of an injunction or cease and desist order issued under Subchapter B, the offense is a felony of the third degree. Each day of a violation is a separate offense.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 772 (S.B. 887), Sec. 7, eff. September 1, 2009.

Sec. 264.152. CRIMINAL PENALTY: DENTAL RECORDS ACCESS. (a) A person commits an offense if the person violates Section

258.0511.

(b) Notwithstanding Section 264.151, an offense under this section is a Class B misdemeanor.

(c) If it is shown at the trial of an offense under this section that the defendant was previously convicted under this section, the offense is a Class A misdemeanor.

Added by Acts 2007, 80th Leg., R.S., Ch. 1119 (H.B. 3876), Sec. 2, eff. September 1, 2007.

OCCUPATIONS CODE
TITLE 3. HEALTH PROFESSIONS
SUBTITLE D. DENTISTRY
CHAPTER 265. REGULATION OF DENTAL ASSISTANTS

Sec. 265.0001. DEFINITIONS. In this chapter:

(1) "Coronal polishing" means the removal of plaque and extrinsic stain from exposed natural and restored tooth surfaces using an appropriate rotary instrument with rubber cup or brush and polishing agent, including the use of a toothbrush.

(2) "Interim treatment of a minor emergency dental condition" means treatment of a condition that:

- (A) arises unexpectedly;
- (B) causes pain or discomfort to the patient;
- (C) is considered reversible;
- (D) does not require cutting hard or soft tissue;

and

(E) in the opinion of the treating dentist, may be performed by a properly trained dental assistant.

Added by Acts 2009, 81st Leg., R.S., Ch. 476 (S.B. 455), Sec. 2, eff. September 1, 2009.

Text of section effective until September 01, 2018

Sec. 265.001. REGISTRATION. The board may adopt and enforce rules requiring the registration of dental assistants as necessary to protect the public health and safety.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 37, eff. September 1, 2018.

Text of section effective on September 01, 2018

Sec. 265.001. REGISTRATION REQUIRED FOR CERTAIN DENTAL ACTS. (a) Unless the dental assistant is registered under this chapter, a dental assistant may not:

- (1) make a dental x-ray; or

(2) monitor the administration of nitrous oxide.

(b) The board may adopt and enforce rules requiring a dental assistant to register with the board to perform other dental acts as necessary to protect the public health and safety.

(c) The board shall maximize the efficient administration of this chapter by:

(1) developing a system to track the number of registrations held by a dental assistant under this chapter; and

(2) coordinating the times at which a dental assistant's registrations must be renewed so that the times of registration, payment, notice, and imposition of penalties for late payment are similar and the administrative burden to the board and to the dental assistant is reduced.

(d) Notwithstanding Subsection (a)(1), a dental assistant who is hired as a dental assistant for the first time and who has not previously been issued a registration to make dental x-rays may make dental x-rays without complying with this chapter until the first anniversary of the date the dental assistant is hired.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 37, eff. September 1, 2018.

Sec. 265.0015. ELIGIBILITY REQUIREMENTS FOR REGISTRATION.

(a) The board by rule shall establish the requirements for each type of registration issued under this chapter, including requiring a dental assistant to:

(1) hold a high school diploma or its equivalent;

(2) complete an educational program approved by the board that provides instruction on:

(A) a dental act that requires a registration under this chapter;

(B) basic life support;

(C) infection control; and

(D) jurisprudence;

(3) pass an examination approved or administered by the board; and

(4) meet any additional qualifications established by the board.

(b) The board may approve courses of instruction and examinations that are provided by private entities for the purposes of this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 38, eff. September 1, 2017.

Sec. 265.0016. FEES. The board shall set and collect fees in amounts that are reasonable and necessary to cover the costs of administering this chapter, including registration and renewal fees.

Added by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 38, eff. September 1, 2017.

Sec. 265.0017. REGISTRATION EXPIRATION AND RENEWAL. (a) A registration under this chapter is valid for two years.

(b) A dental assistant may renew a registration by paying the required renewal fee and complying with any other renewal requirements established by the board.

(c) A dental assistant whose registration has expired may not engage in an activity that requires registration until the registration has been renewed.

(d) The board by rule may adopt a system under which registrations expire on various dates during the year. For the year in which the expiration date is changed, the board shall prorate registration fees on a monthly basis so that each registration holder pays only that portion of the registration fee that is allocable to the number of months during which the registration is valid. On renewal of the registration on the new expiration date, the total renewal fee is payable.

Added by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 38, eff. September 1, 2017.

Sec. 265.002. SUPERVISION, DIRECTION, AND RESPONSIBILITY.

(a) In this subtitle, a dental assistant is under the direct supervision, direction, and responsibility of a dentist if the

dentist:

(1) employs the dental assistant or is in charge of the dental assistant; and

(2) is physically present in the dental office when the dental assistant performs a delegated dental act.

(b) For purposes of Subsection (a)(2), physical presence does not require that the supervising dentist be in the treatment room when the dental assistant performs the service as long as the dentist is in the dental office.

(c) In this subtitle, a dental assistant is under the general supervision, direction, and responsibility of a dentist if the dentist:

(1) employs the dental assistant or is in charge of the dental assistant; and

(2) is responsible for supervising the services to be performed by the dental assistant.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 476 (S.B. 455), Sec. 3, eff. September 1, 2009.

Sec. 265.003. PERMITTED DUTIES. (a) A dental assistant who is not registered under this chapter may be employed by and work in the office of a licensed and practicing dentist and perform one or more delegated dental acts under:

(1) the direct supervision, direction, and responsibility of the dentist, including the application of fluoride varnish; or

(2) the general supervision, direction, and responsibility of the dentist, limited to:

(A) the making of dental x-rays in compliance with Section 265.001(d); and

(B) the provision of interim treatment of a minor emergency dental condition to an existing patient of the treating dentist.

(a-1) A treating dentist who delegates the provision of interim treatment of a minor emergency dental condition to a dental

assistant under Subsection (a)(2) shall:

(1) delegate the procedure orally or in writing before the dental assistant performs the procedure;

(2) retain responsibility for the procedure; and

(3) schedule a follow-up appointment with the patient within a reasonable time.

(b) Repealed by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 48(8), eff. September 1, 2017.

(c) A delegating dentist remains responsible for the dental acts of a registered or nonregistered dental assistant performing the delegated dental acts.

(d) A dental assistant to whom a delegation is made may not represent to the public that the dental assistant is authorized to practice dentistry or dental hygiene.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1470, Sec. 4.03, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1144, Sec. 2, eff. June 20, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 476 (S.B. 455), Sec. 4, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 39, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 48(8), eff. September 1, 2017.

For expiration of this section, see Subsection (p).

Sec. 265.005. X-RAY CERTIFICATE. (a) A dental assistant may not make dental x-rays unless the dental assistant holds a certificate of registration issued by the board under this section.

(b) To qualify for a certificate of registration, a dental assistant must pay a fee in an amount determined by the board and:

(1) pass an examination administered under this section on completion of a course covering:

(A) the procedure for making dental x-rays;

(B) jurisprudence; and

(C) infection control; or

(2) complete a course and pass an examination covering

the subject described by Subdivision (1)(B) and be certified as a dental assistant by the Dental Assisting National Board if the board determines that the requirements for certification by that board are sufficient to protect the public.

(c) The course and examination described by Subsection (b)(1) must be tailored to a dental assistant's responsibilities and role in a dental office.

(d) A course and examination described by Subsection (b) may be offered through self-study, interactive computer courses, or lecture courses and may be offered through the Internet. The course and examination must comply with rules adopted under Subsection (f) and be approved by the board.

(e) The board shall create an advisory committee consisting of dentists, dental assistants, and dental assistant educators to advise the board in adopting rules under Subsection (f).

(f) The board by rule shall set:

(1) objectives for the examination and course under Subsection (b)(1); and

(2) procedures to ensure the examination's integrity.

(g) The course and examination under Subsection (b)(1) shall comply with board rules. Any school or program accredited by the Commission on Dental Accreditation of the American Dental Association or any dental industry professional organization may offer a course and examination that complies with board rules.

(h) The board, in consultation with the advisory committee, shall develop a program to ensure that courses and examinations developed or administered under this section comply with board rules.

(i) A certificate of registration issued under this section must be renewed annually. Except as otherwise provided by this subsection, the board may not require a person who has successfully completed the course and examination required under Subsection (b) to complete an additional course or examination to renew the registration. The board may require a person to complete a new course and examination if the person fails to renew the person's certificate of registration before the second anniversary of the date the certificate expired.

(j) Repealed by Acts 2009, 81st Leg., R.S., Ch. 476, Sec. 8(3), eff. September 1, 2009.

(k) Repealed by Acts 2009, 81st Leg., R.S., Ch. 476, Sec. 8(3), eff. September 1, 2009.

(l) A dental assistant who is hired as a dental assistant for the first time and who has not previously been issued a certificate under this section may make dental x-rays without complying with this section until the first anniversary of the date on which the dental assistant is hired.

(m) A dental assistant who holds a certificate of registration issued under this section shall display the person's current certificate of registration in each office in which the person makes dental x-rays. If the person makes dental x-rays at more than one location, the person may display a duplicate of the original registration certificate obtained from the board on payment of a duplicate certificate fee set by the board.

(n) A dental assistant who holds a certificate of registration issued under this section shall timely notify the board of:

(1) any change of address of the person's place of business;

(2) any change of employers; and

(3) any change of the person's mailing address.

(o) An initial certificate of registration issued under this section expires on the 30th day after the date the certificate is issued if the holder of the certificate fails to pay the required certificate fee on or before that date.

(p) This section expires September 1, 2018.

Added by Acts 2003, 78th Leg., ch. 17, Sec. 25, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 810 (S.B. 610), Sec. 9, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 476 (S.B. 455), Sec. 8(3), eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 772 (S.B. 887), Sec. 8, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 40, eff.

September 1, 2017.

For expiration of this section, see Subsection (d).

Sec. 265.007. CONTINUING EDUCATION FOR CERTIFICATE HOLDERS.

(a) To renew a certificate issued under this chapter, a dental assistant must complete six hours of continuing education each year in areas covering dental assistant duties.

(b) A dental assistant holding two or more certificates authorized by this chapter is required to complete 12 hours of continuing education each year to renew all of the certificates held by the assistant.

(c) A dental assistant may fulfill continuing education requirements through board-approved self-study, interactive computer courses, or lecture courses.

(d) This section expires September 1, 2018.

Added by Acts 2009, 81st Leg., R.S., Ch. 476 (S.B. 455), Sec. 7, eff. September 1, 2009.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 41, eff. September 1, 2017.

Sec. 265.008. CONTINUING EDUCATION REQUIRED FOR REGISTRATION RENEWAL. The board by rule shall establish continuing education requirements for dental assistants registered under this chapter, including a minimum number of hours of continuing education required to renew a registration.

Added by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 42, eff. September 1, 2017.

OCCUPATIONS CODE
TITLE 3. HEALTH PROFESSIONS
SUBTITLE D. DENTISTRY
CHAPTER 266. REGULATION OF DENTAL LABORATORIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 266.001. DEFINITIONS. In this chapter:

(1) Repealed by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 48(11), eff. September 1, 2017.

(2) "Dental laboratory" means a place in which a person performs or offers to perform a dental laboratory service.

(3) "Dental laboratory service" means:

(A) the making, assembly, processing, production, repair, relining, or adjustment of a prosthetic or orthodontic dental appliance, a full or partial denture, a fixed or removable dental bridge, a dental plate of false teeth, an artificial restoration, or a substitute or corrective device for any part of the human teeth, gums, jaws, or alveolar process; or

(B) the fitting of a dental appliance, a denture, a bridge, a plate, false teeth, an artificial restoration, or a substitute or corrective device for the human teeth, gums, or jaws to or on a dental model, impression, or cast of any part of the human teeth, gums, jaws, or alveolar process.

(4) "Dental technician" means a person who performs, offers to perform, or aids, abets, or causes another to perform or offer to perform a dental laboratory service.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 48(11), eff. September 1, 2017.

Sec. 266.002. EXEMPTIONS. This chapter does not apply to:

(1) a student enrolled in a program of a school of dentistry;

(2) a licensed dentist engaged in the practice of dentistry in this state who performs a dental laboratory service

for compensation or an employee of the dentist or of the professional corporation or partnership in which the dentist is an officer, partner, or employee if the service is performed:

(A) for a patient of the dentist or of the professional corporation or partnership in which the dentist is an officer, partner, or employee; and

(B) on the premises in which the dentist practices dentistry; or

(3) a manufacturer of materials or component parts, used in the fabrication of a dental prosthetic appliance and for sale or use by a dental laboratory, that are not directly fitted to a dental model or cast of the human teeth, gums, jaws, or alveolar process.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1240, Sec. 1, eff. Sept. 1, 2003.

SUBCHAPTER C. BOARD POWERS AND DUTIES

Sec. 266.102. BOARD POWERS AND DUTIES.

(a) Repealed by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 48(14), eff. September 1, 2017.

(b) The board may adopt rules regarding dental laboratories in only the following areas:

(1) processing registration applications;

(2) prescribing:

(A) requirements for registration;

(B) the form and content of registration applications and other forms required to administer this chapter;

(C) procedures for renewal of certificates of registration; and

(D) fees necessary to administer this chapter;

(3) monitoring records necessary to administer this chapter;

(4) establishing continuing education requirements for dental technicians employed by dental laboratories, including prescribing the content of continuing education courses; and

(5) regulating:

- (A) infection control;
- (B) shade-taking procedures authorized by a prescription from a licensed dentist;
- (C) computer-imaging procedures for an oral cavity authorized by a prescription from a licensed dentist;
- (D) referral of dental prescriptions to out-of-state laboratories to be filled; and
- (E) the transportation and manufacture of dental prosthetic devices or other dental work performed by a dental laboratory located in another state or a foreign country for use in this state.

(c) In prescribing the content of continuing education courses under Subsection (b)(4), the board shall require the course content to be at least as comprehensive as a course approved by a recognized board of certification for dental technology.

(d) Repealed by Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 48(14), eff. September 1, 2017.

(e) The board shall provide annually to each dentist licensed in this state a list of dental laboratories registered under this chapter. The list must include the expiration date of each laboratory's registration certificate.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1240, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 48(14), eff. September 1, 2017.

SUBCHAPTER D. CERTIFICATION, REGISTRATION, AND RENEWAL REQUIREMENTS

Sec. 266.151. REGISTRATION REQUIRED. (a) In this section, "person" means an individual or a private legal entity, including a corporation, association, or partnership.

(b) A person may not operate or offer to operate a dental laboratory or provide or offer to provide dental laboratory services unless the person holds a registration certificate issued under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 266.152. CERTIFIED DENTAL TECHNICIAN. (a) A dental laboratory must have at least one dental technician working on the laboratory's premises who is certified by a recognized board of certification for dental technology.

(b) A dental laboratory is exempt from Subsection (a) if the laboratory is:

(1) owned by a licensed dentist engaged in the practice of dentistry in this state or by a professional corporation or partnership in which that dentist is an officer, partner, or employee; and

(2) located on the premises within which the dentist practices dentistry.

(c) The exemption under Subsection (b) does not apply to a dental laboratory if the laboratory employs three or more dental technicians.

(d) The owner of a dental laboratory registered with the board on September 1, 1987, is exempt from Subsection (a) if:

(1) the registration of the laboratory has been timely renewed since that date, and all registration fees have been paid;

(2) the beneficial ownership of at least 51 percent of the laboratory has not been transferred; and

(3) the owner is employed on the laboratory's premises for not less than 30 hours each week.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.094(a), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1240, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 44, eff. September 1, 2017.

Sec. 266.153. APPLICATION FOR REGISTRATION; TERM. (a) An owner or manager of a dental laboratory shall:

(1) apply to the board for the registration of each dental laboratory doing business in this state to which the owner or manager is connected or in which the owner or manager has an

interest; and

(2) pay the application fee set by the board.

(b) The application must include:

(1) evidence satisfactory to the board that the dental laboratory meets the requirements prescribed by Section [266.152\(a\)](#), if applicable; and

(2) any other information required by the board.

(c) The board may issue a certificate of registration only to a dental laboratory that complies with the requirements of this section.

(d) A dental laboratory registration issued under this chapter is valid for a term of one or two years, as determined by board rule.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1240, Sec. 4, eff. Sept. 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. [313](#)), Sec. 45, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. [313](#)), Sec. 46, eff. September 1, 2017.

Sec. 266.154. REGISTRATION RENEWAL. (a) An applicant for renewal of a dental laboratory registration must provide evidence satisfactory to the board that at least one employee who works on the dental laboratory's premises:

(1) has completed the minimum number of hours of continuing education during the previous registration period as required by board rule; or

(2) is certified as required by Section [266.152\(a\)](#), if applicable.

(b) An owner or manager of a dental laboratory may renew an unexpired registration certificate for a dental laboratory if the owner or manager:

(1) pays the required renewal fee to the board on or before the expiration date; and

(2) complies with any other renewal requirements.

(c) If the owner or manager of a dental laboratory fails to

renew the dental laboratory's registration and pay the renewal fee before the date the registration expires, the board shall suspend the registration certificate of the laboratory.

(d) An owner or manager of a dental laboratory whose registration certificate has been expired for 90 days or less may renew the registration certificate if the person pays to the board the required renewal fee and a fee equal to one-half of the amount of the renewal fee. If the registration certificate has been expired for more than 90 days but less than one year, the owner or manager may renew the certificate by paying to the board all unpaid renewal fees and a fee equal to the amount of the initial registration fee.

(e) An owner or manager of a dental laboratory may not renew a registration certificate that has been expired for one year or more. The owner or manager may obtain a new certificate by complying with the requirements for obtaining an original certificate.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.094(b), eff. Sept. 1, 2001.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 295 (S.B. 313), Sec. 47, eff. September 1, 2017.

Sec. 266.155. INITIAL REGISTRATION CERTIFICATE FEE. An initial registration certificate issued under this subchapter expires on the 30th day after the date the registration certificate is issued if the holder of the registration certificate fails to pay the required registration certificate fee on or before that date.

Added by Acts 2009, 81st Leg., R.S., Ch. 772 (S.B. 887), Sec. 10, eff. September 1, 2009.

SUBCHAPTER E. PRACTICE BY REGISTRATION HOLDER

Sec. 266.201. PRESCRIPTION REQUIRED. (a) A dentist who orders a dental laboratory service shall prepare and deliver to the dental laboratory a prescription or work order for the service to be

performed.

(b) The prescription or work order must contain:

- (1) the signature and Texas dental license number of the dentist;
- (2) the date the prescription or work order is signed;
- (3) the patient's name; and
- (4) a description of the dental laboratory service ordered.

(c) A dentist shall keep a copy of each prescription or work order at the dentist's office in a separate file for two years for inspection by the board's officers, agents, or employees.

(d) A dentist shall label as provided by board rule a removable dental prosthesis fabricated in this state by the dentist or by a person under a prescription or work order prepared by the dentist.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1240, Sec. 5, eff. Sept. 1, 2003.

Sec. 266.202. RELIANCE ON PRESCRIPTION. (a) The owner, manager, or employee of a dental laboratory or a dental technician may not perform or aid or abet another person in performing a dental laboratory service unless:

(1) the service was ordered by and any resulting item will be delivered to:

(A) a dentist engaged in the practice of dentistry in this state or in a jurisdiction in which the dentist maintains a dental office and engages in the practice of dentistry; or

(B) an employee of the dentist, if the service is performed for and on behalf of the dentist; and

(2) the dental laboratory receives a prescription or work order for the service in accordance with Section [266.201](#).

(b) If a dental laboratory receives a prescription or work order for dental laboratory services and refers the work to another laboratory, the referral must be accompanied by a written statement that the prescription or work order is on file with the original laboratory.

(c) A dental laboratory owner or manager shall maintain on the premises of a dental laboratory as a part of the laboratory's records a record of each prescription or work order completed at the dental laboratory until the second anniversary of the date the prescription or work order is furnished. The owner or manager shall also maintain the record in an alphabetized file in a separate place.

(d) The premises of a dental laboratory, the records of a dental laboratory or a dental technician employed by the dental laboratory pertaining to dental prescriptions or work orders, and records relating to the referral of work to a dental technician or the owner or manager of a dental laboratory shall be open and available for inspection by a member, officer, employee, investigator, or agent of the board during regular office hours.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 266.203. TRANSPORTATION OF DENTAL MATERIAL PERMITTED. This chapter does not prohibit a person who is subject to and complies with this chapter from using the United States mail, a railway express agency, Western Union, or a messenger or common or contract carrier to handle, accept from, or transport or deliver to a dentist or dental laboratory an item in any form or state of completion on which a dental laboratory service will be or has been offered or ordered to be performed.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER F. DISCIPLINARY ACTIONS

Sec. 266.251. GROUNDS FOR DISCIPLINARY ACTION. (a) The board may refuse to issue a registration certificate, may impose a fine on a person who holds a registration certificate, may suspend or revoke a person's registration certificate, or may probate any portion of the suspension if, after a hearing, the board determines that the applicant or certificate holder has:

(1) violated or aided another person in violating a law regulating the practice of dentistry; or

(2) required or allowed a person under the direction

or control of the person to violate a law regulating the practice of dentistry.

(b) In this section, an applicant for or holder of a registration certificate includes a person who has at least a 20 percent ownership interest in or is the general partner or managing partner in a dental laboratory that is registered under this chapter or for which an application for registration has been filed.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 266.252. PROCEDURES FOR DISCIPLINARY ACTION. The board shall follow the procedures under Chapter 263 in a complaint or disciplinary action under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER G. PROHIBITED PRACTICES, ENFORCEMENT, AND PENALTIES

Sec. 266.301. DENTAL PROSTHETIC APPLIANCE. (a) In this section, "person" means an individual or a private legal entity, including a corporation, association, or partnership.

(b) A person may not fill a prescription to prepare or repair a dental prosthetic appliance that is to be delivered to a dental patient by a licensed dentist unless the person is a dental laboratory or dental technician.

(c) A dental laboratory that prepares or repairs a dental prosthetic appliance for a dentist shall provide to the dentist in writing at the time of the delivery the dental laboratory's assigned registration number and the expiration date of the dental laboratory's registration certificate.

(d) A dentist may not knowingly prescribe, order, or receive a dental prosthetic appliance that is to be prepared or has been prepared by an unregistered dental laboratory.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 266.302. INJUNCTION. The board may apply for a restraining order or injunction to enforce this chapter or a board rule adopted under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 266.303. CRIMINAL PENALTIES. (a) A person commits an offense if the person:

(1) is a dentist and provides a dental laboratory service without being exempt under Section 266.002(2); or

(2) violates Section 266.151 or 266.301.

(b) An offense for a violation of Section 266.151 or Section 266.301(b) is a felony of the third degree.

(c) An offense for a violation of Section 266.301(c) is a Class C misdemeanor. If it is shown on the trial of an offense under this section that the defendant has previously been convicted for an offense for a violation of Section 266.301(c), the offense is a Class A misdemeanor.

(d) An offense for a violation of Section 266.301(d) is a Class B misdemeanor. If it is shown on the trial of an offense under this section that the defendant has previously been convicted of an offense for a violation of Section 266.301(d), the offense is a Class A misdemeanor.

(e) Each day of a violation is a separate offense.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 772 (S.B. 887), Sec. 11, eff. September 1, 2009.

OCCUPATIONS CODE

TITLE 3. HEALTH PROFESSIONS

SUBTITLE D. DENTISTRY

CHAPTER 267. LICENSING OF FACULTY MEMBERS OF DENTAL OR DENTAL
HYGIENE SCHOOLS

Sec. 267.001. LICENSE REQUIRED. (a) A person may not serve as a faculty member of a dental school unless the person holds a dental school faculty member license issued under this chapter.

(b) A person may not serve as a faculty member of a dental hygiene school unless the person holds a dental school faculty member license or dental hygiene school faculty member license issued under this chapter.

(c) This section does not apply to a person who does not have direct patient contact.

Added by Acts 2003, 78th Leg., ch. 17, Sec. 26, eff. March 1, 2004.

Sec. 267.002. EXEMPTIONS. (a) A person is exempt from the requirements of Section 267.001(a) if the person is licensed to practice dentistry in this state.

(b) A person is exempt from the requirements of Section 267.001(b) if the person is licensed to practice dentistry or dental hygiene in this state.

Added by Acts 2003, 78th Leg., ch. 17, Sec. 26, eff. Sept. 1, 2003.

Sec. 267.003. QUALIFICATIONS FOR LICENSE. (a) To qualify for a dental school faculty member license, a person must:

(1) file an application with the board that presents proof that the applicant holds:

(A) a degree from a dental school; and

(B) a full-time or part-time salaried faculty position at a dental school accredited by the Commission on Dental Accreditation of the American Dental Association;

(2) submit an endorsement of the application from the dean, department chair, or program director of the school described by Subdivision (1)(B);

(3) pay the application fee set by the board; and

(4) pass an examination covering jurisprudence administered by the board or by a testing service under an agreement with the board.

(b) To qualify for a dental hygiene school faculty member license, a person must:

(1) file an application with the board that presents proof that the applicant holds:

(A) a degree from a dental hygiene school; and

(B) a full-time or part-time salaried faculty position at a dental hygiene school accredited by the Commission on Dental Accreditation of the American Dental Association;

(2) submit an endorsement of the application from the dean, department chair, or program director of the school described by Subdivision (1)(B);

(3) pay the application fee set by the board; and

(4) pass an examination covering jurisprudence administered by the board.

(c) An applicant for a license under this chapter must:

(1) file an application for the license not later than the 30th day after the date the person begins employment with the dental or dental hygiene school; and

(2) pass the examination not later than the sixth month after the date the person begins employment with the school.

(d) The board shall set the application fee in an amount sufficient to cover the cost of administering this chapter.

(e) Notwithstanding Section 267.001, an applicant may have direct patient contact before the applicant passes the examination. Added by Acts 2003, 78th Leg., ch. 17, Sec. 26, eff. Sept. 1, 2003.

Sec. 267.004. LICENSE RENEWAL. A license issued under this chapter must be renewed annually.

Added by Acts 2003, 78th Leg., ch. 17, Sec. 26, eff. Sept. 1, 2003.

Sec. 267.005. LICENSE EXPIRATION. (a) A license issued under this chapter expires on the termination of the license holder's employment with the dental or dental hygiene school.

(b) A license holder whose employment with a dental or

dental hygiene school terminates and who is subsequently employed by the same or a different dental or dental hygiene school must comply with the requirements for obtaining an original license, except that the person is not required to retake the examination.

Added by Acts 2003, 78th Leg., ch. 17, Sec. 26, eff. Sept. 1, 2003.

Sec. 267.006. PRACTICE OF DENTISTRY OR DENTAL HYGIENE PROHIBITED. A license issued under this chapter does not authorize the license holder to engage in the practice of dentistry or dental hygiene.

Added by Acts 2003, 78th Leg., ch. 17, Sec. 26, eff. Sept. 1, 2003.