

AN ACT

relating to the continuation and functions of the State Board of Dental Examiners.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 251.005, Occupations Code, is amended to read as follows:

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, 2015 [~~2003~~].

SECTION 2. Subsection (a), Section 252.001, Occupations Code, is amended to read as follows:

(a) The State Board of Dental Examiners consists of 15 [~~18~~] members appointed by the governor with the advice and consent of the senate as follows:

(1) eight [~~10~~] 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) two 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) five [~~six~~] members who represent the public.

SECTION 3. Subsection (d), Section 252.002, Occupations

1 Code, is amended to read as follows:

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

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

6 (2) is employed by or participates in the management
7 of a business entity or other organization regulated by or
8 receiving money [~~funds~~] from the board;

9 (3) owns or controls [~~or has~~], directly or indirectly,
10 more than a 10 percent interest in a business entity or other
11 organization regulated by or receiving money [~~funds~~] from the
12 board;

13 (4) uses or receives a substantial amount of tangible
14 goods, services, or money [~~funds~~] from the board, other than
15 compensation or reimbursement authorized by law for board
16 membership, attendance, or expenses; or

17 (5) is employed by a board member.

18 SECTION 4. Section 252.006, Occupations Code, is amended to
19 read as follows:

20 Sec. 252.006. OFFICERS. (a) The board shall elect a
21 secretary from its members to serve for a one-year term [~~terms a~~
22 ~~president and a secretary~~].

23 (b) The governor shall designate a member of the board as
24 the presiding officer of the board to serve in that capacity at the
25 will of the governor. The presiding officer [~~president~~] must be a
26 dentist.

27 SECTION 5. Subsections (a) and (c), Section 252.007,

1 Occupations Code, are amended to read as follows:

2 (a) It is a ground for removal from the board that a member:

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

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

7 (3) is ineligible for membership under ~~[violates a~~
8 ~~prohibition established by]~~ Section 252.003;

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

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

16 (c) If the executive director ~~[or any board member]~~ has
17 knowledge that a potential ground for removal exists, the executive
18 director ~~[or board member]~~ shall notify the presiding officer of
19 the board of the potential ground. The presiding officer ~~[board]~~
20 shall then notify the governor and the attorney general that a
21 potential ground for removal exists. If the potential ground for
22 removal involves the presiding officer, the executive director
23 shall notify the next highest ranking officer of the board, who
24 shall then notify the governor and the attorney general that a
25 potential ground for removal exists.

26 SECTION 6. Section 252.010, Occupations Code, is amended to
27 read as follows:

1 Sec. 252.010. BOARD MEMBER TRAINING. (a) A person who is
2 appointed to and qualifies for office as a member of the board may
3 not vote, deliberate, or be counted as a member in attendance at a
4 meeting of the board until the person completes a training program
5 that complies with [~~Before a board member may assume the member's~~
6 ~~duties and before the member may be confirmed by the senate, the~~
7 ~~member must complete at least one course of a training program~~
8 ~~established under~~] this section.

9 (b) The [A] training program must [~~shall~~] provide the person
10 with information [~~to a participant~~] regarding:

- 11 (1) this subtitle;
- 12 (2) the programs operated by the board;
- 13 (3) the role and functions of the board;
- 14 (4) the rules of the board, with an emphasis on the
15 rules that relate to disciplinary and investigatory authority;
- 16 (5) the current budget for the board;
- 17 (6) the results of the most recent formal audit of the
18 board;
- 19 (7) the requirements of:
 - 20 (A) the open meetings law, Chapter [~~Chapters~~]
21 551, [552, and 2001,] Government Code;
 - 22 (B) the public information law, Chapter 552,
23 Government Code;
 - 24 (C) the administrative procedure law, Chapter
25 2001, Government Code; and
 - 26 (D) other laws relating to public officials,
27 including

1 ~~[(8) the requirements of the]~~ conflict of interest
2 laws ~~[and other laws relating to public officials]; and~~

3 (8) [(9)] any applicable ethics policies adopted by
4 the board or the Texas Ethics Commission.

5 (c) A person appointed to the board is entitled to
6 reimbursement, as provided by the General Appropriations Act, for
7 the travel expenses incurred in attending the training program
8 regardless of whether the attendance at the program occurs before
9 or after the person qualifies for office. ~~[In developing the~~
10 ~~training program, the board shall consult with the governor's~~
11 ~~office and the Texas Ethics Commission.~~

12 ~~[(d) If another state agency or entity is given authority to~~
13 ~~establish board member training requirements, the board shall allow~~
14 ~~that training instead of developing its own program.]~~

15 SECTION 7. Chapter 253, Occupations Code, is amended by
16 adding Section 253.008 to read as follows:

17 Sec. 253.008. TRAINING FOR EMPLOYEES ON STATE INCENTIVE
18 PROGRAM. The executive director or the executive director's
19 designee shall provide to board employees information and training
20 on the benefits and methods of participation in the state employee
21 incentive program under Subchapter B, Chapter 2108, Government
22 Code.

23 SECTION 8. Chapter 254, Occupations Code, is amended by
24 adding Section 254.011 to read as follows:

25 Sec. 254.011. AGREEMENT WITH HEALTH AND HUMAN SERVICES
26 COMMISSION. The board shall enter into an agreement with the Health
27 and Human Services Commission to improve coordination on issues

1 relating to the state Medicaid program. The agreement must require
2 each agency to:

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

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

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

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

14 SECTION 9. Section 254.012, Occupations Code, is amended to
15 read as follows:

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

22 (1) the number of cases handled;

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

25 (3) the action taken in each case; and

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

1 action [~~file annually with the governor and with the presiding~~
2 ~~officer of each house of the legislature a complete and detailed~~
3 ~~written report accounting for all funds received and disbursed by~~
4 ~~the board during the preceding fiscal year.~~

5 [~~(b) The annual report must be in the form and reported in~~
6 ~~the time provided by the General Appropriations Act].~~

7 SECTION 10. Chapter 254, Occupations Code, is amended by
8 adding Sections 254.013 and 254.014 to read as follows:

9 Sec. 254.013. USE OF TECHNOLOGY. The board shall develop
10 and implement a policy requiring the executive director and board
11 employees to research and propose appropriate technological
12 solutions to improve the board's ability to perform its functions.

13 The technological solutions must:

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

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

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

19 and

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

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

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

27 (1) negotiated rulemaking procedures under Chapter

1 2008, Government Code, for the adoption of board rules; and

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

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

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

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

13 (2) serve as a resource for any training needed to
14 implement the procedures for negotiated rulemaking or alternative
15 dispute resolution; and

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

18 SECTION 11. Sections 255.004 and 255.005, Occupations Code,
19 are amended to read as follows:

20 Sec. 255.004. RECORDS OF COMPLAINTS. (a) The board shall
21 maintain a [keep an information] file on [about] each written
22 complaint filed with the board.

23 (b) The [information] file must include [be kept current and
24 contain a record for each complaint of]:

25 (1) the name of the person who filed the complaint;

26 (2) the date the complaint was received by the board;

27 (3) the subject matter of the complaint;

1 (4) the name of each person contacted in relation to
2 the complaint;

3 (5) [~~2~~] a summary of the results of the review or
4 investigation of the complaint; and

5 (6) an explanation of the reason the file was closed,
6 if the board closed the file without taking action other than to
7 investigate the complaint [~~findings made at each step of the~~
8 ~~complaint process;~~

9 [~~3~~] ~~an explanation of the legal basis and reason that~~
10 ~~a complaint is dismissed;~~

11 [~~4~~] ~~the schedule for disposing of the complaint as~~
12 ~~required by Section 255.006 and a notation of any change in the~~
13 ~~schedule; and~~

14 [~~5~~] ~~other relevant information~~].

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

19 Sec. 255.005. NOTIFICATION OF INVESTIGATION [~~COMPLAINT~~]
20 STATUS. If a written complaint is filed with the board that the
21 board has authority to resolve, the board, at least quarterly [~~and~~
22 until final disposition of the complaint, shall notify the person
23 filing the complaint and each person who is a subject of [~~parties~~
24 ~~to~~] the complaint of the status of the investigation [~~complaint~~]
25 unless the notice would jeopardize an undercover investigation.

26 SECTION 12. Section 255.006, Occupations Code, is amended
27 by amending Subsection (d) and adding Subsections (d-1) and (d-2)

1 to read as follows:

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

5 (1) distinguish between categories of complaints;

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

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

12 (4) ensure that the person who filed the complaint has
13 an opportunity to explain the allegations made in the complaint;
14 [~~and~~]

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

17 (6) establish procedures by which a board employee may
18 dismiss a complaint if the investigation does not reveal a
19 violation; and

20 (7) establish procedures by which a board employee may
21 expunge from the records of the board a complaint dismissed under
22 Subdivision (6) if the employee determines the complaint to have
23 been groundless.

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

25 (1) require a board employee to consult with a dentist
26 member of the board before dismissing a complaint relating to
27 patient morbidity, professional conduct, or quality of care;

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

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

6 (d-2) Procedures established under Subsection (d)(7) must:

7 (1) require a board employee to consult with a dentist
8 member of the board before expunging a complaint described by
9 Subsection (d-1)(1);

10 (2) ensure that the decision to expunge a complaint is
11 made with the appropriate level of review and necessary expertise
12 and experience; and

13 (3) require the expungement of a complaint to be
14 reported to the board at a public meeting of the board.

15 SECTION 13. Section 256.101, Occupations Code, is amended
16 by amending Subsection (a) and adding Subsection (a-1) to read as
17 follows:

18 (a) The board shall issue a license to practice dentistry to
19 a reputable dentist or a license to practice dental hygiene to a
20 reputable dental hygienist who:

21 (1) pays the fee set by the board;

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

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

1 . been licensed;

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

6 (5) has passed a national or other examination
7 relating to dentistry or dental hygiene and recognized by the
8 board;

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

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

12 (8) has practiced dentistry or dental hygiene:

13 (A) for at least the three [~~five~~] years preceding
14 the date of application for a license under this section [~~for a~~
15 ~~license to practice dentistry or for at least the three years~~
16 ~~preceding the date of application under this section for a license~~
17 ~~to practice dental hygiene~~]; or

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

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

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

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

9 SECTION 14. Subchapter C, Chapter 256, Occupations Code, is
10 amended by adding Section 256.1013 to read as follows:

11 Sec. 256.1013. PROVISIONAL LICENSE. (a) The board may
12 issue a provisional license to an applicant currently licensed in
13 another jurisdiction who seeks a license in this state and who:

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

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

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

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

1 license.

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

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

9 (1) the provisional license holder is eligible to be
10 licensed under Section 256.101; or

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

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

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

21 (d) The board must approve or deny a provisional license
22 holder's application for a license not later than the 180th day
23 after the date the provisional license is issued. The board may
24 extend the 180-day period if the results of an examination have not
25 been received by the board before the end of that period.

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

1 the license.

2 SECTION 15. Section 257.002, Occupations Code, is amended
3 by amending Subsections (b) through (e) and adding Subsections
4 (c-1) and (d-1) to read as follows:

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

11 (c) A person whose license has been expired for 90 days or
12 less may renew the license by paying to the board a [~~the required~~]
13 renewal fee [~~and a fee~~] that is equal to 1-1/2 times the normally
14 required renewal [~~half of the amount of the license application~~]
15 fee.

16 (c-1) A person whose license has been expired for more than
17 90 days but less than one year may renew the license by paying to the
18 board a [~~all unpaid~~] renewal [~~fees and a~~] fee that is equal to two
19 times the normally required renewal [~~the amount of the license~~
20 ~~application~~] fee.

21 (d) A [~~Except as provided by Section 257.003, a~~] person
22 whose license has been expired for one year or more [~~longer~~] may not
23 renew the license. The person may obtain a new license by
24 [~~submitting to reexamination and~~] complying with the requirements
25 and procedures, including the examination requirements, for
26 obtaining an original license.

27 (d-1) A person who was licensed in this state, moved to

1 another state, and is currently licensed and has been in practice in
2 the other state for the two years preceding the date of application
3 may obtain a new license without reexamination. The person must pay
4 to the board a fee that is equal to two times the normally required
5 renewal fee for the license.

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

10 SECTION 16. Subsection (a), Section 257.004, Occupations
11 Code, is amended to read as follows:

12 (a) A person holding a dental or dental hygienist license
13 must submit at the time the person applies for renewal of the
14 license [~~attach to the person's renewal application~~]:

15 (1) a written statement executed by the person stating
16 [~~proof~~] that the person [~~applicant~~] has successfully completed a
17 current program or course in cardiopulmonary resuscitation that
18 includes a demonstration of skills and a written evaluation; or

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

22 SECTION 17. Section 262.053, Occupations Code, is amended
23 to read as follows:

24 Sec. 262.053. MEMBERSHIP RESTRICTIONS [~~RESTRICTION~~].

25 (a) In this section, "Texas trade association" means a cooperative
26 and voluntarily joined statewide association of business or
27 professional competitors in this state designed to assist its

1 members and its industry or profession in dealing with mutual
2 business or professional problems and in promoting their common
3 interest.

4 (b) A person may not be a member of the advisory committee
5 if:

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

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

10 or

11 (3) the person is required to register as a lobbyist
12 under Chapter 305, Government Code, because of the person's
13 activities for compensation on behalf of a profession related to
14 the operation of the advisory committee.

15 (c) A person is not eligible for appointment as a member of
16 the advisory committee if the person is a member of the board.

17 SECTION 18. Subchapter B, Chapter 262, Occupations Code, is
18 amended by adding Section 262.0555 to read as follows:

19 Sec. 262.0555. GROUNDS FOR REMOVAL. (a) It is a ground for
20 removal from the advisory committee that a member:

21 (1) does not have at the time of taking office the
22 qualifications required by Section 262.052;

23 (2) does not maintain during service on the advisory
24 committee the qualifications required by Section 262.052;

25 (3) is ineligible for membership under Section
26 262.053;

27 (4) cannot, because of illness or disability,

1 discharge the member's duties for a substantial part of the member's
2 term; or

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

7 (b) The validity of an action of the advisory committee is
8 not affected by the fact that it is taken when a ground for removal
9 of an advisory committee member exists.

10 (c) If the executive director has knowledge that a potential
11 ground for removal exists, the executive director shall notify the
12 presiding officer of the advisory committee of the potential
13 ground. The presiding officer shall then notify the governor and
14 the attorney general that a potential ground for removal exists. If
15 the potential ground for removal involves the presiding officer,
16 the executive director shall notify the next highest ranking
17 officer of the advisory committee, who shall then notify the
18 governor and the attorney general that a potential ground for
19 removal exists.

20 SECTION 19. Subchapter C, Chapter 262, Occupations Code, is
21 amended by adding Section 262.1025 to read as follows:

22 Sec. 262.1025. AUTHORITY OF ADVISORY COMMITTEE TO RECOMMEND
23 RULES; ADOPTION BY BOARD. (a) The advisory committee may make a
24 recommendation to the board relating to the regulation of the
25 practice of dental hygiene. A recommendation under this subsection
26 may include a proposed rule in a form suitable for publication in
27 the Texas Register.

1 (b) The board may:

2 (1) adopt a rule in accordance with the
3 recommendation; or

4 (2) reject the recommendation.

5 (c) If the board fails to take action on the recommendation
6 before the 91st day after the date the recommendation is submitted
7 to the board, the board shall adopt a rule in accordance with the
8 recommendation.

9 (d) Except as provided by Subsection (e), Section
10 262.102(c) applies to the adoption of a rule under this section.

11 (e) If the recommendation includes a proposed rule, the
12 board is not required to comply with Section 262.102(c) before
13 adopting the proposed rule.

14 SECTION 20. Chapter 263, Occupations Code, is amended by
15 adding Section 263.0075 to read as follows:

16 Sec. 263.0075. INFORMAL SETTLEMENT CONFERENCE;
17 RESTITUTION. (a) The board by rule shall establish procedures by
18 which a panel of board employees may conduct an informal settlement
19 conference to resolve a complaint against a person licensed under
20 this subtitle.

21 (b) Procedures established under this section must:

22 (1) permit involvement of a board member in an
23 informal settlement conference conducted by a panel of board
24 employees;

25 (2) ensure that the panel of board employees
26 conducting the conference has the necessary expertise and
27 experience;

1 (3) require the panel of board employees conducting
2 the conference to use the standardized penalty schedule adopted by
3 the board to determine the appropriate disciplinary action, if any,
4 to recommend to the board;

5 (4) require a settlement of the complaint recommended
6 by the panel of board employees to be approved by the board;

7 (5) permit the board to modify a recommended
8 settlement of the complaint with the approval of the license
9 holder; and

10 (6) permit the panel of board employees to refer the
11 complaint to the State Office of Administrative Hearings for a
12 formal hearing and require the panel to notify the board of the
13 referral.

14 (c) Subject to Subsection (d), the board may order a person
15 licensed under this subtitle to pay restitution to a patient as
16 provided in an agreement resulting from an informal settlement
17 conference instead of or in addition to assessing an administrative
18 penalty under Subchapter A, Chapter 264.

19 (d) The amount of restitution ordered as provided in an
20 agreement resulting from an informal settlement conference may not
21 exceed the amount the patient paid to the license holder for a
22 service regulated by this subtitle. The board may not require
23 payment of other damages or estimate harm in a restitution order.

24 SECTION 21. The heading to Subchapter B, Chapter 264,
25 Occupations Code, is amended to read as follows:

26 SUBCHAPTER B. INJUNCTION; CEASE AND DESIST ORDER

27 SECTION 22. Section 264.052, Occupations Code, is amended

1 to read as follows:

2 Sec. 264.052. REPRESENTATION OF STATE. The attorney
3 general or the district attorney or county attorney of the county in
4 which the unlawful acts occurred shall represent the state in a suit
5 under Section 264.051 [~~this subchapter~~].

6 SECTION 23. Subchapter B, Chapter 264, Occupations Code, is
7 amended by adding Sections 264.0525, 264.0526, and 264.0527 to read
8 as follows:

9 Sec. 264.0525. CEASE AND DESIST ORDER. (a) The board may
10 serve a proposed cease and desist order on a person the board
11 believes is engaging or is likely to engage in an activity without a
12 license or registration certificate required by this subtitle. The
13 order must:

14 (1) be delivered by personal delivery or registered or
15 certified mail, return receipt requested, to the person's last
16 known address;

17 (2) state the acts or practices alleged to be an
18 unauthorized activity; and

19 (3) state the effective date of the order, which may
20 not be before the 21st day after the date the proposed order is
21 delivered or mailed.

22 (b) Unless the person against whom the proposed order is
23 directed requests a hearing in writing before the effective date of
24 the order, the order takes effect and is final and nonappealable as
25 to that person.

26 (c) A requested hearing on a proposed order shall be held
27 not later than the 30th day after the date the board receives the

1 written request for a hearing unless the parties agree to a later
2 hearing date. A hearing under this subsection is subject to Chapter
3 2001, Government Code.

4 (d) After the hearing, the board shall issue or decline to
5 issue a cease and desist order. The proposed order may be modified
6 as necessary to conform to the findings at the hearing. An order
7 issued under this subsection:

8 (1) is immediately final for purposes of enforcement
9 and appeal; and

10 (2) must require the person to immediately cease and
11 desist from the unauthorized activity.

12 (e) The board may release to the public a final cease and
13 desist order issued under this section or information relating to
14 the existence of the order if the board determines that the release
15 would enhance the effective enforcement of the order or will serve
16 the public interest.

17 Sec. 264.0526. EMERGENCY CEASE AND DESIST ORDER. (a) The
18 board may issue an emergency cease and desist order to a person if
19 the board reasonably believes that:

20 (1) the person is engaging or is likely to engage in an
21 activity without a license or registration certificate required by
22 this subtitle; and

23 (2) the unauthorized activity constitutes a clear,
24 imminent, or continuing threat to a person's physical health or
25 well-being.

26 (b) The order must:

27 (1) be delivered on issuance to the person affected by

1 the order by personal delivery or registered or certified mail,
2 return receipt requested, to the person's last known address;

3 (2) state the acts or practices alleged to be an
4 unauthorized activity and require the person immediately to cease
5 and desist from the unauthorized activity; and

6 (3) contain a notice that a request for hearing may be
7 filed under this section.

8 (c) Unless the person against whom the emergency order is
9 directed requests a hearing in writing before the 11th day after the
10 date it is served on the person, the emergency order is final and
11 nonappealable as to that person. A request for a hearing must:

12 (1) be in writing and directed to the board; and

13 (2) state the grounds for the request to set aside or
14 modify the order.

15 (d) On receiving a request for a hearing, the board shall
16 serve notice of the time and place of the hearing by personal
17 delivery or registered or certified mail, return receipt requested.
18 The hearing must be held not later than the 10th day after the date
19 the board receives the request for a hearing unless the parties
20 agree to a later hearing date. A hearing under this subsection is
21 subject to Chapter 2001, Government Code.

22 (e) After the hearing, the board shall affirm, modify, or
23 set aside in whole or in part the emergency cease and desist order.
24 An order affirming or modifying the emergency cease and desist
25 order is immediately final for purposes of enforcement and appeal.

26 (f) An order continues in effect unless the order is stayed
27 by the board. The board may impose any condition before granting a

1 stay of the order.

2 (g) The board may release to the public a final cease and
3 desist order issued under this section or information regarding the
4 existence of the order if the board determines that the release
5 would enhance the effective enforcement of the order or will serve
6 the public interest.

7 Sec. 264.0527. APPEAL OF CEASE AND DESIST ORDER. (a) A
8 person affected by a cease and desist order issued, affirmed, or
9 modified after a hearing may file a petition for judicial review.

10 (b) A filed petition for judicial review does not stay or
11 vacate the order unless the court, after hearing, specifically
12 stays or vacates the order.

13 SECTION 24. Section 264.053, Occupations Code, is amended
14 to read as follows:

15 Sec. 264.053. REMEDIES CUMULATIVE. The remedies [~~remedy~~]
16 provided by this subchapter are [~~is~~] in addition to criminal
17 prosecution and cumulative of other remedies provided to prevent
18 the unlawful practice of dentistry.

19 SECTION 25. Chapter 265, Occupations Code, is amended by
20 adding Section 265.005 to read as follows:

21 Sec. 265.005. X-RAY CERTIFICATE. (a) A dental assistant
22 may not make dental x-rays unless the dental assistant holds a
23 certificate of registration issued by the board under this section.

24 (b) To qualify for a certificate of registration, a dental
25 assistant must pay a fee in an amount determined by the board and:

26 (1) pass an examination administered by the board
27 covering:

1 (A) the procedure for making dental x-rays;

2 (B) jurisprudence; and

3 (C) infection control; or

4 (2) pass an examination administered by the board
5 covering the subject described by Subdivision (1)(B) and be
6 certified as a dental assistant by the Dental Assisting National
7 Board if the board determines that the requirements for
8 certification by that board are sufficient to protect the public.

9 (c) The board shall set the registration fee for a dental
10 assistant who qualifies under Subsection (b)(1) in an amount
11 greater than the amount of the registration fee for a dental
12 assistant who qualifies under Subsection (b)(2).

13 (d) The portion of the examination described by Subsection
14 (b)(1)(B) must be tailored to a dental assistant's responsibilities
15 and role in a dental office.

16 (e) The board shall develop the examination or contract with
17 another person the board determines has the expertise and resources
18 to develop the examination. The board may create an advisory
19 committee consisting of dental industry professionals and
20 educators to advise the board in developing the examination.

21 (f) The examination shall be administered by the board or by
22 a testing service under an agreement with the board.

23 (g) A certificate of registration issued under this section
24 must be renewed annually.

25 (h) The board by rule shall develop a mandatory continuing
26 education program for holders of certificates of registration. The
27 board may not require a person to complete more than 12 hours of

1 continuing education annually. The curriculum must cover standards
2 of care, procedures for infectious disease control, and the
3 requirements of this subtitle. A person may not renew a certificate
4 of registration unless the person complies with the continuing
5 education requirements.

6 SECTION 26. Subtitle D, Title 3, Occupations Code, is
7 amended by adding Chapter 267 to read as follows:

8 CHAPTER 267. LICENSING OF FACULTY MEMBERS OF DENTAL OR DENTAL
9 HYGIENE SCHOOLS

10 Sec. 267.001. LICENSE REQUIRED. (a) A person may not
11 serve as a faculty member of a dental school unless the person holds
12 a dental school faculty member license issued under this chapter.

13 (b) A person may not serve as a faculty member of a dental
14 hygiene school unless the person holds a dental school faculty
15 member license or dental hygiene school faculty member license
16 issued under this chapter.

17 (c) This section does not apply to a person who does not have
18 direct patient contact.

19 Sec. 267.002. EXEMPTIONS. (a) A person is exempt from the
20 requirements of Section 267.001(a) if the person is licensed to
21 practice dentistry in this state.

22 (b) A person is exempt from the requirements of Section
23 267.001(b) if the person is licensed to practice dentistry or
24 dental hygiene in this state.

25 Sec. 267.003. QUALIFICATIONS FOR LICENSE. (a) To qualify
26 for a dental school faculty member license, a person must:

27 (1) file an application with the board that presents

1 proof that the applicant holds:

2 (A) a degree from a dental school; and

3 (B) a full-time or part-time salaried faculty
4 position at a dental school accredited by the Commission on Dental
5 Accreditation of the American Dental Association;

6 (2) submit an endorsement of the application from the
7 dean, department chair, or program director of the school described
8 by Subdivision (1)(B);

9 (3) pay the application fee set by the board; and

10 (4) pass an examination covering jurisprudence
11 administered by the board or by a testing service under an agreement
12 with the board.

13 (b) To qualify for a dental hygiene school faculty member
14 license, a person must:

15 (1) file an application with the board that presents
16 proof that the applicant holds:

17 (A) a degree from a dental hygiene school; and

18 (B) a full-time or part-time salaried faculty
19 position at a dental hygiene school accredited by the Commission on
20 Dental Accreditation of the American Dental Association;

21 (2) submit an endorsement of the application from the
22 dean, department chair, or program director of the school described
23 by Subdivision (1)(B);

24 (3) pay the application fee set by the board; and

25 (4) pass an examination covering jurisprudence
26 administered by the board.

27 (c) An applicant for a license under this chapter must:

1 (1) file an application for the license not later than
2 the 30th day after the date the person begins employment with the
3 dental or dental hygiene school; and

4 (2) pass the examination not later than the sixth
5 month after the date the person begins employment with the school.

6 (d) The board shall set the application fee in an amount
7 sufficient to cover the cost of administering this chapter.

8 (e) Notwithstanding Section 267.001, an applicant may have
9 direct patient contact before the applicant passes the examination.

10 Sec. 267.004. LICENSE RENEWAL. A license issued under this
11 chapter must be renewed annually.

12 Sec. 267.005. LICENSE EXPIRATION. (a) A license issued
13 under this chapter expires on the termination of the license
14 holder's employment with the dental or dental hygiene school.

15 (b) A license holder whose employment with a dental or
16 dental hygiene school terminates and who is subsequently employed
17 by the same or a different dental or dental hygiene school must
18 comply with the requirements for obtaining an original license,
19 except that the person is not required to retake the examination.

20 Sec. 267.006. PRACTICE OF DENTISTRY OR DENTAL HYGIENE
21 PROHIBITED. A license issued under this chapter does not authorize
22 the license holder to engage in the practice of dentistry or dental
23 hygiene.

24 SECTION 27. Subdivision (5), Section 467.001, Health and
25 Safety Code, is amended to read as follows:

26 (5) "Professional" means an individual who:

27 (A) may incorporate under The Texas Professional

1 Corporation Act (Article 1528e, Vernon's Texas Civil Statutes); or
2 (B) is licensed, registered, certified, or
3 otherwise authorized by the state to practice as a licensed
4 vocational nurse, certified social worker, occupational therapist,
5 speech-language pathologist, audiologist, [~~or~~] licensed dietitian,
6 or dental or dental hygiene school faculty member.

7 SECTION 28. Section 257.003, Subsection (b), Section
8 257.004, and Section 262.057, Occupations Code, are repealed.

9 SECTION 29. (a) One of the four dentist positions on the
10 State Board of Dental Examiners that have terms scheduled to expire
11 February 1, 2005, is abolished on September 1, 2003. On or before
12 September 1, 2003, the members who hold those four positions shall
13 determine by unanimous agreement or by lot which position is
14 abolished on September 1, 2003, and shall inform the president of
15 the board of that determination.

16 (b) One of the three dentist positions on the State Board of
17 Dental Examiners that have terms scheduled to expire February 1,
18 2007, is abolished on September 1, 2003. On or before September 1,
19 2003, the members who hold those three positions shall determine by
20 unanimous agreement or by lot which position is abolished on
21 September 1, 2003, and shall inform the president of the board of
22 that determination.

23 (c) One of the two public member positions on the State
24 Board of Dental Examiners that have terms scheduled to expire
25 February 1, 2009, is abolished on September 1, 2003. On or before
26 September 1, 2003, the members who hold those two positions shall
27 determine by unanimous agreement or by lot which position is

1 . abolished on September 1, 2003, and shall inform the president of
2 the board of that determination.

3 SECTION 30. The changes in law made by Section 252.006,
4 Occupations Code, as amended by this Act, do not affect the
5 entitlement of a person who was serving as president of the State
6 Board of Dental Examiners immediately before September 1, 2003, to
7 continue to serve and function in that capacity for the remainder of
8 the person's term as president. Those changes in law apply only to
9 the designation of a presiding officer of the board after that
10 person's term as president expires.

11 SECTION 31. The changes in law made by Section 252.010,
12 Occupations Code, as amended by this Act, do not affect the
13 entitlement of a member serving on the State Board of Dental
14 Examiners immediately before September 1, 2003, to continue to
15 serve and function as a member of the board for the remainder of the
16 member's term. Those changes in law apply only to a member
17 appointed on or after September 1, 2003.

18 SECTION 32. If before implementing Section 254.011,
19 Occupations Code, as added by this Act, a state agency determines
20 that a waiver or authorization from a federal agency is necessary
21 for implementation of that provision, the agency affected by the
22 provision shall request the waiver or authorization and may delay
23 implementing that provision until the waiver or authorization is
24 granted.

25 SECTION 33. The changes in law made by Section 262.053,
26 Occupations Code, as amended by this Act, do not affect the
27 entitlement of a member serving on the Dental Hygiene Advisory

1 Committee immediately before September 1, 2003, to continue to
2 serve and function as a member of the advisory committee for the
3 remainder of the member's term. Those changes in law apply only to
4 a member appointed on or after September 1, 2003.

5 SECTION 34. (a) Except as otherwise provided by this
6 section, this Act takes effect September 1, 2003.

7 (b) The State Board of Dental Examiners and the Health and
8 Human Services Commission shall enter into an agreement under
9 Section 254.011, Occupations Code, as added by this Act, not later
10 than January 1, 2004.

11 (c) A person is not required to obtain a certificate of
12 registration under Section 265.005, Occupations Code, as added by
13 this Act, before September 1, 2004.

14 (d) Notwithstanding Subsection (c) of this section, a
15 person who qualified for registration with the State Board of
16 Dental Examiners under 22 T.A.C. Section 115.10 before September 1,
17 2004, by successfully completing the examination described by
18 Subdivision (3), Subsection (e) of that section, is not required to
19 obtain a certificate of registration under Section 265.005,
20 Occupations Code, as added by this Act, before September 1, 2006.

21 (e) Section 267.001, Occupations Code, as added by this Act,
22 takes effect March 1, 2004.

23 (f) Notwithstanding Subsection (e) of this section, a
24 person who was employed as a faculty member by a dental or dental
25 hygiene school before September 1, 2003, is not required to obtain a
26 license under Chapter 267, Occupations Code, as added by this Act,
27 before September 1, 2004.

1 (g) This section and Section 29 of this Act take effect
2 immediately if this Act receives a vote of two-thirds of all the
3 members elected to each house, as provided by Section 39, Article
4 III, Texas Constitution. If this Act does not receive the vote
5 necessary for immediate effect, this section and Section 29 of this
6 Act take effect September 1, 2003.

David Neuhorst
President of the Senate

Joe Caddell
Speaker of the House

I hereby certify that S.B. No. 263 passed the Senate on March 6, 2003, by a viva-voce vote; and that the Senate concurred in House amendments on April 25, 2003, by the following vote: Yeas 29, Nays 0.

Patsy Spaw
Secretary of the Senate

I hereby certify that S.B. No. 263 passed the House, with amendments, on April 24, 2003, by the following vote: Yeas 142, Nays 0, one present not voting.

Robert Haney
Chief Clerk of the House

Approved:

9 May '03
Date

Rick Perry
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
5:15pm O'CLOCK

MAY 09 2003
Ann Shea
Secretary of State