The Dental Law

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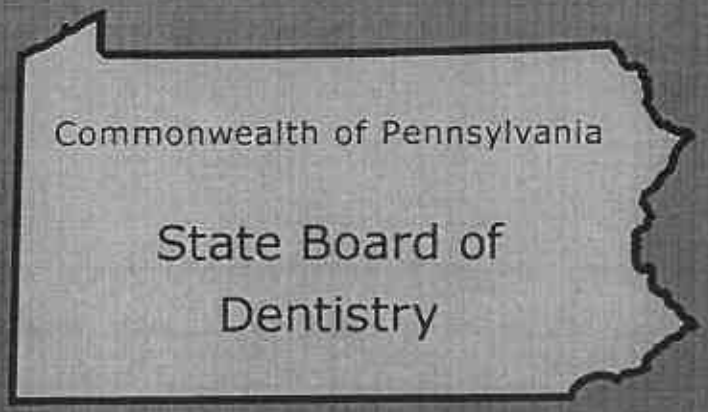

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AN ACT

Relating to dentistry; defining and providing for the licensing and registration of dentists and dental hygienists, and for the revocation and suspension of such licenses and registrations, subject to appeal, and for their reinstatement; defining the powers and duties of the State Dental Council and Examining Board and the Department of Public Instruction; providing penalties; and repealing existing laws.

The Dental Law
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Section 1.

Be it enacted, &c., That--Short Title.--This act shall be known, and may be cited, as "The Dental Law."

Section 2. Definitions.

A person engages in the "Practice of Dentistry," within the meaning of this act, who diagnoses, treats, operates on, or prescribes for any disease, pain or injury, or regulates any deformity or physical condition, of the human teeth, jaws, or associated structures, or conducts a physical evaluation, or administers anesthetic agents, or uses ionizing radiation in the course of dental practice, or who fits, constructs, and inserts any artificial appliance, plate, or denture for the human teeth or jaws, or who holds himself or herself out as being able or legally authorized to do so. The term "Practice of Dentistry" includes the practice of dentistry under a restricted faculty license. The term "Practice of Dentistry" does not include:

(a) The practice of any of the healing arts by duly licensed practitioners.

(b) The extracting of teeth or relieving pain by a licensed physician or surgeon in emergencies, or the making of applications for such purposes.

(c) The practice of dentistry by a duly licensed practitioner of dentistry of any other state or country, for the limited purpose of consultation with respect to any case under treatment in this Commonwealth, or of demonstrating before any duly authorized dental society in this Commonwealth.

(d) ((d) deleted by amendment).

(e) The practice of dentistry in clinical departments and laboratories of dental schools and their affiliated facilities approved by the board in the Commonwealth, by bona fide students pursuing a course of study leading to the degree of Doctor of Dental Surgery or Doctor of Dental Medicine.

(f) The practice of dentistry in a dental clinic operated not for profit for the duration of an internship, residency or other graduate training program approved by the American Dental Association Commission on Dental Accreditation or a dental anesthesiology training program that meets the standards of an accrediting body acceptable to the board, by persons having acquired the preliminary and professional education required for admission into the program, after notification to the board.

(g) The practice of dentistry in a clinical continuing education course offered by a dental school in this Commonwealth for a duration of twenty days or less, either continuous or in several sessions, where dentists licensed in the United States or other countries work under the direct supervision of dentists licensed by the Commonwealth, and delivered within the educational

facilities of a dental school in this Commonwealth that is approved by the American Dental Association Commission on Dental Accreditation.

(Def. amended Nov. 4, 2015, P.L.226, No.60)

"Community-based Clinic" means an organized clinic offering primary health services to low-income individuals or to residents in medically underserved areas or health professional shortage areas. The term includes a State health center, a nonprofit community-based clinic and a federally qualified health center.

(Def. added June 22, 2012, P.L.638, No.65)

A "Dental Hygienist" is one who is legally licensed as such by the State Board of Dentistry to perform those educational, preventive, and therapeutic services and procedures that licensed dental hygienists are educated to perform. Licensed dentists may assign to dental hygienists intra-oral procedures which the hygienists have been educated to perform and which require their professional competence and skill but which do not require the professional competence and skill of the dentist. Such assignments shall be under the supervision of a licensed dentist. Such performance of intra-oral procedures by licensed dental hygienists shall be in the private office of a dentist or public or private institution such as prescribed under section 11.9(b). Dental hygienists certified as public health dental hygiene practitioners may perform intra-oral procedures without the assignment of a dentist pursuant to section 11.9. The foregoing shall not be construed as authorizing the assignment of diagnosing, treatment planning and writing prescriptions for drugs or writing authorizations for restorative, prosthetic, or orthodontic appliances. The board shall issue rules setting forth the necessary education and defining the procedures that may be performed by dental hygienists licensed under this act including those procedures that may be performed under direct and general supervision.

(Def. amended July 20, 2007, P.L.327, No.51)

The word **"board,"** as used in this act, means the State Board of Dentistry.

(Def. amended July 20, 2007, P.L.327, No.51)

"General Anesthesia" is a controlled state of unconsciousness, including deep sedation, accompanied by the partial or complete loss of protective reflexes which includes the patient's inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, produced by a pharmacologic or nonpharmacologic method, or combination thereof.

(Def. added Dec. 20, 1985, P.L.513, No.118)

"Analgesia" means the diminution or elimination of pain in the conscious patient.

(Def. added Dec. 20, 1985, P.L.513, No.118)

"Conscious Sedation" means a minimally depressed level of consciousness which retains the patient's ability to independently and

continuously maintain an airway and respond appropriately to physical stimulation or verbal command, produced by a pharmacologic or nonpharmacologic method, or combination thereof.

(Def. added Dec. 20, 1985, P.L.513, No.118)

"Expanded Function Dental Assistant" means an individual who holds a current valid certification under this act to perform reversible intraoral procedures authorized by this act under the direct supervision of a licensed dentist and under an assignment of duties by a dentist, as defined in section 11.8. An expanded function dental assistant may, under direct supervision, perform those procedures specified in section 11.10 and other reversible procedures not designated by this act to be performed by licensed dentists or dental hygienists. For purposes of this definition, "direct supervision" shall mean that a dentist is in the dental office or treatment facility, personally diagnoses the condition to be treated, personally authorizes the procedure and remains in the dental office or treatment facility while the procedure is being performed and, before dismissal of the patient, personally evaluates the work performed.

(Def. amended April 29, 2010, P.L.176, No.19)

"Foreign dental schools" means the dental schools which have not been approved by the Commission on Accreditation of the American Dental Association and which are located in countries other than the United States or Canada.

(Def. added Dec. 20, 1985, P.L.513, No.118)

"Public Health Dental Hygiene Practitioner" means a licensed dental hygienist who may perform educational, preventive, therapeutic and intra-oral procedures which the hygienist is educated to perform and which require the hygienist's professional competence and skill but which do not require the professional competence and skill of a dentist without the authorization, assignment or examination of a dentist, and who is certified by the State Board of Dentistry as having satisfied the requirements of section 11.9. Public health dental hygiene practitioners may only engage in professional practice in the practice sites enumerated in section 11.9(b).

(Def. added July 20, 2007, P.L.327, No.51)

"Restricted Faculty License" means a license granted to an individual for the limited purpose of teaching, including clinical teaching, in a dental school or advanced dental education program as a faculty member at an accredited dental school in this Commonwealth.

(Def. added July 2, 2014, P.L.828, No.89)

"Volunteer License" means a license issued to qualified individuals who retire from active practice and seek to provide professional services as a volunteer in community-based clinics without remuneration.

(Def. added June 22, 2012, P.L.638, No.65)

(2 amended Feb. 9, 1984, P.L.23, No.9)

Compiler's Note: Section 4 of Act 19 of 2010, which amended the def. of "expanded function dental assistant," provided that the State Board of Dentistry shall promulgate regulations to implement Act 19 within 18 months of the effective date of section 4.

Section 2.1. State Board of Dentistry.

(a) The State Board of Dentistry shall consist of the Secretary of Health, or his designee, the Director of the Bureau of Consumer Protection in the Office of the Attorney General, or his designee, the Commissioner of Professional and Occupational Affairs and twelve additional members, who shall be appointed by the Governor with the advice and consent of a majority of the members elected to the Senate. Two members shall represent the public at large. Eight members shall have been licensed and engaged in the actual practice of dentistry in this Commonwealth during a period of not less than ten years immediately preceding their appointment. One member shall be a dental hygienist licensed to practice dental hygiene in this Commonwealth and shall have been engaged in the practice of dental hygiene for a period of at least three years immediately preceding appointment. One member shall be an expanded function dental assistant who is authorized under this act as an expanded function dental assistant, has been engaged in the practice of expanded function dental assisting in this Commonwealth continuously for at least three years prior to appointment and does not practice as a dental hygienist.

((a) amended April 29, 2010, P.L.176, No.19)

(b) The term of office of each professional and public member shall be six years from his appointment or until his successor has been duly appointed and qualified according to law, but no longer than six months beyond the six-year period. No member may serve more than two consecutive terms. In the event that any member should die or resign or otherwise become disqualified during his term of office, his successor shall be appointed in the same way and with the same qualifications as set forth in subsection (a) and shall hold office for the unexpired term.

(c) A majority of the members of the board serving in accordance with law shall constitute a quorum for purposes of conducting the business of the board. Except for temporary and automatic suspensions under sections 4.1 and 5.1, a member may not be counted as part of a quorum or vote on any issue unless he or she is physically in attendance at the meeting.

(d) The board shall annually select, from among its members, a chairman and a secretary.

(e) Each member of the board, other than the Secretary of Health, or his designee, the Director of the Bureau of Consumer Protection, or his designee, and the Commissioner of Professional and Occupational Affairs, shall receive sixty dollars ($60) per diem

when actually attending to the work of the board. Members shall also receive the amount of reasonable traveling, hotel and other necessary expenses incurred in the performance of their duties in accordance with Commonwealth regulations.

(f) A member who fails to attend three consecutive meetings shall forfeit his seat unless the Commissioner of Professional and Occupational Affairs, upon written request from the member, finds that the member should be excused from a meeting because of illness or the death of an immediate family member.

(g) The board is subject to evaluation, review and termination in the manner provided in the act of December 22, 1981 (P.L.508, No.142), known as the "Sunset Act."

(h) A public member who fails to attend two consecutive statutorily mandated training seminars in accordance with section 813(e) of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," shall forfeit his or her seat unless the Commissioner of Professional and Occupational Affairs, upon written request from the public member, finds that the public member should be excused from a meeting because of illness or the death of a family member.

(2.1 added Dec. 20, 1985, P.L.513, No.118)

Compiler's Note: Section 4 of Act 19 of 2010, which amended subsec. (a), provided that the State Board of Dentistry shall promulgate regulations to implement Act 19 within 18 months of the effective date of section 4.

Compiler's Note: The State Board of Dentistry is subject to periodic review under the act of Dec. 22, 1981, P.L.508, No.142, known as the Sunset Act, and will terminate on the date specified in that act unless reestablished or continued by the General Assembly. For the current status of the board, see the appendix to this act.

Section 3. General Powers of the State Board of Dentistry.

The State Board of Dentistry (hereinafter called the board) shall have the following powers and duties:

(a) To establish and alter, from time to time, the standards of preliminary and professional education and the training required for licensure to practice dentistry and as dental hygienists and certification for expanded function dental assistants.

(b) To investigate and determine the acceptability and to approve and disapprove institutions and colleges of this State and of other states and countries for the education of students desiring to be licensed to practice dentistry or as dental hygienists or to be certified as expanded function dental assistants, and to revoke approvals where such institutions and colleges no longer are deemed proper.

(c) To provide for and to regulate the licensing, and to license to practice dentistry, after examination, any duly qualified applicant, at least twenty-one years of age, of good moral character, not addicted to the use of intoxicating liquor or narcotic drugs, who has obtained the required education, together with a diploma from an approved institution or college conferring upon him or her the degree of doctor of dental surgery or other established dental degree. The board shall not issue a license to an applicant who has been convicted of a felony under the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or of an offense under the laws of another jurisdiction which if committed in this Commonwealth would be a felony under "The Controlled Substance, Drug, Device and Cosmetic Act," unless: (1) at least ten (10) years have elapsed from the date of conviction, (2) the applicant satisfactorily demonstrates to the board that he has made significant progress in personal rehabilitation since the conviction such that licensure of the applicant should not be expected to create a substantial risk of harm to the health and safety of his patients or the public or a substantial risk of further criminal violations, and (3) the applicant otherwise satisfies the qualifications contained in or authorized by this act. As used in this section the term "convicted" shall include a judgment, an admission of guilt or a plea of nolo contendere.

(c.1) To provide for and to regulate the licensing, and to license to practice dentistry for the limited purpose of teaching, without examination, any qualified applicant who satisfies the requirements of section 11.11.

((c.1) added July 2, 2014, P.L.828, No.89)

(d) To provide for and to regulate the licensing, and to license as a dental hygienist, after examination, any duly qualified person, not less than eighteen years of age, of good moral character, not addicted to the use of intoxicating liquor or narcotic drugs, who has obtained the required education for the training of dental hygienists from an approved institution or college that meets or exceeds the minimum standards established by an approved United States Department of Education-recognized regional accrediting agency or the American Dental Association Commission on Dental Accreditation. The board shall, consistent with this act, adopt regulations providing for the general supervision and practice of dental hygienists under this act.

((d) amended July 20, 2007, P.L.327, No.51)

(d.1)

(1) To provide for and to regulate the certification and to certify as an expanded function dental assistant any duly qualified person, not less than eighteen years of age, of good moral character, not addicted to the use of intoxicating liquor or narcotic drugs, who has:

(i)

(A) graduated from an expanded function dental assisting program at an accredited two-year college or other accredited institution which offers an associate degree;

(B) graduated from an accredited dental hygiene program which required the successful completion of at least seventy-five hours of clinical and didactic instruction in restorative functions; or

(C) completed a certification program in expanded function dental assisting of at least two hundred hours clinical and didactic instruction from an accredited dental assisting program; and

(ii) passed an examination adopted by the board pursuant to subsection (e).

(2) A person who on the effective date of this clause has been practicing as an expanded function dental assistant for at least five consecutive years prior to the effective date of this amendatory act and who presents a validation from the person's current dentist-employer may qualify for certification without satisfying the education requirements set forth in subclause (i) if the person passes the examination required by subclause (ii).

(e) To prescribe the subjects, character, manner, time and place of examinations and the filing of applications for examinations, and to conduct and provide for the conduct of the examinations in accordance with section 812.1 of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929"; to make written reports of such examinations, which reports shall be preserved in the Department of State for a period of not less than five years; to collect such fees for such examinations as may be fixed according to regulation; and to issue licenses and certificates to such applicants as successfully pass such examination.

(f) To accept and endorse, as valid in this Commonwealth, licenses to practice dentistry or as dental hygienists issued by another state or territory or by Canada, and to accept as properly qualified any applicant who has been examined and certified by the National Dental Examining Board, upon the payment of such fees as prescribed according to law for applicants in this State: Provided, That the standards of such other state, territory or of Canada or of such national board are, in the opinion of the board, equal to the standards of this Commonwealth: And provided further, That such other state, territory or Canada

shall recognize and endorse, as valid in such state or territory or in Canada, licenses issued by this Commonwealth.

(f.1) To accept and endorse, as valid in this Commonwealth, credentials to perform as an expanded function dental assistant issued by another state or territory or by Canada: Provided, That the standards of such other state or territory or of Canada are, in the opinion of the board, equal to the standards of this Commonwealth: And provided further, That such other state or territory or Canada shall recognize and endorse, as valid in such state or territory or in Canada, certificates issued by this Commonwealth.

(g) To prescribe the professional title or other designation which any person licensed or certified under this act may use in connection with his or her name in the practice of dentistry or as a dental hygienist or as an expanded function dental assistant, to regulate the use of the same, and to prosecute those who illegally use the same.

(g.1) To receive and record all filings of the names and fictitious names of providers of dental services but shall not make determinations or judgments as to the appropriateness of such names. ((g.1) added July 11, 1996, P.L.657, No.113)

(h) To investigate and conduct hearings, either before the membership of the board or committees thereof, and to discipline and prosecute those guilty of illegal practices.

(i) To suspend, revoke or refuse to grant licenses or certificates as further provided for in section 4.1.

(j) To provide for, regulate, and require biennial renewals of all persons licensed or certified in accordance with the provisions of this act; to prescribe the form of such renewals; to require, as a condition precedent to such biennial renewal, the payment of such biennial renewal fee as shall be fixed by regulation of the board, the maintenance of certification in cardiopulmonary resuscitation and the demonstration of continuing education credits required under this act; to issue biennial renewals to such persons; and to suspend or revoke the license or certificate of such persons as fail, refuse or neglect to renew biennially, comply with the requirements of subsection (j.2), or pay the appropriate fee. ((j) amended July 11, 1996, P.L.657, No.113)

(j.1) To require, as a condition of renewal of any license or certificate, the maintenance of current certification to administer cardiopulmonary resuscitation (CPR). The board may recognize the maintenance of certification in CPR or basic life support offered by a bona fide charitable organization. ((j.1) added July 11, 1996, P.L.657, No.113)

(j.2)

(1) To adopt, promulgate and enforce rules and regulations establishing requirements for continuing dental education to be met by persons licensed or certified under this act. The board shall approve sponsors of continuing education courses within one year of the effective date of regulations adopted to enforce this subsection. No credit may be given for courses in office management or practice building. The board may waive all or part of the continuing education requirement to a licensee who shows to the satisfaction of the board that he or she was unable to complete the requirement due to illness, emergency or hardship.

(2) The following requirements shall be satisfactorily completed in accordance with board regulations as a precedent to biennial renewal of a license or certification:

(i) Thirty credit hours for a person licensed to practice dentistry, including an individual licensed to practice dentistry under a restricted faculty license.

(ii) Twenty credit hours for a person licensed to practice dental hygiene. For a public health dental hygiene practitioner, five hours shall be public health-related courses.

(iii) Ten credit hours for a person certified to practice expanded function dental assisting.

((2) amended July 2, 2014, P.L.828, No.89)

(3) For the purposes of this subsection, one credit hour shall be defined as one clock hour of instruction.

((j.2) amended July 20, 2007, P.L.327, No.51)

(k) To keep a record of all licenses, certificates and biennial renewals, and to prescribe the form of such record.

(l) To submit biennially to the Department of State an estimate of the financial requirements of the board for administrative, investigative, legal, and miscellaneous expenses.

(m) To administer and enforce the laws of the Commonwealth relating to the practice of dentistry and dental hygienists and certified expanded function dental assistants, and to instruct and require its agents to bring prosecutions for unauthorized and unlawful practices.

(n) To keep minutes and records of all its transactions and proceedings.

(o) To adopt, promulgate, and enforce such rules and regulations as may be deemed necessary by the board and proper to carry into effect the powers hereby conferred.

(p) To hold at least four meetings a year for the conduct of its business upon giving public notice of such meetings in the manner provided by law.

(q) To submit annually to the Appropriations Committees of the House of Representatives and the Senate, fifteen days after the Governor has submitted his budget to the General Assembly, a copy of the budget request for the upcoming fiscal year which the board previously submitted to the Department of State.

(r) To submit annually a report to the Professional Licensure Committee of the House of Representatives and to the Consumer Protection and Professional Licensure Committee of the Senate a description of the types of complaints received, status of cases, board action which has been taken and the length of time from the initial complaint to final board resolution.

(s) To provide for the licensing of graduates of foreign dental schools in accordance with section 6.2.

(t) To purchase and publish, other than in the legal section, in a newspaper of general circulation in the area where the disciplined dentist conducts or recently conducted his or her practice, notice of all final disciplinary decisions which impose discipline amounting to more than a reprimand. The board shall not be required to comply with the provisions of this subsection in those cases in which the board places a dentist in a probationary program for drug or alcohol abuse or where, in the board's opinion, publication of the disciplinary decision would be detrimental to the licensee's rehabilitation and recovery.

(3 amended Dec. 27, 1994, P.L.1361, No.160)

Compiler's Note: Section 3 of Act 113 of 1996, which amended section 3, provided that the board shall promulgate regulations to implement Act 113. The requirement to demonstrate the completion of continuing education shall take effect beginning with the biennial renewal period to be designated by regulation of the board, after notice to licensees and certificate holders on the commencement of the biennial renewal period in which the requirement shall be effective.

Section 3.1. Restoration of Expired License.

a) Any person whose license or certificate issued under this act has expired for failure to make biennial registration over a period not exceeding five years may have the license or certificate reinstated upon presentation to the board of satisfactory evidence of having completed the biennial educational requirements which he or she would have been required to complete if the license or certificate had not expired, and payment of the biennial registration fee as established by regulation of the board.

(b) Any person whose license or certificate has expired for failure to make biennial registration over a period of more than five years shall apply to the board and may be required to submit to a reexamination in accordance with section 3.

(3.1 added July 11, 1996, P.L.657, No.113)

Section 3.2. Professional Liability Insurance.

(a) A person licensed and practicing dentistry shall maintain medical professional liability insurance in the minimum amount of one million dollars ($1,000,000) per occurrence or claim and three million dollars ($3,000,000) per annual aggregate. Acceptable coverage shall include:

(1) personally purchased medical professional liability insurance;

(2) self-insurance;

(3) medical professional liability insurance coverage provided by the dentist's employer; or

(4) medical professional liability insurance coverage provided by the community-based clinic for dentists with a volunteer license.

(b) An applicant for licensure or license renewal shall provide proof of medical professional liability insurance to the State Board of Dentistry in accordance with subsection (a) within sixty (60) days of the policy being issued.

(c) If an applicant for licensure or license renewal fails to submit proof of medical professional liability insurance or self-insurance required under subsection (a), the applicant's license shall be refused, revoked or suspended by the board.

(3.2 added June 22, 2012, P.L.638, No.65)

Section 4. Fees.

(a) The fee for an applicant for examination and licensure to practice dentistry or as a dental hygienist or certification for an expanded function dental assistant in this Commonwealth shall be fixed by the board by regulation. It shall be the duty of all persons now qualified and engaged in the practice of dentistry and dental hygiene or as a certified expanded function dental assistant, or who shall hereafter be licensed or certified by the board, to renew biennially with said board, and pay for each such biennial renewal a fee which shall be fixed by the board by regulation.

(b) All fees required pursuant to this act shall be fixed by the board by regulation and shall be subject to the act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory Review Act." If the revenues raised by fees, fines and civil penalties imposed

pursuant to this act are not sufficient to meet expenditures over a two-year period, the board shall increase those fees by regulation so that the projected revenues will meet or exceed projected expenditures.

(c) If the Bureau of Professional and Occupational Affairs determines that the fees established by the board are inadequate to meet the minimum enforcement efforts required by this act, then the bureau, after consultation with the board and subject to the "Regulatory Review Act," shall increase the fees by regulation in an amount that adequate revenues are raised to meet the required enforcement effort.

(d) All fees, fines and penalties collected under the provisions of this act shall be paid into the Professional Licensure Augmentation Account established pursuant to and for use in accordance with the act of July 1, 1978 (P.L.700, No.124), known as the "Bureau of Professional and Occupational Affairs Fee Act."

(4 amended Dec. 27, 1994, P.L.1361, No.160)

Section 4.1. Reason for Refusal, Revocation or Suspension of License or Certificate.

(a) The board shall have authority, by majority action, to refuse, revoke or suspend the license of any dentist, dental hygienist or restricted faculty licensee or certificate of an expanded function dental assistant for any or all of the following reasons: (Intro. par. amended July 2, 2014, P.L.828, No.89)

(1) Failing to demonstrate the qualifications or standards for a license contained in this act or regulations of the board.

(2) Making misleading, deceptive, untrue or fraudulent representations.

(3) Practicing fraud or deceit in obtaining a license to practice dentistry or dental hygiene or restricted faculty license or certificate for expanded function dental assisting or making a false or deceptive biennial renewal with the board.

((3) amended July 2, 2014, P.L.828, No.89)

(4) Having been found guilty of a crime or misdemeanor involving moral turpitude or having been found guilty of a felony in violation of the laws of this Commonwealth or any other state, territory or country. For purposes of this clause (4), the phrase "having been found guilty" shall include a finding or verdict of guilt, an admission of guilt or a plea of nolo contendere.

(5) Having a license to practice dentistry or dental hygiene or restricted faculty license or certificate for expanded

function dental assisting revoked, suspended or having other disciplinary action imposed or consented to by the proper licensing authority of another state, territory or country or his application for license refused, revoked or suspended by the proper licensing authority of another state, territory or country.

((5) amended July 2, 2014, P.L.828, No.89)

(6) Violating any of the provisions of this act or of a lawful regulation promulgated by the board or violating a lawful order of the board previously entered by the board in a disciplinary proceeding.

(7) Knowingly maintaining a professional connection or association with any person who is in violation of this act or regulations of the board or knowingly aiding, assisting, procuring or advising any unlicensed person to practice dentistry, including practice outside the scope of a restricted faculty license, or dental hygiene or uncertified person for expanded function dental assisting contrary to this act or regulations of the board.

((7) amended July 2, 2014, P.L.828, No.89)

(8) Engaging in unprofessional conduct. For purposes of this clause (8), unprofessional conduct shall include any departure from, or failure to conform to, the standards of acceptable and prevailing dental or dental hygiene practice, practice under a restricted faculty license and standard of care for expanded function dental assistants in which proceeding actual injury to the patient need not be established.

((8) amended July 2, 2014, P.L.828, No.89)

(9) Committing an act of gross negligence, malpractice or incompetence or repeated acts of negligence, malpractice or incompetence.

(10) Engaging in false, misleading or deceptive advertising.

(11) Being unable to practice dentistry or as a dental hygienist, as a restricted faculty licensee or as an expanded function dental assistant with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of controlled substances, chemicals or any other type of material, or as the result of any mental or physical condition. In enforcing this clause (11), the board shall, upon probable cause, have authority to compel a dentist, dental hygienist, restricted faculty licensee or expanded function dental assistant to submit to a mental or physical examination by physicians designated by the board. Failure of a dentist, dental hygienist, restricted

faculty licensee or expanded function dental assistant to submit to such examination when directed by the board, unless such failure is due to circumstances beyond his control, shall constitute an admission of the allegations against him, consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence. A dentist, dental hygienist, restricted faculty licensee or expanded function dental assistant affected under this clause (11) shall, at reasonable intervals, be afforded an opportunity to demonstrate that he or she can resume a competent practice of dentistry or dental hygiene or as a restricted faculty licensee or an expanded function dental assistant with reasonable skill and safety to patients.

((11) amended July 2, 2014, P.L.828, No.89)

(b) When the board finds that the license or certificate of any person may be refused, revoked or suspended under the terms of this section, the board may:

(1) Deny the application for license or certificate.

(2) Administer a public reprimand.

(3) Revoke, suspend, limit or otherwise restrict a license or certificate as determined by the board. Unless ordered to do so by a court, the board shall not reinstate the license of a person to practice dentistry, as a dental hygienist or as a restricted faculty licensee or certificate of an expanded function dental assistant, which has been revoked, and such person shall be required to apply for a license or certificate after a five-year period in accordance with section 3, if he or she desires to practice at any time after such revocation. Any person whose license or certificate has been suspended or revoked because of a felony conviction under the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or similar law of another jurisdiction, may apply for reinstatement after a period of at least ten (10) years has elapsed from the date of conviction. The board may reinstate the license or certificate if the board is satisfied that the person has made significant progress in personal rehabilitation since the conviction such that his reinstatement should not be expected to create a substantial risk of harm to the health and safety of his patients or the public or a substantial risk of further criminal violations and if the person meets all other licensing or certifying qualifications of this act, including the examination requirement.

((3) amended July 2, 2014, P.L.828, No.89)

(4) Require a licensee or certified expanded function dental assistant to submit to the care, counseling or treatment of a physician or psychologist designated by the board.

(5) Require that a licensee or certified expanded function dental assistant successfully complete a course of educational training and testing as directed by the board.

(6) Restore or reissue, in its discretion, a license to practice dentistry or dental hygiene or a restricted faculty license or certificate for an expanded function dental assistant and impose any disciplinary or corrective measures which it might originally have imposed.

((6) amended July 2, 2014, P.L.828, No.89)

(7) Suspend enforcement of its findings thereof and place a licensee or certified expanded function dental assistant on probation with the right to vacate the probationary order for noncompliance.

(8) Order any person found to have violated any provision of this act or the regulations governing the practice of dentistry to restore to any patient aggrieved by an unlawful act or practice, any moneys or property, real or personal, acquired by means of such act or practice, provided the board shall not order restitution in a dollar amount greater than those moneys received by the licensee or his agent.

(c) All actions of the board shall be taken subject to the right of notice, hearing and adjudication and the right of appeal therefrom in accordance with Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

(d) The board shall temporarily suspend a license or certificate under circumstances as determined by the board to be an immediate and clear danger to the public health or safety. The board shall issue an order to that effect without a hearing, but upon due notice, to the licensee or certified expanded function dental assistant concerned at his last known address, which shall include a written statement of all allegations against the licensee or certified expanded function dental assistant. The provisions of subsection (c) shall not apply to temporary suspension. The board shall thereupon commence formal action to suspend, revoke or restrict the license or certificate of the person concerned as otherwise provided for in this act. All actions shall be taken promptly and without delay. Within thirty days following the issuance of an order temporarily suspending a license or certificate, the board shall conduct, or cause to be conducted, a preliminary hearing to determine that there is a prima facie case supporting the suspension. The person whose

license or certificate has been temporarily suspended may be present at the preliminary hearing and may be represented by counsel, cross-examine witnesses, inspect physical evidence, call witnesses, offer evidence and testimony and make a record of the proceedings. If it is determined that there is not a prima facie case, the suspended license or certificate shall be immediately restored. The temporary suspension shall remain in effect until vacated by the board, but in no event longer than one hundred eighty days.

(e) The board shall require a person whose license or certificate has been suspended or revoked to return the license or certificate in such manner as the board directs. Failure to do so shall be a misdemeanor of the third degree.

(4.1 amended Dec. 27, 1994, P.L.1361, No.160)

Section 4.2. Temporary Volunteer Dental Licenses.

(a) The board shall issue a temporary volunteer license to an individual who meets all of the following requirements:

(1) Holds an active license to practice dentistry in this Commonwealth or in another state or territory.

(2) Documents to the satisfaction of the board that the applicant will practice dentistry in this Commonwealth without personal remuneration.

(3) Is current on all continuing education requirements.

(4) Demonstrates medical professional liability insurance coverage as required under section 3.2.

(5) Is not the subject of an ongoing disciplinary investigation.

(b) By request of the applicant, the board may issue:

(1) one thirty-day temporary volunteer license per applicant per year; or

(2) up to three ten-day temporary volunteer licenses per applicant per year.

(4.2 added Feb. 4, 2014, P.L.19, No.7)

Section 5. Hearing on Suspensions and Revocation of Licenses, Registrations and Certificates; Appeals.

Before the license of any licensee or any registration or certificate is suspended or revoked by the board, a written copy of the complaint made shall be furnished to the licensee, registrant and certificate holder against whom the same is directed and an opportunity be afforded him or her to be heard before the board, personally and by counsel. At least ten days' written notice of the time and place of such hearing shall be given the licensee, registrant or certificate holder by

registered mail addressed to the post office address as shown on the annual registration or other record or information in possession of the board.

(5 amended Dec. 27, 1994, P.L.1361, No.160)

Section 5.1. Automatic Suspension.

A license or certificate issued under this act shall automatically be suspended upon the legal commitment to an institution of a licensee or certificate holder because of mental incompetency from any cause upon filing with the board a certified copy of such commitment, conviction of a felony under the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or conviction of an offense under the laws of another jurisdiction, which, if committed in Pennsylvania, would be a felony under "The Controlled Substance, Drug, Device and Cosmetic Act." As used in this section the term "conviction" shall include a judgment, an admission of guilt or a plea of nolo contendere. Automatic suspension under this section shall not be stayed pending any appeal of a conviction. Restoration of such license or certificate shall be made as in the case of revocation or suspension of such license or certificate.

(5.1 amended Dec. 27, 1994, P.L.1361, No.160)

Section 6. Records to Be Public and Be Received in Evidence.

The records of the board shall be public and open to inspection during business hours. In all actions or proceedings in any court, a transcript of any board record or any part thereof, which is certified to be a true copy by the board, shall be entitled to admission in evidence.

(6 amended Dec. 20, 1985, P.L.513, No.118)

Section 6.1. Investigative Subpoenas.

The board shall have the authority to issue subpoenas, upon application of an attorney responsible for representing disciplinary matters before the board, for the purpose of investigating alleged violations of the disciplinary provisions administered by the board. Dental records may not be subpoenaed without consent of the patient or without order of a court of competent jurisdiction on a showing that the records are reasonably necessary for the conduct of the investigation. The court may impose such limitations on the scope of the subpoenas as are necessary to prevent unnecessary intrusion into patient confidential information. The board is authorized to apply to the Commonwealth Court to enforce its subpoenas.

(6.1 added Dec. 20, 1985, P.L.513, No.118)

Section 6.2. Licensing of Graduates of Foreign Dental Schools.

(a) An Advisory Committee to serve one six-month term from the effective date of this section, appointed by the board, consisting of three faculty members from dental schools accredited in

this Commonwealth, shall be charged with the responsibility of consulting with the aforesaid schools in order to develop programs and standards for graduates of foreign dental schools to qualify for licensure. The committee shall make recommendations and report to the board. The board shall report to the House Professional Licensure Committee and the Senate Committee on Consumer Protection and Professional Licensure, within six months of the effective date of this act, on the status and progress of this Advisory Committee. Thereafter, the board shall annually report to the House Professional Licensure Committee and the Senate Committee on Consumer Protection and Professional Licensure on programs and standards for graduates of foreign dental schools. The Advisory Committee members shall be compensated at the rate of sixty dollars ($60) per diem when actually attending to the work of the board and shall also receive the amount of reasonable traveling, hotel and other necessary expenses incurred in the performance of their duties in accordance with Commonwealth regulations.

(b) It is the intent of the General Assembly that the provisions of this section be construed liberally in order to ensure the establishment of viable and accessible programs through which graduates of foreign dental schools may obtain such further preclinical and clinical training as shall lead to the awarding of the D.M.D. or D.D.S. degree at accredited dental schools in this Commonwealth in order to qualify for licensure under the provisions of this act.

(6.2 added Dec. 20, 1985, P.L.513, No.118)

Section 7. Collection and Payment Over of Fees.

(7 repealed Dec. 20, 1985, P.L.513, No.118)

Section 8. Status of Existing Practitioners Preserved.

Any person licensed or legally authorized to practice dentistry or as a dental hygienist in this Commonwealth at the time this act takes effect shall thereafter continue to possess the same rights and privileges with respect to the practice of dentistry or as a dental hygienist without being required to be licensed anew under the provisions of this act, subject, however, to the power of the board, as provided in this act, to suspend or revoke the license of any such person for any of the causes set forth in this act, and subject to the power of the board to require any such person to renew biennially with the board, as provided in this act.

(8 amended Dec. 20, 1985, P.L.513, No.118)

Section 9. Employees and Assistants.

The Department of Public Instruction shall assign to the board such clerks, stenographers, assistants, and investigators as may be deemed necessary to carry out and enforce the provisions of this act.

Section 10. Penalties.

(a) It is unlawful for any person to practice dentistry or as a dental hygienist, as a restricted faculty licensee or as an expanded function dental assistant, or to hold himself or herself out as a practitioner of or entitled or authorized to practice dentistry or as a dental hygienist, as a restricted faculty licensee or as an expanded function dental assistant, or to assume any title of "dentist," "dental surgeon," "dental hygienist," "restricted faculty licensee," "expanded function dental assistant" or other letters or titles in connection with his or her name which in any way represent him or her as being engaged in the practice of dentistry or as a dental hygienist, as a restricted faculty licensee or as an expanded function dental assistant, or authorized so to do, unless he or she has been duly licensed or certified, and authorized to engage in such practice under the provisions of this act. A person who violates this subsection commits a misdemeanor of the third degree and shall, upon conviction, for a first offense, be sentenced to a fine not to exceed one thousand dollars ($1,000) or to imprisonment for not more than six months, or both. A second offense shall be subject to a fine not to exceed two thousand dollars ($2,000) or imprisonment for a term of six months to one year, or both.

((a) amended July 2, 2014, P.L.828, No.89)

(b) It is unlawful for any person to practice dentistry or as a dental hygienist, as a restricted faculty licensee or as an expanded function dental assistant under a name other than that on his or her license and biennial renewal, or to practice under the name on his or her license and biennial renewal with any addition thereto, except a purely technical appellation such as "Dentist," "D.D.S.," "Orthodontist" or other word or letters pertaining strictly to the practice of dentistry, or to induce any person to practice dentistry or as a dental hygienist, as a restricted faculty licensee or as an expanded function dental assistant in violation of this act.

((b) amended July 2, 2014, P.L.828, No.89)

(c) It is unlawful for any person to sell, offer to sell or barter or exchange any diploma or document conferring or purporting to confer any dental degree or any license or certificate issued according to law regulating the licensing of dentists, dental hygienists, restricted faculty licensees or expanded function dental assistants, or to alter any such document with fraudulent intent, or to use it as a license to practice dentistry under an assumed name, or to make any false statement in an affidavit relating to or in an application for a license.

((c) amended July 2, 2014, P.L.828, No.89)

(d) It is unlawful for any person to practice dentistry or as a dental hygienist or as an expanded function dental assistant unless his

or her license or certificate and biennial renewal certificate are displayed in the office in which he or she is practicing dentistry or as a dental hygienist or as an expanded function dental assistant.

(e) It is unlawful for a person practicing dentistry to employ a person as a dental hygienist unless such person is licensed as a dental hygienist as required by this act and the rules and regulations of the board or to employ a person as an expanded function dental assistant unless such person is certified as an expanded function dental assistant as required by this act and the rules and regulations of the board.

(f) It is unlawful for any dentist to permit any dental hygienist operating under his general supervision to perform any operation other than those included within practice as a "Dental Hygienist," as defined by section two of this act. It is unlawful for any dentist to permit any expanded function dental assistant operating under his or her direct supervision to perform any procedures other than those included within the definition of "Expanded Function Dental Assistant."

(g) It is unlawful for any dental hygienist to perform any of the operations included in practice as a "Dental Hygienist," as defined by section two of this act, except under the general supervision of a licensed dentist. It is unlawful for any expanded function dental assistant to perform any procedure within the definition of "Expanded Function Dental Assistant" which requires certification under this act unless such procedure is performed under the direct supervision of a licensed dentist.

(g.1) It is unlawful for any restricted faculty licensee to practice dentistry outside the primary facilities of the dental school in this Commonwealth at which the individual is licensed to teach.

((g.1) added July 2, 2014, P.L.828, No.89)

(h) Any person violating any of the provisions of this section other than subsection (a), or any other provisions of this act except as provided in subsection (a), shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars, or to suffer imprisonment not exceeding six months, or both, in the discretion of the court.

(10 amended Dec. 27, 1994, P.L.1361, No.160)

Section 10.1. Civil Penalties.

In addition to any other civil remedy or criminal penalty provided for in this act, the board, by a vote of the majority of the maximum number of the authorized membership of the board as provided by law, or by a vote of the majority of the duly qualified and confirmed membership or a minimum of six members, whichever is greater, may levy a civil penalty of up to one thousand dollars ($1,000) on any current licensee

who violates any provision of this act or on any person who practices dentistry or as a dental hygienist or as an expanded function dental assistant without being properly licensed or certified to do so under this act. The board shall levy this penalty only after affording the accused party the opportunity for a hearing as provided in Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

(10.1 amended Dec. 27, 1994, P.L.1361, No.160)

Compiler's Note: Section 3 of Act 25 of 2009, which amended section 5 of the act of July 2, 1993 (P.L.345, No.49), provided that section 10.1 is repealed insofar as it is inconsistent with the amendment of section 5.

Section 10.2. Disposition of Fines and Penalties.

All fines and civil penalties imposed in accordance with this act shall be paid into the Professional Licensure Augmentation Account.

(10.2 added Dec. 20, 1985, P.L.513, No.118)

Section 11. Right of Dentists to Practice as Dental Hygienists and as Expanded Function Dental Assistants; Dental Supplies; Death Certifications.

Nothing contained in this act shall be construed as prohibiting a duly licensed and registered dentist from performing the work of a dental hygienist or an expanded function dental assistant. Nothing contained in this act or any other act shall be construed as prohibiting a duly licensed dentist who is a staff member of an approved hospital from executing a medical certification in case of death if the dentist attended the deceased during the last illness, provided the death occurs in the hospital and the deceased had been admitted on the dental service and the circumstances are not such as to require a referral to the coroner under the provisions of any other act. Nothing contained in this act shall be construed to prevent any person, copartnership, association or corporation from manufacturing and furnishing to or repairing for, licensed dentists artificial teeth, crowns, bridges, prosthetic work, and regulating appliances, but it shall be unlawful and constitute the practice of dentistry for any person to fit, or attempt to fit, or to furnish to or repair for any other person artificial teeth, crowns, bridges, prosthetic work, or appliances.

(11 amended Dec. 27, 1994, P.L.1361, No.160)

Section 11.1. Dental Technicians; Prescriptions.

(a) As used in this section, "dental technician" means any person not licensed to practice dentistry in this State engaged in the business of constructing, altering, repairing or duplicating dentures, plates, partial plates, bridges, splints and orthodontic or prosthetic appliances.

(b) Any dentist who uses the services of a dental technician in this State shall furnish him with a written prescription on forms

prescribed by the board, which shall contain: (1) the name and address of the dental technician; (2) The patient's name or identification number. If a number is used the patient's name shall be written upon the duplicate copy of the prescription retained by the dentist; (3) The date on which the prescription was written; (4) A prescription of the work to be done, with diagrams if necessary; (5) A specification of the type and quality of materials to be used; (6) The signature of the dentist and his license number.

The dental technician shall retain the original prescription, and the dentist shall retain a duplicate copy thereof for inspection by the board or its agent for a period of two years.

(c) It shall be unlawful for any dentist to--(1) Use the services of a dental technician without first furnishing him with a prescription; (2) Fail to retain a duplicate copy of the prescription for two years; (3) Refuse to allow the board or its agent to inspect his files of prescriptions.

(d) It shall be unlawful for any dental technician to furnish services to any dentist without first obtaining a prescription therefor from him, or to fail to retain the original prescription for two years, or to refuse to allow the board or its agent to inspect his files.

(e) Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars ($500) or to suffer imprisonment not exceeding six months, or both.

(11.1 amended May 13, 1959, P.L.316, No.59)

Section 11.2. Anesthesia.

(a) The board shall do all of the following:

(1) Establish minimal training and education or certification for the issuance of permits to dentists to administer general anesthesia on an outpatient basis. The board shall require a minimum of one year in an approved program of advanced training in anesthesiology and related academic subjects, beyond the undergraduate dental school level.

(2) Establish further requirements relating to the use of general anesthesia, including, but not limited to, the collection of permit fees, temporary permit fees, biennial renewal fees, office inspection fees, clinical evaluation fees, equipment standards and the conducting of workplace inspections.

(3) Establish minimal training and education for the issuance of permits to dentists to administer conscious sedation

on an outpatient basis. The board shall require a minimum period of time of didactic instruction and clinical experience in an accredited educational institution or program.

(4) Establish further requirements relating to the use of conscious sedation, including, but not limited to, the collection of permit fees, temporary permit fees, biennial renewal fees, office inspection fees, clinical evaluation fees, equipment standards and the conducting of workplace inspections.

(5) Establish minimal training and education for the issuance of permits to dentists to administer nitrous oxide/oxygen analgesia on an outpatient basis. The board shall require a minimum period of time of didactic instruction or clinical experience in an accredited educational institution or program.

(6) Establish further requirements relating to the use of nitrous oxide/oxygen analgesia, including, but not limited to, the collection of permit fees, temporary permit fees, biennial renewal fees, equipment standards and the conduct of workplace inspections.

(b)

(1) Beginning April 1, 2004, prior to issuing initial permits to administer general anesthesia, deep sedation or conscious sedation, the board shall require permit applicants to satisfactorily undergo clinical evaluations and office inspections. The board may contract with dental schools, organizations or individuals having expertise in dental outpatient anesthesia to perform the office inspections and clinical evaluations. A written report of the results of all inspections and evaluations shall be provided to the board in a timely manner. If the results of the evaluation or inspection are deemed unsatisfactory, subsequent evaluations or inspections may be conducted within a reasonable time upon written request of the applicant. No permit shall be issued until the applicant satisfactorily completes a clinical evaluation and office inspection.

(2) Beginning April 1, 2004, prior to issuing initial permits to administer nitrous oxide/oxygen analgesia, the board shall require permit applicants to provide the make, model and serial number of any nitrous oxide/oxygen analgesia equipment utilized by the applicant and certification that the equipment is in proper working order. Thereafter, such permit holders shall provide evidence to the board that their equipment is properly calibrated at least once every six years.

(3) The board shall establish standards and procedures necessary to perform clinical evaluations and office inspections which shall include the requirement that equipment be maintained in good working order and in accordance with the manufacturer's specifications. The standards for equipment shall be updated periodically. All staff assisting in the administration of anesthesia shall, at a minimum, maintain a current certification to administer cardiopulmonary resuscitation (CPR).

(4) The board shall require permit holders who travel to office locations other than their own to administer anesthesia to ensure that the office location has the equipment required by the board and that the staff is properly trained to handle anesthesia-related emergencies.

(5) The board shall prohibit a licensee who does not possess a permit issued pursuant to this section from allowing general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia to be administered on an outpatient basis in his or her dental office unless the office is in compliance with this section, including the requirements pertaining to equipment and staffing.

(6) As a condition of permit renewal for the biennial renewal period beginning April 1, 2005, the board shall require permit holders for the administration of general anesthesia, deep sedation and conscious sedation to have satisfactorily undergone a clinical evaluation and office inspection pursuant to this section. The board may waive this requirement for permit holders who can demonstrate to the board's satisfaction that he or she has satisfactorily undergone a clinical evaluation, administered by an organization acceptable to the board, within the six years immediately preceding the effective date of this clause. Thereafter, permit holders shall satisfactorily undergo clinical evaluations and office inspections at least once every six years.

(c) Beginning on April 1, 2004, the board may issue temporary permits to administer general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia, which shall be valid for one year, to individuals whose application indicates that he or she possesses the necessary qualifications pending a complete processing of the application. Temporary permits shall not be subject to renewal.

(d) As a condition of permit renewal for the biennial renewal period beginning April 1, 2005, and all renewal periods thereafter, the board shall require general anesthesia and deep sedation permit holders to have completed fifteen hours of board-approved courses of study related to general anesthesia and deep

sedation and require conscious sedation permit holders to have completed fifteen hours of board-approved courses of study related to conscious sedation. Licensees who are not permit holders but who maintain offices in which general anesthesia, deep sedation or conscious sedation is administered shall have completed five hours of board-approved courses of study related to anesthesia. Continuing anesthesia education shall be credited toward a permit holder's or licensee's continuing education requirement under section 3(j.2) of this act.

(e) The board shall require permit holders to conduct a physical evaluation and take a medical history of a patient prior to the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia and maintain records of the physical evaluation, medical history and anesthesia procedures utilized.

(f) The board shall require permit holders to obtain the written informed consent of a patient prior to the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia. The consent shall include, but not be limited to, a description of the procedure, its risks and possible alternative treatments. In the case of a minor patient, the consent shall be obtained from the minor's parent or guardian.

(11.2 amended Nov. 25, 2002, P.L.1109, No.135)

Compiler's Note: Section 2 of Act 135 of 2002, which amended section 11.2, provided that the State Dental Council and Examination Board shall promulgate regulations necessary to administer Act 135 within one year of the effective date of section 2 of Act 135.

Section 11.3. Reports of Adverse Occurrences.

All licensees engaged in the practice of dentistry in this Commonwealth shall within thirty days from the date of the occurrence submit a complete report to the board regarding any mortality or unusual incidents requiring medical care and resulting in physical or mental injury of patients as a direct result of the administration of anesthesia or drugs. Mortalities not related to drugs or anesthesia must also be reported to the board within a period of thirty days from the date of occurrence.

(11.3 added Dec. 20, 1985, P.L.513, No.118)

Section 11.4. Radiologic Procedures; Education and Training Required.

(a) On and after January 1, 1987, no auxiliary personnel except dental hygienists and public health dental hygiene practitioners shall perform radiologic procedures on the premises of the dentist unless such person is under the direct supervision of a dentist who is on the premises at the time the X-ray is taken and unless such person has passed an examination approved

by the board and administered in accordance with section 812.1 of the act of April 9, 1929 (P.L.177, No.175) known as "The Administrative Code of 1929." ((a) amended July 20, 2007, P.L.327, No.51)

(b) The board shall, by regulation, provide for the exclusion of auxiliary personnel from performing radiologic procedures if the continued performance of radiologic procedures by the auxiliary personnel is determined by the board to pose a threat to the health, safety or welfare of the public.

(c) It shall be unlawful under this act to knowingly permit radiologic procedures to be performed in violation of this section or in violation of the regulations promulgated on orders issued in accordance with this section.

(d) No auxiliary personnel who has or obtains a license, certificate or registration issued by, or on behalf of, a board within the Bureau of Professional and Occupational Affairs shall be required to undergo any additional education or testing pursuant to this section if radiologic procedures were included in the education or the examination which he or she was required to complete successfully in order to be eligible for such license, certificate or registration.

(e) Notwithstanding the supervision requirements of this act, a public health dental hygiene practitioner may perform radiological procedures in any setting without supervision of a dentist on or after the effective date of this subsection. ((e) added July 20, 2007, P.L.327, No.51)

(f) A dental hygienist may perform radiologic procedures in any setting under the general supervision of a licensed dentist. For the purposes of this subsection, "general supervision" means supervision by a dentist who examines the patient, develops a dental treatment plan, authorizes the performance of the radiologic services to be performed within one year of the examination and takes full professional responsibility for performance of the dental hygienist. ((f) added July 20, 2007, P.L.327, No.51)

(11.4 added Dec. 20, 1985, P.L.513, No.118)

Section 11.5. Reporting of Multiple Licensure or Certification.

Any licensed dentist or dental hygienist, restricted faculty licensee or certified expanded function dental assistant of this Commonwealth who is also licensed to practice dentistry or as a dental hygienist, as a restricted faculty licensee or a certified expanded function dental assistant in any other state, territory or country shall report this information to the board on the biennial renewal application. Any disciplinary action taken in other states, territories or countries shall be reported to the board on the biennial renewal application or within

ninety (90) days of disposition, whichever is sooner. Multiple licensure or certification shall be noted by the board on the dentist's, dental hygienist's, restricted faculty licensee's or expanded function dental assistant's record, and such state, territory or country shall be notified by the board of any disciplinary actions taken against the dentist, dental hygienist or restricted faculty licensee in this Commonwealth.

(11.5 amended July 2, 2014, P.L.828, No.89)

Section 11.6. Impaired Professional.

(a) The board, with the approval of the Commissioner of Professional and Occupational Affairs, shall appoint and fix the compensation of a professional consultant who is a licensee of the board, or such other professional as the board may determine, with education and experience in the identification, treatment program and rehabilitation of persons with physical or mental impairments. Such consultant shall be accountable to the board and shall act as a liaison between the board and treatment programs, such as alcohol and drug treatment programs licensed by the Department of Health, psychological counseling and impaired professional support groups which are approved by the board and which provide services to licensees under this act.

(b) The board may defer and ultimately dismiss any of the types of corrective action set forth in this act for an impaired professional so long as the professional is progressing satisfactorily in an approved treatment program, provided that the provisions of this subsection shall not apply to a professional convicted of a felonious act prohibited by the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or convicted of, pleaded guilty to or entered a plea of nolo contendere to a felony relating to a controlled substance in a court of law of the United States or any other state, territory or country. An approved program provider shall, upon request, disclose to the consultant such information in its possession regarding an impaired professional in treatment which the program provider is not prohibited from disclosing by an act of this Commonwealth, another state or the United States. Such requirement of disclosure by an approved program provider shall apply in the case of impaired professionals who enter an agreement in accordance with this section, impaired professionals who are the subject of a board investigation or disciplinary proceeding and impaired professionals who voluntarily enter a treatment program other than under the provisions of this section but who fail to complete the program successfully or to adhere to an aftercare plan developed by the program provider.

(c) An impaired professional who enrolls in an approved treatment program shall enter into an agreement with the board under

which the professional's license shall be suspended or revoked, but enforcement of that suspension or revocation may be stayed for the length of time the professional remains in the program and makes satisfactory progress, complies with the terms of the agreement and adheres to any limitations on his practice imposed by the board to protect the public. Failure to enter into such an agreement shall disqualify the professional from the impaired professional program and shall activate an immediate investigation and disciplinary proceeding by the board.

(d) If, in the opinion of the consultant after consultation with the provider, an impaired professional who is enrolled in an approved treatment program has not progressed satisfactorily, the consultant shall disclose to the board all the information in his possession regarding said professional, and the board shall institute proceedings to determine if the stay of the enforcement of the suspension or revocation of the impaired professional's license shall be vacated.

(e) An approved program provider who makes a disclosure pursuant to this section shall not be subject to civil liability for such disclosure or its consequences.

(f) Any hospital or health care facility, peer or colleague who has substantial evidence that a professional has an active addictive disease for which the professional is not receiving treatment, is diverting a controlled substance or is mentally or physically incompetent to carry out the duties of his or her license shall make or cause to be made a report to the board: Provided, That any person or facility who acts in a treatment capacity to an impaired professional in an approved treatment program is exempt from the mandatory reporting requirements of this subsection. Any person or facility who reports pursuant to this section in good faith and without malice shall be immune from any civil or criminal liability arising from such report. Failure to provide such report within a reasonable time from receipt of knowledge of impairment shall subject the person or facility to a fine not to exceed one thousand dollars ($1,000). The board shall levy this penalty only after affording the accused party the opportunity for a hearing, as provided in Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

(11.6 added Dec. 20, 1985, P.L.513, No.118)

Section 11.7. Temporary Permits for Expanded Function Dental Assistants.

(a) Until a certification examination is developed and administered by a professional testing organization, the board shall issue temporary permits to expanded function dental assistants who meet the requirements of section 3(d.1), excluding subclause (ii) of clause (1).

(b) Temporary permits shall be valid until the results of the first certification examination pursuant to section 3(d.1) have been announced. A temporary permit shall expire if the holder fails the certification examination. An appropriate fee for a temporary permit shall be established by the board by regulation. If they are not in violation of any other provision of the act and have satisfied the requirements of section 3(d.1), holders of temporary permits shall qualify for admission to the licensing examination and shall apply for the next regularly scheduled certification examination.

(11.7 added Dec. 27, 1994, P.L.1361, No.160)

Section 11.8. Additional Definition.

As used in this act, "Assignment of Duties" shall mean the assignment by a dentist to another person of services and procedures which are performed in the office of a dentist. A dentist may assign to such competent person or persons as the dentist deems appropriate those services and procedures performed in the dental office in which the dentist is practicing but which do not require the professional competence and skill of a dentist or dental hygienist or expanded function dental assistant. Such assignment of services and procedures shall be under the direct supervision of a licensed dentist. This section shall not be construed as authorizing the delegation or assignment of diagnosing, treatment planning and writing prescriptions for drugs or writing authorizations for restorative, prosthetic or orthodontic appliances.

(11.8 added Dec. 27, 1994, P.L.1361, No.160)

Section 11.9. Public Health Dental Hygiene Practitioner.

(a) Public Health dental hygiene practitioners must satisfy and shall be certified by the board upon meeting the following criteria:

(1) Met the requirements for a dental hygienist license and successfully passed the required examination for a dental hygienist.

(2) Completion of three thousand six hundred hours of practice under the supervision of a licensed dentist.

(3) Purchase of a malpractice policy in an amount determined to be adequate by the board.

(b) The professional practice of a public health dental hygiene practitioner shall be limited to the following practice sites:

(1) Schools.

(2) Correctional facilities.

(3) Health care facility" as defined in section 802.1 of the act of July 19, 1979 (P.L.130, No.48), known as the "Health Care Facilities Act."

(4) "Personal care home" as defined in section 1001 of the

act of June 13, 1967 (P.L.31, No.21), known as the "Public Welfare Code."

(5) "Domiciliary care" as defined in section 2202-A of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."

(6) An "older adult daily living center" as defined in section 2 of the act of July 11, 1990 (P.L.499, No.118), known as the "Older Adult Daily Living Centers Licensing Act."

(7) A "facility" as defined in section 3 of the act of June 18, 1984 (P.L.391, No.82), known as the "Continuing-Care Provider Registration and Disclosure Act."

(8) A federally qualified health center.

(9) A public or private institution under the jurisdiction of a Federal, State or local agency.

(10) Other locations the board deems appropriate.

((10) amended Nov. 4, 2015, P.L.226, No.60)

(c) The public health dental hygiene practitioner shall refer the patient to a licensed dentist on an annual basis. The failure to see a dentist as referred shall not prevent the patient from continuing to receive treatment from the public health dental hygiene practitioner.

(d) A school dental hygienist who is licensed as a public health dental hygiene practitioner and who, as a certified education specialist, is required to obtain continuing professional education under this act and under section 1205.2 of the act of March 10, 1949 (P.L.30, No.14), known as the "Public School Code of 1949," shall be permitted to submit evidence of the completion of education courses approved for their certification by the school district.

(11.9 added July 20, 2007, P.L.327, No.51)

Section 11.10. Scope of Practice for Expanded Function Dental Assistant.

(a) An expanded function dental assistant may perform the following procedures:

(1) Placing and contouring amalgam and other restorative materials.

(2) Perform coronal polishing.

(3) Perform fluoride treatments, including fluoride varnish.

(4) Take impressions of teeth for athletic appliances.

(b) An expanded function dental assistant may not perform the following procedures:

(1) Complete or limited examination, diagnosis and treatment planning.

(2) Surgical or cutting procedures of hard or soft tissue.

(3) Prescribing drugs, medicaments or work authorizations.

(4) Taking impressions other than for study models, diagnostic casts or athletic appliances.

(5) Final inspection and approval of restorative and other treatment which affects occlusion and any necessary occlusal adjustments.

(6) Pulp capping, pulpotomy and other endodontic procedures.

(7) Placement and intraoral adjustments of fixed and removable prosthetic appliances.

(8) Administration of local anesthesia, parenteral or inhalational sedation or general anesthesia.

(11.10 added April 29, 2010, P.L.176, No.19)

Compiler's Note: Section 4 of Act 19 of 2010, which added section 11.10, provided that the State Board of Dentistry shall promulgate regulations to implement Act 19 within 18 months of the effective date of section 4.

Section 11.11. Restricted Faculty License.

(a) The board shall grant without examination a restricted faculty license to any qualified individual, not less than twenty-five years of age, of good moral character, not addicted to the use of intoxicating liquor or narcotic drugs, who satisfies the following criteria:

(1) Is licensed to practice or teach dentistry by the proper licensing authority of another state, country or United States territory.

((1) amended Nov. 4, 2015, P.L.226, No.60)

(2) Is not licensed to practice dentistry in this Commonwealth.

(3) Has successfully completed a specialty dentistry program, or advanced dental training in a clinical field, that is approved by the Commission on Dental Accreditation of the American Dental Association.

(4) Holds an appointment to the faculty of a dental school in this Commonwealth that is approved by the Commission on Dental Accreditation of the American Dental Association to teach dentistry.

(5) Has not failed an examination for a license to practice dentistry in this Commonwealth.

(6) Has met educational requirements as set by the board.

(7) Submits a completed application and an application fee in the same amount as the fee prescribed by the board for licensure to practice dentistry.

(b) A restricted faculty license shall entitle the licensee to engage in direct clinical teaching, which shall include practicing clinical care for the purpose of instructing and teaching students and residents, and supervision of care provided by students and residents, in no more than one area of specialty, only within the educational facilities of a dental school in this Commonwealth that is approved by the Commission on Dental Accreditation of the American Dental Association. Licensees shall be limited to the primary facilities within the dental school and may not engage in clinical teaching at satellite or other off-campus sites, such as clinics. The practice of dentistry at any satellite or off-campus site requires an unrestricted license to practice dentistry issued by the board.

(c) A restricted faculty licensee may receive additional compensation, to be paid by the dental school, for clinical care provided in accordance with subsection (b).

(d) A restricted faculty license may be renewed on a biennial basis, upon completion of thirty hours of continuing education and the payment of a biennial renewal fee in the same amount as the fee prescribed by the board for renewal of licensure to practice dentistry.

(e) A restricted faculty licensee shall comply with the requirements for insurance as provided for in this act.

(11.11 added July 2, 2014, P.L.828, No.89)

Section 12. Constitutional Construction.

The provisions of this act are severable, and if any of its provisions are declared unconstitutional, the decision so holding shall not be construed as impairing any other provision of this act. It is hereby declared as the legislative intent that this act would have been adopted had such unconstitutional provisions not been included therein.

APPENDIX

Supplementary Provisions of Amendatory Statutes

1985, DECEMBER 20, P.L.513, NO.118

Section 13.

Each rule and regulation of the board in effect on the effective date of this act shall remain in effect after such date until amended by the board, provided that the board shall immediately initiate the repeal or amendment of any rule or regulation which is inconsistent with the provisions of this act. Each fee of the board in effect on the effective date of this act, and not inconsistent with this act, shall remain in effect after such date until repealed or amended in accordance with this act.

Compiler's Note: Act 118 added or amended sections 2, 2.1, 3, 4, 4.1, 6, 6.1 and 6.2, repealed section 7 and added or amended sections 8, 10, 10.1, 10.2, 11, 11.2, 11.3, 11.4, 11.5 and 11.6 of Act 76.

Section 14.

Persons who are members of the State Dental Council and Examining Board, on the effective date of this act, shall serve on the State Board of Dentistry as provided for in this act until their present terms of office expire, provided that any present board member whose term has expired on or before the effective date of this act shall serve until a successor has been duly appointed and qualified, but no longer than six months after the effective date of this act.

Section 15.

Any person who holds a valid license issued by the State Dental Council and Examining Board prior to the effective date of this amendatory act shall, on and after the effective date hereof, be deemed to be licensed by the State Board of Dentistry as provided for in this act.

Section 16.

This act, with respect to the State Dental Council and Examining Board, shall constitute the legislation required to reestablish an agency pursuant to the act of December 22, 1981 (P.L.508, No.142), known as the Sunset Act.

pennsylvania
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