

CHAPTER 97

H.B. No. 728

An Act relating to certain administrative procedures used by the State Board of Dental Examiners in considering complaints presented to the board.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 2, Chapter 501, Acts of the 45th Legislature, Regular Session, 1937 (Article 4548h, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2. REVOCATION, CANCELLATION, OR SUSPENSION OF LICENSE. (a) The State Board of Dental Examiners shall ~~and it shall be their duty, and they are hereby authorized to~~ revoke, cancel or suspend any license or licenses that may have been issued by such Board, if in the opinion of a majority of such Board, any person or persons to whom a license has been issued by said Board to practice dentistry in this State, shall have, after the issuance of such license, violated any of the provisions of the Statutes of the State of Texas relating to the practice of dentistry in this State, or any of the provisions of Chapter 9, Title 71, Revised Civil Statutes of Texas, 1925, as amended, or any amendments that may hereafter be made thereto. All revocations, cancellations or suspensions of licenses by the Texas State Board of Dental Examiners shall be made *in the manner* ~~as hereinafter~~ provided by the *Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes)*.

(b) All complaints to be considered by the Board shall be made in writing, subscribed and sworn to by the person presenting such complaint, which complaint shall set out the alleged violations of such Statutes and declaring it to be the opinion of the person presenting such complaint that the person or persons so accused have so violated said Statutes.

(c) All complaints as received shall be *filed with* ~~presented to~~ the Secretary of the Board or an authorized employee of the Board ~~who shall cause copies of all complaints to be made and mailed or delivered to each member of the Board~~. When a complaint is made by a member of the Board, its agents or employees, the Secretary of the Board shall cause such complaint to be docketed on its records in the name of the Texas State Board of Dental Examiners versus the person against whom such complaint has been made, and shall mail a copy of such docketed complaint by registered mail to the accused person under the jurisdiction of the

Texas State Board of Dental Examiners charged with having violated such Statutes. When a complaint is made by others than the members of the Board, its agents or employees, the Board or its duly authorized representative shall cause an investigation of such complaint to be made to determine the facts in such case, and if the facts as determined by such investigation, in the discretion of the Secretary of the Board, justify the docketing of such complaint for hearing before the Board, then the Secretary of the Board shall cause such complaint to be docketed on its records in the name of the Texas State Board of Dental Examiners versus the person against whom such complaint has been made, and shall mail a copy of such docketed complaint by registered mail to the accused person under the jurisdiction of the Texas State Board of Dental Examiners charged with having violated such Statutes.

~~[The Secretary of the Board or its authorized officer or employee shall not less than ten (10) days prior to the next meeting of the Board called for the purpose of hearing and considering such complaint, mail by registered mail to the last known address of such person or persons against whom a complaint has been so docketed a notice of hearing, which notice shall contain the date, time, and place of the meeting of the Texas State Board of Dental Examiners called to consider such complaint, and such notice shall contain the alleged violations of such Statutes, and shall state that such accused person may appear and offer such evidence as is pertinent to his defense to such complaint. Such hearing shall be governed by such rules and regulations as may be prescribed by the Board, and the Board shall have the authority to subpoena and compel the attendance of such licensees or other persons deemed to have knowledge which would aid the Board in reaching a proper decision and for the enforcement of this Act. After such hearing, the Board shall enter an order in its minutes, as in the opinion of the majority of the Board the facts brought out at such hearing justify and require. Provided, however, that any order cancelling or revoking or suspending such license or licenses shall be signed by a majority of such Board and by all the members of such Board present at such hearing. Provided that when the license of such licensee is revoked or cancelled he shall be allowed to continue the practice of his profession pending appeal upon his giving a supersedeas bond in such amount as shall be set by the District Court, conditioned to faithfully observe the law.]~~

SECTION 2. Section 5(b), Article 4549, Revised Statutes, is amended to read as follows:

(b) All complaints as received shall be ~~filed with~~~~[presented to]~~ the Secretary of the Board or an authorized employee of the Board ~~[who shall cause copies of all complaints to be made and mailed or delivered to each member of the Board]~~. When a complaint is made by a member of the Board, its agents or employees, the Secretary of the Board or its authorized employee shall cause such complaint to be docketed on its records in the name of the Texas State Board of Dental Examiners versus the person against whom such complaint has been made, and shall mail a copy of such docketed complaint by registered or certified mail to the accused person under the jurisdiction of the Texas State Board of Dental Examiners charged with having violated such Statutes or rules. When a complaint is made by others than the members of the Board, its agents or employees, the Board or its duly authorized representative shall cause an investigation of such complaint to be made to determine the facts in such case, and if the facts as determined by such investigation, in the discretion of the Secretary of the Board or its authorized employee, justify the docketing of such complaint for hearing before the Board, then the Secretary of the Board or its authorized employee shall cause such complaint to be docketed on its records in the name of the Texas State Board of Dental Examiners versus the person against whom such complaint has been made, and shall mail a copy of such docketed complaint by registered or certified mail to the accused person under the jurisdiction of the Texas State Board of Dental Examiners charged with having violated such Statutes or rules.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on March 28, 1985, by the following vote: Yeas 135, Nays 0, 2 present, not voting; passed by the Senate on April 25, 1985, by the following vote: Yeas 30, Nays 0.

Approved: May 9, 1985

Effective: Immediately