

CHAPTER 306

H.B. No. 742

An Act relating to the regulation of dentistry.

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

SECTION 1. Section 3, Article 4549, Revised Statutes, is amended to read as follows:

Sec. 3. The Texas State Board of Dental Examiners and the District Courts of this State shall have concurrent jurisdiction and authority, after notice and hearing as hereinafter provided, to suspend or revoke a dental license or a dental hygienist license, to place on probation a person whose license or certificate is suspended, or to reprimand a licensee or certificate holder, *and in addition to or in lieu of said suspension, revocation, probation, or reprimand, to assess a fine in an*

amount not to exceed \$2,500 payable to the dental registration fund for any one or more of the following causes:

- (a) Proof of insanity of the holder of a license or certificate, as adjudged by the regularly constituted authorities.
- (b) Proof of conviction of the holder of a license or certificate of any felony or a misdemeanor involving fraud under the laws of this State or any other State or of the United States.
- (c) That the holder thereof has been or is guilty of dishonorable conduct, malpractice or gross incompetency in the practice of dentistry or dental hygiene.
- (d) That the holder thereof has been or is guilty of any deception or misrepresentation for the purpose of soliciting or obtaining patronage.
- (e) That the holder thereof procured a license or certificate through fraud or misrepresentation.
- (f) That the holder thereof is addicted to habitual intoxication or the use of drugs.
- (g) That a dentist employs or permits or has employed or permitted persons to practice dentistry in the office or offices under his control or management, who were not licensed to practice dentistry.
- (h) That the holder thereof has failed to use proper diligence in the conduct of his practice or to safeguard his patients against avoidable infections.
- (i) That the holder thereof has failed or refused to comply with any State law relating to the regulation of dentists or dental hygienists.
- (j) That the holder thereof has failed or refused to comply with the adopted and promulgated rules and regulations of the Board.
- (k) That the holder thereof is physically or mentally incapable of practicing with safety to dental patients.
- (l) That the holder thereof has been negligent in the performance of dental services which injured or damaged dental patients.
- (m) Proof of suspension, revocation, probation, reprimand, or other restriction by another State of a license or certificate to practice dentistry or dental hygiene based upon acts by the licensee or certificate holder enumerated in this section.
- (n) That the holder thereof has knowingly provided or agreed to provide dental care in a manner which violates any provision of federal or State law regulating a plan whereby any person undertakes to provide, arrange for, pay for, or reimburse any part of the cost of any dental care services or regulating the business of insurance.

SECTION 2. Section 1, Article 4550a, Revised Statutes, is amended to read as follows:

Sec. 1. It shall be the duty of all persons holding a dental license or dental hygienist license issued by the State Board of Dental Examiners, to annually apply and to be registered as such practitioners with the State Board of Dental Examiners on or before March 1st of each calendar year. Each person so registering shall pay in connection with such annual registration for the receipt hereinafter provided for, a fee as determined by said Board according to the needs of said Board, such payment to be made by each person to such Board, and every person so registering shall file with said Board a written application setting forth such facts as the Board may require. A person holding a dental hygienist license must attach to the application proof that the person has successfully completed a course in cardiopulmonary resuscitation given or approved by the American Heart Association or American Red Cross not earlier than one year before the date on which the license must be renewed or, in the event that the person is not physically capable of successfully completing such training, a written statement executed by either a licensed physician or an instructor in cardiopulmonary resuscitation approved by the American Heart Association or American Red Cross that describes such physical incapacity. *In lieu of this requirement for annual cardiopulmonary resuscitation certification, a dental hygienist licensed by the Texas State Board of Dental Examiners and residing in a country other than the United States may satisfy this requirement by submitting proof of residence upon the annual date of renewal.* Upon receipt of such applications, accompanied by such fees, said Board, after ascertaining either from its records or other sources deemed by it to be reliable, that the applicant holds a valid license or certificate to practice in this State, shall issue to the applicant an annual registration certificate or receipt certifying that he has filed such application and has paid the required fee; provided, that the filing of such application, the payment of such fee, and the issuance of such receipt therefor, shall not entitle the holder thereof to lawfully practice within the State of Texas unless he in fact holds a license or certificate as such practitioner issued by the State Board of Dental Examiners, as provided by this law, and unless said license or certificate is in full force and effect; and provided further, that in any prosecution for unlawful practice such receipt showing payment of the annual registration fee required by this chapter shall not be treated as evidence that the holder thereof is lawfully entitled to practice.

SECTION 3. Subsection (a), Section 4, Article 4550a, Revised Statutes, is amended to read as follows:

(a) To aid the Board in performing its duties, the Board is hereby authorized to employ an Executive Secretary or Director who shall receive a salary to be fixed by the Board, and who shall make and file a surety bond in a sum not less than Five Thousand Dollars (\$5,000) conditioned for the faithful performance of all the duties of his office and the safekeeping and proper disbursement of said "Dental Registration Fund" and all other funds coming into his hands; such salary shall be paid out of said "Dental Registration Fund" and shall not be in any way a charge upon the general revenue of the State. *The Executive Director, with the consent of the Board, may employ an Assistant Executive Director who shall perform all the duties required by law to be performed by the Executive Director when said Executive Director is absent or unable to act for any reason.* Said Board shall employ and provide such other employees as may be needed to assist the Executive Secretary or Director in performing his duties and in carrying out the purposes of this Act, provided that their compensation shall be paid only out of the said "Dental Registration Fund." All disbursements from "Dental Registration Fund" shall be made only upon the written approval of the President of the Board, Secretary of said Board, or an employee designated by the Board and upon warrants drawn by the Comptroller to be paid out of said fund.

SECTION 4. Subsection (b), Article 4551, Revised Statutes, is amended to read as follows:

(b) The Board shall establish reasonable and necessary fees for the administration of this Act in amounts not to exceed:

- (1) dental examination fee: \$150;
- (2) dental hygiene examination fee: \$75;
- (3) annual renewal fees:
 - dentists: \$75,
 - dental hygienists: \$50,
 - dental labs: \$100 [~~200~~];
- (4) reciprocal registration fee: \$150;
- (5) duplicate license fee: \$15;
- (6) duplicate registration certificates: \$15.

The Board shall not maintain unnecessary fund balances, and fee amounts shall be set in accordance with this requirement.

SECTION 5. Article 4551a, Revised Statutes, is amended to read as follows:

Art. 4551a. **PERSONS REGARDED AS PRACTICING DENTISTRY.** Any person shall be regarded as practicing dentistry within the meaning of this Chapter:

(1) Who publicly professes to be a dentist or dental surgeon or who uses or permits to be used for himself or for any other person, the title of "Doctor," "Dr.," "Doctor of Dental Surgery," "D.D.S.," "Doctor of Dental Medicine," "D.M.D.," or any other letters, titles, terms or descriptive matter which directly or indirectly represents him as being able to diagnose, treat, remove stains or concretions from teeth, provide surgical and adjunctive treatment for any disease, pain, injury, deficiency, deformity or physical condition of the human teeth, oral cavity, alveolar process, gums, jaws or directly related and adjacent masticatory structures.

(2) Who shall offer or undertake by any means or methods whatsoever, to clean teeth or to remove stains, concretions or deposits from teeth in the human mouth, or who shall undertake or offer to diagnose, treat, operate, or prescribe by any means or methods for any disease, pain, injury, deficiency, deformity, or physical condition of the human teeth, oral cavity, alveolar process, gums, or jaws.

(3) Any person who shall offer or undertake in any manner to prescribe or make, or cause to be made, an impression of any portion of the human mouth, teeth, gums, or jaws, for the purpose of diagnosing, prescribing, treating, or aiding in the diagnosing, prescribing or treating, any physical condition of the human mouth, teeth, gums or jaws, or for the purpose of constructing or aiding in the construction of any dental appliance, denture, dental bridge, false teeth, dental plate or plates of false teeth, or any other substitute for human teeth.

(4) Any one who owns, maintains or operates any office or place of business where he employs or engages, under any kind of contract whatsoever, any other person or persons to practice dentistry as above defined shall be deemed to be practicing dentistry himself and shall himself be required to be duly licensed to practice dentistry as hereinabove defined, and shall be subject to all of the other provisions of this Chapter, even though the person or persons so employed or engaged by him shall be duly licensed to practice dentistry as hereinabove defined, unless otherwise provided by law.

(5) Any person, firm, group, association, or corporation who shall offer or undertake to fit, adjust, repair, or substitute in the human mouth or directly related and adjacent masticatory

structures any dental appliance, structure, prosthesis, or denture, or who shall aid or cause to be fitted, adjusted, repaired, or substituted in the human mouth or directly related and adjacent masticatory structures any dental appliance, structure, prosthesis, or denture.

(6) Who makes, fabricates, processes, constructs, produces, reproduces, duplicates, repairs, relines, or fixes any full or partial denture, any fixed or removable dental bridge or appliance, any dental plate or plates of false teeth, any artificial dental restoration, or any substitute or corrective device or appliance for the human teeth, gums, jaws, mouth, alveolar process, or any part thereof for another, or who in any manner offers, undertakes, aids, abets, or causes another person so to do for another, without a written prescription or work-order therefor signed by the dentist legally engaged in the practice of dentistry in this state or in the jurisdiction where such dentist maintains his dental office and who prescribed and ordered same.

(7) Who shall offer or undertake or cause another to do, directly or indirectly, for any person any act, service, or work in the practice of dentistry or any part thereof as provided for in the laws of Texas relating to the practice of dentistry including without limitation the inducing, administering, prescribing, or dispensing any anesthesia, anesthetic drug, medicine, or agent in anywise incidental to or in connection with the practice of dentistry; or who permits or allows another to use his license or certificate to practice dentistry in this state for the purpose of performing any act described in this Article; or who shall aid or abet, directly or indirectly, the practice of dentistry by any person not duly licensed to practice dentistry by the Texas State Board of Dental Examiners.

(8) *Who shall control, attempt to control, influence, attempt to influence, or otherwise interfere with the exercise of a dentist's independent professional judgment regarding the diagnosis or treatment of any dental disease, disorder, or physical condition. However, nothing herein shall be construed to require any entity to pay for services which are not provided for in a contract or agreement or to exempt any dentist who is a member of a hospital staff from adhering to hospital bylaws, medical staff bylaws, or established policies approved by the governing board and the medical and dental staff of the hospital.*

SECTION 6. 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.

Passed by the House on April 2, 1985, by a non-record vote; House concurred in Senate amendments to H.B. No. 742 on May 15, 1985, by a non-record vote; passed by the Senate, with amendments, on May 9, 1985, by the following vote: Yeas 31, Nays 0.

Approved: June 7, 1985

Effective: August 26, 1985