

CHAPTER 1095

S.B. No. 1421

AN ACT

relating to the regulation of dentistry and dental laboratories; providing penalties.

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

SECTION 1. Section (5), Article 4551f, Revised Statutes, is amended to read as follows:

(5). (a) A dentist legally engaged in the practice of dentistry in this state *may perform for compensation a service* ~~[who performs for himself only any of the services]~~ listed in Section 1 of this article *only for a patient of that dentist or for a patient of a professional corporation or partnership of which that dentist is an officer, partner, or employee and said dentist* ~~[Act]~~ shall be exempt from the provisions of this article *when performing such service* ~~[Act]~~.

(b) *This article does not apply to a dental student who is enrolled in a school of dentistry program.*

SECTION 2. Section (6), Article 4551f, Revised Statutes, is amended to read as follows:

(6). (a) It shall be the duty of the owner ~~or [owners, and]~~ manager of each dental laboratory ~~[in this State]~~ to annually apply to and register each dental laboratory *doing business* in this State with which *that person* ~~[he]~~ has any connection or interest with the Texas State Board of Dental Examiners and to pay in connection with such application a fee as determined by the Board according to the needs of the Board to the Dental Registration Fund. ~~The [and such]~~ application *must include proof satisfactory to the Board that the dental laboratory has working on the premises at least one dental technician who is certified by a nationally recognized board of certification for dental technology and must* ~~[shall]~~ set forth *other* ~~[such]~~ facts as the Board may require, including the names and addresses of each dental technician employed by said dental laboratory.

(b) *As a condition for the renewal of a dental laboratory registration, the applicant must also provide evidence satisfactory to the Board that at least one employee*

~~working on the premises of the dental laboratory has completed at least 10 hours of continuing education during the registration period. [From and after the effective date of this Act, it shall be unlawful for anyone other than a dental laboratory or dental technician duly registered hereunder, to fill any prescription for a dental prosthetic appliance or the repair thereof, to be delivered by a licensed dentist in this State to a dental patient. At the time said dental prosthetic appliance is delivered to the dentist, the dental laboratory which prepared or repairs the appliance shall provide to the dentist in writing its registration number as assigned by the Texas State Board of Dental Examiners.]~~

~~(c) If the owner or manager of a dental laboratory required to be registered under this section fails to renew the registration and pay the annual renewal fee before the expiration date as set by the Board, the Board shall suspend the registration certificate of that laboratory. An owner or manager may renew an unexpired certificate by paying the required renewal fee to the Board on or before the expiration date. If the certificate has been expired for not more than 90 days, the owner or manager may renew the certificate by paying to the Board the required renewal fee and a fee equal to one-half the renewal fee. If the certificate has been expired for more than 90 days but less than two years, the owner or manager may renew the certificate by paying to the Board all unpaid renewal fees and a fee equal to the amount of the initial registration fee. If the certificate has been expired for two years or longer, the owner or manager may not renew the certificate. To reinstate the certificate, the owner or manager must comply with the requirements for obtaining an original certificate. [It shall be unlawful for any person, firm, association, corporation, or combination thereof to offer or undertake in any manner to operate a dental laboratory or to do or perform any of the acts described in this Article in this State without having first obtained a certificate from the Texas State Board of Dental Examiners so to do.~~

~~(d) The Board shall have the authority to commence in its name injunctive proceedings to enjoin any person, firm, association, corporation, or combination thereof in violation of this Act.~~

~~(e) The Board may refuse to issue or to renew or may suspend or revoke any certificate or license provided in this Act where, after notice and hearing, it has been determined by the Board that any person requesting or possessing such license or certificate has violated any of the provisions of this Act, and the procedures to be followed in any complaint or disciplinary action, including the right of appeal for failure to issue or to renew or the suspension or revocation of a certificate or license hereunder, shall be the same as those prescribed for dentists and dental hygienists by Sections 3, 4, 5, and 6, Article 4549, Revised Civil Statutes of Texas, 1925, as amended.~~

~~(f) From and after the effective date of this Act, it shall be unlawful for a dentist licensed in this State knowingly to prescribe, order, or receive any dental prosthetic appliance which is to be prepared or repaired by a dental laboratory not registered as required herein.~~

~~(g) The Texas State Board of Dental Examiners shall have no rule making authority as it applies to the dental laboratories except for the following provisions: processing applications for registration; prescribing the form and content of applications and other forms necessary to administer this Article; prescribing fees in accordance with this Article and prescribing procedures for renewal of registrations; and monitoring any records as necessary to administer this Article.]~~

SECTION 3. Article 4551f, Revised Statutes, is amended by adding Sections (7), (8), and (9) to read as follows:

(7). (a) In this section, "person" means an individual, corporation, association, partnership, or other private legal entity.

(b) A person other than a dental laboratory or dental technician may not fill a prescription for the preparation or repair of a dental prosthetic appliance that is to be delivered by a licensed dentist to a dental patient. At the time the dental prosthetic appliance is delivered to the dentist, the dental laboratory that prepared or repaired the appliance must provide the dentist its registration number as assigned

by the Board and the expiration date of its certificate of registration. The dental laboratory must provide the number in writing.

(c) A person may not offer or undertake to operate a dental laboratory or to provide the services described in Section (1) of this article unless the person holds a certificate of registration issued by the Board.

(d) A dentist may not knowingly prescribe, order, or receive a dental prosthetic appliance that is to be prepared or has been prepared by an unregistered dental laboratory. A dentist who violates this subsection commits an offense. Except as provided by Subsection (f) of this section, an offense under this subsection is a Class C misdemeanor.

(e) A person who violates Subsection (b) or (c) of this section commits an offense. Except as provided by Subsection (f) of this section, an offense under this subsection is a Class C misdemeanor.

(f) If it is shown on the trial of an offense under this section that the defendant has previously been convicted under this section, an offense under this section is a Class A misdemeanor.

(8). (a) The Board may refuse to issue a certificate of registration or may suspend or revoke a certificate, if after a hearing the Board finds that the person applying for or holding a certificate of registration has violated this article. In any complaint or disciplinary action under this article, the Board shall follow the procedures prescribed for dentists and dental hygienists under Article 4549, Revised Statutes.

(b) The Board may not exercise rule-making authority regarding dental laboratories except in the following areas:

- (1) processing registration applications;
- (2) prescribing the form and content of registration applications and other forms required to administer this article;
- (3) prescribing fees necessary to administer this article;
- (4) prescribing renewal procedures for certificates of registration;
- (5) monitoring records as necessary to administer this article; and
- (6) adopting continuing education requirements for dental technicians employed by dental laboratories.

(c) The Board shall adopt rules prescribing the contents of continuing education courses for dental technicians employed by dental laboratories. The Board shall prescribe courses the contents of which are at least as comprehensive as courses approved by a nationally recognized board of certification for dental technology.

(d) The Board may apply for restraining orders or injunctions to enforce this article and rules adopted under this article.

(e) The Board annually shall provide each dentist licensed in this state with a list of registered dental laboratories. The information provided by the list must include the expiration date of the certificate of registration of each listed dental laboratory.

(9). (a) The Dental Laboratory Certification Council is established. The council is composed of three members appointed by the Board. To be eligible for appointment, a person must be a certified dental technician who is an owner, manager, or employee of a dental laboratory that is registered with the Board. A person is not eligible for appointment to the council if the person or the person's spouse is licensed by the Board to practice dentistry or is an employee of the Board or of a dentist licensed by the Board.

(b) A council member serves a two-year term and may be reappointed to serve not more than three additional terms.

(c) The council annually shall elect a presiding officer from its members. The council shall meet at least once a year and may meet at other times at the call of its presiding officer with the approval of the presiding officer of the Board. Council members are entitled to the per diem for Board and commission members under the General Appropriations Act.

*(d) The council shall review each application for registration or renewal of registration to determine if the applicant meets the requirements of this article. The council shall provide the Board with a list of applicants who are eligible for registration with the Board. Certificates of registration may only be issued to eligible applicants. The council shall recommend to the Board rules prescribing the contents of continuing education courses prescribed by Subsection (b) of Section 6. The council may perform additional duties as requested by the Board.*

*(e) The council may not exercise rule-making authority.*

*(f) A member of the council is not liable in a civil action for any act performed in good faith in the execution of duties as a council member.*

SECTION 4. (a) The change in law made by Section 3 of this Act applies only to the punishment for an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 5. (a) This Act takes effect September 1, 1987.

(b) The owner or manager of a dental laboratory that is registered with the State Board of Dental Examiners and who has paid any required fees as of the effective date of this Act is not required to submit proof to the board as a condition of registration that the dental laboratory has at least one certified dental technician employed by and working on the premises of each dental laboratory.

(c) To be eligible to renew the certificate of registration after September 1, 1990, the owner or manager must provide proof satisfactory to the State Board of Dental Examiners that the continuing education requirements prescribed by Subsection (b), Section 6, Article 4551f, Revised Statutes, as amended by this Act, are met.

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 the Senate on April 30, 1987, by a viva-voce vote; and that the Senate concurred in House amendment on June 1, 1987, by a viva-voce vote. Passed the House, with amendment, on May 29, 1987, by a non-record vote.

Approved June 20, 1987.

Effective Sept. 1, 1987.