

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 845

Short Title: Dental Hygienist Amendments.

(Public)

Sponsors: Senator Lee.

Referred to: Judiciary I.

April 14, 1993

A BILL TO BE ENTITLED

AN ACT TO AMEND THE STATUTES GOVERNING THE PRACTICE OF DENTISTRY WITH RESPECT TO DENTAL HYGIENISTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-22(b) reads as rewritten:

"(b) The North Carolina State Board of Dental Examiners heretofore created by Chapter 139, Public Laws 1879 and by Chapter 178, Public Laws 1915, is hereby continued as the agency of the State for the regulation of the practice of dentistry in this State. Said Board of Dental Examiners shall consist of six dentists who are licensed to practice dentistry in North Carolina, ~~one dental hygienist who is~~ four dental hygienists who are licensed to practice dental hygiene in North Carolina and one person who shall be a citizen and resident of North Carolina and who shall be licensed to practice neither dentistry nor dental hygiene. ~~The dental hygienist or the consumer member cannot participate or vote in any matters of the Board which involves the issuance, renewal or revocation of the license to practice dentistry in the State of North Carolina. The consumer member cannot participate or vote in any matters of the Board which involve the issuance, renewal or revocation of the license to practice dental hygiene in the State of North Carolina.~~ Members of the Board licensed to practice dentistry in North Carolina shall have been elected in an election held as hereinafter provided in which every person licensed to practice dentistry in North Carolina and residing or practicing in North Carolina shall be entitled to vote. Each member of said Board shall be elected for a term of three years and until his successor shall be elected and shall qualify. Each year there shall be elected two dentists for such terms of three years each. ~~Every three years~~ Each year there shall be elected one dental hygienist for a term of three ~~years.~~ years, except that in 1993

1 and every third year thereafter, two dental hygienists shall be elected to the Board.
2 Dental hygienists shall be elected to the Board in an election held in accordance with
3 the procedures hereinafter provided in which those persons licensed to practice dental
4 hygiene in North Carolina and residing or practicing in North Carolina shall be entitled
5 to vote. Every ~~three years~~ year a person who is a citizen and resident of North Carolina
6 and licensed to practice neither dentistry nor dental hygiene shall be appointed to the
7 Board for a term of three years by the Governor of North Carolina. Any vacancy
8 occurring on said Board shall be filled by a majority vote of the remaining members of
9 the Board to serve until the next regular election conducted by the Board, at which time
10 the vacancy will be filled by the election process provided for in this Article, except that
11 when the seat on the Board held by a person licensed to practice neither dentistry nor
12 dental hygiene in North Carolina shall become vacant, the vacancy shall be filled by
13 appointment by the Governor for the period of the unexpired term. No dentist shall be
14 nominated for or elected to membership on said Board, unless, at the time of such
15 nomination and election such person is licensed to practice dentistry in North Carolina
16 and actually engaged in the practice of dentistry. No dental hygienist shall be
17 nominated for or elected to membership on said Board unless, at the time of such
18 nomination and election, such person is licensed to practice dental hygiene in North
19 Carolina and is currently employed in dental hygiene in North Carolina. No person
20 shall be nominated, elected, or appointed to serve more than two consecutive terms on
21 said Board."

22 Sec. 2. G.S. 90-41(a) reads as rewritten:

23 "(a) The North Carolina State Board of Dental Examiners shall have the power
24 and authority to

- 25 (1) Refuse to issue a license to practice dentistry;
- 26 (2) Refuse to issue a certificate of renewal of a license to practice
27 dentistry;
- 28 (3) Revoke or suspend a license to practice dentistry; and
- 29 (4) Invoke such other disciplinary measures, censure, or probative terms
30 against a licensee as it deems fit and proper;

31 in any instance or instances in which the Board is satisfied that such applicant or
32 licensee:

- 33 (1) Has engaged in any act or acts of fraud, deceit or misrepresentation in
34 obtaining or attempting to obtain a license or the renewal thereof;
- 35 (2) Is a chronic or persistent user of intoxicants, drugs or narcotics to the
36 extent that the same impairs his ability to practice dentistry;
- 37 (3) Has been convicted of any of the criminal provisions of this Article or
38 has entered a plea of guilty or nolo contendere to any charge or
39 charges arising therefrom;
- 40 (4) Has been convicted of or entered a plea of guilty or nolo contendere to
41 any felony charge or to any misdemeanor charge involving moral
42 turpitude;

- 1 (5) Has been convicted of or entered a plea of guilty or nolo contendere to
2 any charge of violation of any state or federal narcotic or barbiturate
3 law;
- 4 (6) Has engaged in any act or practice violative of any of the provisions of
5 this Article or violative of any of the rules and regulations promulgated
6 and adopted by the Board, or has aided, abetted or assisted any other
7 person or entity in the violation of the same;
- 8 (7) Is mentally, emotionally, or physically unfit to practice dentistry or is
9 afflicted with such a physical or mental disability as to be deemed
10 dangerous to the health and welfare of his patients. An adjudication of
11 mental incompetency in a court of competent jurisdiction or a
12 determination thereof by other lawful means shall be conclusive proof
13 of unfitness to practice dentistry unless or until such person shall have
14 been subsequently lawfully declared to be mentally competent;
- 15 (8) Has conducted in-person solicitation of professional patronage or has
16 employed or procured any person to conduct such solicitation by
17 personal contact with potential patients, except to the extent that
18 informal advice may be permitted by regulations issued by the Board
19 of Dental Examiners;
- 20 (9) Has permitted the use of his name, diploma or license by another
21 person either in the illegal practice of dentistry or in attempting to
22 fraudulently obtain a license to practice dentistry;
- 23 (10) Has engaged in such immoral conduct as to discredit the dental
24 profession;
- 25 (11) Has obtained or collected or attempted to obtain or collect any fee
26 through fraud, misrepresentation, or deceit;
- 27 (12) Has been negligent in the practice of dentistry;
- 28 (13) Has employed a person not licensed in this State to do or perform any
29 act or service, or has aided, abetted or assisted any such unlicensed
30 person to do or perform any act or service which under this Article or
31 under Article 16 of this Chapter, can lawfully be done or performed
32 only by a dentist or a dental hygienist licensed in this State;
- 33 (14) Is incompetent in the practice of dentistry;
- 34 (15) Has practiced any fraud, deceit or misrepresentation upon the public or
35 upon any individual in an effort to acquire or retain any patient or
36 patients;
- 37 (16) Has made fraudulent or misleading statements pertaining to his skill,
38 knowledge, or method of treatment or practice;
- 39 (17) Has committed any fraudulent or misleading acts in the practice of
40 dentistry;
- 41 (18) Has, directly or indirectly, published or caused to be published or
42 disseminated any advertisement for professional patronage or business
43 which is untruthful, fraudulent, misleading, or in any way inconsistent

- 1 with rules and regulations issued by the Board of Dental Examiners
 2 governing the time, place, or manner of such advertisements;
- 3 (19) Has, in the practice of dentistry, committed an act or acts constituting
 4 malpractice;
- 5 (20) Repealed by Session Laws 1981, c. 751, s. 7.
- 6 (21) Has permitted a dental hygienist or a dental assistant in his employ or
 7 under his supervision to do or perform any act or acts violative of this
 8 Article, or of Article 16 of this Chapter, or of the rules and regulations
 9 promulgated by the Board;
- 10 (22) Has wrongfully or fraudulently or falsely held himself out to be or
 11 represented himself to be qualified as a specialist in any branch of
 12 dentistry;
- 13 (23) Has persistently maintained, in the practice of dentistry, unsanitary
 14 offices, practices, or techniques;
- 15 (24) Is a menace to the public health by reason of having a serious
 16 communicable disease;
- 17 (25) Has distributed or caused to be distributed any intoxicant, drug or
 18 narcotic for any other than a lawful purpose; or
- 19 (26) Has engaged in any unprofessional conduct as the same may be, from
 20 time to time, defined by the rules and regulations of the ~~Board~~ Board;
- 21 or
- 22 (27) Has harassed, terminated the employment of, or caused the loss of
 23 employment of, or otherwise retaliated against a person who has in
 24 good faith reported to the Board a suspected violation of this Article or
 25 Article 16 or the rules or regulations of the Board."

26 Sec. 3. G.S. 90-221 reads as rewritten:

27 "**§ 90-221. Definitions.**

28 (a) 'Dental hygiene' as used in this Article shall mean the provision of preventive,
 29 therapeutic, and educational oral health care and the performance of the following
 30 functions: Complete oral prophylaxis, prophylaxis which is defined to include the
 31 removal of calculus, stains, and accretions from the surfaces of the teeth to the
 32 attachment of the sulcus and polishing the surfaces of the teeth; application of
 33 preventive agents to oral structures, exposure and processing of radiographs,
 34 administration of medicaments prescribed by a licensed dentist, preparation of
 35 diagnostic aids, and written records of oral conditions for interpretation by the dentist,
 36 together with such other and further functions as may be permitted by rules and
 37 regulations of the Board not inconsistent herewith.

38 (b) 'Dental hygienist' as used in this Article, shall mean any person who is a
 39 graduate of a ~~Board-accredited~~ an accredited and Board-approved school of dental
 40 hygiene, who has been licensed by the Board, and who practices dental hygiene as
 41 prescribed by the Board.

42 (c) 'License' shall mean a certificate issued to any applicant upon completion of
 43 requirements for admission to practice dental hygiene.

1 (d) 'Renewal certificate' shall mean the annual certificate of renewal of license to
2 continue practice of dental hygiene in the State of North Carolina.

3 (e) 'Board' shall mean 'The North Carolina State Board of Dental Examiners'
4 created by Chapter 139, Public Laws of 1879, and Chapter 178, Public Laws of 1915 as
5 continued in existence by G.S. 90-22.

6 (f) 'Supervision' as used in this Article shall mean that acts are deemed to be
7 under the supervision of a licensed dentist when ~~performed in a locale where a licensed~~
8 ~~dentist is physically present during the performance of such acts and such acts are being~~
9 performed pursuant to the dentist's ~~order, control order~~ and approval. The dentist does
10 not need to be present in the facility while dental hygiene treatment is being performed.

11 A dental hygienist shall not practice independently from the supervision of a dentist
12 nor shall a dental hygienist establish or maintain an office or other workplace separate
13 from the office or other workplace in which the supervision by the dentist is provided."

14 Sec. 4. G.S. 90-223(d) reads as rewritten:

15 "(d) The Board shall, in addition to any other requirements for Board approval of
16 a school or program of dental hygiene for purposes of this Article, require that any
17 school or program in North Carolina develop and implement a procedure for advanced
18 placement of potentially qualified persons. This procedure shall be designed to
19 encourage and allow credit for any person who has attained special capabilities in dental
20 work through military service, military on-the-job training or military working
21 ~~experience, or other means~~ not otherwise qualifying the person to be immediately
22 eligible for licensure. The procedure shall include these elements: public announcement
23 of the procedure, a method for persons who have special capabilities through military
24 training or experience to make application to the school or program for advanced
25 placement, personal counseling on obtaining advanced placement, administration of
26 specially prepared written and clinical examinations for all parts of the curriculum
27 otherwise required for graduation, exemption from course requirements when results of
28 the examinations so indicate, and appropriate modification of curriculum requirements,
29 when necessary, to facilitate individual advancement in education programs. The
30 procedure for advanced placement shall not be approved by the Board unless it is fairly
31 designed to facilitate the substitution of military ~~or civilian~~ training and experience for
32 regular curricula, taking into account that the special nature of military ~~and certain~~
33 ~~civilian~~ training and experience may be equivalent without necessarily being identical to
34 the courses of the school or program."

35 Sec. 5. G.S. 90-224(a) reads as rewritten:

36 "(a) The applicant for licensure must be of good moral character, have graduated
37 from an accredited high school or hold a high school equivalency certificate duly issued
38 by a governmental agency or unit authorized to issue the same, and be a graduate of a
39 minimum two-year academic program of dental hygiene in a postsecondary school or
40 college approved by the Board. Board and that the program be accredited by a national
41 accrediting agency recognized by the Council on Postsecondary Education or the United
42 States Department of Education, and must have successfully passed the national written
43 dental hygiene examination administered by the Joint Commission on National Dental
44 Examinations."

1 Sec. 6. G.S. 90-233 reads as rewritten:

2 **"§ 90-233. Practice of dental hygiene.**

3 (a) A dental hygienist may practice only under the supervision of one or more
4 licensed dentists. Provided, however, that this subsection (a) shall be deemed to be
5 complied with in the case of dental hygienists employed by the Department of
6 Environment, Health, and Natural Resources and especially trained by said Department
7 as public health hygienists while performing their duties in the public schools and other
8 public health settings under the direction of a duly licensed dentist. Direction means
9 supervision whereby the dentist may authorize the dental hygienist to perform in these
10 settings the following services for a specified class of people without the dentist being
11 present: a preliminary examination of the oral structures and recording findings, the
12 application of preventive agents to oral structures, and any other dental hygiene
13 functions authorized by the Board.

14 (b) A dentist in private practice may not employ more than two dental hygienists
15 at one and the same time who are employed in clinical dental hygiene positions.

16 (c) Dental hygiene may be practiced only by the holder of a license or
17 provisional license currently in effect and duly issued by the Board. The following acts,
18 practices, functions or operations, however, shall not constitute the practice of dental
19 hygiene within the meaning of this Article:

- 20 (1) The teaching of dental hygiene in a school or college approved by the
21 Board in a board-approved program by an individual licensed as a
22 dental hygienist in any state in the United States.
- 23 (2) Activity which would otherwise be considered the practice of dental
24 hygiene performed by students enrolled in a school or college
25 approved by the Board in a board-approved dental hygiene program
26 under the direct supervision of a dental hygienist or a dentist duly
27 licensed in North Carolina or qualified for the teaching of dentistry
28 pursuant to the provisions of G.S. 90-29(c)(3), acting as an instructor.
- 29 (3) Any act or acts performed by an assistant to a dentist licensed to
30 practice in this State when said act or acts are authorized and permitted
31 by and performed in accordance with rules ~~and regulations promulgated~~
32 ~~by the Board.~~ issued by the Board, except that only a dentist or dental
33 hygienist may perform any element of the prophylaxis as defined in
34 G.S. 90-211, or perform a preliminary oral examination to chart for
35 periodontal disease.
- 36 (4) Dental assisting and related functions as a part of their instructions by
37 students enrolled in a course in dental assisting conducted in this State
38 and approved by the Board, when such functions are performed under
39 the supervision of a dentist acting as a teacher or instructor who is
40 either duly licensed in North Carolina or qualified for the teaching of
41 dentistry pursuant to the provisions of G.S. 90-29(c)(3)."

42 Sec. 7. G.S. 90-233.1 reads as rewritten:

43 **"§ 90-233.1. Violation a misdemeanor.**

1 Any person who shall violate, or aid or abet another in violating, or harass, terminate
2 the employment of or cause the loss of employment of, or otherwise retaliate against a
3 person who has in good faith reported to the Board a suspected violation of any of the
4 provisions of this Article shall be guilty of a misdemeanor and upon conviction shall be
5 punished in the discretion of the court."

6 Sec. 8. This act becomes effective October 1, 1993.