An Act

ENROLLED SENATE
BILL NO. 754

By: Paxton and Pemberton of the Senate

and

Kannady, McBride, Miller, and Humphrey of the House

An Act relating to the practice of dentistry; amending 59 O.S. 2021, Section 328.3, which relates to definitions used in the State Dental Act; modifying and adding definitions; amending 59 O.S. 2021, Section 328.21, as amended by Section 3, Chapter 158, O.S.L. 2022 (59 O.S. Supp. 2022, Section 328.21), which relates to application for license; modifying allowed time period, type, and criteria of examinations; adding available advanced procedures for dental hygienist; specifying qualifications and procedures for obtainment of advanced procedure permit by credentials; amending 59 O.S. 2021, Section 328.22, which relates to specialty license; modifying certain terminology and qualifications related to specialty license; amending 59 O.S. 2021, Section 328.24, which relates to dental assistant permits; adding expanded duty permits available to dental assistants; broadening permitting provisions to apply to oral maxillofacial surgery assistants; providing for addition of expanded duties to licenses; amending 59 O.S. 2021, Section 328.32, as amended by Section 6, Chapter 158, O.S.L. 2022 (59 O.S. Supp. 2022, Section 328.32), which relates to grounds for penalties; modifying grounds for penalties; amending 59 O.S. 2021, Section 328.34, which relates to practice of dental hygiene under supervision of dentist; requiring certain supervision for advanced procedures; deleting certain definition; adding references; modifying rulemaking authority of Board of Dentistry for advanced procedures; authorizing

licensed dentist to allow teledentistry treatment by certain dental hygienists for patients in certain long-term care settings; providing for application for elder care and public health advanced procedure permit; allowing treatment of patients by dental hygienist upon receipt of permit; requiring certain documentation, recording, and maintenance of recording by dental hygienist; requiring completion of certain assessment; requiring supervising dentist to maintain certain records; allowing certain dental assistants to apply for public health and elder care expanded duty permit; authorizing dental assistant with permit to assist hygienist with treatment in certain facilities; requiring patient records to list dental assistant; updating statutory language; providing for codification; providing an effective date; and declaring an emergency.

SUBJECT: Practice of dentistry

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 2021, Section 328.3, is amended to read as follows:

Section 328.3. As used in the State Dental Act, the following words, phrases, or terms, unless the context otherwise indicates, shall have the following meanings:

1. "Accredited dental college" means an institution whose dental educational program is accredited by the Commission on Dental Accreditation of the American Dental Association;

2. "Accredited dental hygiene program" means a dental hygiene educational program which is accredited by the Commission on Dental Accreditation of the American Dental Association;

3. "Accredited dental assisting program" means a dental assisting program which is accredited by the Commission on Dental Accreditation of the American Dental Association;

4. "Advanced procedure" means a dental procedure for which a dental hygienist has received special training in a course of study approved by the Board;

5. "Board" means the Board of Dentistry;

~~5.~~ 6. "Certified dental assistant" means a dental assistant who has earned and maintains current certified dental assistant certification from the Dental Assisting National Board (DANB);

~~6.~~ 7. "Coronal polishing" means a procedure limited to the removal of plaque and stain from exposed tooth surfaces, utilizing a slow speed hand piece with a prophy/polishing cup or brush and polishing agent and is not prophylaxis. To be considered prophylaxis, examination for calculus and scaling must be done by a hygienist or dentist;

~~7.~~ 8. "Deep sedation" means a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilator function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained;

~~8.~~ 9. "Dentistry" means the practice of dentistry in all of its branches;

~~9.~~ 10. "Dentist" means a graduate of an accredited dental college who has been issued a license by the Board to practice dentistry as defined in Section 328.19 of this title;

~~10.~~ 11. "Dental ambulatory surgical center (DASC)" means a facility that operates exclusively for the purpose of furnishing outpatient surgical services to patients. A DASC shall have the same privileges and requirements as a dental office and additionally must be an accredited facility by the appropriate entity;

~~11.~~ 12. "Dental office" means an establishment owned and operated by a dentist for the practice of dentistry, which may be composed of reception rooms, business offices, private offices, laboratories, and dental operating rooms where dental operations are performed;

~~12.~~ 13. "Dental hygiene" means the science and practice of the promotion of oral health and prevention and treatment of oral disease through the provision of educational, therapeutic, clinical, and preventive services;

14. "Dental hygienist" means an individual who has fulfilled the educational requirements and is a graduate of an accredited dental hygiene program and who has passed an examination and has been issued a license by the Board and who is authorized to practice dental hygiene as hereinafter defined;

~~13.~~ 15. ~~"Dental assistant or oral maxillofacial surgery assistant"~~ "Dental assistant" or "oral maxillofacial surgery assistant" means an individual working for a dentist, under the dentist's direct supervision or direct visual supervision, and performing duties in the dental office or a treatment facility including the limited treatment of patients in accordance with the provisions of the State Dental Act. A dental assistant or oral maxillofacial surgery assistant may assist a dentist with the patient; provided, this shall be done only under the direct supervision or direct visual supervision and control of the dentist and only in accordance with the educational requirements and rules promulgated by the Board;

~~14.~~ 16. "Dental laboratory" means a location, whether in a dental office or not, where a dentist or a dental laboratory technician performs dental laboratory technology;

~~15.~~ 17. "Dental laboratory technician" means an individual whose name is duly filed in the official records of the Board, which authorizes the technician, upon the laboratory prescription of a dentist, to perform dental laboratory technology, which services must be rendered only to the prescribing dentist and not to the public;

~~16.~~ 18. "Dental laboratory technology" means using materials and mechanical devices for the construction, reproduction or repair of dental restorations, appliances or other devices to be worn in a human mouth;

~~17.~~ 19. "Dental specialty" means a specialized practice of a branch of dentistry, recognized by the Board, where the dental college and specialty program are accredited by the Commission on Dental Accreditation (CODA), or a dental specialty recognized by the Board, requiring a minimum number of hours of approved education and training and/or recognition by a nationally recognized association or accreditation board;

~~18.~~ 20. "Direct supervision" means the supervisory dentist is in the dental office or treatment facility and, during the appointment, personally examines the patient, diagnoses any conditions to be treated, and authorizes the procedures to be performed by a dental hygienist, dental assistant, or oral maxillofacial surgery assistant. The supervising dentist is continuously on-site and physically present in the dental office or treatment facility while the procedures are being performed and, before dismissal of the patient, evaluates the results of the dental treatment;

~~19.~~ 21. "Direct visual supervision" means the supervisory dentist has direct ongoing visual oversight which shall be maintained at all times during any procedure authorized to be performed by a dental assistant or an oral maxillofacial surgery assistant;

~~20.~~ 22. "Expanded duty" means a dental procedure for which a dental assistant has received special training in a course of study approved by the Board;

23. "Fellowship" means a program designed for post-residency graduates to gain knowledge and experience in a specialized field;

~~21.~~ 24. "General anesthesia" means a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilator function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure

ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired;

~~22.~~ 25. "General supervision" means the supervisory dentist has diagnosed any conditions to be treated within the past thirteen (13) months, has personally authorized the procedures to be performed by a dental hygienist, and will evaluate the results of the dental treatment within a reasonable time as determined by the nature of the procedures performed, the needs of the patient, and the professional judgment of the supervisory dentist. General supervision may only be used to supervise a hygienist and may not be used to supervise an oral maxillofacial surgery assistant or dental assistant except as provided by Section 7 of this act;

~~23.~~ 26. "Indirect supervision" means the supervisory dentist is in the dental office or treatment facility and has personally diagnosed any conditions to be treated, authorizes the procedures to be performed by a dental hygienist, remains in the dental office or treatment facility while the procedures are being performed, and will evaluate the results of the dental treatment within a reasonable time as determined by the nature of the procedures performed, the needs of the patient, and the professional judgment of the supervisory dentist. Indirect supervision may not be used for an oral maxillofacial surgery assistant or a dental assistant;

~~24.~~ 27. "Investigations" means an investigation proceeding, authorized under Sections 328.15A and 328.43a of this title, to investigate alleged violations of the State Dental Act or the rules of the Board;

~~25.~~ 28. "Laboratory prescription" means a written description, dated and signed by a dentist, of dental laboratory technology to be performed by a dental laboratory technician;

~~26.~~ 29. "Minimal sedation" means a minimally depressed level of consciousness, produced by a pharmacological method, that retains the patient's ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command. Although cognitive function and coordination may be modestly impaired, ventilator and cardiovascular functions are unaffected;

~~27.~~ 30. "Mobile dental anesthesia provider" means a licensed and anesthesia-permitted dentist, physician or ~~certified registered nurse anesthetist~~ Certified Registered Nurse Anesthetist (CRNA) that has a mobile dental unit and provides anesthesia in dental offices and facilities in the state;

~~28.~~ 31. "Mobile dental clinic" means a permitted motor vehicle or trailer utilized as a dental clinic, and/or that contains dental equipment and is used to provide dental services to patients on-site and shall not include a mobile dental anesthesia provider. A mobile dental clinic shall also mean and include a volunteer mobile dental facility that is directly affiliated with a church or religious organization as defined by Section 501(c)(3) or 501(d) of the United States Internal Revenue Code, the church or religious organization with which it is affiliated is clearly indicated on the exterior of the mobile dental facility, and such facility does not receive any form of payment either directly or indirectly for work provided to patients other than donations through the affiliated church or religious organization; provided, that the volunteer mobile dental facility shall be exempt from any registration fee required under the State Dental Act;

~~29.~~ 32. "Moderate sedation" means a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained;

~~30.~~ 33. "Prophylaxis" means the removal of any and all calcareous deposits, stains, accretions or concretions from the supragingival and subgingival surfaces of human teeth, utilizing instrumentation by scaler or periodontal curette on the crown and root surfaces of human teeth including rotary or power-driven instruments. This procedure may only be performed by a dentist or dental hygienist;

~~31.~~ 34. "Patient" or "patient of record" means an individual who has given a medical history and has been examined and accepted by a dentist for dental care;

~~32.~~ 35. "Residencies" are programs designed for advanced clinical and didactic training in general dentistry or other specialties or other specialists at the post-doctoral level recognized by the Commission on Dental Accreditation (CODA) or the Board;

~~33.~~ 36. "Supervision" means direct supervision, direct visual supervision, indirect supervision or general supervision;

~~34.~~ 37. "Teledentistry" means the remote delivery of dental patient care via telecommunications and other technology for the exchange of clinical information and images for dental consultation, preliminary treatment planning and patient monitoring; and

~~35.~~ 38. "Treatment facility" means:

a. a federal, tribal, state or local public health facility,

b. a Federally Qualified Health Center (FQHC),

c. a private health facility,

d. a group home or residential care facility serving the elderly, handicapped or juveniles,

e. a hospital or dental ambulatory surgery center (DASC),

f. a nursing home,

g. a penal institution operated by or under contract with the federal or state government,

h. a public or private school,

i. a patient of record's private residence,

j. a mobile dental clinic,

k. a dental college, dental program, dental hygiene program or dental assisting program accredited by the Commission on Dental Accreditation, or

1. such other places as are authorized by the Board.

SECTION 2. AMENDATORY 59 O.S. 2021, Section 328.21, as amended by Section 3, Chapter 158, O.S.L. 2022 (59 O.S. Supp. 2022, Section 328.21), is amended to read as follows:

Section 328.21. A. No person shall practice dentistry or dental hygiene without first applying for and obtaining a license from the Board of Dentistry.

B. Application shall be made to the Board in writing and shall be accompanied by the fee established by the rules of the Board, together with satisfactory proof that the applicant:

1. Is of good moral character;

2. Is twenty-one (21) years of age, or over, at the time of making application to practice dentistry or eighteen (18) years of age, or over, if the applicant is to practice dental hygiene;

3. Has passed a written theoretical examination and a clinical examination approved by the Board <u>within the previous five (5) years</u>; and

4. Has passed a written jurisprudence examination over the rules and laws affecting dentistry in this state.

C. An application from a candidate who desires to secure a license from the Board to practice dentistry or dental hygiene in this state shall be accompanied by satisfactory proof that the applicant:

1. Is a graduate of an accredited dental college, if the applicant is to practice dentistry;

2. Is a graduate of an accredited dental hygiene program, if the applicant is to practice dental hygiene; and

3. Has passed all portions of the National Board Dental Examination or the National Board Dental Hygiene Examination.

D. Pursuant to Section 328.15 of this title, the Board may affiliate as a member state, and accept regional exams from the Commission on Dental Competency Assessments ~~(CDCA) or the Western Regional Examining Board (WREB)~~ (CDCA-WREB-CITA) if the following requirements are included:

1. For dental licensing the following components on a live patient or manikin:

a. a fixed prosthetic component of the preparation of an anterior all porcelain crown and the preparation of a three-unit posterior bridge,

b. a periodontal component ~~on a live patient or manikin~~,

c. an endodontic component,

d. an anterior class III and posterior class II restorative component ~~on a live patient or manikin~~,

e. a diagnosis and treatment planning section as approved by the Board, as specified in Section 328.15 of this title, and

f. the Board may determine equivalencies based on components of other exams for the purpose of credentialing; or

2. For dental hygienists licensing the following components on a live patient or manikin:

a. clinical patient treatments with an evaluation of specific clinical skills, and

b. evaluation of the candidate's compliance with professional standards during the treatment as approved by the Board in Section 328.15 of this title and shall include:

(1) extra/intra oral assessment,

(2) periodontal probing, and

(3) scaling/subgingival calculus removal and supragingival deposit removal.

E. When the applicant and the accompanying proof are found satisfactory, the Board shall notify the applicant to appear for the jurisprudence examination at the time and place to be fixed by the Board. A dental student or a dental hygiene student in the student's last semester of a dental or dental hygiene program, having met all other requirements, may make application and take the jurisprudence examination with a letter from the dean of the dental school or director of the hygiene program stating that the applicant is a candidate for graduation within the next six (6) months.

F. The Board shall require every applicant for a license to practice dentistry or dental hygiene to submit, for the files of the Board, a copy of a dental degree or dental hygiene degree, an official transcript, a recent photograph duly identified and attested, and any other information as required by the Board.

G. Any applicant who fails to pass the jurisprudence examination may apply for a second examination, in which case the applicant shall pay a reexamination fee as established by the statutes or rules of the State Dental Act.

H. A dentist or dental hygienist currently licensed in another state having met the qualifications in paragraphs 1 through 3 of subsections B and C of this section may apply for a license by credentials upon meeting the following:

1. A dentist holding a general dentist license in good standing and having practiced for at least five hundred (500) hours within the previous five (5) years immediately prior to application and having passed a regional examination substantially equivalent to the requirements for this state may apply for licensure by credentials;

2. A dental hygienist holding a dental hygiene license in good standing and having practiced for at least four hundred twenty (420) hours within the previous five (5) years immediately prior to application and having passed a regional examination substantially equivalent to the requirements for this state may apply for

licensure by credentials. Applicants for credentialing must include:

a. a letter of good standing from all states in which the applicant has ever been licensed, and

b. any other requirements as set forth by the rules; and

3. An applicant applying for a dental or dental hygiene license by credentials shall only be required to pass the jurisprudence portion of the examination requirements as set forth in paragraph 4 of subsection B of this section~~; or~~

~~4. A dental hygienist applying for credentialing for advanced procedures by providing proof of passage of the advanced procedure in a CDCA, WREB or CRDTS exam~~.

I. 1. There shall be ~~two~~ six types of advanced ~~procedure~~ procedures available for dental hygienists upon completion of a Commission on Dental Accreditation (CODA) approved program ~~or~~, course, or certification program that has been approved by the Board:

~~1. Administration~~

a. administration of nitrous oxide~~; and~~,

~~2. Administration~~

b. administration of local anesthesia,

c. neuromodulator administration,

d. therapeutic use of lasers,

e. phlebotomy and venipuncture, and

f. elder care and public health pursuant to Section 7 of this act.

2. A dental hygienist holding an advanced procedure permit or credential in any other state for two (2) years shall be eligible

for the advanced procedure permit by credentials; provided, that application for the advanced procedure permit by credentials for administration of local anesthesia shall additionally require proof of passage of such advanced procedure in a CDCA-WREB-CITA exam.

3. For all advanced procedures other than administration of local anesthesia, a dental hygienist may apply by filling out an application with required documentation of training as required by state law and rules of the Board.

4. All advanced procedures shall be added to the dental hygiene license upon approval.

J. All licensees and permit holders shall display the current permit or license in a visible place within the dental office or treatment facility.

K. The Board shall have the authority to temporarily change requirements of an examination due to availability or changes in the examination format, not to exceed one (1) year.

L. During a year in which governmental officials have declared a health pandemic, a state or federal disaster, or other natural or man-made disaster, the Board shall have the authority through a resolution to change or make allowances in requirements of all candidates for licensure and issue temporary licenses for extended periods of time or as needed until the event passes. The resolution shall have a beginning and an end date and shall automatically expire no less than thirty (30) days after the end of the disaster is declared by governmental officials.

M. Every licensee or permit holder shall have an official address and email address listed with the Board. Every licensee or permit holder shall update the address within thirty (30) calendar days of moving. Official notification of any action of the Board adverse to a licensee or permit holder including but not limited to notification of license or permit cancellation due to nonrenewal, notice of a formal complaint, or a decision of the hearing panel or board, shall be served to the licensee or permit holder by registered mail at the official address, in person, to the licensee's or permit holder's attorney, by agreement of the individual, by a process server, or by an ~~Investigator~~ investigator

of the Board pursuant to Section 2004 of Title 12 of the Oklahoma Statutes.

SECTION 3. AMENDATORY 59 O.S. 2021, Section 328.22, is amended to read as follows:

Section 328.22. A. 1. The Board of Dentistry may issue a dental specialty license authorizing a dentist to represent himself or herself to the public as a specialist, and to practice as a specialist, in a dental specialty.

2. No dentist shall represent himself or herself to the public as a specialist or practice as a specialist as listed in this paragraph, unless the individual:

a. has successfully completed an advanced dental specialty educational program accredited by the Commission on Dental Accreditation, or has met the ~~Board Certification~~ board certification requirements and is recognized as a current board certified member of a dental specialty organization or association recognized by the National Commission on Recognition of Dental Specialties and Certifying Boards,

b. has passed the jurisprudence examination covering the State Dental Act, rules and state laws, and

c. has completed any additional requirements set forth in state law or rules and has been issued a dental specialty license by the Board.

3. Specialty licenses recognized by the Board shall include:

a. dental public health,

b. endodontics,

c. oral and maxillofacial surgery,

d. oral and maxillofacial radiology,

e. orthodontics and dentofacial orthopedics,

f. pediatric dentistry,

g. periodontics,

h. prosthodontics,

i. oral and maxillofacial pathology,

j. dental anesthesiology,

k. oral medicine, and

l. orofacial pain.

B. 1. At the time of application, if the dentist has ever been licensed in any other state, he or she shall provide a letter of good standing from such state before the Board may issue a specialty license.

2. In conducting an investigation of an applicant who has applied for a dental specialty license pursuant to this subsection, the Board shall require of the applicant disclosure of the same background information as is required of an applicant for a license to practice dentistry in this state.

C. Any person holding an Oklahoma specialty license that does not have an Oklahoma general dentistry license shall be limited to practicing that specialty for which they hold a license.

D. The Board may use the American Dental Association National Commission on Recognition of Dental Specialties and Certifying Boards guidelines or the guidelines of another nationally recognized dental association or board for the purpose of defining a specialty practice area not otherwise defined herein.

SECTION 4. AMENDATORY 59 O.S. 2021, Section 328.24, is amended to read as follows:

Section 328.24. A. No person shall practice as a dental assistant or oral maxillofacial surgery assistant for more than one (1) day in a calendar year without having applied for a permit as a

dental assistant or oral maxillofacial surgery assistant from the Board of Dentistry within thirty (30) days of beginning employment. During this time period, the dental assistant shall work under the direct visual supervision of a dentist at all times.

B. The application shall be made to the Board in writing and shall be accompanied by the fee established by the Board, together with satisfactory proof that the applicant passes a background check with criteria established by the Board.

C. Beginning January 1, 2020, every dental assistant receiving a permit shall complete a class on infection control as approved by the Board within one (1) year from the date of receipt of the permit. Any person holding a valid dental assistant permit prior to January 1, 2020, shall complete an infection-control class as approved by the Board before December 31, 2020. Failure to complete the class shall be grounds for discipline pursuant to Section 328.29a of this title.

D. There shall be ~~five~~ seven types of expanded duty permits available for dental assistants or oral maxillofacial surgery assistants upon completion of a program approved by the Commission on Dental Accreditation (CODA) or a course that has been approved by the Board:

1. Radiation safety;

2. Coronal polishing and topical fluoride;

3. Sealants;

4. Assisting in the administration of nitrous oxide; ~~or~~

5. Phlebotomy and venipuncture;

6. Elder care and public health; or

7. Assisting a dentist who holds a parenteral or pediatric anesthesia permit; provided, only the dentist may administer anesthesia and assess the patient's level of sedation.

All expanded duties shall be added to the dental assistant license or oral maxillofacial surgery assistant license upon approval.

E. The training requirements for all ~~five~~ expanded duty permits shall be set forth by the Board. A program that is not CODA-certified must meet the standards set forth and be approved by the Board.

F. An applicant for a dental assistant permit who has graduated from a dental assisting program accredited by CODA and has passed the jurisprudence test shall receive all ~~five~~ expanded duty permits provided for in subsection D of this section if the course materials approved by the Board are covered in the program.

G. A dental assistant who holds an out-of-state dental assistant permit with expanded duties may apply for credentialing and reciprocity for a dental assistant permit including any expanded duty by demonstrating the following:

1. The dental assistant has had a valid dental assistant permit in another state for a minimum of two (2) years and is in good standing;

2. The dental assistant has had a valid expanded duty in another state for a minimum of one (1) year; and

3. The dental assistant provides a certificate or proof of completion of an educational class for the expanded duty and that the dental assistant has been providing this treatment to dental patients while working as a dental assistant in a dental office for one (1) year.

H. Any person having served in the military as a dental assistant shall receive credentialing and reciprocity for expanded functions by demonstrating the following:

1. Proof of military service in excess of two (2) years with any certifications or training in the expanded function areas; and

2. Verification from the commanding officer of the medical program or the appropriate supervisor stating that the dental

assistant provided the expanded functions on patients in the military dental facility for a minimum of one (1) year within the past five (5) years.

SECTION 5. AMENDATORY 59 O.S. 2021, Section 328.32, as amended by Section 6, Chapter 158, O.S.L. 2022 (59 O.S. Supp. 2022, Section 328.32), is amended to read as follows:

Section 328.32. A. The following acts or occurrences by a dentist shall constitute grounds for which the penalties specified in Section 328.44a of this title may be imposed by order of the Board of Dentistry or be the basis for denying a new applicant any license or permit issued by the Board:

1. Pleading guilty or nolo contendere to, or being convicted of, a felony, a misdemeanor involving moral turpitude, any crime in which an individual would be required to be a registered sex offender under state law, any violent crime, Medicaid fraud, insurance fraud, identity theft, embezzlement or a violation of federal or state controlled dangerous substances laws;

2. Presenting to the Board a false diploma, license, or certificate, or one obtained by fraud or illegal means, or providing other false information on an application or renewal;

3. Being, by reason of persistent inebriety or addiction to drugs, incompetent to continue the practice of dentistry;

4. Publishing a false, fraudulent, or misleading advertisement or statement;

5. Authorizing or aiding an unlicensed person to practice dentistry, to practice dental hygiene or to perform a function for which a permit from the Board is required;

6. Authorizing or aiding a dental hygienist to perform any procedure prohibited by the State Dental Act or the rules of the Board;

7. Authorizing or aiding a dental assistant or oral maxillofacial surgery assistant to perform any procedure prohibited by the State Dental Act or the rules of the Board;

8. Failing to pay fees as required by the State Dental Act or the rules of the Board;

9. Failing to complete continuing education requirements;

10. Representing himself or herself to the public as a specialist in a dental specialty without holding a dental specialty license ~~therefor~~ as listed in Section 328.22 of this title;

11. ~~Representing himself or herself to the public as a specialist whose practice is limited to a dental specialty, when such representation is false, fraudulent, or misleading~~ Practicing below the basic standard of care of a patient which an ordinary prudent dentist with similar training and experience within the local area would have provided including, but not limited to, failing to complete proper training and demonstrate proficiency for any procedure delegated to a dental hygienist or dental assistant;

12. Endangering the health of patients by reason of having a highly communicable disease and continuing to practice dentistry without taking appropriate safeguards;

13. Practicing dentistry in an unsafe or unsanitary manner or place including but not limited to repeated failures to follow Centers for Disease Control and Prevention (CDC) or Occupational Safety and Health Administration (OSHA) guidelines;

14. Being shown to be mentally unsound;

15. Being shown to be grossly immoral and that such condition represents a threat to patient care or treatment;

16. Being incompetent to practice dentistry while delivering care to a patient;

17. Committing gross negligence in the practice of dentistry;

18. Committing repeated acts of negligence in the practice of dentistry;

19. Offering to effect or effecting a division of fees, or agreeing to split or divide a fee for dental services with any person, in exchange for the person bringing or referring a patient;

20. Being involuntarily committed to an institution for treatment for substance abuse, until recovery or remission;

21. Using or attempting to use the services of a dental laboratory or dental laboratory technician without issuing a laboratory prescription, except as provided in subsection C of Section 328.36 of this title;

22. Aiding, abetting, or encouraging a dental hygienist employed by the dentist to make use of an oral prophylaxis list, or the calling by telephone or by use of letters transmitted through the mail to solicit patronage from patients formerly served in the office of any dentist formerly employing such hygienist;

23. Having more than the equivalent of three full-time dental hygienists for each dentist actively practicing in the same dental office;

24. Allowing a person not holding a permit or license issued by the Board to assist in the treatment of a patient without having a license or permit issued by the Board;

25. Knowingly patronizing or using the services of a dental laboratory or dental laboratory technician who has not complied with the provisions of the State Dental Act and the rules of the Board;

26. Authorizing or aiding a dental hygienist, dental assistant, oral maxillofacial surgery assistant, dental laboratory technician, or holder of a permit to operate a dental laboratory to violate any provision of the State Dental Act or the rules of the Board;

27. Willfully disclosing information protected by the Health Information Portability and Accountability Act, P.L. 104-191;

28. Writing a false, unnecessary, or excessive prescription for any drug or narcotic which is a controlled dangerous substance under either federal or state law, or prescribing, dispensing or

administering opioid drugs in excess of the maximum limits authorized in Section 2-309I of Title 63 of the Oklahoma Statutes;

29. Prescribing or administering any drug or treatment without having established a valid dentist-patient relationship;

30. Using or administering nitrous oxide gas in a dental office in an inappropriate or unauthorized manner;

31. Engaging in nonconsensual physical contact with a patient which is sexual in nature, or engaging in a verbal communication which is intended to be sexually demeaning to a patient;

32. Practicing dentistry without displaying, at the dentist's primary place of practice, the license issued to the dentist by the Board to practice dentistry and the current renewal certificate;

33. Being dishonest in a material way with a patient or during the practice of dentistry;

34. Failing to retain all patient records for at least seven (7) years from the date of the last treatment as provided by Section 328.31b of this title, except that the failure to retain records shall not be a violation of the State Dental Act if the dentist shows that the records were lost, destroyed, or removed by another, without the consent of the dentist;

35. Failing to retain the dentist's copy of any laboratory prescription for at least seven (7) years, except that the failure to retain records shall not be a violation of the State Dental Act if the dentist shows that the records were lost, destroyed, or removed by another, without the consent of the dentist;

36. Allowing any corporation, organization, group, person, or other legal entity, except another dentist or a professional entity that is in compliance with the registration requirements of subsection B of Section 328.31 of this title, to direct, control, or interfere with the dentist's clinical judgment. Clinical judgment shall include, but not be limited to, such matters as selection of a course of treatment, control of patient records, policies and decisions relating to pricing, credit, refunds, warranties and

advertising, and decisions relating to office personnel and hours of practice. Nothing in this paragraph shall be construed to:

a. limit a patient's right of informed consent, or

b. prohibit insurers, preferred provider organizations and managed care plans from operating pursuant to the applicable provisions of the Oklahoma Insurance Code and the Oklahoma Public Health Code;

37. Violating the state dental act of another state resulting in a plea of guilty or nolo contendere, conviction or suspension or revocation or other sanction by another state board, of the license of the dentist under the laws of that state;

38. Violating or attempting to violate the provisions of the State Dental Act or the rules of the Board, a state or federal statute or rule relating to scheduled drugs, fraud, a violent crime or any crime for which the penalty includes the requirement of registration as a sex offender in this state as a principal, accessory or accomplice;

39. Failing to comply with the terms and conditions of an order imposing suspension of a license or placement on probation issued pursuant to Section 328.44a of this title;

40. Failing to cooperate during an investigation or providing false information, verbally or in writing, to the Board, the Board's investigator or an agent of the Board;

41. Having multiple administrative or civil actions reported to the National Practitioner ~~Databank~~ Data Bank;

42. Failing to complete an approved two-hour course on opioid and scheduled drug prescribing within one (1) year of obtaining a license or a violation of a law related to controlled dangerous substances including prescribing laws pursuant to Section 2-309D of Title 63 of the Oklahoma Statutes;

43. Falling below the basic standard of care of a licensed dentist or dentist practicing in his or her specialty, a hygienist, dental assistant, or other licensee or permit holder pursuant to the

State Dental Act and Section 20.1 of Title 76 of the Oklahoma Statutes; or

44. Failing to provide patient records as provided by Sections 19 and 20 of Title 76 of the Oklahoma Statutes.

B. The provisions of the State Dental Act shall not be construed to prohibit any dentist from displaying or otherwise advertising that the dentist is also currently licensed, registered, certified or otherwise credentialed pursuant to the laws of this state or a nationally recognized credentialing board, if authorized by the laws of the state or credentialing board to display or otherwise advertise as a licensed, registered, certified, or credentialed dentist.

SECTION 6. AMENDATORY 59 O.S. 2021, Section 328.34, is amended to read as follows:

Section 328.34. A. A dental hygienist may practice dental hygiene under the supervision of a dentist in a dental office or treatment facility. A dentist may employ not more than the equivalent of three full-time dental hygienists for each dentist actively practicing in the same dental office. Employing the equivalent of three dental hygienists shall mean the employment or any combination of full- or part-time dental hygienists not to exceed one hundred twenty (120) hours per week per dentist.

B. 1. A dentist may delegate to a dental hygienist the following procedures:

a. the duties and expanded duties authorized for dental assistants by the State Dental Act or the rules of the Board of Dentistry,

b. health history assessment pertaining to dental hygiene,

c. dental hygiene examination and the charting of intra-oral and extra-oral conditions, which include periodontal charting, dental charting and classifying occlusion,

d. dental hygiene assessment and treatment planning for procedures authorized by the supervisory dentist,

e. prophylaxis, which means the removal of any and all calcareous deposits, stains, accretions, or concretions from the supragingival and subgingival surfaces of human teeth, utilizing instrumentation by scaler or periodontal curette on the crown and root surfaces of human teeth, including rotary or power-driven instruments. This paragraph shall not be construed to prohibit the use of a prophy/polishing cup or brush on the crowns of human teeth by a dental assistant who holds a current expanded duty permit for ~~Coronal Polishing/Topical Fluoride~~ coronal polishing and topical fluoride issued by the Board,

f. periodontal scaling and root planing,

g. dental hygiene nutritional and dietary evaluation,

h. placement of subgingival prescription drugs for prevention and treatment of periodontal disease,

i. soft tissue curettage,

j. placement of temporary fillings,

k. removal of overhanging margins,

l. dental implant maintenance,

m. removal of periodontal packs,

n. polishing of amalgam restorations, and

o. other procedures authorized by the Board.

2. The procedures specified in subparagraphs b through o of paragraph 1 of this subsection may be performed only by a dentist or a dental hygienist.

3. Except as provided in subsections C and D of this section, the procedures specified in paragraph 1 of this subsection may be performed by a dental hygienist only on a patient of record and only under the supervision of a dentist. The advanced procedures of administration of nitrous oxide, administration of local anesthesia, neuromodulator administration, therapeutic use of lasers, and phlebotomy and venipuncture shall be performed only under the direct or indirect supervision of a dentist. The level of supervision, whether direct, indirect, or general, for the advanced procedure of elder care and public health pursuant to Section 7 of this act shall be at the discretion of the supervisory dentist. Authorization for general supervision shall be limited to a maximum of thirteen (13) months following an examination by the supervisory dentist of a patient of record~~. For the purposes of this paragraph, "patient of record" means an individual who has given a medical history and has been examined and accepted by a dentist for dental care~~.

C. 1. A dentist may authorize procedures to be performed by a dental hygienist, without complying with the provisions of paragraph 3 of subsection B of this section, if:

a. the dental hygienist has at least two (2) ~~years~~ years' experience in the practice of dental hygiene,

b. the authorization to perform the procedures is in writing and signed by the dentist, and

c. the procedures are performed during an initial visit to a person in a treatment facility, or pursuant to Section 7 of this act.

2. The person upon whom the procedures are performed must be referred to a dentist after completion of the procedures performed pursuant to paragraph 1 of this subsection.

3. A dental hygienist shall not perform a second set of procedures on a person pursuant to this subsection until the person has been examined and accepted for dental care by a dentist.

4. The treatment facility in which any procedure is performed by a dental hygienist pursuant to this subsection shall note each such procedure in the medical records of the person upon whom the

procedure was performed and list the dentist that authorized the hygienist to perform the procedures signed by the hygienist.

D. A treatment facility may employ dental hygienists whose services shall be limited to the examination of teeth and the teaching of dental hygiene or as otherwise authorized by the Board.

E. The Board is authorized to~~:~~

~~1. Prescribe~~ prescribe, by rule, the educational requirements for advanced procedures that may be performed by a dental hygienist ~~who has satisfactorily completed a course of study regarding the performance of such procedures~~ upon receipt of the advanced procedures designated on his or her license. The ~~advance~~ advanced procedures shall include the administration of local anesthesia ~~and~~, the administration of nitrous oxide analgesia~~;~~

~~2. Establish guidelines for courses of study necessary for a dental hygienist to perform advanced procedures;~~

~~3. Issue authorization to perform advanced procedures to those dental hygienists who meet the eligibility requirements; and~~

~~4. Establish the level of supervision, whether direct, indirect or general, under which the advanced procedures may be performed~~, neuromodulator administration, therapeutic use of lasers, phlebotomy and venipuncture, and elder care and public health pursuant to Section 7 of this act.

F. A dental hygienist shall not own or operate an independent practice of dental hygiene.

G. Nothing in the State Dental Act shall be construed to prohibit a dentist from performing any of the procedures that may be performed by a dental hygienist.

H. Nothing in the State Dental Act shall be construed to allow a dental assistant to work under the supervision of a dental hygienist while acting under direct, indirect or general supervision, except as provided by Section 7 of this act.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 328.58 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A licensed dentist may allow a dental hygienist with an elder care advanced procedure permit to treat patients under general supervision by utilizing teledentistry on a patient in:

1. A nursing facility, specialized facility, or nursing care component of a continuum of care facility licensed under or otherwise subject to the Nursing Home Care Act, Section 1-1901 et seq. of Title 63 of the Oklahoma Statutes;

2. An assisted living center or continuum of care facility licensed under the Continuum of Care and Assisted Living Act, Section 1-890.1 et seq. of Title 63 of the Oklahoma Statutes;

3. A residential care home licensed under the Residential Care Act, Section 1-819 et seq. of Title 63 of the Oklahoma Statutes;

4. An adult day care center or adult day care component of a continuum of care facility licensed under or otherwise subject to the Adult Day Care Act, Section 1-870 et seq. of Title 63 of the Oklahoma Statutes; or

5. Another healthcare facility or long-term care facility as specifically approved by the Board of Dentistry.

B. A dental hygienist with a minimum of two (2) years of licensed active hygiene practice may apply to the Board for an advanced procedure permit for elder care and public health.

C. Upon receipt of the advanced procedure permit, the dental hygienist may provide hygiene treatments to a new or existing patient in a facility listed in subsection A of this section, utilizing mobile or other applicable dental equipment. In addition to a written record and patient file, the hygienist shall complete a visual recording of the patient's mouth through video or live teledentistry to aid the dentist in completing an evaluation and diagnosis of the patient. The video recording shall be maintained as part of the patient record.

D. A dentist shall complete an in-person, live, or recorded teledentistry assessment, diagnosis, and treatment plan for the patient taking into consideration the needs, health, and physical abilities of the patient a minimum of every thirteen (13) months.

E. The supervising dentist shall maintain all patient records including teledentistry recordings for a period of seven (7) years.

F. A dental assistant having a minimum of two (2) years of active dental assisting practice may apply to the Board for an expanded duty permit for elder care and public health. Upon receipt of the expanded duty permit, the dental assistant may assist a hygienist while providing treatment in a facility listed in subsection A of this section under the general supervision of the supervising dentist. The patient records shall list the dental assistant providing treatment while assisting the dental hygienist.

SECTION 8. This act shall become effective July 1, 2023.

SECTION 9. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 14th day of March, 2023.

Brent Howard
Presiding Officer of the Senate

Passed the House of Representatives the 26th day of April, 2023.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 1st

day of May, 20 23, at 2:13 o'clock p. M.

By: James Curry

Approved by the Governor of the State of Oklahoma this 5th

day of May, 20 23, at 10:25 o'clock a. M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 5th

day of May, 20 23, at 11:50 o'clock A. M.

By: Brian Bingman