

1 SB325
2 128343-1
3 By Senator Bussman
4 RFD: Rules
5 First Read: 05-APR-11

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, the Board of Dental
9 Examiners of Alabama is the entity responsible for
10 licensing and regulating dentists and dental
11 hygienists in the state.

12 This bill would further provide for
13 legislative intent.

14 This bill would provide reference to
15 licensed or permitted dentists or dental
16 hygienists.

17 This bill would remove the maximum fine
18 limitation for violation of the Dental Practice
19 Act.

20 This bill would provide for the regulation
21 of persons who bleach, or provide instruction in
22 the bleaching of, human teeth.

23 This bill would separate and provide further
24 for the regulation of both mobile dental facilities
25 and portable dental operations.

1 This bill would provide for the issuance of
2 dental faculty teaching certificates and dental
3 faculty special teaching permits.

4 This bill would specify the authority of
5 certain exempt entities to practice in the state.

6 This bill would extend the time limit for
7 licensure by examination not given by the board,
8 and for licensure after clinical residency or
9 military service as a dentist or dental hygienist,
10 from 18 months to five years after examination or
11 service, and would provide further for the
12 submission of affidavits by licensed practitioners.

13 This bill would provide an inactive status
14 for a special purpose license to practice across
15 state lines.

16 This bill would provide for registration by
17 electronic format.

18 This bill would specify that the requirement
19 for a dentist to release records survives the sale
20 of his or her practice.

21 This bill would delete the minimum fee
22 schedule and provide maximum fees for special
23 purpose licensure renewal, dental faculty special
24 teaching permit fees, and mobile dental
25 facility/portable dental operation application for
26 certificate of registration and renewal fees, and

1 would increase the dental hygiene annual
2 registration fee from \$75 to \$150.

3 This bill would allow the board to
4 discipline licensees for knowingly or unknowingly
5 using fraud or deceit to obtain a license or for
6 prescribing a drug for any condition not dentally
7 related.

8 This bill would increase the board imposed
9 administrative fine from \$1,250 to \$5,000 for each
10 offense.

11 This bill would revise certain antiquated
12 terminology.

13 This bill would require licensee changes in
14 address or employment to be reported to the board
15 in writing.

16 This bill would provide for the electronic
17 submission of ballots for the election of board
18 members and would provide further for the election
19 process.

20 This bill would provide further for the
21 employment of board staff.

22 This bill would remove the requirement of an
23 annual audit by a certified public accountant.

24 This bill would remove the requirement that
25 investigators be paid a subsistence allowance by
26 the board.

1 This bill would authorize any member of the
2 board to issue subpoenas.

3 This bill would allow an applicant to
4 reapply for a permit to use anesthesia after the
5 correction of deficiencies in an original
6 evaluation and inspection by examiners.

7 This bill would require a dentist utilizing
8 parenteral sedation to be trained in advanced
9 cardiac life support.

10 This bill would also require written
11 informed consent of a patient or guardian before
12 undergoing a procedure using a sedative agent.

13
14 A BILL
15 TO BE ENTITLED
16 AN ACT

17
18 Relating to the practice of dentistry and dental
19 hygiene; to amend Sections 34-9-2, 34-9-3, 34-9-5, 34-9-6,
20 34-9-6.1, 34-9-7, 34-9-8, 34-9-10, 34-9-13, 34-9-15,
21 34-9-15.1, 34-9-16, 34-9-18, 34-9-20, 34-9-21, 34-9-22,
22 34-9-24, 34-9-26, 34-9-27, 34-9-28, 34-9-40, 34-9-41, 34-9-42,
23 34-9-43, 34-9-44, 34-9-46, 34-9-60, 34-9-63, 34-9-82, and
24 34-9-89 of the Code of Alabama 1975, to provide legislative
25 intent; to reference both licensed and permitted dentists and
26 dental hygienists; to remove the maximum fine limitation for
27 violation of the Dental Practice Act; to provide for the

1 regulation of bleaching of human teeth; to provide further for
2 the regulation of both mobile dental facilities and portable
3 dental operations; to provide for dental faculty teaching
4 certificates and dental faculty special teaching permits; to
5 specify the authority of certain exempt entities to practice;
6 to extend the time limit for licensure by examination not
7 given by the board and for licensure after clinical residency
8 or military service; to provide further for the submission of
9 affidavits by licensed practitioners; to provide an inactive
10 status for special purpose licensees to practice across state
11 lines; to provide for registration by electronic format; to
12 specify that the requirement for a dentist to release records
13 survives the sale of his or her practice; to delete the
14 minimum fee schedule; to provide maximum fees for special
15 purpose licensure renewal, dental faculty special teaching
16 permit fees, and mobile dental facility/portable dental
17 operation application for certificate of registration and
18 renewal fees; to increase the dental hygiene annual
19 registration fee; to allow the board to discipline licensees
20 for knowingly or unknowingly using fraud or deceit to obtain a
21 license or for prescribing a drug for any condition not
22 dentally related; to increase board imposed administrative
23 fines; to revise certain antiquated terminology; to require
24 licensee changes in address or employment to be reported to
25 the board in writing; to provide for the electronic submission
26 of ballots for the election of board members; to provide
27 further for the election process; to provide further for the

1 employment of board staff; to remove the requirement of an
2 annual audit by a certified public accountant and the
3 requirement that investigators be paid a subsistence allowance
4 by the board; to authorize any board member to issue
5 subpoenas; to provide that an applicant may reapply for a
6 permit to use anesthesia after the correction of deficiencies
7 in an original evaluation and inspection by examiners; to
8 require a dentist utilizing parenteral sedation to be trained
9 in advanced cardiac life support; and to require written
10 informed consent of a patient or guardian before undergoing a
11 procedure using a sedative agent.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Sections 34-9-2, 34-9-3, 34-9-5, 34-9-6,
14 34-9-6.1, 34-9-7, 34-9-8, 34-9-10, 34-9-13, 34-9-15,
15 34-9-15.1, 34-9-16, 34-9-18, 34-9-20, 34-9-21, 34-9-22,
16 34-9-24, 34-9-26, 34-9-27, 34-9-28, 34-9-40, 34-9-41, 34-9-42,
17 34-9-43, 34-9-44, 34-9-46, 34-9-60, 34-9-63, 34-9-82, and
18 34-9-89 of the Code of Alabama 1975, are amended to read as
19 follows:

20 "§34-9-2.

21 "(a) The Legislature hereby declares that the
22 practice of dentistry ~~affects~~ and the practice of dental
23 hygiene affect the public health, safety, and welfare and
24 should be subject to regulation. It is further declared to be
25 a matter of public interest and concern that the dental
26 profession merit and receive the confidence of the public and
27 that only qualified dentists and qualified dental hygienists

1 be permitted to practice dentistry and dental hygiene in the
2 State of Alabama. All provisions of this chapter relating to
3 the practice of dentistry and dental hygiene shall be
4 liberally construed to carry out these objects and purposes.

5 "(b) The Legislature also finds and declares that,
6 because of technological advances and changing practice
7 patterns, the practice of dentistry and the practice of dental
8 hygiene is occurring with increasing frequency across state
9 lines and that the technological advances in the practice of
10 dentistry and in the practice of dental hygiene are in the
11 public interest.

12 "(c) The Legislature further finds and declares that
13 the practice of dentistry ~~is~~ and the practice of dental
14 hygiene are each a privilege. The licensure by this state of
15 nonresident dentists who engage in dental practice and persons
16 who engage in the practice of dental hygiene within this state
17 ~~is~~ are within the public interest. The ability to discipline
18 the nonresident dentists and dental hygienists who engage in
19 dental practice in this state is necessary for the protection
20 of the citizens of this state and for the public interest,
21 health, welfare, and safety.

22 "§34-9-3.

23 "It shall be unlawful for any person to practice
24 dentistry in the State of Alabama except the following:

25 "(1) Those who are now duly licensed or permitted
26 dentists, pursuant to law.

1 "(2) Those who may be hereafter duly licensed or
2 permitted and who are currently registered as dentists,
3 pursuant to this chapter.

4 "(3) Those nonresident dentists who have been issued
5 a special purpose license to practice dentistry across state
6 lines in accordance with Section 34-9-10. This subdivision
7 shall not apply to those dentists who hold a full,
8 unrestricted, and current license or permit issued pursuant to
9 Section 34-9-8 or Section 34-9-10.

10 "§34-9-5.

11 "Any person who shall ~~practice dentistry,~~ engage in
12 the practice of dentistry across state lines~~,~~ or practice
13 dentistry or dental hygiene in this state within the meaning
14 of this chapter without having first obtained from the board a
15 license and an annual registration certificate, when the
16 certificate is required by this chapter, or who violates this
17 chapter, or who willfully violates any published rule or
18 regulation of the board, or who does any act described in this
19 chapter as unlawful, the penalty for which is not herein
20 specifically provided, shall be guilty of a misdemeanor and
21 upon conviction shall be punished by a fine of not more than
22 ~~one thousand dollars (\$1,000)~~ five thousand dollars (\$5,000)
23 for each offense, to be fixed by the court trying the case,
24 and in addition thereto may be, in the discretion of the
25 court, sentenced to hard labor for the county for a period not
26 to exceed 12 months.

27 "§34-9-6.

1 "Any person shall be deemed to be practicing
2 dentistry who does any of the following:

3 "(1) Performs ~~performs~~, or attempts or professes to
4 perform, any dental operation or dental service of any kind,
5 gratuitously or for a salary, fee, money or other remuneration
6 paid, or to be paid, directly or indirectly, to himself or
7 herself, or to any person in his or her behalf, or to any
8 agency which is a proprietor of a place where dental
9 operations or dental services are performed; ~~or.~~

10 "(2) Directly ~~(1) Who directly~~ or indirectly, by any
11 means or method, makes impression of the human tooth, teeth,
12 jaws or adjacent tissue, or performs any phase of any
13 operation incident to the replacement of a tooth or any part
14 thereof; ~~or.~~

15 "(3) ~~(2)~~ Supplies artificial substitutes for the
16 natural teeth, and who furnishes, supplies, constructs,
17 reproduces, or repairs any ~~prosthetic denture, bridge~~
18 prosthesis (fixed or removable), appliance, or any other
19 structure to be worn in the human mouth; ~~or.~~

20 "(4) Places ~~(3) Who places~~ such appliance or
21 structure in the human mouth, or adjusts, ~~or attempts,~~ or
22 professes to adjust the same, or delivers the same to any
23 person other than the dentist upon whose prescription the work
24 was performed; ~~or.~~

25 "(5) Professes ~~(4) Who professes~~ to the public by
26 any method to furnish, supply, construct, reproduce, or repair
27 any ~~prosthetic denture, bridge~~ prosthesis (fixed or

1 removable), appliance, or other structure to be worn in the
2 human mouth, or who diagnoses, or professes to diagnose,
3 prescribe for, professes to prescribe for, treats or professes
4 to treat disease, pain, deformity, deficiency, injury, or
5 physical condition of the human teeth or jaws, or adjacent
6 structure, or who extracts or attempts to extract human teeth,
7 or remove tumors, abnormal growths, or other lesions from the
8 human gums, jaws, and adjacent structures, or who operates for
9 ~~harelip or cleft~~ lip or palate, or both; or who treats
10 surgically or mechanically fractures of the human jaw; or who
11 administers local or general anesthetics in the treatment of
12 any dental lesion;~~or.~~

13 "(6) Repairs ~~(5) Who repairs~~ or fills cavities in
14 the human teeth;~~or.~~

15 "(7) Uses ~~(6) Who uses~~ a roentgenor ~~X-ray,~~
16 radiograph, or digital imaging machine for the purpose of
17 ~~taking~~ making dental ~~X-rays or~~ roentgenograms, radiographs, or
18 digital images, or who gives, or professes to give,
19 interpretations or readings of dental ~~X-ray or~~ roentgenograms,
20 radiographs, or digital images, or ~~X-ray~~ radiographic or
21 roentgen therapy;~~or.~~

22 "(8) Administers ~~(7) Who administers~~ an anesthetic
23 of any nature in connection with a dental ~~operation;~~ or
24 procedure.

25 "(9) Uses ~~(8) Who uses~~ the words "dentist," "dental
26 surgeon," "oral surgeon," or the letters "D.D.S.," "D.M.D." or
27 any other words, letters, title, or descriptive matter which

1 in any way represents him or her as being able to diagnose,
2 treat, prescribe, or operate for any disease, pain, deformity,
3 deficiency, injury, or physical condition of the teeth or
4 jaws, or adjacent structures;~~or.~~

5 "(10) States ~~(9) Who states~~, or professes, or
6 permits to be stated or professed by any means or method
7 whatsoever that he or she can perform or will attempt to
8 perform dental ~~operations~~ procedures, or render a diagnosis
9 connected therewith;~~or.~~

10 "(11) Performs ~~(10) Who performs~~ any clinical
11 operation included in the curricula of recognized dental
12 colleges; provided, that members of the faculty, teachers,
13 instructors, fellows, interns, residents, dental students, and
14 student dental hygienists who are employed by or who are
15 taking courses or instructions at the University of Alabama
16 School of Dentistry or such other dental colleges, hospitals,
17 or institutions in Alabama, as may be approved by the board;
18 and provided, that the work of fellows, interns, residents,
19 dental students, and student dental hygienists is performed
20 within the facilities of such dental colleges, hospitals, and
21 institutions under the supervision of an instructor and as an
22 adjunct to his or her course of study or training, shall not
23 be required to take examination or obtain a license
24 certificate and renewal license certificate when all of such
25 work, dental ~~operations~~ procedures, and activities are
26 confined to his or her work in the college, hospital, or other
27 institution and the work is done without remuneration other

1 than the regular salary or compensation paid by such colleges,
2 hospitals, or other institutions.

3 "(12) Professes to the public by any method to
4 bleach human teeth, performs bleaching of the human teeth
5 alone or within his or her business, or instructs the public
6 within his or her business, or through any agent or employee
7 of his or her business, in the use of any tooth bleaching
8 product.

9 "§34-9-6.1.

10 "(a) For purposes of this section, the following
11 words have the following meanings:

12 "(1) DENTAL HOME. The dental home is the ongoing
13 relationship between the dentist and the patient, inclusive of
14 all aspects of oral health care, delivered in a comprehensive,
15 continuously accessible, coordinated, and family-centered way.

16 "(2) MOBILE DENTAL FACILITY ~~or PORTABLE DENTAL~~
17 ~~OPERATION~~. Any self-contained facility in which dentistry or
18 dental hygiene is practiced which may be moved, towed, or
19 transported from one location to another.

20 "(3) OPERATOR. A person licensed to practice
21 dentistry in this state or an entity which is approved as tax
22 exempt under Section 501(c) (3) of the Internal Revenue Code
23 which employs dentists licensed in the state to operate a
24 mobile dental facility or portable dental operation.

25 "(4) PORTABLE DENTAL OPERATION. The use of portable
26 dental delivery equipment which is set up on site to provide
27 dental services outside of a mobile dental facility or a

1 dental office and uses non-fixed dental equipment and
2 independent plumbing.

3 "(b) In order to operate a mobile dental facility or
4 portable dental operation, an operator shall first obtain a
5 certificate of registration issued by the ~~Board of Dental~~
6 ~~Examiners~~ board. The operator shall complete an application in
7 the form and manner required by the board and shall meet all
8 qualifications established by rules of the board.

9 "(c) A mobile dental facility ~~or portable dental~~
10 ~~operation~~ shall comply with all of the following requirements:

11 "(1) The operator shall maintain an official
12 business address which shall not be a post office box and
13 which shall be within this state and be associated with an
14 established dental facility which shall have an official
15 business address on record with the ~~Board of Dental Examiners~~
16 board. The address shall be filed with the board as part of
17 the application for a certificate of registration.

18 "(2) The operator shall maintain an official
19 telephone number of record which shall be accessible 24 hours
20 a day and which shall be filed with the board as part of the
21 application for a certificate of registration. The telephone
22 number shall have 911 capability.

23 "(3) The board shall be notified within 30 days of
24 any change in address, location, or telephone number of
25 record. The notification shall also include the method by
26 which patients are notified of the change of address,
27 location, or telephone number of record. For purposes of this

1 subdivision, patient shall mean any individual who has
2 received treatment or consultation of any kind within two
3 years of the date of the proposed change of address, location,
4 or telephone number of record.

5 "(4) All written or printed documents available from
6 or issued by the mobile dental facility ~~or portable dental~~
7 ~~operation~~ shall contain the official business address and
8 telephone number of record for the mobile dental facility ~~or~~
9 ~~portable dental operation~~.

10 "(5) When not in transit, all dental and official
11 records shall be maintained at the official business address.

12 "(6) The operator shall maintain a written procedure
13 for emergency follow-up care for patients treated in a mobile
14 dental facility ~~or a portable dental operation~~, which includes
15 arrangements for treatment in a dental facility that is
16 permanently established in the area within a 50-mile radius
17 where services are provided subject to a qualified dentist
18 being located in the area and subject to the dentist agreeing
19 to provide follow-up care. An operator who either is unable to
20 identify a qualified dentist in the area or is unable to
21 arrange for emergency follow-up care for patients otherwise
22 shall be obligated to provide the necessary ~~follow-up~~
23 follow-up care via the mobile dental facility ~~or portable~~
24 ~~dental operation~~ or the operator may choose to provide the
25 follow-up care at his or her established dental practice
26 location in the state or at any other established dental
27 practice in the state which agrees to accept the patient. An

1 operator who fails to arrange or provide follow-up care as
2 required herein shall be considered to have abandoned the
3 patient, and ~~will subject~~ the operator and any dentist or
4 dental hygienist, or both, who fail to provide the referenced
5 follow-up ~~treatment~~ care shall be subject to disciplinary
6 action by the board.

7 "(7) The mobile dental facility ~~or a portable dental~~
8 ~~operation~~ shall have communication ~~facilities~~ abilities that
9 ~~will~~ enable the operator to contact necessary parties in the
10 event of a medical or dental emergency. The communication
11 ~~facilities~~ abilities shall enable the patient or the parent or
12 guardian of the patient treated to contact the operator for
13 emergency care, follow-up care, or information about treatment
14 received. The provider who renders follow-up care must also be
15 able to contact the operator and receive treatment
16 information, including radiographs.

17 "(8) The mobile dental facility ~~or a portable dental~~
18 ~~operation~~ and the dental procedures performed therein shall
19 comply with all applicable federal and state laws and all
20 applicable rules of the board promulgated pursuant to Section
21 34-9-43.

22 "(9) Any driver of a mobile dental facility ~~or a~~
23 ~~portable dental operation~~ shall possess a valid Alabama
24 driver's license appropriate for the operation of the vehicle.
25 A copy of the driver's license of each driver shall be
26 submitted to the board at least 30 days prior to the

1 individual operating a mobile dental facility ~~or a portable~~
2 ~~dental operation~~.

3 "(10) All mobile dental facilities ~~or portable~~
4 ~~dental operations~~ authorized in this section which are a
5 vehicle or which are to be towed or otherwise transported by
6 another vehicle shall be registered in this state.

7 "(11) The operator of a mobile dental facility ~~or a~~
8 ~~portable dental operation~~ shall not perform services on a
9 minor without the signed consent from the parent or guardian
10 which form shall be established by the board. The consent form
11 shall inquire whether the prospective patient has received
12 dental care from a licensed dentist within one year and if so,
13 the consent form shall request the name, address, and phone
14 number of the dental home. If the information provided to the
15 operator does not identify a dental home for the prospective
16 patient, the operator shall contact the Alabama Medicaid
17 Agency for assistance in identifying a dental home for
18 Medicaid eligible patients. If this information is provided to
19 the operator, the operator shall contact the designated dental
20 home by phone, facsimile, or electronic mail and notify the
21 dental home of the prospective patient's interest in receiving
22 dental care from the operator. If the dental home confirms
23 that an appointment for the prospective patient is scheduled
24 with the dentist, the operator shall encourage the prospective
25 patient or his or her guardian to seek care from the dental
26 home. The consent form shall document that the patient, or
27 legal guardian, understands the prospective patient has an

1 option to receive dental care from ~~either~~ the mobile dental
2 facility ~~or portable dental operation~~ or his or her designated
3 dental home if applicable. The consent form shall require the
4 signature of a parent or legal guardian if the patient is a
5 minor.

6 "(12) Each operator of a mobile dental facility ~~or a~~
7 ~~portable dental operation~~ shall maintain a written or
8 electronic record detailing for each location where services
9 are performed all of the following information:

10 "a. The street address of the service location.

11 "b. The dates of each session.

12 "c. The number of patients served.

13 "d. The types of dental services provided and the
14 quantity of each service provided.

15 "e. Any other information requested by rule of the
16 board.

17 "(13) The written or electronic record shall be made
18 available to the board within 10 days of a request.

19 "(14) Each mobile dental facility ~~or a portable~~
20 ~~dental operation must~~ shall possess all applicable county and
21 city licenses or permits to operate at each location.

22 "(d) The mobile dental facility ~~or a portable dental~~
23 ~~operation~~ shall comply with the following physical
24 requirements and inspection criteria:

25 "(1) Ready access in a ramp or lift.

26 "(2) A properly functioning sterilization system.

1 "(3) Ready access to an adequate supply of potable
2 water, including hot water.

3 "(4) A covered galvanized, stainless steel, or other
4 noncorrosive container for deposit of refuse and waste
5 materials.

6 "~~(5) For operators applying for a certificate of~~
7 ~~registration after July 1, 2008, who have not been issued a~~
8 ~~certificate prior to that date, ready~~ Ready access to toilet
9 facilities which shall be located within the mobile dental
10 facility ~~or portable dental operation~~. Operators applying for
11 a certificate prior to July 1, 2008, are not required to meet
12 this requirement. Any ~~non-profit~~ governmental entity operating
13 a ~~portable~~ mobile dental operation ~~within an existing building~~
14 facility shall only be required to have ready access to toilet
15 facilities ~~within the building~~.

16 "(6) All licenses and permits as required by Section
17 34-9-13 on site.

18 "(7) Ready access to an emergency kit.

19 "(8) Sharps containers and red biohazard equipment
20 available on site.

21 "(e) A portable dental operation shall comply with
22 all of the following requirements:

23 "(1) The operator shall maintain an official
24 business address which shall not be a post office box and
25 which shall be within this state and be associated with an
26 established dental facility which shall have an official
27 business address on record with the board. The address shall

1 be filed with the board as part of the application for a
2 certificate of registration.

3 "(2) The operator shall maintain an official
4 telephone number of record which shall be accessible 24 hours
5 a day and which shall be filed with the board as part of the
6 application for a certificate of registration. The telephone
7 number shall have E-911 capability.

8 "(3) The board shall be notified within 30 days of
9 any change in address, location, or telephone number of
10 record. The notification shall also include the method by
11 which patients are notified of the change of address,
12 location, or telephone number of record. For purposes of this
13 subdivision, patient shall mean any individual who has
14 received treatment or consultation of any kind within two
15 years of the date of the proposed change of address, location,
16 or telephone number of record.

17 "(4) All written or printed documents available from
18 or issued by the portable dental operation shall contain the
19 official business address and telephone number of record for
20 the portable dental operation.

21 "(5) When not in transit, all dental and official
22 records shall be maintained at the official business address.

23 "(6) The operator shall maintain a written procedure
24 for emergency follow-up care for patients treated in a
25 portable dental operation, which includes arrangements for
26 treatment in a dental facility that is permanently established
27 in the area within a 50-mile radius where services are

1 provided subject to a qualified dentist being located in the
2 area and subject to the dentist agreeing to provide follow-up
3 care. An operator who either is unable to identify a qualified
4 dentist in the area or is unable to arrange otherwise for
5 emergency follow-up care for patients shall be obligated to
6 provide the necessary follow-up care via the portable dental
7 operation, or the operator may choose to provide the follow-up
8 care at his or her established dental practice location in the
9 state or at any other established dental practice in the state
10 which agrees to accept the patient. An operator who fails to
11 arrange or provide follow-up care as required herein shall be
12 considered to have abandoned the patient, and the operator and
13 any dentist or dental hygienist, or both, who fail to provide
14 the referenced follow-up care shall be subject to disciplinary
15 action by the board.

16 "(7) The portable dental operation shall have
17 communication abilities that enable the operator to contact
18 necessary parties in the event of a medical or dental
19 emergency. The communication abilities shall enable the
20 patient or the parent or guardian of the patient treated to
21 contact the operator for emergency care, follow-up care, or
22 information about treatment received. The provider who renders
23 follow-up care must also be able to contact the operator and
24 receive treatment information, including radiographs.

25 "(8) The portable dental operation and the dental
26 procedures performed therein shall comply with all applicable

1 federal and state laws and all applicable rules of the board
2 promulgated pursuant to Section 34-9-43.

3 "(9) The operator of a portable dental operation may
4 not perform services on a minor without the signed consent
5 from the parent or guardian on a form established by the
6 board. The consent form shall request information as to
7 whether the prospective patient has received dental care from
8 a licensed dentist within one year and, if so, shall request
9 the name, address, and phone number of the dental home. If the
10 information provided to the operator does not identify a
11 dental home for the prospective patient, the operator shall
12 contact the Alabama Medicaid Agency for assistance in
13 identifying a dental home for Medicaid eligible patients. If
14 this information is provided to the operator, the operator
15 shall contact the designated dental home by phone, facsimile,
16 or electronic mail and notify the dental home of the
17 prospective patient's interest in receiving dental care from
18 the operator. If the dental home confirms that an appointment
19 for the prospective patient is scheduled with the dentist, the
20 operator shall encourage the prospective patient or his or her
21 guardian to seek care from the dental home. The consent form
22 shall document that the patient, or legal guardian,
23 understands the prospective patient has an option to receive
24 dental care from either the portable dental operation or his
25 or her designated dental home, if applicable. The consent form
26 shall require the signature of a parent or legal guardian if
27 the patient is a minor.

1 "(10) Each operator of a portable dental operation
2 shall maintain a written or electronic record detailing for
3 each location where services are performed all of the
4 following information:

5 "a. The street address of the service location.

6 "b. The dates of each session.

7 "c. The number of patients served.

8 "d. The types of dental services provided and the
9 quantity of each service provided.

10 "e. Any other information requested by rule of the
11 board.

12 "(11) The written or electronic record shall be made
13 available to the board within 10 days of a request.

14 "(12) Each portable dental operation shall possess
15 all applicable county and city licenses or permits to operate
16 at each location.

17 "(f) The portable dental operation shall comply with
18 all physical requirements and inspection criteria established
19 by rule of the board and shall comply with the license and
20 permit requirements of Section 34-9-13.

21 "(g) ~~(e)~~ The mobile dental facility or a portable
22 dental operation shall be inspected by the board or its
23 representative prior to receiving a certificate of
24 registration. Once registered, the mobile dental facility or a
25 portable dental operation shall be subject to periodic
26 unannounced audits and inspections by the board.

1 "(h) ~~(f)~~ The mobile dental facility or a portable
2 dental operation shall comply with the current recommendations
3 for infection control practices for dentistry as promulgated
4 by the Centers for Disease Control and any rule of the board
5 relating to infection control or reporting in a dental office.

6 "(i) ~~(g)~~ The initial application for a certificate
7 of registration shall include the full name, address, and
8 telephone number of the dentists and dental hygienists working
9 at the facility or operation. The initial application for a
10 certificate of registration shall also include proof of
11 insurance from a licensed insurance carrier that the operator
12 has in force at least one million dollars (\$1,000,000) of
13 general liability insurance. The operator shall be required to
14 maintain one million dollars (\$1,000,000) of general liability
15 insurance at all times for which the mobile dental facility or
16 portable dental operation is licensed by the Board of Dental
17 Examiners. Governmental entities which operate mobile dental
18 facilities or portable dental operations shall not be required
19 to have or maintain any amount of general liability insurance.
20 The operator shall advise the board in writing within 15 days
21 of any change in the employment of any dentist or dental
22 hygienist working at the facility or operation.

23 "(j) ~~(h)~~ The operator shall notify the board in
24 writing within 10 days of any change made relating to a
25 dentist to whom patients are to be referred for follow-up care
26 as provided in subdivision (6) of subsection (c).

1 "(k) ~~(i)~~ The operator shall notify the board in
2 writing within 10 days of any change in the procedure for
3 emergency follow-up care as provided in subdivision (6) of
4 subsection (c).

5 "(l) ~~(j)~~ At the conclusion of each patient's visit
6 to the mobile dental facility or a portable dental operation,
7 the patient shall be provided with a patient information sheet
8 which shall also be provided to any individual or entity to
9 whom the patient has consented or authorized to receive or
10 access the patient's records. The information sheet shall
11 include at a minimum the following information:

12 "(1) The name of the dentist or dental hygienist, or
13 both, who performed the services.

14 "(2) A description of the treatment rendered,
15 including billing service codes and fees associated with
16 treatment and tooth numbers when appropriate.

17 "(3) If applicable, the name, address, and telephone
18 number of any dentist to whom the patient was referred for
19 follow-up care and the reason for such referral.

20 "(4) The name, address, and telephone number, if
21 applicable, of a parent or guardian of the patient.

22 "(m) ~~(k)~~ In the event a mobile dental facility or a
23 portable dental operation is to be sold, the current operator
24 shall inform the board and the Alabama Medicaid Agency, if the
25 operator is an Alabama Medicaid enrolled provider, at least 10
26 days prior to the sale being completed and shall be required
27 to disclose the purchaser to the board and the Alabama

1 Medicaid Agency, if the operator is an Alabama Medicaid
2 enrolled provider, via certified mail within 10 days after the
3 date the sale is finalized. The operator of a mobile dental
4 facility or a portable dental operation shall notify the board
5 and the Alabama Medicaid Agency, if the operator is an Alabama
6 Medicaid enrolled provider, at least 30 days prior to
7 cessation of operation. Such notification shall include the
8 final day of operation and a copy of the notification shall be
9 sent to all patients and shall include the manner and
10 procedure by which patients may obtain their records or
11 transfer those records to another dentist. It is the
12 responsibility of the operator to take all necessary action to
13 insure that the patient records are available to the patient,
14 a duly authorized representative of the patient, or a
15 subsequent treating dentist. For purposes of this subsection,
16 a patient shall mean any individual who has received any
17 treatment or consultation of any kind within two years of the
18 last date of operation of the mobile dental facility or a
19 portable dental operation.

20 "(n) ~~(i)~~ A mobile dental facility or a portable
21 dental operation that accepts or treats a patient but does not
22 refer patients for follow-up ~~treatment~~ care when such
23 follow-up ~~treatment~~ care is clearly necessary, shall be
24 considered to have abandoned the patient and will subject the
25 operator and any dentist or dental hygienist, or both, who
26 fails to provide the referenced follow-up ~~treatment~~ care to
27 disciplinary action by the board.

1 "(o) ~~(m)~~ In addition to the requirements of this
2 section, any operator, dentist, or dental hygienist working or
3 performing any services at a mobile dental facility or a
4 portable dental operation shall be subject to the provisions
5 of this chapter. Any violation of the provisions of this
6 section shall subject the operator, dentist, or dental
7 hygienist to the penalties provided in Section 34-9-18, and no
8 order imposing penalties pursuant to Section 34-9-18 shall be
9 made or entered except after notice and hearing by the board
10 with any such order being subject to judicial review.

11 "(p) ~~(n)~~ The board may promulgate rules to implement
12 and enforce ~~the provisions of~~ this section.

13 "(q) A mobile dental facility or portable dental
14 operation shall conform to all requirements of this chapter,
15 rules promulgated by the board pursuant to this chapter, any
16 rule or regulation promulgated by the Occupational Safety and
17 Health Administration, the federal Centers for Disease Control
18 and Prevention, and the Alabama Department of Public Health,
19 and any applicable federal, state, or local law, regulation,
20 guideline, or ordinance including, but not limited to, those
21 relating to radiographic equipment, flammability,
22 construction, sanitation, medical waste transportation,
23 zoning, prevention of infection and disease, facility
24 operation, and licenses or permits to operate.

25 "(r) ~~This (o)~~ The provisions of this section shall
26 not apply to any existing Jefferson County Department of
27 Health mobile dental facilities ~~or portable dental operations~~

1 that have been in service providing dental care within
2 Jefferson County prior to December 31, 2007.

3 "(s) ~~(p)~~ This section shall not apply to any mobile
4 dental facility or portable dental operation which is operated
5 during a state of emergency declared by the Governor as
6 authorized in Section 31-9-8.

7 "(t) ~~(q)~~ It is the express intent of the Legislature
8 that no state agency, including, but not limited to, the
9 Alabama Medicaid Agency, shall restrict any mobile dental
10 facility or portable dental operation which complies with the
11 provisions outlined herein and all applicable state and
12 federal rules from participation in its programs.

13 "(u) ~~(r)~~ Notwithstanding any other provision of law,
14 any entity which is approved as tax exempt under Section
15 501(c)(3) of the Internal Revenue Code and employs dentists
16 licensed in this state shall continue to be able to employ
17 dentists licensed in this state and to provide dental services
18 in the same manner and under the same conditions as licensed
19 on June 7, 2008.

20 "§34-9-7.

21 "Nothing in this chapter shall apply to the
22 following practices, acts, and operations:

23 "(1) The practice of his or her profession by a
24 physician or surgeon holding a certificate of qualification as
25 a medical doctor and licensed as such under the laws of this
26 state, provided he or she shall not practice dentistry as a
27 specialty.

1 "(2) The practice of dentistry in the discharge of
2 their official duties by graduate dentists or dental surgeons
3 in the United States Army, Navy, Air Force, or other armed
4 services, public health service (provided however, dentists,
5 dental hygienists, and other personnel employed by any public
6 health service which performs dental health care for the
7 general public under programs funded in whole or part by the
8 state or federal government shall be subject to all of the
9 provisions of this chapter and the rules and regulations duly
10 promulgated by the Board of Dental Examiners governing the
11 practice of dentistry and dental hygiene in this state), Coast
12 Guard, or Veteran's Administration.

13 "(3) The practice of dentistry by a licensed dentist
14 of other states or countries at meetings of the Alabama Dental
15 Association or components thereof, or other like dental
16 organizations approved by the board, while appearing as
17 clinicians, or when appearing in emergency cases upon the
18 specific call of dentists duly licensed under this chapter.

19 "(4) The filling of prescriptions of a licensed and
20 registered dentist, as hereinafter provided, by any person or
21 persons, association, corporation, or other entity for the
22 construction, reproduction, or repair of ~~prosthetic dentures,~~
23 ~~bridges, plates, prostheses (fixed or removable)~~ or appliances
24 on a ~~model~~ cast made by or from impressions ~~taken~~ made by a
25 licensed and currently registered dentist, to be used or worn
26 as a substitute for natural teeth; provided, that the person
27 or persons, association, corporation, or other entity, shall

1 not solicit or advertise, directly or indirectly, by mail,
2 card, newspaper, pamphlet, radio, television, Internet, or
3 otherwise, to the general public to construct, reproduce, or
4 repair ~~prosthetic dentures, bridges, plates,~~ protheses (fixed
5 or removable) or other appliances to be used or worn as
6 substitutes for natural teeth.

7 "(5) The use of roentgen machines or other ~~rays~~
8 means for making ~~radiograms~~ radiographs, digital images, or
9 similar records, of dental or oral tissues under the
10 supervision of a licensed dentist or physician; provided, that
11 the services shall not be advertised by any name whatever as
12 an aid or inducement to secure dental patronage, and no person
13 shall advertise that he or she has, leases, owns, or operates
14 a roentgen or other machine for the purpose of making dental
15 ~~radiograms~~ radiographs or images, of the human teeth or
16 tissues or the oral cavity, or administering treatments
17 thereto for any disease thereof.

18 "(6) The giving of a general anesthetic by a nurse
19 anesthetist who administers a general anesthetic under the
20 direct supervision of a duly licensed dentist to a patient who
21 is undergoing dental treatment rendered by the dentist.

22 "(7) The use of a nurse in the practice of
23 professional or practical nursing, as defined in Sections
24 34-21-1 through 34-21-26, by a dentist.

25 "(8) A dentist who engages in the practice of
26 dentistry across state lines in an emergency, as defined by
27 the board.

1 "(9) A dentist who engages in the practice of
2 dentistry across state lines on an irregular or infrequent
3 basis. The "irregular or infrequent" practice of dentistry
4 across state lines is considered to occur if the practice
5 occurs less than 10 times in a calendar year or involves fewer
6 than 10 patients in a calendar year, or the practice comprises
7 less than one percent of the diagnostic or therapeutic
8 practice of the dentist.

9 "(10) A dentist or dental hygienist on active duty,
10 or performing his or her duties as a reservist in the
11 military, is not subject to any fee required for a special
12 purpose license to practice dentistry across state lines. The
13 dentist or dental hygienist shall notify the board in advance
14 of his or her participation in military activities and shall
15 forward a copy of his or her current dental license or permit,
16 or both, to the board. The dentist or dental hygienist shall
17 also provide proof of military status and any orders requiring
18 him or her to perform dental treatment services in this state.

19 "§34-9-8.

20 "(a) The board shall annually issue dental faculty
21 teaching permits to persons who are bona fide members of the
22 faculty of a dental college, if they hold a dental degree but
23 are not licensed and registered to practice dentistry or
24 dental hygiene in the state. The dean of any dental college
25 located in the state shall annually certify to the board the
26 bona fide members of the clinical faculty of the college who
27 are not licensed and registered to practice dentistry or

1 dental hygiene in the state. The board shall issue teaching
2 permits to applicants upon the certification by the dean. The
3 teaching permits shall be invalid if the holder ceases to be a
4 member of the clinical faculty of the dental college. The dean
5 of any dental college shall promptly notify the board
6 regarding changes in the faculty which affect the eligibility
7 of a faculty member to possess a teaching permit. The holder
8 of a teaching permit shall be subject to this chapter and may
9 perform all clinical operations which a person licensed to
10 practice dentistry or dental hygiene in the state is entitled
11 to perform. The operations may only be performed within the
12 facilities of the dental college ~~and~~ or any other facility
13 approved by the board as an adjunct to his or her teaching
14 functions in the college. An annual fee established pursuant
15 to this chapter shall be paid to the board when the teaching
16 permit is issued.

17 "(b) The board shall annually issue dental faculty
18 special teaching permits to persons who are bona fide members
19 of the faculty of a dental college if they hold a dental
20 degree but are not licensed and registered to practice
21 dentistry or dental hygiene in the state. The dean of any
22 dental college located in the state shall annually certify to
23 the board the bona fide members of the clinical faculty of the
24 college who are not licensed and registered to practice
25 dentistry or dental hygiene in the state. The board shall
26 issue special teaching permits to applicants upon
27 certification by the dean. The special teaching permits shall

1 be invalid if the holder ceases to be a member of the clinical
2 faculty of the dental college. The dean of any dental college
3 shall promptly notify the board regarding changes in the
4 faculty which affect the eligibility of a faculty member to
5 possess a special teaching permit. The holder of a special
6 teaching permit shall be subject to this chapter and may
7 perform all clinical operations on his or her private patients
8 which a person licensed to practice dentistry or dental
9 hygiene in the state is entitled to perform. The clinical
10 operations may only be performed within the faculty private
11 practice facilities of the dental college or any other
12 facility approved by the board. An annual fee established
13 pursuant to this chapter shall be paid to the board when the
14 special teaching permit is issued.

15 "§34-9-10.

16 "(a) Every person who desires to practice dentistry
17 within the State of Alabama shall file an application
18 prescribed by the board. Notwithstanding the method of
19 obtaining licensure or any particular requirement set forth
20 herein, every person as a prerequisite to licensure must be at
21 least 19 years of age, of good moral character, a citizen of
22 the United States or, if not a citizen of the United States, a
23 person who is legally present in the United States with
24 appropriate documentation from the federal government, a
25 graduate of a dental school or college accredited by the
26 American Dental Association Commission on Dental Accreditation

1 and approved by the board and must satisfy any other
2 requirement set forth in any rule adopted by the board.

3 "(b) Licensure by examination shall be applicable to
4 the following categories:

5 "(1) Those individuals who have never been licensed
6 or taken an examination and whose application to take an
7 examination administered or approved by the board is received
8 by the board within 18 months of graduation from dental
9 school.

10 "(2) Those individuals who have successfully passed
11 an examination approved but not administered by the board so
12 long as an application for licensure is received by the board
13 within ~~18 months~~ five years of the date of notification of
14 passing such examination. All applicants shall pay a fee which
15 shall accompany the application.

16 "(c) Any individual who possesses a current license
17 in any state, who has passed an examination approved by the
18 board and who has, since graduation from dental or dental
19 hygiene school, practiced or participated in a clinical
20 residency or practiced dentistry or dental hygiene in the
21 Armed Forces or with the public health service shall be
22 eligible for licensure if an application is received by the
23 board within ~~18 months~~ five years of the completion of the
24 subject residency or Armed Forces or public health service
25 commitment. All the above applicants shall pay a fee which
26 shall accompany the application.

1 "(d) Licensure by credentials may be utilized to
2 evaluate the theoretical knowledge and clinical skill of a
3 dentist or dental hygienist when an applicant for licensure by
4 credentials holds a dental or dental hygiene license in
5 another state. The board may promulgate rules and regulations
6 relating to licensure by credentials in addition to any
7 requirements by law. An applicant for licensure by credentials
8 must meet all of the following:

9 "(1) The dentist or dental hygienist must have been
10 engaged in the active practice of clinical dentistry or
11 clinical dental hygiene or in full-time dental or dental
12 hygiene education for the five years or 5,000 hours
13 immediately preceding his or her application.

14 "(2) The applicant must hold a current, valid,
15 unrevoked, and unexpired license in a state having examination
16 standards regarded by the Board of Dental Examiners of Alabama
17 as an equivalent to the Alabama standards.

18 "(3) The board of examiners in the state of current
19 practice must verify or endorse that the applicant's license
20 is in good standing without any restrictions.

21 "(4) The dentist or dental hygienist must not be the
22 subject of a pending disciplinary action in any state in which
23 the individual has been licensed which shall be verified by a
24 query to the National Practitioner Data Bank, the Health
25 Integrity Protection Data Bank, the American Association of
26 Dental Boards Clearing House for Disciplinary Information, or

1 any other pertinent bank currently existing or which may exist
2 in the future.

3 "(5) The applicant must provide a written statement
4 agreeing to be interviewed at the request of the board.

5 "(6) The individual must successfully pass a written
6 jurisprudence examination.

7 "(7) There must be certification from the United
8 States Drug Enforcement Administration and from the state
9 board of any state in which the applicant is or has been
10 licensed that the DEA registration is not the subject of any
11 pending disciplinary action or enforcement proceeding of any
12 kind.

13 "(8) The dentist applicant ~~must~~ shall submit
14 affidavits from two licensed dentists ~~or practicing in the~~
15 same geographical area where the applicant is then practicing
16 or teaching attesting to the moral character, standing, and
17 ability of the applicant. The dental hygiene applicant shall
18 submit affidavits from two licensed dentists or two licensed
19 dental hygienists practicing in the same geographical area
20 where the applicant ~~currently~~ is then practicing or teaching
21 attesting to the ~~applicant's~~ moral character, standing, and
22 ability of the applicant.

23 "(9) The applicant must provide the board with an
24 official transcript with school seal from the school of
25 dentistry or school of dental hygiene which issued the
26 applicant's professional degree or execute a request and
27 authorization allowing the board to obtain the transcript.

1 "(10) The applicant must be a graduate of a dental
2 or dental hygiene school, college, or educational program
3 approved by the board.

4 "(11) The applicant must not be the subject of any
5 pending or final action from any hospital revoking,
6 suspending, limiting, modifying, or interfering with any
7 clinical or staff privileges.

8 "(12) The applicant must not have been convicted of
9 a felony or misdemeanor involving moral turpitude or of any
10 law dealing with the administering or dispensing of legend
11 drugs, including controlled substances.

12 "(13) The board may consider or require other
13 criteria including, but not limited to, any of the following:

14 "a. Questioning under oath.

15 "b. Results of peer review reports from constituent
16 dental societies or federal dental services.

17 "c. Substance abuse testing or treatment.

18 "d. Background checks for criminal or fraudulent
19 activities.

20 "e. Participation in continuing education.

21 "f. A current certificate in cardiopulmonary
22 resuscitation.

23 "g. Recent case reports or oral defense of diagnosis
24 and treatment plans.

25 "h. Proof of no physical or psychological impairment
26 that would adversely affect the ability to practice dentistry
27 or dental hygiene with reasonable skill and safety.

1 "i. An agreement to initiate practice within the
2 State of Alabama within a period of one year.

3 "j. Proof of professional liability coverage and
4 that coverage has not been refused, declined, cancelled,
5 nonrenewed, or modified.

6 "k. Whether the applicant has been subject to any
7 final disciplinary action in any state in which the individual
8 has been licensed which shall be verified by a query in the
9 National Practitioner Data Bank, the Health Integrity
10 Protection Data Bank, the American Association of Dental
11 Boards Clearing House for Disciplinary Information, any state
12 where the applicant has been licensed, or any other pertinent
13 bank currently existing or which may exist in the future.

14 "l. Whether the applicant's DEA registration or any
15 state controlled substances permit has ever been revoked,
16 suspended, modified, restricted, or limited in any way.
17 Provided, however, that any discipline that results only from
18 a failure to timely renew a registration or permit shall not
19 prevent an applicant from being eligible for this method of
20 licensure.

21 "(14) If all criteria and requirements are satisfied
22 and the board determines, after notice and hearing, that the
23 individual committed fraud or in any way falsified any
24 information in the application process, the license may be
25 revoked by the board.

26 "(15) In addition to the requirements for applicants
27 seeking licensure by credentials, an applicant desiring to

1 practice a specialty only must meet the following
2 requirements:

3 "a. The specialty must be one in a branch of
4 dentistry approved by the American Dental Association.

5 "b. The applicant must meet the existing educational
6 requirements and standards set forth by the American Dental
7 Association for that approved specialty.

8 "c. An applicant who chooses to announce or practice
9 a specialty must limit his or her practice exclusively to the
10 announced special area or areas of dental practice.

11 "d. If an applicant who is initially licensed by
12 credentials for a specialty practice decides to renounce his
13 or her specialty and practice general dentistry, and the
14 license originally issued did not require a general dental
15 license but rather a specialty license, or the applicant
16 originally passed only a specialty examination, the applicant
17 may not practice general dentistry until he or she
18 successfully passes the board's regular general dentistry
19 examination. However, if the applicant has passed a general
20 dentistry examination or has a general dentistry license, was
21 practicing a specialty, and decides not to continue that
22 specialty and practice only general dentistry, the applicant
23 is eligible for licensure by credentials as a general dentist.

24 "(e) Notwithstanding the provisions of subsection
25 (a), the board shall issue a special purpose license to
26 practice dentistry across state lines to an applicant who has
27 met the following requirements:

1 "(1) The applicant holds a full and unrestricted
2 license to practice dentistry in any state of the United
3 States or in territories, other than the State of Alabama, in
4 which the individual is licensed.

5 "(2) The applicant has not had any disciplinary
6 action or other action taken against him or her by any state
7 or licensing jurisdiction. If there has been previous
8 disciplinary or other action taken against the applicant, the
9 board may issue a certificate of qualification if it finds
10 that the previous disciplinary or other action indicates that
11 the dentist is not a potential threat to the public.

12 "(3) The applicant submits an application for a
13 certificate of qualification for a special purpose license to
14 practice dentistry across state lines on a form provided by
15 the board, remits an application fee in an amount established
16 by the board, and pays a fee.

17 "(f) A special purpose license issued by the board
18 to practice dentistry across state lines limits the licensee
19 solely to the practice of dentistry across state lines. The
20 special purpose license shall be valid for a period of up to
21 three years, shall expire on a renewal date ~~established~~
22 determined by the board ~~in the third calendar year after its~~
23 ~~issuance~~, and may be renewed upon receipt of a renewal fee as
24 established by the board. Failure to renew a license according
25 to the renewal schedule established by the board shall ~~result~~
26 ~~in the automatic revocation of the special purpose license to~~
27 ~~practice dentistry across state lines~~ cause the special

1 purpose license to be inactive. An applicant may reapply
2 ~~following automatic revocation for failure to renew~~ for a
3 special purpose license to practice dentistry across state
4 lines following placement of the license on inactive status.

5 The applicant shall meet the qualifications of subsection (e)
6 in order to be eligible for renewal of the license.

7 "(g) Notwithstanding the provisions of this section,
8 the board shall only issue a special purpose license to
9 practice dentistry across state lines to an applicant whose
10 principal practice location and license to practice are
11 located in a state or territory of the United States whose
12 laws permit or allow for the issuance of a special purpose
13 license to practice dentistry across state lines or similar
14 license to a dentist whose principal practice location and
15 license are located in another state. It is the stated intent
16 of this section that dentists who hold a full and current
17 license in the State of Alabama be afforded the opportunity to
18 obtain, on a reciprocal basis, a license to practice dentistry
19 across state lines in any other state or territory of the
20 United States as a precondition to the issuance of a special
21 purpose license as authorized by this section to a dentist
22 licensed in the other state or territory. The board shall
23 determine which states or territories have reciprocal
24 licensure requirements meeting the qualifications of this
25 section.

26 "(h) Any individual who does not qualify for
27 licensure pursuant to any of the above subsections but who has

1 passed an examination approved by the board and possesses a
2 current license in another state is eligible to apply for
3 licensure upon payment of a fee. The board shall have
4 discretion whether to require an examination for any such
5 individual, including the time, place, type, and content of
6 any such examination.

7 "(i) A current license shall mean one in good
8 standing authorizing the individual to practice in the state
9 of issuance.

10 "§34-9-13.

11 "Every practitioner of dentistry and dental hygiene
12 within the meaning of this chapter shall have in his or her
13 possession a license certificate and an annual registration
14 certificate in the office wherein he or she practices.

15 "§34-9-15.

16 "(a) No person shall practice dentistry or dental
17 hygiene in the State of Alabama unless licensed or permitted
18 by the board and registered annually as required by this
19 chapter. The secretary-treasurer of the board shall ~~mail~~ issue
20 to each licensee an initial registration form which shall
21 contain space for the insertion of name, address, date, and
22 number of license certificate, and other information as the
23 board shall deem necessary. The licensee shall sign and verify
24 the accuracy of the registration before a notary public after
25 which he or she shall forward the registration to the
26 secretary-treasurer of the board together with a fee. Each
27 subsequent registration shall be made in electronic format or

1 by United States mail upon the a form as above prescribed
2 except that it need not be verified to be determined by the
3 board. On or before October 1 of each year, every dentist and
4 dental hygienist licensed to practice dentistry or dental
5 hygiene in the state shall transmit either online or by United
6 States mail to the secretary-treasurer of the board the
7 completed form prescribed by the board, together with a fee
8 established by the board pursuant to this chapter, and receive
9 ~~therefor~~ thereafter the current annual registration
10 certificate authorizing him or her to continue the practice of
11 dentistry or dental hygiene in the state for a period of one
12 year. Any license ~~and license certificate~~ or permit previously
13 granted under the authority of this chapter or any prior
14 dental practice act shall automatically be suspended if the
15 holder thereof fails to secure the annual registration
16 certificate before January 1, each year. Any dentist or dental
17 hygienist whose license or permit is automatically suspended
18 by reason of failure, neglect, or refusal to secure the annual
19 registration certificate shall be reinstated by the board upon
20 payment of the penalty fee plus all accrued annual
21 registration fees up to a maximum of five years, accompanied
22 with the prescribed form for annual registration of the
23 license or permit. Upon failure of any licensee or permittee
24 to file application for the annual registration certificate
25 and pay the annual registration fee on or before November 30,
26 each year, the board shall notify the licensee or permittee by
27 mail addressed to the last address of record that the

1 application and fee have not been received and that, unless
2 the application and fee are received on or before the first
3 day of January, the license ~~and license certificate~~ or permit
4 shall be automatically suspended. The board shall notify the
5 licensee or permittee by mail addressed to the last address of
6 record of the effective date of the automatic suspension and
7 the provisions for registration of the license or permit. The
8 board shall waive the annual payment of fees herein provided
9 for and issue a current annual registration certificate to any
10 licensee or permittee who, because of age or physical
11 disability, has retired from the practice of dentistry or
12 dental hygiene or who is suffering a malady of a lingering or
13 permanent nature. The board by rule shall waive annual
14 registration and the payment of fees while any licensee is on
15 temporary active duty with any of the Armed Forces of the
16 United States. The waiver of fees herein provided shall be
17 effective so long as the retirement because of age or physical
18 disability or temporary active duty continues.

19 "(b) The board shall adopt and promulgate rules and
20 regulations for the adoption of a program of continuing
21 education for its licensees by October 1, 1991. After that
22 date, the successful completion of continuing education
23 program requirements shall be a requisite for renewal of
24 licenses issued pursuant to this chapter.

25 "§34-9-15.1.

26 "(a) Upon the request of a patient or authorized
27 agent of a patient, a dentist shall promptly release to the

1 patient or his or her authorized agent legible and accurate
2 copies of all records of the patient regardless of how they
3 are generated or maintained. The reasonable costs of
4 reproducing copies shall not be more than the amounts
5 authorized by statute and in the absence of any statutory
6 authority no more than the actual cost of the reproduction.

7 "(b) The release of records under this section shall
8 not be made contingent upon the payment of any fee or charge
9 owed by the patient.

10 "(c) The provisions of the section shall survive the
11 closing of a dental office or practice for any reason,
12 including, but not limited to, sale of practice, any
13 disciplinary action, retirement, disability, or death.

14 "§34-9-16.

15 "The board shall establish and collect reasonable
16 fees provided for in this chapter within the ranges set forth
17 below and without having to engage in the rulemaking process:

18	"Description	Not Less Than	Not More Than
19	"Dental Examination Appli-		
20	cation Fee	\$200.00	\$750.00
21	"Dental Examination Fee	\$100.00	\$2,500.00
22	"Dental Examination Mate-		
23	rials Fee	\$200.00	\$500.00
24	"Dental Licensure by Cre-		
25	dentials Application Fee	\$100.00	\$4,000.00

1	"Dental Licensure by Re-		
2	gional Exam Application		
3	Fee	\$100	\$1,000.00
4	"Special Purpose Licensure		
5	Fee	\$200.00	\$750.00
6	<u>"Special Purpose Licensure</u>		
7	<u>Renewal Fee</u>		<u>\$750.00</u>
8	"Dental Annual Registra-		
9	tion Fee	\$130.00	\$500.00
10	"Dental License Reinstae-		
11	ment Penalty	\$250.00	\$500.00
12	"Dental Hygiene Program		
13	Application Fee	\$50.00	\$500.00
14	"Alabama Dental Hygiene		
15	Training Permit Fee	\$0.00	\$450.00
16	"Alabama Dental Hygiene		
17	Training Education Fee	\$175.00	\$600.00
18	"Alabama Dental Hygiene		
19	Program Instructor Certif-		
20	ication Course Fee	\$75.00	\$200.00
21	"Alabama Dental Hygiene		
22	Program Instructional Ma-		
23	terials Fee	\$500.00	\$950.00
24	"Dental Hygiene By Re-	\$55.00	\$75.00

1	gional Exam Application		
2	Fee		
3	"Dental Hygiene Examina-		
4	tion Application Fee	\$50.00	\$500.00
5	"Dental Hygiene Examina-		
6	tion Fee	\$100.00	\$600.00
7	"Dental Hygiene Examina-		
8	tion Materials Fee	\$100.00	\$400.00
9	"Dental Hygiene Licensure		
10	by Credentials Fee	\$0.00	\$2,000.00
11	"Dental Hygiene Annual		
12	Registration Fee	\$55.00	\$75.00 <u>\$150.00</u>
13	"Dental Hygiene License		
14	Reinstatement Penalty	\$100.00	\$200.00
15	"License Certificate Fee	\$25.00	\$500.00
16	"Duplicate <u>or Replacement</u>		
17	License Fee	\$25.00	\$150.00
18	"Dental Faculty Teaching		
19	Permit Fee	\$150.00	\$350.00
20	" <u>Dental Faculty Special</u>		
21	<u>Teaching Permit Fee</u>		<u>\$500.00</u>
22	"Alabama Controlled Sub-		
23	stance Permit Fee	\$125.00	\$400.00
24	"Alabama Controlled Sub-	\$100.00	\$400.00

1	stance Permit Renewal Fee		
2	"General Anesthesia Permit		
3	Fee	\$900.00	\$1,500.00
4	"General Anesthesia Permit		
5	Renewal Fee	\$200.00	\$750.00
6	"Parenteral Sedation Per-		
7	mit Fee	\$900.00	\$1,500.00
8	"Parenteral Sedation Per-		
9	mit Renewal Fee	\$200.00	\$750.00
10	"Oral Conscious Sedation		
11	Permit Fee	\$100.00	\$250.00
12	"Oral Conscious Sedation		
13	Permit Renewal Fee	\$50.00	\$250.00
14	"Mobile Dental Applica-		
15	tion/Inspection Fee	\$750.00	\$1,500.00
16	"Mobile Dental Renewal Fee	\$250.00	\$1,500.00
17	" <u>Mobile Dental Facil-</u>		
18	<u>ity/Portable Dental Opera-</u>		
19	<u>tion Application for Cer-</u>		
20	<u>tificate of Registration</u>		
21	<u>Fee</u>		<u>\$750.00</u>
22	" <u>Mobile Dental Facil-</u>		
23	<u>ity/Portable Dental Opera-</u>		
24	<u>tion Renewal of Certifi-</u>		
25	<u>cate of Registration Fee</u>		<u>\$500.00</u>

1 "§34-9-18.

2 "(a) The board may invoke disciplinary action as
3 outlined in subsection (b) hereof whenever it shall be
4 established to the satisfaction of the board, after hearing as
5 hereinafter provided, that any dentist or dental hygienist has
6 been guilty of the following:

7 "(1) Fraud, deceit, or misrepresentation, ~~whether~~
8 ~~knowingly or unknowingly,~~ in obtaining any license, license
9 certificate, annual registration certificate, money, or other
10 thing of value.

11 "(2) Gross immorality.

12 "(3) Is a menace to the public health or to patients
13 or others by reason of a disease.

14 "(4) Is an habitual user of intoxicants or drugs
15 rendering him or her unfit for the practice of dentistry or
16 dental hygiene.

17 "(5) Has been convicted for violation of federal or
18 state narcotics or barbiturate laws.

19 "(6) Is guilty of negligence or gross negligence, as
20 defined by the board, in the practice of dentistry or dental
21 hygiene.

22 "(7) Is guilty of employing, allowing, or permitting
23 any unlicensed person or persons to perform any work in his or
24 her office which, under this chapter, can only be legally done

1 by a person or persons holding a license to practice dentistry
2 or dental hygiene.

3 "(8) Willfully or negligently violates the rules of
4 the State Department of Health or of the board regarding
5 sanitation.

6 "(9) Is guilty of division of fees, or agreeing to
7 split or divide the fee received for dental service with any
8 person for bringing or referring a patient without the
9 knowledge of the patient or his or her legal representative,
10 except the division of fees between dentists practicing in a
11 partnership and sharing professional fees, or in case of one
12 licensed dentist employing another.

13 "(10) Is guilty of professional connection or
14 association with or lending his or her name to anyone who is
15 engaged in the illegal practice of dentistry or dental
16 hygiene.

17 "(11) Conviction in any court of competent
18 jurisdiction of a felony or a misdemeanor involving moral
19 turpitude.

20 "(12)a. A dental hygienist using or attempting to
21 use in any manner whatsoever any prophylactic list, call list,
22 records, reprints, or copies of same, or information gathered
23 therefrom, of the names of patients whom the dental hygienist
24 served in the office of a prior employer, unless the names
25 appear upon the bona fide call or prophylactic list of his or
26 her present employer and were caused to appear through the

1 legitimate practice of dentistry or dental hygiene as provided
2 for in this chapter.

3 "b. A licensed dentist who aids or abets or
4 encourages a dental hygienist employed by him or her to make
5 use of a ~~so-called~~ prophylactic list or the calling by
6 telephone or by the use of letters transmitted through the
7 mails to solicit patronage from patients formerly served in
8 the office of any dentist employing the hygienist or nurse.

9 "(13) Pertaining to licensed dentists only, the
10 prescribing, administering or dispensing of any controlled
11 substances enumerated in Schedules I through V contained in
12 the Alabama Uniform Controlled Substances Act, Chapter 2 of
13 Title 20, or any amendment or successor thereto, or any drug
14 not prescribed for any dentally related condition, for any
15 person not under his or her treatment in the regular practice
16 of his or her profession, ~~or veteran's administration.~~

17 "(14) Irregularities in billing an insurance company
18 or other third party payer for services rendered to a patient.
19 For the purposes of this section irregularities in billing
20 shall include: Reporting charges for the purpose of obtaining
21 a total payment in excess of that usually received by the
22 dentist for the services rendered; falsely reporting treatment
23 dates for the purpose of obtaining payment; falsely reporting
24 charges for services not rendered; falsely reporting services
25 rendered for the purpose of obtaining payment; or failing to
26 advise any third party payer that the copayment provisions of

1 a contract have been abrogated by accepting the payment
2 received from the third party payer as full payment.

3 "(15) Violating any rule ~~or regulation~~ adopted by
4 the ~~Board of Dental Examiners~~ board.

5 "(16) Has had his or her license to practice
6 dentistry or dental hygiene from another state suspended or
7 revoked based upon acts similar to those described in this
8 section. A certified copy of the record of suspension or
9 revocation of the state making the suspension or revocation
10 shall be conclusive evidence thereof.

11 "(17) Violating any provision of this chapter.

12 "(b) When the board finds any dentist or dental
13 hygienist guilty of any of the grounds set forth in subsection
14 (a), it may enter an order imposing one or more of the
15 following penalties:

16 "(1) Refuse to issue the dentist or dental hygienist
17 license or ~~license certificate~~ permit provided for in this
18 chapter.

19 "(2) Revoke the license or permit of any dentist or
20 dental hygienist.

21 "(3) Suspend the license or permit of any dentist or
22 dental hygienist.

23 "(4) Enter a censure.

24 "(5) Issue an order fixing a period and terms of
25 probation best adapted to protect the public health and safety
26 and to rehabilitate the dentist or dental hygienist.

1 "~~(6) Imposition of~~ Impose an administrative fine not
2 to exceed ~~one thousand two hundred fifty dollars (\$1,250)~~ five
3 thousand dollars (\$5,000) for each count or separate offense.

4 "~~(7) Imposition of~~ Impose restrictions on the scope
5 of practice.

6 "~~(8) Imposition of~~ Impose peer review or
7 professional education requirements.

8 "~~(9) Assessment of~~ Assess the costs of the
9 disciplinary proceedings.

10 "(c) Failure to comply with any final order of the
11 board, including, but not limited to, an order of censure or
12 probation, is cause for suspension or revocation of a license.

13 "(d) No disciplinary action as outlined in
14 subsection (b) or (c) hereof shall be invoked or entered
15 except after hearing by the board as provided in this chapter,
16 and such order is subject to judicial review as provided by
17 this chapter.

18 "No order of suspension or revocation provided in
19 this section shall be made or entered except after hearing by
20 the board as provided in this chapter, and the order shall be
21 subject to judicial review as provided by this chapter.

22 "(e) The board may temporarily suspend a special
23 purpose license to practice dentistry across state lines
24 without a hearing on either of the following grounds:

25 "(1) The failure of the licensee to appear or
26 produce records or materials as requested by the board.

1 "(2) The initiation of a disciplinary action against
2 the licensee by any state or territorial licensing
3 jurisdiction in which the licensee holds a license to practice
4 dentistry.

5 "Notwithstanding any other provision of law,
6 including the Alabama Administrative Procedure Act, the
7 temporary suspension provided herein shall remain in effect
8 until either the licensee has complied with the request of the
9 board or the disciplinary action pending against the licensee
10 has been terminated in favor of the licensee and the temporary
11 suspension has been terminated by a written order of the
12 board. A special purpose license to practice dentistry across
13 state lines is subject to each of the grounds for disciplinary
14 action provided in this section in accordance with the
15 procedures of Section 34-9-24 and the Alabama Administrative
16 Procedure Act.

17 "(f) Members of the ~~Board of Dental Examiners~~ board,
18 any agent, employee, consultant, or attorney for the board,
19 and the members of any committee of dentists or dental
20 hygienists impaneled by the board, shall be immune from suits
21 for any conduct in the course of their official duties with
22 respect to investigations or hearings; provided, that the
23 persons act without malice and in good faith that such
24 investigations or hearings are warranted by the facts, known
25 to them after diligent effort to obtain the facts of the
26 matter relative to the investigations or hearings.

1 "(g) Nothing in this chapter shall be interpreted to
2 limit or restrict the authority of the board to discipline any
3 dentist licensed to practice in this state who violates this
4 chapter while engaging in the practice of dentistry within
5 this or any other state.

6 "(h) The board shall have the authority to adopt
7 rules imposing a non-disciplinary administrative penalty for
8 designated violations of ~~the Alabama Dental Practice Act~~ this
9 chapter.

10 "§34-9-20.

11 "Any person, which word when used in this section
12 shall include all legal entities not licensed to practice
13 dentistry in this state, who shall advertise in any manner to
14 the general public that he or she can or will sell, supply,
15 furnish, construct, reproduce, or repair ~~prosthetic dentures,~~
16 ~~bridges, plates~~ protheses (fixed or removable), or other
17 appliances to be used or worn as substitutes for natural
18 teeth, or for the regulation thereof, shall be guilty of a
19 misdemeanor, and the circuit courts shall have jurisdiction to
20 enjoin such person from so doing.

21 "§34-9-21.

22 "(a) Every duly licensed and registered dentist who
23 employs the services of a commercial dental laboratory or
24 private technician for the purpose of constructing, altering,
25 repairing, or duplicating any ~~denture, plate, crown, partial~~
26 ~~plate, bridge~~ protheses (fixed or removable), splint, or
27 orthodontic, ~~or prosthetic~~ appliance shall be required to

1 furnish the commercial dental laboratory or private technician
2 an impression or ~~model taken~~ cast made by the dentist when
3 necessary, together with a prescription setting forth the
4 following:

5 "(1) The name and address of the commercial dental
6 laboratory or private dental technician~~;~~.

7 "(2) The patient's name or identification number,
8 and if a number is used the patient's name shall be written
9 upon the duplicate copy of the prescription retained by the
10 dentist~~;~~.

11 "(3) The date on which the prescription was
12 written~~;~~.

13 "(4) A description of the work to be done, with
14 diagram if necessary~~;~~.

15 "(5) A specification of the type and quality of
16 materials to be used~~;~~and.

17 "(6) The signature of the dentist and his or her
18 license number.

19 "(b) Such prescription shall be made in duplicate
20 form. The duplicate copy shall be retained in a permanent file
21 for a period of two years by the dentist, and the original
22 copy shall be retained on a permanent file for a period of two
23 years by the commercial dental laboratory or private
24 technician. Such permanent file of prescriptions to be kept by
25 such dentists, commercial dental laboratory, or private
26 technician shall be open to inspection at any reasonable time
27 by the board or its duly constituted agent. Failure of the

1 dentist, commercial dental laboratory, or private technician
2 to keep such permanent records of prescriptions which are
3 identifiable with each ~~denture, plate, partial plate, bridge~~
4 protheses (fixed or removable), splint, or orthodontic, ~~or~~
5 ~~prosthetic~~ appliance shall be prima facie evidence of a
6 violation of this chapter and shall constitute and be
7 punishable as a misdemeanor.

8 "§34-9-22.

9 "Whoever sells or offers to sell a diploma
10 conferring a dental or dental hygiene degree, or a license
11 certificate or annual registration certificate granted
12 pursuant to this chapter or prior dental act, or procures such
13 diploma or license certificate or annual registration
14 certificate with intent that it shall be used as evidence of
15 the right to practice dentistry or dental hygiene as defined
16 by law, by a person other than the one upon whom it was
17 conferred or to whom such license certificate or annual
18 registration certificate was granted, or with fraudulent
19 intent alters such diploma or license certificate or annual
20 registration certificate, or uses or attempts to use it when
21 it is so altered shall be deemed guilty of a misdemeanor. The
22 board may impose any of the penalties outlined in Section
23 34-9-18 against any person found guilty of making a false
24 statement or cheating, or of fraud or deception either in
25 applying for a license, a license certificate, or annual
26 registration or in taking any of the examinations provided for
27 herein.

1 "§34-9-24.

2 "No action to revoke or suspend a license or permit
3 shall be taken until the licensee or permittee has been
4 furnished a statement in writing of the charges against him or
5 her, together with a notice of the time and place of the
6 hearing. The statement of charges and notice shall be served
7 upon the licensee or permittee at least 20 days before the
8 date fixed for hearing, either personally or by registered or
9 certified mail sent to his or her last known physical home or
10 office address or post-office address, or any combination of
11 them.

12 "§34-9-26.

13 "No person shall practice as a dental hygienist in
14 this state until such person has passed an examination given
15 by the board or approved by the board, or both, under rules
16 and regulations as the board may promulgate and the payment of
17 a fee. The board shall issue licenses and license certificates
18 as dental hygienists to those persons who have passed the
19 examination and have been found qualified by the board. The
20 license certificate and annual registration certificate shall
21 be displayed in the office in which the dental hygienist is
22 employed. No person shall be entitled to a license and license
23 certificate unless the person is 19 years of age and of good
24 moral character. Each applicant for examination and license as
25 a dental hygienist shall be a graduate of a school of dental
26 hygiene which has been approved by the board, or in lieu
27 thereof, shall have served as a dental assistant for a period

1 of time established by board rule and shall have served at
2 least one year as a dental hygienist trainee under a training
3 permit issued by the board to a qualified dentist practicing
4 in this state in accordance with the dental hygienist training
5 program established by the Board of Dental Examiners of
6 Alabama. Any person practicing in violation of this section
7 shall be guilty of a misdemeanor, and the board may impose the
8 penalties outlined in Section 34-9-18 for such violation.

9 "§34-9-27.

10 "A dental hygienist shall work only under the direct
11 supervision of a duly licensed dentist practicing in this
12 state. Dental hygienists may ~~take~~ make, develop, and mount
13 oral ~~X-rays~~ radiographs; remove calcareous deposits,
14 accretions, or stains from the teeth, perform any intra-oral
15 procedures allowed by rule or regulation of the Board of
16 Dental Examiners of Alabama and assist a licensed or permitted
17 dentist in his or her practice. Any person licensed by the
18 board under this section who has completed the curriculum for
19 dental hygienists at a dental school approved by the board
20 shall have the right to use the title registered dental
21 hygienist or the ~~abbreviations~~ abbreviation thereof, "R.D.H."
22 appended to his or her name signifying the license conferred.
23 The board may impose any of the penalties outlined in Section
24 34-9-18 against any dentist who shall permit any dental
25 hygienist working under his or her supervision to perform any
26 operation other than those permitted under the provisions of
27 this section, and may impose the penalties outlined in Section

1 34-9-18 against any dental hygienist who shall perform any
2 operation other than those permitted under this section.

3 "§34-9-28.

4 "It shall be the duty of all licensed dental
5 hygienists to notify the ~~secretary-treasurer of the board,~~ in
6 writing, of any change of address or employer and have issued
7 to them an annual registration certificate by the board. Any
8 dental hygienist whose license shall be automatically
9 suspended by reason of failure, neglect, or refusal to secure
10 the annual registration certificate may be reinstated by the
11 board upon payment of the penalty fee plus the current year's
12 registration fee. The form and method provided for in Section
13 34-9-15 shall apply to the annual registration of dental
14 hygienists.

15 "§34-9-40.

16 "(a) In order to accomplish the purposes and to
17 provide for the enforcement of this chapter, there is hereby
18 created the Board of Dental Examiners of Alabama. The board is
19 hereby vested with the authority to carry out the purposes and
20 enforce the provisions of this chapter. On June 24, 1959, the
21 members of the present board now in existence shall hold
22 office for the remainder of their respective terms for which
23 they have been elected and thereafter until their successors
24 are elected and qualified and shall constitute the board under
25 this chapter. The board shall consist of six dentists who
26 shall be selected in the method set forth herein all of whom
27 having been actively engaged in the practice of dentistry in

1 the State of Alabama for at least five years next preceding
2 the date of their election and one dental hygienist elected
3 at-large as provided in subsection (b). Each member of the
4 board shall be a citizen of this state. No member of the board
5 shall be a member of the faculty of any dental school, dental
6 college, dental hygiene school, or dental hygiene college or
7 receive any financial benefits for teaching in any dental
8 school, dental college, dental hygiene school, or dental
9 hygiene college or have a financial interest in a commercial
10 dental laboratory or a dental supply business. ~~Beginning in~~
11 ~~October 2009, and every five years thereafter, one~~ One member,
12 who is qualified as provided herein, shall be selected by the
13 Alabama Dental Society ~~no later than July 1, 2009, and every~~
14 ~~five years thereafter~~. As for all elections of members, any
15 group of 10 or more licensed dentists, residing and practicing
16 dentistry in the state, may nominate a candidate for the
17 position of board member by submitting a petition bearing
18 their signatures to the secretary of the board to be
19 postmarked ~~not~~ no later than the first day of July in the year
20 of the election. The board shall cause the election ballots to
21 be mailed or published digitally not later than September 1 in
22 the year of the election to all the licensed dentists residing
23 and practicing in the state and currently registered as
24 prescribed by law, along with the annual registration form for
25 the forthcoming fiscal year. Both the annual registration form
26 and fee must accompany the ~~separately sealed~~ ballot that shall
27 be postmarked, or otherwise submitted electronically, no later

1 than October 1 ~~and returned~~ to the secretary of the board no
2 later than the first board workday following October 1 each
3 year, ballots being nullified unless accompanied by or
4 electronically filed with completed annual registration form
5 and annual registration fee. Three members of the board shall
6 be present at the ~~canvassing of time~~ the ballots, digital or
7 physical, are tallied. Any candidate receiving a majority of
8 the votes shall be declared elected to the board and will take
9 the oath of office on or before October 15 in the year of his
10 or her election. In the event no candidate receives a majority
11 of the votes cast, the board shall conduct a run-off election
12 between the two candidates receiving the largest number of
13 votes. The board shall cause the ballots pertaining to the
14 run-off election to be mailed or digitally published on or
15 before October ~~15~~ 31 of the election year to all the licensed
16 dentists residing and practicing in the state and currently
17 registered as prescribed by law, and the ballots pertaining to
18 the run-off election shall be postmarked or digitally
19 published no later than the ~~first~~ fourteenth day of November
20 in the year of the run-off election and received, if mailed,
21 by the secretary of the board no later than the first board
22 workday following the ~~first~~ fourteenth day of November. All
23 mailed ballots received after this date shall be nullified. In
24 the event of a run-off election, the candidate receiving the
25 largest number of votes in the run-off election shall be
26 declared elected to the board and shall ~~immediately~~ take the
27 oath of office and begin his or her term of office no later

1 than the next scheduled board meeting. Every member elected
2 shall hold office for a period of five years, which terms
3 shall begin immediately upon taking an oath to properly and
4 faithfully discharge the duties of his or her office and until
5 his or her successor is elected and qualified, and the member
6 so elected shall not at the expiration of the term be eligible
7 to succeed himself or herself. The membership of the board
8 shall be inclusive and reflect the racial, gender, geographic,
9 urban/rural, and economic diversity of the state. Except for
10 the board member position selected by the Alabama Dental
11 Society, vacancies on the board shall be filled by the board
12 by the appointment of the immediate past member of the board,
13 and if for any reason the immediate past member of the board
14 is unable to accept the appointment, then the board shall fill
15 the vacancy by appointment of the most recent past board
16 member who is willing to accept the appointment. If no past
17 board member accepts the appointment, then the board may, by
18 ~~unanimous~~ majority vote, appoint any licensed dentist
19 qualified under the provisions of this chapter. In the event
20 of a vacancy in the position selected by the Alabama Dental
21 Society, the Alabama Dental Society shall select a dentist who
22 is qualified as provided herein to fill the vacancy. Members
23 of the board shall be removed by a two-thirds vote of the
24 registered dentists in the state for neglect of duty or any
25 just cause, by petition to the secretary of the board by 10
26 percent of the licensed dentists in the state. On or before

1 July 1, 1962, the board shall send a copy of this section to
2 all licensed dentists in the state.

3 "(b) (1) One member of the board shall be a licensed
4 dental hygienist. The dental hygienist member shall be of good
5 moral and ethical character and shall have been actively
6 engaged in the practice of dental hygiene in the State of
7 Alabama for at least five years preceding the date of
8 election. No dental hygienist member shall be a member of the
9 faculty of any dental school, dental college, dental hygiene
10 school, or dental hygiene college or receive any financial
11 benefits for teaching in any dental school, dental college,
12 dental hygiene school, or dental hygiene college or have a
13 financial interest in a commercial dental laboratory or dental
14 supply business while serving on the board.

15 "(2) The dental hygienist member shall be elected as
16 follows:

17 "a. Any group of 10 or more licensed dental
18 hygienists, residing and practicing dental hygiene in the
19 State of Alabama, may nominate a candidate for the dental
20 hygienist position by submitting a petition bearing their
21 signatures to the secretary of the board no later than the
22 first day of July in the year of an election. The board shall
23 cause election ballots to be mailed or published digitally no
24 later than September 1 in the year of an election to all the
25 licensed dental hygienists residing and practicing in the
26 state and currently registered as prescribed by law. Both the
27 annual registration form and the registration fee must

1 accompany ~~a separately sealed~~ the ballot that shall be
2 postmarked or otherwise submitted electronically no later than
3 October 1 ~~and returned~~ to the secretary of the board no later
4 than the first board workday following October 1 each year,
5 and the ballots will be nullified unless ~~the voter has~~
6 ~~complied with Section 34-9-28, concerning annual registration~~
7 accompanied by or electronically filed with a completed annual
8 registration form and the annual registration fee.

9 "b. Three members of the board shall be present at
10 the ~~canvassing of~~ time the ballots, digital or physical, are
11 tallied. Any candidate receiving a majority of the votes shall
12 be ~~the dental hygienist member~~ declared elected to the board
13 and shall take the oath of office on or before October 15 in
14 the year of his or her election. In the event no candidate
15 receives a majority of the votes cast, the board shall conduct
16 a run-off election between the two candidates receiving the
17 largest number of votes. The board shall cause the ballots
18 pertaining to any run-off election to be mailed or digitally
19 published on or before October ~~15~~ 31 of the election year to
20 all licensed dental hygienists residing and practicing in the
21 state and currently registered as prescribed by law, and the
22 ballots pertaining to the run-off election shall be postmarked
23 or digitally submitted no later than the fourteenth day of
24 November ~~1~~ in the year of the run-off election and received,
25 if mailed, by the secretary of the board no later than the
26 first board workday following November ~~1~~ 14. ~~Ballots All~~
27 mailed ballots received after November ~~1~~ 14 shall be

1 nullified. In the event of a run-off election, the dental
2 hygienist candidate receiving the largest number of votes in
3 the run-off election shall be declared elected to the board
4 and shall ~~immediately~~ take the oath of office and begin his or
5 her term of office no later than the next scheduled board
6 meeting.

7 "c. All elections as described above shall be
8 conducted by the board.

9 "(3) The dental hygienist member shall be removed by
10 a two-thirds vote of the registered dental hygienists in the
11 state for neglect of duty or any just cause by petition to the
12 secretary of the board by 10 percent of the licensed dental
13 hygienists in the state.

14 "(4) The dental hygienist member shall hold that
15 position for a period of five years, which term shall begin
16 immediately upon taking an oath to properly and faithfully
17 discharge the duties of his or her office and continue until
18 his or her successor is elected and qualified, and the member
19 so elected shall not at the expiration of the term be eligible
20 to succeed himself or herself. If a vacancy occurs in the
21 position of dental hygienist, the unexpired term shall be
22 filled by the board by the appointment of the immediate past
23 dental hygienist member. If for any reason the immediate past
24 dental hygienist member is unable to accept the appointment,
25 then the board shall fill the vacancy by a ~~unanimous~~ majority
26 vote of the other board members by the appointment of some
27 other past dental hygienist member. If a vacancy occurs and

1 there is not an immediate past dental hygienist member or
2 other past dental hygienist member, the vacancy shall be
3 filled by a unanimous vote of the board by the appointment of
4 some otherwise qualified dental hygienist.

5 "(5) The dental hygienist member shall advise the
6 board on matters relating to dental hygiene and shall only be
7 permitted to vote on matters relating to dental hygiene. The
8 board shall provide the dental hygienist member with timely
9 notice of all board meetings and the dental hygienist member
10 shall be allowed to attend all meetings unless prohibited by
11 law from attendance at any disciplinary hearings. The board
12 shall not adopt any rule relating to the practice of dental
13 hygiene unless the proposed rule has been submitted to the
14 dental hygienist member for review and comment at least 30
15 days prior to its adoption. The dental hygienist member shall
16 be entitled to the same compensation and expenses paid to
17 dentist members of the board pursuant to Section 34-9-41.

18 "(c) Any dentist or dental hygienist who has been
19 found guilty of violating this chapter or any provision of a
20 dental practice act of any other state and as a result his or
21 her license was revoked, suspended, or placed on probation or
22 who has been convicted of a felony, shall not be eligible for
23 election or membership on the board for a period of five years
24 from the termination of any such revocation, suspension, or
25 probation.

26 "§34-9-41.

1 "The board shall annually elect from its membership
2 a president, vice-president, and secretary-treasurer and may
3 employ ~~a secretary~~ staff members who ~~is~~ are not ~~a member~~
4 members of the board, ~~and it shall not be necessary that the~~
5 ~~secretary be a dentist~~. The board shall have a common seal.
6 The board shall hold an annual meeting in Birmingham at the
7 University of Alabama School of Dentistry as soon as practical
8 after the graduation exercises of the dental school for the
9 purpose of examining or participating in the regional
10 examination of applicants for a license to practice dentistry
11 and dental hygiene or at such other times and places as the
12 board may designate for the purpose of transacting its
13 business and examinations. A majority of the board shall
14 constitute a quorum for the transaction of business at any
15 meeting except that in conducting hearings involving any of
16 the penalties outlined in Section 34-9-18, no less than five
17 members of the board shall be present. In conducting hearings
18 involving any of the penalties outlined in Section 34-9-18, a
19 majority of the board may appoint any former member of the
20 board who for such purposes shall have all the powers and
21 privileges of such office as a regular board member possesses.
22 In conducting or participating in exams, a majority of the
23 board may appoint any former member of the board or such other
24 licensed practicing dentists from a jurisdiction recognized by
25 the board who for such purposes shall have all the powers and
26 privileges of such office as a regular board member possesses.
27 Out of the funds of the board the members thereof shall

1 receive as compensation a sum to be fixed by the board for
2 each day actively engaged in the duties of their office, and
3 in addition board members shall receive the same per diem and
4 travel allowance as is paid by law to state employees for each
5 day actively engaged in the duties of their office. The
6 secretary-treasurer shall receive such compensation as may be
7 fixed by the board, which shall be in addition to his or her
8 per diem and expenses, provided no per diem or expenses shall
9 be allowed unless his or her duties require his or her absence
10 from his or her office. The secretary shall receive such
11 compensation as may be fixed by the board. The
12 secretary-treasurer shall be custodian of all property, money,
13 records and the official seal of the board. All money received
14 by the board under this chapter shall be paid to and received
15 by the secretary-treasurer of the board. The
16 secretary-treasurer shall deposit to the credit of the board
17 all funds paid to the board in a bank selected by its members.
18 The board is authorized to expend such funds as shall be
19 necessary to enforce the provisions of this chapter; to pay
20 salaries, expenses and other costs herein provided; to promote
21 the arts and science of dentistry; and for such other purposes
22 as the board shall consider to be in the best interest of
23 dentistry in this state. All the costs herein provided for
24 shall be paid by checks drawn by the secretary-treasurer and
25 countersigned by the president of the board; except the board
26 may authorize the administrative secretary or the executive
27 director to sign checks for costs that do not exceed a

1 monetary limit to be set by the board in its rules. Should the
2 property be other than money, the secretary-treasurer shall
3 provide for the safekeeping thereof for the use of the board.
4 All money, including license fees, annual renewal license
5 certificate fees, examination fees and any and all other fees
6 and receipts under the provisions of this chapter, are hereby
7 appropriated to the Board of Dental Examiners to be used as
8 herein provided.

9 "§34-9-42.

10 "The secretary-treasurer of the board shall give
11 bond in such sum as may be prescribed by the board,
12 conditioned to faithfully and honestly discharge the duties of
13 the office according to law, which bond shall be made payable
14 to the Board of Dental Examiners of Alabama and held in the
15 custody of the president of the board. The secretary-treasurer
16 of the board shall compile an annual report which shall
17 contain an itemized statement of all money received and
18 disbursed and a summary of the official acts of the board
19 during the preceding year, ~~and the report shall have attached~~
20 ~~thereto a certified report and audit made by a certified~~
21 ~~public accountant of the State of Alabama.~~ A copy of the
22 report ~~and audit~~ shall be filed of record in the office of the
23 Department of Finance of the State of Alabama, and a copy
24 shall be retained by the secretary-treasurer to be rendered
25 upon request, to the dentists at large in the State of
26 Alabama. The board may affiliate with the American Association
27 of Dental Boards, may pay dues to the ~~the~~ association and may

1 send all members of the board to the meetings of the
2 association. Such delegates may receive the per diem herein
3 provided for attending such meetings and reimbursement for
4 necessary expenses audited and allowed by the board.

5 "§34-9-43.

6 "(a) The board shall exercise, subject to this
7 chapter, the following powers and duties:

8 "(1) Adopt rules for its government as deemed
9 necessary and proper.

10 "(2) Prescribe rules for qualification and licensing
11 of dentists and dental hygienists.

12 "(3) Conduct or participate in examinations to
13 ascertain the qualification and fitness of applicants for
14 licenses as dentists and dental hygienists.

15 "(4) Make rules and regulations regarding
16 sanitation.

17 "(5) Formulate rules and regulations by which dental
18 schools and colleges are approved, and formulate rules and
19 regulations by which training, educational, technical,
20 vocational, or any other institution which provides
21 instruction for dental assistants, dental laboratory
22 technicians, or any other paradental personnel are approved.

23 "(6) Grant licenses, issue license certificates,
24 teaching permits, and annual registration certificates in
25 conformity with this chapter to such qualified dentists and
26 dental hygienists.

1 "(7) Conduct hearings or proceedings to impose the
2 penalties specified in Section 34-9-18.

3 "(8)a. Employ necessary persons to assist in
4 performing its duties in the administration and enforcement of
5 this chapter, and to provide offices, furniture, fixtures,
6 supplies, printing, or secretarial service to these persons
7 and expend necessary funds.

8 "b. Employ an attorney or attorneys, subject to the
9 approval of the Attorney General, to advise and assist in the
10 carrying out and enforcing of the provisions of this chapter.
11 Provided, however, if the board contracts with an outside
12 attorney to be general counsel to the board, that attorney or
13 any member of a law firm with which he or she is associated
14 shall not function as the board's prosecutor at disciplinary
15 hearings.

16 "(9)a. Investigate alleged violations of this
17 chapter and institute or have instituted before the board or
18 the proper court appropriate proceedings regarding the
19 violation.

20 "b. Authorize and employ investigators who comply
21 with the Peace Officers' Minimum Standards and Training Act to
22 exercise the powers of a peace officer in investigating
23 alleged violations of the drug or controlled substances laws
24 by persons licensed pursuant to this chapter, including the
25 powers of arrest and inspection of documents. ~~These~~
26 ~~investigators shall not be paid a subsistence allowance by the~~
27 ~~board.~~

1 "(10) Adopt rules and regulations to implement this
2 chapter.

3 "(11) Publish, on a quarterly basis, all minutes,
4 except minutes of executive sessions, financial reports,
5 schedules of meetings, including anticipated executive
6 sessions, and other pertinent information on the board's
7 website no later than 90 days following the date of
8 occurrence. In addition, publish or post annually the rules
9 and regulations promulgated by the board, a copy of the Dental
10 Practice Act, and a list of all persons licensed to practice
11 under this chapter.

12 "(12) Attend meetings, seminars, ~~work shops~~
13 workshops, or events that may improve the function and
14 efficiency of the board or improve the ability of the board to
15 enforce and administer this chapter.

16 "(b) The board, in exercising its powers and duties,
17 shall adhere to guidelines and proceedings of the State Ethics
18 Commission as provided in Chapter 25 of Title 36. The board
19 may adopt rules for the purpose of establishing additional
20 ethical guidelines.

21 "§34-9-44.

22 "The secretary-treasurer of the board shall keep a
23 registry in which shall be entered the names of all persons to
24 whom license certificates have been granted under this
25 chapter, the numbers of such license certificates, the dates
26 of granting the same and other matters of records, and he or
27 she shall keep a true and correct copy of the minutes of all

1 board meetings, and the book so provided and kept shall be the
2 official book of records. A ~~photostatic~~ copy of the records or
3 a copy of the records certified by the secretary-treasurer and
4 under the seal of the board shall be admitted in any of the
5 courts of this state as prima facie evidence of the facts
6 contained in the records and in lieu of the original thereof.
7 A certificate under the hand of the secretary-treasurer and
8 the seal of the board that there is not entered in such record
9 books the name and number of and date of granting such license
10 certificate to a person charged with a violation of any of the
11 provisions of this chapter shall be prima facie evidence of
12 the facts contained therein. Such certificates shall be
13 admitted in any of the courts of this state in lieu of the
14 records of the board. The original books, records, and papers
15 of the board shall be kept at the office of the
16 secretary-treasurer of the board, which office shall be at
17 such place as may be designated by the board.

18 "§34-9-46.

19 "In all matters pending before it, the board shall
20 have the power to issue subpoenas and compel the attendance of
21 witnesses and the production of all necessary papers, books,
22 and records, documentary evidence and materials or other
23 evidence. Any person failing or refusing to appear or testify
24 regarding any matter about which he or she may be lawfully
25 questioned or to produce any papers, books, records,
26 documentary evidence, or materials or other evidence in the
27 matter to be heard, after having been required by order of the

1 board or by a subpoena of the board to do so, may, upon
2 application by the board to any circuit judge of the State of
3 Alabama, be ordered to comply therewith; and, upon failure to
4 comply with the order of the circuit judge, the court may
5 compel obedience by attachment as for contempt as in case of
6 disobedience of a similar order or subpoena issued by the
7 court. ~~The president and secretary-treasurer~~ Any member of the
8 board shall have authority to issue subpoenas, and any board
9 member shall have authority to administer oaths to witnesses,
10 or to take their affirmation. A subpoena or other process of
11 paper may be served upon any person named therein, anywhere
12 within the State of Alabama with the same fees and mileage by
13 any officer authorized to serve subpoenas or such other
14 process or paper in civil actions, in the same manner as is
15 prescribed by law for subpoenas issued out of the circuit
16 courts of this state, the fees and mileage and other costs to
17 be paid as the board directs.

18 "§34-9-60.

19 "Any person licensed or permitted to practice
20 dentistry in the State of Alabama shall be authorized to use
21 anesthesia in accordance with the provisions of this section.

22 "(1) All dentists are authorized to use local
23 anesthesia.

24 "(2) Twelve months after May 29, 1985, no dentist
25 shall use general anesthesia on an outpatient basis for dental
26 patients, unless such dentist possesses a permit of
27 authorization issued by the Board of Dental Examiners.

1 "a. In order to receive such permit, the dentist
2 must apply on a prescribed application form to the Board of
3 Dental Examiners, submit an application fee, and produce
4 evidence showing that he or she:

5 "1. Has completed a minimum of one year of advanced
6 training in anesthesiology and related academic subjects (or
7 its equivalent) beyond the undergraduate dental school level
8 in a training program as described in Part II of the
9 guidelines for teaching the comprehensive control of pain and
10 anxiety in dentistry; or

11 "2. Is a diplomate of the American Board of Oral and
12 Maxillofacial Surgery, or is eligible for examination by the
13 American Board of Oral and Maxillofacial Surgery, or is a
14 member of the American Association of Oral and Maxillofacial
15 Surgeons; or

16 "3. Employs or works in conjunction with a qualified
17 medical doctor who is a member of the anesthesiology staff in
18 an accredited hospital, provided that such anesthesiologist
19 must remain on the premises of the dental facility until any
20 patient given a general anesthetic regains consciousness and
21 is discharged; and

22 "4. Has a properly equipped facility for the
23 administration of general anesthesia staffed with a supervised
24 team of auxiliary personnel capable of reasonably assisting
25 the dentist with procedures, problems, and emergencies
26 incident thereto. Adequacy of the facility and competence of

1 the anesthesia team shall be determined by the Board of Dental
2 Examiners as outlined below.

3 "b. Prior to the issuance of such permit, the Board
4 of Dental Examiners, at its discretion, may require an on-site
5 inspection of the facility, equipment, and personnel to
6 determine if, in fact, the aforementioned requirements have
7 been met. This evaluation shall be carried out in a manner
8 prescribed by the board. The evaluation shall be conducted by
9 a team of three examiners appointed by the Board of Dental
10 Examiners. These examiners shall be dentists who are
11 authorized to administer general anesthesia. If the results of
12 the initial evaluation are deemed unsatisfactory, ~~upon written~~
13 ~~request of the applicant, a second evaluation shall be~~
14 ~~conducted by a different team of examiners~~ the applicant may
15 reapply for a permit subject to the correction of the
16 deficiencies outlined in the original evaluation.

17 "(3) Each dentist who is licensed to practice
18 dentistry in the state on May 29, 1985, who desires to
19 continue to use general anesthesia shall make application on
20 the prescribed form to the Board of Dental Examiners within 12
21 months of May 29, 1985. If he or she meets the requirements of
22 this section, he or she shall be issued such a permit. If the
23 applicant does not meet the requirements of paragraph a. of
24 subdivision (2) of this section, he or she may be entitled to
25 a "general anesthesia permit" provided said applicant passes
26 to the satisfaction of the board an on-site inspection as

1 provided for in paragraph b. of subdivision (2) of this
2 section.

3 "(4) Each dentist who has not been using general
4 anesthesia prior to May 29, 1985, may be granted by the board
5 a temporary provisional permit based on the applicant's
6 producing evidence that he or she has complied with paragraph
7 a. of subdivision (2) of this section above pending complete
8 processing of the application and thorough investigation of an
9 on-site evaluation as described in paragraph b. of subdivision
10 (2) of this section.

11 "§34-9-63.

12 "The issuance of a permit for general anesthesia
13 shall include the privilege of administering parenteral
14 sedation in accordance with this section. The issuance of a
15 permit for parenteral sedation shall include the privilege of
16 administering intravenous sedation. All current intravenous
17 sedation permit holders are entitled to a parenteral sedation
18 permit subject to the renewal and regulatory provisions
19 afforded to the Board of Dental Examiners by this chapter. The
20 term parenteral sedation shall not include the use or
21 regulation of nitrous oxide.

22 "(1) ~~After August 1, 1993, no~~ No dentist shall use
23 parenteral sedation on an outpatient basis for dental patients
24 unless the dentist possesses a permit of authorization issued
25 by the board. The dentist applying for or holding the permit
26 shall be subject to on-site inspections as provided in
27 paragraph b. of subdivision (2) of Section 34-9-60.

1 "a. In order to receive the permit, the dentist
2 shall:

3 "1. Apply on a prescribed application form to the
4 board.

5 "2. Submit a fee.

6 "3. Produce evidence showing that he or she has
7 satisfied each of the following requirements:

8 "(i) Received formal training in the use of
9 parenteral sedation from a board approved training program, is
10 competent to handle all emergencies relating to parenteral
11 sedation, and is currently certified in cardiopulmonary
12 resuscitation. The certification of the formal training shall
13 specify the total number of hours, the number of didactic
14 hours, and the number of patient contact hours. The required
15 number of didactic hours and patient contact hours shall be
16 determined by the board.

17 "(ii) Equipped a proper facility for the
18 administration of parenteral sedation, staffed with a
19 supervised team of auxiliary personnel capable of reasonably
20 assisting the dentist with procedures, problems, and
21 emergencies incident to the sedation procedure.

22 "b. Adequacy of the facility and the competency of
23 the sedation team shall be determined by the board.

24 "c. Prior to the issuance of a permit, the board may
25 require an on-site inspection of the facility, equipment, and
26 personnel to determine if the requirements of this section

1 have been met. This evaluation shall be performed as provided
2 in subdivision (2) of this section.

3 "(2) Each dentist who is licensed to practice
4 dentistry in the state ~~on or after August 1, 1993,~~ who desires
5 to continue to use parenteral sedation shall make application
6 on the prescribed form to the board ~~within 12 months of August~~
7 ~~1, 1993.~~ If he or she meets the requirements of this section,
8 or currently holds a valid intravenous sedation permit, he or
9 she shall be issued such a permit subject to all renewal and
10 regulatory requirements of Section 34-9-64. If the applicant
11 does not meet the requirements of paragraph a. of subdivision
12 (1) of this section, or does not currently hold a valid
13 intravenous sedation permit, he or she may be entitled to a
14 "parenteral sedation permit" if the applicant passes, to the
15 satisfaction of the board, an on-site inspection. The
16 inspection shall ascertain that the dentist has a properly
17 equipped facility for the administration of parenteral
18 sedation, staffed with a supervised team of auxiliary
19 personnel capable of reasonably assisting the dentist with
20 incidental procedures, problems, and emergencies.

21 "The board, in conducting the on-site inspection and
22 evaluations required in this section, shall appoint a team of
23 up to three examiners who shall be dentists certified to
24 administer parenteral sedation in accordance with this
25 article.

26 "(3) A dentist utilizing parenteral sedation and the
27 auxiliary personnel of the dentist shall be currently

1 certified in cardiopulmonary resuscitation and be trained in
2 advanced cardiac life support.

3 "(4) Each dentist who has not been using parenteral
4 sedation ~~prior to August 1, 1993, may,~~ pending complete
5 processing of an application and a thorough on-site
6 evaluation, may be granted a one temporary provisional permit
7 by the board at a time, if the applicant produces evidence
8 that he or she has complied with this section.

9 "§34-9-82.

10 "(a) A dentist using oral conscious sedation must
11 comply with all of the following requirements:

12 "(1) Patients to be treated under oral conscious
13 sedation must be suitably evaluated prior to the start of any
14 sedation procedure. Using the American Society of
15 Anesthesiologists Patient Physical Status classifications the
16 dentist should determine that the patient is an appropriate
17 candidate for oral conscious sedation.

18 "(2) The patient or guardian must be advised
19 regarding the procedure associated with the delivery of any
20 sedative agents and the appropriate written informed consent
21 should be obtained.

22 "(3) Inhalation equipment used in conjunction with
23 oral conscious sedation must be evaluated prior to use on each
24 patient. Determination of adequate oxygen supply must be
25 completed prior to use with each patient.

1 "(4) Appropriate verbal or written preoperative and
2 postoperative instructions must be given to the patient or
3 guardian.

4 "(5) Baseline vital signs should be obtained unless
5 the patient's behavior prohibits such determination.

6 "(6) Pretreatment physical evaluation should be
7 performed as deemed appropriate.

8 "(7) All medications and dosages used during an oral
9 conscious sedation procedure must be recorded in the patient's
10 record of treatment.

11 "(8) An emergency cart or kit must be readily
12 accessible and must be available for immediate use during any
13 sedation procedure.

14 "(9) The only classification of drugs for sedation
15 to be administered enterally by a responsible adult
16 procedurally outside the treatment facility is minor
17 tranquilizers. Minor tranquilizers (i.e., hydroxyzine or
18 diazepam) do not include chloral hydrate or narcotics.

19 "(10) Direct clinical observation and monitoring of
20 the patient by a staff member must be continuous during the
21 recovery period. The dentist shall assess the patient's
22 responsiveness and must determine that the patient has met
23 discharge criteria prior to leaving the office and the patient
24 must be discharged into the care of a responsible person.

25 "(b) It shall be incumbent upon the operating
26 dentist to insure that the patient is appropriately monitored.
27 A sedated patient must be continuously kept under direct

1 clinical observation by a trained individual. The sedated
2 patient's oxygen saturation must be monitored by pulse
3 oximetry. Chest excursions must be observed and the color of
4 mucosa and skin continually evaluated. Back-up emergency
5 services should be identified and a protocol outlining
6 necessary procedures for their immediate employment should be
7 developed and operational for each facility.

8 "(c) Any dentist utilizing oral conscious sedation
9 procedures must have a properly equipped facility staffed with
10 a supervised team of allied dental personnel who will be
11 appropriately trained and capable of reasonably assisting the
12 dentist with procedures, problems, and emergencies incident
13 thereto. When inhalation equipment is used, in combination
14 with orally administered sedatives, it must have a ~~fail-safe~~
15 failsafe system that is appropriately checked and calibrated.
16 The inhalation equipment must have the capacity for delivering
17 100 percent oxygen, and never less than 25 percent oxygen. A
18 system for delivering oxygen must be available and must have
19 adequate full-face mask and appropriate connectors, and be
20 capable of delivering oxygen under positive pressure to the
21 patient. Inhalation equipment must have a scavenging system.
22 Suction equipment must be available that allows aspiration of
23 the oral and pharyngeal cavities. A stethoscope and a
24 sphygmomanometer with cuffs of appropriate size shall be
25 immediately available.

26 "§34-9-89.

1 "When oral conscious sedation is used on any patient
2 under 12 years of age, the following provisions shall apply:

3 "(1) The drugs, dosages, and techniques used should
4 carry a margin of safety which is unlikely to render the
5 patient noninteractive and nonarousable.

6 "~~(2) In offices where pediatric patients are~~
7 ~~treated, appropriately~~ Appropriately sized emergency equipment
8 must be available."

9 Section 2. This act shall become effective on the
10 first day of the third month following its passage and
11 approval by the Governor, or its otherwise becoming law.