

1 HB543
2 151098-2
3 By Representative McClendon
4 RFD: Health
5 First Read: 04-APR-13

1 ENGROSSED

2
3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 To amend Sections 34-9-1, 34-9-4, 34-9-6, 34-9-7,
9 34-9-7.2, 34-9-8, 34-9-9, 34-9-10, 34-9-12, 34-9-13, 34-9-14,
10 34-9-15, 34-9-16, 34-9-18, 34-9-22, 34-9-26, 34-9-27, 34-9-28,
11 34-9-40, 34-9-46, 34-9-47, and 34-38-2, Code of Alabama 1975,
12 relating to the State Board of Dental Examiners and the
13 Alabama Impaired Professionals Committee; to define and
14 provide for the licensing, duties, and responsibilities of an
15 expanded duty dental assistant; to authorize the board to
16 charge and collect fees relating to the licensing of expanded
17 duty dental assistants; to authorize the board to charge and
18 collect an Impaired Dental Professionals Committee annual
19 monitoring fee; to authorize the president of the board to
20 designate, in writing, any member of the board to issue
21 subpoenas; to provide that depositions taken in matters
22 pending before the circuit court be returnable directly to the
23 board office; and to make certain technical corrections.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Sections 34-9-1, 34-9-4, 34-9-6, 34-9-7,
26 34-9-7.2, 34-9-8, 34-9-9, 34-9-10, 34-9-12, 34-9-13, 34-9-14,
27 34-9-15, 34-9-16, 34-9-18, 34-9-22, 34-9-26, 34-9-27, 34-9-28,

1 34-9-40, 34-9-46, 34-9-47, and 34-38-2 of the Code of Alabama
2 1975, are amended to read as follows:

3 "§34-9-1.

4 "For the purposes of this chapter, the following
5 terms shall have the respective meanings ascribed by this
6 section:

7 "(1) ANNUAL REGISTRATION. The documentary evidence
8 that the board has renewed the authority of the licensee to
9 practice dentistry or dental hygiene in this state.

10 "(2) BOARD. The Board of Dental Examiners of
11 Alabama.

12 "(3) COMMERCIAL DENTAL LABORATORY. A technician or
13 group of technicians available to any or all licensed dentists
14 for construction or repair of dental appliances.

15 "(4) EXPANDED DUTY DENTAL ASSISTANT. A dental
16 assistant who holds a current expanded license certificate
17 from the board.

18 "~~(4)~~ (5) GENERAL ANESTHESIA. A controlled state of
19 unconsciousness, accompanied by a partial or complete loss of
20 protective reflexes, including inability to independently
21 maintain an airway and respond purposefully to physical
22 stimulation or verbal command, produced by a pharmacologic
23 method.

24 "~~(5)~~ (6) LICENSE. The grant of authority by the board
25 to a person to engage in the practice of dentistry or dental
26 hygiene.

1 "~~(6)~~(7) LICENSE CERTIFICATE. The documentary
2 evidence under seal of the board that ~~said~~ the board has
3 granted authority to the licensee to practice dentistry or
4 dental hygiene in this state.

5 "~~(7)~~(8) LICENSED DENTIST. A dentist who holds a
6 current license certificate from the board.

7 "~~(8)~~(9) LICENSED HYGIENIST. A hygienist who holds a
8 current license certificate from the board.

9 "~~(9)~~(10) LOCAL ANESTHESIA. The elimination of
10 sensations, especially pain in one part of the body by topical
11 application or regional injection of a drug.

12 "~~(10)~~(11) PRACTICE OF DENTISTRY ACROSS STATE LINES.

13 "a. The practice of dentistry as defined in Section
14 34-9-6 as it applies to the following:

15 "1. The rendering of a written or otherwise
16 documented professional opinion concerning the diagnosis or
17 treatment of a patient located within this state by a dentist
18 located outside this state as a result of transmission of
19 individual patient data by electronic or other means from
20 within this state to the dentist or his or her agent.

21 "2. The rendering of treatment to a patient located
22 within this state by a dentist located outside this state as a
23 result of transmission of individual patient data by
24 electronic or other means from this state to the dentist or
25 his or her agent.

26 "3. The holding of himself or herself out as
27 qualified to practice dentistry, or use any title, word, or

1 abbreviation to indicate or induce others to believe that he
2 or she is licensed to practice dentistry across state lines.

3 "b. This definition is not intended to include an
4 informal consultation between a licensed dentist located in
5 this state and a dentist located outside this state provided
6 that the consultation is conducted without compensation or the
7 expectation of compensation to either dentist, and does not
8 result in the formal rendering of a written or otherwise
9 documented professional opinion concerning the diagnosis or
10 treatment of a patient by the dentist located outside the
11 state.

12 "~~(11)~~ (12) PRIVATE TECHNICIANS. A technician employed
13 by a dentist or group of dentists for a specified salary.

14 "~~(12)~~ (13) SEDATION. A depressed level of
15 consciousness that retains the patient's ability to
16 independently and continuously maintain an airway and respond
17 appropriately to physical stimulation or verbal command,
18 produced by a pharmacologic method.

19 "§34-9-4.

20 "It shall be unlawful for any person to practice
21 dental hygiene or expanded duty dental assisting in the State
22 of Alabama, except:

23 "(1) Those who are now licensed dental hygienists or
24 licensed expanded duty dental assistants, pursuant to law; and

25 "(2) Those who may hereafter be duly licensed and
26 who are currently registered as dental hygienists or expanded

1 duty dental assistants pursuant to the provisions of this
2 chapter.

3 "§34-9-6.

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

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

13 "(2) Directly or indirectly, by any means or method,
14 makes impression of the human tooth, teeth, jaws or adjacent
15 tissue, or performs any phase of any operation incident to the
16 replacement of a tooth or any part thereof.

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

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

25 "(5) Professes to the public by any method to
26 furnish, supply, construct, reproduce, or repair any
27 prosthesis (fixed or removable), appliance, or other structure

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

12 "(6) Repairs or fills cavities in the human teeth.

13 "(7) Uses a roentgen, radiograph, or digital imaging
14 machine for the purpose of making dental roentgenograms,
15 radiographs, or digital images, or who gives, or professes to
16 give, interpretations or readings of dental roentgenograms,
17 radiographs, or digital images, or radiographic or roentgen
18 therapy.

19 "(8) Administers an anesthetic of any nature in
20 connection with a dental procedure.

21 "(9) Uses the words "dentist," "dental surgeon,"
22 "oral surgeon," or the letters "D.D.S.," "D.M.D." or any other
23 words, letters, title, or descriptive matter which in any way
24 represents him or her as being able to diagnose, treat,
25 prescribe, or operate for any disease, pain, deformity,
26 deficiency, injury, or physical condition of the teeth or
27 jaws, or adjacent structures.

1 "(10) States, or professes, or permits to be stated
2 or professed by any means or method whatsoever that he or she
3 can perform or will attempt to perform dental procedures, or
4 render a diagnosis connected therewith.

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

25 "(12) Professes to the public by any method to
26 bleach human teeth, performs bleaching of the human teeth
27 alone or within his or her business, or instructs the public

1 within his or her business, or through any agent or employee
2 of his or her business, in the use of any tooth bleaching
3 product.

4 "§34-9-7.

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

7 "(1) The practice of his or her profession by a
8 physician or surgeon holding a certificate of qualification as
9 a medical doctor and licensed as such under the laws of this
10 state, provided he or she shall not practice dentistry as a
11 specialty.

12 "(2) The practice of dentistry in the discharge of
13 their official duties by graduate dentists or dental surgeons
14 in the United States Army, Navy, Air Force, or other armed
15 services, public health service including, but not limited to,
16 a federally qualified health center authorized and operating
17 under Section 330 of the Public Health Service Act (42 U.S.C.
18 § 254B), provided, however, that such federally qualified
19 health centers shall register pursuant to Section 34-9-7.2
20 (provided further however, dentists, dental hygienists, and
21 other personnel employed by any public health service which
22 performs dental health care for the general public under
23 programs funded in whole or part by the state or federal
24 government shall be subject to all of the provisions of this
25 chapter and the rules and regulations duly promulgated by the
26 ~~Board of Dental Examiners~~ board governing the practice of

1 dentistry and dental hygiene in this state), Coast Guard, or
2 Veteran's Administration.

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

9 "(4) The filling of prescriptions of a licensed and
10 registered dentist, as hereinafter provided, by any person or
11 persons, association, corporation, or other entity for the
12 construction, reproduction, or repair of prostheses (fixed or
13 removable) or appliances on a cast made by or from impressions
14 made by a licensed and currently registered dentist, to be
15 used or worn as a substitute for natural teeth; provided, that
16 the person or persons, association, corporation, or other
17 entity, shall not solicit or advertise, directly or
18 indirectly, by mail, card, newspaper, pamphlet, radio,
19 television, Internet, or otherwise, to the general public to
20 construct, reproduce, or repair prostheses (fixed or
21 removable) or other appliances to be used or worn as
22 substitutes for natural teeth.

23 "(5) The use of roentgen machines or other means for
24 making radiographs, digital images, or similar records, of
25 dental or oral tissues under the supervision of a licensed
26 dentist or physician; provided, that the services shall not be
27 advertised by any name whatever as an aid or inducement to

1 secure dental patronage, and no person shall advertise that he
2 or she has, leases, owns, or operates a roentgen or other
3 machine for the purpose of making dental radiographs or
4 images, of the human teeth or tissues or the oral cavity, or
5 administering treatments thereto for any disease thereof.

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

10 "(7) The use of a nurse in the practice of
11 professional or practical nursing, as defined in Sections
12 34-21-1 through 34-21-26, by a dentist.

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

16 "(9) A dentist who engages in the practice of
17 dentistry across state lines on an irregular or infrequent
18 basis. The "irregular or infrequent" practice of dentistry
19 across state lines is considered to occur if the practice
20 occurs less than 10 times in a calendar year or involves fewer
21 than 10 patients in a calendar year, or the practice comprises
22 less than one percent of the diagnostic or therapeutic
23 practice of the dentist.

24 "(10) A dentist, ~~or~~ dental hygienist, or expanded
25 duty dental assistant on active duty, or performing his or her
26 duties as a reservist in the military, is not subject to any
27 fee required for a special purpose license to practice

1 dentistry across state lines. The dentist, ~~or~~ dental
2 hygienist, or expanded duty dental assistant shall notify the
3 board in advance of his or her participation in military
4 activities and shall forward a copy of his or her current
5 dental license or permit, or both, to the board. The dentist, ~~or~~
6 dental hygienist, or expanded duty dental assistant shall
7 also provide proof of military status and any orders requiring
8 him or her to perform dental treatment services in this state.

9 "§34-9-7.2.

10 "A 501(c)(3) entity, as defined under Section
11 501(c)(3) of the Internal Revenue Code, that operates a dental
12 clinic that provides dental services shall register with the
13 board. The information provided to the board as a part of the
14 registration process shall include the name of the
15 corporation, the nonprofit status of the corporation, sites
16 where dental services shall be provided by the corporation,
17 and the names of all persons employed by, or contracting with,
18 the corporation who are required to hold a license pursuant to
19 this chapter. A copy of the entity's 501(c)(3) certification
20 from the Internal Revenue Service shall be filed with the
21 board. If the entity has multiple clinics, the entity shall
22 register each clinic with the board and the entity shall have
23 one licensed dentist serving as chief of dental services for
24 all of the clinics. All dentists, ~~and~~ hygienists, and expanded
25 duty dental assistants at each clinic shall possess the
26 applicable licenses or permits required by this chapter and
27 shall be subject to this chapter.

1 "§34-9-8.

2 "(a) The board shall annually issue dental faculty
3 teaching permits to persons who are bona fide members of the
4 faculty of a dental college, if they hold a dental degree but
5 are not licensed and registered to practice dentistry, or
6 dental hygiene, or expanded duty dental assisting in the
7 state. The dean of any dental college located in the state
8 shall annually certify to the board the bona fide members of
9 the clinical faculty of the college who are not licensed and
10 registered to practice dentistry or dental hygiene in the
11 state. The board shall issue teaching permits to applicants
12 upon the certification by the dean. The teaching permits shall
13 be invalid if the holder ceases to be a member of the clinical
14 faculty of the dental college. The dean of any dental college
15 shall promptly notify the board regarding changes in the
16 faculty which affect the eligibility of a faculty member to
17 possess a teaching permit. The holder of a teaching permit
18 shall be subject to this chapter and may perform all clinical
19 operations which a person licensed to practice dentistry, or
20 dental hygiene, or expanded duty dental assisting in the state
21 is entitled to perform. The operations may only be performed
22 within the facilities of the dental college or any other
23 facility approved by the board as an adjunct to his or her
24 teaching functions in the college. An annual fee established
25 pursuant to this chapter shall be paid to the board when the
26 teaching permit is issued.

1 "(b) The board shall annually issue dental faculty
2 special teaching permits to persons who are bona fide members
3 of the faculty of a dental college if they hold a dental
4 degree but are not licensed and registered to practice
5 dentistry, ~~or~~ dental hygiene, or expanded duty dental
6 assisting in the state. The dean of any dental college located
7 in the state shall annually certify to the board the bona fide
8 members of the clinical faculty of the college who are not
9 licensed and registered to practice dentistry, ~~or~~ dental
10 hygiene, or expanded duty dental assisting in the state. The
11 board shall issue special teaching permits to applicants upon
12 certification by the dean. The special teaching permits shall
13 be invalid if the holder ceases to be a member of the clinical
14 faculty of the dental college. The dean of any dental college
15 shall promptly notify the board regarding changes in the
16 faculty which affect the eligibility of a faculty member to
17 possess a special teaching permit. The holder of a special
18 teaching permit shall be subject to this chapter and may
19 perform all clinical operations on his or her private patients
20 which a person licensed to practice dentistry or dental
21 hygiene in the state is entitled to perform. The clinical
22 operations may only be performed within the faculty private
23 practice facilities of the dental college or any other
24 facility approved by the board. An annual fee established
25 pursuant to this chapter shall be paid to the board when the
26 special teaching permit is issued.

27 "§34-9-9.

1 "(a) No person other than a dentist licensed
2 pursuant to this chapter or a 501(c)(3) entity registered
3 under Section 34-9-7.2 may do any of the following:

4 "(1) Employ a dentist, dental hygienist, or ~~both~~
5 expanded duty dental assistant in the operation of a dental
6 office.

7 "(2) Place in the possession of a dentist, dental
8 hygienist, expanded duty dental assistant, or other agent such
9 dental material or equipment as may be necessary for the
10 management of a dental office on the basis of a lease or any
11 other agreement for compensation for the use of such material,
12 equipment, or offices.

13 "(3) Retain the ownership or control of dental
14 equipment, material, or office and make the same available in
15 any manner for the use of a dentist, dental hygienist,
16 expanded duty dental assistant, or other agent.

17 "(4) The term "person" as used in this section,
18 shall not in any way pertain to state, county, municipal, or
19 city institutions but shall be deemed to include any
20 individual, firm, partnership, corporation, or other entity
21 not licensed to practice dentistry in the State of Alabama.

22 "(5) Nothing in this subsection shall apply to bona
23 fide sales of dental equipment, material, or office secured by
24 a chattel mortgage or retention title agreement, or to an
25 agreement for the rental of the equipment or office by bona
26 fide lease at a reasonable amount, and under which agreement
27 the licensee under this chapter maintains complete care,

1 custody, and control of the equipment and the practice.
2 Further, nothing in this subsection shall prohibit or restrict
3 persons, firms, or corporations from employing or retaining
4 licensed dentists to furnish dental treatment for their
5 employees or dependents of their employees.

6 "(b) A prohibited business arrangement or
7 relationship as defined in subsection (a) shall not be
8 considered a violation of that subsection if a prohibited
9 arrangement or relationship results from the death of a
10 licensed dentist and is cured within 12 months of the date of
11 the death.

12 "(c) The purpose of this section is to prevent a
13 non-dentist from influencing or otherwise interfering with the
14 exercise of a dentist's independent professional judgment. In
15 addition to the acts specified in subsection (a), no person,
16 other than a dentist licensed in accordance with this chapter,
17 shall enter into a relationship with a person licensed under
18 this chapter pursuant to which the unlicensed person exercises
19 control over the selection of a course of treatment for a
20 patient, the procedures or materials to be used as a part of
21 such course of treatment, or the manner in which such course
22 of treatment is carried out by the licensee.

23 "(d) No person other than a dentist licensed
24 pursuant to this chapter or a 501(c)(3) entity registered
25 under Section 34-9-7.2 shall exercise control over any of the
26 following:

27 "(1) The patient records of a dentist.

1 "(2) Policies and decisions relating to pricing,
2 credit, refunds, warranties, and advertising.

3 "(3) Decisions relating to office personnel and
4 hours of practice.

5 "(e) Any licensed or permitted dentist, ~~or~~ dental
6 hygienist, or expanded duty dental assistant who enters into
7 any of the arrangements or relationships in violation of
8 subsection (a) or subsection (c) with an unlicensed person as
9 defined above, may be subject to any of the penalties set
10 forth in Section 34-9-18.

11 "§34-9-10.

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

26 "(b) Licensure by examination shall be applicable to
27 the following categories:

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

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

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

23 "(d) Licensure by credentials may be utilized to
24 evaluate the theoretical knowledge and clinical skill of a
25 dentist, ~~or~~ dental hygienist, or expanded duty dental
26 assistant when an applicant for licensure by credentials holds
27 a dental, ~~or~~ dental hygiene, or expanded duty dental assisting

1 license in another state. The board may promulgate rules and
2 regulations relating to licensure by credentials in addition
3 to any requirements by law. An applicant for licensure by
4 credentials ~~must meet~~ shall satisfy all of the following:

5 "(1) The dentist, ~~or dental hygienist,~~ or expanded
6 duty dental assistant shall ~~must~~ have been engaged in the
7 active practice of clinical dentistry, ~~or clinical dental~~
8 hygiene, ~~or clinical expanded duty dental assisting~~ or in
9 full-time dental, ~~or dental hygiene,~~ or clinical expanded duty
10 dental assisting education for the five years or 5,000 hours
11 immediately preceding his or her application.

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

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

19 "(4) The dentist, ~~or dental hygienist,~~ or expanded
20 duty dental assistant shall ~~must~~ not be the subject of a
21 pending disciplinary action in any state in which the
22 individual has been licensed which shall be verified by a
23 query to the National Practitioner Data Bank, the Health
24 Integrity Protection Data Bank, the American Association of
25 Dental Boards Clearing House for Disciplinary Information, or
26 any other pertinent bank currently existing or which may exist
27 in the future.

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

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

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

12 "(8) The dentist applicant shall submit affidavits
13 from two licensed dentists practicing in the same geographical
14 area where the applicant is then practicing or teaching
15 attesting to the moral character, standing, and ability of the
16 applicant. The dental hygiene applicant shall submit
17 affidavits from two licensed dentists or two licensed dental
18 hygienists, or any combination of two thereof, practicing in
19 the same geographical area where the applicant is then
20 practicing or teaching attesting to the moral character,
21 standing, and ability of the applicant. The expanded duty
22 dental assistant applicant shall submit affidavits from two
23 licensed dentists, two licensed dental hygienists, or two
24 licensed expanded duty dental assistants, or any combination
25 of two thereof, practicing in the same geographical area where
26 the applicant is then practicing or teaching attesting to the
27 moral character, standing, and ability of the applicant.

1 "(9) The applicant ~~must~~ shall provide the board with
2 an official transcript with school seal from the school of
3 dentistry, ~~or~~ school of dental hygiene, or school of expanded
4 duty dental assisting which issued the applicant's
5 professional degree or execute a request and authorization
6 allowing the board to obtain the transcript.

7 "(10) The applicant ~~must~~ shall be a graduate of a
8 dental, ~~or~~ dental hygiene, or expanded duty dental assisting
9 school, college, or educational program approved by the board.

10 "(11) The applicant ~~must~~ shall not be the subject of
11 any pending or final action from any hospital revoking,
12 suspending, limiting, modifying, or interfering with any
13 clinical or staff privileges.

14 "(12) The applicant ~~must~~ shall not have been
15 convicted of a felony or misdemeanor involving moral turpitude
16 or of any law dealing with the administering or dispensing of
17 legend drugs, including controlled substances.

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

20 "a. Questioning under oath.

21 "b. Results of peer review reports from constituent
22 dental societies or federal dental services.

23 "c. Substance abuse testing or treatment.

24 "d. Background checks for criminal or fraudulent
25 activities.

26 "e. Participation in continuing education.

1 "f. A current certificate in cardiopulmonary
2 resuscitation.

3 "g. Recent case reports or oral defense of diagnosis
4 and treatment plans.

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

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

10 "j. Proof of professional liability coverage and
11 that coverage has not been refused, declined, cancelled,
12 nonrenewed, or modified.

13 "k. Whether the applicant has been subject to any
14 final disciplinary action in any state in which the individual
15 has been licensed which shall be verified by a query in the
16 National Practitioner Data Bank, the Health Integrity
17 Protection Data Bank, the American Association of Dental
18 Boards Clearing House for Disciplinary Information, any state
19 where the applicant has been licensed, or any other pertinent
20 bank currently existing or which may exist in the future.

21 "l. Whether the applicant's DEA registration or any
22 state controlled substances permit has ever been revoked,
23 suspended, modified, restricted, or limited in any way.

24 Provided, however, that any discipline that results only from
25 a failure to timely renew a registration or permit shall not
26 prevent an applicant from being eligible for this method of
27 licensure.

1 "(14) If all criteria and requirements are satisfied
2 and the board determines, after notice and hearing, that the
3 individual committed fraud or in any way falsified any
4 information in the application process, the license may be
5 revoked by the board.

6 "(15) In addition to the requirements for applicants
7 seeking licensure by credentials, an applicant desiring to
8 practice a specialty only ~~must meet~~ shall satisfy the
9 following requirements:

10 "a. The specialty ~~must~~ shall be one in a branch of
11 dentistry approved by the American Dental Association.

12 "b. The applicant ~~must meet~~ shall satisfy the
13 existing educational requirements and standards set forth by
14 the American Dental Association for that approved specialty.

15 "c. An applicant who chooses to announce or practice
16 a specialty ~~must~~ shall limit his or her practice exclusively
17 to the announced special area or areas of dental practice.

18 "d. If an applicant who is initially licensed by
19 credentials for a specialty practice decides to renounce his
20 or her specialty and practice general dentistry, and the
21 license originally issued did not require a general dental
22 license but rather a specialty license, or the applicant
23 originally passed only a specialty examination, the applicant
24 may not practice general dentistry until he or she
25 successfully passes the board's regular general dentistry
26 examination. However, if the applicant has passed a general
27 dentistry examination or has a general dentistry license, was

1 practicing a specialty, and decides not to continue that
2 specialty and practice only general dentistry, the applicant
3 is eligible for licensure by credentials as a general dentist.

4 "(e) Notwithstanding the provisions of subsection
5 (a), the board shall issue a special purpose license to
6 practice dentistry across state lines to an applicant who has
7 met the following requirements:

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

12 "(2) The applicant has not had any disciplinary
13 action or other action taken against him or her by any state
14 or licensing jurisdiction. If there has been previous
15 disciplinary or other action taken against the applicant, the
16 board may issue a certificate of qualification if it finds
17 that the previous disciplinary or other action indicates that
18 the dentist is not a potential threat to the public.

19 "(3) The applicant submits an application for a
20 certificate of qualification for a special purpose license to
21 practice dentistry across state lines on a form provided by
22 the board, remits an application fee in an amount established
23 by the board, and pays a fee.

24 "(f) A special purpose license issued by the board
25 to practice dentistry across state lines limits the licensee
26 solely to the practice of dentistry across state lines. The
27 special purpose license shall be valid for a period of up to

1 three years, shall expire on a renewal date determined by the
2 board, and may be renewed upon receipt of a renewal fee as
3 established by the board. Failure to renew a license according
4 to the renewal schedule established by the board shall cause
5 the special purpose license to be inactive. An applicant may
6 reapply for a special purpose license to practice dentistry
7 across state lines following placement of the license on
8 inactive status. The applicant shall meet the qualifications
9 of subsection (e) in order to be eligible for renewal of the
10 license.

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

1 licensure requirements meeting the qualifications of this
2 section.

3 "(h) Any individual who does not qualify for
4 licensure pursuant to any of the above subsections but who has
5 passed an examination approved by the board and possesses a
6 current license in another state is eligible to apply for
7 licensure upon payment of a fee. The board shall have
8 discretion whether to require an examination for any such
9 individual, including the time, place, type, and content of
10 any such examination.

11 "(i) A current license shall mean one in good
12 standing authorizing the individual to practice in the state
13 of issuance.

14 "§34-9-12.

15 "(a) Every person granted a license to practice
16 dentistry, ~~or dental hygiene, or expanded duty dental~~
17 ~~assisting~~ in this state by the ~~Board of Dental Examiners of~~
18 ~~Alabama~~ board, as herein provided, shall cause his or her
19 license certificate to be recorded in the office of the judge
20 of probate of the county in which he or she desires to
21 practice before beginning the practice of dentistry, ~~or dental~~
22 ~~hygiene, or expanded duty dental assisting~~ in the county. Any
23 person receiving a license from the board, whether or not
24 intending to immediately engage in the practice of dentistry, ~~or~~
25 ~~or dental hygiene, or expanded duty dental assisting~~ in this
26 state, shall cause his or her license certificate to be
27 recorded in the office of the judge of probate in one of the

1 counties of this state within 60 days of the issuance of the
2 license certificate.

3 "(b) Every person issued a special purpose license
4 to practice dentistry across state lines shall be subject to
5 the jurisdiction of the board, and all rules and regulations
6 of the board, including all matters relating to discipline. It
7 shall be the affirmative duty of every special purpose
8 licensee to report to the board in writing within 15 days of
9 the initiation of any disciplinary action against the licensee
10 to practice dentistry by any state or territory in which the
11 licensee is licensed. In addition, the licensee agrees, by
12 acceptance of the license, to produce any patient records or
13 materials as requested by the board or to appear before the
14 board or any of its committees following receipt of a written
15 notice issued by the board. The notice may be issued by the
16 board. The failure of a special purpose licensee to report,
17 produce records, or appear as set forth above shall subject
18 the licensee to the disciplinary penalties as set forth in
19 Section 34-9-5.

20 "(c) Every person issued a special purpose license
21 to practice dentistry across state lines shall comply with all
22 laws, rules, and regulations governing the maintenance of
23 patient records, including patient confidentially
24 requirements, regardless of the state where the records of any
25 patient within this state are maintained.

26 "§34-9-13.

1 "Every practitioner of dentistry, ~~and~~ dental
2 hygiene, and expanded duty dental assisting within the meaning
3 of this chapter shall have in his or her possession a license
4 certificate and an annual registration certificate in the
5 office wherein he or she practices.

6 "§34-9-14.

7 "Every licensed dentist, ~~and~~ dental hygienist, and
8 expanded duty dental assistant upon changing his or her place
9 of practice, whether from one building, city, street address,
10 or county to another, shall within 30 days thereafter furnish
11 the secretary-treasurer of the board with the new address. The
12 secretary-treasurer shall acknowledge receipt of change of
13 address within 30 days.

14 "§34-9-15.

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

1 board. On or before October 1 of each year, every dentist, and
2 dental hygienist, and expanded duty dental assistant licensed
3 or permitted to practice dentistry, or dental hygiene, or
4 expanded duty dental assisting in the state shall transmit
5 either online or by United States mail to the
6 secretary-treasurer of the board the completed form prescribed
7 by the board, together with a fee established by the board
8 pursuant to this chapter, and receive thereafter the current
9 annual registration certificate authorizing him or her to
10 continue the practice of dentistry, or dental hygiene, or
11 expanded duty dental assisting in the state for a period of
12 one year. Any license or permit previously granted under the
13 authority of this chapter or any prior dental practice act
14 shall automatically be suspended if the holder thereof fails
15 to secure the annual registration certificate before January
16 1, each year. Any dentist, or dental hygienist, or expanded
17 duty dental assistant whose license or permit is automatically
18 suspended by reason of failure, neglect, or refusal to secure
19 the annual registration certificate shall be reinstated by the
20 board upon 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 or permit shall be automatically
4 suspended. The board shall notify the licensee or permittee by
5 mail addressed to the last address of record of the effective
6 date of the automatic suspension and the provisions for
7 registration of the license or permit. The board shall waive
8 the annual payment of fees herein provided for and issue a
9 current annual registration certificate to any licensee or
10 permittee who, because of age or physical disability, has
11 retired from the practice of dentistry, or dental hygiene, or
12 expanded duty dental assisting or who is suffering a malady of
13 a lingering or permanent nature. The board by rule shall waive
14 annual registration and the payment of fees while any licensee
15 is on temporary active duty with any of the Armed Forces of
16 the 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 "§34-9-16.

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

4	Description	Not More Than
5	Dental Examination Application	
6	Fee	\$750.00
7	Dental Examination Fee	\$2,500.00
8	Dental Examination Materials	
9	Fee	\$500.00
10	Dental Licensure by Creden-	
11	tials Application Fee	\$4,000.00
12	Dental Licensure by Regional	
13	Exam Application Fee	\$1,000.00
14	Special Purpose Licensure Fee	\$750.00
15	Special Purpose Licensure Re-	
16	newal Fee	\$750.00
17	Dental Annual Registration Fee	\$500.00
18	Dental License Reinstatement	
19	Penalty	\$500.00
20	Dental Hygiene Program Appli-	
21	cation Fee	\$500.00
22	Alabama Dental Hygiene Train-	
23	ing Permit Fee	\$450.00

1	Alabama Dental Hygiene Train-	
2	ing Education Fee	\$600.00
3	Alabama Dental Hygiene Program	
4	Instructor Certification	
5	Course Fee	\$200.00
6	Alabama Dental Hygiene Program	
7	Instructional Materials Fee	\$950.00
8	Dental Hygiene By Regional	
9	Exam Application Fee	\$75.00
10	Dental Hygiene Examination Ap-	
11	plication Fee	\$500.00
12	Dental Hygiene Examination Fee	
		\$600.00
13	Dental Hygiene Examination Ma-	
14	terials Fee	\$400.00
15	Dental Hygiene Licensure by	
16	Credentials Fee	\$2,000.00
17	Dental Hygiene Annual Regis-	
18	tration Fee	\$75.00
19	Dental Hygiene License Rein-	
20	statement Penalty	\$200.00
21	<u>Expanded Duty Dental Assistant</u>	
22	<u>by Regional Exam Application</u>	
23	<u>Fee</u>	<u>\$75.00</u>

1	<u>Expanded Duty Dental Assistant</u>	
2	<u>Examination Application Fee</u>	<u>\$500.00</u>
3	<u>Expanded Duty Dental Assistant</u>	
4	<u>Examination Fee</u>	<u>\$600.00</u>
5	<u>Expanded Duty Dental Assistant</u>	
6	<u>Examination Materials Fee</u>	<u>\$400.00</u>
7	<u>Expanded Duty Dental Assistant</u>	
8	<u>Licensure by Credentials Fee</u>	<u>\$2,000.00</u>
9	<u>Expanded Duty Dental Assistant</u>	
10	<u>Annual Registration Fee</u>	<u>\$75.00</u>
11	<u>Expanded Duty Dental Assistant</u>	
12	<u>License Reinstatement Penalty</u>	<u>\$200.00</u>
13	License Certificate Fee	\$500.00
14	Duplicate or Replacement Li-	
15	cense Fee	\$150.00
16	Dental Faculty Teaching Permit	
17	Fee	\$350.00
18	Dental Faculty Special Teach-	
19	ing Permit Fee	\$500.00
20	Alabama Controlled Substance	
21	Permit Fee	\$400.00
22	Alabama Controlled Substance	
23	Permit Renewal Fee	\$400.00
24	General Anesthesia Permit Fee	\$1,500.00

1	General Anesthesia Permit Re-	
2	newal Fee	\$750.00
3	Parenteral Sedation Permit Fee	\$1,500.00
4	Parenteral Sedation Permit Re-	
5	newal Fee	\$750.00
6	Oral Conscious Sedation Permit	
7	Fee	\$250.00
8	Oral Conscious Sedation Permit	
9	Renewal Fee	\$250.00
10	Mobile Dental Applica-	
11	tion/Inspection Fee	\$1,500.00
12	Mobile Dental Renewal Fee	\$1,500.00
13	Mobile Dental Facil-	
14	ity/Portable Dental Operation	
15	Application for Certificate of	
16	Registration Fee	\$750.00
17	Mobile Dental Facil-	
18	ity/Portable Dental Operation	
19	Renewal of Certificate of Reg-	
20	istration Fee	\$500.00
21	<u>Alabama Impaired Dental Pro-</u>	
22	<u>fessionals Committee Annual</u>	
23	<u>Monitoring Fee</u>	<u>\$2,000.00</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,
6 or expanded duty dental assistant has been guilty of the
7 following:

8 "(1) Fraud, deceit, or misrepresentation in
9 obtaining any license, license certificate, annual
10 registration certificate, money, or other 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, or expanded duty dental assisting.

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.

20 "a. For the purposes of this subdivision, negligence
21 is defined as the failure to do what a reasonably prudent
22 dentist or dental hygienist would have done under the same or
23 similar circumstances or the doing of that which a reasonably
24 prudent practitioner would not have done under the same or
25 similar circumstances.

1 "b. For the purposes of this subdivision, gross
2 negligence is defined as willful or wanton conduct with
3 reckless, malicious, or conscious disregard for the rights or
4 safety of others, or conduct that is so deliberate,
5 outrageous, and callous as to display total indifference to
6 the health or safety of a patient, that could result in
7 serious bodily injury or death.

8 "(7) Is guilty of employing, allowing, or permitting
9 any unlicensed person or persons to perform any work in his or
10 her office which, under this chapter, can only be legally done
11 by a person or persons holding a license to practice
12 dentistry, ~~or~~ dental hygiene, or expanded duty dental
13 assisting.

14 "(8) Willfully or negligently violates the rules of
15 the State Department of Health or of the board regarding
16 sanitation.

17 "(9) Is guilty of division of fees, or agreeing to
18 split or divide the fee received for dental service with any
19 person for bringing or referring a patient without the
20 knowledge of the patient or his or her legal representative,
21 except the division of fees between dentists practicing in a
22 partnership and sharing professional fees, or in case of one
23 licensed dentist employing another.

24 "(10) Is guilty of professional connection or
25 association with or lending his or her name to anyone who is
26 engaged in the illegal practice of dentistry, ~~or~~ dental
27 hygiene, or expanded duty dental assisting.

1 "(11) Conviction in any court of competent
2 jurisdiction of a felony or a misdemeanor involving moral
3 turpitude.

4 "(12)a. A dental hygienist using or attempting to
5 use in any manner whatsoever any prophylactic list, call list,
6 records, reprints, or copies of same, or information gathered
7 therefrom of the names of patients whom the dental hygienist
8 served in the office of a prior employer, unless the names
9 appear upon the bona fide call or prophylactic list of his or
10 her present employer and were caused to appear through the
11 legitimate practice of dentistry or dental hygiene, as
12 provided for in this chapter.

13 "b. A licensed dentist who aids or abets or
14 encourages a dental hygienist or an expanded duty dental
15 assistant employed by him or her to make use of a prophylactic
16 list or the calling by telephone or by the use of letters
17 transmitted through the mails to solicit patronage from
18 patients formerly served in the office of any dentist
19 employing the hygienist, expanded duty dental assistant, or
20 nurse.

21 "c. An expanded duty dental assistant using or
22 aiding, abetting, or encouraging a dental hygienist to use in
23 any manner whatsoever any prophylactic list, call list,
24 records, reprints, or copies of same, or information gathered
25 therefrom of the names of patients whom the expanded duty
26 dental assistant served in the office of a prior employer,
27 unless the names appear upon the bona fide call or

1 prophylactic list of his or her present employer and were
2 caused to appear through the legitimate practice of dentistry,
3 dental hygiene, or expanded duty dental assisting as provided
4 for in this chapter.

5 "(13) Pertaining to licensed dentists only, the
6 prescribing, administering or dispensing of any controlled
7 substances enumerated in Schedules I through V contained in
8 the Alabama Uniform Controlled Substances Act, Chapter 2 of
9 Title 20, or any amendment or successor thereto, or any drug
10 not prescribed for any dentally or facially related condition,
11 and/or for any necessary medication during the course of
12 treatment rendered directly by the dentist, for any person not
13 under his or her treatment in the regular practice of his or
14 her profession.

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

27 "(15) Violating any rule adopted by the board.

1 "(16) Has had his or her license or permit to
2 practice dentistry, ~~or~~ dental hygiene, or expanded duty dental
3 assisting from another state suspended or revoked based upon
4 acts similar to those described in this section. A certified
5 copy of the record of suspension or revocation of the state
6 making the suspension or revocation shall be conclusive
7 evidence thereof.

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

9 "(b) When the board finds any dentist, ~~or~~ dental
10 hygienist, or expanded duty dental assistant guilty of any of
11 the grounds set forth in subsection (a), it may enter an order
12 imposing one or more of the following penalties:

13 "(1) Refuse to issue the dentist, ~~or~~ dental
14 hygienist, or expanded duty dental assistant any license or
15 permit provided for in this chapter.

16 "(2) With the exception of negligence as defined in
17 paragraph (a)(6)a. revoke the license or permit of any
18 dentist, ~~or~~ dental hygienist, or expanded duty dental
19 assistant.

20 "(3) Suspend the license or permit of any dentist, ~~or~~
21 ~~or~~ dental hygienist, or expanded duty dental assistant.

22 "(4) Enter a censure.

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

1 "(6) Impose an administrative fine not to exceed
2 five thousand dollars (\$5,000) for each count or separate
3 offense.

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

5 "(8) Impose peer review or professional education
6 requirements.

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

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

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

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

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

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

26 "(2) The initiation of a disciplinary action against
27 the licensee by any state or territorial licensing

1 jurisdiction in which the licensee holds a license to practice
2 dentistry.

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

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

25 "(g) Nothing in this chapter shall be interpreted to
26 limit or restrict the authority of the board to discipline any
27 dentist licensed to practice in this state who violates this

1 chapter while engaging in the practice of dentistry within
2 this or any other state.

3 "(h) The board shall have the authority to adopt
4 rules imposing a non-disciplinary administrative penalty for
5 designated violations of this chapter.

6 "§34-9-22.

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

27 "§34-9-26.

1 "(a) No person shall practice as a dental hygienist
2 in this state until such person has passed an examination
3 given by the board or approved by the board, or both, under
4 rules and regulations as the board may promulgate and the
5 payment of a fee. The board shall issue licenses and license
6 certificates as dental hygienists to those persons who have
7 passed the examination and have been found qualified by the
8 board. The license certificate and annual registration
9 certificate shall be displayed in the office in which the
10 dental hygienist is employed. No person shall be entitled to a
11 license and license certificate unless the person is 19 years
12 of age and of good moral character. Each applicant for
13 examination and license as a dental hygienist shall be a
14 graduate of a school of dental hygiene which has been approved
15 by the board, or in lieu thereof, shall have served as a
16 dental assistant for a period of time established by board
17 rule and shall have served at least one year as a dental
18 hygienist trainee under a training permit issued by the board
19 to a qualified dentist practicing in this state in accordance
20 with the dental hygienist training program established by the
21 ~~Board of Dental Examiners of Alabama~~ board. Any person
22 practicing in violation of this section shall be guilty of a
23 misdemeanor, and the board may impose the penalties outlined
24 in Section 34-9-18 for such violation.

25 "(b) No person shall practice as an expanded duty
26 dental assistant in this state until such person has passed an
27 examination given by the board or approved by the board, or

1 both, under rules and regulations as the board may promulgate
2 and the payment of a fee. The board shall issue licenses and
3 license certificates as expanded duty dental assistants to
4 those persons who have passed the examination and have been
5 found qualified by the board. The license certificate and
6 annual registration certificate shall be displayed in the
7 office in which the expanded duty dental assistant is
8 employed. No person shall be entitled to a license and license
9 certificate unless the person is 19 years of age and of good
10 moral character. Each applicant for examination and license as
11 a expanded duty dental assistant shall be a graduate of a
12 school of expanded duty dental assisting which has been
13 approved by the board. Any person practicing in violation of
14 this section shall be guilty of a misdemeanor, and the board
15 may impose the penalties outlined in Section 34-9-18 for such
16 violation.

17 "§34-9-27.

18 ~~"A dental hygienist~~ Dental hygienists and expanded
19 duty dental assistants shall work only under the direct
20 supervision of a duly licensed dentist practicing in this
21 state. ~~Dental hygienists and expanded duty dental assistants~~
22 ~~may make, develop, and mount oral radiographs; remove~~
23 ~~calcareous deposits, accretions, or stains from the teeth,~~
24 perform any ~~intra-oral procedures~~ duties allowed by rule or
25 regulation of the ~~Board of Dental Examiners of Alabama~~ board
26 and assist a licensed or permitted dentist in his or her
27 ~~practice. Any person licensed~~ practice; however, expanded duty

1 dental assistants may not perform any irreversible procedure,
2 including surgery. Any ~~person~~ dental hygienist licensed by the
3 board under this section who has completed the curriculum for
4 dental hygienists at a dental school approved by the board
5 shall have the right to use the title ~~registered dental~~
6 ~~hygienist~~ Registered Dental Hygienist or the abbreviation
7 thereof, "R.D.H." appended to his or her name signifying the
8 license conferred. The board may impose any of the penalties
9 outlined in Section 34-9-18 against any dentist who shall
10 permit any dental hygienist or expanded duty dental assistant
11 working under his or her supervision to perform any operation
12 other than those permitted under the provisions of this
13 section, and may impose the penalties outlined in Section
14 34-9-18 against any dental hygienist or expanded duty dental
15 assistant who shall perform any operation other than those
16 permitted under this section.

17 "§34-9-28.

18 It shall be the duty of all licensed dental
19 hygienists and expanded duty dental assistants to notify the
20 board, in writing, of any change of address or employer and
21 have issued to them an annual registration certificate by the
22 board. Any dental hygienist or expanded duty dental assistant
23 whose license shall be automatically suspended by reason of
24 failure, neglect, or refusal to secure the annual registration
25 certificate may be reinstated by the board upon payment of the
26 penalty fee plus the current year's registration fee. The form

1 and method provided for in Section 34-9-15 shall apply to the
2 annual registration of dental hygienists.

3 "§34-9-40.

4 "(a) In order to accomplish the purposes and to
5 provide for the enforcement of this chapter, there is hereby
6 created the Board of Dental Examiners of Alabama. The board is
7 hereby vested with the authority to carry out the purposes and
8 enforce the provisions of this chapter. On June 24, 1959, the
9 members of the present board now in existence shall hold
10 office for the remainder of their respective terms for which
11 they have been elected and thereafter until their successors
12 are elected and qualified and shall constitute the board under
13 this chapter. The board shall consist of six dentists who
14 shall be selected in the method set forth herein all of whom
15 having been actively engaged in the practice of dentistry in
16 the State of Alabama for at least five years next preceding
17 the date of their election and one dental hygienist elected
18 at-large as provided in subsection (b). Each member of the
19 board shall be a citizen of this state. No member of the board
20 shall be a member of the faculty of any dental school, dental
21 college, dental hygiene school, or dental hygiene college or
22 receive any financial benefits for teaching in any dental
23 school, dental college, dental hygiene school, or dental
24 hygiene college or have a financial interest in a commercial
25 dental laboratory or a dental supply business. One member, who
26 is qualified as provided herein, shall be selected by the
27 Alabama Dental Society every five years. As for all elections

1 of members, any group of 10 or more licensed dentists,
2 residing and practicing dentistry in the state, may nominate a
3 candidate for the position of board member by submitting a
4 petition bearing their signatures to the secretary of the
5 board to be postmarked no later than the first day of July in
6 the year of the election. The board shall cause the election
7 ballots to be mailed or published digitally not later than
8 September 1 in the year of the election to all the licensed
9 dentists residing and practicing in the state and currently
10 registered as prescribed by law, along with the annual
11 registration form for the forthcoming fiscal year. Both the
12 annual registration form and fee ~~must~~ shall accompany the
13 ballot that shall be postmarked, or otherwise submitted
14 electronically, no later than October 1 to the secretary of
15 the board no later than the first board workday following
16 October 1 each year, ballots being nullified unless
17 accompanied by or electronically filed with completed annual
18 registration form and annual registration fee. Three members
19 of the board shall be present at the time the ballots, digital
20 or physical, are tallied. Any candidate receiving a majority
21 of the votes shall be declared elected to the board and will
22 take the oath of office on or before October 15 in the year of
23 his or her election. In the event no candidate receives a
24 majority of the votes cast, the board shall conduct a run-off
25 election between the two candidates receiving the largest
26 number of votes. The board shall cause the ballots pertaining
27 to the run-off election to be mailed or digitally published on

1 or before October 31 of the election year to all the licensed
2 dentists who have renewed their licenses for the succeeding
3 year as of October 1 of the current year, are residing and
4 practicing in the state, and currently are registered as
5 prescribed by law, and the ballots pertaining to the run-off
6 election shall be postmarked or digitally published no later
7 than the fourteenth day of November in the year of the run-off
8 election and received, if mailed, by the secretary of the
9 board no later than the first board workday following the
10 fourteenth day of November. All mailed ballots received after
11 this date shall be nullified. In the event of a run-off
12 election, the candidate receiving the largest number of votes
13 in the run-off election shall be declared elected to the board
14 and shall take the oath of office and begin his or her term of
15 office no later than the next scheduled board meeting. Every
16 member elected shall hold office for a period of five years,
17 which terms shall begin immediately upon taking an oath to
18 properly and faithfully discharge the duties of his or her
19 office and until his or her successor is elected and
20 qualified, and the member so elected shall not at the
21 expiration of the term be eligible to succeed himself or
22 herself. The membership of the board shall be inclusive and
23 reflect the racial, gender, geographic, urban/rural, and
24 economic diversity of the state. Except for the board member
25 position selected by the Alabama Dental Society, vacancies on
26 the board shall be filled by the board by the appointment of
27 the immediate past member of the board, and if for any reason

1 the immediate past member of the board is unable to accept the
2 appointment, then the board shall fill the vacancy by
3 appointment of the most recent past board member who is
4 willing to accept the appointment. If no past board member
5 accepts the appointment, then the board may, by majority vote,
6 appoint any licensed dentist qualified under the provisions of
7 this chapter. In the event of a vacancy in the position
8 selected by the Alabama Dental Society, the Alabama Dental
9 Society shall select a dentist who is qualified as provided
10 herein to fill the vacancy. Members of the board shall be
11 removed by a two-thirds vote of the registered dentists in the
12 state for neglect of duty or any just cause, by petition to
13 the secretary of the board by 10 percent of the licensed
14 dentists in the state. On or before July 1, 1962, the board
15 shall send a copy of this section to all licensed dentists in
16 the state.

17 " (b) (1) One member of the board shall be a licensed
18 dental hygienist. The dental hygienist member shall be of good
19 moral and ethical character and shall have been actively
20 engaged in the practice of dental hygiene in the State of
21 Alabama for at least five years preceding the date of
22 election. No dental hygienist member shall be a member of the
23 faculty of any dental school, dental college, dental hygiene
24 school, or dental hygiene college or receive any financial
25 benefits for teaching in any dental school, dental college,
26 dental hygiene school, or dental hygiene college or have a

1 financial interest in a commercial dental laboratory or dental
2 supply business while serving on the board.

3 "(2) The dental hygienist member shall be elected as
4 follows:

5 "a. Any group of 10 or more licensed dental
6 hygienists, residing and practicing dental hygiene in the
7 State of Alabama, may nominate a candidate for the dental
8 hygienist position by submitting a petition bearing their
9 signatures to the secretary of the board no later than the
10 first day of July in the year of an election. The board shall
11 cause election ballots to be mailed or published digitally no
12 later than September 1 in the year of an election to all the
13 licensed dental hygienists residing and practicing in the
14 state and currently registered as prescribed by law. Both the
15 annual registration form and the registration fee ~~must~~ shall
16 accompany the ballot that shall be postmarked or otherwise
17 submitted electronically no later than October 1 to the
18 secretary of the board no later than the first board workday
19 following October 1 each year, and the ballots will be
20 nullified unless accompanied by or electronically filed with a
21 completed annual registration form and the annual registration
22 fee.

23 "b. Three members of the board shall be present at
24 the time the ballots, digital or physical, are tallied. Any
25 candidate receiving a majority of the votes shall be declared
26 elected to the board and shall take the oath of office on or
27 before October 15 in the year of his or her election. In the

1 event no candidate receives a majority of the votes cast, the
2 board shall conduct a run-off election between the two
3 candidates receiving the largest number of votes. The board
4 shall cause the ballots pertaining to any run-off election to
5 be mailed or digitally published on or before October 31 of
6 the election year to all licensed dental hygienists who have
7 renewed their licenses for the succeeding year as of October 1
8 of the current year, are residing and practicing in the state,
9 and are currently registered as prescribed by law, and the
10 ballots pertaining to the run-off election shall be postmarked
11 or digitally submitted no later than the fourteenth day of
12 November in the year of the run-off election and received, if
13 mailed, by the secretary of the board no later than the first
14 board workday following November 14. All mailed ballots
15 received after November 14 shall be nullified. In the event of
16 a run-off election, the dental hygienist candidate receiving
17 the largest number of votes in the run-off election shall be
18 declared elected to the board and shall take the oath of
19 office and begin his or her term of office no later than the
20 next scheduled board meeting.

21 "c. All elections as described above shall be
22 conducted by the board.

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

1 "(4) The dental hygienist member shall hold that
2 position for a period of five years, which term shall begin
3 immediately upon taking an oath to properly and faithfully
4 discharge the duties of his or her office and continue 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. If a vacancy occurs in the
8 position of dental hygienist, the unexpired term shall be
9 filled by the board by the appointment of the immediate past
10 dental hygienist member. If for any reason the immediate past
11 dental hygienist member is unable to accept the appointment,
12 then the board shall fill the vacancy by a majority vote of
13 the other board members by the appointment of some other past
14 dental hygienist member. If a vacancy occurs and there is not
15 an immediate past dental hygienist member or other past dental
16 hygienist member, the vacancy shall be filled by a unanimous
17 vote of the board by the appointment of some otherwise
18 qualified dental hygienist.

19 "(5) The dental hygienist member shall advise the
20 board on matters relating to dental hygiene and shall only be
21 permitted to vote on matters relating to dental hygiene. The
22 board shall provide the dental hygienist member with timely
23 notice of all board meetings and the dental hygienist member
24 shall be allowed to attend all meetings unless prohibited by
25 law from attendance at any disciplinary hearings. The board
26 shall not adopt any rule relating to the practice of dental
27 hygiene unless the proposed rule has been submitted to the

1 dental hygienist member for review and comment at least 30
2 days prior to its adoption. The dental hygienist member shall
3 be entitled to the same compensation and expenses paid to
4 dentist members of the board pursuant to Section 34-9-41.

5 "(c) Any dentist or dental hygienist who has been
6 found guilty of violating this chapter or any provision of a
7 dental practice act of any other state and as a result his or
8 her license was revoked, suspended, or placed on probation or
9 who has been convicted of a felony, shall not be eligible for
10 election or membership on the board for a period of five years
11 from the termination of any such revocation, suspension, or
12 probation.

13 "§34-9-46.

14 "In all matters pending before it, the board shall
15 have the power to issue subpoenas and compel the attendance of
16 witnesses and the production of all necessary papers, books,
17 and records, documentary evidence and materials or other
18 evidence. Any person failing or refusing to appear or testify
19 regarding any matter about which he or she may be lawfully
20 questioned or to produce any papers, books, records,
21 documentary evidence, or materials or other evidence in the
22 matter to be heard, after having been required by order of the
23 board or by a subpoena of the board to do so, may, upon
24 application by the board to any circuit judge of the State of
25 Alabama, be ordered to comply therewith; and, upon failure to
26 comply with the order of the circuit judge, the court may
27 compel obedience by attachment as for contempt as in case of

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

15 "§34-9-47.

16 "Depositions may be taken within or without the
17 State of Alabama in the manner provided for by the laws of
18 Alabama and the Alabama Rules of Civil Procedure for the
19 taking of depositions in matters pending in the circuit courts
20 of this state. The depositions shall be returnable to the
21 ~~clerk of the circuit court of the county wherein the hearing~~
22 ~~before the board is pending, and the clerk shall deliver the~~
23 ~~depositions to the board upon request~~ board office, and the
24 depositions may be opened or used by the parties to the
25 proceedings the same as is provided for in matters pending
26 before the circuit courts. ~~The circuit court shall, upon~~
27 ~~request of any interested party in any proceedings before the~~

1 ~~state board, issue commissions for the taking of depositions~~
2 ~~in the same manner as is provided for the issuance of~~
3 ~~commissions for the taking of depositions in matters pending~~
4 ~~before the circuit courts of this state.~~

5 "§34-38-2.

6 "It shall be the duty and obligation of the State
7 Board of Dental Examiners and the State Board of Pharmacy to
8 promote the early identification, intervention, treatment, and
9 rehabilitation of individuals within the respective
10 jurisdiction, licensed to practice in the State of Alabama,
11 who may be impaired by reason of illness, inebriation,
12 excessive use of drugs, narcotics, controlled substances,
13 alcohol, chemicals, or other dependent forming substances, or
14 as a result of any physical or mental condition rendering such
15 person unable to meet the standards of his or her profession.
16 For the purposes of this chapter, the term "impaired" shall
17 mean the inability of a dentist, hygienist, expanded duty
18 dental assistant, or pharmacist to practice with reasonable
19 skill and safety to patients by reason of illness,
20 inebriation, excessive use of drugs, narcotics, controlled
21 substances, alcohol, chemicals, or other dependent forming
22 substances, or as a result of any physical or mental condition
23 rendering such person unable to meet the standards of his or
24 her profession. In order to carry out this obligation, each
25 board, individually or jointly, is hereby empowered to
26 contract with any nonprofit corporation, health provider, or
27 professional association for the purpose of creating,

1 supporting, and maintaining a committee of professionals to be
2 designated the Alabama Impaired Professionals' Committee. The
3 committee shall consist of not less than three nor more than
4 15 professionals licensed to practice dentistry or pharmacy in
5 the State of Alabama, and selected in a manner prescribed by
6 the board or boards. The authority of the Alabama Impaired
7 Professionals' Committee shall not supersede the authority of
8 the board or boards to take disciplinary action against
9 individuals subject to this chapter. Nothing in this chapter
10 shall limit the power and authority of the board or boards to
11 discipline an impaired individual subject to its jurisdiction;
12 provided that where an individual is impaired and currently in
13 need of intervention, treatment, or rehabilitation and such
14 individual is currently participating in programs or
15 rehabilitation recommended by the committee, then in its
16 discretion, the board or boards may refrain from taking or
17 continuing disciplinary action against such individual; and
18 further provided that where the board or boards, upon
19 reasonable cause to believe an individual subject to its
20 jurisdiction is impaired, has referred such individual to the
21 committee for evaluation, then in its discretion, the board or
22 boards may refrain from taking or continuing disciplinary
23 action against such individual. The board, or boards, ~~is~~
24 ~~authorized to~~ may collect or expend such funds as are
25 available to it as deemed necessary to adequately provide for
26 the operational expenses of the Alabama Impaired
27 Professionals' Committee, including, but not limited to, the

1 actual cost of travel, office overhead and personnel expense,
2 and compensation for the members of the committee and its
3 staff; provided that operational expenses of the Alabama
4 Impaired Professionals' Committee shall not include the cost
5 of treatment or rehabilitation programs recommended by the
6 committee to individuals subject to this chapter. The funds
7 provided by the board or boards, under this section for the
8 purposes stated herein shall not be subject to any provision
9 of law requiring competitive bidding."

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

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Health 04-APR-13

Read for the second time and placed
on the calendar 1 amendment 10-APR-13

Read for the third time and passed
as amended..... 18-APR-13

Yeas 98, Nays 0, Abstains 0

Jeff Woodard
Clerk