

1 SB203
2 152025-3
3 By Senator Bussman
4 RFD: Governmental Affairs
5 First Read: 14-FEB-13

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4 ENGROSSED

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6
7 A BILL
8 TO BE ENTITLED
9 AN ACT

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

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Sections 34-9-1, 34-9-4, 34-9-6, 34-9-7,
3 34-9-7.2, 34-9-8, 34-9-9, 34-9-10, 34-9-12, 34-9-13, 34-9-14,
4 34-9-15, 34-9-16, 34-9-18, 34-9-22, 34-9-26, 34-9-27, 34-9-28,
5 34-9-40, 34-9-46, 34-9-47, and 34-38-2 of the Code of Alabama
6 1975, are amended to read as follows:

7 "§34-9-1.

8 "For the purposes of this chapter, the following
9 terms shall have the respective meanings ascribed by this
10 section:

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

14 "(2) BOARD. The Board of Dental Examiners of
15 Alabama.

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

19 "(4) EXPANDED DUTY DENTAL ASSISTANT. A dental
20 assistant who holds a current expanded license certificate
21 from the board.

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

1 "~~(5)~~(6) LICENSE. The grant of authority by the board
2 to a person to engage in the practice of dentistry or dental
3 hygiene.

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

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

10 "~~(8)~~(8) LICENSED HYGIENIST. A hygienist who holds a
11 current license certificate from the board.

12 "~~(9)~~(9) LOCAL ANESTHESIA. The elimination of
13 sensations, especially pain in one part of the body by topical
14 application or regional injection of a drug.

15 "~~(10)~~(10) PRACTICE OF DENTISTRY ACROSS STATE LINES.

16 "a. The practice of dentistry as defined in Section
17 34-9-6 as it applies to the following:

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

24 "2. The rendering of treatment to a patient located
25 within this state by a dentist located outside this state as a
26 result of transmission of individual patient data by

1 electronic or other means from this state to the dentist or
2 his or her agent.

3 "3. The holding of himself or herself out as
4 qualified to practice dentistry, or use any title, word, or
5 abbreviation to indicate or induce others to believe that he
6 or she is licensed to practice dentistry across state lines.

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

16 "~~(11)~~ (11) PRIVATE TECHNICIANS. A technician employed
17 by a dentist or group of dentists for a specified salary.

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

23 "§34-9-4.

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

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

3 "(2) Those who may hereafter be duly licensed and
4 who are currently registered as dental hygienists or expanded
5 duty dental assistants pursuant to the provisions of this
6 chapter.

7 "§34-9-6.

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

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

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

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

25 "(4) Places such appliance or structure in the human
26 mouth, or adjusts, attempts, or professes to adjust the same,

1 or delivers the same to any person other than the dentist upon
2 whose prescription the work was performed.

3 "(5) Professes to the public by any method to
4 furnish, supply, construct, reproduce, or repair any
5 prosthesis (fixed or removable), appliance, or other structure
6 to be worn in the human mouth, or who diagnoses, or professes
7 to diagnose, prescribe for, professes to prescribe for, treats
8 or professes to treat disease, pain, deformity, deficiency,
9 injury, or physical condition of the human teeth or jaws, or
10 adjacent structure, or who extracts or attempts to extract
11 human teeth, or remove tumors, abnormal growths, or other
12 lesions from the human gums, jaws, and adjacent structures, or
13 who operates for cleft lip or palate, or both; or who treats
14 surgically or mechanically fractures of the human jaw; or who
15 administers local or general anesthetics in the treatment of
16 any dental lesion.

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

18 "(7) Uses a roentgen, radiograph, or digital imaging
19 machine for the purpose of making dental roentgenograms,
20 radiographs, or digital images, or who gives, or professes to
21 give, interpretations or readings of dental roentgenograms,
22 radiographs, or digital images, or radiographic or roentgen
23 therapy.

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

26 "(9) Uses the words "dentist," "dental surgeon,"
27 "oral surgeon," or the letters "D.D.S.," "D.M.D." or any other

1 words, letters, title, or descriptive matter which in any way
2 represents him or her as being able to diagnose, treat,
3 prescribe, or operate for any disease, pain, deformity,
4 deficiency, injury, or physical condition of the teeth or
5 jaws, or adjacent structures.

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

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

1 remuneration other than the regular salary or compensation
2 paid by such colleges, 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 "§34-9-7.

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

12 "(1) The practice of his or her profession by a
13 physician or surgeon holding a certificate of qualification as
14 a medical doctor and licensed as such under the laws of this
15 state, provided he or she shall not practice dentistry as a
16 specialty.

17 "(2) The practice of dentistry in the discharge of
18 their official duties by graduate dentists or dental surgeons
19 in the United States Army, Navy, Air Force, or other armed
20 services, public health service including, but not limited to,
21 a federally qualified health center authorized and operating
22 under Section 330 of the Public Health Service Act (42 U.S.C.
23 § 254B), provided, however, that such federally qualified
24 health centers shall register pursuant to Section 34-9-7.2
25 (provided further however, dentists, dental hygienists, and
26 other personnel employed by any public health service which
27 performs dental health care for the general public under

1 programs funded in whole or part by the state or federal
2 government shall be subject to all of the provisions of this
3 chapter and the rules and regulations duly promulgated by the
4 ~~Board of Dental Examiners~~ board governing the practice of
5 dentistry and dental hygiene in this state), Coast Guard, or
6 Veteran's Administration.

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

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

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

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

15 "(7) The use of a nurse in the practice of
16 professional or practical nursing, as defined in Sections
17 34-21-1 through 34-21-26, by a dentist.

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

21 "(9) A dentist who engages in the practice of
22 dentistry across state lines on an irregular or infrequent
23 basis. The "irregular or infrequent" practice of dentistry
24 across state lines is considered to occur if the practice
25 occurs less than 10 times in a calendar year or involves fewer
26 than 10 patients in a calendar year, or the practice comprises

1 less than one percent of the diagnostic or therapeutic
2 practice of the dentist.

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

15 "§34-9-7.2.

16 "A 501(c)(3) entity, as defined under Section
17 501(c)(3) of the Internal Revenue Code, that operates a dental
18 clinic that provides dental services shall register with the
19 board. The information provided to the board as a part of the
20 registration process shall include the name of the
21 corporation, the nonprofit status of the corporation, sites
22 where dental services shall be provided by the corporation,
23 and the names of all persons employed by, or contracting with,
24 the corporation who are required to hold a license pursuant to
25 this chapter. A copy of the entity's 501(c)(3) certification
26 from the Internal Revenue Service shall be filed with the
27 board. If the entity has multiple clinics, the entity shall

1 register each clinic with the board and the entity shall have
2 one licensed dentist serving as chief of dental services for
3 all of the clinics. All dentists, ~~and~~ hygienists, and expanded
4 duty dental assistants at each clinic shall possess the
5 applicable licenses or permits required by this chapter and
6 shall be subject to this chapter.

7 "§34-9-8.

8 "(a) The board shall annually issue dental faculty
9 teaching permits to persons who are bona fide members of the
10 faculty of a dental college, if they hold a dental degree but
11 are not licensed and registered to practice dentistry, ~~or~~
12 dental hygiene, or expanded duty dental assisting in the
13 state. The dean of any dental college located in the state
14 shall annually certify to the board the bona fide members of
15 the clinical faculty of the college who are not licensed and
16 registered to practice dentistry or dental hygiene in the
17 state. The board shall issue teaching permits to applicants
18 upon the certification by the dean. The teaching permits shall
19 be invalid if the holder ceases to be a member of the clinical
20 faculty of the dental college. The dean of any dental college
21 shall promptly notify the board regarding changes in the
22 faculty which affect the eligibility of a faculty member to
23 possess a teaching permit. The holder of a teaching permit
24 shall be subject to this chapter and may perform all clinical
25 operations which a person licensed to practice dentistry, ~~or~~
26 dental hygiene, or expanded duty dental assisting in the state
27 is entitled to perform. The operations may only be performed

1 within the facilities of the dental college or any other
2 facility approved by the board as an adjunct to his or her
3 teaching functions in the college. An annual fee established
4 pursuant to this chapter shall be paid to the board when the
5 teaching permit is issued.

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

1 practice facilities of the dental college or any other
2 facility approved by the board. An annual fee established
3 pursuant to this chapter shall be paid to the board when the
4 special teaching permit is issued.

5 "§34-9-9.

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

9 "(1) Employ a dentist, dental hygienist, or ~~both~~
10 expanded duty dental assistant in the operation of a dental
11 office.

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

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

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

1 "(5) Nothing in this subsection shall apply to bona
2 fide sales of dental equipment, material, or office secured by
3 a chattel mortgage or retention title agreement, or to an
4 agreement for the rental of the equipment or office by bona
5 fide lease at a reasonable amount, and under which agreement
6 the licensee under this chapter maintains complete care,
7 custody, and control of the equipment and the practice.
8 Further, nothing in this subsection shall prohibit or restrict
9 persons, firms, or corporations from employing or retaining
10 licensed dentists to furnish dental treatment for their
11 employees or dependents of their employees.

12 "(b) A prohibited business arrangement or
13 relationship as defined in subsection (a) shall not be
14 considered a violation of that subsection if a prohibited
15 arrangement or relationship results from the death of a
16 licensed dentist and is cured within 12 months of the date of
17 the death.

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

1 such course of treatment, or the manner in which such course
2 of treatment is carried out by the licensee.

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

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

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

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

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

18 "§34-9-10.

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

1 government, a graduate of a dental school or college
2 accredited by the American Dental Association Commission on
3 Dental Accreditation and approved by the board and ~~must~~ shall
4 satisfy any other requirement set forth in any rule adopted by
5 the board.

6 "(b) Licensure by examination shall be applicable to
7 the following categories:

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

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

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

1 All the above applicants shall pay a fee which shall accompany
2 the application.

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

12 "(1) The dentist, ~~or~~ dental hygienist, or expanded
13 duty dental assistant shall ~~must~~ have been engaged in the
14 active practice of clinical dentistry, ~~or~~ clinical dental
15 hygiene, or clinical expanded duty dental assisting or in
16 full-time dental, ~~or~~ dental hygiene, or clinical expanded duty
17 dental assisting education for the five years or 5,000 hours
18 immediately preceding his or her application.

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

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

26 "(4) The dentist, ~~or~~ dental hygienist, or expanded
27 duty dental assistant shall ~~must~~ not be the subject of a

1 pending disciplinary action in any state in which the
2 individual has been licensed which shall be verified by a
3 query to the National Practitioner Data Bank, the Health
4 Integrity Protection Data Bank, the American Association of
5 Dental Boards Clearing House for Disciplinary Information, or
6 any other pertinent bank currently existing or which may exist
7 in the future.

8 "(5) The applicant ~~must~~ shall provide a written
9 statement agreeing to be interviewed at the request of the
10 board.

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

13 "(7) There ~~must~~ shall be certification from the
14 United States Drug Enforcement Administration and from the
15 state board of any state in which the applicant is or has been
16 licensed that the DEA registration is not the subject of any
17 pending disciplinary action or enforcement proceeding of any
18 kind.

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

1 standing, and ability of the applicant. The expanded duty
2 dental assistant applicant shall submit affidavits from two
3 licensed dentists, two licensed dental hygienists, or two
4 licensed expanded duty dental assistants, or any combination
5 of two thereof, practicing in the same geographical area where
6 the applicant is then practicing or teaching attesting to the
7 moral character, standing, and ability of the applicant.

8 "(9) The applicant ~~must~~ shall provide the board with
9 an official transcript with school seal from the school of
10 dentistry, ~~or~~ school of dental hygiene, or expanded duty
11 dental assisting which issued the applicant's professional
12 degree or execute a request and authorization allowing the
13 board to obtain the transcript.

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

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

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

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

27 "a. Questioning under oath.

1 "b. Results of peer review reports from constituent
2 dental societies or federal dental services.

3 "c. Substance abuse testing or treatment.

4 "d. Background checks for criminal or fraudulent
5 activities.

6 "e. Participation in continuing education.

7 "f. A current certificate in cardiopulmonary
8 resuscitation.

9 "g. Recent case reports or oral defense of diagnosis
10 and treatment plans.

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

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

16 "j. Proof of professional liability coverage and
17 that coverage has not been refused, declined, cancelled,
18 nonrenewed, or modified.

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

1 "1. Whether the applicant's DEA registration or any
2 state controlled substances permit has ever been revoked,
3 suspended, modified, restricted, or limited in any way.
4 Provided, however, that any discipline that results only from
5 a failure to timely renew a registration or permit shall not
6 prevent an applicant from being eligible for this method of
7 licensure.

8 "(14) If all criteria and requirements are satisfied
9 and the board determines, after notice and hearing, that the
10 individual committed fraud or in any way falsified any
11 information in the application process, the license may be
12 revoked by the board.

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

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

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

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

25 "d. If an applicant who is initially licensed by
26 credentials for a specialty practice decides to renounce his
27 or her specialty and practice general dentistry, and the

1 license originally issued did not require a general dental
2 license but rather a specialty license, or the applicant
3 originally passed only a specialty examination, the applicant
4 may not practice general dentistry until he or she
5 successfully passes the board's regular general dentistry
6 examination. However, if the applicant has passed a general
7 dentistry examination or has a general dentistry license, was
8 practicing a specialty, and decides not to continue that
9 specialty and practice only general dentistry, the applicant
10 is eligible for licensure by credentials as a general dentist.

11 "(e) Notwithstanding the provisions of subsection
12 (a), the board shall issue a special purpose license to
13 practice dentistry across state lines to an applicant who has
14 met the following requirements:

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

19 "(2) The applicant has not had any disciplinary
20 action or other action taken against him or her by any state
21 or licensing jurisdiction. If there has been previous
22 disciplinary or other action taken against the applicant, the
23 board may issue a certificate of qualification if it finds
24 that the previous disciplinary or other action indicates that
25 the dentist is not a potential threat to the public.

26 "(3) The applicant submits an application for a
27 certificate of qualification for a special purpose license to

1 practice dentistry across state lines on a form provided by
2 the board, remits an application fee in an amount established
3 by the board, and pays a fee.

4 "(f) A special purpose license issued by the board
5 to practice dentistry across state lines limits the licensee
6 solely to the practice of dentistry across state lines. The
7 special purpose license shall be valid for a period of up to
8 three years, shall expire on a renewal date determined by the
9 board, and may be renewed upon receipt of a renewal fee as
10 established by the board. Failure to renew a license according
11 to the renewal schedule established by the board shall cause
12 the special purpose license to be inactive. An applicant may
13 reapply for a special purpose license to practice dentistry
14 across state lines following placement of the license on
15 inactive status. The applicant shall meet the qualifications
16 of subsection (e) in order to be eligible for renewal of the
17 license.

18 "(g) Notwithstanding the provisions of this section,
19 the board shall only issue a special purpose license to
20 practice dentistry across state lines to an applicant whose
21 principal practice location and license to practice are
22 located in a state or territory of the United States whose
23 laws permit or allow for the issuance of a special purpose
24 license to practice dentistry across state lines or similar
25 license to a dentist whose principal practice location and
26 license are located in another state. It is the stated intent
27 of this section that dentists who hold a full and current

1 license in the State of Alabama be afforded the opportunity to
2 obtain, on a reciprocal basis, a license to practice dentistry
3 across state lines in any other state or territory of the
4 United States as a precondition to the issuance of a special
5 purpose license as authorized by this section to a dentist
6 licensed in the other state or territory. The board shall
7 determine which states or territories have reciprocal
8 licensure requirements meeting the qualifications of this
9 section.

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

18 "(i) A current license shall mean one in good
19 standing authorizing the individual to practice in the state
20 of issuance.

21 "§34-9-12.

22 "(a) Every person granted a license to practice
23 dentistry, ~~or dental hygiene, or expanded duty dental~~
24 ~~assisting~~ in this state by the ~~Board of Dental Examiners of~~
25 ~~Alabama~~ board, as herein provided, shall cause his or her
26 license certificate to be recorded in the office of the judge
27 of probate of the county in which he or she desires to

1 practice before beginning the practice of dentistry, ~~or~~ dental
2 hygiene, or expanded duty dental assisting in the county. Any
3 person receiving a license from the board, whether or not
4 intending to immediately engage in the practice of dentistry, ~~or~~
5 dental hygiene, or expanded duty dental assisting in this
6 state, shall cause his or her license certificate to be
7 recorded in the office of the judge of probate in one of the
8 counties of this state within 60 days of the issuance of the
9 license certificate.

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

1 "(c) Every person issued a special purpose license
2 to practice dentistry across state lines shall comply with all
3 laws, rules, and regulations governing the maintenance of
4 patient records, including patient confidentially
5 requirements, regardless of the state where the records of any
6 patient within this state are maintained.

7 "§34-9-13.

8 "Every practitioner of dentistry, ~~and~~ dental
9 hygiene, and expanded duty dental assisting within the meaning
10 of this chapter shall have in his or her possession a license
11 certificate and an annual registration certificate in the
12 office wherein he or she practices.

13 "§34-9-14.

14 "Every licensed dentist, ~~and~~ dental hygienist, and
15 expanded duty dental assistant upon changing his or her place
16 of practice, whether from one building, city, street address,
17 or county to another, shall within 30 days thereafter furnish
18 the secretary-treasurer of the board with the new address. The
19 secretary-treasurer shall acknowledge receipt of change of
20 address within 30 days.

21 "§34-9-15.

22 "(a) No person shall practice dentistry, ~~or~~ dental
23 hygiene, or dental assisting in the State of Alabama unless
24 licensed or permitted by the board and registered annually as
25 required by this chapter. The secretary-treasurer of the board
26 shall issue to each licensee an initial registration form
27 which shall contain space for the insertion of name, address,

1 date, and number of license certificate, and other information
2 as the board shall deem necessary. The licensee shall sign and
3 verify the accuracy of the registration before a notary public
4 after which he or she shall forward the registration to the
5 secretary-treasurer of the board together with a fee. Each
6 subsequent registration shall be made in electronic format or
7 by United States mail upon a form to be determined by the
8 board. On or before October 1 of each year, every dentist, ~~and~~
9 dental hygienist, and expanded duty dental assistant licensed
10 or permitted to practice dentistry, ~~or~~ dental hygiene, or
11 expanded duty dental assisting in the state shall transmit
12 either online or by United States mail to the
13 secretary-treasurer of the board the completed form prescribed
14 by the board, together with a fee established by the board
15 pursuant to this chapter, and receive thereafter the current
16 annual registration certificate authorizing him or her to
17 continue the practice of dentistry, ~~or~~ dental hygiene, or
18 expanded duty dental assisting in the state for a period of
19 one year. Any license or permit previously granted under the
20 authority of this chapter or any prior dental practice act
21 shall automatically be suspended if the holder thereof fails
22 to secure the annual registration certificate before January
23 1, each year. Any dentist, ~~or~~ dental hygienist, or expanded
24 duty dental assistant whose license or permit is automatically
25 suspended by reason of failure, neglect, or refusal to secure
26 the annual registration certificate shall be reinstated by the
27 board upon payment of the penalty fee plus all accrued annual

1 registration fees up to a maximum of five years, accompanied
2 with the prescribed form for annual registration of the
3 license or permit. Upon failure of any licensee or permittee
4 to file application for the annual registration certificate
5 and pay the annual registration fee on or before November 30,
6 each year, the board shall notify the licensee or permittee by
7 mail addressed to the last address of record that the
8 application and fee have not been received and that, unless
9 the application and fee are received on or before the first
10 day of January, the license or permit shall be automatically
11 suspended. The board shall notify the licensee or permittee by
12 mail addressed to the last address of record of the effective
13 date of the automatic suspension and the provisions for
14 registration of the license or permit. The board shall waive
15 the annual payment of fees herein provided for and issue a
16 current annual registration certificate to any licensee or
17 permittee who, because of age or physical disability, has
18 retired from the practice of dentistry, ~~or~~ dental hygiene, or
19 expanded duty dental assisting or who is suffering a malady of
20 a lingering or permanent nature. The board by rule shall waive
21 annual registration and the payment of fees while any licensee
22 is on temporary active duty with any of the Armed Forces of
23 the United States. The waiver of fees herein provided shall be
24 effective so long as the retirement because of age or physical
25 disability or temporary active duty continues.

26 "(b) The board shall adopt and promulgate rules and
27 regulations for the adoption of a program of continuing

1 education for its licensees by October 1, 1991. After that
2 date, the successful completion of continuing education
3 program requirements shall be a requisite for renewal of
4 licenses issued pursuant to this chapter.

5 "§34-9-16.

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

9	Description	Not More Than
10	Dental Examination Application	
11	Fee	\$750.00
12	Dental Examination Fee	\$2,500.00
13	Dental Examination Materials	
14	Fee	\$500.00
15	Dental Licensure by	
16	Credentials Application Fee	\$4,000.00
17	Dental Licensure by Regional	
18	Exam Application Fee	\$1,000.00
19	Special Purpose Licensure Fee	\$750.00
20	Special Purpose Licensure Re-	
21	newal Fee	\$750.00
22	Dental Annual Registration Fee	\$500.00
23	Dental License Reinstatement	
24	Penalty	\$500.00

1	Dental Hygiene Program Appli-	
2	cation Fee	\$500.00
3	Alabama Dental Hygiene Train-	
4	ing Permit Fee	\$450.00
5	Alabama Dental Hygiene Train-	
6	ing Education Fee	\$600.00
7	Alabama Dental Hygiene Program	
8	Instructor Certification	
9	Course Fee	\$200.00
10	Alabama Dental Hygiene Program	
11	Instructional Materials Fee	\$950.00
12	Dental Hygiene By Regional	
13	Exam Application Fee	\$75.00
14	Dental Hygiene Examination Ap-	
15	plication Fee	\$500.00
16	Dental Hygiene Examination Fee	\$600.00
17	Dental Hygiene Examination Ma-	
18	terials Fee	\$400.00
19	Dental Hygiene Licensure by	
20	Credentials Fee	\$2,000.00
21	Dental Hygiene Annual Regis-	
22	tration Fee	\$75.00
23	Dental Hygiene License Rein-	\$200.00

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

1	Permit Fee	
2	Alabama Controlled Substance	
3	Permit Renewal Fee	\$400.00
4	General Anesthesia Permit Fee	\$1,500.00
5	General Anesthesia Permit Re-	
6	newal Fee	\$750.00
7	Parenteral Sedation Permit Fee	\$1,500.00
8	Parenteral Sedation Permit Re-	
9	newal Fee	\$750.00
10	Oral Conscious Sedation Permit	
11	Fee	\$250.00
12	Oral Conscious Sedation Permit	
13	Renewal Fee	\$250.00
14	Mobile Dental	
15	Application/Inspection Fee	\$1,500.00
16	Mobile Dental Renewal Fee	\$1,500.00
17	Mobile Dental	
18	Facility/Portable Dental Oper-	
19	ation Application for Certifi-	
20	cate of Registration Fee	\$750.00
21	Mobile Dental	
22	Facility/Portable Dental Oper-	
23	ation Renewal of Certificate	
24	of Registration Fee	\$500.00

1 Alabama Impaired Dental Pro-
2 essionals Committee Annual
3 Monitoring Fee \$2,000.00

4 "§34-9-18.

5 "(a) The board may invoke disciplinary action as
6 outlined in subsection (b) hereof whenever it shall be
7 established to the satisfaction of the board, after hearing as
8 hereinafter provided, that any dentist, ~~or~~ dental hygienist,
9 or expanded duty dental assistant has been guilty of the
10 following:

11 "(1) Fraud, deceit, or misrepresentation in
12 obtaining any license, license certificate, annual
13 registration certificate, money, or other thing of value.

14 "(2) Gross immorality.

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

17 "(4) Is an habitual user of intoxicants or drugs
18 rendering him or her unfit for the practice of dentistry, ~~or~~
19 dental hygiene, or expanded duty dental assisting.

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

22 "(6) Is guilty of negligence or gross negligence.

23 "a. For the purposes of this subdivision, negligence
24 is defined as the failure to do what a reasonably prudent
25 dentist or dental hygienist would have done under the same or

1 similar circumstances or the doing of that which a reasonably
2 prudent practitioner would not have done under the same or
3 similar circumstances.

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

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

17 "(8) Willfully or negligently violates the rules of
18 the State Department of Health or of the board regarding
19 sanitation.

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

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

5 "(11) Conviction in any court of competent
6 jurisdiction of a felony or a misdemeanor involving moral
7 turpitude.

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

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

26 "c. An expanded duty dental assistant using or
27 aiding, abetting, or encouraging a dental hygienist to use in

1 any manner whatsoever any prophylactic list, call list,
2 records, reprints, or copies of same, or information gathered
3 therefrom, of the names of patients whom the expanded duty
4 dental assistant served in the office of a prior employer,
5 unless the names appear upon the bona fide call or
6 prophylactic list of his or her present employer and were
7 caused to appear through the legitimate practice of dentistry,
8 dental hygiene, or expanded duty dental assisting as provided
9 for in this chapter.

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

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

1 rendered for the purpose of obtaining payment; or failing to
2 advise any third party payer that the copayment provisions of
3 a contract have been abrogated by accepting the payment
4 received from the third party payer as full payment.

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

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

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

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

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

21 "(2) With the exception of negligence as defined in
22 paragraph (a)(6)a. revoke the license or permit of any
23 dentist, ~~or~~ dental hygienist, or expanded duty dental
24 assistant.

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

27 "(4) Enter a censure.

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

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

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

9 "(8) Impose peer review or professional education
10 requirements.

11 "(9) Assess the costs of the disciplinary
12 proceedings.

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

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

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

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

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

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

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

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

1 to them after diligent effort to obtain the facts of the
2 matter relative to the investigations or hearings.

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

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

11 "§34-9-22.

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

1 fraud or deception either in applying for a license, a license
2 certificate, or annual registration or in taking any of the
3 examinations provided for herein.

4 "§34-9-26.

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

1 misdemeanor, and the board may impose the penalties outlined
2 in Section 34-9-18 for such violation.

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

22 "§34-9-27.

23 ~~"A dental hygienist~~ Dental hygienists and expanded
24 duty dental assistants shall work only under the direct
25 supervision of a duly licensed dentist practicing in this
26 state. Dental hygienists and expanded duty dental assistants
27 ~~may make, develop, and mount oral radiographs; remove~~

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

21 "§34-9-28.

22 It shall be the duty of all licensed dental
23 hygienists and expanded duty dental assistants to notify the
24 board, in writing, of any change of address or employer and
25 have issued to them an annual registration certificate by the
26 board. Any dental hygienist or expanded duty dental assistant
27 whose license shall be automatically suspended by reason of

1 failure, neglect, or refusal to secure the annual registration
2 certificate may be reinstated by the board upon payment of the
3 penalty fee plus the current year's registration fee. The form
4 and method provided for in Section 34-9-15 shall apply to the
5 annual registration of dental hygienists.

6 "§34-9-40.

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

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

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

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

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

1 benefits for teaching in any dental school, dental college,
2 dental hygiene school, or dental hygiene college or have a
3 financial interest in a commercial dental laboratory or dental
4 supply business while serving on the board.

5 "(2) The dental hygienist member shall be elected as
6 follows:

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

25 "b. Three members of the board shall be present at
26 the time the ballots, digital or physical, are tallied. Any
27 candidate receiving a majority of the votes shall be declared

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

23 "c. All elections as described above shall be
24 conducted by the board.

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

1 secretary of the board by 10 percent of the licensed dental
2 hygienists in the state.

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

21 "(5) The dental hygienist member shall advise the
22 board on matters relating to dental hygiene and shall only be
23 permitted to vote on matters relating to dental hygiene. The
24 board shall provide the dental hygienist member with timely
25 notice of all board meetings and the dental hygienist member
26 shall be allowed to attend all meetings unless prohibited by
27 law from attendance at any disciplinary hearings. The board

1 shall not adopt any rule relating to the practice of dental
2 hygiene unless the proposed rule has been submitted to the
3 dental hygienist member for review and comment at least 30
4 days prior to its adoption. The dental hygienist member shall
5 be entitled to the same compensation and expenses paid to
6 dentist members of the board pursuant to Section 34-9-41.

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

15 "§34-9-46.

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

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

17 "§34-9-47.

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

1 before the circuit courts. ~~The circuit court shall, upon~~
2 ~~request of any interested party in any proceedings before the~~
3 ~~state board, issue commissions for the taking of depositions~~
4 ~~in the same manner as is provided for the issuance of~~
5 ~~commissions for the taking of depositions in matters pending~~
6 ~~before the circuit courts of this state.~~

7 "§34-38-2.

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

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

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

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

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Senate

Read for the first time and referred to the Senate
committee on Governmental Affairs..... 14-FEB-13

Read for the second time and placed on the calen-
dar..... 26-FEB-13

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

Yeas 27
Nays 0

Patrick Harris
Secretary