

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

1 SB203

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3
4 ENROLLED, An Act,

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

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Sections 34-9-1, 34-9-4, 34-9-6, 34-9-7,
24 34-9-7.2, 34-9-8, 34-9-9, 34-9-10, 34-9-12, 34-9-13, 34-9-14,
25 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.

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

1 result of transmission of individual patient data by
2 electronic or other means from this state to the dentist or
3 his or her agent.

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

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

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

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

24 "§34-9-4.

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

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

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

10 "§34-9-6.

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

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

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

24 "(3) Supplies artificial substitutes for the natural
25 teeth, and who furnishes, supplies, constructs, reproduces, or

1 repairs any prosthesis (fixed or removable), appliance, or any
2 other structure to be worn in the human mouth.

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

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

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

22 "(7) Uses a roentgen, radiograph, or digital imaging
23 machine for the purpose of making dental roentgenograms,
24 radiographs, or digital images, or who gives, or professes to
25 give, interpretations or readings of dental roentgenograms,

1 radiographs, or digital images, or radiographic or roentgen
2 therapy.

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

5 "(9) Uses the words "dentist," "dental surgeon,"
6 "oral surgeon," or the letters "D.D.S.," "D.M.D." or any other
7 words, letters, title, or descriptive matter which in any way
8 represents him or her as being able to diagnose, treat,
9 prescribe, or operate for any disease, pain, deformity,
10 deficiency, injury, or physical condition of the teeth or
11 jaws, or adjacent structures.

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

16 "(11) Performs any clinical operation included in
17 the curricula of recognized dental colleges; provided, that
18 members of the faculty, teachers, instructors, fellows,
19 interns, residents, dental students, ~~and~~ student dental
20 hygienists, and student expanded duty dental assistants who
21 are employed by or who are taking courses or instructions at
22 the University of Alabama School of Dentistry or such other
23 dental colleges, hospitals, or institutions in Alabama, as may
24 be approved by the board; and provided, that the work of
25 fellows, interns, residents, dental students, and student

1 dental hygienists is performed within the facilities of such
2 dental colleges, hospitals, and institutions under the
3 supervision of an instructor and as an adjunct to his or her
4 course of study or training, shall not be required to take
5 examination or obtain a license certificate and renewal
6 license certificate when all of such work, dental procedures,
7 and activities are confined to his or her work in the college,
8 hospital, or other institution and the work is done without
9 remuneration other than the regular salary or compensation
10 paid by such colleges, hospitals, or other institutions.

11 "(12) Professes to the public by any method to
12 bleach human teeth, performs bleaching of the human teeth
13 alone or within his or her business, or instructs the public
14 within his or her business, or through any agent or employee
15 of his or her business, in the use of any tooth bleaching
16 product.

17 "§34-9-7.

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

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

1 "(2) The practice of dentistry in the discharge of
2 their official duties by graduate dentists or dental surgeons
3 in the United States Army, Navy, Air Force, or other armed
4 services, public health service including, but not limited to,
5 a federally qualified health center authorized and operating
6 under Section 330 of the Public Health Service Act (42 U.S.C.
7 § 254B), provided, however, that such federally qualified
8 health centers shall register pursuant to Section 34-9-7.2
9 (provided further however, dentists, dental hygienists, and
10 other personnel employed by any public health service which
11 performs dental health care for the general public under
12 programs funded in whole or part by the state or federal
13 government shall be subject to all of the provisions of this
14 chapter and the rules and regulations duly promulgated by the
15 ~~Board of Dental Examiners~~ board governing the practice of
16 dentistry and dental hygiene in this state), Coast Guard, or
17 Veteran's Administration.

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

24 "(4) The filling of prescriptions of a licensed and
25 registered dentist, as hereinafter provided, by any person or

1 persons, association, corporation, or other entity for the
2 construction, reproduction, or repair of prostheses (fixed or
3 removable) or appliances on a cast made by or from impressions
4 made by a licensed and currently registered dentist, to be
5 used or worn as a substitute for natural teeth; provided, that
6 the person or persons, association, corporation, or other
7 entity, shall not solicit or advertise, directly or
8 indirectly, by mail, card, newspaper, pamphlet, radio,
9 television, Internet, or otherwise, to the general public to
10 construct, reproduce, or repair prostheses (fixed or
11 removable) or other appliances to be used or worn as
12 substitutes for natural teeth.

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

23 "(6) The giving of a general anesthetic by a nurse
24 anesthetist who administers a general anesthetic under the

1 direct supervision of a duly licensed dentist to a patient who
2 is undergoing dental treatment rendered by the dentist.

3 "(7) The use of a nurse in the practice of
4 professional or practical nursing, as defined in Sections
5 34-21-1 through 34-21-26, by a dentist.

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

9 "(9) A dentist who engages in the practice of
10 dentistry across state lines on an irregular or infrequent
11 basis. The "irregular or infrequent" practice of dentistry
12 across state lines is considered to occur if the practice
13 occurs less than 10 times in a calendar year or involves fewer
14 than 10 patients in a calendar year, or the practice comprises
15 less than one percent of the diagnostic or therapeutic
16 practice of the dentist.

17 "(10) A dentist, ~~or~~ dental hygienist, or expanded
18 duty dental assistant on active duty, or performing his or her
19 duties as a reservist in the military, is not subject to any
20 fee required for a special purpose license to practice
21 dentistry across state lines. The dentist, ~~or~~ dental
22 hygienist, or expanded duty dental assistant shall notify the
23 board in advance of his or her participation in military
24 activities and shall forward a copy of his or her current
25 dental license or permit, or both, to the board. The dentist, ~~or~~

1 ~~or~~ dental hygienist, or expanded duty dental assistant shall
2 also provide proof of military status and any orders requiring
3 him or her to perform dental treatment services in this state.

4 "§34-9-7.2.

5 "A 501(c)(3) entity, as defined under Section
6 501(c)(3) of the Internal Revenue Code, that operates a dental
7 clinic that provides dental services shall register with the
8 board. The information provided to the board as a part of the
9 registration process shall include the name of the
10 corporation, the nonprofit status of the corporation, sites
11 where dental services shall be provided by the corporation,
12 and the names of all persons employed by, or contracting with,
13 the corporation who are required to hold a license pursuant to
14 this chapter. A copy of the entity's 501(c)(3) certification
15 from the Internal Revenue Service shall be filed with the
16 board. If the entity has multiple clinics, the entity shall
17 register each clinic with the board and the entity shall have
18 one licensed dentist serving as chief of dental services for
19 all of the clinics. All dentists, ~~and~~ hygienists, and expanded
20 duty dental assistants at each clinic shall possess the
21 applicable licenses or permits required by this chapter and
22 shall be subject to this chapter.

23 "§34-9-8.

24 "(a) The board shall annually issue dental faculty
25 teaching permits to persons who are bona fide members of the

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

24 "(b) The board shall annually issue dental faculty
25 special teaching permits to persons who are bona fide members

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

25 "§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

1 fide lease at a reasonable amount, and under which agreement
2 the licensee under this chapter maintains complete care,
3 custody, and control of the equipment and the practice.
4 Further, nothing in this subsection shall prohibit or restrict
5 persons, firms, or corporations from employing or retaining
6 licensed dentists to furnish dental treatment for their
7 employees or dependents of their employees.

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

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

1 "(d) 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 shall exercise control over any of the
4 following:

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

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

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

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

16 "§34-9-10.

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

1 board within five years of the completion of the subject
2 residency or Armed Forces or public health service commitment.
3 All the above applicants shall pay a fee which shall accompany
4 the application.

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

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

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

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

4 "(4) The dentist, ~~or~~ dental hygienist, or expanded
5 duty dental assistant shall ~~must~~ not be the subject of a
6 pending disciplinary action in any state in which the
7 individual has been licensed which shall be verified by a
8 query to the National Practitioner Data Bank, the Health
9 Integrity Protection Data Bank, the American Association of
10 Dental Boards Clearing House for Disciplinary Information, or
11 any other pertinent bank currently existing or which may exist
12 in the future.

13 "(5) The applicant ~~must~~ shall provide a written
14 statement agreeing to be interviewed at the request of the
15 board.

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

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

24 "(8) The dentist applicant shall submit affidavits
25 from two licensed dentists practicing in the same geographical

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

15 "(9) The applicant ~~must~~ shall provide the board with
16 an official transcript with school seal from the school of
17 dentistry, ~~or~~ school of dental hygiene, or expanded duty
18 dental assisting which issued the applicant's professional
19 degree or execute a request and authorization allowing the
20 board to obtain the transcript.

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

24 "(11) The applicant ~~must~~ shall not be the subject of
25 any pending or final action from any hospital revoking,

1 suspending, limiting, modifying, or interfering with any
2 clinical or staff privileges.

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

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

9 "a. Questioning under oath.

10 "b. Results of peer review reports from constituent
11 dental societies or federal dental services.

12 "c. Substance abuse testing or treatment.

13 "d. Background checks for criminal or fraudulent
14 activities.

15 "e. Participation in continuing education.

16 "f. A current certificate in cardiopulmonary
17 resuscitation.

18 "g. Recent case reports or oral defense of diagnosis
19 and treatment plans.

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

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

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

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

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

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

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

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

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

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

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

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

24 "(e) Notwithstanding the provisions of subsection
25 (a), the board shall issue a special purpose license to

1 practice dentistry across state lines to an applicant who has
2 met the following requirements:

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

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

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

19 "(f) A special purpose license issued by the board
20 to practice dentistry across state lines limits the licensee
21 solely to the practice of dentistry across state lines. The
22 special purpose license shall be valid for a period of up to
23 three years, shall expire on a renewal date determined by the
24 board, and may be renewed upon receipt of a renewal fee as
25 established by the board. Failure to renew a license according

1 to the renewal schedule established by the board shall cause
2 the special purpose license to be inactive. An applicant may
3 reapply for a special purpose license to practice dentistry
4 across state lines following placement of the license on
5 inactive status. The applicant shall meet the qualifications
6 of subsection (e) in order to be eligible for renewal of the
7 license.

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

1 state, shall cause his or her license certificate to be
2 recorded in the office of the judge of probate in one of the
3 counties of this state within 60 days of the issuance of the
4 license certificate.

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

22 "(c) Every person issued a special purpose license
23 to practice dentistry across state lines shall comply with all
24 laws, rules, and regulations governing the maintenance of
25 patient records, including patient confidentially

1 requirements, regardless of the state where the records of any
2 patient within this state are maintained.

3 "§34-9-13.

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

9 "§34-9-14.

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

17 "§34-9-15.

18 "(a) No person shall practice dentistry, ~~or~~ dental
19 hygiene, or dental assisting in the State of Alabama unless
20 licensed or permitted by the board and registered annually as
21 required by this chapter. The secretary-treasurer of the board
22 shall issue to each licensee an initial registration form
23 which shall contain space for the insertion of name, address,
24 date, and number of license certificate, and other information
25 as the board shall deem necessary. The licensee shall sign and

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

1 "(b) The board shall adopt and promulgate rules and
 2 regulations for the adoption of a program of continuing
 3 education for its licensees by October 1, 1991. After that
 4 date, the successful completion of continuing education
 5 program requirements shall be a requisite for renewal of
 6 licenses issued pursuant to this chapter.

7 "§34-9-16.

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

11	Description	Not More Than
12	Dental Examination Application	
13	Fee	\$750.00
14	Dental Examination Fee	\$2,500.00
15	Dental Examination Materials	
16	Fee	\$500.00
17	Dental Licensure by Creden-	
18	tials Application Fee	\$4,000.00
19	Dental Licensure by Regional	
20	Exam Application Fee	\$1,000.00
21	Special Purpose Licensure Fee	\$750.00
22	Special Purpose Licensure Re-	
23	newal Fee	\$750.00

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

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

1	Dental Faculty Teaching Permit	
2	Fee	\$350.00
3	Dental Faculty Special Teach-	
4	ing Permit Fee	\$500.00
5	Alabama Controlled Substance	
6	Permit Fee	\$400.00
7	Alabama Controlled Substance	
8	Permit Renewal Fee	\$400.00
9	General Anesthesia Permit Fee	\$1,500.00
10	General Anesthesia Permit Re-	
11	newal Fee	\$750.00
12	Parenteral Sedation Permit Fee	\$1,500.00
13	Parenteral Sedation Permit Re-	
14	newal Fee	\$750.00
15	Oral Conscious Sedation Permit	
16	Fee	\$250.00
17	Oral Conscious Sedation Permit	
18	Renewal Fee	\$250.00
19	Mobile Dental Applica-	
20	tion/Inspection Fee	\$1,500.00
21	Mobile Dental Renewal Fee	\$1,500.00
22	Mobile Dental Facil-	\$750.00

1 ity/Portable Dental Operation
2 Application for Certificate of
3 Registration Fee
4 Mobile Dental Facil-
5 ity/Portable Dental Operation
6 Renewal of Certificate of Reg-
7 istration Fee \$500.00
8 Alabama Impaired Dental Pro-
9 essionals Committee Annual
10 Monitoring Fee \$2,000.00

11 "§34-9-18.

12 "(a) The board may invoke disciplinary action as
13 outlined in subsection (b) hereof whenever it shall be
14 established to the satisfaction of the board, after hearing as
15 hereinafter provided, that any dentist, ~~or~~ dental hygienist,
16 or expanded duty dental assistant has been guilty of the
17 following:

18 "(1) Fraud, deceit, or misrepresentation in
19 obtaining any license, license certificate, annual
20 registration certificate, money, or other thing of value.

21 "(2) Gross immorality.

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

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

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

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

7 "a. For the purposes of this subdivision, negligence
8 is defined as the failure to do what a reasonably prudent
9 dentist or dental hygienist would have done under the same or
10 similar circumstances or the doing of that which a reasonably
11 prudent practitioner would not have done under the same or
12 similar circumstances.

13 "b. For the purposes of this subdivision, gross
14 negligence is defined as willful or wanton conduct with
15 reckless, malicious, or conscious disregard for the rights or
16 safety of others, or conduct that is so deliberate,
17 outrageous, and callous as to display total indifference to
18 the health or safety of a patient, that could result in
19 serious bodily injury or death.

20 "(7) Is guilty of employing, allowing, or permitting
21 any unlicensed person or persons to perform any work in his or
22 her office which, under this chapter, can only be legally done
23 by a person or persons holding a license to practice
24 dentistry, ~~or~~ dental hygiene, or expanded duty dental
25 assisting.

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

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

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

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

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

1 expanded duty dental assisting as provided for in this
2 chapter.

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

11 "c. An expanded duty dental assistant using or
12 aiding, abetting, or encouraging a dental hygienist to use in
13 any manner whatsoever any prophylactic list, call list,
14 records, reprints, or copies of same, or information gathered
15 therefrom, of the names of patients whom the expanded duty
16 dental assistant served in the office of a prior employer,
17 unless the names appear upon the bona fide call or
18 prophylactic list of his or her present employer and were
19 caused to appear through the legitimate practice of dentistry,
20 dental hygiene, or expanded duty dental assisting as provided
21 for in this chapter.

22 "(13) Pertaining to licensed dentists only, the
23 prescribing, administering or dispensing of any controlled
24 substances enumerated in Schedules I through V contained in
25 the Alabama Uniform Controlled Substances Act, Chapter 2 of

1 Title 20, or any amendment or successor thereto, or any drug
2 not prescribed for any dentally or facially related condition,
3 and/or for any necessary medication during the course of
4 treatment rendered directly by the dentist, for any person not
5 under his or her treatment in the regular practice of his or
6 her profession.

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

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

20 "(16) Has had his or her license or permit to
21 practice dentistry, ~~or~~ dental hygiene, or expanded duty dental
22 assisting from another state suspended or revoked based upon
23 acts similar to those described in this section. A certified
24 copy of the record of suspension or revocation of the state

1 making the suspension or revocation shall be conclusive
2 evidence thereof.

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

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

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

11 "(2) With the exception of negligence as defined in
12 paragraph (a)(6)a. revoke the license or permit of any
13 dentist, ~~or~~ dental hygienist, or expanded duty dental
14 assistant.

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

17 "(4) Enter a censure.

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

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

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

1 "(8) Impose peer review or professional education
2 requirements.

3 "(9) Assess the costs of the disciplinary
4 proceedings.

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

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

13 "No order of suspension or revocation provided in
14 this section shall be made or entered except after hearing by
15 the board as provided in this chapter, and the order shall be
16 subject to judicial review as provided by this chapter.

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

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

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

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

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

23 "(g) Nothing in this chapter shall be interpreted to
24 limit or restrict the authority of the board to discipline any
25 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 assistant 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 as defined by law, by a person
15 other than the one upon whom it was conferred or to whom such
16 license certificate or annual registration certificate was
17 granted, or with fraudulent intent alters such diploma or
18 license certificate or annual registration certificate, or
19 uses or attempts to use it when it is so altered shall be
20 deemed guilty of a misdemeanor. The board may impose any of
21 the penalties outlined in Section 34-9-18 against any person
22 found guilty of making a false statement or cheating, or of
23 fraud or deception either in applying for a license, a license
24 certificate, or annual registration or in taking any of the
25 examinations provided for herein.

1 "§34-9-26.

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

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

20 "§34-9-27.

21 "~~A dental hygienist~~ Dental hygienists and expanded
22 duty dental assistants shall work only under the direct
23 supervision of a duly licensed dentist practicing in this
24 state. Dental hygienists and expanded duty dental assistants
25 ~~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

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

8 "§34-9-40.

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

1 dental college, dental hygiene school, or dental hygiene
2 college or receive any financial benefits for teaching in any
3 dental school, dental college, dental hygiene school, or
4 dental hygiene college or have a financial interest in a
5 commercial dental laboratory or a dental supply business. One
6 member, who is qualified as provided herein, shall be selected
7 by the Alabama Dental Society every five years. As for all
8 elections of members, any group of 10 or more licensed
9 dentists, residing and practicing dentistry in the state, may
10 nominate a candidate for the position of board member by
11 submitting a petition bearing their signatures to the
12 secretary of the board to be postmarked no later than the
13 first day of July in the year of the election. The board shall
14 cause the election ballots to be mailed or published digitally
15 not later than September 1 in the year of the election to all
16 the licensed dentists residing and practicing in the state and
17 currently registered as prescribed by law, along with the
18 annual registration form for the forthcoming fiscal year. Both
19 the annual registration form and fee ~~must~~ shall accompany the
20 ballot that shall be postmarked, or otherwise submitted
21 electronically, no later than October 1 to the secretary of
22 the board no later than the first board workday following
23 October 1 each year, ballots being nullified unless
24 accompanied by or electronically filed with completed annual
25 registration form and annual registration fee. Three members

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

1 which terms shall begin immediately upon taking an oath to
2 properly and faithfully discharge the duties of his or her
3 office and until his or her successor is elected and
4 qualified, and the member so elected shall not at the
5 expiration of the term be eligible to succeed himself or
6 herself. The membership of the board shall be inclusive and
7 reflect the racial, gender, geographic, urban/rural, and
8 economic diversity of the state. Except for the board member
9 position selected by the Alabama Dental Society, vacancies on
10 the board shall be filled by the board by the appointment of
11 the immediate past member of the board, and if for any reason
12 the immediate past member of the board is unable to accept the
13 appointment, then the board shall fill the vacancy by
14 appointment of the most recent past board member who is
15 willing to accept the appointment. If no past board member
16 accepts the appointment, then the board may, by majority vote,
17 appoint any licensed dentist qualified under the provisions of
18 this chapter. In the event of a vacancy in the position
19 selected by the Alabama Dental Society, the Alabama Dental
20 Society shall select a dentist who is qualified as provided
21 herein to fill the vacancy. Members of the board shall be
22 removed by a two-thirds vote of the registered dentists in the
23 state for neglect of duty or any just cause, by petition to
24 the secretary of the board by 10 percent of the licensed
25 dentists in the state. On or before July 1, 1962, the board

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

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

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

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

1 state and currently registered as prescribed by law. Both the
2 annual registration form and the registration fee ~~must~~ shall
3 accompany the ballot that shall be postmarked or otherwise
4 submitted electronically no later than October 1 to the
5 secretary of the board no later than the first board workday
6 following October 1 each year, and the ballots will be
7 nullified unless accompanied by or electronically filed with a
8 completed annual registration form and the annual registration
9 fee.

10 "b. Three members of the board shall be present at
11 the time the ballots, digital or physical, are tallied. Any
12 candidate receiving a majority of the votes shall be declared
13 elected to the board and shall take the oath of office on or
14 before October 15 in the year of his or her election. In the
15 event no candidate receives a majority of the votes cast, the
16 board shall conduct a run-off election between the two
17 candidates receiving the largest number of votes. The board
18 shall cause the ballots pertaining to any run-off election to
19 be mailed or digitally published on or before October 31 of
20 the election year to all licensed dental hygienists who have
21 renewed their licenses for the succeeding year as of October 1
22 of the current year, are residing and practicing in the state,
23 and are currently registered as prescribed by law, and the
24 ballots pertaining to the run-off election shall be postmarked
25 or digitally submitted no later than the fourteenth day of

1 November in the year of the run-off election and received, if
2 mailed, by the secretary of the board no later than the first
3 board workday following November 14. All mailed ballots
4 received after November 14 shall be nullified. In the event of
5 a run-off election, the dental hygienist candidate receiving
6 the largest number of votes in the run-off election shall be
7 declared elected to the board and shall take the oath of
8 office and begin his or her term of office no later than the
9 next scheduled board meeting.

10 "c. All elections as described above shall be
11 conducted by the board.

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

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

1 dental hygienist member. If for any reason the immediate past
2 dental hygienist member is unable to accept the appointment,
3 then the board shall fill the vacancy by a majority vote of
4 the other board members by the appointment of some other past
5 dental hygienist member. If a vacancy occurs and there is not
6 an immediate past dental hygienist member or other past dental
7 hygienist member, the vacancy shall be filled by a unanimous
8 vote of the board by the appointment of some otherwise
9 qualified dental hygienist.

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

23 "(c) Any dentist or dental hygienist who has been
24 found guilty of violating this chapter or any provision of a
25 dental practice act of any other state and as a result his or

1 her license was revoked, suspended, or placed on probation or
2 who has been convicted of a felony, shall not be eligible for
3 election or membership on the board for a period of five years
4 from the termination of any such revocation, suspension, or
5 probation.

6 "§34-9-46.

7 "In all matters pending before it, the board shall
8 have the power to issue subpoenas and compel the attendance of
9 witnesses and the production of all necessary papers, books,
10 and records, documentary evidence and materials or other
11 evidence. Any person failing or refusing to appear or testify
12 regarding any matter about which he or she may be lawfully
13 questioned or to produce any papers, books, records,
14 documentary evidence, or materials or other evidence in the
15 matter to be heard, after having been required by order of the
16 board or by a subpoena of the board to do so, may, upon
17 application by the board to any circuit judge of the State of
18 Alabama, be ordered to comply therewith; and, upon failure to
19 comply with the order of the circuit judge, the court may
20 compel obedience by attachment as for contempt as in case of
21 disobedience of a similar order or subpoena issued by the
22 court. ~~The president and secretary-treasurer of the board~~
23 shall have authority to issue subpoenas, in a writing filed
24 with the board, may designate and authorize any member of the
25 board to issue subpoenas, and any board member shall have

1 authority to administer oaths to witnesses, or to take their
2 affirmation. A subpoena or other process of paper may be
3 served upon any person named therein, anywhere within the
4 State of Alabama with the same fees and mileage by any officer
5 authorized to serve subpoenas or such other process or paper
6 in civil actions, in the same manner as is prescribed by law
7 for subpoenas issued out of the circuit courts of this state,
8 the fees and mileage and other costs to be paid as the board
9 directs.

10 "§34-9-47.

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

1 ~~commissions for the taking of depositions in matters pending~~
2 ~~before the circuit courts of this state.~~

3 "§34-38-2.

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

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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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB203

Senate 18-APR-13

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris
Secretary

House of Representatives
Passed: 07-MAY-13

By: Senator Bussman