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3 SUBSTITUTE FOR SB123
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8 SYNOPSIS: Under existing law, the State Board of
9 Dental Examiners is the entity responsible for
10 licensing and regulating dentists, dental
11 hygienists, and expanded duty dental assistants in
12 the state.

13 This bill would discontinue the licensing
14 and regulation of, and remove all references to,
15 expanded duty dental assistants.

16 This bill would define infiltration
17 anesthesia, would authorize the board, upon proof
18 of qualification, to issue permits to dental
19 hygienists to administer infiltration anesthesia
20 under the direct supervision of a licensed dentist,
21 and would require proof of continuing education for
22 the annual renewal of a dental hygiene infiltration
23 anesthesia permit.

24 This bill would define and include patient
25 abandonment as grounds for disciplinary action
26 against a dentist.

1 This bill would expand the exemption of
2 mobile dental facilities subject to registration by
3 the board from certain Jefferson County Department
4 of Health mobile dental facilities to any mobile
5 dental facilities operated by the Alabama
6 Department of Public Health or local county health
7 department.

8 This bill would revise and clarify the
9 exemption from regulation provided for a dentist
10 who infrequently engages in practice across state
11 lines from less than 10 times a year to less than
12 10 days a year, and would delete the exemption for
13 practice involving less than 10 patients per
14 calendar year.

15 This bill would authorize the board to
16 approve and recognize additional continuing
17 education providers.

18 This bill would expand the time during which
19 an applicant may take the licensure examination to
20 within 18 months after completion of an accredited
21 or approved post-doctoral residency program.

22 This bill would require each dentist and
23 dental hygienist to display his or her license
24 certificate in a visible location and would allow
25 the licensee to reproduce his or her annual
26 registration certificate.

1 This bill would authorize the board to
2 establish rules for continuing education
3 requirements for permits.

4 This bill would increase the dental hygiene
5 by regional exam application fee.

6 This bill would clarify that failure to
7 comply with any order of the board is grounds for
8 disciplinary action.

9 This bill would provide for the roll of the
10 board, in lieu of the American Dental Association,
11 in recognizing and approving specialty status in
12 advertising by dentists.

13 This bill would remove the requirement that
14 board member ballots accompany annual registration
15 forms.

16 This bill would prohibit an appointed board
17 member from succeeding himself or herself on the
18 board.

19 This bill would remove the requirement that
20 the board hold an annual meeting in Birmingham at
21 the University of Alabama School of Dentistry, and
22 would authorize the board to hold additional
23 meetings as the board may designate.

24 This bill would require proof of continuing
25 education for the annual renewal of an oral
26 conscious sedation permit.

1 This bill would also make technical
2 corrections.

3
4 A BILL
5 TO BE ENTITLED
6 AN ACT

7
8 To amend Sections 34-9-1, 34-9-4, 34-9-6, 34-9-6.1,
9 34-9-7, 34-9-7.1, 34-9-7.2, 34-9-8, 34-9-9, 34-9-10, 34-9-12,
10 34-9-13, 34-9-14, 34-9-15, 34-9-16, 34-9-18, 34-9-19, 34-9-22,
11 34-9-26, 34-9-27, 34-9-28, 34-9-40, 34-9-41, 34-9-43.2,
12 34-9-88, and 34-38-2, Code of Alabama 1975, relating to the
13 regulation of dentists and dental hygienists and the Alabama
14 Dental Professionals Wellness Committee; to discontinue the
15 licensing and regulation of, and remove all references to,
16 expanded duty dental assistants; to define infiltration
17 anesthesia; to define and include patient abandonment as
18 grounds for disciplinary action against a dentist; to expand
19 the exemption of mobile dental facilities subject to
20 registration by the board to any mobile dental facility
21 operated by the Alabama Department of Public Health or a local
22 county health department; to exempt from regulation a dentist
23 who infrequently engages in practice across state lines for
24 less than 10 days a year and to delete the exemption for
25 infrequent practice involving less than 10 patients per
26 calendar year; to authorize the board to approve additional
27 continuing education providers; to expand the time during

1 which an applicant may take the licensure examination to
2 within 18 months after completion of an accredited or approved
3 post-doctoral residency program; to require each dentist and
4 dental hygienist to display his or her license certificate in
5 a visible location; to allow a licensee to reproduce his or
6 her annual registration certificate; to authorize the board to
7 establish rules for continuing education requirements for
8 permits; to increase the dental hygiene by regional exam
9 application fee; to clarify that failure to comply with any
10 order of the board is grounds for disciplinary action; to
11 provide for the roll of the board, in lieu of the American
12 Dental Association, in recognizing and approving specialty
13 status in advertising by dentists; to remove the requirement
14 that board member ballots accompany annual registration forms;
15 to prohibit appointed board members from succeeding
16 themselves; to remove the requirement that the board hold an
17 annual meeting at the University of Alabama School of
18 Dentistry; to authorize the board to hold additional meetings;
19 to require proof of continuing education for the annual
20 renewal of an oral conscious sedation permit; to make
21 technical corrections; and to add Section 34-9-60.1 to the
22 Code of Alabama 1975, to authorize the board, upon proof of
23 qualification, to issue permits to dental hygienists to
24 administer infiltration anesthesia under the direct
25 supervision of a licensed dentist, and require proof of
26 continuing education for the annual renewal of the dental
27 hygiene infiltration anesthesia permit.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Sections 34-9-1, 34-9-4, 34-9-6,
3 34-9-6.1, 34-9-7, 34-9-7.1, 34-9-7.2, 34-9-8, 34-9-9, 34-9-10,
4 34-9-12, 34-9-13, 34-9-14, 34-9-15, 34-9-16, 34-9-18, 34-9-19,
5 34-9-22, 34-9-26, 34-9-27, 34-9-28, 34-9-40, 34-9-41,
6 34-9-43.2, 34-9-88, and 34-38-2 of the Code of Alabama 1975,
7 are amended to read as follows:

8 "§34-9-1.

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

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

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

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

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

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

1 stimulation or verbal command, produced by a pharmacologic
2 method.

3 "(5) INFILTRATION ANESTHESIA. A form of local
4 anesthesia wherein the terminal or peripheral sensory portion
5 of either the maxillary or mandibular branch of the trigeminal
6 nerve endings are anesthetized by injecting a solution
7 submucosally into an intra-oral circumscribed area for the
8 relief or prevention of pain.

9 "(6) LICENSE. The grant of authority by the board to
10 a person to engage in the practice of dentistry or dental
11 hygiene.

12 "(7) LICENSE CERTIFICATE. The documentary evidence
13 under seal of the board that the board has granted authority
14 to the licensee to practice dentistry or dental hygiene in
15 this state.

16 "(8) LICENSED DENTIST. A dentist who holds a current
17 license certificate from the board.

18 "(9) LICENSED HYGIENIST. A hygienist who holds a
19 current license certificate from the board.

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

23 "(11) PATIENT ABANDONMENT. The termination of
24 dental treatment without giving the patient adequate notice of
25 at least 15 days before the termination of dental treatment.
26 Adequate notice includes informing the patient of the
27 availability of emergency treatment and providing the patient

1 with an opportunity to obtain the services of another dentist
2 during the notice period. Abandonment may also occur if the
3 dentist jeopardizes the health of the patient during the
4 termination process.

5 ~~"(11)"~~ (12) PRACTICE OF DENTISTRY ACROSS STATE LINES.

6 "a. The practice of dentistry as defined in Section
7 34-9-6 as it applies to the following:

8 "1. The rendering of a written or otherwise
9 documented professional opinion concerning the diagnosis or
10 treatment of a patient located within this state by a dentist
11 located outside this state as a result of transmission of
12 individual patient data by electronic or other means from
13 within this state to the dentist or his or her agent.

14 "2. The rendering of treatment to a patient located
15 within this state by a dentist located outside this state as a
16 result of transmission of individual patient data by
17 electronic or other means from this state to the dentist or
18 his or her agent.

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

23 "b. This definition is not intended to include an
24 informal consultation between a licensed dentist located in
25 this state and a dentist located outside this state provided
26 that the consultation is conducted without compensation or the
27 expectation of compensation to either dentist, and does not

1 result in the formal rendering of a written or otherwise
2 documented professional opinion concerning the diagnosis or
3 treatment of a patient by the dentist located outside the
4 state.

5 "~~(12)~~ (13) PRIVATE TECHNICIANS. A technician employed
6 by a dentist or group of dentists for a specified salary.

7 "~~(13)~~ (14) SEDATION. A depressed level of
8 consciousness that retains the patient's ability to
9 independently and continuously maintain an airway and respond
10 appropriately to physical stimulation or verbal command,
11 produced by a pharmacologic method.

12 "§34-9-4.

13 "It shall be unlawful for any person to practice
14 dental hygiene ~~or expanded duty dental assisting~~ in the State
15 of Alabama, except:

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

18 "(2) Those who may hereafter be duly licensed and
19 who are currently registered as dental hygienists ~~or expanded~~
20 ~~duty dental assistants~~ pursuant to ~~the provisions of this~~
21 chapter.

22 "§34-9-6.

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

25 "(1) Performs, or attempts or professes to perform,
26 any dental operation or dental service of any kind,
27 gratuitously or for a salary, fee, money or other remuneration

1 paid, or to be paid, directly or indirectly, to himself or
2 herself, or to any person in his or her behalf, or to any
3 agency which is a proprietor of a place where dental
4 operations or dental services are performed.

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

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

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

17 "(5) Professes to the public by any method to
18 furnish, supply, construct, reproduce, or repair any
19 prosthesis (fixed or removable), appliance, or other structure
20 to be worn in the human mouth, or who diagnoses, or professes
21 to diagnose, prescribe for, professes to prescribe for, treats
22 or professes to treat disease, pain, deformity, deficiency,
23 injury, or physical condition of the human teeth or jaws, or
24 adjacent structure, or who extracts or attempts to extract
25 human teeth, or remove tumors, abnormal growths, or other
26 lesions from the human gums, jaws, and adjacent structures, or
27 who operates for cleft lip or palate, or both; or who treats

1 surgically or mechanically fractures of the human jaw; or who
2 administers local or general anesthetics in the treatment of
3 any dental lesion.

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

5 "(7) Uses a roentgen, radiograph, or digital imaging
6 machine for the purpose of making dental roentgenograms,
7 radiographs, or digital images, or who gives, or professes to
8 give, interpretations or readings of dental roentgenograms,
9 radiographs, or digital images, or radiographic or roentgen
10 therapy.

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

13 "(9) Uses the words "dentist," "dental surgeon,"
14 "oral surgeon," or the letters "D.D.S.," "D.M.D." or any other
15 words, letters, title, or descriptive matter which in any way
16 represents him or her as being able to diagnose, treat,
17 prescribe, or operate for any disease, pain, deformity,
18 deficiency, injury, or physical condition of the teeth or
19 jaws, or adjacent structures.

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

24 "(11) Performs any clinical operation included in
25 the curricula of recognized dental colleges; provided, that
26 members of the faculty, teachers, instructors, fellows,
27 interns, residents, dental students, and student dental

1 ~~hygienists, and student expanded duty dental assistants~~ who
2 are employed by or who are taking courses or instructions at
3 the University of Alabama School of Dentistry or such other
4 dental colleges, hospitals, or institutions in Alabama, as may
5 be approved by the board; and provided, that the work of
6 fellows, interns, residents, dental students, and student
7 dental hygienists is performed within the facilities of such
8 dental colleges, hospitals, and institutions under the
9 supervision of an instructor and as an adjunct to his or her
10 course of study or training, shall not be required to take
11 examination or obtain a license certificate and renewal
12 license certificate when all of such work, dental procedures,
13 and activities are confined to his or her work in the college,
14 hospital, or other institution and the work is done without
15 remuneration other than the regular salary or compensation
16 paid by such colleges, hospitals, or other institutions.

17 "(12) Professes to the public by any method to
18 bleach human teeth, performs bleaching of the human teeth
19 alone or within his or her business, or instructs the public
20 within his or her business, or through any agent or employee
21 of his or her business, in the use of any tooth bleaching
22 product.

23 "§34-9-6.1.

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

26 "(1) DENTAL HOME. The dental home is the ongoing
27 relationship between the dentist and the patient, inclusive of

1 all aspects of oral health care, delivered in a comprehensive,
2 continuously accessible, coordinated, and family-centered way.

3 "(2) MOBILE DENTAL FACILITY. Any self-contained
4 facility in which dentistry or dental hygiene is practiced
5 which may be moved, towed, or transported from one location to
6 another.

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

12 "(4) PORTABLE DENTAL OPERATION. The use of portable
13 dental delivery equipment which is set up on site to provide
14 dental services outside of a mobile dental facility or a
15 dental office and uses non-fixed dental equipment and
16 independent plumbing.

17 "(b) In order to operate a mobile dental facility or
18 portable dental operation, an operator shall first obtain a
19 certificate of registration issued by the board. The operator
20 shall complete an application in the form and manner required
21 by the board and shall meet all qualifications established by
22 rules of the board.

23 "(c) A mobile dental facility shall comply with all
24 of the following requirements:

25 "(1) The operator shall maintain an official
26 business address which shall not be a post office box and
27 which shall be within this state and be associated with an

1 established dental facility which shall have an official
2 business address on record with the board. The address shall
3 be filed with the board as part of the application for a
4 certificate of registration.

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

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

19 "(4) All written or printed documents available from
20 or issued by the mobile dental facility shall contain the
21 official business address and telephone number of record for
22 the mobile dental facility.

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

25 "(6) The operator shall maintain a written procedure
26 for emergency follow-up care for patients treated in a mobile
27 dental facility, which includes arrangements for treatment in

1 a dental facility that is permanently established in the area
2 within a 50-mile radius where services are provided subject to
3 a qualified dentist being located in the area and subject to
4 the dentist agreeing to provide follow-up care. An operator
5 who either is unable to identify a qualified dentist in the
6 area or is unable to arrange for emergency follow-up care for
7 patients otherwise shall be obligated to provide the necessary
8 follow-up care via the mobile dental facility or the operator
9 may choose to provide the follow-up care at his or her
10 established dental practice location in the state or at any
11 other established dental practice in the state which agrees to
12 accept the patient. An operator who fails to arrange or
13 provide follow-up care as required herein shall be considered
14 to have abandoned the patient, and the operator and any
15 dentist or dental hygienist, or both, who fail to provide the
16 referenced follow-up care shall be subject to disciplinary
17 action by the board.

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

1 "(8) The mobile dental facility and the dental
2 procedures performed therein shall comply with all applicable
3 federal and state laws and all applicable rules of the board
4 promulgated pursuant to Section 34-9-43.

5 "(9) Any driver of a mobile dental facility shall
6 possess a valid Alabama driver's license appropriate for the
7 operation of the vehicle. A copy of the driver's license of
8 each driver shall be submitted to the board at least 30 days
9 prior to the individual operating a mobile dental facility.

10 "(10) All mobile dental facilities authorized in
11 this section which are a vehicle or which are to be towed or
12 otherwise transported by another vehicle shall be registered
13 in this state.

14 "(11) The operator of a mobile dental facility shall
15 not perform services on a minor without the signed consent
16 from the parent or guardian which form shall be established by
17 the board. The consent form shall inquire whether the
18 prospective patient has received dental care from a licensed
19 dentist within one year and if so, the consent form shall
20 request the name, address, and phone number of the dental
21 home. If the information provided to the operator does not
22 identify a dental home for the prospective patient, the
23 operator shall contact the Alabama Medicaid Agency for
24 assistance in identifying a dental home for Medicaid eligible
25 patients. If this information is provided to the operator, the
26 operator shall contact the designated dental home by phone,
27 facsimile, or electronic mail and notify the dental home of

1 the prospective patient's interest in receiving dental care
2 from the operator. If the dental home confirms that an
3 appointment for the prospective patient is scheduled with the
4 dentist, the operator shall encourage the prospective patient
5 or his or her guardian to seek care from the dental home. The
6 consent form shall document that the patient, or legal
7 guardian, understands the prospective patient has an option to
8 receive dental care from the mobile dental facility or his or
9 her designated dental home if applicable. The consent form
10 shall require the signature of a parent or legal guardian if
11 the patient is a minor.

12 "(12) Each operator of a mobile dental facility
13 shall maintain a written or electronic record detailing for
14 each location where services are performed all of the
15 following information:

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

17 "b. The dates of each session.

18 "c. The number of patients served.

19 "d. The types of dental services provided and the
20 quantity of each service provided.

21 "e. Any other information requested by rule of the
22 board.

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

25 "(14) Each mobile dental facility shall possess all
26 applicable county and city licenses or permits to operate at
27 each location.

1 "(d) The mobile dental facility shall comply with
2 the following physical requirements and inspection criteria:

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

4 "(2) A properly functioning sterilization system.

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

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

10 "(5) Ready access to toilet facilities which shall
11 be located within the mobile dental facility. Operators
12 applying for a certificate prior to July 1, 2008, are not
13 required to meet this requirement. Any governmental entity
14 operating a mobile dental facility shall only be required to
15 have ready access to toilet facilities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 "b. The dates of each session.

7 "c. The number of patients served.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 "(p) The board may promulgate rules to implement and
12 enforce this section.

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

25 "(r) This section shall not apply to any ~~existing~~
26 ~~Jefferson County Department of Health mobile dental facilities~~
27 ~~that have been in service providing dental care within~~

1 ~~Jefferson County prior to December 31, 2007~~ mobile dental
2 facility operated by the Alabama Department of Public Health
3 or a local county health department.

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

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

14 "(u) Notwithstanding any other provision of law, any
15 entity which is approved as tax exempt under Section 501(c)(3)
16 of the Internal Revenue Code and employs dentists licensed in
17 this state shall continue to be able to employ dentists
18 licensed in this state and to provide dental services in the
19 same manner and under the same conditions as licensed on June
20 7, 2008.

21 "§34-9-7.

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

24 "(1) The practice of his or her profession by a
25 physician or surgeon holding a certificate of qualification as
26 a medical doctor and licensed as such under the laws of this

1 state, provided he or she shall not practice dentistry as a
2 specialty.

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

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

25 "(4) The filling of prescriptions of a licensed and
26 registered dentist, as hereinafter provided, by any person or
27 persons, association, corporation, or other entity for the

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

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

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

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

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

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

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

27 "§34-9-7.1.

1 "The practice of dentistry by a dentist licensed in
2 another state as a part of participation in a continuing
3 education course conducted, taught, or supervised by the
4 University of Alabama School of Dentistry or any other ~~dental~~
5 ~~college, hospital, or institution~~ continuing education
6 provider in Alabama which is approved by the board is exempt
7 from the licensing requirements of this chapter.

8 "§34-9-7.2.

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

27 "§34-9-8.

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

26 "(b) The board shall annually issue dental faculty
27 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, or dental hygienist, ~~or~~
5 ~~expanded duty dental assistant~~ in the operation of a dental
6 office.

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

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

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

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

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

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

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

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

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

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

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

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

11 "§34-9-10.

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

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

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

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

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

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

1 a dental, or dental hygiene, ~~or expanded duty dental assisting~~
2 license in another state. The board may promulgate rules and
3 regulations relating to licensure by credentials in addition
4 to any requirements by law. An applicant for licensure by
5 credentials shall satisfy all of the following:

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

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

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

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

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

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

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

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

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

1 ~~the applicant is then practicing or teaching attesting to the~~
2 ~~moral character, standing, and ability of the applicant.~~

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

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

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

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

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

22 "a. Questioning under oath.

23 "b. Results of peer review reports from constituent
24 dental societies or federal dental services.

25 "c. Substance abuse testing or treatment.

26 "d. Background checks for criminal or fraudulent
27 activities.

1 "e. Participation in continuing education.

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

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

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

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

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

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

22 "l. Whether the applicant's DEA registration or any
23 state controlled substances permit has ever been revoked,
24 suspended, modified, restricted, or limited in any way.
25 Provided, however, that any discipline that results only from
26 a failure to timely renew a registration or permit shall not

1 prevent an applicant from being eligible for this method of
2 licensure.

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

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

12 "a. The specialty shall be one in a branch of
13 dentistry approved by the ~~American Dental Association~~ board.

14 "b. The applicant shall satisfy the existing
15 educational requirements and standards set forth by the
16 ~~American Dental Association~~ board for that approved specialty.

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

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

1 examination. However, if the applicant has passed a general
2 dentistry examination or has a general dentistry license, was
3 practicing a specialty, and decides not to continue that
4 specialty and practice only general dentistry, the applicant
5 is eligible for licensure by credentials as a general dentist.

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

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

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

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

26 "(f) A special purpose license issued by the board
27 to practice dentistry across state lines limits the licensee

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

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

1 licensed in the other state or territory. The board shall
2 determine which states or territories have reciprocal
3 licensure requirements meeting the qualifications of this
4 section.

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

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

16 "§34-9-12.

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

1 certificate to be recorded in the office of the judge of
2 probate in one of the counties of this state within 60 days of
3 the issuance of the license certificate.

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

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

27 "§34-9-13.

1 "Every practitioner of dentistry, and dental
2 hygiene, ~~and expanded duty dental assisting~~ within the
3 meaning of this chapter shall have in his or her possession
4 and posted in a visible location a license certificate and an
5 annual registration certificate in the office wherein he or
6 she practices. A licensed practitioner who practices in more
7 than one location may reproduce the annual registration
8 certificate as needed; however, the practitioner may not
9 reproduce the license certificate. Copies of the license
10 certificate may be requested by the practitioner from the
11 board as necessary.

12 "§34-9-14.

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

20 "§34-9-15.

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

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

1 to a maximum of five years, accompanied with the prescribed
2 form for annual registration of the license or permit. Upon
3 failure of any licensee or permittee to file application for
4 the annual registration certificate and pay the annual
5 registration fee on or before November 30, each year, the
6 board shall notify the licensee or permittee by mail addressed
7 to the last address of record that the application and fee
8 have not been received and that, unless the application and
9 fee are received on or before the first day of January, the
10 license or permit shall be automatically suspended. The board
11 shall notify the licensee or permittee by mail addressed to
12 the last address of record of the effective date of the
13 automatic suspension and the provisions for registration of
14 the license or permit. The board shall waive the annual
15 payment of fees herein provided for and issue a current annual
16 registration certificate to any licensee or permittee who,
17 because of age or physical disability, has retired from the
18 practice of dentistry, or dental hygiene, ~~or expanded duty~~
19 ~~dental assisting~~ or who is suffering a malady of a lingering
20 or permanent nature. The board by rule shall waive annual
21 registration and the payment of fees while any licensee is on
22 temporary active duty with any of the Armed Forces of the
23 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 and permits 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
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10	"Dental Examination Applica-	
11	tion Fee	\$750.00

12	"Dental Examination Fee	\$2,500.00
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13	"Dental Examination Materials	
14	Fee	\$500.00

15	"Dental Licensure by Creden-	
16	tials Application Fee	\$4,000.00

17	"Dental Licensure by Regional	
18	Exam Application Fee	\$1,000.00

19	"Special Purpose Licensure Fee	\$750.00
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20	"Special Purpose Licensure Re-	
21	newal Fee	\$750.00

22	"Dental Annual Registration	
23	Fee	\$500.00

24	"Dental License Reinstatement	\$500.00
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1	Penalty	
2	"Dental Hygiene Program Appli-	
3	cation Fee	\$500.00
4	"Alabama Dental Hygiene Train-	
5	ing Permit Fee	\$450.00
6	"Alabama Dental Hygiene Train-	
7	ing Education Fee	\$600.00
8	"Alabama Dental Hygiene Pro-	
9	gram Instructor Certification	
10	Course Fee	\$200.00
11	"Alabama Dental Hygiene Pro-	
12	gram Instructional Materials	
13	Fee	\$950.00
14	"Dental Hygiene By Regional	
15	Exam Application Fee	\$75.00 <u>\$500.00</u>
16	"Dental Hygiene Examination	
17	Application Fee	\$500.00
18	"Dental Hygiene Examination	
19	Fee	\$600.00
20	"Dental Hygiene Examination	
21	Materials Fee	\$400.00
22	"Dental Hygiene Licensure by	
23	Credentials Fee	\$2,000.00
24	"Dental Hygiene Annual Regis-	\$75.00

1	tration Fee	
2	"Dental Hygiene License Rein-	
3	statement Penalty	\$200.00
4	<u>"Dental Hygiene Infiltration</u>	
5	<u>Anesthesia Permit Fee</u>	<u>\$250.00</u>
6	<u>"Dental Hygiene Infiltration</u>	
7	<u>Anesthesia Renewal Fee</u>	<u>\$250.00</u>
8	"Expanded Duty Dental Assis-	
9	tant by Regional Exam Applica-	
10	tion Fee	\$75.00
11	"Expanded Duty Dental Assis-	
12	tant Examination Application	
13	Fee	\$500.00
14	"Expanded Duty Dental Assis-	
15	tant Examination Fee	\$600.00
16	"Expanded Duty Dental Assis-	
17	tant Examination Materials Fee	\$400.00
18	"Expanded Duty Dental Assis-	
19	tant Licensure by Credentials	
20	Fee	\$2,000.00
21	"Expanded Duty Dental Assis-	
22	tant Annual Registration Fee	\$75.00
23	"Expanded Duty Dental Assis-	
24	tant License Reinstatement	
25	Penalty	\$200.00

1	"License Certificate Fee	\$500.00
2	"Duplicate or Replacement Li-	
3	cense Fee	\$150.00
4	"Dental Faculty Teaching Per-	
5	mit Fee	\$350.00
6	"Dental Faculty Special Teach-	
7	ing Permit Fee	\$500.00
8	"Alabama Controlled Substance	
9	Permit Fee	\$400.00
10	"Alabama Controlled Substance	
11	Permit Renewal Fee	\$400.00
12	"General Anesthesia Permit Fee	\$1,500.00
13	"General Anesthesia Permit Re-	
14	newal Fee	\$750.00
15	"Parenteral Sedation Permit	
16	Fee	\$1,500.00
17	"Parenteral Sedation Permit	
18	Renewal Fee	\$750.00
19	"Oral Conscious Sedation Per-	
20	mit Fee	\$250.00
21	"Oral Conscious Sedation Per-	
22	mit Renewal Fee	\$250.00
23	"Mobile Dental Applica-	
24	tion/Inspection Fee	\$1,500.00

1	"Mobile Dental Renewal Fee	\$1,500.00
2	"Mobile Dental Facil-	
3	ity/Portable Dental Operation	
4	Application for Certificate of	
5	Registration Fee	\$750.00
6	"Mobile Dental Facil-	
7	ity/Portable Dental Operation	
8	Renewal of Certificate of Reg-	
9	istration Fee	\$500.00
10	"Alabama Impaired Dental Pro-	
11	fessionals Committee Annual	
12	Monitoring Fee	\$2,000.00

13 "§34-9-18.

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

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

23 "(2) Gross immorality.

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

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

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

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

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

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

22 "(7) Is guilty of employing, allowing, or permitting
23 any unlicensed person or persons to perform any work in his or
24 her office which, under this chapter, can only be legally done
25 by a person or persons holding a license to practice
26 dentistry, or dental hygiene, ~~or expanded duty dental~~
27 ~~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~~
26 ~~expanded duty dental assisting~~ as provided for in this
27 chapter.

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

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

20 "(13) Pertaining to licensed dentists only, the
21 prescribing, administering or dispensing of any controlled
22 substances enumerated in Schedules I through V contained in
23 the Alabama Uniform Controlled Substances Act, Chapter 2 of
24 Title 20, or any amendment or successor thereto, or any drug
25 not prescribed for any dentally or facially related condition,
26 and/or for any necessary medication during the course of
27 treatment rendered directly by the dentist, for any person not

1 under his or her treatment in the regular practice of his or
2 her profession.

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

15 "(15) Pertaining to licensed dentists only, patient
16 abandonment.

17 ~~"(15)~~ (16) Violating any rule adopted by the board.

18 ~~"(16)~~ (17) Has had his or her license or permit to
19 practice dentistry, or dental hygiene, ~~or expanded duty dental~~
20 ~~assisting~~ from another state suspended or revoked based upon
21 acts similar to those described in this section. A certified
22 copy of the record of suspension or revocation of the state
23 making the suspension or revocation shall be conclusive
24 evidence thereof.

25 ~~"(17)~~ (18) Violating any provision of this chapter.

26 "(b) When the board finds any dentist, or dental
27 hygienist, ~~or expanded duty dental assistant~~ guilty of any of

1 the grounds set forth in subsection (a), it may enter an order
2 imposing one or more of the following penalties:

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

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

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

12 "(4) Enter a censure.

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

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

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

21 "(8) Impose peer review or professional education
22 requirements.

23 "(9) Assess the costs of the disciplinary
24 proceedings.

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

1 "(d) (1) No disciplinary action as outlined in
2 subsection (b) or (c) ~~hereof~~ shall be invoked or entered
3 except after hearing by the board as provided in this chapter,
4 and such order is subject to judicial review as provided by
5 this chapter.

6 "(2) No order of suspension or revocation provided
7 in this section shall be made or entered except after hearing
8 by the board as provided in this chapter, and the order shall
9 be subject to judicial review as provided by this chapter.

10 "(e) (1) The board may temporarily suspend a special
11 purpose license to practice dentistry across state lines
12 without a hearing on either of the following grounds:

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

15 "~~(2)~~b. The initiation of a disciplinary action
16 against the licensee by any state or territorial licensing
17 jurisdiction in which the licensee holds a license to practice
18 dentistry.

19 "(2) Notwithstanding any other provision of law,
20 including the Alabama Administrative Procedure Act, the
21 temporary suspension provided herein shall remain in effect
22 until either the licensee has complied with the request of the
23 board or the disciplinary action pending against the licensee
24 has been terminated in favor of the licensee and the temporary
25 suspension has been terminated by a written order of the
26 board. A special purpose license to practice dentistry across
27 state lines is subject to each of the grounds for disciplinary

1 action provided in this section in accordance with the
2 procedures of Section 34-9-24 and the Alabama Administrative
3 Procedure Act.

4 "(f) Members of the board, any agent, employee,
5 consultant, or attorney for the board, and the members of any
6 committee of dentists, or dental hygienists, ~~or expanded duty~~
7 ~~dental assistants~~ impaneled by the board, shall be immune from
8 suits for any conduct in the course of their official duties
9 with respect to investigations or hearings; provided, that the
10 persons act without malice and in good faith that such
11 investigations or hearings are warranted by the facts, known
12 to them after diligent effort to obtain the facts of the
13 matter relative to the investigations or hearings.

14 "(g) Nothing in this chapter shall be interpreted to
15 limit or restrict the authority of the board to discipline any
16 dentist licensed to practice in this state who violates this
17 chapter while engaging in the practice of dentistry within
18 this or any other state.

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

22 "§34-9-19.

23 "(a) For the purpose of this section, the following
24 terms shall have the respective meanings:

25 "(1) ADVERTISEMENT. An advertisement is information
26 communicated in a manner designed to attract public attention
27 to the practice of a dentist as heretofore defined.

1 "(2) DENTIST. Any person licensed to practice
2 dentistry in this state pursuant to this chapter or any entity
3 authorized by law which is formed for the purpose of
4 practicing dentistry.

5 "(3) FALSE. A false statement or claim is one which:

6 "a. Contains a material misrepresentation of fact or
7 law.

8 "b. Omits a material fact rendering the statement or
9 claim when considered as a whole false.

10 "(b) A dentist shall have ultimate responsibility
11 for all advertisements which are approved by him or her or his
12 or her agents or associates and the dentist shall be
13 responsible for the following:

14 "(1) Broadcast advertisements shall be recorded,
15 approved by the dentist, and a recording of the actual
16 transmission shall be retained by the dentist for one year
17 following the final appearance or use of the advertisement.
18 The dentist is responsible for making copies of the
19 advertisement available to the board within 10 days following
20 a request by the board.

21 "(2) Written or printed advertisements shall be
22 approved by the dentist and a copy of the publication in which
23 the advertisement is displayed shall be retained by the
24 dentist for one year following the final appearance or use of
25 the advertisement. The dentist is responsible for making
26 copies of the advertisement available to the board within 10
27 days following a request by the board.

1 "(3) Other forms of advertisement shall be approved
2 by the dentist and the contents and specifications, where
3 applicable, shall be retained by the dentist for one year
4 following the final appearance or use of the advertisement and
5 the dentist is responsible for making copies of the
6 advertisement available to the board within 10 days following
7 a request by the board.

8 "(c) A dentist may not hold himself or herself out
9 as a specialist or advertise specialty status unless the
10 specialty is approved by the ~~American Dental Association~~
11 board.

12 "(d) Dentists who are not specialists in specialties
13 approved by the ~~American Dental Association~~ board may
14 nevertheless advertise that their practice is limited to a
15 specific area of dentistry only if the dentist has obtained
16 membership in or otherwise has been ~~credentialized~~
17 credentialed by an accrediting organization which is
18 recognized by the board as a bona fide organization for such
19 an area of practice.

20 "(e) Notwithstanding any provision of this section
21 to the contrary, a dentist licensed pursuant to this chapter
22 may not hold himself or herself out as a specialist or
23 advertise membership in a specialty recognized by an
24 accrediting organization, unless the dentist has continuously
25 held himself or herself out as a specialist since December 31,
26 1964, in a specialty recognized by the ~~American Dental~~
27 ~~Association~~ board or has completed a specialty education

1 program approved by the ~~American Dental Association~~ board and
2 the Commission on Dental Accreditation and meets either of the
3 following qualifications:

4 "(1) Is eligible for examination by a national
5 specialty board recognized by the ~~American Dental Association~~
6 board.

7 "(2) Is a diplomate of a national specialty board
8 recognized by the ~~American Dental Association~~ board.

9 "(f) A dentist licensed under this chapter may not
10 represent to the public without appropriate disclosure that
11 his or her practice is limited to a specific area of dentistry
12 other than a specialty area of dentistry authorized under
13 subsection (e) unless the dentist has attained membership in
14 or has otherwise been credentialed by an accrediting
15 organization which is recognized by the board as a bona fide
16 organization for such an area of dental practice. In order to
17 be recognized by the board as a bona fide accrediting
18 organization for a specific area of dental practice other than
19 a specialty area of dentistry authorized under subsection (c),
20 the organization must condition membership or credentialing of
21 its members upon all of the following:

22 "(1) Successful completion of a formal, full-time
23 advanced education program that is affiliated with or
24 sponsored by a university-based dental school that is beyond
25 the dental degree, is at the graduate or postgraduate level,
26 and is of at least 12 months in duration.

1 "(2) Prior didactic training and clinical experience
2 in the specific area of dentistry which is greater than that
3 of other dentists.

4 "(3) Successful completion of oral and written
5 examinations based on psychometric principles.

6 "(g) Notwithstanding the requirements of subsections
7 (e) and (f), a dentist who lacks membership in or
8 certification, diplomate status, or other similar credentials
9 from an accrediting organization approved as bona fide by
10 ~~either the American Dental Association or~~ the board may
11 announce a practice emphasis in any other area of dental
12 practice if the dentist incorporates in capital letters or
13 some other manner clearly distinguishable from the rest of the
14 announcement, solicitation, or advertisement the following
15 statement: " _____ (NAME OF ANNOUNCED AREA OF DENTAL
16 PRACTICE) IS NOT RECOGNIZED AS A SPECIALTY AREA BY THE
17 ~~AMERICAN DENTAL ASSOCIATION OR THE~~ BOARD OF DENTAL EXAMINERS
18 OF ALABAMA." If such an area of dental practice is officially
19 recognized by an organization which the dentist desires to
20 acknowledge or otherwise reference in the dentist's
21 announcement, solicitation, or advertisement, the same
22 announcement, solicitation, or advertisement shall also state
23 prominently: " _____ (NAME OF REFERENCED
24 ORGANIZATION) IS NOT RECOGNIZED AS A BONA FIDE SPECIALTY
25 ACCREDITING ORGANIZATION BY THE ~~AMERICAN DENTAL ASSOCIATION OR~~
26 ~~THE~~ BOARD OF DENTAL EXAMINERS OF ALABAMA."

1 "(h) The purpose of this section is to prevent a
2 dentist from advertising without appropriate disclosure
3 membership in an organization which may be perceived by the
4 public as recognizing or accrediting specialization or other
5 unique competencies in an area of dentistry that is not
6 recognized or accredited by the ~~American Dental Association or~~
7 ~~the~~ board in accordance with this section. The purpose of this
8 section is also to prohibit a dentist from advertising a
9 specialty or other area of dental practice without appropriate
10 disclosure unless the special competencies held by the dentist
11 satisfy the requirements of subsections (d) and (f). The
12 Legislature finds that dental consumers can reasonably rely on
13 these requirements as satisfactory evidence of a dentist's
14 attainment of meaningful competencies in the specialty or
15 other bona fide area of dental practice advertised. The
16 Legislature also finds that this process for the recognition
17 of dental specialties and other bona fide areas of dental
18 practice is the least restrictive means available to ensure
19 that consumers are not mislead about a dentist's unique
20 credentials.

21 "(i) A dentist who lacks membership in or
22 certification, diplomate status, or similar credentials from
23 an accrediting organization approved as bona fide by ~~either~~
24 ~~the American Dental Association or~~ the board may announce a
25 practice emphasis in any other area of dental practice if the
26 dentist incorporates the disclaimer set forth in subsection
27 (g).

1 "(j) The board shall promulgate rules and
2 regulations delineating examples of advertising which would be
3 considered false, fraudulent, misleading, or deceptive.

4 "§34-9-22.

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

24 "§34-9-26.

25 "~~(a)~~ No person shall practice as a dental hygienist
26 in this state until such person has passed an examination
27 given by the board or approved by the board, or both, under

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

21 ~~"(b) No person shall practice as an expanded duty~~
22 ~~dental assistant in this state until such person has passed an~~
23 ~~examination given by the board or approved by the board, or~~
24 ~~both, under rules and regulations as the board may promulgate~~
25 ~~and the payment of a fee. The board shall issue licenses and~~
26 ~~license certificates as expanded duty dental assistants to~~
27 ~~those persons who have passed the examination and have been~~

1 ~~found qualified by the board. The license certificate and~~
2 ~~annual registration certificate shall be displayed in the~~
3 ~~office in which the expanded duty dental assistant is~~
4 ~~employed. No person shall be entitled to a license and license~~
5 ~~certificate unless the person is 19 years of age and of good~~
6 ~~moral character. Each applicant for examination and license as~~
7 ~~an expanded duty dental assistant shall be a graduate of a~~
8 ~~school of expanded duty dental assisting which has been~~
9 ~~approved by the board. Any person practicing in violation of~~
10 ~~this section shall be guilty of a misdemeanor, and the board~~
11 ~~may impose the penalties outlined in Section 34-9-18 for such~~
12 ~~violation.~~

13 "§34-9-27.

14 "Dental hygienists ~~and expanded duty dental~~
15 ~~assistants~~ shall work only under the direct supervision of a
16 duly licensed dentist practicing in this state. Dental
17 hygienists ~~and expanded duty dental assistants~~ may perform any
18 duties allowed by rule or regulation of the board and assist a
19 licensed or permitted dentist in his or her practice, ~~however,~~
20 ~~expanded duty dental assistants may not perform any~~
21 ~~irreversible procedure, including surgery.~~ Any dental
22 hygienist licensed by the board under this section who has
23 completed the curriculum for dental hygienists at a dental
24 school approved by the board shall have the right to use the
25 title Registered Dental Hygienist or the abbreviation thereof,
26 "R.D.H." appended to his or her name signifying the license
27 conferred. The board may impose any of the penalties outlined

1 in Section 34-9-18 against any dentist who shall permit any
2 dental hygienist ~~or expanded duty dental assistant~~ working
3 under his or her supervision to perform any operation other
4 than those permitted under ~~the provisions of~~ this section, and
5 may impose the penalties outlined in Section 34-9-18 against
6 any dental hygienist ~~or expanded duty dental assistant~~ who
7 shall perform any operation other than those permitted under
8 this section.

9 "§34-9-28.

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

21 "§34-9-40.

22 "(a) In order to accomplish the purposes and to
23 provide for the enforcement of this chapter, there is hereby
24 created the board. The board is hereby vested with the
25 authority to carry out the purposes and enforce the provisions
26 of this chapter. On June 24, 1959, the members of the present
27 board now in existence shall hold office for the remainder of

1 their respective terms for which they have been elected and
2 thereafter until their successors are elected and qualified
3 and shall constitute the board under this chapter. The board
4 shall consist of six dentists who shall be selected in the
5 method set forth herein all of whom having been actively
6 engaged in the practice of dentistry in the State of Alabama
7 for at least five years next preceding the date of their
8 election and one dental hygienist elected at-large as provided
9 in subsection (b). Each member of the board shall be a citizen
10 of this state. No member of the board shall be a member of the
11 faculty of any dental school, dental college, dental hygiene
12 school, or dental hygiene college or receive any financial
13 benefits for teaching in any dental school, dental college,
14 dental hygiene school, or dental hygiene college or have a
15 financial interest in a commercial dental laboratory or a
16 dental supply business. One member, who is qualified as
17 provided herein, shall be selected by the Alabama Dental
18 Society every five years. As for all elections of members, any
19 group of 10 or more licensed dentists, residing and practicing
20 dentistry in the state, may nominate a candidate for the
21 position of board member by submitting a petition bearing
22 their signatures to the secretary of the board to be
23 postmarked no later than the first day of July in the year of
24 the election. The board shall cause the election ballots to be
25 mailed or published digitally not later than September 1 in
26 the year of the election to all the licensed dentists residing
27 and practicing in the state and currently registered as

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

1 mailed ballots received after this date shall be nullified. In
2 the event of a run-off election, the candidate receiving the
3 largest number of votes in the run-off election shall be
4 declared elected to the board and shall take the oath of
5 office and begin his or her term of office no later than the
6 next scheduled board meeting. Every member elected shall hold
7 office for a period of five years, which terms shall begin
8 immediately upon taking an oath to properly and faithfully
9 discharge the duties of his or her office and until his or her
10 successor is elected and qualified, and the member so elected
11 or appointed shall not at the expiration of the term be
12 eligible to succeed himself or herself. The membership of the
13 board shall be inclusive and reflect the racial, gender,
14 geographic, urban/rural, and economic diversity of the state.
15 Except for the board member position selected by the Alabama
16 Dental Society, vacancies on the board shall be filled by the
17 board by the appointment of the immediate past member of the
18 board, and if for any reason the immediate past member of the
19 board is unable to accept the appointment, then the board
20 shall fill the vacancy by appointment of the most recent past
21 board member who is willing to accept the appointment. If no
22 past board member accepts the appointment, then the board may,
23 by majority vote, appoint any licensed dentist qualified under
24 the provisions of this chapter. In the event of a vacancy in
25 the position selected by the Alabama Dental Society, the
26 Alabama Dental Society shall select a dentist who is qualified
27 as provided herein to fill the vacancy. Members of the board

1 shall be removed by a two-thirds vote of the registered
2 dentists in the state for neglect of duty or any just cause,
3 by petition to the secretary of the board by 10 percent of the
4 licensed dentists in the state. On or before July 1, 1962, the
5 board shall send a copy of this section to all licensed
6 dentists in the state.

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

19 "(2) The dental hygienist member shall be elected as
20 follows:

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

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

12 "b. Three members of the board shall be present at
13 the time the ballots, digital or physical, are tallied. Any
14 candidate receiving a majority of the votes shall be declared
15 elected to the board and shall take the oath of office on or
16 before October 15 in the year of his or her election. In the
17 event no candidate receives a majority of the votes cast, the
18 board shall conduct a run-off election between the two
19 candidates receiving the largest number of votes. The board
20 shall cause the ballots pertaining to any run-off election to
21 be mailed or digitally published on or before October 31 of
22 the election year to all licensed dental hygienists who have
23 renewed their licenses for the succeeding year as of October 1
24 of the current year, are residing and practicing in the state,
25 and are currently registered as prescribed by law, and the
26 ballots pertaining to the run-off election shall be postmarked
27 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 or appointed shall not at the expiration of the
23 term be eligible to succeed himself or herself. If a vacancy
24 occurs in the position of dental hygienist, the unexpired term
25 shall be filled by the board by the appointment of the
26 immediate past dental hygienist member. If for any reason the
27 immediate past dental hygienist member is unable to accept the

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

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

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

1 from the termination of any such revocation, suspension, or
2 probation.

3 "§34-9-41.

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

1 board who for such purposes shall have all the powers and
2 privileges of such office as a regular board member possesses.
3 Out of the funds of the board the members thereof shall
4 receive as compensation a sum to be fixed by the board for
5 each day actively engaged in the duties of their office, and
6 in addition board members shall receive the same per diem and
7 travel allowance as is paid by law to state employees for each
8 day actively engaged in the duties of their office. The
9 secretary-treasurer shall receive such compensation as may be
10 fixed by the board, which shall be in addition to his or her
11 per diem and expenses, provided no per diem or expenses shall
12 be allowed unless his or her duties require his or her absence
13 from his or her office. The secretary shall receive such
14 compensation as may be fixed by the board. The
15 secretary-treasurer shall be custodian of all property, money,
16 records and the official seal of the board. All money received
17 by the board under this chapter shall be paid to and received
18 by the secretary-treasurer of the board. The
19 secretary-treasurer shall deposit to the credit of the board
20 all funds paid to the board in a bank selected by its members.
21 The board is authorized to expend such funds as shall be
22 necessary to enforce the provisions of this chapter; to pay
23 salaries, expenses and other costs herein provided; to promote
24 the arts and science of dentistry; and for such other purposes
25 as the board shall consider to be in the best interest of
26 dentistry in this state. All the costs herein provided for
27 shall be paid by checks drawn by the secretary-treasurer and

1 countersigned by the president of the board; except the board
2 may authorize the administrative secretary or the executive
3 director to sign checks for costs that do not exceed a
4 monetary limit to be set by the board in its rules. Should the
5 property be other than money, the secretary-treasurer shall
6 provide for the safekeeping thereof for the use of the board.
7 All money, including license fees, annual renewal license
8 certificate fees, examination fees and any and all other fees
9 and receipts under the provisions of this chapter, are hereby
10 appropriated to the Board of Dental Examiners to be used as
11 herein provided.

12 "§34-9-43.2.

13 "(a) The Legislature finds and declares all of the
14 following:

15 "(1) The power to make rules regulating the practice
16 of dentistry, and dental hygiene, ~~and expanded duty dental~~
17 ~~assisting~~ includes the power to prohibit unlicensed persons
18 from practicing dentistry, and dental hygiene, ~~and expanded~~
19 ~~duty dental assisting~~ and the power to regulate how licensed
20 persons practice the same.

21 "(2) A primary goal of the provision of health care
22 is to prioritize patient health, safety, and welfare.

23 "(3) The Board of Dental Examiners of Alabama is in
24 the best position to determine the dental practices that
25 affect and prioritize the health, safety, and welfare of the
26 public.

1 "(4) It is the intent of the Legislature in enacting
2 this section to immunize the Board of Dental Examiners of
3 Alabama, its members, employees, and agents from liability
4 under state and federal anti-trust laws for the adoption of a
5 rule that prioritizes patient health, safety, and welfare but
6 appears to have elements that appear anti-competitive or have
7 an anti-competitive effect when the effect on public health,
8 safety, and welfare is clearly demonstrated and documented by
9 the Board of Dental Examiners of Alabama.

10 "(b) Subject to subsection (c), rules adopted under
11 this section or Sections 34-9-18 and 34-9-43 may define and
12 regulate the practice of dentistry, and dental hygiene, ~~and~~
13 ~~expanded duty dental assisting~~ in a manner that prioritizes
14 patient health, safety, and welfare, even if the rule has
15 elements that appear anti-competitive or have an
16 anti-competitive effect when the effect on public health,
17 safety, and welfare is clearly demonstrated and documented by
18 the Board of Dental Examiners of Alabama.

19 "(c) A rule adopted under this section or Sections
20 34-9-18 and 34-9-43 may supplement or clarify any statutory
21 definition but shall not conflict with any statute which
22 defines the practice of dentistry, and dental hygiene, ~~and~~
23 ~~expanded duty dental assisting~~.

24 "(d) Nothing in this section shall be construed to
25 constrict or expand the current rights and privileges of any
26 individual governed by the Board of Dental Examiners beyond
27 that which existed prior to the ruling in the United States

1 Supreme Court decision N.C. State Bd. of Dental Examiners v.
2 FTC, 135 S.Ct. 1101 (2015).

3 "(e) Nothing in this section shall be construed to
4 constrict or expand the current duties or responsibilities of
5 the members of the Board of Dental Examiners in any context
6 outside of federal or state anti-trust immunity beyond that
7 which existed prior to the ruling in the United States Supreme
8 Court decision N.C. State Bd. of Dental Examiners v. FTC, 135
9 S.Ct. 1101 (2015).

10 "§34-9-88.

11 ~~"This~~ An oral conscious sedation permit must be
12 renewed annually upon payment of a renewal fee and proof of
13 completion of any continuing education requirements
14 established by rule of the board.

15 "§34-38-2.

16 "It shall be the duty and obligation of the State
17 Board of Dental Examiners and the State Board of Pharmacy to
18 promote the early identification, intervention, treatment, and
19 rehabilitation of individuals within the respective
20 jurisdiction, licensed to practice in the State of Alabama,
21 who may be impaired by reason of illness, inebriation,
22 excessive use of drugs, narcotics, controlled substances,
23 alcohol, chemicals, or other dependent forming substances, or
24 as a result of any physical or mental condition rendering such
25 person unable to meet the standards of his or her profession.
26 For the purposes of this chapter, the term "impaired" shall
27 mean the inability of a dentist, hygienist, ~~expanded duty~~

1 ~~dental assistant,~~ or pharmacist to practice with reasonable
2 skill and safety to patients by reason of illness,
3 inebriation, excessive use of drugs, narcotics, controlled
4 substances, alcohol, chemicals, or other dependent forming
5 substances, or as a result of any physical or mental condition
6 rendering such person unable to meet the standards of his or
7 her profession. In order to carry out this obligation, each
8 board, individually or jointly, is hereby empowered to
9 contract with any nonprofit corporation, health provider, or
10 professional association for the purpose of creating,
11 supporting, and maintaining a committee of professionals to be
12 designated the Alabama Impaired Professionals' Committee. The
13 committee shall consist of not less than three nor more than
14 15 professionals licensed to practice dentistry or pharmacy in
15 the State of Alabama, and selected in a manner prescribed by
16 the board or boards. The authority of the Alabama Impaired
17 Professionals' Committee shall not supersede the authority of
18 the board or boards to take disciplinary action against
19 individuals subject to this chapter. Nothing in this chapter
20 shall limit the power and authority of the board or boards to
21 discipline an impaired individual subject to its jurisdiction;
22 provided that where an individual is impaired and currently in
23 need of intervention, treatment, or rehabilitation and such
24 individual is currently participating in programs or
25 rehabilitation recommended by the committee, then in its
26 discretion, the board or boards may refrain from taking or
27 continuing disciplinary action against such individual; and

1 further provided that where the board or boards, upon
2 reasonable cause to believe an individual subject to its
3 jurisdiction is impaired, has referred such individual to the
4 committee for evaluation, then in its discretion, the board or
5 boards may refrain from taking or continuing disciplinary
6 action against such individual. The board, or boards, may
7 collect or expend such funds as are available to it as deemed
8 necessary to adequately provide for the operational expenses
9 of the Alabama Impaired Professionals' Committee, including,
10 but not limited to, the actual cost of travel, office overhead
11 and personnel expense, and compensation for the members of the
12 committee and its staff; provided that operational expenses of
13 the Alabama Impaired Professionals' Committee shall not
14 include the cost of treatment or rehabilitation programs
15 recommended by the committee to individuals subject to this
16 chapter. The funds provided by the board or boards, under this
17 section for the purposes stated herein shall not be subject to
18 any provision of law requiring competitive bidding."

19 Section 2. Section 34-9-60.1 is added to the Code of
20 Alabama 1975, to read as follows:

21 §34-9-60.1.

22 (a) The board may permit licensed dental hygienists
23 to administer infiltration anesthesia under the direct
24 supervision of a licensed dentist. The board may promulgate
25 rules further limiting the administration of infiltration
26 anesthesia by dental hygienists. In order to administer
27 infiltration anesthesia, a dental hygienist shall possess a

1 dental hygiene infiltration anesthesia permit issued by the
2 board. To receive a dental hygiene infiltration anesthesia
3 permit from the board, a dental hygienist shall apply on an
4 application form approved by the board, submit the appropriate
5 application fee, and have been engaged in the active practice
6 of dental hygiene for the 12 months immediately preceding
7 initial application. A dental hygienist applying for a dental
8 hygiene infiltration anesthesia permit shall submit proof to
9 the board that he or she has fulfilled at least one of the
10 following qualifications:

11 (1) Has completed a minimum of 32 hours training in
12 the administration of infiltration anesthesia in a course
13 approved by the board.

14 (2) Has certification of training in the
15 administration of infiltration anesthesia by any entity or
16 organization approved by the board.

17 (b) A dental hygiene infiltration anesthesia permit
18 shall be renewed annually upon payment of a renewal fee and
19 proof of completion of any continuing education requirements
20 established by rule of the board.

21 Section 3. This act shall become effective on the
22 first day of the third month following its passage and
23 approval by the Governor, or its otherwise becoming law.